Laws of the State of Maryland

At the Session of the General Assembly Begun and Held in the City of Annapolis on the Eleventh Day of January 2012 and Ending on the Ninth Day of April 2012

VOLUME V

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(House Bill 1463)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2010 – Prince George's County – Prince George's VFD

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2010 to change the name of a certain grantee from Prince George's VFD to the Prince George's County Fire Department; adding the Marlboro Volunteer Fire Department, the Beltsville Volunteer Fire Department, the Hyattsville Volunteer Fire Department, the Kentland Volunteer Fire Department, and the Laurel Volunteer Fire Department as grantees to a certain grant; making this Act an emergency measure; and generally relating to amending the Maryland Consolidated Capital Bond Loan of 2010.

BY repealing and reenacting, with amendments,

Chapter 483 of the Acts of the General Assembly of 2010 Section 1(3) Item ZA03(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) ZA03 LOCAL HOUSE OF DELEGATES INITIATIVES
- (BE) Prince George's [VFD] COUNTY FIRE DEPARTMENT. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Prince George's County [VFD] FIRE DEPARTMENT, THE MARLBORO VOLUNTEER FIRE DEPARTMENT, THE BELTSVILLE VOLUNTEER FIRE DEPARTMENT, THE HYATTSVILLE VOLUNTEER FIRE DEPARTMENT. THE Kentland VOLUNTEER FIRE DEPARTMENT, AND THE LAUREL VOLUNTEER FIRE DEPARTMENT for the repair and renovation of the Prince George's County [VFD] FIRE **DEPARTMENT**. located in Prince George's County. 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 (Prince

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 2, 2012.

Chapter 443

(House Bill 1476)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2010 – Cecil County – Lower Susquehanna Heritage Greenway

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2010 to change the name of a certain grantee from the Board of Directors of the Lower Susquehanna Heritage Greenway, Inc. to <u>add</u> the Mayor and Commissioners of the Town of Perryville <u>as a grantee to a certain grant</u>; extending the deadline for the grantee <u>grantees</u> to present evidence that a matching fund will be provided; requiring that the Board of Public Works expend or encumber the proceeds of a certain loan by June 1, 2014; making this Act an emergency measure; and generally relating to amending the Maryland Consolidated Capital Bond Loan of 2010.

BY repealing and reenacting, with amendments, Chapter 483 of the Acts of the General Assembly of 2010 Section 1(3) Item ZA03(AE)

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) ZA03 LOCAL HOUSE OF DELEGATES INITIATIVES

(AE) Lower Susquehanna Heritage Greenway. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the

matching fund provided, to the Board of Directors of the Lower Susquehanna Heritage Greenway, Inc. **THE** AND THE MAYOR AND COMMISSIONERS OF THE TOWN OF **PERRYVILLE** for the construction, repair, renovation, reconstruction. and capital equipping of the Lower Susquehanna Heritage Greenway, located in Perryville. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions AND THE GRANTEE HAS GRANTEES HAVE UNTIL JUNE 1, 2014, 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, 2014** (Cecil County)

150,000

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 2, 2012.

Chapter 444

(Senate Bill 151)

AN ACT concerning

Creation of a State Debt – Maryland Consolidated Capital Bond Loan of 2012, and the Maryland Consolidated Capital Bond Loans of 2005, 2006, 2007, 2008, 2009, 2010, and 2011

FOR the purpose of authorizing the creation of a State Debt in the amount of One Billion, One Hundred and Twelve Million, Eight Hundred and Eighty Thousand (\$1,112,880,000), <u>One Billion, One Hundred and Nineteen Million, Four</u> <u>Hundred and Twenty–Four Thousand (\$1,119,424,000)</u> the proceeds to be used for certain necessary building, construction, demolition, planning, renovation, conversion, replacement, and capital equipment purchases of the State, for acquiring certain real estate in connection therewith, and for grants to certain subdivisions and other organizations for certain development and improvement purposes, subject to the requirement that certain grantees provide and expend certain matching funds by certain dates; providing generally for the issuance

and sale of bonds evidencing the loan; authorizing the creation of State Debt to be issued in 2013, the proceeds to be used for certain purposes; authorizing the creation of State Debt to be known as a Maryland Consolidated Preauthorization Act, to be issued in 2014, the proceeds to be used for certain purposes; authorizing the creation of State Debt to be known as a Maryland Consolidated Preauthorization Act, to be issued in 2015, the proceeds to be used for certain purposes; authorizing the creation of State Debt to be known as a Maryland Consolidated Preauthorization Act, to be issued in 2016, the proceeds to be used for certain purposes; prohibiting the expenditure of certain funds for certain acquisitions prior to providing certain cost benefit analyses to certain committees of the General Assembly; declaring a certain intent of the General Assembly: prohibiting the expenditure or encumbrance of certain funds until certain reports are submitted to certain committees of the General Assembly; providing that certain funds allocated to certain eligible school construction projects in a county that are not spent for the project may be applied to another eligible project or reserved in a certain contingency fund for certain purposes; requiring that certain departments provide to certain committees of the General Assembly certain plans; requiring that certain reallocations of funds require notification to the General Assembly; authorizing commencement of certain projects prior to appropriation of all the funds necessary to complete the project; requiring certain departments to complete certain negotiations for certain land acquisitions by a certain date; providing for a restricted purpose for certain funds if certain negotiations are not completed by a certain date; prohibiting the expenditure of certain funds until certain grantees enter into certain Memoranda of Understanding; providing for a restricted purpose for certain funds if certain reports are not submitted by a certain date; altering and expanding the authorized uses of certain grants; requiring certain departments to acquire certain sites before a certain date; requiring certain departments to provide certain status reports relating to certain land acquisitions by certain dates: requiring a certain department to acquire a certain site before a certain date; restricting the use of certain funds for certain purposes; requiring a certain college to submit a certain report containing certain independent appraisals and including certain estimates; providing a certain intent of the General Assembly that a certain formula take into account certain revenue; requiring that a portion of certain funds be used as a grant for the reduction of a certain debt related to a certain wastewater treatment plant; imposing a certain tax on all assessable property in the State; requiring that certain grantees convey certain easements under certain circumstances to the Maryland Historical Trust; altering the requirement that certain grantees provide certain matching funds; changing the names of certain grantees; providing that the proceeds of certain loans must be expended or encumbered by a certain date; requiring certain grantees to submit certain reports; authorizing certain unexpended appropriations in certain prior capital budgets and bond loans to be expended for other public projects; altering certain requirements for certain programs in certain prior capital budgets and bond loans; providing that the authorizations of State Debt in certain prior capital budgets and bond loans be reduced by certain amounts; providing for certain additional information to be detailed about each project in the capital program under certain circumstances; requiring that certain projects be constructed at certain locations; repealing certain requirements for certain appropriations; requiring the Comptroller to make certain transfers, adjustments, and reconciliations; repealing certain Maryland Consolidated Capital Bond Loan Preauthorization acts; providing for a delayed effective date for certain provisions of this Act; and generally relating to the financing of certain capital projects.

BY repealing and reenacting, with amendments,

Chapter 445 of the Acts of the General Assembly of 2005

Section 1(3) Item MA01(A), Item RM00(B) and (F), Item UB00(A)(1), (4), and (5), and Item ZB02(B)

BY repealing and reenacting, with amendments,

Chapter 445 of the Acts of the General Assembly of 2005, as amended by Chapter 46 of the Acts of the General Assembly of 2006, Chapter 488 of the Acts of the General Assembly of 2007, Chapter 485 of the Acts of the General Assembly of 2009, Chapter 483 of the Acts of the General Assembly of 2010, and Chapter 396 of the Acts of the General Assembly of 2011

Section 1(1)

BY repealing and reenacting, with amendments,

<u>Chapter 46 of the Acts of the General Assembly of 2006</u> Section 1(3) Item ZA00(H)

BY repealing and reenacting, with amendments,

Chapter 46 of the Acts of the General Assembly of 2006, as amended by Chapter 488 of the Acts of the General Assembly of 2007 and Chapter 485 of the Acts of the General Assembly of 2009 Section 1(1)

BY repealing and reenacting, with amendments,

Chapter 46 of the Acts of the General Assembly of 2006, as amended by Chapter 485 of the Acts of the General Assembly of 2009 Section 1(3) Item RE01(A)

BY repealing and reenacting, with amendments,

Chapter 488 of the Acts of the General Assembly of 2007 Section 1(3) Item DE02.01(C) and Item RB29(A)

BY repealing and reenacting, with amendments,

Chapter 488 of the Acts of the General Assembly of 2007, as amended by Chapter 336 of the Acts of the General Assembly of 2008, Chapter 485 of the Acts of the General Assembly of 2009, Chapter 483 of the Acts of the General Assembly of 2010, and Chapter 396 of the Acts of the General Assembly 2011 Section 1(1)

BY repealing and reenacting, with amendments,

Chapter 488 of the Acts of the General Assembly of 2007, as amended by Chapter 336 of the Acts of the General Assembly of 2008 and Chapter 372 of the Acts of the General Assembly of 2010 Section 12(3) RB27(A)

BY repealing and reenacting, with amendments,

Chapter 488 of the Acts of the General Assembly of 2007, as amended by Chapter 336 of the Acts of the General Assembly of 2008, Chapter 485 of the Acts of the General Assembly of 2009, and Chapter 483 of the Acts of the General Assembly of 2010
Section 12(1) and (3) Item ML10(A)

BY repealing and reenacting, with amendments,

Chapter 336 of the Acts of the General Assembly of 2008

Section 1(3) Item DA02.01(A), Item DE02.01(E) and (H), Item QB04(A), Item RB27(D), and Item RB34(A)

BY repealing and reenacting, with amendments,

Chapter 336 of the Acts of the General Assembly of 2008, as amended by Chapter 485 of the Acts of the General Assembly of 2009, Chapter 483 of the Acts of the General Assembly of 2010, and Chapter 396 of the Acts of the General Assembly of 2011

Section 1(1)

BY repealing and reenacting, with amendments,

<u>Chapter 336 of the Acts of the General Assembly of 2008, as amended by Chapter</u> <u>372 of the Acts of the General Assembly of 2010</u> <u>Section 1(3) Item ZA02 (BQ)</u>

BY repealing and reenacting, with amendments,

Chapter 485 of the Acts of the General Assembly of 2009 Section 1(3) <u>Item QD00(A)</u>, Item RE01(C), Item UB00(A), and Item ZA00(Q)

BY repealing and reenacting, with amendments,

Chapter 485 of the Acts of the General Assembly of 2009, as amended by Chapter 483 of the Acts of the General Assembly of 2010 Section 1(3) <u>Item QB08–02(A) and</u> Item RE01(B)

BY repealing and reenacting, with amendments,

Chapter 485 of the Acts of the General Assembly of 2009, as amended by Chapter 483 of the Acts of the General Assembly of 2010 and Chapter 396 of the Acts of the General Assembly of 2011 Section 1(1) BY repealing and reenacting, with amendments,

Chapter 485 of the Acts of the General Assembly of 2009, as amended by Chapter 396 of the Acts of the General Assembly of 2011 Section 1(3) <u>Item QB08.01(A) and (B)</u>, Item ZA02(G), and Item ZA03(F)

BY repealing and reenacting, with amendments,

Chapter 483 of the Acts of the General Assembly of 2010 Section 1(3) Item KA05(C)(2), <u>Item VE01(A)</u> and ZA00(N), and Item ZA01(C) and 12(3) Item RB23(B)

BY repealing and reenacting, with amendments,

Chapter 483 of the Acts of the General Assembly of 2010, as amended by Chapter 396 of the Acts of the General Assembly of 2011 Section 1(1) and (3) Item QP00(A)

BY repealing and reenacting, with amendments,

Chapter 396 of the Acts of the General Assembly of 2011 Section 1(1) and (3) Item DE02.01(B), Item SA24(B), and Item ZA00(M) and (N), Item ZA00(M) and (N), and Item ZA03(Z)

BY repealing

Chapter 396 of the Acts of the General Assembly of 2011 Section 12, 13, and 14 $\,$

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan of 2012 in the total principal amount of \$1,112,880,000 \$1,119,424,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with \$\$ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, \$ 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue of bonds under 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: Laws of Maryland - 2012 Session

DA02.01

DEPARTMENT OF DISABILITIES (Statewide)

<u>DA03</u> <u>MARYLAND STADIUM AUTHORITY</u>

(A) Ocean City Convention Center Expansion. Provide funds to design, construct, and equip an expansion to the Ocean City Convention Center, provided that the Town of Ocean City provide a matching fund in the amount of \$3,500,000 \$2,200,000 for this purpose. Further provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete this project. These funds shall be administered in accordance with §§ 10–643 and 10–655 of the Economic Development Article (Worcester County).....

<u>3,500,000</u> 2,200,000

DA07

DEPARTMENT OF AGING (Statewide)

(A) Senior Citizens Activities Center Grant Program. Provide grants to acquire property and to design, construct, renovate, and equip senior citizens activities centers. The funds appropriated for this purpose shall be administered in accordance with §§ 10–501 through 10–510 of the Human Services Article

1,150,000

DE02.01

BOARD OF PUBLIC WORKS

STATE GOVERNMENT CENTER – ANNAPOLIS (Anne Arundel County)

(A) State House – Old Senate Chamber. Provide funds to construct alterations and renovations to the State House in order to restore the Old Senate Chamber to its 18th Century appearance, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete the project.....

3,000,000

<u>0</u>

(B) Annapolis Post Office. Provide funds for site acquisition and the design of renovations to the historic Annapolis Post Office

	building located on Church Circle in Annapolis, provided that no funds may be expended for acquisition until the Department of General Services has provided the budget committees with a complete cost benefit analysis that supports the proposed acquisition and renovation. The budget committees shall have 45 days to review and comment following receipt of the report	3,782,000
	STATE GOVERNMENT CENTER – BALTIMORE (Baltimore City)	
(C)	Saratoga State Center – Garage Improvements. Provide funds to construct garage improvements at the Saratoga State Center	4,445,000
(D)	William Donald Schaefer Tower – Replace Fire Alarm System. Provide funds to replace the fire alarm system at the William Donald Schaefer Tower	2,475,000
	GENERAL STATE FACILITIES	
(E)	Facilities Renewal Fund. Provide funds for the State Capital Facilities Renewal Program (Statewide)	20,592,000
(F)	Asbestos Abatement Program. Provide funds to abate asbestos in various State facilities, provided that it is the intent of the General Assembly that projects on the fiscal 2013 funding list at University System of Maryland (USM) institutions be funded from USM plant funds to ensure these projects are undertaken during fiscal 2013 (Statewide)	2,000,000 <u>157,000</u>
	JUDICIARY / MULTISERVICE CENTERS	
(G)	Court of Appeals Building – Lobby and ADA Improvements. Provide funds to design lobby and ADA improvements at the Court of Appeals Building (Anne Arundel County)	340,000
(H)	New Catonsville District Court. Provide funds to complete design of the New Catonsville District Court (Baltimore County)	$\frac{2,250,000}{250,000}$
DE02.02	PUBLIC SCHOOL CONSTRUCTION (Statewide)	
(A)	Public School Construction Program. Provide funds to	

construct public school buildings and public school capital improvements in accordance with §§ 5-301 through 5-303 of the Education Article, provided that \$50,000,000 of this appropriation shall be used to fund projects that improve the energy efficiency of schools, including improvements to HVAC systems, lighting, mechanical systems, windows and doors, and any other type of improvement that is specifically designed to improve the energy efficiency of a school building, per standards to be developed by the Interagency Committee collaboration with the Maryland (IAC) in Energy Administration. Priority will be given to projects that maximize leverage, such as projects that only fund the incremental cost of energy efficiency improvements, as opposed to the full costs of the energy project. The funds may also be used to install renewable energy systems in schools. provided that \$50,000,000 \$25,000,000 of this appropriation is restricted and may not be expended until the IAC submits a report to the budget committees detailing the standards that will be used to allocate funds among projects that improve the energy efficiency of schools. The budget committees shall have 45 days from the receipt of the report to review and comment.

<u>Further provided that any school construction funds allocated</u> to an eligible project in a county that are not spent for the project may, within two years, at the county's option be:

- (1) <u>applied to another eligible project in the current fiscal</u> year; or
- (2) reverted to the contingency fund and reserved for eligible projects in the county in the next fiscal year, which shall be in addition to new funds allocated for eligible projects in the county in the next fiscal year.

Further provided that any school construction funds reserved for a county in the contingency fund that are not encumbered within two years shall become available to be allocated to an eligible project in any county

351,393,000 326,393,000

(B) Aging Schools Program. Provide additional grants to be distributed to local boards of education in proportion to grants received under § 5-206 of the Education Article. Notwithstanding § 5-206(f)(2)(ii) of the Education Article, for fiscal year 2013, the distribution to local boards of education shall be as follows:

Martin O'Malley, Governor

<u>(1)</u>	<u>Allegany County</u>	<u>497,984</u>	
<u>(2)</u>	<u>Anne Arundel County</u>	<u>2,576,913</u>	
<u>(3)</u>	Baltimore City	<u>7,067,769</u>	
<u>(4)</u>	Baltimore County	<u>4,451,853</u>	
<u>(5)</u>	<u>Calvert County</u>	<u>194,996</u>	
<u>(6)</u>	<u>Caroline County</u>	<u>254,993</u>	
<u>(7)</u>	<u>Carroll County</u>	<u>698,978</u>	
<u>(8)</u>	<u>Cecil County</u>	<u>488,986</u>	
<u>(9)</u>	<u>Charles County</u>	<u>254,993</u>	
<u>(10)</u>	<u>Dorchester County</u>	<u>194,996</u>	
<u>(11)</u>	<u>Frederick County</u>	<u>929,972</u>	
<u>(12)</u>	<u>Garrett County</u>	<u>194,996</u>	
<u>(13)</u>	<u>Harford County</u>	<u>1,106,966</u>	
<u>(14)</u>	<u>Howard County</u>	<u>446,984</u>	
<u>(15)</u>	<u>Kent County</u>	<u>194,996</u>	
<u>(16)</u>	<u>Montgomery County</u>	<u>3,068,898</u>	
<u>(17)</u>	Prince George's County	<u>6,158,798</u>	
<u>(18)</u>	<u>Queen Anne's County</u>	<u>254,993</u>	
<u>(19)</u>	<u>St. Mary's County</u>	<u>254,993</u>	
<u>(20)</u>	Somerset County	<u>194,996</u>	
<u>(21)</u>	<u>Talbot County</u>	<u>194,996</u>	
<u>(22)</u>	<u>Washington County</u>	<u>686,976</u>	
<u>(23)</u>	<u>Wicomico County</u>	<u>542,980</u>	
<u>(24)</u>	Worcester County	<u>194,996</u>	 6,109,000

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31,109,000

DH01.04 MILITARY DEPARTMENT

(A)	Dundalk Readiness Center – Alteration and Addition. Provide	
	funds for land acquisition, design, and construction of	
	alterations and an addition to the Dundalk Readiness Center	
	(Baltimore County)	6,141,000
		<u>5,691,000</u>

DEPARTMENT OF PLANNING

DW01.10 DIVISION OF HISTORICAL AND CULTURAL PROGRAMS (Statewide)

(A)	Maryland Historical Trust. Provide funds for the African	
	American Heritage Preservation Program to assist in the	
	protection of historic property. The funds appropriated for this	
	purpose shall be administered in accordance with § 5A-330 of	
	the State Finance and Procurement Article	1,000,000

FB04 DEPARTMENT OF INFORMATION TECHNOLOGY (Statewide)

(A)	Public Safety Communications System. Provide funds to	
	construct and equip a statewide public safety communications	
	system to provide the State with a new, modern, unified radio	
	communications system	$25,\!250,\!000$
	-	

DEPARTMENT OF NATURAL RESOURCES

KA05 CAPITAL GRANTS AND LOANS ADMINISTRATION (Statewide)

- (A) Community Parks and Playgrounds. Provide funds for grants to local governments to design and construct eligible projects . 2,500,000
- (B) Natural Resources Development Fund. Provide funds to

Depa § 5–9 be sj	n, construct, and equip capital develops rtment of Natural Resources property in 003(g) of the Natural Resources Article. pent on the projects listed below of prized projects:	accordance with Funds may only r on previously	10,874,000
(1)	Western Maryland Rail Trail (Allegany County)	1,900,000	
(2)	Harriet Tubman Underground Railroad State Park (Dorchester County)	2,683,000	
(3)	Wellington Wildlife Management Area – Office Renovation (Somerset County)	342,000	
(4)	North Point State Park – Pier Replacement and Shore Erosion Control (Baltimore County)	1,910,000	
(5)	Point Lookout State Park Lighthouse Restoration (St. Mary's County)	398,000	
(6)	Elk Neck State Park Improvements (Cecil County)	241,000	
(7)	State Parks – New Natural Playgrounds	1,400,000	
(8)	Sandy Point State Park – Green Infrastructure Improvements (Anne Arundel County)	1,700,000	
(9)	Garrett County State Parks – Trail Construction (Garrett County)	150,000	
(10)	Western Maryland Recreational Access and Trail Restoration Project (Garrett County)	150,000	

(C) Program Open Space. Provide funds for the purchase of conservation easements and acquisition of land, and to make grants to local jurisdictions for the purchase of conservation easements and acquisition of land, and development of recreational facilities. Funds appropriated for local grants

(D)

(E)

	be administered in accordance with §§ 6 of the Natural Resources Article		70,079,000 <u>54,557,000</u> <u>70,079,000</u> <u>60,649,000</u>
(1)	Program Open Space – Stateside – FY 2013 Allocation	4,908,000 <u>0</u> <u>4,908,000</u> <u>0</u>	
(2)	Program Open Space – Local – FY 2013 Allocation	4,522,000 <u>0</u> 4,522,000 <u>0</u>	
(3)	Baltimore City Direct Grant – FY 2013 Allocation	1,270,000	
(4)	Program Open Space – Stateside – Prior Funds Replacement	$\frac{12,792,000}{6,700,000}$ <u>6,700,000</u> <u>12,792,000</u>	
(5)	Program Open Space – Local – Prior Funds Replacement	46,587,000	
capit repa	cal Maintenance Program. Provide fur cal improvements such as planned m ir projects at public use facilities o erty	aintenance and on State–owned	8,394,000 10,119,000
proje thro fund acco	erway Improvement Fund. Provide fu ects which expand and improve recre- ughout the State consistent with the Sta s appropriated for this purpose shall be rdance with §§ 8–707 through 8–709 purces Article	eational boating te Boat Act. The administered in of the Natural	7,431,000 <u>15,466,000</u> <u>4,820,000</u> 7,431,000

(F) Rural Legacy Program. Provide funds for the purchase of conservation easements and the acquisition of land. The funds

appropriated for this purpose shall be administered in accordance with §§ 5-9A-01 through 5-9A-09 of the Natural

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	Resources Article	14,889,000
		<u>0</u> <u>9,889,000</u> <u>5,622,000</u>
KA14.02	WATERSHED SERVICES (Statewide)	
(A)	Chesapeake Bay 2010 Trust Fund. Provide funds to be credited to the Chesapeake Bay 2010 Trust Fund. Funds allocated to the Chesapeake Bay Trust Fund shall be used for capital-eligible project expenses. Specific projects will be determined by the BayStat Subcabinet	27,756,000 <u>53,756,000</u> <u>27,756,000</u> 38,013,000
KA17	FISHERIES SERVICES (Statewide)	
(A)	Oyster Restoration Program. Provide funds to design and construct oyster habitat restoration projects and provide grants for aquaculture development projects	8,060,000
	DEPARTMENT OF AGRICULTURE	
LA11	OFFICE OF THE SECRETARY (Statewide)	
(A)	Maryland Agricultural Land Preservation Program. Provide funds for the acquisition of conservation easements on agricultural land. The funds appropriated for this purpose shall be administered in accordance with §§ 2–501 through 2–519 of the Agriculture Article	14,124,000 <u>3,383,000</u> <u>14,124,000</u> <u>8,706,000</u>
LA12	OFFICE OF MARKETING, ANIMAL INDUSTRIES AND CONSUMER SERVICES	

(Statewide)

(A) Tobacco Transition Program. Provide funds for the purchase of agricultural easements for the Tobacco Transition Program

1,894,000

<u>⊕</u> <u>1,894,000</u>

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

MA01 OFFICE OF THE SECRETARY (Statewide)

(A)	Federally Qualified Health Centers Grant Program. Provide		
	grants to acquire, design, construct, renovate, convert, and		
	equip buildings to be used as Federally Qualified Health		
	Centers		

 $\frac{2,421,000}{2,871,000}$

3,530,000

MI04.01 FAMILY HEALTH ADMINISTRATION (Wicomico County)

MM06 DEVELOPMENTAL DISABILITIES ADMINISTRATION (Statewide)

- (C) Henryton Center Abate Asbestos and Raze Buildings. Provide funds to design, abate asbestos, and demolish buildings at the Henryton Center, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete this project (Carroll County)
- (D) Dorsey Run – Secure Evaluation and Therapeutic Treatment Center (SETT). Provide funds to complete design of the new Secure Evaluation and Therapeutic Treatment Center (SETT), provided that no funds may be expended for project design until the Department of Health and Mental Hygiene provides the budget committees with a report that includes a detailed plan to alter the scope of the proposed SETT unit, including what the appropriate bed capacity for the facility should be. Furthermore, the report shall advise the committees on how the Department plans to utilize therapeutic treatment homes to meet its mission of serving individuals in the least restrictive setting, including whether these homes will be used as step-down units. The report shall include how many therapeutic treatment homes would be needed based on the modified size of the SETT unit, including operating costs to serve these individuals in therapeutic homes in comparison to serving individuals in the SETT unit.

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Chapter 444

<u>Finally, the Department shall advise on its efforts to work</u>	
with community providers to establish therapeutic treatment	
<u>homes in the State. The budget committees shall have 45 days</u>	
to review and comment following the receipt of the report	
(Howard County)	2,150,000

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DEPARTMENT OF LABOR, LICENSING, AND REGULATION

PA13.01

QB06.04

OFFICE OF THE SECRETARY

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Provided that on or before June 1, 2013, the Department of Public Safety and Correctional Services shall provide to the budget committees a Facilities Master Plan that is consistent with the structural and operational changes resulting from the Department's reorganization. The new capital plan shall continue to address the needs of deteriorating facilities but should also reflect the Department's new focus on regional operations and community-based reentry and transition services. The Department shall also include an inmate security classification study and Department-wide population analysis as part of the Facilities Master Plan submission.

QB02 <u>DIVISION OF CORRECTION</u> <u>MARYLAND HOUSE OF CORRECTION</u> <u>(Anne Arundel County)</u>

(A) Maryland House of Correction Deconstruction Project. Provide design and construction funds for the deconstruction of the Maryland House of Correction in Jessup, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to the appropriation of all the funds necessary to complete this project

3,500,000

DORSEY RUN CORRECTIONAL FACILITY (Anne Arundel County)

(A) 560–Bed Minimum Security Compound. Provide funds to equip a new 560–bed minimum security compound at Dorsey Run Correctional Facility1,200,000

RA01 STATE DEPARTMENT OF EDUCATION

(A) Public Library Capital Grant Program. Provide grants to acquire land, design, construct, and equip public library facilities, provided that any reallocation of this authorization or prior authorized funds for previously authorized or new projects shall require notification to the General Assembly. The funds appropriated for this purpose shall be administered in accordance with § 23–510 of the Education Article (Statewide)

5,000,000

UNIVERSITY SYSTEM OF MARYLAND

<u>RB21</u> <u>UNIVERSITY OF MARYLAND, BALTIMORE</u> (Baltimore City)

(A) <u>Health Sciences Research Facility III. Provide funds for the</u> <u>design of a new research facility for the School of Medicine,</u> <u>subject to the requirement that the University of Maryland,</u> <u>Baltimore provide an equal and matching fund for this</u> <u>purpose.....</u>

<u>5,000,000</u> <u>3,275,000</u> <u>4,672,000</u>

RB22 UNIVERSITY OF MARYLAND, COLLEGE PARK (Prince George's County)

(A)	Physical Sciences Complex. Provide funds to complete construction and equip Phase I of a new Physical Sciences Complex to provide modern laboratory and office space for the Department of Physics, the Department of Astronomy, and the Institute for Physical Sciences and Technology	29,550,000
(B)	Campuswide Building System and Infrastructure Improvements. Provide funds to design, construct, and equip campuswide infrastructure improvements at the College Park campus	5,000,000
(C)	University Learning and Teaching Center. Provide funds to begin design of the University Learning and Teaching Center	2,050,000
(D)	Remote Library Storage Facility. Provide funds to begin design of the Remote Library Storage Facility	435,000

2987	Martin O'Malley, Governor	Chapter 444
<u>(E)</u>	<u>University of Maryland Athletic Fields. Provide funds for the acquisition, design, construction, renovation, and equipping of new synthetic athletic fields</u>	<u>1,000,000</u>
<u>(F)</u>	<u>New Bioengineering Building.</u> Provide funds to begin design of a new Bioengineering Building	<u>5,000,000</u>
RB23	BOWIE STATE UNIVERSITY (Prince George's County)	
(A)	Campuswide Site Improvements. Provide funds to design and construct Campuswide Site Improvements	2,166,000
(B)	New Natural Sciences Center. Provide funds to begin design of a new Natural Sciences Center	3,100,000
RB24	TOWSON UNIVERSITY (Baltimore County)	
(A)	Campuswide Safety and Circulation Improvements. Provide funds to design and construct campuswide safety and circulation improvements, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete this project	$\frac{13,812,000}{6,000,000}$
(B)	Smith Hall Expansion and Renovation. Provide funds to begin	<u>0,000,000</u>
(D)	design of the expansion and renovation of Smith Hall	5,700,000
RB26	FROSTBURG STATE UNIVERSITY (Allegany County)	
(A)	New Center for Communications and Information Technology. Provide funds to construct a new Center for Communications and Information Technology, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete this project	44,550,000
RB27	COPPIN STATE UNIVERSITY (Baltimore City)	
(A)	New Science and Technology Center. Provide funds for site acquisition, design, and construction of a New Science and Technology Center, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to	

Chapter	444 Laws of Maryland – 2012 Session	2988
	appropriation of all the funds necessary to complete this project	28,775,000
RB28	UNIVERSITY OF BALTIMORE (Baltimore City)	
(A)	New Law School Building. Provide funds to equip a new Law School Building	4,037,000
<u>RB29</u>	<u>SALISBURY UNIVERSITY</u> <u>(Wicomico County)</u>	
<u>(A)</u>	<u>New Library. Provide funds to begin design of a new</u> Library	<u>1,900,000</u>
RB31	UNIVERSITY OF MARYLAND BALTIMORE COUNTY (Baltimore County)	
(A)	New Performing Arts and Humanities Facility. Provide funds to design and construct Phase II of the New Performing Arts and Humanities Facility, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete this project	33,225,000
<u>(B)</u>	CampusTrafficSafetyandCirculationImprovements.Providefundstodesignimprovementstothecampusvehicularcirculationsystem	<u>1,000,000</u>
RB34	UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE (Allegany County)	
(A)	New Environmental Sustainability Research Laboratory. Provide funds to begin design of the New Environmental Sustainability Research Laboratory	1,150,000
RB36	UNIVERSITY SYSTEM OF MARYLAND OFFICE (Statewide)	
(A)	Facilities Renewal Program. Provide funds to design, renovate, construct, and equip various facilities renewal projects on University System of Maryland campuses across the State. <i>Further provided that \$1,500,000 of this</i> <i>appropriation may only be used to replace the air conditioning</i> <i>system in the James Gymnasium at Bowie State University</i>	10,000,000

Martin O'Malley, Governor

BALTIMORE CITY COMMUNITY COLLEGE (Baltimore City)

(A) Main Building Renovation – Administration Wing – Liberty Provide funds to renovate and equip Campus. the Administration Wing of the Main Building, provided that \$912,000 \$450,000 of this appropriation made for the purpose of funding capital equipment may not be encumbered or expended until the college submits a report to the budget committees that provides two independent appraisals of the land that is subject to negotiations in the Harbor Campus redevelopment. Further provided that the report shall also include an estimate of the value of rent payments that could be received from redeveloping the property into retail and office space in the manner proposed by the college. The report shall include a justification for redeveloping the land as opposed to selling the property outright. The budget committees shall have 45 days from the date of receipt of the report to review and comment.

> Further provided that it is the intent of the General Assembly that when Baltimore City Community College begins to collect revenue from the sale or redevelopment of the Harbor Campus, the college's operating budget funding formula should be revised to account for the new non–State revenue stream

6,686,000

RD00 ST. MARY'S COLLEGE OF MARYLAND (St. Mary's County)

RI00 MARYLAND HIGHER EDUCATION COMMISSION (Statewide)

(A) Community College Facilities Grant Program. Provide funds to assist the subdivisions in the acquisition of property and in the design, construction, renovation, and equipping of local and regional community college buildings, site improvements, and facilities. Provided that the funds needed for the State's share of the cost of design, construction, and capital equipping for the Cecil College's Engineering and Math Building, Anne Arundel Community College's Administration Building Renovation and Expansion, Baltimore County Community College's – Catonsville – F Building Renovation and Expansion, and Harford Community College's New Nursing

RC00

RM00

and Allied Health Building be provided as split authorizations in fiscal 2013 and 2014 and that this Act include a preauthorization for each project in the State's remaining

MORGAN STATE UNIVERSITY (Baltimore City)

(A)	New School of Business Complex and Connecting Bridge. Provide funds to design and begin construction a new School of Business Complex and Connecting Bridge, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete this project	20,685,000
(B)	Facilities Renewal Projects. Provide funds to design, construct, and equip facilities renewal projects at Morgan State University	5,000,000
(C)	New Jenkins Behavioral and Social Sciences Center. Provide funds to complete design of the New Jenkins Behavioral and Social Sciences Center	3,500,000
<u>(D)</u>	Soper Library Demolition. Provide design funds for the demolition of Soper Library	<u>500,000</u>
RQ00	UNIVERSITY OF MARYLAND MEDICAL SYSTEM (Baltimore City)	
(A)	Trauma, Critical Care, and Emergency Medicine Services Expansion Project. Provide a grant to the University of Maryland Medical System to assist in the construction and equipping of the University of Maryland Medical Center – Trauma, Critical Care, and Emergency Medicine Services Expansion project	10,000,000
(B)	R Adams Cowley Shock Trauma Center – Phase I. Provide a grant to the University of Maryland Medical System to assist in the construction and equipping of the R Adams Cowley Shock Trauma Center	3,500,000

DEVELOPMENT

Provided that any financial assistance awarded under the Community Legacy Program, Homeownership Programs, and Special Loan Programs is not subject to § 8–301 of the State Finance and Procurement Article.

SA24 DIVISION OF NEIGHBORHOOD REVITALIZATION (Statewide)

(A) Community Legacy Program. Provide funds to assist neighborhoods with revitalization efforts. The funds shall be administered in accordance with §§ 6-201 through 6-211 of the Housing and Community Development Article and Code of Marvland Regulations (COMAR) 05.17.01 6.000.000 (B) Neighborhood Business Development Program. Provide funds for grants and loans to fund community-based economic development activities in revitalization areas designated by local governments. The funds shall be administered in accordance with §§ 6-301 through 6-311 of the Housing and Community Development Article 2,350,000(C) Strategic Demolition and Smart Growth Impact Project Fund. Provide funds for grants and loans to government agencies. nonprofit organizations and private entities for demolition, land assembly, housing development or redevelopment, and revitalization projects in areas: (i) designated a Sustainable Community under § 6-205 of the Housing and Community Development Article, a BRAC Revitalization and Incentive Zone under Title 5, Subtitle 13 of the Economic Development Article, or a transit-oriented development under § 7-101 of the Transportation Article; or (ii) that will become designated through the implementation of PlanMaryland under Executive Order 01.01.2011.22. The Department of Housing and Community Development (DHCD) is authorized to administer these funds in accordance with this section and criteria established by DHCD. Provided, that any repayments of loans or grants shall be credited to the Community Legacy Financial Assistance Fund under § 6–211 of the Housing and

Community Development Article

(A)	Partnership Rental Housing Program. Provide funds to be credited to the Partnership Rental Housing Fund to be administered in accordance with §§ 4–501, 4–503, and 4–1201 through 4–1209 of the Housing and Community Development Article	6,000,000
(B)	Homeownership Programs. Provide funds for below-market interest rate mortgages with minimum down payments to low- and moderate-income families. These funds shall be administered in accordance with §§ 4-501, 4-502, 4-801 through 4-810, and 4-814 through 4-816 of the Housing and Community Development Article	8,000,000
(C)	Shelter and Transitional Housing Facilities Grant Program. Provide grants to acquire, design, construct, renovate, and equip facilities for homeless individuals and families. The funds shall be administered in accordance with the Code of Maryland Regulations (COMAR) 05.05.09	2,000,000
(D)	Special Loan Programs. Provide funds to low– and moderate–income families, sponsors of rental properties occupied primarily by limited income families, and nonprofit sponsors of housing facilities, including group homes and shelters. These funds shall be administered in accordance with §§ 4–501, 4–505, 4–601 through 4–612, 4–701 through 4–712, 4–901, 4–923, 4–927, and 4–933 of the Housing and Community Development Article	6,900,000
(E)	Rental Housing Program. Provide funds for rental housing developments that serve low– and moderate–income households. The funds shall be administered in accordance with §§ 4–401 through 4–409, 4–501, 4–504, 4–901 through 4–923, 4–929, 4–933, and 4–1501 through 4–1511 of the Housing and Community Development Article	15,000,000 <u>20,000,000</u> <u>15,000,000</u> 17,500,000
		<u>,</u>

DEPARTMENT OF THE ENVIRONMENT

UA01

OFFICE OF THE SECRETARY (Statewide)

(A) Enhanced Nutrient Removal. Provide funds to local governments to implement enhanced nutrient removal technology at the 67 largest wastewater treatments plants in

	Maryland	18,175,000
(B)	Maryland Water Quality Revolving Loan Fund. Provide fur to finance water quality improvement projects. These fur shall be administered in accordance with § 9–1605 of Environment Article	nds the
(C)	Maryland Drinking Water Revolving Loan Fund. Prov funds to finance drinking water projects. These funds shall administered in accordance with § 9–1605.1 of Environment Article	l be the
UA04	WATER MANAGEMENT ADMINISTRATION (Statewide)	
(A)	 Chesapeake Bay Water Quality Project Funds. Provide furtion to be credited to the Water Pollution Control Fund to be up for projects to improve the water quality of the Chesaper Bay and other waters of the State. These Except as provide below, these funds shall be administered for the purper listed below in accordance with §§ 9–345 through 9–355 the Environment Article and in accordance with Code Maryland Regulations (COMAR) 26.03.08 (1) Biological Nutrient Removal Program. Provide more than \$26,760,000 \$24,760,000 in grants projects to remove nutrients at publicly owned sews treatment works; 	sed ake <u>ded</u> oses 1 of <u>e of</u> 31,760,000 not for
	(2) Supplemental Assistance Program. Provide not m than \$5,000,000 \$7,000,000 in grants to prov assistance to grant and loan recipients to meet the lo share of construction costs. Notwithstanding §§ 9- through 9-351 of the Environment Article and of regulation adopted in accordance with those section \$2,000,000 of these funds shall be used to provid grant to the Town of New Windsor to pay a portion the loan issued by the Maryland Department of Environment, Water Quality Financing Administratus used for the recently completed wastewater treatment plant;	vide ocal <u>345</u> <u>any</u> ons, <u>e_a</u> <u>i_of</u> <u>the</u> <u>sion</u>

(B) Water Supply Financial Assistance Program. Provide funds for assistance to State and local government entities to acquire, design, construct, rehabilitate, equip, and improve water supply facilities. The funds shall be administered in accordance with §§ 9–420 through 9–426 of the Environment

UB00 MARYLAND ENVIRONMENTAL SERVICE

(A) Infrastructure Improvement Fund. Provide funds to design, construct, and equip capital improvements for State institutions. Expenditures for any of the following projects may not exceed the amount listed below by more than 7.5% without notification to the General Assembly. Funds may only be spent on the projects listed below or on previously authorized projects. Expenditure of any part of this appropriation for a previously authorized project shall also require notification to the General Assembly

(1)Rocky Gap State Park Treatment Plant Wastewater Improvements (Allegany County) 341,000 (2)Rocky Gap State Park – New Water Treatment Plant (Allegany County) 3,644,000 (3)Freedom Wastewater Treatment Plant Improvements (Carroll 259,000 County) (4) Cunningham Falls State Park -Wastewater Collection and Water **Distribution System Improvements** (Frederick County) 200,000 Eastern Correctional Institution -(5)Wastewater Treatment Plant Improvements (Somerset County) ... 1,514,000 (6) State Water Tower Improvements

(Statewide) 1,504,000

DEPARTMENT OF JUVENILE SERVICES

VE01

RESIDENTIAL SERVICES

(A) Baltimore Regional Treatment Center. Provide funds for land acquisition for the Baltimore Regional Treatment Center, provided that the Department of Juvenile Services has until December 31, 2012, to identify and substantially complete

7,462,000

	negotiations for the acquisition of land for the Baltimore Regional Treatment Center. If a purchase agreement has not been substantially negotiated by December 31, 2012, this authorization shall be restricted for the sole purpose of designing the Cheltenham Treatment Center on the grounds of the Cheltenham Youth Facility in Prince George's County. The Department of General Services shall submit certification to the budget committees by December 31, 2012, on the status of land acquisition. The budget committees shall have 45 days from receipt of the certification letter to review and comment	
(B)	(Baltimore City) Southern Maryland Children's Center. Provide funds to	3,000,000
	design the Southern Maryland Children's Center (Charles County)	2,068,000 <u>⊕</u>
WA01	DEPARTMENT OF STATE POLICE	
(A)	Helicopter Replacement. Provide funds to acquire new helicopters to upgrade the quality of the State helicopter fleet (Statewide)	38,674,000
ZA00	MISCELLANEOUS GRANT PROGRAMS	
(A)	Alice Ferguson Foundation – Potomac Watershed Study Center. Provide a grant to the Board of Directors of the Alice Ferguson Foundation, Inc. for the construction of the Potomac Watershed Study Center, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Prince George's County)	1,700,000
(B)	Annapolis High School. Provide a grant to the Anne Arundel County Board of Education for the construction of stadium improvements at Annapolis High School (Anne Arundel County)	1,000,000 2,000,000
(C)	Baltimore Museum of Art. Provide a grant to the Board of Trustees of the Baltimore Museum of Art, Inc. for the design, renovation, and reconfiguration of facilities at the Baltimore Museum of Art, subject to the requirement that the grantee provide an equal and matching fund for this purpose (Baltimore City)	9 500 000
	(Baltimore City)	2,500,000

- (D) Baltimore City Convention Center. Provide a grant to the Maryland Stadium Authority to assist in the preliminary design of an expansion to the Baltimore City Convention Center, provided that no funds may be expended until a Memorandum of Understanding (MOU) between the Department of Budget and Management, the City of Baltimore, and the private developer is submitted to the budget committees and the Legislative Policy Committee. The MOU shall include preliminary agreements between the parties regarding the management and ownership structure of the convention center complex project, including the proposed hotel and arena. The MOU shall also include the preliminary financial commitments of each party and preliminary expectations for the cost-sharing between the State and the City of Baltimore. The budget committees and the Legislative Policy Committee shall have 45 days from the receipt of the MOU to review and comment (Baltimore City)
- (E) Charles E. Smith Life Communities. Provide a grant to the Board of Governors of the Charles E. Smith Life Communities, Inc. for the construction, renovation, and capital equipping of improvements to facilities at the Revitz House on the campus of Charles E. Smith Life Communities in Rockville, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Montgomery County)
- (F) Everyman Theatre. Provide a grant to the Board of Directors of the Everyman Theatre, Inc. to renovate the historic Town Theatre in downtown Baltimore, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)
- (G) Kennedy Krieger Institute. Provide a grant to the Board of Directors of the Kennedy Krieger Institute, Inc. for the design, construction, and capital equipping for a new Comprehensive Autism Center at Kennedy Krieger's East Baltimore Campus, subject to the requirement that the grantee provide an equal and matching fund for this purpose (Baltimore City)
- (H) Maryland Independent College and University Association Johns Hopkins University. Provide a grant equal to the lesser of (i) \$1,000,000 \$4,000,000 or (ii) the amount of the matching

2996

2,500,000

675.000

1,000,000

1,000,000

fund provided, to the Board of Trustees of Johns Hopkins University to assist in the planning, design, construction, renovation, and capital equipping of the New Undergraduate Teaching Laboratory Facility on the Johns Hopkins Homewood campus, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)

- (I) Maryland Independent College and University Association McDaniel College. Provide a grant equal to the lesser of (i) \$1,000,000 \$1,500,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of McDaniel College to assist in the planning, design, construction, renovation, and capital equipping of the Hoover Library and Alumni Hall located at the McDaniel College campus, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Carroll County)
- (J) Maryland Independent College and University Association Notre Dame of Maryland University. Provide a grant equal to the lesser of (i) \$1,000,000 \$4,000,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Notre Dame of Maryland University to assist in the planning, design, construction, renovation, and capital equipping of the New Academic Building for Schools of Nursing and Education located at the Notre Dame of Maryland University campus, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)
- (K) Maryland Independent College and University Association St. John's College. Provide a grant equal to the lesser of (i) \$1,000,000 \$1,500,000 or (ii) the amount of the matching fund provided, to the Board of Visitors and Governors of St. John's College to assist in the planning, design, construction, renovation, and capital equipping of the New Hodson Hall and Carroll – Barrister House Renovation at the St. John's

4,000,000

1.000.000

1,000,000 <u>4,000,000</u>

2998

	Annapolis campus, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Anne Arundel County)	1,000,000 <u>1,500,000</u>
(L)	Maryland Science Center – Planetarium Improvements. Provide a grant to the Board of Trustees of the Maryland Science Center, Inc. for the renovation and capital equipping of the planetarium, subject to the requirement that the grantee provide an equal and matching fund for this purpose (Baltimore City)	550,000
(M)	Maryland School for the Blind. Provide a grant to the Board of Directors of the Maryland School for the Blind, Inc. for the construction and capital equipping of a new LIFE Education Building at the Maryland School for the Blind, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete this project (Baltimore City)	5,000,000
(N)	Maryland Zoo in Baltimore – Infrastructure Improvements. Provide a grant to the Directors of the Maryland Zoological Society, Inc. for the design, construction, and equipping of the African Penguin Exhibit and various infrastructure improvements or life safety projects (Baltimore City)	5,000,000
(0)	Mount Vernon Square Redevelopment. Provide a grant to the Board of Directors of the Mount Vernon Place Conservancy, Inc. to repair the George Washington Monument, subject to the requirement that the grantee provide an equal and matching fund for this purpose (Baltimore City)	1,000,000
(P)	Prince George's Hospital System. Provide a grant to the County Executive and County Council of Prince George's County for the construction and renovation of infrastructure improvements for facilities within the Prince George's Hospital System, provided that this authorization may not be encumbered or expended until the Department of Health and Mental Hygiene, <i>Dimensions Healthcare System</i> , and Prince George's County submit a report to the budget committees on the proposed use of funds to improve the system. The report shall be submitted by December 31, 2012, and the budget committees shall have 45 days to review and comment. If a report has not been submitted by December 31, 2012, this authorization shall be restricted for the purposes of funding	

	the State's share of costs for the acquisition, design, and construction of a new regional hospital center in Prince <u>George's County</u> (Prince George's County)	10,000,000
(Q)	Sinai Hospital. Provide a grant to the Board of Directors of Sinai Hospital, Inc. for the design, renovation, and expansion of the new Neurological Rehabilitation Center – Traumatic Brain Injury Unit at Sinai Hospital, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)	1,000,000
(R)	USS Constellation Education Center and Heritage Center. Provide a grant to the Advisory Board of the Historic Ships in Baltimore, Inc. to assist in the construction of a new Education and Heritage Center at the USS Constellation at the Inner Harbor, subject to the requirement that the grantee provide an equal and matching fund for this purpose (Baltimore City).	1,000,000
<u>(S)</u>	High Performance Computing Data Center. Provide a grant to the Board of Trustees of Johns Hopkins University for the design, construction, and capital equipping of a High Performance Computing Data Center to enhance the high speed data initiative funded by a grant from the National Science Foundation to Johns Hopkins University and the University of Maryland, College Park, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all of the funds necessary to complete this project. Further provided that no funds may be expended until a Memorandum of Understanding (MOU) is executed between Johns Hopkins University and the University of Maryland, College Park in consultation with the University System of Maryland that establishes the governance and the capital and operating funding for the center. Provided that the MOU shall be submitted to the budget committees, and the committees shall have 45 days to review and comment (Baltimore City)	5,000,000 <u>3,000,000</u>
<u>(T)</u>	Green Branch Athletic Complex. Provide a grant equal to the	

(T) Green Branch Athletic Complex. Provide a grant equal to the lesser of (i) \$1,000,000 or (ii) the amount of the matching fund provided, to the Maryland–National Capital Park and Planning Commission for the planning, design, construction, and capital equipping of the Green Branch Athletic Complex,

	<u>located in Prince George's County. Notwithstanding Section</u> <u>1(5) of this Act, the matching fund may consist of real</u> property or in–kind contributions (Prince George's County)	<u>1,000,000</u>
<u>(U)</u>	Hospice of the Chesapeake. Provide a grant equal to the lesser of (i) \$600,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Hospice of the Chesapeake Foundation, Inc. for the acquisition, planning, design, construction, repair, renovation, and capital equipping of the Hospice of the Chesapeake headquarters office building, located in Anne Arundel County. 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 (Anne Arundel County)	<u>600,000</u>
<u>(V)</u>	<u>Coastal Hospice at the Ocean Residence Project. Provide a</u> <u>grant equal to the lesser of (i) \$500,000 or (ii) the amount of</u> <u>the matching fund provided, to the Board of Directors of</u> <u>Coastal Hospice, Inc. for the acquisition, design, construction,</u> <u>and capital equipping of the Coastal Hospice at the Ocean</u> <u>Residence Project, located in Worcester County.</u> <u>Notwithstanding Section 1(5) of this Act, the matching fund</u> <u>may consist of real property, in kind contributions, or funds</u> <u>expended prior to the effective date of this Act (Worcester</u> <u>County)</u> .	<u>500,000</u>
<u>(W)</u>	National Aquarium in Baltimore Infrastructure Improvements. Provide a grant equal to the lesser of (i) <u>\$2,000,000</u> <u>\$2,000,000</u> <u>\$2,500,000</u> or (ii) the amount of the matching fund provided, to the Board of Governors of the National Aquarium in Baltimore, Inc. to assist in infrastructure improvements, subject to the requirement that the grantee provide an equal and matching fund for this purpose (Baltimore City)	<u>2,000,000</u> <u>3,000,000</u> 2,500,000
<u>(X)</u>	<u>YWCA Counseling and Community Service Building</u> <u>Renovation. Provide a grant equal to the lesser of (i) \$125,000</u> <u>or (ii) the amount of the matching fund provided to the Board</u>	

Renovation. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided to the Board of Directors of the Young Women's Christian Association of Annapolis and Anne Arundel County Maryland, Inc. for the planning, design, repair, renovation, and capital equipping of the YWCA Counseling and Community Service Building, located in Arnold. 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

500,000

707,500

1,000,000

1,100,000

this Act	(Anne Arundel	County)	•••••••••••••••••••••••••••••••••••••••	<u>125,0</u>
				-

ZA01 MARYLAND HOSPITAL ASSOCIATION

- (A) Kennedy Krieger Children's Hospital. Provide a grant to the Board of Directors of the Kennedy Krieger Institute, Inc. to assist in the renovation of the Pediatric Rehabilitation and Feeding Disorders Unit in Baltimore City, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)
- (B) Howard County General Hospital. Provide a grant to the Board of Trustees of the Howard County General Hospital, Inc. to assist in the renovation and expansion of the Psychiatric Unit at the Howard County General Hospital facility in Columbia, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Howard County)
- (C) Franklin Square Hospital Center. Provide a grant to the Board of Directors of the Franklin Square Hospital Center, Inc. to assist in the construction of a New Neonatal Intensive Care Unit in Baltimore, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore County)
- (D) Brook Lane Health Services, Inc. Provide a grant to the Board of Directors of Brook Lane Health Service, Incorporated to assist in the renovation and expansion of the Psychiatric Hospital in Hagerstown, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Washington County)
- (E) Northwest Hospital Center. Provide a grant to the Board of Directors of Northwest Hospital Center, Inc. to assist in the renovation and expansion of the Emergency Department in Randallstown, subject to the requirement that the grantee provide an equal and matching fund for this purpose.

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	Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore County)	700,000
(F)	Union Memorial Hospital. Provide a grant to the Board of Directors of Union Memorial Hospital, Inc. to assist in the renovation and expansion of the Renal Dialysis Unit in Baltimore, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)	242,500
(G)	Upper Chesapeake Medical Center, Inc. Provide a grant to the Board of Directors of Upper Chesapeake Medical Incorporated to assist in the renovation and expansion of the Comprehensive Cancer Center in Bel Air, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Harford County)	750,000
ZA02	LOCAL SENATE INITIATIVES	
	(Statewide)	
(A)	Legislative Initiatives. Provide funds for projects of political subdivisions and nonprofit organizations	7,500,000
<u>(A)</u>	Food & Friends, Inc. Provide a grant equal to the lesser of (i) \$155,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Food & Friends, Inc. for the capital equipping of the Food & Friends facility, located in Washington, D.C., including acquisition and installation of a generator (Statewide)	<u>155,000</u>
<u>(B)</u>	Linwood Center. Provide a grant equal to the lesser of (i) \$345,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Linwood Center, Inc. for the planning and design, design, construction, and capital equipping of a new school building at the Linwood Center, located in Ellicott City (Statewide)	<u>345,000</u>
<u>(C)</u>	<u>Maryland Food Bank Sustainability Project. Provide a grant</u> equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Maryland Food Bank, Inc. for the planning, construction,	

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	repair, and capital equipping of the Maryland Food Bank Sustainability Project, located in Baltimore County	
	(Statewide)	$\underline{250,000}$
<u>(D)</u>	Patricia and Arthur Modell Performing Arts Center at the Lyric. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Lyric Foundation, Inc. for the design, construction, renovation, and capital equipping of the Patricia and Arthur Modell Performing Arts Center at the Lyric, located in Baltimore, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust (Statewide)	<u>250,000</u>
<u>(E)</u>	Allegany Museum. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Allegany Museum, Inc. for the design, construction, renovation, and capital equipping of the Allegany Museum, located in Cumberland, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions (Allegany County)	<u>100,000</u>
<u>(F)</u>	Friends Aware, Inc. Site and Project Development. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Friends Aware, Inc. for the planning, design, and construction of the Friends Aware, Inc. Site and Project Development, located in Cumberland (Allegany County)	<u>125,000</u>
<u>(G)</u>	Annapolis and Anne Arundel County Conference and Visitors Bureau – Roof Replacement. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Annapolis and Anne Arundel County Conference and Visitors Bureau, Inc. for the planning, design, construction, repair, renovation, and reconstruction of the roof of the Visitor's Center, located in Annapolis. 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 (Anne Arundel County)	<u>100,000</u>
<u>(H)</u>	Deale Elementary School Technology Enhancement Project. Provide a grant equal to the lesser of (i) \$23,000 or (ii) the amount of the matching fund provided, to the Board of Education of Anne Arundel County for the design,	

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	<u>construction, repair, and renovation of the Deale Elementary</u> <u>School Technology Enhancement Project, located in Deale</u> (Anne Arundel County)	<u>23,000</u>
<u>(I)</u>	Meade High School Concession Stand. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Anne Arundel County Board of Education for the acquisition, planning, design, construction, repair, renovation, reconstruction, and capital equipping of the concession stand and bathrooms at Meade High School, located in Fort Meade (Anne Arundel County)	<u>150,000</u>
<u>(J)</u>	Samaritan House Addition. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Samaritan House, Inc. for the design, construction, and capital equipping of the Samaritan House, located in Annapolis (Anne Arundel County)	<u>100,000</u>
<u>(K)</u>	YWCA Counseling and Community Service Building Renovation. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Young Women's Christian Association of Annapolis and Anne Arundel County Maryland, Inc. for the planning, design, repair, renovation, and capital equipping of the YWCA Counseling and Community Service Building, located in Arnold. 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 (Anne Arundel County)	<u>75,000</u>
<u>(L)</u>	Academy of Success Community Empowerment Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Academy of Success, Inc. for the acquisition, planning, design, repair, renovation, reconstruction, and capital equipping of the Academy of Success Community Empowerment Center, located in Baltimore City. 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 (Baltimore City)	<u>100,000</u>
<u>(M)</u>	Arch Social Club Historic Site Restoration. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Arch Social Club, Inc. for the planning, design, construction, repair,	

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	renovation, and reconstruction of the Arch Social Club Historic Site, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust (Baltimore City)	<u>50,000</u>
<u>(N)</u>	Baltimore Design School. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Fashion, Architecture and Basic Design School, Inc. for the planning, construction, repair, renovation, and capital equipping of the Baltimore Design School, located in Baltimore City (Baltimore City)	<u>100,000</u>
<u>(O)</u>	Brooks Robinson Statue – Babe Ruth Birthplace Foundation. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Babe Ruth Foundation, Inc. and the Mayor and City Council of Baltimore City for the design and construction of the Brooks Robinson Statue at the Babe Ruth Birthplace Foundation, located in Baltimore City. 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 (Baltimore City)	<u>100,000</u>
<u>(P)</u>	<u>Community Resource Center. Provide a grant equal to the</u> <u>lesser of (i) \$175,000 or (ii) the amount of the matching fund</u> <u>provided, to the Board of Directors of L.A.M.B., Inc. for the</u> <u>planning, design, construction, renovation, reconstruction,</u> <u>and capital equipping of the Community Resource Center,</u> <u>located in Baltimore. Notwithstanding Section 1(5) of this Act,</u> <u>the matching fund may consist of real property, in kind</u> <u>contributions, or funds expended prior to the effective date of</u> <u>this Act (Baltimore City)</u>	<u>175,000</u>
<u>(Q)</u>	East Baltimore Historical Library. Provide a grant of \$100,000 to the Board of Directors of East Baltimore Development, Inc. for the renovation of the East Baltimore Historical Library, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust (Baltimore City)	<u>100,000</u>
<u>(R)</u>	<u>Grace Outreach Center. Provide a grant of \$90,000 to the</u> <u>Board of Directors of the Grace Outreach Development</u> <u>Corporation for the renovation and capital equipping of the</u> <u>Grace Outreach Center, located in Baltimore City, subject to a</u> <u>requirement that the grantee provide and expend a matching</u>	

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	fund of \$10,000. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions (Baltimore City)	<u>90,000</u>
<u>(S)</u>	Healthy Start Client Service Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Baltimore Healthy Start, Inc. for the acquisition, repair, renovation, and capital equipping of the Healthy Start Client Service Center, located in Baltimore City (Baltimore City)	<u>100,000</u>
<u>(T)</u>	Meals on Wheels Green Building. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Meals on Wheels of Central Maryland, Inc. for the design, construction, repair, renovation, reconstruction, and capital equipping, including replacement of the roof and HVAC system, of the Meals on Wheels Building, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)	<u>75,000</u>
	Miles Washington Family Support Center. Provide a grant of \$175,000 to the Board of Trustees of the Miles Washington Family Support Center, Inc. for the planning, construction, repair, renovation, and capital equipping of the Miles Washington Family Support Center, located in Baltimore City, subject to a requirement that the grantee provide and expend a matching fund of \$50,000, and subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this Act (Baltimore City)	<u>175,000</u>
<u>(V)</u>	Mt. Lebanon CDC Community Center and Gymnasium. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Mt. Lebanon Community Development Corp. for the planning, design, and construction of the Mt. Lebanon CDC Community Center and Gymnasium, located in Baltimore. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)	<u> </u>
<u>(W)</u>	<u>PMO Community Youth Center. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund</u>	

	provided, to the Board of Directors of Payne Memorial Outreach, Inc. for the design, construction, renovation, and reconstruction of the Payne Memorial Outreach Community Youth Center, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Baltimore City)	<u>125,000</u>
<u>(X)</u>	Catonsville Family Center Y. Provide a grant equal to the lesser of (i) \$235,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the YMCA of Central Maryland, Inc. for the planning, design, construction, renovation, and capital equipping of the Catonsville Family Center Y, located in Catonsville (Baltimore County)	<u>235,000</u>
<u>(Y)</u>	<u>Children's Home Therapeutic Group Home Building. Provide</u> a grant equal to the lesser of (i) \$200,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Children's Home, Inc. for the planning, design, and construction of the Children's Home Therapeutic Group Home Building, located in Catonsville. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Baltimore County)	<u>200,000</u>
<u>(Z)</u>	Lansdowne Volunteer Fire Department. Provide a grant equal to the lesser of (i) \$20,000 or (ii) the amount of the matching fund provided, to the Lansdowne Volunteer Fire Department for the acquisition, planning, design, site-development, and construction of a facility, located in Lansdowne. 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 (Baltimore County)	<u>20,000</u>
<u>(AA)</u>	Lighthouse Youth and Family Services Center. Provide a grant equal to the lesser of (i) \$34,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Lighthouse, Inc. for the construction, repair, renovation, and reconstruction of the Lighthouse Youth and Family Services Center, located in Catonsville. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Baltimore County)	<u>34,000</u>
<u>(AB)</u>	<u>Neighbor–Space of Baltimore County. Provide a grant equal</u> to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Baltimore County for the acquisition, planning, and capital equipping of the Neighbor–Space Project, located in Baltimore	

	County. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore County)	<u>150,000</u>
<u>(AC)</u>	Owings Mills High School Stadium. Provide a grant of \$100,000 to the Board of Directors of the Owings Mills High School Sports Boosters, Inc. and the Board of Education of Baltimore County for the design and the construction of the Owings Mills High School Stadium, located in Owings Mills, subject to a requirement that the grantee provide and expend a matching fund of \$35,000. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Baltimore County)	<u>100,000</u>
<u>(AD)</u>	Calvert Marine Museum Exhibition Building. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Calvert Marine Museum Society, Inc. for the construction and renovation of the Calvert Marine Museum Exhibition Building, located in Prince Frederick (Calvert County)	<u>250,000</u>
<u>(AE)</u>	Chesapeake Beach Skate Park. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of Chesapeake Beach for the planning, design, construction, and capital equipping of a skate park, located in Chesapeake Beach. 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 (Calvert County)	<u>125,000</u>
<u>(AF)</u>	End Hunger Kitchen. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the End Hunger In Calvert County, Inc. for the construction, renovation, and capital equipping of a culinary training kitchen, located in Huntington. 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 (Calvert County)	<u>100,000</u>
<u>(AG)</u>	North Beach Fishing Platform. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of North Beach for the planning, design, and construction of the North Beach Fishing Platform, located in North Beach. Notwithstanding Section 1(5) of this Act, the matching fund	

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	<u>may consist of real property, in kind contributions, or funds</u> <u>expended prior to the effective date of this Act (Calvert</u> <u>County</u>)	<u>100,000</u>
<u>(AH)</u>	The Wharves at Choptank Crossing Heritage and Welcome Center. Provide a grant equal to the lesser of (i) \$165,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Denton Development Corporation and the Mayor and Town Council of Denton for the construction of the Wharves at Choptank Crossing Heritage and Welcome Center, located in Denton. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Caroline County)	<u>165,000</u>
<u>(AI)</u>	<u>Goodwill Industries of Monocacy Valley – Westminster</u> <u>Renovation. Provide a grant equal to the lesser of (i) \$75,000</u> <u>or (ii) the amount of the matching fund provided, to the Board</u> <u>of Directors of the Goodwill Industries of Monocacy Valley,</u> <u>Inc. for the the renovation of the Goodwill Facility, located in</u> <u>Westminster (Carroll County)</u>	<u>75,000</u>
<u>(AJ)</u>	Indian Head Center for the Arts Renovation. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Indian Head Center for the Arts, Inc., located in Indian Head. 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 (Charles County)	<u>100,000</u>
<u>(AK)</u>	Jude House. Provide a grant of \$50,000 to the Board of Directors of the Jude House, Inc. for the acquisition and construction of the parking lot and fencing, located in La Plata, subject to a requirement that the grantee provide and expend a matching fund of \$15,000. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Charles County)	<u>50,000</u>
<u>(AL)</u>	Southern Maryland Carousel. Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Southern Maryland Carousel Group, Inc. for the planning and design of the Southern Maryland Carousel, located in La Plata. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Charles County)	<u>25,000</u>

<u>(AM)</u>	Chesapeake Grove Senior Housing and Intergenerational Center. Provide a grant equal to the lesser of (i) \$60,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Delmarva Community Services, Inc. for the planning, design, and construction of the Chesapeake Grove Senior Housing and Intergenerational Center, located in Cambridge. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (Dorchester	60.000
<u>(AN)</u>	<u>County</u> <u>Goodwill Industries of Monocacy Valley. Provide a grant equal</u> to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Goodwill Industries of Monocacy Valley, Inc. for the renovation, including addition of a HVAC system, to the Goodwill Facility, located in Frederick. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Frederick County)	<u>60,000</u> <u>75,000</u>
<u>(AO)</u>	Mental Health Association Building. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Mental Health Association of Frederick County, Inc. for the renovation of the Mental Health Association Building, located in Frederick. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Frederick County)	<u>75,000</u>
<u>(AP)</u>	Carroll Baldwin Hall. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Carroll Baldwin Memorial Institute, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Carroll Baldwin Hall, located in Savage. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (Howard County)	<u>100,000</u>
<u>(AQ)</u>	Roger Carter Recreation Center. Provide a grant equal to the lesser of (i) \$65,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Howard County for the demolition of the existing Roger Carter Recreation Center and the planning, design, construction, and capital equipping of a new recreation center, located in Ellicott City (Howard County)	<u>65,000</u>

(AR) Supported Living Facility. Provide a grant equal to the lesser of (i) \$130,000 or (ii) the amount of the matching fund

	provided, to the Board of Directors of the Supported Living, Inc. for the planning, design, construction, repair, renovation, and capital equipping, including replacing the HVAC system, of the Supported Living Facility, located in Columbia (Howard County)	<u>130,000</u>
<u>(AS)</u>	Homecrest House – Edwards Building. Provide a grant equal to the lesser of (i) \$40,000 or (ii) the amount of the matching fund provided, to the Board of Directors of National Capital B'nai B'rith Assisted Housing Corporation for the planning, design, construction, renovation, and capital equipping of the Edwards Building, located in Silver Spring. 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 (Montgomery County)	<u>40,000</u>
<u>(AT)</u>	<u>Inter-Generational Center Expansion for Programs – Easter</u> <u>Seals Greater Washington-Baltimore Region. Provide a grant</u> <u>equal to the lesser of (i) \$100,000 or (ii) the amount of the</u> <u>matching fund provided, to the Board of Directors of the</u> <u>Easter Seals of Greater Washington-Baltimore Region, Inc.</u> <u>for the construction and renovation of the Inter-Generational</u> <u>Center Expansion for Programs – Easter Seals Greater</u> <u>Washington-Baltimore Region, located in Silver Spring</u> (Montgomery County)	100,000
<u>(AU)</u>	Montgomery Village Sports Association. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Montgomery Village Sports Association for the design and construction of the Montgomery Village South Valley Park, located in Montgomery Village (Montgomery County)	<u>125,000</u>
<u>(AV)</u>	Muslim Community Center. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Muslim Community Center, Inc. for the planning, design, and construction of the Muslim Community Center, located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions (Montgomery County)	<u>125,000</u>
<u>(AW)</u>	National Center for Children and Families Youth Activities Center. Provide a grant equal to the lesser of (i) \$225,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the National Center for Children and Families for the capital equipping of the National Center for Children and	

	Families Youth Activities Center, located in Bethesda. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Montgomery County)	<u>225,000</u>
<u>(AX)</u>	Potomac Community Resources Home. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Potomac Community Resources, Inc. for the planning and design of the Potomac Community Resources Home for Individuals with Developmental Differences/Intellectual Disabilities, located in Potomac (Montgomery County)	<u>50,000</u>
<u>(AY)</u>	Quebec Terrace Lighting. Provide a grant equal to the lesser of (i) \$58,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of ArtPreneurs, Inc. for the planning, design, and construction of the Quebec Terrace lighting, located in Wheaton. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Montgomery County)	<u>58,000</u>
<u>(AZ)</u>	TLC's Katherine Thomas School. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of TLC – The Treatment and Learning Centers, Inc. for the repair, renovation, and capital equipping of TLC's Katherine Thomas School, located in Rockville (Montgomery County)	<u>150,000</u>
<u>(BA)</u>	VisArts. Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Metropolitan Center for the Visual Arts, for the construction, repair, renovation, and reconstruction of VisArts, located in Rockville (Montgomery County)	<u>25,000</u>
<u>(BB)</u>	Woodlawn Barn Visitor's Center. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Montgomery County Parks Foundation, Inc. and Board of Directors of the Maryland–National Capital Park and Planning Commission for the design, construction, repair, renovation, and rehabilitation of the Woodlawn Barn Visitor's Center, including the construction and installation of interpretive program exhibits, located in Silver Spring, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the	

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	effective date of this Act (Montgomery County)	<u>50,000</u>
<u>(BC)</u>	Dinosaur Park Improvements. Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the Maryland–National Capital Park and Planning Commission for the planning, design, and construction of Dinosaur Park Improvements, located in Riverdale. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Prince George's County)	<u>25,000</u>
<u>(BD)</u>	Elizabeth Seton High School Window Upgrades. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Elizabeth Seton High School for the acquisition, renovation, and installation of energy efficient windows at Elizabeth Seton High School, located in Bladensburg (Prince George's County)	<u>50,000</u>
<u>(BE)</u>	Family Crisis Center Security System. Provide a grant equal to the lesser of (i) \$70,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Family Crisis Center of Prince George's County, Inc. for the acquisition, design, and capital equipping of the Family Crisis Center Security System, located in Brentwood. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Prince George's County)	<u>70,000</u>
<u>(BF)</u>	Forestville Military Academy Track. Provide a grant of \$100,000 \$50,000, to the 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 \$60,000 \$50,000. 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 (Prince George's County)	<u>100,000</u> <u>50,000</u>
<u>(BG)</u>	<u>Glenarden Veterans Memorial. Provide a grant equal to the</u>	

lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Glenarden for the acquisition, planning, design, construction, and capital equipping of the Glenarden Veterans Memorial, located in Glenarden. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (Prince

	<u>George's County)</u>	75,000
<u>(BH)</u>	Harbor Light Community Development Center. Provide a grant equal to the lesser of (i) \$40,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Harbor Light Community Development Corporation for the design, construction, and renovation of the Harbor Light Community Development Center, located in Fort Washington (Prince George's County)	<u>40,000</u>
<u>(BI)</u>	Labor of Love Learning Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Community Outreach and Development Corporation for the renovation of the Labor of Love Learning Center, located in Capitol Heights (Prince George's County)	<u>100,000</u>
<u>(BJ)</u>	Largo High School PTSA Track Renovation. Provide a grant of \$125,000 \$225,000, to the 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 \$60,000. 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 (Prince George's County)	125,000 225,000
<u>(BK)</u>	Laurel Boys and Girls Club Renovation. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Laurel Boys and Girls Club, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Laurel Boys and Girls Club, located in Laurel. 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. Before the Department of General Services approves any project with these funds, it must receive from the Prince George's County government and the City of Laurel certification that the Laurel Boys and Girls Club, and all of its tenants, are in full and current compliance with all health, safety, occupancy, property maintenance, land use and other local codes (Prince Capara's Country)	150.000
	George's County)	150,000

	grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of Riverdale Park for the design, engineering, and construction of a youth and community center, located in Riverdale Park (Prince George's County)	<u>150,000</u>
(BM)	Riverdale Sportsplex. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the School Board of the Riverdale Baptist School, Inc. for the construction of the Riverdale Sportsplex, located in Upper Marlboro. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Prince George's County)	50,000
<u>(BN)</u>	Southern Area Indoor Aquatic Center. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Maryland–National Capital Park and Planning Commission for the design and construction of the Southern Area Indoor Aquatic Center, located in Riverdale (Prince George's County)	<u>75,000</u>
<u>(BO)</u>	Antietam Chapter #312 Korean War Veterans Monument. Provide a grant equal to the lesser of (i) \$40,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Korean War Veterans Association Antietam Chapter #312 and the Mayor and Council of the City of Hagerstown for the planning, design, construction, and capital equipping of the Antietam Chapter #312 Korean War Veterans Monument, located in Hagerstown. 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 (Washington County)	<u>40,000</u>
<u>(BP)</u>	Lockhouse 44, Lock 44, and Western MD Railroad Lift Bridge. Provide a grant equal to the lesser of (i) \$175,000 or (ii) the amount of the matching fund provided, to the Chesapeake and Ohio Canal National Historic Park for the planning, design, repair, and renovation of the Lockhouse 44, Lock 44, and Western MD Railroad Lift Bridge, located in Williamsport. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Washington County).	<u>175,000</u>
<u>(BQ)</u>	Ocean City Center for the Arts. Provide a grant equal to the	

lesser of (i) \$180,000 or (ii) the amount of the matching fund

	provided, to the Board of Directors of the Art League of Ocean City, Inc. and the Mayor and City Council of the Town of Ocean City for the renovation and reconstruction of the Ocean City Center, located in Ocean City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Worcester County)	<u>180,000</u>
ZA03	LOCAL HOUSE OF DELEGATES INITIATIVES (Statewide)	
(A)	Legislative Initiatives. Provide funds for projects of political subdivisions and nonprofit organizations	7,500,000
<u>(A)</u>	Broad Creek Memorial Scout Reservation. Provide a grant equal to the lesser of (i) \$200,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Baltimore Area Council, Boy Scouts of America for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Broad Creek Memorial Scout Reservation, located in Whiteford. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions (Statewide)	200,000
<u>(B)</u>	<u>Chesapeake Grove Senior Housing and Intergenerational</u> <u>Center. Provide a grant equal to the lesser of (i) \$190,000 or (ii)</u> <u>the amount of the matching fund provided, to the Board of</u> <u>Directors of the Delmarva Community Services, Inc. for the</u> <u>planning, design, and construction of the Chesapeake Grove</u> <u>Senior Housing and Intergenerational Center, located in</u> <u>Cambridge. Notwithstanding Section 1(5) of this Act, the</u> <u>matching fund may consist of real property (Statewide)</u>	<u>190,000</u>
<u>(C)</u>	Linwood Center. Provide a grant equal to the lesser of (i) \$155,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Linwood Center, Inc. for the planning, design, construction, and capital equipping of a new school building at the Linwood Center, located in Ellicott City (Statewide)	<u>155,000</u>
<u>(D)</u>	<u>Maryland Alliance of Boys & Girls Clubs – Renovations.</u> <u>Provide a grant equal to the lesser of (i) \$250,000 or (ii) the</u> <u>amount of the matching fund provided, to the Board of</u> <u>Trustees of the Maryland Alliance of Boys & Girls Clubs, Inc.</u> <u>for the planning, design, construction, repair, renovation,</u> <u>reconstruction, and capital equipping of various boys and girls</u> <u>clubs, located in Maryland (Statewide)</u>	<u>250,000</u>

<u>(E)</u>	Maryland Food Bank Sustainability Project. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Maryland Food Bank, Inc. for the planning, construction, repair, and capital equipping of the Maryland Food Bank	
	<u>Sustainability Project, located in Baltimore County</u> (Statewide)	<u>50,000</u>
<u>(F)</u>	Port Discovery. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Baltimore Children's Museum, Inc. for the planning, design, construction, repair, renovation, and capital equipping of the Port Discovery Children's Museum, located in Baltimore City (Statewide)	<u>150,000</u>
<u>(G)</u>	Allegany Museum. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Allegany Museum, Inc. for the design, construction, renovation, and capital equipping of the Allegany Museum, located in Cumberland, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions (Allegany County)	<u>100,000</u>
<u>(H)</u>	Friends Aware, Inc. Site and Project Development. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Friends Aware, Inc. for the planning, design, and construction of the Friends Aware, Inc. Site and Project Development, located in Cumberland (Allegany County)	<u>125,000</u>
<u>(1)</u>	<u>Coordinating Center for Home and Community Care Building</u> <u>Facilities. Provide a grant equal to the lesser of (i) \$200,000 or</u> (ii) the amount of the matching fund provided, to the Board of <u>Directors of the Coordinating Center for Home and</u> <u>Community Care, Inc. for the capital equipping and build-out</u> of the building facilities, located in Millersville (Anne Arundel <u>County</u>)	<u>200,000</u>
<u>(J)</u>	Shiplap House. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Historic Annapolis, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Shiplap House, located in Annapolis. 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 (Anne Arundel County)	<u>250,000</u>
<u>(K)</u>	YWCA Counseling and Community Service Building Renovation. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Young Women's Christian Association of Annapolis and Anne Arundel County Maryland, Inc. for the planning, design, repair, renovation, and capital equipping of the YWCA Counseling and Community Service Building, located in Arnold. 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 (Anne Arundel County)	<u>125,000</u>
<u>(L)</u>	Academy of Success Community Empowerment Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Academy of Success, Inc. for the acquisition, planning, design, repair, renovation, reconstruction, and capital equipping of the Academy of Success Community Empowerment Center, located in Baltimore City. 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 (Baltimore City)	<u>100,000</u>
<u>(M)</u>	Arch Social Club Historic Site Restoration. Provide a grant equal to the lesser of (i) \$68,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Arch Social Club, Inc. for the planning, design, construction, repair, renovation, and reconstruction of the Arch Social Club Historic Site, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust (Baltimore City)	<u>68,000</u>
<u>(N)</u>	East Baltimore Historical Library. Provide a grant of \$150,000 to the Board of Directors of East Baltimore Development, Inc. for the renovation of the East Baltimore Historical Library, located in Baltimore City, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust (Baltimore City)	<u>150,000</u>
<u>(O)</u>	<u>Garrett–Jacobs Mansion. Provide a grant equal to the lesser of</u> (i) \$200,000 or (ii) the amount of the matching fund provided,	

to the Board of Trustees of the Garrett-Jacobs Mansion

	Endowment Fund, Inc. for the design, repair, renovation, and reconstruction of the Garrett–Jacobs Mansion, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Baltimore City)	<u>200,000</u>
<u>(P)</u>	<u>Meals on Wheels Green Building. Provide a grant equal to the</u> <u>lesser of (i) \$75,000 or (ii) the amount of the matching fund</u> <u>provided, to the Board of Directors of Meals on Wheels of</u> <u>Central Maryland, Inc. for the design, construction, repair,</u> <u>renovation, reconstruction, and capital equipping, including</u> <u>replacement of the roof and HVAC system, of the Meals on</u> <u>Wheels Building, located in Baltimore City. Notwithstanding</u> <u>Section 1(5) of this Act, the matching fund may consist of</u> <u>funds expended prior to the effective date of this Act (Baltimore</u> <u>City).</u>	<u>75,000</u>
<u>(Q)</u>	<u>Mt. Lebanon CDC Community Center and Gymnasium.</u> <u>Provide a grant equal to the lesser of (i) \$50,000 or (ii) the</u> <u>amount of the matching fund provided, to the Board of</u> <u>Directors of the Mt. Lebanon Community Development Corp.</u> <u>for the planning, design, and construction of the Mt. Lebanon</u> <u>CDC Community Center and Gymnasium, located in</u> <u>Baltimore City. Notwithstanding Section 1(5) of this Act, the</u> <u>matching fund may consist of funds expended prior to the</u> <u>effective date of this Act (Baltimore City)</u>	<u>50,000</u>
<u>(R)</u>	Patterson Park Public Charter School Facade Restoration. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Patterson Park Public Charter School, Inc. for the planning, design, construction, repair, renovation, and reconstruction of the facade of Patterson Park Public Charter School, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City)	<u>50,000</u>
<u>(S)</u>	Roland Water Tower Stabilization. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Baltimore for the planning, design, repair, renovation, and restoration of the Roland Water Tower, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Baltimore City)	<u>250,000</u>

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<u>(T)</u>	<u>Acorn Hill Natural Play Area. Provide a grant equal to the</u> <u>lesser of (i) \$215,000 or (ii) the amount of the matching fund</u>	
	provided, to the County Executive and County Council of Baltimore County for the design and construction of the Acorn	
	Hill Natural Play Area, located in Towson. Notwithstanding	
	Section 1(5) of this Act, the matching fund may consist of in	
	kind contributions (Baltimore County)	<u>215,000</u>
<u>(U)</u>	Arrow Child and Family Ministries. Provide a grant equal to	
	the lesser of (i) \$154,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Arrow Child	
	and Family Ministries of Maryland for the repair and	
	renovation of the Arrow Child and Family Ministries Facility,	
	located in Baltimore County (Baltimore County)	<u>154,000</u>
<u>(V)</u>	<u>Catonsville Family Center Y. Provide a grant equal to the</u>	
	lesser of (i) \$265,000 or (ii) the amount of the matching fund	
	provided, to the Board of Directors of the YMCA of Central Maryland, Inc. for the planning, design, construction,	
	renovation, and capital equipping of the Catonsville Family	
	Center Y, located in Catonsville (Baltimore County)	<u>265,000</u>
<u>(W)</u>	<u>Children's Home Therapeutic Group Home Building. Provide</u>	
	a grant equal to the lesser of (i) \$200,000 or (ii) the amount of	
	<u>the matching fund provided, to the Board of Directors of the</u> Children's Home, Inc. for the planning, design, and	
	construction of the Children's Home Therapeutic Group Home	
	Building, located in Catonsville. Notwithstanding Section 1(5)	
	of this Act, the matching fund may consist of in kind contributions (Baltimore County)	200 000
	contributions (Battimore County)	<u>200,000</u>
<u>(X)</u>	Turf Field Security Investment. Provide a grant equal to the	
	<u>lesser of (i) \$50,000 or (ii) the amount of the matching fund</u> provided, to the County Executive and County Council of	
	Baltimore County and the Baltimore County Board of	
	Education for the design, construction, and capital equipping	
	of Baltimore County turf fields with security systems, located in Baltimore County. Notwithstanding Section 1(5) of this Act,	
	the matching fund may consist of real property or in kind	
	contributions (Baltimore County)	<u>50,000</u>
<u>(Y)</u>	Senior Housing for the Disabled. Provide a grant equal to the	
	lesser of (i) \$250,000 or (ii) the amount of the matching fund	
	provided, to the Board of Directors of the Benedictine School for Exceptional Children, Inc. for the construction of senior	
	housing, located in Ridgely (Caroline County)	<u>250,000</u>

<u>(Z)</u>	<u>Jacob Tome Gas House. Provide a grant equal to the lesser of</u> (i) \$100,000 \$80,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of Port Deposit for	
	<u>the planning, design, and reconstruction of the Jacob Tome</u> <u>Gas House, located in Port Deposit. Notwithstanding Section</u>	
	<u>1(5) of this Act, the matching fund may consist of in kind</u> contributions (Cecil County)	<u>100 000</u>
		80,000
<u>(AA)</u>	<u>Milburn Stone Theatre. Provide a grant equal to the lesser of</u> (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Cecil College Foundation d/b/a Friends of the Milburn Stone and Board of Trustees of	
	Cecil College for the repair, renovation, and capital equipping	
	<u>of the Milburn Stone Theatre, located in North East (Cecil</u> <u>County</u>)	<u>100,000</u>
<u>(AB)</u>	<u>Heritage House. Provide a grant equal to the lesser of (i)</u> <u>\$100,000 or (ii) the amount of the matching fund provided, to</u> the Board of Directors of the African American Heritage	
	Society of Charles County, Inc. for the repair, renovation, and reconstruction of the Heritage House, located in La Plata.	
	<u>Notwithstanding Section 1(5) of this Act, the matching fund</u> may consist of real property, in kind contributions, or funds	
	expended prior to the effective date of this Act (Charles County)	<u>100,000</u>
<u>(AC)</u>	Indian Head Center for the Arts Renovation. Provide a grant	
-	<u>equal to the lesser of (i) \$50,000 \$70,000 or (ii) the amount of</u> the matching fund provided, to the Board of Directors of the	
	Indian Head Center for the Arts, Inc. for the construction, renovation, and capital equipping of the Indian Head Center	
	for the Arts, located in Indian Head. Notwithstanding Section	
	<u>1(5) of this Act, the matching fund may consist of real</u> property, in kind contributions, or funds expended prior to the	
	effective date of this Act (Charles County)	<u>50,000</u> <u>70,000</u>
<u>(AD)</u>	<u>Downtown Frederick Hotel and Conference Center. Provide a</u> grant of \$250,000 to the Mayor and Board of Aldermen of the	
	City of Frederick for the acquisition, planning, and design of	
	<u>the Downtown Frederick Hotel and Conference Center, located</u> in Frederick, subject to a requirement that the grantee grant	
	and convey a historic easement to the Maryland Historical	9 ~ 0.000
	<u>Trust (Frederick County)</u>	$\underline{250,000}$

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<u>(AE)</u>	<u>Aberdeen Youth Baseball Field. Provide a grant equal to the</u> lesser of (i) \$150,000 or (ii) the amount of the matching fund	
	provided, to the Board of Directors of the Ripken Foundation,	
	Inc. for the construction of the Aberdeen Youth Baseball Field,	
	located in Aberdeen (Harford County)	<u>150,000</u>
<u>(AF)</u>	<u>Carroll Baldwin Hall. Provide a grant equal to the lesser of (i)</u>	
	\$50,000 or (ii) the amount of the matching fund provided, to	
	the Board of Directors of the Carroll Baldwin Memorial	
	Institute, Inc. for the planning, design, construction, repair,	
	renovation, reconstruction, and capital equipping of the	
	<u>Carroll Baldwin Hall, located in Savage. Notwithstanding</u> Section 1(5) of this Act, the matching fund may consist of real	
	property (Howard County)	<u>50,000</u>
<u>(AG)</u>	Roger Carter Recreation Center. Provide a grant equal to the	
	lesser of (i) \$300,000 or (ii) the amount of the matching fund	
	provided, to the County Executive and County Council of	
	<u>Howard County for the demolition of the existing Roger Carter</u>	
	<u>Recreation Center and the planning, design, construction, and</u>	
	<u>capital equipping of a new recreation center, located in Ellicott</u>	200 000
	<u>City (Howard County)</u>	<u>300,000</u>
(AH)	City of Rockville – Swim and Fitness Center. Provide a grant	
<u>(1111/</u>	equal to the lesser of (i) \$200,000 or (ii) the amount of the	
	matching fund provided, to the Mayor and City Council of	
	Rockville for the reconstruction of the City of Rockville Swim	
	and Fitness Center, located in Rockville	
	(Montgomery County)	<u>200,000</u>
(AI)	Lower Montgomery County Bikesharing System. Provide a	
	grant of \$250,000 to the County Executive and County Council	
	of Montgomery County for the construction and capital	
	equipping of the Lower Montgomery County Bikesharing	
	<u>System, located in Montgomery County (Montgomery</u>	
	<u>County</u>)	<u>250,000</u>
<u>(AJ)</u>	<u>Muslim Community Center. Provide a grant equal to the lesser</u>	
	of (i) \$100,000 or (ii) the amount of the matching fund	
	provided, to the Board of Trustees of the Muslim Community	
	<u>Center, Inc. for the planning, design, and construction of the</u>	
	<u>Muslim Community Center, located in Silver Spring.</u>	
	Notwithstanding Section 1(5) of this Act, the matching fund	
	<u>may consist of real property or in kind contributions</u> (Montgomery County)	100,000
	(Inomegoniery Country)	100,000
<u>(AK)</u>	National Center for Children and Families Youth Activities	

	<u>Center. Provide a grant equal to the lesser of (i) \$25,000 or (ii)</u> <u>the amount of the matching fund provided, to the Board of</u>	
	<u>Trustees of the National Center for Children and Families for</u> <u>the capital equipping of the National Center for Children and</u> <u>Families Youth Activities Center, located in Bethesda.</u> <u>Notwithstanding Section 1(5) of this Act, the matching fund</u> <u>may consist of in kind contributions or funds expended prior to</u>	
	the effective date of this Act (Montgomery County)	<u>25,000</u>
<u>(AL)</u>	Olney Police Satellite Station. Provide a grant equal to the lesser of (i) \$10,000 or (ii) the amount of the matching fund provided, to the Advisory Board of the Olney Police Satellite Station Fund for the repair and renovation of the Olney Police Satellite Station, located in Olney (Montgomery County)	<u>10,000</u>
<u>(AM)</u>	Quebec Terrace Lighting. Provide a grant equal to the lesser of (i) \$62,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of ArtPreneurs, Inc. for the planning, design, and construction of the Quebec Terrace lighting, located in Wheaton. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Montgomery County)	62,000
<u>(AN)</u>	<u>TLC's Katherine Thomas School. Provide a grant equal to the</u> <u>lesser of (i) \$125,000 or (ii) the amount of the matching fund</u> <u>provided, to the Board of Trustees of TLC – The Treatment</u> <u>and Learning Centers, Inc. for the repair, renovation, and</u> <u>capital equipping of TLC's Katherine Thomas School, located</u> <u>in Rockville (Montgomery County).</u>	125,000
<u>(AO)</u>	Woodlawn Barn Visitor's Center. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Montgomery County Parks Foundation, Inc. and Board of Directors of the Maryland National Capital Park and Planning Commission for the design, construction, repair, renovation, and rehabilitation of the Woodlawn Barn Visitor's Center, including the construction and installation of interpretive program exhibits, located in Silver Spring, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the	120,000
	effective date of this Act (Montgomery County)	<u>250,000</u>

(AP) Fort Foote Elementary School Marquee Project. Provide a grant equal to the lesser of (i) \$8,000 or (ii) the amount of the

	matching fund provided, to the Prince George's County Board of Education and the Board of Directors of the Fort Foote Elementary School PTA, Inc. for the planning, design, and construction of the Fort Foote Elementary School Marquee Project, located in Fort Washington. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Prince George's County)	<u>8,000</u>
<u>(AQ)</u>	Gateway Arts Center at Brentwood. Provide a grant equal to the lesser of (i) \$20,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Gateway Municipalities Community Development Corporation for the acquisition and construction of exterior signage and landscaping at the Gateway Arts Center, located in Brentwood (Prince George's County)	<u>20,000</u>
<u>(AR)</u>	<u>Glenarden Veterans Memorial. Provide a grant equal to the</u> <u>lesser of (i) \$150,000 or (ii) the amount of the matching fund</u> <u>provided, to the Mayor and City Council of the City of</u> <u>Glenarden for the acquisition, planning, design, construction,</u> <u>and capital equipping of the Glenarden Veterans Memorial,</u> <u>located in Glenarden. Notwithstanding Section 1(5) of this Act,</u> <u>the matching fund may consist of real property (Prince</u> <u>George's County)</u> .	<u>150,000</u>
<u>(AS)</u>	Hamilton Street Parking. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Hyattsville Community Development Corporation for the planning, design, and reconstruction of the Hamilton Street Parking Garage, located in Hyattsville. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (Prince George's County)	<u>250,000</u>
<u>(AT)</u>	Knights of St. John Woodville School Building. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Knights of St. John Commandery #373, Inc. for the renovation and reconstruction of the Knights of St. John Woodville School Building, located in Aquasco. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (Prince George's County)	<u>50,000</u>
<u>(AU)</u>	Labor of Love Learning Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Community Outreach and Development Corporation for the renovation of the Labor	

	<u>of Love Learning Center, located in Capitol Heights (Prince</u> <u>George's County)</u>	<u>100,000</u>
<u>(AV)</u>	Laurel Boys and Girls Club Renovation. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Laurel Boys and Girls Club, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Laurel Boys and Girls Club, located in Laurel. 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. Before the Department of General Services approves any project with these funds, it must receive from the Prince George's County government and the City of Laurel certification that the Laurel Boys and Girls Club, and all of its tenants, are in full and current compliance with all health, safety, occupancy, property maintenance, land use and other local codes (Prince	
	George's County)	<u>50,000</u>
<u>(AW)</u>	<u>Riverdale Park Youth and Community Center. Provide a grant</u> <u>equal to the lesser of (i) \$133,000 or (ii) the amount of the</u> <u>matching fund provided, to the Mayor and Town Council of</u> <u>the Town of Riverdale Park for the design, engineering, and</u> <u>construction of a youth and community center, located in</u> <u>Riverdale Park (Prince George's County)</u>	<u>133,000</u>
<u>(AX)</u>	<u>Riverdale Sportsplex. Provide a grant equal to the lesser of (i)</u> \$350,000 or (ii) the amount of the matching fund provided, to the School Board of the Riverdale Baptist School, Inc. for the construction of the Riverdale Sportsplex, located in Upper Marlboro. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act (Prince George's County)	<u>350,000</u>
<u>(AY)</u>	Southern Area Indoor Aquatic Center. Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the Maryland–National Capital Park and Planning Commission for the design and construction of the Southern Area Indoor Aquatic Center, located in Riverdale (Prince George's County)	<u>25,000</u>
<u>(AZ)</u>	Sotterley Plantation Post-Hurricane Restoration. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Historic	

Sotterley, Inc. for the acquisition, planning,

design,

3026

	construction, repair, renovation, reconstruction, and capital equipping of the Sotterley Plantation, located in Hollywood. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (St. Mary's County)	<u>50,000</u>
<u>(BA)</u>	Easton Head Start Center. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Shore Up!, Inc. for the construction and capital equipping of the Easton Head Start Center, located in Easton (Talbot County)	<u>250,000</u>
<u>(BB)</u>	Ocean City Center for the Arts. Provide a grant equal to the lesser of (i) \$70,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Art League of Ocean City, Inc. and the Mayor and City Council of the Town of Ocean City for the renovation and reconstruction of the Ocean City Center, located in Ocean City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Worcester County)	<u>70,000</u>
ZB02	LOCAL JAILS AND DETENTION CENTERS	
(A)	Wicomico County Detention Center. Provide a grant to the County Council of Wicomico County to upgrade the fire alarm system at Wicomico County Detention Center, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding Section 1(5) of this Act, the matching fund may include funds expended prior to the effective date of this Act (Cecil County)	50,000

(4) An annual tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issue of the bonds.

(5) (a) Prior to the payment of any matching grant funds under the provisions of Section 1(3), Items ZA00 through ZB02 above, grantees shall provide and expend matching funds as specified. No part of a grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. Except as otherwise provided, no part of the fund may consist of real property, in-kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter, and the Board's decision is final. Grantees have until June 1, 2014, to present evidence satisfactory to the Board of Public Works that the matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact to the State Treasurer and the proceeds of the loan shall be expended for the purposes provided in this Act. If this evidence is not

presented by June 1, 2014, the proceeds of the loan shall be applied to the purposes authorized in § 8–129 of the State Finance and Procurement Article.

(b) It is further provided that when an equal and matching fund is specified in Section 1(3), Items ZA00 through ZB02 above, grantees shall provide a matching fund equal to the lesser of (i) the authorized amount of the State grant or (ii) the amount of the matching fund certified by the Board of Public Works. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. If this evidence is not presented by June 1, 2014, the proceeds of the loan shall be applied to the purposes authorized in § 8–129 of the State Finance and Procurement Article. The proceeds of any amount of the loan in excess of the matching fund certified by the Board of Public Works shall also be applied to the purposes authorized in § 8–129 of the State Finance and Procurement Article.

(6) (a) Prior to the issuance of the bonds, unless the Maryland Historical Trust determines that the property to be assisted by a grant under Section 1(3) Items ZA00 through ZB02 of this Act is not significant, is significant only as a contributing property to a historic district listed in the Maryland register of historic properties, is a type that is already adequately represented among the Trust's existing easement properties, or is already subject to a perpetual historic preservation easement acceptable to the Trust, the grantee shall grant and convey to the Maryland Historical Trust a perpetual preservation easement to the extent of its interest:

Trust; and

(i) On the land or such portion of the land acceptable to the

(ii) On the exterior and interior, where appropriate, of the historic structures.

(b) If the grantee or beneficiary of the grant holds a lease on the land and structures, the Trust may accept an easement on the leasehold interest.

(c) The easement must be in form and substance acceptable to the Trust, and the extent of the interest to be encumbered must be acceptable to the Trust, and any liens or encumbrances against the land or the structures must be acceptable to the Trust.

(7) (a) The Except as provided in subparagraph (b) of this paragraph, 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, 2019. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2019, the amount of the unexpended or unencumbered authorization shall be canceled and be of no further force and effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

(b) The proceeds of the loan for the purposes authorized under Section 1(3) Items ZA02 through ZA03 of this Act must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than December 1, 2015. If any funds authorized for the purposes authorized under Section 1(3) Items ZA02 through ZA03 of this Act remain unexpended or unencumbered after December 1, 2015, the amount of the unexpended or unencumbered authorization shall be canceled and be of no further force and effect. If bonds have been issued for the loan, the amount of unexpended or unencumbered shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

(8) Multiple grants provided to the same organization in this Section are in addition to one another. Unless otherwise provided, any matching fund requirements apply to each individual grant.

(9) On or before December 31 of any year in which a payment of any funds under the provisions of this Act for the purposes of a capital project as set forth in Section 1(3) above is made and on or before December 31 of the year following a year in which payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above is made, if the grantee is a hospital or institution of higher education that receives at least \$500,000 under this Act and is not subject to the reporting requirements under § 14–305 of the State Finance and Procurement Article, the grantee shall submit a report to the Governor's Office of Minority Affairs on the extent to which the grantee has used, or will use, any part of the funds received under the provisions of this Act for contracts with minority–owned businesses and on any minority business outreach efforts.

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

Chapter 445 of the Acts of 2005

Section 1(3)

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

MA01 OFFICE OF THE SECRETARY

(A) Community Health Facilities Grant Program. Provide grants to acquire, design, construct, renovate, and equip community mental health, addiction treatment, and developmental disabilities facilities. The funds appropriated for this purpose shall be administered in accordance with Sections 24–601 through 24–607 of the Health–General Article (Statewide)

[8,096,000] 6,496,000

(Baltimore City)

(B)	Acad Distr camp THIS	puswide Utilities Upgrade. Provide funds emic Quad Chiller Plant and design the rict Cooling System on the Morgan S ous. NOTWITHSTANDING SECTION 1(7 8 AUTHORIZATION SHALL NOT TERMIN E 1, 2013	e North Campus State University) OF THIS ACT, NATE PRIOR TO	510,000
(F)	lands to th Leag SEC	puswide Site Improvements. Provide fun- scaping of the Academic Quad and the de le athletic fields jointly used by the Nor- rue and Morgan State University. NOT TION 1(7) OF THIS ACT, THIS AUTHOR TERMINATE PRIOR TO JUNE 1, 2013 .	esign of upgrades thwood Baseball WITHSTANDING UZATION SHALL	200,000
UB00		MARYLAND ENVIRONMENTAL	SERVICE	
(A)	const insti may with be s auth appr	astructure Improvement Fund. Provide truct and equip capital improvement tutions. Expenditures for any of the for not exceed the amount listed below by out notification to the General Assembly. opent on the projects listed below on orized projects. Expenditure of any opriation for a previously authorized p ire notification to the General Assembly	ents for State ollowing projects more than 7.5% Funds may only r on previously part of this roject shall also	[3,147,000] 2,862,000
	(1)	Springfield Hospital Center. Construct improvements to the water distribution and wastewater systems (Carroll County)	[835,000] 590,000	
	(4)	Poplar Hill Pre–Release Unit. Design and construct improvements to the water distribution and wastewater collection systems (Wicomico County)	[410,000] 388,000	
	(5)	Eastern Correctional Institution. Construct improvements to the water tower (Somerset		

County)	[300,000]
	282,000

ZB02 LOCAL JAILS AND DETENTION CENTERS

Chapter 445 of the Acts of 2005, as amended by Chapter 46 of the Acts of 2006, Chapter 488 of the Acts of 2007, Chapter 485 of the Acts of 2009, Chapter 483 of the Acts of 2010, and Chapter 396 of the Acts of 2011

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan of 2005 in the total principal amount of [\$642,616,700] **\$640,614,700**. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with Sections 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, Section 22 of the Code.

Chapter 46 of the Acts of 2006

Section 1(3)

ZA00 MISCELLANEOUS GRANT PROGRAMS

(H) Maryland Independent College and University Associations – Johns Hopkins University – New School of Nursing Facility. Provide a grant equal to the lesser of (i) [\$3,000,000] \$0 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Johns Hopkins University to assist in the design and construction of a new School of Nursing facility on the Johns Hopkins East Baltimore Campus, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of

Section 1(5) of this Act, the matching fund may consist of	
funds expended prior to the effective date of this Act	
(Baltimore City)	[<u>3,000,000</u>]
	<u>0</u>

Chapter 46 of the Acts of 2006, as amended by Chapter 488 of the Acts of 2007 and Chapter 485 of the Acts of 2009

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan of 2006 in the total principal amount of [\$697,446,833] **\$697,315,833 \$694,315,833**. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with Sections 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, Section 22 of the Code.

Chapter 46 of the Acts of 2006, as amended by Chapter 485 of the Acts of 2009

Section 1(3)

RE01 MARYLAND SCHOOL FOR THE DEAF

20,874,000

Chapter 488 of the Acts of 2007

Section 1(3)

DE02.01 BOARD OF PUBLIC WORKS

GENERAL STATE FACILITIES

(C) Construction Contingency Fund. Provide funds to be credited to the Construction Contingency Fund to be administered in accordance with Section 3–609 of the State Finance and Procurement Article. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS AUTHORIZATION SHALL NOT TERMINATE

(Statewide)		2,000,000
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RB29

SALISBURY UNIVERSITY (Wicomico County)

Chapter 488 of the Acts of 2007, as amended by Chapter 336 of the Acts of 2008, Chapter 485 of the Acts of 2009, Chapter 483 of the Acts of 2010, and Chapter 396 of the Acts of 2011

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan of 2007 in the total principal amount of [\$816,945,000] **\$816,645,000**. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with Sections 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, Section 22 of the Code.

Chapter 488 of the Acts of 2007, as amended by Chapter 336 of the Acts of 2008 and Chapter 372 of the Acts of 2010

Section 12(3)

RB27

COPPIN STATE UNIVERSITY (Baltimore City)

Chapter 488 of the Acts of 2007, as amended by Chapter 336 of the Acts of 2008, Chapter 485 of the Acts of 2009, and Chapter 483 of the Acts of 2010

SECTION 12. AND BE IT FURTHER ENACTED, That:

(1)The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Coppin State University New Physical Education Complex Loan of 2008 in the total principal amount of [\$30,000,000] **\$28,861,000**, on behalf of the State of Maryland through a State loan to be known as the Department of Public Safety and Correctional Services Maryland Correctional Training Center 192–Cell Medium Security Housing Unit and Support Space Loan of 2008 in the total principal amount of \$7,637,000, on behalf of the State of Maryland through a State loan to be known as the Department of Health and Mental Hygiene Laboratories Administration New Public Health Laboratory Loan of 2008 in the total principal amount of \$0, and on behalf of the State of Maryland through a State loan to be known as the Department of Health and Mental Hygiene Clifton T. Perkins Hospital Center New Maximum Security Wing Loan of 2008 in the total principal amount of [\$2,337,000] **\$2,188,000**. These loans shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with \$ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

Section 12(3)

ML10 CLIFTON T. PERKINS HOSPITAL CENTER (Howard County)

(A) New Maximum Security Wing. Provide funds to design, construct, and equip a new Maximum Security Wing including the replacement of an existing chiller and security system [2,337,000]
 2.188.000

Chapter 336 of the Acts of 2008

Section 1(3)

EXECUTIVE DEPARTMENT - GOVERNOR

DA02.01

DEPARTMENT OF DISABILITIES

[1,600,000] 1,444,000

DE02.01

BOARD OF PUBLIC WORKS

STATE GOVERNMENT CENTER – BALTIMORE (Baltimore City)

GENERAL STATE FACILITIES

(E)	Construction Contingency Fund. Provide funds to be credited to the Construction Contingency Fund to be administered in accordance with Section 3–609 of the State Finance and Procurement Article. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS AUTHORIZATION SHALL NOT TERMINATE	-00.000
	(Statewide)	500,000
(H)	Ethanol Fueling Stations. Provide funds to design and construct ethanol fueling stations (Statewide)	[621,000] 438,000
	DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES	<u>-</u>
<u>QB04</u>	<u>MARYLAND CORRECTIONAL TRAINING CENTER</u> (Washington County)	
<u>(A)</u>	<u>192–Cell Medium Security Housing Unit and Support Space.</u> <u>Provide funds to construct and equip a new housing unit and</u> <u>renovate and expand medical and commissary spaces at the</u> <u>Maryland Correctional Training Center</u>	[2,504,000] 2,404,000
RB27	COPPIN STATE UNIVERSITY (Baltimore City)	
(D)	Health and Human Services Building. Provide funds to supplement previous appropriations to equip the new Health and Human Services Building	[3,482,000] 3,138,000
RB34	UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE (Dorchester County)	
(A)	Oyster Production Facility – (HPL). Provide funds to equip an oyster production facility at the Horn Point Laboratory (Dorchester County)	[1,343,000] 510,000

Chapter 336 of the Acts of 2008, as amended by Chapter 485 of the Acts of 2009, Chapter 483 of the Acts of 2010, and Chapter 396 of the Acts of 2011

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan of 2008 in the total principal amount of [\$866,157,218] **\$867,018,000 \$867,074,000 \$863,409,218**. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with Sections 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, Section 22 of the Code.

Chapter 485 of the Acts of 2009

Section 1(3)

QD00 PATUXENT INSTITUTION (Howard County)

(A)	Fire Safety Improvements and Window Replacements.	
<u>(/</u>	Provide funds to design, construct, and equip fire safety	
	improvements for the Diagnostic Center Building and to	
	replace windows and doors at the Defective Delinquent	
	Building	[11,881,000]
		<u>10,281,000</u>

RE01 MARYLAND SCHOOL FOR THE DEAF

(C)	Main Building Parking Lot and Athletic Field – Columbia	
	Campus. Provide funds to construct the Main Parking Lot and	
	Athletic Field (Howard County)	[1,487,000]
		1,136,000

UB00 MARYLAND ENVIRONMENTAL SERVICE

(A) Infrastructure Improvement Fund. Provide funds to design, construct, and equip capital improvements for State institutions. Expenditures for any of the following projects may not exceed the amount listed below by more than 7.5% without notification to the General Assembly. Funds may only be spent on the projects listed below or on previously authorized projects. Expenditure of any part of this appropriation for a previously authorized project shall also require notification to the General Assembly

- (2) Cheltenham Youth Center. Construct improvements to the water tower (Prince George's County)....337,000
- (3) Eastern Pre–Release Facility. Construct improvements to the wastewater treatment plant (Queen Anne's County)......440,000
- (5) Jessup Correctional Complex. Construct improvements to the Dorsey Wastewater Treatment Plant (Anne Arundel County)......4,459,000

ZA00 MISCELLANEOUS GRANT PROGRAMS

(Q) National Children's Museum. Provide a grant to the Board of Directors of the National Children's Museum, Inc. for the acquisition, design, construction, and capital equipping of the new National Children's Museum in Oxon Hill, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Prince George's County)

[1,500,000] **0**

Chapter 336 of the Acts of 2008, as amended by Chapter 372 of the Acts of 2010

<u>SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF</u> <u>MARYLAND, That:</u>

ZA02 LOCAL HOUSE INITIATIVES

Chapter 485 of the Acts of 2009, as amended by Chapter 483 of the Acts of 2010

Section 1(3)

QB08.02 NORTH BRANCH CORRECTIONAL INSTITUTION (Allegany County)

(A) Maryland Correctional Enterprises Upholstery and Re-upholstery Plant. Provide funds to design, construct, and equip a new Maryland Correctional Enterprises building at the North Branch Correctional Institution to house an Upholstery and Re-upholstery Plant

[6,045,000] 5,345,000

RE01 MARYLAND SCHOOL FOR THE DEAF

Chapter 485 of the Acts of 2009, as amended by Chapter 483 of the Acts of 2010 and Chapter 396 of the Acts of 2011

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan of 2009 in the total principal amount of [\$1,083,424,941] **\$1,077,749,941 \$1,074,349,941**. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with Sections 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

Chapter 485 of the Acts of 2009, as amended by Chapter 396 of the Acts of 2011

Section 1(3)

<u>QB08.01</u>	<u>WESTERN CORRECTIONAL INSTITUTION</u> (<u>Allegany County</u>)	
<u>(A)</u>	<u>Vocational Education Building. Provide funds to construct and</u> <u>equip a new Vocational Education Building at the Western</u> <u>Correctional Institution</u>	<u>[9,166,000]</u> <u>8,166,000</u>
<u>(B)</u>	<u>Rubble Landfill Closure Cap. Provide funds to design and</u> <u>construct a landfill closure cap for a landfill at the Western</u> <u>Correctional Institution</u>	[1,415,000] 1.315.000

ZA02 HOUSE OF DELEGATES LEGISLATIVE INITIATIVES

(G) National Children's Museum. Provide a grant equal to the lesser of (i) \$1,750,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the National Children's Museum, Inc. for the acquisition, design, construction, and capital equipping of the new National Children's Museum in Oxon Hill. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act and the grantee has until December 1, 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 December 1, 2012 (Prince George's County)

[1,750,000] 0

ZA03

LOCAL SENATE INITIATIVES

(F) National Children's Museum. Provide a grant equal to the lesser of (i) \$1,750,000 or (ii) the amount of the matching fund

provided, to the Board of Directors of the National Children's Museum, Inc. for the acquisition, design, construction, and capital equipping of the new National Children's Museum located in Oxon Hill. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act and the grantee has until December 1, 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 December 1, 2012 (Statewide)

[1,750,000] **1,203,000**

Chapter 483 of the Acts of 2010

Section 1(3)

DEPARTMENT OF NATURAL RESOURCES

KA05 CAPITAL GRANTS AND LOANS ADMINISTRATION (Statewide)

10,126,000

DEPARTMENT OF JUVENILE SERVICES

<u>VE01</u>

RESIDENTIAL SERVICES

 (A) [Southern Maryland Regional Detention Center] SOUTHERN MARYLAND CHILDREN'S CENTER. Provide funds for land acquisition and preliminary design of a new detention center, provided that before the Departments of Juvenile Services and General Services acquire land for a new regional detention center in Southern Maryland, the departments, in cooperation with all four local jurisdictions to be served by the <u>center</u>, <u>shall</u> <u>submit</u> a <u>report</u> to <u>the</u> <u>budget</u> <u>committees</u> <u>detailing the site selection process including</u>:

- (1) <u>site selection criteria;</u>
- (2) written appraisals;
- (3) what other sites were considered and why they were rejected;
- (4) the extent to which the departments have already pursued the use of publicly owned property for the site;
- (5) the extent of consultation between the departments and the local governing bodies of the counties to be served by the facility; and
- (6) any independent comments on the site selected from any of the four local governing bodies of the counties to be served by the facility.

FURTHER PROVIDED THAT THE DEPARTMENT OF JUVENILE SERVICES HAS UNTIL SEPTEMBER 1, 2012, TO ACQUIRE A SITE FOR THE SOUTHERN MARYLAND CHILDREN'S CENTER. IF A PURCHASE AGREEMENT HAS NOT BEEN SUBSTANTIALLY COMPLETED BY SEPTEMBER 1, 2012, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT ACQUIRE THE ACTON LANE INDUSTRIAL PARK IN WALDORF, LOCATED IN CHARLES COUNTY, AS THE SITE FOR THE FACILITY.

FURTHER PROVIDED THAT THE DEPARTMENT OF JUVENILE SERVICES HAS UNTIL SEPTEMBER 1, 2012, TO ACQUIRE A SITE FOR THE SOUTHERN MARYLAND CHILDREN'S CENTER. A REPORT IDENTIFYING THE PROPOSED LOCATION AND DETAILING THE ENTIRE SITE SELECTION PROCESS UNDERTAKEN BY THE DEPARTMENT IN SELECTING THE LOCATION SHALL BE SUBMITTED TO THE BUDGET COMMITTEES NO LATER THAN SEPTEMBER 30, 2012.

The budget committees shall have 45 days from the receipt of
the report to review and comment (Regional)4,64

4,650,000

MISCELLANEOUS GRANT PROGRAMS

(N) National Children's Museum. Provide a grant to the Board of Directors of the National Children's Museum, Inc. for the acquisition, design, construction, and capital equipping of the new National Children's Museum in Oxon Hill, Maryland, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Prince George's County)

[5,000,000] 0

ZA01 MARYLAND HOSPITAL ASSOCIATION

(C) [Carroll Hospital Center] ACCESS CARROLL, INC. Provide a grant to the Board of Directors of the [Carroll Hospital Center] ACCESS CARROLL, INC. to assist in the construction <u>RELOCATION, CONSTRUCTION</u>, and renovation of the Carroll Hospital Center to create additional space for the Access Carroll program, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Carroll County)

<u>700,000</u> 500,000

Section 12(3)

RB23

BOWIE STATE UNIVERSITY (Prince George's County)

Chapter 483 of the Acts of 2010, as amended by Chapter 396 of the Acts of 2011

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan of 2010 in the total principal amount of [1,033,094,441] **1,008,176,441 1,007,976,441**. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(3)

QP00

DIVISION OF PRETRIAL DETENTION AND SERVICES (Baltimore City)

New Youth Detention Facility. Provide funds to construct a (A) New Youth Detention Facility, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriations of all the funds necessary to complete this project. Further provided that no funds may be expended for construction until the Department of Public Safety and Correctional Services submits a report to the budget committees providing the findings of a new population analysis and identifying the number of beds to be provided in the New Youth Detention Facility. The budget committees shall have 45 days from the receipt of the report to review and comment. FURTHER PROVIDED THAT NO FUNDS MAY BE EXPENDED UNTIL THE DEPARTMENT SUBMITS A REPORT TO THE BUDGET COMMITTEES THAT EVALUATES THE OPTION OF RENOVATING THE CURRENTLY VACANT BALTIMORE **PRE-RELEASE** Unit FOR WOMEN IN ORDER TO ACCOMMODATE THE YOUTH-CHARGED-AS-ADULT POPULATION. THE REPORT SHOULD EVALUATE THE HOUSING. PROGRAMMING, CURRENT MEDICAL, **RECREATION, AND EDUCATION SPACE, AND IDENTIFY** ANY NECESSARY CHANGES. THE REPORT SHOULD ALSO INCLUDE Α PRELIMINARY COST ESTIMATE AND TIMELINE FOR RENOVATION, IF IT IS DETERMINED TO BE A FEASIBLE OPTION. THE REPORT SHALL BE SUBMITTED TO THE BUDGET COMMITTEES NO LATER THAN JULY 30, 2012, AND THE BUDGET COMMITTEES SHALL HAVE 45 DAYS FROM THE RECEIPT OF THE REPORT TO REVIEW [17, 520, 000]AND COMMENT 597,000

Chapter 396 of the Acts of 2011

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan of 2011 in the total principal amount of [\$949,102,501] **\$947,052,501**. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(3)

DE02.01 BOARD OF PUBLIC WORKS

STATE GOVERNMENT CENTER – ANNAPOLIS (Anne Arundel County)

(B) State House – Old Senate Chamber. Provide funds to design, construct, and equip alterations and renovations to the State House in order to restore the Old Senate Chamber to its [19th] 18TH Century appearance, provided that notwithstanding Section 6 of this Act, work may commence on this project prior to appropriation of all the funds necessary to complete the project

3,000,000

SA24 DIVISION OF NEIGHBORHOOD REVITALIZATION (Statewide)

(B) Neighborhood Business Development Program. Provide funds for grants and loans to fund community-based economic development activities in revitalization areas designated by local governments. The funds shall be administered in accordance with §§ 6-301 through 6-311 of the Housing and Community Development Article

[4,250,000] **2,200,000**

ZA00 MISCELLANEOUS GRANT PROGRAMS

(M) National Children's Museum. Provide a grant to the Board of Directors of the National Children's Museum, Inc. for the ACQUISITION, design, construction, and capital equipping of the new National Children's Museum in Oxon Hill, Maryland, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may <u>(N)</u> Prince George's Hospital System. Provide a grant to the County Executive and County Council of Prince George's County for the acquisition of property, and the design, construction and renovation, and capital equipping of infrastructure improvements for facilities within the Prince George's Hospital System, provided that this authorization may not be encumbered or expended until the Department of Health and Mental Hygiene. Prince George's County, and Dimensions Health Care Corporation submit a report to the budget committees on the proposed use of funds to improve the system. THE REPORT SHALL BE SUBMITTED BY JUNE SEPTEMBER 30, 2012, AND THE BUDGET COMMITTEES SHALL HAVE 45 DAYS TO REVIEW AND COMMENT. IF THE REPORT HAS NOT BEEN SUBMITTED BY JUNE SEPTEMBER 30, 2012, THIS AUTHORIZATION SHALL BE RESTRICTED FOR THE PURPOSES OF FUNDING THE STATE'S SHARE OF COSTS FOR THE ACQUISITION, DESIGN, AND CONSTRUCTION OF A NEW REGIONAL HOSPITAL CENTER IN PRINCE GEORGE'S COUNTY [The budget committees shall have 45 days from the receipt of the report to review and comment] (Prince George's County)

4,000,000

ZA03 LOCAL HOUSE OF DELEGATES INITIATIVES

(Z) Comet Booster Club Concession Stand. Provide a grant equal to the lesser of (i) \$65,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the [Comet Booster Club, Inc.] CATONSVILLE COMMUNITY FOUNDATION AND THE BALTIMORE COUNTY BOARD OF EDUCATION for the renovation and construction of the Comet Booster Club Concession Stand, located in Catonsville (Baltimore County)...

<u>65,000</u>

[SECTION 12. AND BE IT FURTHER ENACTED, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan Preauthorization Act of 2012 in total principal amount of \$315,898,000. These loans shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code. (2) The bonds to evidence these loans or installments of these loans may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees:

DE02.01 BOARD OF PUBLIC WORKS

STATE GOVERNMENT CENTER – ANNAPOLIS (Anne Arundel County)

(A)	constru House	House – Old Senate Chamber. Provide funds to uct and equip alterations and renovations to the State in order to restore the Old Senate Chamber to its 19th ry appearance	3,000,000
KA05	(CAPITAL GRANTS AND LOANS ADMINISTRATION (Statewide)	
(A)	design	al Resources Development Fund. Provide funds to and construct development projects on property owned Department of Natural Resources	2,850,000
		Harriet Tubman Underground Railroad State Park – Visitor Center and Site Improvements (Dorchester County)	2,850,000
(B)	conserv grants easeme recreat shall b	am Open Space. Provide funds for the purchase of vation easements and acquisition of land, and to make to local jurisdictions for the purchase of conservation ents and acquisition of land, and development of tional facilities. Funds appropriated for local grants be administered in accordance with §§ 5–905 through of the Natural Resources Article	46,423,000
	. ,	Program Open Space – Local – Special Fund Replacement	
	• •	Program Open Space – Stateside – Special Fund Replacement	

(C) Rural Legacy Program. Provide funds for the purchase of

	conservation easements and acquisition of land. The funds appropriated for this purpose shall be administered in accordance with §§ 5–9A–01 through 5–9A–09 of the Natural Resources Article	4,589,000
	DEPARTMENT OF AGRICULTURE	
LA11	OFFICE OF THE SECRETARY (Statewide)	
(A)	Maryland Agricultural Land Preservation Program. Provide funds for the acquisition of conservation easements on agricultural land. The funds appropriated for this purpose shall be administered in accordance with §§ 2–501 through 2–519 of the Agriculture Article	6,518,000
	DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES	
QP00	DIVISION OF PRETRIAL DETENTION AND SERVICES (Baltimore City)	
(A)	New Youth Detention Facility. Provide funds to construct a New Youth Detention Facility	41,100,000
RB22	UNIVERSITY OF MARYLAND, COLLEGE PARK	
(A)	Physical Sciences Complex. Provide funds to construct Phase I of a new Physical Sciences Complex to provide modern laboratory and office space for the Department of Physics, the Department of Astronomy, and the Institute for Physical Sciences and Technology (Prince George's County)	24,550,000
RB26	FROSTBURG STATE UNIVERSITY (Allegany County)	
(A)	New Center for Communications and Information Technology. Provide funds to design and construct a new Center for Communications and Information Technology	39,550,000
RB31	UNIVERSITY OF MARYLAND BALTIMORE COUNTY (Baltimore County)	
(A)	New Performing Arts and Humanities Facility. Provide funds to design, construct, and equip Phase II of a new Performing Arts and Humanities Facility	37,350,000

3047		Martin O'Malley, Governor	Chapter 444
RC00		BALTIMORE CITY COMMUNITY COLLEGE (Baltimore City)	
(A)		Building Renovation – Administration Wing – Liberty pus. Provide funds to renovate the Administration Wing .	7,800,000
RI00		MARYLAND HIGHER EDUCATION COMMISSION (Statewide)	
(A)	to as the d and r and f admi	munity College Facilities Grant Program. Provide funds sist the subdivisions in the acquisition of property and in lesign, construction, renovation, and equipping of local regional community college buildings, site improvements, acilities. The funds appropriated for this purpose shall be nistered in accordance with § 11–105(j) of the Education le	14,643,000
	(1)	Montgomery College – Rockville Science East Renovation	
	(2)	College of Southern Maryland – LaPlata – Renovation and Expansionof BU/CE Buildings	
	(3)	Harford Community College – Susquehanna Center Renovation/Expansion	
	(4)	Community College of BaltimoreCounty – Owings Mills Center2,700,000	
		DEPARTMENT OF THE ENVIRONMENT	
UA01		OFFICE OF THE SECRETARY (Statewide)	
(A)	gover techr	nced Nutrient Removal. Provide funds to local remments to implement enhanced nutrient removal hology at the 67 largest wastewater treatment plants in rland	18,175,000
		DEPARTMENT OF JUVENILE SERVICES	
VE01		RESIDENTIAL SERVICES	

(A) New Youth Detention Center. Provide funds to design, construct, and equip a new 72-bed detention center (Prince

WA01

George's County)	23,550,000

DEPARTMENT OF STATE POLICE (Statewide)

ZA00 MISCELLANEOUS GRANT PROGRAMS

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal and interest on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of the issuance of the bonds.

(5) The proceeds of these loans must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, 2019. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2019, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for these loans, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.]

[SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan Preauthorization Act of 2013 in total principal amount of \$132,147,000. These loans shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence these loans or installments of these loans may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees:

KA05 CAPITAL GRANTS AND LOANS ADMINISTRATION (Statewide)

(A) Program Open Space. Provide funds for the purchase of conservation easements and acquisition of land, and to make grants to local jurisdictions for the purchase of conservation easements and acquisition of land, and development of recreational facilities. Funds appropriated for local grants shall be administered in accordance with §§ 5–905 through 5–906 of the Natural Resources Article

14,140,000

4,589,000

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY (Statewide)

6,518,000

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

QP00 DIVISION OF PRETRIAL DETENTION AND SERVICES (Baltimore City)

LA11

Chapter	444 Laws of Maryland – 2012 Session	3050
(A)	New Youth Detention Facility. Provide funds to construct a New Youth Detention Facility	21,700,000
RB26	FROSTBURG STATE UNIVERSITY (Allegany County)	
(A)	New Center for Communications and Information Technology. Provide funds to construct a new Center for Communications and Information Technology	4,400,000
RB31	UNIVERSITY OF MARYLAND BALTIMORE COUNTY (Baltimore County)	
(A)	New Performing Arts and Humanities Facility. Provide funds to construct and equip Phase II of a new Performing Arts and Humanities Facility	37,300,000
	DEPARTMENT OF JUVENILE SERVICES	
VE01	RESIDENTIAL SERVICES	
(A)	New Youth Detention Center. Provide funds to construct and equip a new 72–bed detention center (Prince George's County)	23,500,000
WA01	DEPARTMENT OF STATE POLICE (Statewide)	
(A)	Helicopter Replacement. Provide funds to acquire new helicopters to upgrade the quality of the State helicopter	

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal and interest on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of the issuance of the bonds.

20,000,000

fleet

(5) The proceeds of these loans must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, 2020. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2020, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for these loans, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.]

[SECTION 14. AND BE IT FURTHER ENACTED, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan Preauthorization Act of 2014 in total principal amount of \$7,300,000. These loans shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence these loans or installments of these loans may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees:

WA01 DEPARTMENT OF STATE POLICE (Statewide)

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal and interest on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of the issuance of the bonds.

(5) The proceeds of these loans must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, 2021. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2021, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for these loans, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.]

SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly declares that it is the public policy of this State to manage State general obligation bond debt in a manner that will maintain Maryland's AAA bond rating. The General Assembly further declares that legislative oversight, control, and review of all forms of State obligations are essential to maintenance of the State's existing bond rating and protection of the fiscal integrity of the State.

SECTION 4. AND BE IT FURTHER ENACTED, That, before work may commence pursuant to any supplement to any appropriation contained in this Act, satisfactory evidence must be given to the Board of Public Works that the project can be completed with the aggregate of the funds in this Act and previously appropriated for the stated purpose.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(1) with the approval of the Department of Budget and Management, any appropriation for design provided in this Act may be used to fund construction if the amount of the appropriation exceeds the amount required for design expenses, including allowances for contingencies; and

(2) with the approval of the Department of Budget and Management, any appropriation for construction provided in this Act may be used to purchase capital equipment if the amount of the appropriation exceeds the amount required for construction expenses, including allowances for contingencies.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise provided in this Act, before a State agency or institution named in this Act as responsible for an individual item may begin work with funds appropriated by this Act, the agency or institution shall provide satisfactory evidence to the Board of Public Works that the work described in the individual item can be completed with the funds specified for that item.

SECTION 7. AND BE IT FURTHER ENACTED, That, with the approval of the Department of Budget and Management, any appropriation under the provisions of this Act that is in excess of the amount needed for a project may be credited to the Construction Contingency Fund under § 3–609 of the State Finance and Procurement Article.

SECTION 8. AND BE IT FURTHER ENACTED, That, if federal funds are available to help accomplish any project identified in this Act, the State agency or institution responsible for the project shall make efforts through proper administrative procedures to obtain these federal funds. Before spending any funds appropriated by this Act, the agency or institution shall certify its efforts to the Board of Public Works and state the reason for any failure to obtain federal funds. If federal funds are obtained, they shall be used to defray the costs of the project described in this Act and not to expand its scope.

SECTION 9. AND BE IT FURTHER ENACTED, That:

(1) for any appropriation for the planning of a State-owned project provided in this Act, if a program required by § 3–602(d) of the State Finance and Procurement Article has not been submitted, the State agency or institution responsible for the project shall submit a program to the Department of Budget and Management for approval before funds may be expended from the appropriation; and 3053

(2) for any appropriation for the construction of a State-owned project provided in this Act, if preliminary plans and outline specifications required by § 3-602(f)(2)(i) of the State Finance and Procurement Article have not been prepared, the State agency or institution responsible for the project shall submit preliminary plans and outline specifications to the Department of Budget and Management for approval before funds may be expended from the appropriation.

SECTION 10. AND BE IT FURTHER ENACTED, That no portion of the proceeds of a loan or any of the matching funds provided for a project funded under this Act may be used for the furtherance of sectarian religious instruction, or in connection with the design, acquisition, construction, or equipping of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination. Upon the request of the Board of Public Works, a recipient of the proceeds of a loan under this Act shall submit evidence satisfactory to the Board that none of the proceeds of the loan or any matching funds has been or is being used for a purpose prohibited by this Act.

SECTION 11. AND BE IT FURTHER ENACTED, That, the Comptroller may advance funds to any loan funds account established pursuant to a general obligation bond loan enabling Act, for any expenditure authorized by that Act, provided that if general obligation bonds have not been issued under the authority of that Act, the next ensuing sale of general obligation bonds shall include the issuance of bonds under the authority of that Act in an amount at least equivalent to the amount of the funds so advanced.

SECTION 12. AND BE IT FURTHER ENACTED, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan Preauthorization Act of 2013 in total principal amount of \$258,702,000 \$305,360,358 \$314,667,000 \$338,928,000. These loans shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence these loans or installments of these loans may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Chapter 444

Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees:

EXECUTIVE DEPARTMENT – GOVERNOR

<u>DA03</u> <u>MARYLAND STADIUM AUTHORITY</u>

(A) Ocean City Convention Center Expansion. Provide funds to design, construct, and equip an expansion to the Ocean City Convention Center, provided that the Town of Ocean City provide a matching fund in the amount of \$3,500,000 for this purpose. These funds shall be administered in accordance with §§ 10–643 and 10–655 of the Economic Development Article (Worcester County).....

3,500,000

DE02.01 BOARD OF PUBLIC WORKS

STATE GOVERNMENT CENTER – ANNAPOLIS (Anne Arundel County)

(A) State House – Old Senate Chamber. Provide funds to construct alterations and renovations to the State House in order to restore the Old Senate Chamber to its 18th Century appearance

 $\frac{2,100,000}{5,100,000}$

30,678,000 32,939,000

DEPARTMENT OF NATURAL RESOURCES

KA05 CAPITAL GRANTS AND LOANS ADMINISTRATION (Statewide)

(A) Program Open Space. Provide funds for the purchase of conservation easements and acquisition of land, and to make grants to local jurisdictions for the purchase of conservation easements and acquisition of land, and development of recreational facilities. Funds appropriated for local grants shall be administered in accordance with §§ 5–905 through 5–906 of the Natural Resources Article......

(1)	Program Open Space – Stateside – Prior Funds Replacement	15,093,000
(2)	Program Open Space – Local – Prior Funds Replacement	15,585,000 17,846,000

9099	martin O maney, Governor	Chapter 444
(B)	Rural Legacy Program. Provide funds for the purchase of conservation easements and the acquisition of land. The funds appropriated for this purpose shall be administered in accordance with §§ 5–9A–01 through 5–9A–09 of the Natural Resources Article	9,456,000
	DEPARTMENT OF AGRICULTURE	
LA11	OFFICE OF THE SECRETARY (Statewide)	
(A)	Maryland Agricultural Land Preservation Program. Provide funds for the acquisition of conservation easements on agricultural land. The funds appropriated for this purpose shall be administered in accordance with §§ 2–501 through 2–519 of the Agriculture Article	12,653,000
MM06	DEVELOPMENTAL DISABILITIES ADMINISTRATION (Statewide)	
(A)	Henryton Center – Abate Asbestos and Raze Buildings. Provide funds to design, abate asbestos, and demolish buildings at the Henryton Center (Carroll County)	3,050,000
<u>QB02</u>	<u>DIVISION OF CORRECTION</u> <u>MARYLAND HOUSE OF CORRECTION</u> <u>(Anne Arundel County)</u>	
<u>(A)</u>	Maryland House of Correction Deconstruction Project. Provide construction funds for the deconstruction of the Maryland House of Correction in Jessup.	<u>3,022,000</u>
<u>RB22</u>	<u>UNIVERSITY OF MARYLAND, COLLEGE PARK</u> (Prince George's County)	
<u>(A)</u>	<u>New Bioengineering Building.</u> Provide funds to design and construct a new Bioengineering Building	<u>5,000,000</u>
<u>RB24</u>	<u>TOWSON UNIVERSITY</u> (Baltimore County)	
<u>(A)</u>	<u>Campuswide Safety and Circulation Improvements. Provide</u> <u>funds to design and construct campuswide safety and</u> <u>circulation improvements</u>	<u>7,812,000</u>
RB26	FROSTBURG STATE UNIVERSITY (Allegany County)	

Chapter 444

Chapter	444 Laws of Maryland – 2012 Session	3056
(A)	New Center for Communications and Information Technology. Provide funds to construct a new Center for Communications and Information Technology	4,700,000
RB27	COPPIN STATE UNIVERSITY (Baltimore City)	
(A)	New Science and Technology Center. Provide funds for the construction of the New Science and Technology Center	47,050,000
<u>RB29</u>	<u>SALISBURY UNIVERSITY</u> (Wicomico County)	
<u>(A)</u>	<u>New Library. Provide design funds for a new Library</u>	<u>4,000,000</u>
RB31	UNIVERSITY OF MARYLAND BALTIMORE COUNTY (Baltimore County)	
(A)	New Performing Arts and Humanities Facility. Provide funds to construct Phase II of a new Performing Arts and Humanities Facility	30,600,000
<u>(B)</u>	<u>Campus Traffic Safety and Circulation Improvements.</u> <u>Provide funds to design and construct improvements to the</u> <u>campus vehicular circulation system</u>	<u>10,000,000</u>
<u>RB36</u>	<u>UNIVERSITY SYSTEM OF MARYLAND OFFICE</u> (Montgomery County)	
<u>(A)</u>	New Biomedical Sciences and Engineering Education Building. Provide funds to design a New Biomedical Sciences and Engineering Education Building at the Shady Grove Educational Center	<u>5,000,000</u>
RI00	MARYLAND HIGHER EDUCATION COMMISSION (Statewide)	
(A)	Community College Facilities Grant Program. Provide funds to assist the subdivisions in the acquisition of property and in the design, construction, renovation, and equipping of local and regional community college buildings, site improvements, and facilities. The funds appropriated for this purpose shall be administered in accordance with § 11–105(j) of the Education Article	29,140,000 30.431.000

	(1)	Cecil College – Engineering and Math Building	
	(2)	Anne Arundel Community College-AdministrationBuildingRenovation and Expansion1,096,000	
	(3)	Community College of Baltimore County – Catonsville – F Building Renovation and Expansion	
	(4)	Harford Community College – New Nursing and Allied Health Building	
RM00		MORGAN STATE UNIVERSITY (Baltimore City)	
(A)		School of Business Complex. Provide funds to construct a School of Business Complex	43,550,000
		DEPARTMENT OF JUVENILE SERVICES	
<u>VE01</u>		RESIDENTIAL SERVICES	
<u>(A)</u>		hern Maryland Children's Center. Provide funds to on the Southern Maryland Children's Center (Charles oty)	<u>2,068,000</u>
WA01		DEPARTMENT OF STATE POLICE (Statewide)	
(A)	helic	copter Replacement. Provide funds to acquire new opters to upgrade the quality of the State helicopter	24,250,000 32,745,358 24,250,000
ZA00		MISCELLANEOUS GRANT PROGRAMS	
(A)	Tran contr corrie	county Connector. Provide funds to the Maryland sportation Authority for the construction of an east-west colled access, tolled highway linking the US 1/I-95 dor in Prince George's County with I-270/I-370 in comery County (Montgomery and Prince George's	

Chapter 444

<u>(B)</u>	Maryland School for the Blind. Provide a grant to the Board of Directors of the Maryland School for the Blind, Inc. for the construction and capital equipping of a new LIFE Education Building at the Maryland School for the Blind (Baltimore City)	<u>5,000,000</u>
(<u>C)</u>	High Performance Computing Data Center. Provide a grant to the Board of Trustees of Johns Hopkins University for the design, construction, and capital equipping of a High Performance Computing Data Center to enhance the high speed data initiative funded by a grant from the National Science Foundation to Johns Hopkins University and the	
	University of Maryland, College Park	<u>10,000,000</u> 12,000,000
<u>ZA01.08</u>	<u>SOUTHERN MARYLAND HIGHER EDUCATION CENTER</u> (St. Mary's County)	
<u>(A)</u>	<u>New Classroom and Engineering Laboratory Building.</u> <u>Provide funds to design, construct, and equip a third academic</u> <u>building on the Southern Maryland Higher Education Center</u> <u>campus</u>	<u>10,000,000</u>
<u>ZB02</u>	LOCAL JAILS AND DETENTION CENTERS	
<u>(A)</u>	St. Mary's County Detention Center. Provide a grant to the Board of Commissioners of St. Mary's County to assist in the design, construction, and equipping of the Phase I and Phase II of the addition to the St. Mary's County Detention Center, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding Section 1(5) of this Act, the matching fund may include funds expended prior to the effective date of this Act (St. Mary's	6 966 000
	<i>County</i>)	<u>6,266,000</u>

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal and interest on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of the issuance of the bonds.

(5) The proceeds of these loans must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, 2020. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2020, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for these loans, the

amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

SECTION 13. AND BE IT FURTHER ENACTED, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan Preauthorization Act of 2014 in total principal amount of \$45,108,000 \$61,718,055 \$87,589,000 \$104,850,000. These loans shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence these loans or installments of these loans may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees:

DEPARTMENT OF NATURAL RESOURCES

KA05 CAPITAL GRANTS AND LOANS ADMINISTRATION (Statewide)

(A) Program Open Space. Provide funds for the purchase of conservation easements and acquisition of land, and to make grants to local jurisdictions for the purchase of conservation easements and acquisition of land, and development of recreational facilities. Funds appropriated for local grants shall be administered in accordance with §§ 5–905 through 5–906 of the Natural Resources Article

 $\frac{16,538,000}{18,799,000}$

(1)	Program Open Space – Stateside – Prior Funds Replacement	7,900,000
(2)	Program Open Space – Local – Prior Funds Replacement	8,638,000 10,899,000

3060

	conservation easements and the acquisition of land. The funds appropriated for this purpose shall be administered in accordance with §§ 5–9A–01 through 5–9A–09 of the Natural Resources Article	4,867,000
	DEPARTMENT OF AGRICULTURE	
LA11	OFFICE OF THE SECRETARY (Statewide)	
(A)	Maryland Agricultural Land Preservation Program. Provide funds for the acquisition of conservation easements on agricultural land. The funds appropriated for this purpose shall be administered in accordance with §§ 2–501 through 2–519 of the Agriculture Article	6,134,000
<u>RB29</u>	<u>SALISBURY UNIVERSITY</u> (Wicomico County)	
	<u>New Library. Provide funds to complete design and begin the</u> <u>construction of a new Library</u>	<u>49,000,000</u>
RM00	MORGAN STATE UNIVERSITY (Baltimore City)	
(A)	New School of Business Complex. Provide funds to construct a new School of Business Complex	3,050,000
WA01	DEPARTMENT OF STATE POLICE (Statewide)	
(A)	Helicopter Replacement. Provide funds to acquire new helicopters to upgrade the quality of the State helicopter fleet	8,000,000 <u>13,868,055</u> <u>8,000,000</u>
<u>ZA00</u>	MISCELLANEOUS GRANT PROGRAMS	
<u>(A)</u>	High Performance Computing Data Center. Provide a grant to the Board of Trustees of Johns Hopkins University for the design, construction, and capital equipping of a High Performance Computing Data Center to enhance the high speed data initiative funded by a grant from the National Science Foundation to Johns Hopkins University and the University of Maryland, College Park	<u>15,000,000</u>

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal and interest on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of the issuance of the bonds.

(5) The proceeds of these loans must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, 2021. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2021, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for these loans, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

SECTION 14. AND BE IT FURTHER ENACTED, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Maryland Consolidated Capital Bond Loan Preauthorization Act of 2015 in total principal amount of \$68,700,000 \$51,200,000. These loans shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) <u>The bonds to evidence these loans or installments of these loans may be</u> sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees:

<u>RB29</u> <u>SALISBURY UNIVERSITY</u> (Wicomico County)

(A) <u>New Library. Provide funds to construct a new Library......</u> <u>68,700,000</u> <u>51,200,000</u>

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal and interest on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of the issuance of the bonds.

(5) The proceeds of these loans must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, 2022. If any funds authorized by this Act remain unexpended or unencumbered after June 1, 2022, the amount of the unencumbered or unexpended authorization shall be canceled and be of no further effect. If bonds have been issued for these loans, the amount of unexpended or unencumbered bond proceeds shall be disposed of as provided in § 8–129 of the State Finance and Procurement Article.

SECTION 14. <u>15.</u> AND BE IT FURTHER ENACTED, That the net new debt to be authorized by legislation in fiscal year 2013 may not exceed \$1,075,000,000 as evidenced by the following:

FY 2013 debt to be authorized by this Act	$\frac{1,112,880,000}{1,119,424,000}$
Subtotal	$\frac{1,112,880,000}{1,119,424,000}$
Reductions in previously authorized State Debt made in this bill	(37,880,000) <u>(44,424,000)</u>
Net new debt to be authorized in FY $\frac{2012}{2013}$	1,075,000,000

SECTION 15. <u>16.</u> AND BE IT FURTHER ENACTED, That Section 13 of this Act shall take effect June 1, 2014.

SECTION 16. <u>17.</u> AND BE IT FURTHER ENACTED, That Section 12 of this Act shall take effect June 1, 2013.

SECTION 17. <u>18.</u> AND BE IT FURTHER ENACTED, That, except as provided in Sections 15 and 16, <u>16 and 17</u>, this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 445

(House Bill 1101)

AN ACT concerning

Workers' Compensation – Medical Presumptions <u>and Study</u>

FOR the purpose of providing that certain occupational disease presumptions under the workers' compensation law apply only for a certain number of years after an individual separates from service; providing that certain altering the diseases and cancers that are considered occupational diseases suffered in the line of duty and are compensable in a certain manner; requiring the Department of Legislative Services, in consultation with and as agreed by certain stakeholders. to contract with a certain individual to conduct a certain study of certain types of cancers that certain individuals may contract in the line of duty; providing for the purpose of the study: providing that any funding needed to pay for the study shall be from sources other than the Department; requiring the Department to give certain notice to certain persons and entities under certain circumstances: requiring a certain individual to identify and review certain studies and other medical evidence, prepare a certain summary table, determine whether there is a certain benchmark, and consider certain matters; requiring the individual to consult with certain persons or entities under certain circumstances; requiring the individual to report to the Department on or before a certain date; requiring the Department to forward a certain report to certain committees of the General Assembly; requiring a certain organization, in consultation with certain persons and entities, to determine the statistics relating to certain individuals that should be kept for a certain purpose; providing for a delayed effective date for certain provisions of this Act; providing for the application and construction of certain provisions of this Act; limiting a jurisdiction's total benefit payout for certain workers' compensation benefits to a certain amount: and generally relating to the occupational disease presumption for certain diseases and cancers under the workers' compensation law.

BY repealing and reenacting, with amendments,

Article – Labor and Employment Section 9–503 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article - Labor and Employment

9-503.

(a) (1) A paid firefighter, paid fire fighting instructor, or sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who is a covered employee under § 9–234 of this title is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if:

 $\{(1)\}$ (1) the individual has heart disease, hypertension, or lung disease;

 $\{(2)\}$ (II) the heart disease, hypertension, or lung disease results in partial or total disability or death; and

 $\{(3)\}$ (III) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, the individual has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(2) THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL APPLY ONLY FOR 15 YEARS AFTER THE DATE THAT THE INDIVIDUAL SEPARATED FROM PAID OR VOLUNTEER FIRE SERVICE.

(b) (1) A paid police officer employed by an airport authority, a county, the Maryland–National Capital Park and Planning Commission, a municipality, or the State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, Prince George's County correctional officer, or deputy sheriff of Allegany County is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if:

(i) the police officer, deputy sheriff, or correctional officer is suffering from heart disease or hypertension; and

(ii) the heart disease or hypertension results in partial or total disability or death.

(2) (i) A deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer is entitled to the presumption under this subsection only to the extent that the individual suffers from heart disease or hypertension that is more severe than the individual's heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(ii) To be eligible for the presumption under this subsection, a deputy sheriff of Anne Arundel County, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer, as a condition of employment, shall submit to a medical examination to determine any heart disease or hypertension condition existing prior to the individual's employment as a deputy sheriff of Anne Arundel County, deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, or Prince George's County correctional officer.

(c) (1) A paid firefighter, paid fire fighting instructor, or a sworn member of the Office of the State Fire Marshal employed by an airport authority, a county, a fire control district, a municipality, or the State or a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member who is a covered employee under § 9–234 of this title is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if the individual:

[(1)**]** (**I**) has leukemia or pancreatic, prostate, rectal, **[**or**]** throat, **ESOPHAGEAL** <u>MULTIPLE MYELOMA, NON-HODGKIN'S LYMPHOMA</u>, BRAIN, **TESTICULAR**, BLADDER, BREAST, URETHRAL, OR DIGESTIVE <u>OR BREAST</u> cancer that is caused by contact with a toxic substance that the individual has encountered in the line of duty;

 $\{(2)\}$ (II) has completed at least [5] 10 years of service as a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member or in a combination of those jobs in the department where the individual currently is employed or serves;

 $\{(3)\}$ (III) is unable to perform the normal duties of a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member in the department where the individual currently is employed or serves because of the cancer or leukemia disability; and

 $\{(4)\}$ (IV) in the case of a volunteer firefighter, volunteer fire fighting instructor, volunteer rescue squad member, or volunteer advanced life support unit member, has met a suitable standard of physical examination before becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life support unit member.

(2) THE PRESUMPTION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL APPLY ONLY FOR 20 YEARS AFTER THE DATE THAT THE INDIVIDUAL SEPARATED FROM PAID OR VOLUNTEER FIRE SERVICE.

(3) ON AN ANNUAL BASIS, A JURISDICTION'S TOTAL BENEFIT PAYOUT UNDER THIS SUBSECTION FOR TEMPORARY TOTAL DISABILITY BENEFITS, TEMPORARY PARTIAL DISABILITY BENEFITS, PERMANENT PARTIAL DISABILITY BENEFITS, PERMANENT TOTAL DISABILITY BENEFITS, AND DEPENDENCY BENEFITS MAY NOT EXCEED 110% OF THE JURISDICTION'S HIGHEST ANNUAL PAYOUT FOR SUCH BENEFITS.

(d) (1) (i) A paid law enforcement employee of the Department of Natural Resources who is a covered employee under § 9-207 of this title and a park

police officer of the Maryland–National Capital Park and Planning Commission is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

1. is suffering from Lyme disease; and

2. was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(ii) The presumption under this subsection for a park police officer of the Maryland–National Capital Park and Planning Commission shall only apply:

1. during the time that the park police officer is assigned to a position that regularly places the park police officer in an outdoor wooded environment; and

2. for 3 years after the last date that the park police officer was assigned by the Maryland–National Capital Park and Planning Commission to a position that regularly placed the officer in an outdoor wooded environment.

(2) (i) An employee of the Maryland–National Capital Park and Planning Commission other than a park police officer is presumed to have an occupational disease that was suffered in the line of duty and is compensable under this title if the employee:

1. is suffering from Lyme disease; and

2. was not suffering from Lyme disease before assignment to a position that regularly places the employee in an outdoor wooded environment.

(ii) The presumption under this paragraph shall apply only if:

1. for the 12–month period before the filing of the claim for workers' compensation under this section, the employee:

A. has not been employed by the Maryland–National Capital Park and Planning Commission as a seasonal or intermittent employee; and

B. has been employed by the Maryland–National Capital Park and Planning Commission on a full–time basis;

2. the employee's assignment to a position that regularly places the employee in an outdoor wooded environment lasted for at least 1 year; and

3. the employee files the claim for workers' compensation on or before the third anniversary of the last date that the employee was assigned to a position that regularly placed the employee in an outdoor wooded environment.

(e) (1) Except as provided in paragraph (2) of this subsection, any paid firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire Marshal, paid police officer, paid law enforcement employee of the Department of Natural Resources, deputy sheriff of Anne Arundel County, park police officer or employee of the Maryland–National Capital Park and Planning Commission, deputy sheriff of Montgomery County, deputy sheriff of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince George's County, or Prince George's County correctional officer who is eligible for benefits under subsection (a), (b), (c), or (d) of this section or the dependents of those individuals shall receive the benefits in addition to any benefits that the individual or the dependents of the individual are entitled to receive under the retirement system in which the individual was a participant at the time of the claim.

(2) The benefits received under this title shall be adjusted so that the weekly total of those benefits and retirement benefits does not exceed the weekly salary that was paid to the paid law enforcement employee of the Department of Natural Resources, a park police officer or employee of the Maryland–National Capital Park and Planning Commission, firefighter, fire fighting instructor, sworn member of the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George's County or Montgomery County correctional officer.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The Department of Legislative Services, in consultation with and as agreed by the affected stakeholders, shall contract with a medical expert affiliated with an academic research institution or organization to conduct a study of all types of cancers that firefighters, firefighting instructors, members of the Office of the State Fire Marshal, rescue squad members, and advanced life support unit members, as specified under the workers' compensation cancer presumption law, may contract in the line of duty, as compared to the general population.

(2) The purpose of the study is to provide guidance to the General Assembly as to the types of cancers firefighters and others are likely to contract in the line of duty in order for the General Assembly to determine which types of cancers should be included in the workers' compensation cancer presumption law.

(3) (i) Funding, if any, that may be needed to pay for the study shall be from sources other than the Department.

(*ii*) If adequate funding is not available to pay for the study, the Department shall notify the Governor, the affected stakeholders, and, in accordance

with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee, that the Department is unable to contract with a medical expert affiliated with an academic research institution or organization to conduct the study, and requesting whether additional funding may be secured in order for the Department to proceed with contracting with a medical expert.

(b) In conducting the study, the medical expert shall:

(1) <u>identify and review recent objective and statistically valid studies</u> <u>and other medical evidence relating to all types of cancers firefighters and others may</u> <u>contract in the line of duty;</u>

(2) prepare a summary table ranking the likelihood of each type of cancer risk to firefighters and others, as compared to the general public:

(3) <u>determine whether there is a benchmark that could be used to</u> <u>determine if a specific type of cancer should be included in the workers' compensation</u> <u>cancer presumption law; and</u>

(4) <u>consider other relevant matters that relate to the purpose of the</u> <u>study.</u>

(c) In conducting the study, the medical expert shall consult with any person or entity that the medical expert determines appropriate.

(d) (1) On or before December 1, 2012, the medical expert conducting the study shall report the findings of the study to the Department of Legislative Services.

(2) On receipt of the report, the Department of Legislative Services shall forward the report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article.

<u>SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland</u> Association of Counties, in consultation with the Professional Firefighters of Maryland and any other entity or person the Association determines appropriate, shall determine the statistics that, as practicable, should be kept relating to firefighters and others who have contracted cancer in order to evaluate the impact of the workers' compensation cancer presumption law.</u>

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act:

(1) <u>shall apply to claims filed for an occupational disease on or after</u> June 1, 2013; and

(2) <u>may not be construed to apply to any claim filed before June 1,</u> 2013. <u>SECTION 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act</u> shall take effect June 1, 2013.

SECTION 2. <u>6.</u> AND BE IT FURTHER ENACTED, That, <u>except as provided in</u> <u>Section 5 of this Act</u>, this Act shall take effect <u>July June</u> 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 446

(Senate Bill 235)

AN ACT concerning

Procurement – Investment Activities in Iran

FOR the purpose of specifying that certain persons shall be considered as engaging in investment activities in Iran under certain circumstances; requiring the Board of Public Works, on or before a certain date, to use certain information to create a list of persons that engage in investment activities in Iran; requiring the Board to update the list at certain times; requiring the Board, within a certain number of days before adding a person to the list, to provide the person with certain notice; prohibiting the Board from adding a person to the list under certain circumstances; requiring a unit to require a certain person to certify that the person is not included on a certain list; requiring a person that is unable to certify that the person does not engage in certain investment activities in Iran to provide a certain description of its investment activities; requiring certain certifications and disclosures to be publicly disclosed; requiring a unit to provide a certain person that may have falsely certified that the person does not engage in certain investment activities with certain notice that the person may submit certain documentation to the unit within a certain time frame; authorizing a unit to determine that a person has submitted a false certification under certain circumstances; establishing certain penalties that may be imposed on a person that submits a false certification; prohibiting a unit from awarding a procurement contract to a person that submits a false certification; authorizing a unit to terminate a certain contract with a person that submitted a false certification; providing for the debarment of a certain person under certain circumstances; providing for the application of this Act; requiring the Board to provide a person with an opportunity to comment that the person is not engaged in investment activities in Iran; requiring a public body, on or after a certain date, to require a person that submits a bid or proposal or enters into a contract with the public body to make a certain certification or provide certain information; requiring the public body to submit certain information submitted by certain persons to the Board; requiring a public body to institute certain actions based on a determination of a false

certification; requiring a public body to report certain information to the Board and the Attorney General under certain circumstances; authorizing the Attorney General to bring a certain action within a certain time after a certification is made; specifying certain penalties for submitting a false certification, including civil penalties, the termination of certain contracts, and the ineligibility of certain persons to bid on certain contracts under certain circumstances; providing that this Act does not create a private right of action; establishing that this Act preempts certain local laws and regulations; declaring the intent of the General Assembly; requiring the Department of Legislative Services to provide certain written notice concerning this Act to the Attorney General of the United States; making this Act severable; providing for the termination of this Act under certain circumstances; requiring the Board to notify the Department of Legislative Services of a certain event within a certain time period; defining certain terms; and generally relating to persons that engage in investment activities in Iran and the State procurement law.

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement Section 11–101(a), (d), (k), and (x) <u>and (k)</u> Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Finance and Procurement
Section 13-501 through 13-505 17-701 through 17-707 to be under the new subtitle "Subtitle 5. 7. Investment Activities in Iran"; and 16-203(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, In imposing sanctions on Iran, the Congress and the President of the United States have determined that the illicit nuclear activities of the government of Iran, combined with its development of unconventional weapons and ballistic missiles, and its support of international terrorism, represent a serious threat to the security of the United States and its allies and around the world; and

WHEREAS, The International Atomic Energy Agency repeatedly has called attention to Iran's unlawful nuclear activities, and as a result, the United Nations Security Council has adopted four rounds of sanctions designed to compel the government of Iran to cease those activities and comply with its obligations under the Treaty on the Non–Proliferation of Nuclear Weapons; and

WHEREAS, The human rights situation in Iran has steadily deteriorated since the fraudulent elections of 2009, as evidenced by the brutal repression, torture, murder, and arbitrary detention of peaceful protestors, dissidents, and minorities; and WHEREAS, On July 1, 2010, the President of the United States signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which authorizes states and local governments to prevent investment in companies operating in Iran and includes provisions that preclude companies that do business in Iran from contracting with the U.S. government; and

WHEREAS, There are moral and reputational reasons for state and local governments not to engage in business with foreign companies that have business activities benefiting foreign states, such as Iran, that pursue illegal nuclear programs, support acts of terrorism, and commit violations of human rights; and

WHEREAS, Short-term economic profits cannot be a justification to circumvent international sanctions designed to thwart Iran from developing nuclear weapons; and

WHEREAS, The concerns of the Maryland General Assembly regarding Iran are the result of the actions of the government of Iran and should not be construed as enmity toward the Iranian people; 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

11-101.

(a) In this Division II the following words have the meanings indicated unless:

- (1) the context clearly requires a different meaning; or
- (2) a different definition is provided for a particular title or provision.
- (d) "Board" means the Board of Public Works.

(k) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(x) (1) "Unit" means an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement contract.

(2) <u>"Unit" does not include:</u>

(i) a bistate, multistate, bicounty, or multicounty governmental

(ii) a special tax district, sanitary district, drainage district, soil conservation district, water supply district, or other political subdivision of the State.

SUBTITLE 5. INVESTMENT ACTIVITIES IN IRAN.

13-501.

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

(B) "CONSTRUCTION SECTOR OF IRAN" MEANS ACTIVITIES TO PLAN, DESIGN, ENGINEER, BUILD, CONSTRUCT, OR FINANCE PROJECTS AND INVESTMENTS RELATED TO DEVELOPING THE INFRASTRUCTURE OF IRAN, INCLUDING INFRASTRUCTURE RELATED TO THE ENERGY SECTOR OF IRAN OR ANY ASPECT OF THE OIL, GAS, OR NUCLEAR POWER INDUSTRIES OF IRAN.

(C) "ENERGY SECTOR OF IRAN" MEANS ACTIVITIES TO DEVELOP, INVEST IN, EXPLORE FOR, REFINE, TRANSFER, PURCHASE, OR SELL OIL, GASOLINE, OR OTHER REFINED OIL PRODUCTS OR NATURAL GAS, LIQUEFIED NATURAL GAS RESOURCES, OR NUCLEAR POWER IN IRAN.

(D) "ENGAGE IN INVESTMENT ACTIVITIES IN IRAN" MEANS THAT A PERSON:

(1) PROVIDES GOODS FOR OR SERVICES IN OR TO THE CONSTRUCTION, ENERGY, OR FINANCIAL SECTORS OF IRAN;

(2) PROVIDES OIL OR LIQUEFIED NATURAL GAS TANKERS, OR PRODUCTS USED TO CONSTRUCT OR MAINTAIN PIPELINES USED TO TRANSPORT OIL OR LIQUEFIED NATURAL GAS, FOR THE ENERGY SECTOR OF IRAN;

(3) PURCHASES CRUDE OIL, REFINED PETROLEUM PRODUCTS, OR NATURAL GAS FROM IRAN;

(4) PROVIDES GOODS OR SERVICES, OR PAYMENT FOR GOODS OR SERVICES, TO A PERSON, INCLUDING A NONCOUNTRY SPECIFIC PERSON, THAT IS ON THE U.S. OFFICE OF FOREIGN ASSETS CONTROL'S SPECIALLY DESIGNATED NATIONALS LIST FOR IRAN;

(5) TRANSFERS, OR FACILITATES THE TRANSFER OF, GOODS OR TECHNOLOGIES TO IRAN, INCLUDING:

(1) FIREARMS OR AMMUNITION AS DEFINED IN 18 U.S.C. § 921, ACCESSORIES FOR FIREARMS, RUBBER BULLETS, CLUBS, BATONS, POLICE STICKS, MACE, STUN-GRENADES, TASERS OR OTHER ELECTROSHOCK WEAPONS, TEAR GAS, WATER CANNONS, MOTORCYCLES, MOTORIZED TRANSPORT FOR SECURITY PERSONNEL, OR SURVEILLANCE TECHNOLOGY;

(II) SENSITIVE TECHNOLOGY AS DEFINED IN THE FEDERAL COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2010; AND

(III) OTHER GOODS OR TECHNOLOGIES THAT THE BOARD DETERMINES HAVE OR MAY BE USED BY THE GOVERNMENT OF IRAN TO COMMIT HUMAN RIGHTS ABUSES AGAINST THE PEOPLE OF IRAN WHETHER OR NOT THE GOODS OR TECHNOLOGIES ARE SOLD DIRECTLY TO THE GOVERNMENT OF IRAN OR OTHERWISE; OR

(6) (1) EXTENDS CREDIT TO A PERSON OR ENTITY THAT ENGAGES IN THE ACTIVITIES DESCRIBED IN ITEMS (1) THROUGH (5) OF THIS SUBSECTION; AND

(II) IS IDENTIFIED ON A LIST CREATED IN ACCORDANCE WITH § 13–502 OF THIS SUBTITLE AS A PERSON OR AN ENTITY ENGAGING IN AN ACTIVITY DESCRIBED IN ITEMS (1) THROUGH (5) OF THIS SUBSECTION.

(E) "FINANCIAL SECTOR OF IRAN" MEANS THE CENTRAL BANK OF IRAN OR ANOTHER FINANCIAL INSTITUTION OF IRAN DESIGNATED BY THE SECRETARY OF THE TREASURY FOR THE IMPOSITION OF SANCTIONS IN ACCORDANCE WITH THE FEDERAL INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

(F) (1) "IRAN" MEANS THE TERRITORY OF IRAN AND ANY OTHER TERRITORY OR MARINE AREA OVER WHICH THE GOVERNMENT OF IRAN CLAIMS SOVEREIGNTY, SOVEREIGN RIGHTS, OR JURISDICTION, PROVIDED THAT THE GOVERNMENT OF IRAN EXERCISES PARTIAL OR TOTAL DE FACTO CONTROL OVER THE AREA OR DERIVES A BENEFIT FROM ECONOMIC ACTIVITY IN THE AREA IN ACCORDANCE WITH INTERNATIONAL ARRANGEMENTS.

(2) "IRAN" INCLUDES THE EXCLUSIVE ECONOMIC ZONE AND CONTINENTAL SHELF.

(G) "PERSON" INCLUDES:

(1) A NATURAL PERSON, CORPORATION, COMPANY, LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY COMPANY, BUSINESS ASSOCIATION, SOLE PROPRIETORSHIP, JOINT VENTURE, PARTNERSHIP, SOCIETY, TRUST, OR ANY OTHER NONGOVERNMENTAL ENTITY, **ORGANIZATION, OR GROUP;**

(2) A GOVERNMENTAL ENTITY OR INSTRUMENTALITY OF A **GOVERNMENT, INCLUDING A MULTILATERAL DEVELOPMENT INSTITUTION, AS DEFINED BY THE FEDERAL INTERNATIONAL FINANCIAL INSTITUTIONS ACT:**

(3) A FINANCIAL INSTITUTION AS DEFINED BY THE FEDERAL IRAN SANCTIONS ACT OF 1996: OR

(4) ANY PARENT, SUCCESSOR, SUBUNIT, DIRECT OR INDIRECT SUBSIDIARY, OR ANY ENTITY UNDER COMMON OWNERSHIP OR CONTROL WITH AN ENTITY DESCRIBED IN ITEMS (1) THROUGH (3) OF THIS SUBSECTION.

(H) "UNIT" INCLUDES:

(1) A BISTATE OR MULTISTATE AGENCY;

(2) A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE OR AN AGENCY OR OTHER INSTRUMENTALITY OF THE POLITICAL SUBDIVISION: AND

(3) A BICOUNTY OR MULTICOUNTY AGENCY.

$\frac{13-502}{13-502}$

(A) ON OR BEFORE JANUARY 1. 2013. THE BOARD SHALL USE CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC TO CREATE A LIST OF PERSONS THAT ENGAGE IN INVESTMENT ACTIVITIES IN IRAN.

(B) THE BOARD SHALL UPDATE THE LIST EVERY 90 DAYS.

(C) THIRTY DAYS BEFORE ADDING A PERSON TO THE LIST, THE BOARD SHALL PROVIDE THE PERSON WITH WRITTEN NOTICE THAT:

(1) THE BOARD INTENDS TO ADD THE PERSON TO THE LIST;

(2) **INCLUSION OF THE PERSON ON THE LIST MAKES THE PERSON** INELIGIBLE TO BID ON, SUBMIT A PROPOSAL FOR, OR ENTER INTO OR RENEW A **CONTRACT FOR GOODS OR SERVICES WITH THE STATE: AND**

(3) WITHIN THE 30-DAY PERIOD. THE PERSON MAY SUBMIT WRITTEN DOCUMENTATION TO THE BOARD DEMONSTRATING THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

(D) IF THE PERSON DEMONSTRATES TO THE BOARD THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN, THE BOARD MAY NOT ADD THE PERSON TO THE LIST.

(E) THE BOARD SHALL MAKE EVERY EFFORT TO AVOID ERRONEOUSLY INCLUDING A PERSON ON THE LIST.

13-503.

(A) A UNIT SHALL REQUIRE A PERSON THAT SUBMITS A BID OR PROPOSAL OR OTHERWISE PROPOSES TO ENTER INTO OR RENEW A CONTRACT TO CERTIFY THAT THE PERSON IS NOT INCLUDED ON A LIST CREATED IN ACCORDANCE WITH § 13–502 OF THIS SUBTITLE OR ANOTHER SIMILAR LIST CREATED BY THE FEDERAL GOVERNMENT.

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

(1) BE MADE AT THE TIME A BID OR PROPOSAL IS SUBMITTED OR A CONTRACT IS RENEWED; AND

(2) BE EXECUTED ON BEHALF OF THE APPLICABLE PERSON OR BY AN AUTHORIZED OFFICER OR REPRESENTATIVE OF THE PERSON.

(C) IF A PERSON IS UNABLE TO CERTIFY THAT THE PERSON DOES NOT ENGAGE IN INVESTMENT ACTIVITY IN IRAN, THE PERSON SHALL PROVIDE TO THE UNIT, UNDER PENALTY OF PERJURY, A DETAILED DESCRIPTION OF THE PERSON'S INVESTMENT ACTIVITIES IN IRAN.

(D) A CERTIFICATION OR DISCLOSURE PROVIDED TO A UNIT UNDER THIS SECTION SHALL BE MADE PUBLIC.

13-504.

(A) IF BY USING CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC, A UNIT DETERMINES THAT A PERSON MAY HAVE FALSELY CERTIFIED THAT THE PERSON DOES NOT ENGAGE IN INVESTMENT ACTIVITY IN IRAN, THE UNIT SHALL PROVIDE THE PERSON WITH WRITTEN NOTICE THAT THE PERSON MAY SUBMIT WRITTEN DOCUMENTATION WITHIN 30 DAYS TO THE UNIT DEMONSTRATING THAT THE PERSON IS NOT ENGAGED IN OR HAS CEASED TO ENGAGE IN INVESTMENT ACTIVITIES IN IRAN. (B) IF A PERSON FAILS TO DEMONSTRATE TO THE UNIT THAT THE PERSON IS NOT ENGAGED IN OR HAS CEASED TO ENGAGE IN INVESTMENT ACTIVITIES IN IRAN, THE UNIT MAY DETERMINE THAT THE PERSON HAS SUBMITTED A FALSE CERTIFICATION.

(C) A PERSON THAT SUBMITS A FALSE CERTIFICATION IS:

(1) LIABLE FOR A CIVIL PENALTY IN AN AMOUNT THAT IS EQUAL TO THE GREATER OF \$1,000,000 OR TWICE THE AMOUNT OF THE CONTRACT FOR WHICH THE FALSE CERTIFICATION WAS MADE; AND

(2) INELIGIBLE TO BID ON A CONTRACT FOR A PERIOD OF 3 YEARS AFTER THE DATE OF THE DETERMINATION THAT THE PERSON SUBMITTED THE FALSE CERTIFICATION.

(D) (1) A UNIT MAY NOT AWARD A PROCUREMENT CONTRACT TO A PERSON THAT SUBMITS A FALSE CERTIFICATION.

(2) A UNIT MAY TERMINATE AN EXISTING CONTRACT WITH A PERSON THAT SUBMITTED A FALSE CERTIFICATION.

13-505.

(A) THIS SUBTITLE SHALL BE CONSTRUED LIBERALLY WITH REGARD TO ALL PROCUREMENT CONTRACTS FOR GOODS OR SERVICES WITH A PERSON ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

(B) THIS SUBTITLE SHALL PREEMPT ANY LOCAL LAW.

16-203.

(E) A PERSON MAY BE DEBARRED FROM ENTERING INTO A CONTRACT WITH THE STATE IF, AT THE TIME OF BID OR PROPOSAL FOR A NEW CONTRACT OR RENEWAL OF AN EXISTING CONTRACT, THE PERSON IS INCLUDED ON A LIST CREATED TO IDENTIFY PERSONS THAT ENGAGE IN INVESTMENT ACTIVITIES IN IRAN IN ACCORDANCE WITH § 13–502 OF THIS ARTICLE.

SUBTITLE 7. INVESTMENT ACTIVITIES IN IRAN.

<u>17-701.</u>

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED. (B) <u>"Energy sector of Iran" means activities to develop</u> <u>petroleum or natural gas resources or nuclear power in Iran.</u>

(C) "FINANCIAL INSTITUTION" HAS THE MEANING STATED IN SECTION 14 OF THE IRAN SANCTIONS ACT OF 1996 (PUBLIC LAW 104–172).

(D) <u>"IRAN" INCLUDES THE GOVERNMENT OF IRAN AND ANY AGENCY OR</u> INSTRUMENTALITY OF IRAN.

(E) <u>"PERSON" INCLUDES:</u>

(1) <u>A NATURAL PERSON, CORPORATION, COMPANY, LIMITED</u> <u>LIABILITY COMPANY, BUSINESS ASSOCIATION, PARTNERSHIP, SOCIETY, TRUST,</u> <u>OR ANY OTHER NONGOVERNMENTAL ENTITY, ORGANIZATION, OR GROUP;</u>

(2) <u>A GOVERNMENTAL ENTITY OR INSTRUMENTALITY OF A</u> <u>GOVERNMENT, INCLUDING A MULTILATERAL DEVELOPMENT INSTITUTION, AS</u> <u>DEFINED BY THE FEDERAL INTERNATIONAL FINANCIAL INSTITUTIONS ACT, 22</u> <u>U.S.C. 262R(C)(3); OR</u>

(3) ANY PARENT, SUCCESSOR, SUBUNIT, DIRECT OR INDIRECT SUBSIDIARY OF, OR ANY ENTITY UNDER COMMON OWNERSHIP OR CONTROL WITH, AN ENTITY DESCRIBED IN ITEM (1) OR (2) OF THIS SUBSECTION.

(F) <u>"PUBLIC BODY" MEANS:</u>

(1) <u>THE STATE;</u>

(2) <u>A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL</u> <u>SUBDIVISION;</u>

(3) A PUBLIC INSTRUMENTALITY; OR

(4) <u>ANY GOVERNMENTAL UNIT AUTHORIZED TO AWARD A</u> <u>CONTRACT.</u>

17-702.

<u>For purposes of this subtitle, a person engages in investment</u> <u>Activities in Iran if:</u>

(1) THE PERSON PROVIDES GOODS OR SERVICES OF \$20,000,000 OR MORE IN THE ENERGY SECTOR OF IRAN, INCLUDING A PERSON THAT PROVIDES OIL OR LIQUEFIED NATURAL GAS TANKERS OR PRODUCTS USED TO

CONSTRUCT OR MAINTAIN PIPELINES USED TO TRANSPORT OIL OR LIQUEFIED NATURAL GAS FOR THE ENERGY SECTOR OF IRAN; OR

(2) <u>THE PERSON IS A FINANCIAL INSTITUTION THAT EXTENDS</u> \$20,000,000 OR MORE IN CREDIT TO ANOTHER PERSON FOR 45 DAYS OR MORE IF THE PERSON TO WHOM THE CREDIT IS EXTENDED:

(I) WILL USE THE CREDIT TO PROVIDE GOODS OR SERVICES IN THE ENERGY SECTOR OF IRAN AS DESCRIBED IN ITEM (1) OF THIS SECTION; AND

(II) IS, AT THE TIME OF THE EXTENSION OF CREDIT, IDENTIFIED ON A LIST CREATED UNDER § 17–704 OF THIS SUBTITLE AS A PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN.

<u>17–703.</u>

A PERSON THAT, AT THE TIME OF BID OR PROPOSAL FOR A NEW CONTRACT OR RENEWAL OF AN EXISTING CONTRACT, IS IDENTIFIED ON A LIST CREATED BY THE BOARD UNDER § 17–704 OF THIS SUBTITLE AS A PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN IS INELIGIBLE TO, AND MAY NOT BID ON, SUBMIT A PROPOSAL FOR, OR ENTER INTO OR RENEW A CONTRACT WITH A PUBLIC BODY FOR GOODS OR SERVICES.

<u>17-704.</u>

(A) (1) ON OR BEFORE DECEMBER 31, 2012, THE BOARD SHALL USE CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC TO CREATE A LIST OF PERSONS THAT THE BOARD DETERMINES TO BE ENGAGED IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE.

(2) THE BOARD SHALL UPDATE THE LIST AT LEAST EVERY 180 DAYS.

(3) <u>BEFORE THE BOARD INCLUDES A PERSON ON THE LIST, THE</u> BOARD SHALL PROVIDE THE PERSON WITH 90 DAYS' WRITTEN NOTICE THAT:

(I) <u>THE BOARD INTENDS TO INCLUDE THE PERSON ON THE</u>

LIST; AND

(II) INCLUSION ON THE LIST WOULD MAKE THE PERSON INELIGIBLE TO BID ON, SUBMIT A PROPOSAL FOR, OR ENTER INTO OR RENEW A CONTRACT WITH A PUBLIC BODY FOR GOODS OR SERVICES. (4) THE NOTICE REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL SPECIFY THAT IF THE PERSON CEASES ENGAGEMENT IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE, THE PERSON MAY BECOME ELIGIBLE FOR A FUTURE CONTRACT OR CONTRACT RENEWAL WITH A PUBLIC BODY FOR GOODS OR SERVICES ON REMOVAL FROM THE LIST.

(B) (1) THE BOARD SHALL PROVIDE A PERSON WITH AN OPPORTUNITY TO COMMENT IN WRITING TO THE BOARD THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

(2) IF THE PERSON DEMONSTRATES TO THE BOARD THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE, THE BOARD MAY NOT INCLUDE THE PERSON ON THE LIST.

(C) THE BOARD SHALL REMOVE A PERSON FROM THE LIST IF THE PERSON DEMONSTRATES TO THE BOARD THAT THE PERSON NO LONGER IS ENGAGED IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE.

(D) THE BOARD SHALL MAKE EVERY REASONABLE EFFORT TO AVOID ERRONEOUSLY INCLUDING A PERSON ON THE LIST.

(E) THE BOARD SHALL PUBLISH THE LIST ON THE INTERNET.

<u>17–705.</u>

(A) ON OR AFTER JANUARY 1, 2013, A PUBLIC BODY SHALL REQUIRE A PERSON THAT SUBMITS A BID OR PROPOSAL TO THE PUBLIC BODY FOR A CONTRACT FOR GOODS OR SERVICES, OR OTHERWISE PROPOSES TO ENTER INTO OR RENEW A CONTRACT FOR GOODS OR SERVICES WITH THE PUBLIC BODY, TO:

(1) <u>CERTIFY AT THE TIME THE BID IS SUBMITTED OR THE</u> <u>CONTRACT IS RENEWED THAT THE PERSON:</u>

(I) <u>IS NOT IDENTIFIED ON THE LIST CREATED BY THE</u> BOARD AS A PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE; AND

(II) IS NOT ENGAGING IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE; OR (2) IF THE PERSON IS UNABLE TO MAKE THE CERTIFICATION UNDER ITEM (1) OF THIS SUBSECTION, PROVIDE THE PUBLIC BODY, UNDER PENALTY OF PERJURY, A DETAILED DESCRIPTION OF THE PERSON'S INVESTMENT ACTIVITIES IN IRAN.

(B) <u>A PUBLIC BODY SHALL SUBMIT ANY INFORMATION PROVIDED TO</u> THE PUBLIC BODY UNDER SUBSECTION (A)(2) OF THIS SECTION TO THE BOARD.

<u>17-706.</u>

(A) (1) IF A PUBLIC BODY, USING CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC, DETERMINES THAT A PERSON HAS SUBMITTED A FALSE CERTIFICATION UNDER § 17–705(A)(1) OF THIS SUBTITLE, THE PUBLIC BODY SHALL PROVIDE WRITTEN NOTICE TO THE PERSON AND AN OPPORTUNITY FOR THE PERSON TO DEMONSTRATE IN WRITING THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

(2) IF THE PERSON FAILS TO DEMONSTRATE TO THE PUBLIC BODY WITHIN 90 DAYS AFTER THE PUBLIC BODY PROVIDES NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN, THE PUBLIC BODY SHALL REPORT TO THE BOARD AND THE ATTORNEY GENERAL:

(I) THE NAME OF THE PERSON DETERMINED TO HAVE SUBMITTED A FALSE CERTIFICATION; AND

(II) THE INFORMATION ON WHICH THE PUBLIC BODY MADE ITS DECISION.

(B) (1) THE ATTORNEY GENERAL MAY INSTITUTE AN ACTION AGAINST A PERSON DETERMINED TO HAVE SUBMITTED A FALSE CERTIFICATION UNDER § 17–705(A)(1) OF THIS SUBTITLE.

(2) AN ACTION BROUGHT UNDER THIS SECTION SHALL BE BROUGHT WITHIN 3 YEARS FROM THE DATE THE CERTIFICATION IS MADE.

(C) IF, IN AN ACTION BROUGHT UNDER THIS SECTION, A COURT DETERMINES THAT A PERSON SUBMITTED A FALSE CERTIFICATION:

(1) THE PERSON SHALL PAY ALL REASONABLE COSTS AND FEES INCURRED IN THE CIVIL ACTION, INCLUDING:

(I) ANY COSTS INCURRED BY THE PUBLIC BODY FOR THE INVESTIGATION THAT LED TO THE FINDING OF THE FALSE CERTIFICATION; AND

(II) <u>ALL REASONABLE COSTS AND FEES INCURRED BY THE</u> <u>ATTORNEY GENERAL IN BRINGING THE ACTION;</u>

(2) THE COURT MAY IMPOSE A CIVIL PENALTY EQUAL TO THE GREATER OF \$1,000,000 OR TWICE THE AMOUNT OF THE CONTRACT FOR WHICH THE FALSE CERTIFICATION WAS SUBMITTED;

(3) THE PUBLIC BODY MAY TERMINATE THE CONTRACT FOR WHICH THE FALSE CERTIFICATION WAS SUBMITTED; AND

(4) THE PERSON IS INELIGIBLE TO BID ON A CONTRACT WITH A PUBLIC BODY FOR A PERIOD OF 3 YEARS FROM THE DATE OF THE COURT ORDER.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN UNSUCCESSFUL BIDDER OR ANY OTHER PERSON MAY NOT PROTEST THE AWARD OF A CONTRACT OR CONTRACT RENEWAL ON THE BASIS OF A FALSE CERTIFICATION.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT A PUBLIC BODY FROM FILING A PROTEST OBJECTING TO THE AWARD OF A CONTRACT OR CONTRACT RENEWAL ON THE BASIS OF A FALSE CERTIFICATION.

(E) THIS SUBTITLE DOES NOT CREATE OR AUTHORIZE A PRIVATE RIGHT OF ACTION.

<u>17-707.</u>

THIS SUBTITLE PREEMPTS ANY LAW, ORDINANCE, RULE, OR REGULATION OF ANY LOCAL GOVERNING BODY INVOLVING PROCUREMENT CONTRACTS FOR GOODS OR SERVICES WITH A PERSON ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

<u>SECTION 3. AND BE IT FURTHER ENACTED, That the Department of</u> <u>Legislative Services shall submit to the Attorney General of the United States written</u> <u>notice of the requirements of this Act within 30 days after the Act takes effect.</u>

<u>SECTION 4. AND BE IT FURTHER ENACTED</u>, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) This Act shall remain in effect until:

(1) the Congress or the President of the United States affirmatively and unambiguously declares, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress that Iran is no longer seeking a nuclear weapons capability and no longer supports international terrorism; or

(2) <u>federal law no longer authorizes the states to adopt and enforce</u> provisions of the type authorized in this Act.

(b) The Board of Public Works shall notify the Department of Legislative Services within 5 days after the occurrence of an event described in subsection (a) of this section and, as of the date the event occurred, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION $\frac{3}{2}$ <u>6.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 447

(House Bill 440)

AN ACT concerning

Procurement – Investment Activities in Iran

FOR the purpose of <u>specifying that certain persons shall be considered as engaging in</u> <u>investment activities in Iran under certain circumstances</u>; requiring the Board of Public Works, on or before a certain date, to use certain information to create a list of persons that engage in investment activities in Iran; requiring the Board to update the list at certain times; requiring the Board, within a certain number of days before adding a person to the list, to provide the person with certain notice; prohibiting the Board from adding a person to the list under certain circumstances; requiring a unit to require a certain person to certify that the person is not included on a certain list; requiring a person that is <u>unable to certify that the person does not engage in certain investment</u>

activities in Iran to provide a certain description of its investment activities; requiring certain certifications and disclosures to be publicly disclosed; requiring a unit to provide a certain person that may have falsely certified that the person does not engage in certain investment activities with certain notice that the person may submit certain documentation to the unit within a certain time frame; authorizing a unit to determine that a person has submitted a false certification under certain circumstances: establishing certain penalties that may be imposed on a person that submits a false certification; prohibiting a unit from awarding a procurement contract to a person that submits a false certification; authorizing a unit to terminate a certain contract with a person that submitted a false certification; providing for the debarment of a certain person under certain circumstances; providing for the application of this Act; requiring the Board to provide a person with an opportunity to comment that the person is not engaged in investment activities in Iran; requiring a public body, on or after a certain date, to require a person that submits a bid or proposal or enters into a contract with the public body to make a certain certification or provide certain information; requiring the public body to submit certain information submitted by certain persons to the Board; requiring a public body to institute certain actions based on a determination of a false certification; requiring a public body to report certain information to the Board and the Attorney General under certain circumstances; authorizing the Attorney General to bring a certain action within a certain time after a certification is made; specifying certain penalties for submitting a false certification, including civil penalties, the termination of certain contracts, and the ineligibility of certain persons to bid on certain contracts under certain circumstances; providing that this Act does not create a private right of action; establishing that this Act preempts certain local laws and regulations; declaring the intent of the General Assembly; requiring the Department of Legislative Services to provide certain written notice concerning this Act to the Attorney General of the United States; making this Act severable; providing for the termination of this Act under certain circumstances; requiring the Board to notify the Department of Legislative Services of a certain event within a certain time period; defining certain terms; and generally relating to persons that engage in investment activities in Iran and the State procurement law.

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement Section 11–101(a), (d), (k), and (x) <u>and (k)</u> Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Finance and Procurement
Section 13-501 through 13-505 17-701 through 17-707 to be under the new subtitle "Subtitle 5. 7. Investment Activities in Iran"; and 16-203(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, In imposing sanctions on Iran, the Congress and the President of the United States have determined that the illicit nuclear activities of the government of Iran, combined with its development of unconventional weapons and ballistic missiles, and its support of international terrorism, represent a serious threat to the security of the United States and its allies and around the world; and

WHEREAS, The International Atomic Energy Agency repeatedly has called attention to Iran's unlawful nuclear activities, and as a result, the United Nations Security Council has adopted four rounds of sanctions designed to compel the government of Iran to cease those activities and comply with its obligations under the Treaty on the Non–Proliferation of Nuclear Weapons; and

WHEREAS, The human rights situation in Iran has steadily deteriorated since the fraudulent elections of 2009, as evidenced by the brutal repression, torture, murder, and arbitrary detention of peaceful protestors, dissidents, and minorities; and

WHEREAS, On July 1, 2010, the President of the United States signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which authorizes states and local governments to prevent investment in companies operating in Iran and includes provisions that preclude companies that do business in Iran from contracting with the U.S. government; and

WHEREAS, There are moral and reputational reasons for state and local governments not to engage in business with foreign companies that have business activities benefiting foreign states, such as Iran, that pursue illegal nuclear programs, support acts of terrorism, and commit violations of human rights; and

WHEREAS, Short-term economic profits cannot be a justification to circumvent international sanctions designed to thwart Iran from developing nuclear weapons; and

WHEREAS, The concerns of the Maryland General Assembly regarding Iran are the result of the actions of the government of Iran and should not be construed as enmity toward the Iranian people; 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

11–101.

(a) In this Division II the following words have the meanings indicated unless:

- (1) the context clearly requires a different meaning; or
- (2) a different definition is provided for a particular title or provision.
- (d) "Board" means the Board of Public Works.

(k) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(x) (1) "Unit" means an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement contract.

- (2) <u>"Unit" does not include:</u>
- (i) a bistate, multistate, bicounty, or multicounty governmental agency; or

(ii) a special tax district, sanitary district, drainage district, soil conservation district, water supply district, or other political subdivision of the State.

SUBTITLE 5. INVESTMENT ACTIVITIES IN IRAN.

13-501.

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

(B) "CONSTRUCTION SECTOR OF IRAN" MEANS ACTIVITIES TO PLAN, DESIGN, ENGINEER, BUILD, CONSTRUCT, OR FINANCE PROJECTS AND INVESTMENTS RELATED TO DEVELOPING THE INFRASTRUCTURE OF IRAN, INCLUDING INFRASTRUCTURE RELATED TO THE ENERGY SECTOR OF IRAN OR ANY ASPECT OF THE OIL, GAS, OR NUCLEAR POWER INDUSTRIES OF IRAN.

(C) "ENERGY SECTOR OF IRAN" MEANS ACTIVITIES TO DEVELOP, INVEST IN, EXPLORE FOR, REFINE, TRANSFER, PURCHASE, OR SELL OIL, GASOLINE, OR OTHER REFINED OIL PRODUCTS OR NATURAL GAS, LIQUEFIED NATURAL GAS RESOURCES, OR NUCLEAR POWER IN IRAN.

(D) "ENGAGE IN INVESTMENT ACTIVITIES IN IRAN" MEANS THAT A PERSON:

(1) PROVIDES GOODS FOR OR SERVICES IN OR TO THE CONSTRUCTION, ENERGY, OR FINANCIAL SECTORS OF IRAN;

(2) PROVIDES OIL OR LIQUEFIED NATURAL GAS TANKERS, OR PRODUCTS USED TO CONSTRUCT OR MAINTAIN PIPELINES USED TO TRANSPORT OIL OR LIQUEFIED NATURAL GAS, FOR THE ENERGY SECTOR OF IRAN;

(3) PURCHASES CRUDE OIL, REFINED PETROLEUM PRODUCTS, OR NATURAL GAS FROM IRAN;

(4) PROVIDES GOODS OR SERVICES, OR PAYMENT FOR GOODS OR SERVICES, TO A PERSON, INCLUDING A NONCOUNTRY SPECIFIC PERSON, THAT IS ON THE U.S. OFFICE OF FOREIGN ASSETS CONTROL'S SPECIALLY DESIGNATED NATIONALS LIST FOR IRAN;

(5) TRANSFERS, OR FACILITATES THE TRANSFER OF, GOODS OR TECHNOLOGIES TO IRAN, INCLUDING:

(I) FIREARMS OR AMMUNITION AS DEFINED IN 18 U.S.C. § 921, ACCESSORIES FOR FIREARMS, RUBBER BULLETS, CLUBS, BATONS, POLICE STICKS, MACE, STUN GRENADES, TASERS OR OTHER ELECTROSHOCK WEAPONS, TEAR GAS, WATER CANNONS, MOTORCYCLES, MOTORIZED TRANSPORT FOR SECURITY PERSONNEL, OR SURVEILLANCE TECHNOLOGY;

(II) SENSITIVE TECHNOLOGY AS DEFINED IN THE FEDERAL COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2010; AND

(III) OTHER GOODS OR TECHNOLOGIES THAT THE BOARD DETERMINES HAVE OR MAY BE USED BY THE GOVERNMENT OF IRAN TO COMMIT HUMAN RIGHTS ABUSES AGAINST THE PEOPLE OF IRAN WHETHER OR NOT THE GOODS OR TECHNOLOGIES ARE SOLD DIRECTLY TO THE GOVERNMENT OF IRAN OR OTHERWISE; OR

(6) (1) EXTENDS CREDIT TO A PERSON OR ENTITY THAT ENGAGES IN THE ACTIVITIES DESCRIBED IN ITEMS (1) THROUGH (5) OF THIS SUBSECTION; AND

(II) IS IDENTIFIED ON A LIST CREATED IN ACCORDANCE WITH § 13–502 OF THIS SUBTITLE AS A PERSON OR AN ENTITY ENGAGING IN AN ACTIVITY DESCRIBED IN ITEMS (1) THROUGH (5) OF THIS SUBSECTION.

(E) "FINANCIAL SECTOR OF IRAN" MEANS THE CENTRAL BANK OF IRAN OR ANOTHER FINANCIAL INSTITUTION OF IRAN DESIGNATED BY THE SECRETARY OF THE TREASURY FOR THE IMPOSITION OF SANCTIONS IN ACCORDANCE WITH THE FEDERAL INTERNATIONAL EMERGENCY ECONOMIC Powers Act.

(F) (1) "IRAN" MEANS THE TERRITORY OF IRAN AND ANY OTHER TERRITORY OR MARINE AREA OVER WHICH THE GOVERNMENT OF IRAN CLAIMS SOVEREIGNTY, SOVEREIGN RIGHTS, OR JURISDICTION, PROVIDED THAT THE GOVERNMENT OF IRAN EXERCISES PARTIAL OR TOTAL DE FACTO CONTROL OVER THE AREA OR DERIVES A BENEFIT FROM ECONOMIC ACTIVITY IN THE AREA IN ACCORDANCE WITH INTERNATIONAL ARRANGEMENTS.

(2) "IRAN" INCLUDES THE EXCLUSIVE ECONOMIC ZONE AND CONTINENTAL SHELF.

(G) "PERSON" INCLUDES:

(1) A NATURAL PERSON, CORPORATION, COMPANY, LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY COMPANY, BUSINESS ASSOCIATION, SOLE PROPRIETORSHIP, JOINT VENTURE, PARTNERSHIP, SOCIETY, TRUST, OR ANY OTHER NONGOVERNMENTAL ENTITY, ORGANIZATION, OR GROUP;

(2) A GOVERNMENTAL ENTITY OR INSTRUMENTALITY OF A GOVERNMENT, INCLUDING A MULTILATERAL DEVELOPMENT INSTITUTION, AS DEFINED BY THE FEDERAL INTERNATIONAL FINANCIAL INSTITUTIONS ACT;

(3) A FINANCIAL INSTITUTION AS DEFINED BY THE FEDERAL IRAN SANCTIONS ACT OF 1996; OR

(4) ANY PARENT, SUCCESSOR, SUBUNIT, DIRECT OR INDIRECT SUBSIDIARY, OR ANY ENTITY UNDER COMMON OWNERSHIP OR CONTROL WITH AN ENTITY DESCRIBED IN ITEMS (1) THROUGH (3) OF THIS SUBSECTION.

(H) "UNIT" INCLUDES:

(1) A BISTATE OR MULTISTATE AGENCY;

(2) A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE OR AN AGENCY OR OTHER INSTRUMENTALITY OF THE POLITICAL SUBDIVISION; AND

(3) A BICOUNTY OR MULTICOUNTY AGENCY.

13-502.

(A) ON OR BEFORE JANUARY 1, 2013, THE BOARD SHALL USE CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC TO CREATE A LIST OF PERSONS THAT ENGAGE IN INVESTMENT ACTIVITIES IN IRAN.

(B) THE BOARD SHALL UPDATE THE LIST EVERY 90 DAYS.

THIRTY DAYS BEFORE ADDING A PERSON TO THE LIST, THE BOARD (C) SHALL PROVIDE THE PERSON WITH WRITTEN NOTICE THAT:

> (1) THE BOARD INTENDS TO ADD THE PERSON TO THE LIST;

(2) **INCLUSION OF THE PERSON ON THE LIST MAKES THE PERSON** INELIGIBLE TO BID ON, SUBMIT A PROPOSAL FOR. OR ENTER INTO OR RENEW A **CONTRACT FOR GOODS OR SERVICES WITH THE STATE; AND**

(3) WITHIN THE 30-DAY PERIOD, THE PERSON MAY SUBMIT WRITTEN DOCUMENTATION TO THE BOARD DEMONSTRATING THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

(D) IF THE PERSON DEMONSTRATES TO THE BOARD THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN. THE BOARD MAY NOT ADD THE PERSON TO THE LIST.

(E) THE BOARD SHALL MAKE EVERY EFFORT TO AVOID ERRONEOUSLY INCLUDING A PERSON ON THE LIST.

13 503

(A) A UNIT SHALL REQUIRE A PERSON THAT SUBMITS A BID OR PROPOSAL OR OTHERWISE PROPOSES TO ENTER INTO OR RENEW A CONTRACT TO CERTIFY THAT THE PERSON IS NOT INCLUDED ON A LIST CREATED IN ACCORDANCE WITH § 13-502 OF THIS SUBTITLE OR ANOTHER SIMILAR LIST **CREATED BY THE FEDERAL GOVERNMENT.**

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

BE MADE AT THE TIME A BID OR PROPOSAL IS SUBMITTED OR (1) A CONTRACT IS RENEWED: AND

(2) BE EXECUTED ON BEHALF OF THE APPLICABLE PERSON OR BY AN AUTHORIZED OFFICER OR REPRESENTATIVE OF THE PERSON.

(c) If a person is unable to certify that the person does not engage in investment activity in Iran, the person shall provide to the unit, under penalty of perjury, a detailed description of the person's investment activities in Iran.

(D) A CERTIFICATION OR DISCLOSURE PROVIDED TO A UNIT UNDER THIS SECTION SHALL BE MADE PUBLIC.

13-504.

(A) IF BY USING CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC, A UNIT DETERMINES THAT A PERSON MAY HAVE FALSELY CERTIFIED THAT THE PERSON DOES NOT ENGAGE IN INVESTMENT ACTIVITY IN IRAN, THE UNIT SHALL PROVIDE THE PERSON WITH WRITTEN NOTICE THAT THE PERSON MAY SUBMIT WRITTEN DOCUMENTATION WITHIN 30 DAYS TO THE UNIT DEMONSTRATING THAT THE PERSON IS NOT ENGAGED IN OR HAS CEASED TO ENGAGE IN INVESTMENT ACTIVITIES IN IRAN.

(B) IF A PERSON FAILS TO DEMONSTRATE TO THE UNIT THAT THE PERSON IS NOT ENGAGED IN OR HAS CEASED TO ENGAGE IN INVESTMENT ACTIVITIES IN IRAN, THE UNIT MAY DETERMINE THAT THE PERSON HAS SUBMITTED A FALSE CERTIFICATION.

(C) A PERSON THAT SUBMITS A FALSE CERTIFICATION IS:

(1) LIABLE FOR A CIVIL PENALTY IN AN AMOUNT THAT IS EQUAL TO THE GREATER OF \$1,000,000 OR TWICE THE AMOUNT OF THE CONTRACT FOR WHICH THE FALSE CERTIFICATION WAS MADE; AND

(2) INELIGIBLE TO BID ON A CONTRACT FOR A PERIOD OF 3 YEARS AFTER THE DATE OF THE DETERMINATION THAT THE PERSON SUBMITTED THE FALSE CERTIFICATION.

(D) (1) A UNIT MAY NOT AWARD A PROCUREMENT CONTRACT TO A PERSON THAT SUBMITS A FALSE CERTIFICATION.

(2) A UNIT MAY TERMINATE AN EXISTING CONTRACT WITH A PERSON THAT SUBMITTED A FALSE CERTIFICATION.

13-505.

(A) THIS SUBTITLE SHALL BE CONSTRUED LIBERALLY WITH REGARD TO ALL PROCUREMENT CONTRACTS FOR GOODS OR SERVICES WITH A PERSON ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

(B) THIS SUBTITLE SHALL PREEMPT ANY LOCAL LAW.

16_203.

(E) A PERSON MAY BE DEBARRED FROM ENTERING INTO A CONTRACT WITH THE STATE IF, AT THE TIME OF BID OR PROPOSAL FOR A NEW CONTRACT OR RENEWAL OF AN EXISTING CONTRACT, THE PERSON IS INCLUDED ON A LIST CREATED TO IDENTIFY PERSONS THAT ENGAGE IN INVESTMENT ACTIVITIES IN IRAN IN ACCORDANCE WITH § 13–502 OF THIS ARTICLE.

SUBTITLE 7. INVESTMENT ACTIVITIES IN IRAN.

<u>17–701.</u>

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

(B) <u>"Energy sector of Iran" means activities to develop</u> <u>petroleum or natural gas resources or nuclear power in Iran.</u>

(C) <u>"FINANCIAL INSTITUTION" HAS THE MEANING STATED IN SECTION</u> 14 OF THE IRAN SANCTIONS ACT OF 1996 (PUBLIC LAW 104–172).

(D) <u>"IRAN" INCLUDES THE GOVERNMENT OF IRAN AND ANY AGENCY OR</u> INSTRUMENTALITY OF IRAN.

(E) <u>"PERSON" INCLUDES:</u>

(1) <u>A NATURAL PERSON, CORPORATION, COMPANY, LIMITED</u> <u>LIABILITY COMPANY, BUSINESS ASSOCIATION, PARTNERSHIP, SOCIETY, TRUST,</u> <u>OR ANY OTHER NONGOVERNMENTAL ENTITY, ORGANIZATION, OR GROUP;</u>

(2) <u>A GOVERNMENTAL ENTITY OR INSTRUMENTALITY OF A</u> <u>GOVERNMENT, INCLUDING A MULTILATERAL DEVELOPMENT INSTITUTION, AS</u> <u>DEFINED BY THE FEDERAL INTERNATIONAL FINANCIAL INSTITUTIONS ACT, 22</u> <u>U.S.C. 262R(C)(3); OR</u>

(3) ANY PARENT, SUCCESSOR, SUBUNIT, DIRECT OR INDIRECT SUBSIDIARY OF, OR ANY ENTITY UNDER COMMON OWNERSHIP OR CONTROL WITH, AN ENTITY DESCRIBED IN ITEM (1) OR (2) OF THIS SUBSECTION.

(F) <u>"PUBLIC BODY" MEANS:</u>

 $(1) \quad \underline{\text{THE STATE}};$

(2) <u>A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL</u> <u>SUBDIVISION;</u>

(3) <u>A PUBLIC INSTRUMENTALITY; OR</u>

(4) ANY GOVERNMENTAL UNIT AUTHORIZED TO AWARD A CONTRACT.

<u>17-702.</u>

FOR PURPOSES OF THIS SUBTITLE, A PERSON ENGAGES IN INVESTMENT ACTIVITIES IN IRAN IF:

(1) THE PERSON PROVIDES GOODS OR SERVICES OF \$20,000,000 OR MORE IN THE ENERGY SECTOR OF IRAN, INCLUDING A PERSON THAT PROVIDES OIL OR LIQUEFIED NATURAL GAS TANKERS OR PRODUCTS USED TO CONSTRUCT OR MAINTAIN PIPELINES USED TO TRANSPORT OIL OR LIQUEFIED NATURAL GAS FOR THE ENERGY SECTOR OF IRAN; OR

(2) THE PERSON IS A FINANCIAL INSTITUTION THAT EXTENDS \$20,000,000 OR MORE IN CREDIT TO ANOTHER PERSON FOR 45 DAYS OR MORE IF THE PERSON TO WHOM THE CREDIT IS EXTENDED:

(I) <u>WILL USE THE CREDIT TO PROVIDE GOODS OR SERVICES</u> IN THE ENERGY SECTOR OF IRAN AS DESCRIBED IN ITEM (1) OF THIS SECTION; <u>AND</u>

(II) IS, AT THE TIME OF THE EXTENSION OF CREDIT, IDENTIFIED ON A LIST CREATED UNDER § 17–704 OF THIS SUBTITLE AS A PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN.

<u>17-703.</u>

A PERSON THAT, AT THE TIME OF BID OR PROPOSAL FOR A NEW CONTRACT OR RENEWAL OF AN EXISTING CONTRACT, IS IDENTIFIED ON A LIST CREATED BY THE BOARD UNDER § 17–704 OF THIS SUBTITLE AS A PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN IS INELIGIBLE TO, AND MAY NOT BID ON, SUBMIT A PROPOSAL FOR, OR ENTER INTO OR RENEW A CONTRACT WITH A PUBLIC BODY FOR GOODS OR SERVICES.

<u>17-704.</u>

(A) (1) ON OR BEFORE DECEMBER 31, 2012, THE BOARD SHALL USE CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC TO CREATE A LIST OF PERSONS THAT THE BOARD DETERMINES TO BE ENGAGED IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE.

(2) THE BOARD SHALL UPDATE THE LIST AT LEAST EVERY 180 DAYS.

(3) BEFORE THE BOARD INCLUDES A PERSON ON THE LIST, THE BOARD SHALL PROVIDE THE PERSON WITH 90 DAYS' WRITTEN NOTICE THAT:

(I) THE BOARD INTENDS TO INCLUDE THE PERSON ON THE LIST; AND

(II) INCLUSION ON THE LIST WOULD MAKE THE PERSON INELIGIBLE TO BID ON, SUBMIT A PROPOSAL FOR, OR ENTER INTO OR RENEW A CONTRACT WITH A PUBLIC BODY FOR GOODS OR SERVICES.

(4) THE NOTICE REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL SPECIFY THAT IF THE PERSON CEASES ENGAGEMENT IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17-702 OF THIS SUBTITLE, THE PERSON MAY BECOME ELIGIBLE FOR A FUTURE CONTRACT OR CONTRACT RENEWAL WITH A PUBLIC BODY FOR GOODS OR SERVICES ON REMOVAL FROM THE LIST.

(1) THE BOARD SHALL PROVIDE A PERSON WITH AN **(B)** OPPORTUNITY TO COMMENT IN WRITING TO THE BOARD THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

IF THE PERSON DEMONSTRATES TO THE BOARD THAT THE (2) PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE, THE BOARD MAY NOT INCLUDE THE PERSON ON THE LIST.

THE BOARD SHALL REMOVE A PERSON FROM THE LIST IF THE **(C)** PERSON DEMONSTRATES TO THE BOARD THAT THE PERSON NO LONGER IS ENGAGED IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17-702 OF THIS SUBTITLE.

(D) THE BOARD SHALL MAKE EVERY REASONABLE EFFORT TO AVOID ERRONEOUSLY INCLUDING A PERSON ON THE LIST.

(E) THE BOARD SHALL PUBLISH THE LIST ON THE INTERNET.

<u>17–705.</u>

(A) ON OR AFTER JANUARY 1, 2013, A PUBLIC BODY SHALL REQUIRE A PERSON THAT SUBMITS A BID OR PROPOSAL TO THE PUBLIC BODY FOR A CONTRACT FOR GOODS OR SERVICES, OR OTHERWISE PROPOSES TO ENTER INTO OR RENEW A CONTRACT FOR GOODS OR SERVICES WITH THE PUBLIC BODY, TO:

(1) <u>CERTIFY AT THE TIME THE BID IS SUBMITTED OR THE</u> <u>CONTRACT IS RENEWED THAT THE PERSON:</u>

(I) <u>IS NOT IDENTIFIED ON THE LIST CREATED BY THE</u> BOARD AS A PERSON ENGAGING IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE; AND

(II) IS NOT ENGAGING IN INVESTMENT ACTIVITIES IN IRAN AS DESCRIBED IN § 17–702 OF THIS SUBTITLE; OR

(2) IF THE PERSON IS UNABLE TO MAKE THE CERTIFICATION UNDER ITEM (1) OF THIS SUBSECTION, PROVIDE THE PUBLIC BODY, UNDER PENALTY OF PERJURY, A DETAILED DESCRIPTION OF THE PERSON'S INVESTMENT ACTIVITIES IN IRAN.

(B) <u>A PUBLIC BODY SHALL SUBMIT ANY INFORMATION PROVIDED TO</u> THE PUBLIC BODY UNDER SUBSECTION (A)(2) OF THIS SECTION TO THE BOARD.

<u>17-706.</u>

(A) (1) IF A PUBLIC BODY, USING CREDIBLE INFORMATION AVAILABLE TO THE PUBLIC, DETERMINES THAT A PERSON HAS SUBMITTED A FALSE CERTIFICATION UNDER § 17–705(A)(1) OF THIS SUBTITLE, THE PUBLIC BODY SHALL PROVIDE WRITTEN NOTICE TO THE PERSON AND AN OPPORTUNITY FOR THE PERSON TO DEMONSTRATE IN WRITING THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

(2) IF THE PERSON FAILS TO DEMONSTRATE TO THE PUBLIC BODY WITHIN 90 DAYS AFTER THE PUBLIC BODY PROVIDES NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THE PERSON IS NOT ENGAGED IN INVESTMENT ACTIVITIES IN IRAN, THE PUBLIC BODY SHALL REPORT TO THE BOARD AND THE ATTORNEY GENERAL:

(I) THE NAME OF THE PERSON DETERMINED TO HAVE SUBMITTED A FALSE CERTIFICATION; AND

THE ATTORNEY GENERAL MAY INSTITUTE AN ACTION (B) (1) AGAINST A PERSON DETERMINED TO HAVE SUBMITTED A FALSE CERTIFICATION UNDER § 17–705(A)(1) OF THIS SUBTITLE.

(2) AN ACTION BROUGHT UNDER THIS SECTION SHALL BE **BROUGHT WITHIN 3 YEARS FROM THE DATE THE CERTIFICATION IS MADE.**

IF, IN AN ACTION BROUGHT UNDER THIS SECTION, A COURT **(C)** DETERMINES THAT A PERSON SUBMITTED A FALSE CERTIFICATION:

(1) THE PERSON SHALL PAY ALL REASONABLE COSTS AND FEES **INCURRED IN THE CIVIL ACTION, INCLUDING:**

(I) ANY COSTS INCURRED BY THE PUBLIC BODY FOR THE INVESTIGATION THAT LED TO THE FINDING OF THE FALSE CERTIFICATION; AND

(II) ALL REASONABLE COSTS AND FEES INCURRED BY THE ATTORNEY GENERAL IN BRINGING THE ACTION;

(2) THE COURT MAY IMPOSE A CIVIL PENALTY EQUAL TO THE **GREATER OF \$1,000,000 OR TWICE THE AMOUNT OF THE CONTRACT FOR WHICH** THE FALSE CERTIFICATION WAS SUBMITTED;

(3) THE PUBLIC BODY MAY TERMINATE THE CONTRACT FOR WHICH THE FALSE CERTIFICATION WAS SUBMITTED; AND

(4) THE PERSON IS INELIGIBLE TO BID ON A CONTRACT WITH A PUBLIC BODY FOR A PERIOD OF 3 YEARS FROM THE DATE OF THE COURT ORDER.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS (D) SUBSECTION, AN UNSUCCESSFUL BIDDER OR ANY OTHER PERSON MAY NOT PROTEST THE AWARD OF A CONTRACT OR CONTRACT RENEWAL ON THE BASIS OF A FALSE CERTIFICATION.

(2) **PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT A** PUBLIC BODY FROM FILING A PROTEST OBJECTING TO THE AWARD OF A CONTRACT OR CONTRACT RENEWAL ON THE BASIS OF A FALSE CERTIFICATION.

(E) THIS SUBTITLE DOES NOT CREATE OR AUTHORIZE A PRIVATE RIGHT OF ACTION.

<u>17-707.</u>

THIS SUBTITLE PREEMPTS ANY LAW, ORDINANCE, RULE, OR REGULATION OF ANY LOCAL GOVERNING BODY INVOLVING PROCUREMENT CONTRACTS FOR GOODS OR SERVICES WITH A PERSON ENGAGED IN INVESTMENT ACTIVITIES IN IRAN.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

<u>SECTION 3. AND BE IT FURTHER ENACTED</u>, That the Department of <u>Legislative Services shall submit to the Attorney General of the United States written</u> notice of the requirements of this Act within 30 days after the Act takes effect.

SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) This Act shall remain in effect until:

(1) the Congress or the President of the United States affirmatively and unambiguously declares, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress that Iran is no longer seeking a nuclear weapons capability and no longer supports international terrorism; or

(2) <u>federal law no longer authorizes the states to adopt and enforce</u> provisions of the type authorized in this Act.

(b) The Board of Public Works shall notify the Department of Legislative Services within 5 days after the occurrence of an event described in subsection (a) of this section and, as of the date the event occurred, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION $\frac{3}{2}$ <u>6.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 448

(Senate Bill 294)

AN ACT concerning

Family Farm Preservation Act of 2012

FOR the purpose of altering the determination of the Maryland estate tax under certain circumstances to exclude from the value of the gross estate the value of certain agricultural property; limiting the Maryland estate tax imposed on certain agricultural property above a certain amount; defining certain terms; providing for the recapture of certain Maryland estate tax under certain circumstances; requiring the Comptroller to adopt certain regulations; providing for the application of this Act; and generally relating to the Maryland estate tax.

BY repealing and reenacting, with amendments,

Article – Tax – General Section 7–309 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

7 - 309.

(a) Notwithstanding an Act of Congress that repeals or reduces the federal credit under § 2011 of the Internal Revenue Code, the provisions of this subtitle in effect before the passage of the Act of Congress shall apply with respect to a decedent who dies after the effective date of the Act of Congress so as to continue the Maryland estate tax in force without reduction in the same manner as if the federal credit had not been repealed or reduced.

(b) (1) Except as provided in paragraphs (2) through (7) of this subsection **AND SUBSECTION (C) OF THIS SECTION**, after the effective date of an Act of Congress described in subsection (a) of this section, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date of the decedent's death.

(2) Except as provided in paragraphs (3) through (7) of this subsection AND SUBSECTION (C) OF THIS SECTION, if the federal estate tax is not in effect on the date of the decedent's death, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date immediately preceding the effective date of the repeal of the federal estate tax.

(3) (i) Notwithstanding any increase in the unified credit allowed against the federal estate tax for decedents dying after 2003, the unified credit used for determining the Maryland estate tax may not exceed the applicable credit amount corresponding to an applicable exclusion amount of \$1,000,000 within the meaning of \$2010(c) of the Internal Revenue Code.

(ii) The Maryland estate tax shall be determined without regard to any deduction for State death taxes allowed under § 2058 of the Internal Revenue Code.

(iii) Unless the federal credit allowable by § 2011 of the Internal Revenue Code is in effect on the date of the decedent's death, the federal credit used to determine the Maryland estate tax may not exceed 16% of the amount by which the decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds \$1,000,000.

(4) (i) With regard to an election to value property as provided in § 2032 of the Internal Revenue Code, if a federal estate tax return is not required to be filed:

1. an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by § 2032(d) of the Internal Revenue Code;

2. the provisions of § 2032(c) of the Internal Revenue Code do not apply; and

3. an election may not be made under item 1 of this subparagraph unless that election will decrease:

A. the value of the gross estate; and

B. the Maryland estate tax due with regard to the transfer of a decedent's Maryland estate.

(ii) An election to value property as provided in § 2032 of the Internal Revenue Code for Maryland estate tax purposes must be the same as the election made for federal estate tax purposes.

(5) (i) With regard to an election to treat property as marital deduction qualified terminable interest property in calculating the Maryland estate tax, an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by 2056(b)(7)(B)(i), (iii), and (v) of the Internal Revenue Code.

(ii) An election under this paragraph made on a timely filed Maryland estate tax return shall be recognized for purposes of calculating the Maryland estate tax even if an inconsistent election is made for the same decedent for federal estate tax purposes.

(6) (i) For purposes of calculating Maryland estate tax, a decedent shall be deemed to have had a qualifying income interest for life under § 2044(a) of the Internal Revenue Code with regard to any property for which a marital deduction qualified terminable interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return under paragraph (5) of this subsection.

(ii) For the purpose of apportioning Maryland estate tax under § 7–308 of this subtitle, any property as to which a decedent is deemed to have had a qualifying income interest for life under subparagraph (i) of this paragraph shall be deemed to be included in both the estate and the taxable estate of the decedent.

(7) For purposes of calculating Maryland estate tax, amounts allowable under § 2053 or § 2054 of the Internal Revenue Code as a deduction in computing the taxable estate of a decedent may not be allowed as a deduction or as an offset against the sales price of property in determining gain or loss if the amount has been allowed as a deduction in computing the federal taxable income of the estate or of any other person.

(C) (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) THE MARYLAND ESTATE TAX SHALL BE DETERMINED BY EXCLUDING FROM THE VALUE OF THE GROSS ESTATE UP TO \$5,000,000 OF THE VALUE OF QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT.

(3) IF THE VALUE OF QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT EXCEEDS \$5,000,000, THE MARYLAND ESTATE TAX IMPOSED ON THE MARYLAND ESTATE OF THE DECEDENT MAY NOT EXCEED THE SUM OF:

(I) 16% OF THE AMOUNT BY WHICH THE DECEDENT'S TAXABLE ESTATE, EXCLUDING THE VALUE OF ALL QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT, EXCEEDS \$1,000,000; AND

(II) 5% OF THE AMOUNT BY WHICH THE VALUE OF QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT EXCEEDS \$5,000,000.

(4) (I) THE MARYLAND ESTATE TAX SHALL BE RECAPTURED AS PROVIDED IN THIS PARAGRAPH IF, WITHIN 10 YEARS AFTER THE DECEDENT'S DEATH, THE QUALIFIED AGRICULTURAL PROPERTY CEASES TO BE USED FOR FARMING PURPOSES.

(II) THE AMOUNT OF THE ESTATE TAX IMPOSED UNDER THIS PARAGRAPH SHALL BE THE ADDITIONAL MARYLAND ESTATE TAX THAT WOULD HAVE BEEN PAYABLE AT THE TIME OF THE DECEDENT'S DEATH BUT FOR THE PROVISIONS UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.

(HI) (5) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE RECAPTURE OF THE ESTATE TAX UNDER THIS PARAGRAPH IMPLEMENT THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012, and shall be applicable to decedents dying after December 31, 2011.

Approved by the Governor, May 22, 2012.

Chapter 449

(House Bill 444)

AN ACT concerning

Family Farm Preservation Act of 2012

FOR the purpose of altering the determination of the Maryland estate tax under certain circumstances to exclude from the value of the gross estate the value of certain agricultural property; limiting the Maryland estate tax imposed on certain agricultural property above a certain amount; defining certain terms; providing for the recapture of certain Maryland estate tax under certain circumstances; requiring the Comptroller to adopt certain regulations; providing for the application of this Act; and generally relating to the Maryland estate tax.

BY repealing and reenacting, with amendments, Article – Tax – General

Section 7–309 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

7-309.

(a) Notwithstanding an Act of Congress that repeals or reduces the federal credit under § 2011 of the Internal Revenue Code, the provisions of this subtitle in effect before the passage of the Act of Congress shall apply with respect to a decedent who dies after the effective date of the Act of Congress so as to continue the Maryland estate tax in force without reduction in the same manner as if the federal credit had not been repealed or reduced.

(b) (1) Except as provided in paragraphs (2) through (7) of this subsection **AND SUBSECTION (C) OF THIS SECTION**, after the effective date of an Act of Congress described in subsection (a) of this section, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and (ii) other provisions of federal estate tax law as in effect on the date of the decedent's death.

(2) Except as provided in paragraphs (3) through (7) of this subsection **AND SUBSECTION (C) OF THIS SECTION**, if the federal estate tax is not in effect on the date of the decedent's death, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date immediately preceding the effective date of the repeal of the federal estate tax.

(3) (i) Notwithstanding any increase in the unified credit allowed against the federal estate tax for decedents dying after 2003, the unified credit used for determining the Maryland estate tax may not exceed the applicable credit amount corresponding to an applicable exclusion amount of \$1,000,000 within the meaning of \$2010(c) of the Internal Revenue Code.

(ii) The Maryland estate tax shall be determined without regard to any deduction for State death taxes allowed under § 2058 of the Internal Revenue Code.

(iii) Unless the federal credit allowable by § 2011 of the Internal Revenue Code is in effect on the date of the decedent's death, the federal credit used to determine the Maryland estate tax may not exceed 16% of the amount by which the decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds \$1,000,000.

(4) (i) With regard to an election to value property as provided in § 2032 of the Internal Revenue Code, if a federal estate tax return is not required to be filed:

1. an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by § 2032(d) of the Internal Revenue Code;

2. the provisions of § 2032(c) of the Internal Revenue Code do not apply; and

3. an election may not be made under item 1 of this subparagraph unless that election will decrease:

A. the value of the gross estate; and

B. the Maryland estate tax due with regard to the transfer of a decedent's Maryland estate.

(ii) An election to value property as provided in § 2032 of the Internal Revenue Code for Maryland estate tax purposes must be the same as the election made for federal estate tax purposes.

(5) (i) With regard to an election to treat property as marital deduction qualified terminable interest property in calculating the Maryland estate tax, an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by 2056(b)(7)(B)(i), (iii), and (v) of the Internal Revenue Code.

(ii) An election under this paragraph made on a timely filed Maryland estate tax return shall be recognized for purposes of calculating the Maryland estate tax even if an inconsistent election is made for the same decedent for federal estate tax purposes.

(6) (i) For purposes of calculating Maryland estate tax, a decedent shall be deemed to have had a qualifying income interest for life under § 2044(a) of the Internal Revenue Code with regard to any property for which a marital deduction qualified terminable interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return under paragraph (5) of this subsection.

(ii) For the purpose of apportioning Maryland estate tax under § 7–308 of this subtitle, any property as to which a decedent is deemed to have had a qualifying income interest for life under subparagraph (i) of this paragraph shall be deemed to be included in both the estate and the taxable estate of the decedent.

(7) For purposes of calculating Maryland estate tax, amounts allowable under § 2053 or § 2054 of the Internal Revenue Code as a deduction in computing the taxable estate of a decedent may not be allowed as a deduction or as an offset against the sales price of property in determining gain or loss if the amount has been allowed as a deduction in computing the federal taxable income of the estate or of any other person.

(C) (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) THE MARYLAND ESTATE TAX SHALL BE DETERMINED BY EXCLUDING FROM THE VALUE OF THE GROSS ESTATE UP TO \$5,000,000 OF THE VALUE OF QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT.

(3) IF THE VALUE OF QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT EXCEEDS \$5,000,000, THE MARYLAND ESTATE TAX IMPOSED ON THE MARYLAND ESTATE OF THE DECEDENT MAY NOT EXCEED THE SUM OF:

(I) 16% OF THE AMOUNT BY WHICH THE DECEDENT'S TAXABLE ESTATE, EXCLUDING THE VALUE OF ALL QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT, EXCEEDS \$1,000,000; AND

(II) 5% OF THE AMOUNT BY WHICH THE VALUE OF QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT EXCEEDS \$5,000,000.

(4) (I) THE MARYLAND ESTATE TAX SHALL BE RECAPTURED AS PROVIDED IN THIS PARAGRAPH IF, WITHIN 10 YEARS AFTER THE DECEDENT'S DEATH, THE QUALIFIED AGRICULTURAL PROPERTY CEASES TO BE USED FOR FARMING PURPOSES.

(II) THE AMOUNT OF THE ESTATE TAX IMPOSED UNDER THIS PARAGRAPH SHALL BE THE ADDITIONAL MARYLAND ESTATE TAX THAT WOULD HAVE BEEN PAYABLE AT THE TIME OF THE DECEDENT'S DEATH BUT FOR THE PROVISIONS UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.

(HI) (5) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE RECAPTURE OF THE ESTATE TAX UNDER THIS PARAGRAPH IMPLEMENT THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012, and shall be applicable to decedents dying after December 31, 2011.

Approved by the Governor, May 22, 2012.

Chapter 450

(House Bill 442)

AN ACT concerning

Economic Development – Maryland Technology Development Corporation – Maryland Innovation Initiative

FOR the purpose of establishing the Maryland Innovation Initiative in the Maryland Corporation; Technology Development establishing the membership. qualifications, and the requirements for participation in the Initiative; establishing the purpose of the Initiative; establishing the Maryland Innovation Initiative Fund; providing that the Fund is a certain special, nonlapsing fund; requiring the State Treasurer to hold the Fund separately and to invest the money in the Fund; requiring the Comptroller to account for the Fund; providing for the funding of the Initiative and requiring funds to be used only for certain financial assistance and administrative expenses; authorizing the Initiative to award grants to certain entities under certain circumstances; authorizing the members of the Initiative to establish a certain committee with a certain membership and certain duties; requiring the Board of Regents of the University System of Maryland and the Board of Regents of Morgan State University to undertake certain high impact economic development activities; requiring the Board Boards of Regents to adopt certain policies and procedures related to certain high impact economic development activities; authorizing a University System of Maryland institution and Morgan State University to establish, invest in, finance, or operate a certain entity that supports high impact economic development activity and authorizing certain employees to participate in the entity; requiring the Corporation and the Board Boards of Regents to provide certain reports that include certain information; providing that a certain requirement that interest and other income be credited to the General Fund does not apply to the Fund; altering the amount and the types of contracts required for a certain Board of Public Works review; defining certain terms; making stylistic changes; and generally relating to economic development, the commercialization of technology in the State, and the Maryland Innovation Initiative.

BY adding to

Article – Economic Development

Section 10–454 through 10–459 <u>10–460</u> to be under the new part "Part V. Maryland Innovation Initiative"

Annotated Code of Maryland

(2008 Volume and 2011 Supplement)

BY adding to

Article – Education Section 12–104.1 and 14–104.1 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Education Section 12–113 <u>and 14–110</u> Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

<u>BY repealing and reenacting, without amendments,</u> <u>Article – State Finance and Procurement</u> <u>Section 6–226(a)(1) and (2)(i)</u> <u>Annotated Code of Maryland</u> (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section <u>6–226(a)(2)(ii)62. and 63. and</u> 11–203(e) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – State Finance and Procurement</u> <u>Section 6–226(a)(2)(ii)64.</u> <u>Annotated Code of Maryland</u> (2008 Replacement Volume and 2011 Supplement)

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

Article – Economic Development

10-452. RESERVED.

10–453. Reserved.

PART V. MARYLAND INNOVATION INITIATIVE.

10-454.

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

(B) "COMMERCIALIZATION" MEANS THE PROCESS OF INTRODUCING A NEW PRODUCT OR TECHNOLOGY INTO THE MARKET.

(C) "CORPORATION" MEANS THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION.

(D) <u>"FUND" MEANS THE MARYLAND INNOVATION INITIATIVE FUND</u> ESTABLISHED UNDER § 10–457 OF THIS PART.

(d) (<u>e</u>) "Initiative" means the Maryland Innovation Initiative established under § $\frac{10-455}{10-455}$ of this part.

(E) (F) "PARTICIPATING MEMBERS" MEANS THE REPRESENTATIVES ESTABLISHED UNDER DESCRIBED IN § 10–455(B) OF THIS PART.

(F) (G) "QUALIFYING UNIVERSITY" MEANS A PUBLIC OR PRIVATE UNIVERSITY THAT MEETS THE REQUIREMENTS SET FORTH UNDER § 10–455(C) OF THIS PART.

(G) (H) "TECHNOLOGY TRANSFER" MEANS THE PROCESS OF CONVERTING SCIENTIFIC AND TECHNOLOGICAL ADVANCES INTO MARKETABLE GOODS AND SERVICES.

(H) (I) "UNIVERSITY" MEANS A NOT-FOR-PROFIT, RESEARCH UNIVERSITY LOCATED IN MARYLAND.

10-455.

(A) THERE IS A MARYLAND INNOVATION INITIATIVE.

(B) THE INITIATIVE CONSISTS OF THE FOLLOWING PARTICIPATING MEMBERS:

(1) ONE OFFICIAL OF STATE GOVERNMENT <u>NOT AFFILIATED WITH</u> <u>MARYLAND HIGHER EDUCATION</u>, OR THE OFFICIAL'S DESIGNEE, APPOINTED BY THE GOVERNOR;

(2) TWO INDIVIDUALS FROM THE PRIVATE SECTOR <u>NOT</u> <u>AFFILIATED WITH MARYLAND HIGHER EDUCATION</u> WITH EXPERIENCE IN COMMERCIALIZING TECHNOLOGY IN THE STATE, ONE APPOINTED BY THE PRESIDENT OF THE SENATE, AND ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES; AND

(3) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE FOLLOWING MEMBERS APPOINTED BY THE RESPECTIVE UNIVERSITIES:

Chapter 450

UNIVERSITY;

(I)

(II) ONE REPRESENTATIVE OF MORGAN STATE UNIVERSITY;

(III) ONE REPRESENTATIVE OF UNIVERSITY OF MARYLAND,

ONE REPRESENTATIVE OF THE JOHNS HOPKINS

BALTIMORE;

(IV) ONE REPRESENTATIVE OF UNIVERSITY OF MARYLAND, BALTIMORE COUNTY; AND

(V) ONE REPRESENTATIVE OF UNIVERSITY OF MARYLAND, COLLEGE PARK.

(C) (1) <u>SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ONLY THE</u> <u>UNIVERSITIES LISTED UNDER SUBSECTION (B)(3) OF THIS SECTION MAY</u> <u>QUALIFY FOR PARTICIPATION IN THE INITIATIVE.</u>

(2) TO QUALIFY FOR PARTICIPATION IN THE INITIATIVE, A UNIVERSITY SHALL PROVIDE AT LEAST \$250,000, AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, A CONTRIBUTION ANNUALLY TO THE INITIATIVE TO CARRY OUT THE PURPOSES SET FORTH UNDER THIS PART.

(3) (1) TO QUALIFY FOR PARTICIPATION IN THE INITIATIVE, THE FOLLOWING UNIVERSITIES SHALL PAY AN ANNUAL CONTRIBUTION OF AT LEAST \$200,000:

- 1. JOHNS HOPKINS UNIVERSITY;
- 2. UNIVERSITY OF MARYLAND, BALTIMORE; AND
- 3. UNIVERSITY OF MARYLAND, COLLEGE PARK.

(II) <u>TO QUALIFY FOR PARTICIPATION IN THE INITIATIVE,</u> <u>THE FOLLOWING UNIVERSITIES SHALL PAY AN ANNUAL CONTRIBUTION OF AT</u> <u>LEAST \$100,000:</u>

- 1. MORGAN STATE UNIVERSITY; AND
- 2. UNIVERSITY OF MARYLAND BALTIMORE

COUNTY.

(4) A UNIVERSITY LISTED UNDER SUBSECTION (B)(3) OF THIS SECTION MAY ELECT TO WITHDRAW AS A PARTICIPATING MEMBER FOR FUTURE YEARS ON PROVIDING 60 DAYS' WRITTEN NOTICE TO THE CHAIR OR EXECUTIVE DIRECTOR OF THE INITIATIVE.

(D) THE PARTICIPATING MEMBERS OF THE INITIATIVE SHALL SELECT A CHAIR FROM AMONG THEIR MEMBERS.

(E) A PARTICIPATING MEMBER OF THE INITIATIVE:

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

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET <u>OR UNDER THE APPLICABLE TRAVEL REGULATIONS OF A UNIVERSITY IF THE</u> <u>UNIVERSITY REIMBURSES THE PARTICIPATING MEMBER.</u>

(F) THE INITIATIVE MAY EMPLOY A STAFF, INCLUDING AN EXECUTIVE DIRECTOR.

10-456.

(A) THE PURPOSE OF THE INITIATIVE IS TO:

(1) PROMOTE THE COMMERCIALIZATION OF RESEARCH CONDUCTED IN UNIVERSITIES IN THE STATE;

(2) ENCOURAGE QUALIFYING UNIVERSITIES TO PARTNER ON COMMERCIALIZATION AND OTHER ACTIVITIES, INCLUDING WITH FEDERAL LABORATORIES LOCATED IN MARYLAND; AND

(3) FACILITATE THE TRANSFER OF TECHNOLOGY FROM UNIVERSITIES TO COMMERCIAL INDUSTRIES, BY:

(I) ASSESSING THE VIABILITY AND VALUE OF THE TECHNOLOGY;

(II) DEFINING AND EXPLOITING POTENTIAL MARKETS FOR THE TECHNOLOGY;

(III) IDENTIFYING FUNDING SOURCES TO SUPPORT THE DEVELOPMENT OF THE TECHNOLOGY; AND

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(IV) DEVELOPING COMMERCIALIZATION STRATEGIES.

<u>10–457.</u>

(A) THERE IS A MARYLAND INNOVATION INITIATIVE FUND.

(B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR THE PURPOSES DESCRIBED IN § 10–456 OF THIS PART.

(B) (C) THE CORPORATION SHALL ADMINISTER THE INITIATIVE FUND.

(C) THE INITIATIVE MAY BE FUNDED BY:

- (D) THE FUND CONSISTS OF:
 - (1) APPROPRIATIONS AS PROVIDED IN THE STATE BUDGET;

(2) CONTRIBUTIONS BY THE QUALIFYING UNIVERSITIES <u>UNDER §</u> <u>10-455 OF THIS PART;</u>

(3) GRANTS OR FUNDS FROM FEDERAL LABORATORIES LOCATED IN MARYLAND; AND

(4) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEY IN THE FUND; AND

(4) (5) ANY OTHER MONEY ACCEPTED FOR THE BENEFIT OF THE INITIATIVE.

(D) FUNDS OF THE INITIATIVE MAY BE USED ONLY TO:

(E) MONEY IN THE FUND MAY BE USED ONLY TO:

(1) AWARD GRANTS TO PROMOTE THE COMMERCIALIZATION OF RESEARCH IN ACCORDANCE WITH THE TERMS OF THIS PART; AND

(2) PAY THE COSTS NECESSARY TO ADMINISTER THE INITIATIVE.

(F) (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.

THE STATE TREASURER SHALL INVEST THE MONEY IN THE (3) FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

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

10-457. 10-458.

THE INITIATIVE MAY: (A)

(1) PROVIDE GRANT FUNDING TO A QUALIFYING UNIVERSITY, QUALIFYING UNIVERSITY-BASED ENTREPRENEUR, OR OTHER START-UP ENTITY, TO PROMOTE THE COMMERCIALIZATION OF TECHNOLOGY DEVELOPED IN WHOLE OR IN PART BY A QUALIFYING UNIVERSITY;

(2) PURSUE GRANT FUNDING GRANTS, OTHER FUNDS, AND IN-KIND CONTRIBUTIONS FOR THE INITIATIVE OR ITS **QUALIFYING** UNIVERSITIES;

(3) DEVELOP AND IMPLEMENT GUIDELINES FOR TECHNOLOGY TRANSFER; AND

(4) **IDENTIFY PROJECTS AT QUALIFYING UNIVERSITIES THAT MAY BE VIABLE FOR COMMERCIALIZATION.**

(B) THE GRANT FUNDING IN SUBSECTION (A) MAY SHALL BE AWARDED:

(1) ТО SUPPORT PRE-COMMERCIAL RESEARCH ON INTELLECTUAL PROPERTY INCREASE THE LIKELIHOOD OF TO **COMMERCIALIZING THE INTELLECTUAL PROPERTY;**

(2) TO DEFRAY COSTS OF EVALUATING THE FEASIBILITY OF A **TECHNOLOGY BECOMING COMMERCIALIZED THROUGH A START-UP COMPANY;**

TO DEFRAY THE DIRECT COSTS OF DEVELOPING EARLY STAGE (3) **TECHNOLOGY THROUGH A START-UP ENTITY;**

TO ASSESS INTELLECTUAL PROPERTY ISSUES, INCLUDING (4) LICENSING AND PATENTS; OR

(5) FOR ANY OTHER COSTS THAT THE **INITIATIVE'S** PARTICIPATING MEMBERS DETERMINE ARE APPROPRIATE TO PROMOTE TECHNOLOGY TRANSFER AND COMMERCIALIZATION IN THE STATE.

10-458. <u>10-459.</u>

(A) ONLY QUALIFYING UNIVERSITIES, AS PROVIDED UNDER § 10–455 OF THIS PART, MAY SUBMIT PROPOSALS FOR GRANT FUNDING FROM THE INITIATIVE.

(A) (B) THE PARTICIPATING MEMBERS OF THE INITIATIVE MAY ESTABLISH A COMMITTEE COMPOSED OF EXPERTS IN THE AREAS OF RESEARCH CONSIDERED FOR COMMERCIALIZATION.

(B) (C) THE INITIATIVE MAY ESTABLISH THE COMMITTEE UNDER SERVICE CONTRACTS WITH INDEPENDENT REVIEWERS.

(C) (D) THE COMMITTEE SHALL:

(1) REVIEW, EVALUATE, AND RATE PROPOSALS FOR FUNDING FROM THE INITIATIVE, BASED ON:

(I) THE VIABILITY OF COMMERCIALIZING THE TECHNOLOGY; AND

(II) THE RELATIVE COSTS ASSOCIATED WITH COMMERCIALIZING THE TECHNOLOGY; AND

(2) MAKE RECOMMENDATIONS TO THE PARTICIPATING MEMBERS OF THE INITIATIVE FOR THE AWARD AND DISBURSEMENT OF GRANTS FROM THE INITIATIVE.

(D) (E) A MEMBER OF THE COMMITTEE IS NOT ELIGIBLE TO RECEIVE FUNDING FROM THE INITIATIVE.

10-459. <u>10-460.</u>

THE CORPORATION SHALL INCLUDE, AS PART OF ITS ANNUAL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY UNDER § 10–415 OF THIS SUBTITLE, A DETAILED DESCRIPTION OF:

(1) THE NUMBER OF TECHNOLOGY TRANSFER TRANSACTIONS OR PROJECTS FOR WHICH THE INITIATIVE PROVIDED FUNDING;

(2) THE AMOUNT AND SOURCE OF FUNDS THE INITIATIVE IDENTIFIED TO ASSIST IN THE DEVELOPMENT OF TECHNOLOGIES;

(3) THE QUALIFYING UNIVERSITIES OR ENTITIES FOR WHICH FUNDING WAS AWARDED;

THE COMMERCIAL VALUE OF TECHNOLOGY THAT WAS (4) TRANSFERRED TO THE COMMERCIAL INDUSTRY; AND

(5) ANY RECOMMENDATIONS FOR IMPROVING THE OVERALL EFFECTIVENESS OF TECHNOLOGY TRANSFER THROUGH THE INITIATIVE.

Article – Education

12–104.1.

(A) IN THIS SECTION, "HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY" MEANS AN INITIATIVE, TRANSACTION, OR OTHER UNDERTAKING BY THE UNIVERSITY SYSTEM OF MARYLAND OR ONE OF ITS CONSTITUENT **INSTITUTIONS TO CREATE OR FACILITATE:**

> (1) 20 OR MORE NEW JOBS IN THE STATE OF MARYLAND;

(2) THE AWARD OR COMPLETION OF AT LEAST \$1,000,000 IN **EXTERNALLY FUNDED RESEARCH OR OTHER PROJECTS;**

(3) THE ESTABLISHMENT OR RELOCATION OF ONE OR MORE NEW COMPANIES TO BE REGISTERED OR INCORPORATED IN THE STATE AND DOING **BUSINESS IN THE STATE;**

THE PRODUCTION OF AT LEAST \$1,000,000 OF ANNUAL GROSS (4) **REVENUE;**

(5) THE LICENSING AND POTENTIAL COMMERCIALIZATION OF A PROMISING NEW TECHNOLOGY OR OTHER PRODUCT; OR

AN ACADEMIC PROGRAM TO MEET WORKFORCE DEMAND IN A (6) DOCUMENTED LABOR SHORTAGE FIELD.

TO PROMOTE THE ECONOMIC INTERESTS OF THE STATE AS **(B)** MANDATED IN §§ 10–205(A) AND 15–107 OF THIS ARTICLE, THE UNIVERSITY SYSTEM OF MARYLAND SHALL UTILIZE ITS POWERS AS A PUBLIC CORPORATION ESTABLISHED IN § 12–104 OF THIS SUBTITLE TO UNDERTAKE HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITIES THAT SUPPORT:

> (1) **JOB CREATION AND WORKFORCE DEVELOPMENT;**

(2) TECHNOLOGY TRANSFER, COMMERCIALIZATION, AND ENTREPRENEURSHIP; AND

(3) INCREASED SPONSORED RESEARCH FUNDING AND OTHER REVENUES.

(C) IN ORDER FOR AN ACTIVITY TO QUALIFY AS A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY:

(1) THE PRESIDENT OF A CONSTITUENT INSTITUTION, OR THE PRESIDENT'S DESIGNEE, SHALL FORWARD A REQUEST TO THE CHANCELLOR FOR CERTIFICATION THAT THE ACTIVITY MEETS THE CRITERIA DEFINED IN SUBSECTION (A) OF THIS SECTION; AND

(2) THE CHANCELLOR, OR THE CHANCELLOR'S DESIGNEE, SHALL NOTIFY THE BOARD OF REGENTS AND THE BOARD OF PUBLIC WORKS OF ANY CERTIFIED ACTIVITY FOR REVIEW.

(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR ANY HIGH IMPACT ECONOMIC ACTIVITY WITHIN THE SCOPE OF § 5–310 OR § 10–305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE BOARD OF REGENTS SHALL BE FULLY RESPONSIBLE FOR ADMINISTERING THE REVIEW AND COMMENT PROCESS PRESCRIBED IN THOSE SECTIONS.

(2) IN ADMINISTERING THE REVIEW AND COMMENT PROCESS PRESCRIBED IN §§ 5–310 AND 10–305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE BOARD OF REGENTS SHALL NOTIFY AND SUBMIT TO REVIEW BY INCLUDE IN THAT PROCESS THE APPROPRIATE LEGISLATIVE COMMITTEES AND UNITS OF STATE GOVERNMENT, WHICH MAY INCLUDE:

- (I) COMMITTEES OF THE GENERAL ASSEMBLY;
- (II) THE BOARD OF PUBLIC WORKS;
- (III) THE MARYLAND HISTORIC TRUST;
- (IV) THE DEPARTMENT OF PLANNING;
- (V) THE DEPARTMENT OF THE ENVIRONMENT; AND
- (VI) THE DEPARTMENT OF NATURAL RESOURCES.

(3) THE BOARD OF REGENTS SHALL ADOPT POLICIES AND PROCEDURES TO ENSURE THAT THE NOTICE AND OPPORTUNITY FOR REVIEW

ARE CONDUCTED IN A MANNER THAT PROVIDES A REASONABLE PERIOD TO COMPLETE WHILE NOT IMPAIRING THE INSTITUTION'S CAPACITY FOR THE EXPEDITIOUS AND SUCCESSFUL PURSUIT OF A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY.

(E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF REGENTS SHALL REPORT TO THE BOARD OF PUBLIC WORKS₇ <u>AND, IN</u> <u>ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE</u> <u>SENATE FINANCE COMMITTEE, THE HOUSE ECONOMIC MATTERS COMMITTEE,</u> THE SENATE BUDGET AND TAXATION COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE ON THE HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITIES UNDERTAKEN UNDER THIS SECTION DURING THE PRECEDING FISCAL YEAR.

12 - 113.

(a) Consistent with § 15–107 of this article and any other applicable law, the Board of Regents may establish, invest in, finance, and operate businesses or business entities when the Board finds that doing so would further one or more goals of the University and is related to the mission of the University.

(b) (1) A business entity established, invested in, financed, or operated in accordance with this [subsection] SECTION may not be considered an agency or instrumentality of the State or a unit of the Executive Branch for any purpose.

(2) A financial obligation or liability of a business entity established, invested in, financed, or operated in accordance with this [subsection] SECTION may not be a debt or obligation of the State or University.

(C) (1) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN INSTITUTION MAY ESTABLISH, INVEST IN, FINANCE, OR OPERATE A CORPORATION, FOUNDATION, CONSORTIUM, OR OTHER ENTITY THAT IS INTENDED TO SUPPORT A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY, AS DEFINED IN § 12–104.1 OF THIS ARTICLE SUBTITLE.

(2) NOTWITHSTANDING THE PROVISIONS OF §§ 15–501 THROUGH 15–504 OF THE STATE GOVERNMENT ARTICLE AND SUBJECT TO § 15–523 OF THE STATE GOVERNMENT ARTICLE, AN OFFICIAL OR EMPLOYEE OF A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY BE A DIRECTOR, OFFICIAL, OR EMPLOYEE OF AN ENTITY INTENDED TO SUPPORT A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY, IF THE INDIVIDUAL'S PARTICIPATION ADVANCES THE INTERESTS OF THE INSTITUTION.

(3) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO TRANSACTIONS BETWEEN AN ENTITY ESTABLISHED, FINANCED, OR OPERATED UNDER THIS SUBSECTION AND THE INSTITUTION OR CONSORTIUM OF INSTITUTIONS THAT ESTABLISHED, FINANCED, OR OPERATED THE ENTITY.

(4) (I) THE BOARD OF REGENTS SHALL ADOPT POLICIES AND PROCEDURES GOVERNING THE ESTABLISHMENT OF HIGH IMPACT ECONOMIC DEVELOPMENT ENTITIES TO ENSURE THAT THE INSTITUTION'S PARTICIPATION IN THE ENTITY FURTHERS THE INTERESTS OF THE INSTITUTION, THE UNIVERSITY SYSTEM OF MARYLAND, AND THE STATE.

(II) THE POLICIES AND PROCEDURES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE REQUIREMENTS FOR:

1. RECOGNITION OF THE ENTITY BY THE BOARD OF REGENTS;

2. AN ANNUAL AUDIT OF THE ENTITY BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND

3. Adequate safeguards with regard to conflicts of interest, proper contracting practices, and other fundamental ethical and business practice standards.

[(c)] (D) The Board of Regents shall submit to the Governor, and in accordance with § 2-1246 of the State Government Article, the General Assembly, an annual report on:

(1) The business entities established in accordance with this section;

(2) Funds invested in, and financing provided to, business entities established in accordance with this section;

(3) Ownership interests in any business entities established in accordance with this section; and

(4) The current status of the business entities.

<u>14–104.1.</u>

(A) IN THIS SECTION, "HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY" MEANS AN INITIATIVE, TRANSACTION, OR OTHER UNDERTAKING BY MORGAN STATE UNIVERSITY TO CREATE OR FACILITATE:

$(1) \qquad \underline{20 \text{ OR MORE NEW JOBS IN THE STATE}};$

(2) THE AWARD OR COMPLETION OF AT LEAST \$1,000,000 IN EXTERNALLY FUNDED RESEARCH OR OTHER PROJECTS;

(3) THE ESTABLISHMENT OR RELOCATION OF ONE OR MORE NEW COMPANIES TO BE REGISTERED OR INCORPORATED IN THE STATE AND DOING BUSINESS IN THE STATE;

(4) <u>THE PRODUCTION OF AT LEAST \$1,000,000 OF ANNUAL GROSS</u> <u>REVENUE;</u>

(5) THE LICENSING AND POTENTIAL COMMERCIALIZATION OF A PROMISING NEW TECHNOLOGY OR OTHER PRODUCT; OR

(6) AN ACADEMIC PROGRAM TO MEET WORKFORCE DEMAND IN A DOCUMENTED LABOR SHORTAGE FIELD.

(B) TO PROMOTE THE ECONOMIC INTERESTS OF THE STATE AS MANDATED IN §§ 10–205(A) AND 15–107 OF THIS ARTICLE, THE MORGAN STATE UNIVERSITY SHALL UTILIZE ITS POWERS AS A PUBLIC CORPORATION ESTABLISHED IN § 14–104 OF THIS SUBTITLE TO UNDERTAKE HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITIES THAT SUPPORT:

(1) JOB CREATION AND WORKFORCE DEVELOPMENT;

(2) <u>Technology</u> transfer, <u>commercialization</u>, <u>and</u> <u>entrepreneurship</u>; <u>and</u>

(3) INCREASED SPONSORED RESEARCH FUNDING AND OTHER REVENUES.

(C) IN ORDER FOR AN ACTIVITY TO QUALIFY AS A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY:

(1) <u>The President or the President's designee, shall</u> <u>CERTIFY THAT THE ACTIVITY MEETS THE CRITERIA DEFINED IN SUBSECTION (A)</u> <u>OF THIS SECTION; AND</u>

(2) <u>The President or the President's designee, shall</u> <u>NOTIFY THE BOARD OF REGENTS AND THE BOARD OF PUBLIC WORKS OF ANY</u> <u>CERTIFIED ACTIVITY FOR REVIEW.</u>

(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR ANY HIGH IMPACT ECONOMIC ACTIVITY WITHIN THE SCOPE OF § 5–310 OR § 10–305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE BOARD OF **REGENTS SHALL BE FULLY RESPONSIBLE FOR ADMINISTERING THE REVIEW AND COMMENT PROCESS PRESCRIBED IN THOSE SECTIONS.**

(2) IN ADMINISTERING THE REVIEW AND COMMENT PROCESS PRESCRIBED IN §§ 5–310 AND 10–305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE BOARD OF REGENTS SHALL INCLUDE IN THE PROCESS THE APPROPRIATE LEGISLATIVE COMMITTEES AND UNITS OF STATE GOVERNMENT, WHICH MAY INCLUDE:

- (I) <u>COMMITTEES OF THE GENERAL ASSEMBLY;</u>
- (II) THE BOARD OF PUBLIC WORKS;
- (III) THE MARYLAND HISTORIC TRUST;
- (IV) <u>THE DEPARTMENT OF PLANNING;</u>
- (V) <u>THE DEPARTMENT OF THE ENVIRONMENT; AND</u>
- (VI) THE DEPARTMENT OF NATURAL RESOURCES.

(3) THE BOARD OF REGENTS SHALL ADOPT POLICIES AND PROCEDURES TO ENSURE THAT THE NOTICE AND OPPORTUNITY FOR REVIEW ARE CONDUCTED IN A MANNER THAT PROVIDES A REASONABLE PERIOD TO COMPLETE WHILE NOT IMPAIRING THE INSTITUTION'S CAPACITY FOR THE EXPEDITIOUS AND SUCCESSFUL PURSUIT OF A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY.

(E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF REGENTS SHALL REPORT TO THE BOARD OF PUBLIC WORKS AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE, THE HOUSE ECONOMIC MATTERS COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE ON THE HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITIES UNDERTAKEN UNDER THIS SECTION DURING THE PRECEDING FISCAL YEAR.

<u>14–110.</u>

(a) Consistent with § 15–107 of this article and any other applicable law, the Board of Regents may establish, invest in, finance, and operate businesses or business entities when the Board of Regents finds that doing so would further one or more goals of the University and is related to the mission of the University.

(b) (1) <u>A business entity established, invested in, financed, or operated in</u> <u>accordance with this [subsection] SECTION may not be considered an agency or</u> <u>instrumentality of the State or a unit of the Executive Branch for any purpose.</u>

(2) <u>A financial obligation or liability of a business entity established</u>, invested in, financed, or operated in accordance with this [subsection] SECTION may not be a debt or obligation of the State or the University.

(C) (1) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, THE UNIVERSITY MAY ESTABLISH, INVEST IN, FINANCE, OR OPERATE A CORPORATION, FOUNDATION, CONSORTIUM, OR OTHER ENTITY THAT IS INTENDED TO SUPPORT A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY, AS DEFINED IN § 14–104.1 OF THIS SUBTITLE.

(2) NOTWITHSTANDING THE PROVISIONS OF §§ 15–501 THROUGH 15–504 OF THE STATE GOVERNMENT ARTICLE AND SUBJECT TO § 15–523 OF THE STATE GOVERNMENT ARTICLE, AN OFFICIAL OR EMPLOYEE OF A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY BE A DIRECTOR, OFFICIAL, OR EMPLOYEE OF AN ENTITY INTENDED TO SUPPORT A HIGH IMPACT ECONOMIC DEVELOPMENT ACTIVITY, IF THE INDIVIDUAL'S PARTICIPATION ADVANCES THE INTERESTS OF THE UNIVERSITY.

(3) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE DOES NOT APPLY TO TRANSACTIONS BETWEEN AN ENTITY ESTABLISHED, FINANCED, OR OPERATED UNDER THIS SUBSECTION AND THE UNIVERSITY THAT ESTABLISHED, FINANCED, OR OPERATED THE ENTITY.

(4) (1) THE BOARD OF REGENTS SHALL ADOPT POLICIES AND PROCEDURES GOVERNING THE ESTABLISHMENT OF HIGH IMPACT ECONOMIC DEVELOPMENT ENTITIES TO ENSURE THAT THE UNIVERSITY'S PARTICIPATION IN THE ENTITY FURTHERS THE INTERESTS OF THE UNIVERSITY AND THE STATE.

(II) THE POLICIES AND PROCEDURES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE REQUIREMENTS FOR:

1.RECOGNITION OF THE ENTITY BY THE BOARD OFREGENTS;

2. <u>An annual audit of the entity by an</u> <u>INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND</u>

<u>3.</u> <u>Adequate safeguards with regard to</u> <u>conflicts of interest, proper contracting practices, and other</u> <u>fundamental ethical and business practice standards.</u> [(c)] (D) The Board of Regents shall submit to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, an annual report on:

(1) The business entities established in accordance with this section;

(2) Funds invested in, and financing provided to, business entities established in accordance with this section;

(3) <u>Ownership interests in any business entities established in</u> accordance with this section; and

(4) <u>The current status of the business entities.</u>

Article – State Finance and Procurement

<u>6–226.</u>

(a) (1) Except as otherwise specifically provided by law or by regulation of the Treasurer, the Treasurer shall credit to the General Fund any interest on or other income from State money that the Treasurer invests.

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

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

- 62. Veterans Trust Fund; [and]
- 63. Transportation Trust Fund; AND

64. MARYLAND INNOVATION INITIATIVE FUND.

11-203.

(e) (1) In this subsection, "University" means the University System of Maryland, Morgan State University, or St. Mary's College of Maryland.

(2) Except as otherwise provided in this subsection, this Division II does not apply to the University System of Maryland, Morgan State University, or St. Mary's College of Maryland.

(3) (i) A procurement by a University shall comply with the policies and procedures developed by the University and approved by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly in accordance with § 12–112 of the Education Article for the University System of Maryland, § 14–109 of the Education Article for Morgan State University, or § 14–405(f) of the Education Article for St. Mary's College of Maryland.

(ii) 1. [Any contract for services or capital improvements with a value that exceeds \$500,000 shall require the] **THE** review and approval of the Board of Public Works **SHALL BE REQUIRED FOR THE FOLLOWING TYPES OF CONTRACTS WITH A VALUE THAT EXCEEDS \$1,000,000:**

A. CAPITAL IMPROVEMENTS;

B. SERVICES; AND

C. PURCHASES FUNDED WITH THE PROCEEDS OF A GENERAL OBLIGATION LOAN UNDER § 8–301 OF THIS ARTICLE; AND

D. DISPOSITIONS OF PERSONAL PROPERTY SUBJECT TO § 10–305 OF THIS ARTICLE, EXCEPT FOR DISPOSITIONS OF PERSONAL PROPERTY THAT WAS PURCHASED WITH THE PROCEEDS OF A GENERAL OBLIGATION LOAN.

2. In its review of a contract for services or capital improvements with a value that exceeds [\$500,000] **\$1,000,000**, the Board of Public Works may request the comments of the appropriate agencies, including the Department of Budget and Management and the Department of General Services.

(4) A University's policies shall:

(i) to the maximum extent practicable, require the purchasing of supplies and services in accordance with Title 14, Subtitle 1 of this article; and

(ii) promote the purposes of the regulations adopted by the Department of General Services governing the procurement of architectural and engineering services.

(5) (i) Except as provided in paragraph (7) of this subsection, the following provisions of Division II of this article apply to a University:

1. § 11–205 of this subtitle ("Collusion");

2. § 11–205.1 of this subtitle ("Falsification, concealment, etc., of material facts");

Nondiscrimination clause	3. e");	13-219 of this article ("Required clauses –
	4.	§ 13–225 of this article ("Retainage");
Participation");	5.	Title 14, Subtitle 3 of this article ("Minority Business
Contract Administration'	6. ');	Title 15, Subtitle 1 of this article ("Procurement
payments; notice upon no	7. onpayn	§ 15–226 of this article ("Policy established; timing of nent; disputes; appeals"); and
Contractors").	8.	Title 16 of this article ("Suspension and Debarment of
	dance	rocurement violates the provisions of this subsection or with this subsection, the procurement contract is void he provisions of § 11–204 of this subtitle.
(6) (i) over contract claims relat		State Board of Contract Appeals shall have authority procurement contracts awarded by:

1999; and

the University System of Maryland before July 1, 1.

2. Morgan State University before July 1, 2004.

(ii) At the election of the Board of Regents of the University System of Maryland and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 1999.

(iii) At the election of the Board of Regents of Morgan State University and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 2004.

At the election of the Board of Trustees of St. Mary's College (iv) of Maryland and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by St. Mary's College of Maryland after June 30, 2006.

> (7)Paragraphs (3), (4), and (5) of this subsection do not apply to:

(i) procurement by a University from:

- 1. another unit;
- 2. a political subdivision of the State;
- 3. an agency of a political subdivision of the State;

4. a government, including the government of another state, of the United States, or of another country;

5. an agency or political subdivision of a government; or

6. a bistate, multistate, bicounty, or multicounty governmental agency;

(ii) procurement by a University in support of enterprise activities for the purpose of:

- 1. direct resale;
- 2. remanufacture and subsequent resale; or
- 3. procurement by the University for overseas programs;

or

(iii) procurement by the University System of Maryland for:

1. services of managers to invest, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, gift and endowment assets received by the University System of Maryland in accordance with 12-104(e) of the Education Article; or

2. expenditures to manage, maintain, and enhance, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, the value of gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 451

(Senate Bill 8)

AN ACT concerning

Maryland Income Tax Refund – Anne Arundel County – Warrants

FOR the purpose of authorizing certain warrant officials to certify to the Comptroller the existence of an outstanding warrant; requiring the Comptroller to withhold the Maryland income tax refunds of certain individuals with outstanding warrants under certain circumstances; providing that certain provisions of law apply only to residents of Anne Arundel County or individuals with warrants from Anne Arundel County; requiring a certain certification to contain certain information: requiring the Comptroller, under certain circumstances, to withhold an individual's income tax refund and notify the individual of a certain certification; providing that the Comptroller may not pay a Maryland income tax refund until the warrant official notifies the Comptroller that the warrant is no longer outstanding; requiring the Comptroller to withhold and pay certain required amounts before withholding any part of certain income tax refunds; requiring the Office of the Comptroller to submit a certain report to certain committees of the General Assembly on or before a certain date: defining certain terms; providing for the termination of certain provisions of this Act; and generally relating to withholding income tax refunds for outstanding warrants.

BY adding to

Article – Tax – General
Section 13–935 through 13–939 to be under the new part "Part VII. Income Tax Refund Withholding – Warrants"
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

- **13–933. R**ESERVED.
- **13–934. R**ESERVED.

PART VII. INCOME TAX REFUND WITHHOLDING - WARRANTS.

13-935.

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

(B) "REFUND" MEANS AN INDIVIDUAL'S MARYLAND INCOME TAX **REFUND.**

(C) (1) "WARRANT" MEANS A CRIMINAL ARREST WARRANT.

"WARRANT" INCLUDES A WARRANT ISSUED FOR OR THAT (2) **RESULTS FROM:**

> **(I)** A FAILURE TO APPEAR BEFORE A COURT OF THE STATE;

A VIOLATION OF THE MARYLAND VEHICLE LAW THAT IS **(II)** PUNISHABLE BY A TERM OF CONFINEMENT; OR

(III) A VIOLATION OF PROBATION.

(3) "WARRANT" DOES NOT INCLUDE A BODY ATTACHMENT.

"WARRANT OFFICIAL" MEANS AN OFFICIAL OF THE FEDERAL, **(D)** STATE, OR LOCAL GOVERNMENT CHARGED WITH SERVING A WARRANT.

13-936.

(A) THIS PART APPLIES ONLY TO INDIVIDUALS WHO:

(1) ARE RESIDENTS OF ANNE ARUNDEL COUNTY; OR

(2) HAVE AN OUTSTANDING WARRANT FROM ANNE ARUNDEL COUNTY.

(B**)** THIS PART DOES NOT APPLY TO AN INDIVIDUAL:

WHO IS AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF (1) THE UNITED STATES; OR

> WHO FILES A JOINT MARYLAND INCOME TAX RETURN. (2)

13-937.

A WARRANT OFFICIAL MAY:

(1) CERTIFY TO THE COMPTROLLER THE EXISTENCE OF AN OUTSTANDING WARRANT FOR AN INDIVIDUAL WHO IS A RESIDENT OF MARYLAND OR WHO RECEIVES INCOME FROM MARYLAND; AND

(2) REQUEST THE COMPTROLLER TO WITHHOLD ANY REFUND TO WHICH THE INDIVIDUAL IS ENTITLED.

13-938.

(A) A CERTIFICATION BY A WARRANT OFFICIAL TO THE COMPTROLLER SHALL INCLUDE:

(1) THE FULL NAME AND ADDRESS OF THE INDIVIDUAL AND ANY OTHER NAMES KNOWN TO BE USED BY THE INDIVIDUAL;

(2) THE SOCIAL SECURITY NUMBER OR FEDERAL TAX IDENTIFICATION NUMBER; AND

(3) A STATEMENT THAT THE WARRANT IS OUTSTANDING.

(B) THE COMPTROLLER SHALL DETERMINE IF AN INDIVIDUAL FOR WHOM A CERTIFICATION IS RECEIVED IS DUE A REFUND.

(C) AS TO ANY INDIVIDUAL DUE A REFUND FOR WHOM A CERTIFICATION IS RECEIVED, THE COMPTROLLER SHALL:

(1) WITHHOLD THE INDIVIDUAL'S REFUND; AND

(2) NOTIFY THE INDIVIDUAL OF A CERTIFICATION BY THE WARRANT OFFICIAL OF THE EXISTENCE OF AN OUTSTANDING WARRANT.

(D) THE COMPTROLLER MAY NOT PAY A REFUND UNTIL THE WARRANT OFFICIAL NOTIFIES THE COMPTROLLER THAT THE WARRANT IS NO LONGER OUTSTANDING.

13-939.

THE COMPTROLLER SHALL WITHHOLD AND PAY ANY AMOUNT AS PROVIDED IN § 13–918 OF THIS SUBTITLE BEFORE WITHHOLDING ANY PART OF AN INCOME TAX REFUND UNDER § 13–938 OF THIS PART.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Office of the Comptroller shall report to the House Ways and Means Committee and the Senate Budget and Taxation Committee, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. Section 1 of this Act shall remain effective for a period of 1 year and, at the end of September 30, 2013, 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 22, 2012.

Chapter 452

(Senate Bill 19)

AN ACT concerning

Sales and Use Tax - Exemption - Veterans' Organizations

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

BY repealing and reenacting, with amendments,

Article – Tax – General Section 11–204(a) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Chapter 217 of the Acts of the General Assembly of 2006, as amended by Chapter 506 of the Acts of the General Assembly of 2009 Section 2

BY repealing and reenacting, with amendments,

Chapter 218 of the Acts of the General Assembly of 2006, as amended by Chapter 506 of the Acts of the General Assembly of 2009 Section 2

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

Article – Tax – General

11-204.

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

(1) a sale to a cemetery company, as described in § 501(c)(13) of the Internal Revenue Code in effect on July 1, 1987;

(2) a sale to a credit union organized under the laws of the State or of the United States;

(3) a sale to a nonprofit organization made to carry on its work, if the organization:

(i) 1. is located in the State;

2. is located in an adjacent jurisdiction and provides its services within the State on a routine and regular basis; or

3. is located in an adjacent jurisdiction whose law:

A. does not impose a sales or use tax on a sale to a nonprofit organization made to carry on its work; or

B. contains a reciprocal exemption from sales and use tax for sales to nonprofit organizations located in adjacent jurisdictions similar to the exemption allowed under this subsection;

- (ii) is a charitable, educational, or religious organization;
- (iii) is not the United States; and

(iv) except for the American National Red Cross, is not a unit or instrumentality of the United States;

(4) a sale, not exceeding \$500, to a nonprofit incorporated senior citizens' organization made to carry on its work, if the organization:

(i) is located in the State; and

(ii) receives funding from the State or a political subdivision of the State;

(5) a sale to a volunteer fire company or department or volunteer ambulance company or rescue squad located in the State made to carry on the work of the company, department, or squad;

(6) a sale of tangible personal property to a nonprofit parent-teacher association located in the State if the association makes the purchase to contribute the property to a school to which a sale is exempt under item (3) of this subsection or 11–220 of this subtitle;

(7) a sale to a nonprofit organization made to carry on its work, if the organization:

(i) is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code; and

(ii) is engaged primarily in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; **OR**

(8) a sale to a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or an auxiliary of the organization or one of its units, if the organization is qualified as tax exempt under § 501(C)(4) OR § 501(c)(19) of the Internal Revenue Code[; or

(9) a sale to a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or an auxiliary of the organization or one of its units, if the organization is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code].

Chapter 217 of the Acts of 2006, as amended by Chapter 506 of the Acts of 2009

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

Chapter 218 of the Acts of 2006, as amended by Chapter 506 of the Acts of 2009

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 453

(House Bill 319)

AN ACT concerning

Sales and Use Tax – Exemption – Veterans' Organizations

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

BY repealing and reenacting, with amendments, Article – Tax – General

Article – Tax – General Section 11–204(a) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Chapter 217 of the Acts of the General Assembly of 2006, as amended by Chapter 506 of the Acts of the General Assembly of 2009 Section 2

BY repealing and reenacting, with amendments,

Chapter 218 of the Acts of the General Assembly of 2006, as amended by Chapter 506 of the Acts of the General Assembly of 2009 Section 2

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

Article – Tax – General

11-204.

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

(1) a sale to a cemetery company, as described in § 501(c)(13) of the Internal Revenue Code in effect on July 1, 1987;

(2) a sale to a credit union organized under the laws of the State or of the United States;

(3) a sale to a nonprofit organization made to carry on its work, if the organization:

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(i) 1. is located in the State;

2. is located in an adjacent jurisdiction and provides its services within the State on a routine and regular basis; or

> 3. is located in an adjacent jurisdiction whose law:

A. does not impose a sales or use tax on a sale to a nonprofit organization made to carry on its work; or

В. contains a reciprocal exemption from sales and use tax for sales to nonprofit organizations located in adjacent jurisdictions similar to the exemption allowed under this subsection;

> is a charitable, educational, or religious organization; (ii)

is not the United States; and (iii)

except for the American National Red Cross, is not a unit or (iv) instrumentality of the United States;

(4)a sale, not exceeding \$500, to a nonprofit incorporated senior citizens' organization made to carry on its work, if the organization:

> (i) is located in the State; and

receives funding from the State or a political subdivision of (ii)

the State:

a sale to a volunteer fire company or department or volunteer (5)ambulance company or rescue squad located in the State made to carry on the work of the company, department, or squad;

a sale of tangible personal property to a nonprofit parent-teacher (6)association located in the State if the association makes the purchase to contribute the property to a school to which a sale is exempt under item (3) of this subsection or § 11–220 of this subtitle:

a sale to a nonprofit organization made to carry on its work, if the (7)organization:

(i) is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code: and

is engaged primarily in providing a program to render its (ii) best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters: OR

(8) a sale to a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or an auxiliary of the organization or one of its units, if the organization is qualified as tax exempt under § 501(C)(4) OR § 501(c)(19) of the Internal Revenue Code[; or

(9) a sale to a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or an auxiliary of the organization or one of its units, if the organization is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code].

Chapter 217 of the Acts of 2006, as amended by Chapter 506 of the Acts of 2009

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

Chapter 218 of the Acts of 2006, as amended by Chapter 506 of the Acts of 2009

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 454

(Senate Bill 23)

AN ACT concerning

Public Safety – Elevator Safety Review Board – Membership

FOR the purpose of altering the membership of the Elevator Safety Review Board to add a member representing the elevator interior renovation industry and a member who is an accessibility contractor; and generally relating to the membership of the Elevator Safety Review Board. BY repealing and reenacting, with amendments, Article – Public Safety Section 12–820(a) Annotated Code of Maryland (2003 Volume and 2011 Supplement)

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

Article – Public Safety

12 - 820.

(a) (1) The Board consists of the following [nine] **ELEVEN** <u>TEN</u> members:

(i) as an ex officio member, the Commissioner; and

(ii) [eight] **TEN** <u>NINE</u> members appointed by the Governor with the advice of the Secretary and with the advice and consent of the Senate.

(2) Of the [eight] **TEN** <u>NINE</u> appointed members of the Board:

(i) one shall represent a major elevator manufacturing company or its authorized representative;

- (ii) one shall represent an elevator servicing company;
- (iii) one shall represent the architectural design profession;
- (iv) one shall represent a municipal corporation in the State;
- (v) one shall represent a building owner or manager;

(vi) one shall represent labor involved in the installation, maintenance, and repair of elevators; [and]

(VII) ONE SHALL REPRESENT THE ELEVATOR INTERIOR RENOVATION INDUSTRY; <u>AND</u>

(VIII) ONE SHALL BE AN ACCESSIBILITY CONTRACTOR; AND

[(vii)] (IX) (VIII) two shall be members of the public.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 455

(House Bill 109)

AN ACT concerning

Public Safety – Elevator Safety Review Board – Membership

FOR the purpose of altering the membership of the Elevator Safety Review Board to add a member representing the elevator interior renovation industry <u>or who is a</u> <u>licensed contractor other than an elevator contractor</u>; and generally relating to the membership of the Elevator Safety Review Board.

BY repealing and reenacting, with amendments, Article – Public Safety Section 12–820(a) Annotated Code of Maryland (2003 Volume and 2011 Supplement)

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

Article – Public Safety

12 - 820.

(a) (1) The Board consists of the following [nine] **TEN** members:

(i) as an ex officio member, the Commissioner; and

(ii) [eight] NINE members appointed by the Governor with the advice of the Secretary and with the advice and consent of the Senate.

(2) Of the [eight] NINE appointed members of the Board:

(i) one shall represent a major elevator manufacturing company or its authorized representative;

- (ii) one shall represent an elevator servicing company;
- (iii) one shall represent the architectural design profession;

(iv) one shall represent a municipal corporation in the State;

(v) one shall represent a building owner or manager;

(vi) one shall represent labor involved in the installation, maintenance, and repair of elevators; [and]

(VII) ONE SHALL<u></u>

 $\frac{1}{2}$ REPRESENT THE ELEVATOR INTERIOR RENOVATION INDUSTRY; AND \underline{OR}

2. <u>BE A CONTRACTOR LICENSED BY THE BOARD,</u> OTHER THAN AN ELEVATOR CONTRACTOR; AND

[(vii)] (VIII) two shall be members of the public.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 456

(Senate Bill 40)

AN ACT concerning

Sales and Use Tax – Machinery and Equipment – Energy Star Windows and Doors

FOR the purpose of exempting from the sales and use tax certain sales of certain machinery and equipment to be used for certain purposes and certain utilities used to operate the machinery or equipment; and generally relating to a sales and use tax exemption for certain machinery and equipment and the utilities used to operate the machinery or equipment.

BY adding to

Article – Tax – General Section 11–210(e) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

11-210.

(E) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF:

(1) MACHINERY OR EQUIPMENT USED DIRECTLY AND PREDOMINANTLY TO PRODUCE ENERGY STAR WINDOWS OR ENERGY STAR ENTRY DOORS FOR RESIDENTIAL REAL PROPERTY; OR

(2) ELECTRICITY, FUEL, AND OTHER UTILITIES USED TO OPERATE THAT MACHINERY OR EQUIPMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 457

(House Bill 1301)

AN ACT concerning

Sales and Use Tax – Machinery and Equipment – Energy Star Windows and Doors

FOR the purpose of exempting from the sales and use tax certain sales of certain machinery and equipment to be used for certain purposes and certain utilities used to operate the machinery or equipment; and generally relating to a sales and use tax exemption for certain machinery and equipment and the utilities used to operate the machinery or equipment.

BY adding to

Article – Tax – General Section 11–210(e) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

11–210.

(E) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF:

(1) MACHINERY OR EQUIPMENT USED DIRECTLY AND PREDOMINANTLY TO PRODUCE ENERGY STAR WINDOWS OR ENERGY STAR ENTRY DOORS FOR RESIDENTIAL REAL PROPERTY; OR

(2) ELECTRICITY, FUEL, AND OTHER UTILITIES USED TO OPERATE THAT MACHINERY OR EQUIPMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 458

(Senate Bill 58)

AN ACT concerning

Education – Children in Informal Kinship Care Relationships – Payments for Students with Disabilities – Funding

FOR the purpose of altering a certain provision relating to funding the education of certain students with disabilities in informal kinship care relationships; defining certain terms; and generally relating to education funding for students with disabilities in informal kinship care relationships.

BY repealing and reenacting, with amendments, Article – Education Section 4–122.1 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

3137

4 - 122.1.

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

(2) "Informal kinship care" means a living arrangement in which a relative of a child, who is not in the care, custody, or guardianship of the local department of social services, provides for the care and custody of the child due to a serious family hardship.

(3) "LEAST RESTRICTIVE ENVIRONMENT C (LRE–C)" MEANS A <u>SETTING IN WHICH A</u> CHILD <u>IS</u> ENROLLED IN A COMPREHENSIVE SCHOOL WHO <u>AND</u> RECEIVES SPECIAL EDUCATION AND RELATED SERVICES IN REGULAR EDUCATION SETTINGS LESS THAN 40% OF THE SCHOOL DAY.

(4) "LEAST RESTRICTIVE ENVIRONMENT F (LRE–F)" MEANS A <u>SETTING IN WHICH A</u> CHILD WHO RECEIVES SPECIAL EDUCATION AND RELATED SERVICES FOR GREATER THAN 50% OF THE SCHOOL DAY IN A PUBLIC SEPARATE DAY FACILITY THAT DOES NOT INCLUDE PROGRAMS FOR STUDENTS WITHOUT DISABILITIES.

[(3)] (5) "Local current expense per student" means all expenditures made by a county from county appropriations, except State, federal, and other aid, for public elementary and secondary education in the prior fiscal year, divided by the full-time equivalent enrollment, as defined in § 5-202(a) of this article.

[(4)] (6) "Receiving agency" means the local education agency for the county where the relative of a child in an informal kinship care relationship resides.

[(5)] (7) "Relative" means an adult related to the child by blood or marriage within the fifth degree of consanguinity.

[(6)] (8) "Sending agency" means the local education agency for a county where the parent or legal guardian of a child in an informal kinship care relationship resides, subject to the following conditions:

(i) If the parents or legal guardians of the child live apart, the sending agency is the local education agency in the county where the parent or legal guardian who has been awarded custody of the child resides;

(ii) If custody has not been awarded to a parent or legal guardian, the sending agency is the local education agency of the county where the parent or legal guardian with whom the child lives when not in an informal kinship care relationship resides;

(iii) If custody has been awarded to both parents or legal guardians, and the parents or legal guardians reside in different counties, the local

education agencies of both counties shall be considered a sending agency and shall pay one-half the amount as computed in accordance with subsection (d) of this section, except that if a child receives a public education in a county where a parent resides, this subparagraph shall not apply; and

(iv) If custody has been awarded to both parents or legal guardians, and one parent resides in a county and the other resides out of state, the local education agency of the county shall be considered the sending agency.

- [(7)] (9) "Serious family hardship" means:
 - (i) Death of a parent or legal guardian of the child;
 - (ii) Serious illness of a parent or legal guardian of the child;
 - (iii) Drug addiction of a parent or legal guardian of the child;
 - (iv) Incarceration of a parent or legal guardian of the child;
 - (v) Abandonment by a parent or legal guardian of a child; or
 - (vi) Assignment of a parent or legal guardian of a child to active

military duty.

(b) Subsection (d) of this section shall apply to the education funding of a child in an informal kinship care relationship if the fiscal impact of the requirements of § 7-101(c) of this article to a county exceeds 0.1% of a county board's total operating budget for a fiscal year.

(c) (1) A child in an informal kinship care relationship shall receive an appropriate education from the receiving agency.

(2) The receiving agency shall include a child enrolled as the result of an informal kinship care relationship in its full-time equivalent enrollment as provided by § 5-202(a) of this article.

(d) (1) Subject to subsection (b) of this section, and except as provided in paragraph (3) of this subsection, for each child in an informal kinship care relationship enrolled in a public school program, the sending agency shall pay the receiving agency an amount equal to the lesser of:

(i) The local current expense per student under the jurisdiction of the sending agency; or

(ii) The local current expense per student under the jurisdiction of the receiving agency.

(2) If the receiving agency determines that a child in an informal kinship care relationship is [disabled and] A STUDENT WITH A DISABILITY WHO needs [public school Intensity IV or V Special Education Services] AN LRE-C OR LRE-F PLACEMENT, the sending agency shall pay the receiving agency for each such child an amount equal to the lesser of:

(i) Three times the local current expense per student under the jurisdiction of the sending agency; or

(ii) Three times the local current expense per student under the jurisdiction of the receiving agency.

(3) If the receiving agency determines that a child in an informal kinship care relationship is disabled and needs a nonpublic educational program as provided by § 8–406 of this article, the sending agency shall pay for each such child the amount provided by § 8–415(d)(3) of this article.

(e) (1) Each receiving agency shall:

(i) Notify the State Superintendent of the name of each child in an informal kinship care relationship as of December 31 of each year; and

(ii) Subject to subsection (b) of this section, make a preliminary determination of the sending agency that is financially responsible for each child under subsection (d) of this section.

(2) The receiving agency shall send a copy of the notice required under paragraph (1) of this subsection to the sending agency by January 31, and, at the same time, shall send notice to the State Superintendent.

(3) The sending agency that was determined to be financially responsible under this subsection may appeal that determination to the State Superintendent within 30 days of the date on which the notice was mailed.

(4) The State Superintendent shall decide all appeals that are made under paragraph (3) of this subsection and make a final determination regarding the sending agency's financial responsibility for each child in an informal kinship care relationship under the jurisdiction of the receiving agency.

(5) By January 15 of each year, each county board shall provide the State Superintendent the data necessary to compute the local current expense per student under this section.

(6) If by May 15 a sending agency has failed to make the required payment to a receiving agency, the State Superintendent shall deduct from the next payment of State aid to the sending agency an amount equal to the amount owed under this section and shall pay those funds to the receiving agency.

(f) The State Board shall adopt regulations to implement this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 459

(Senate Bill 67)

AN ACT concerning

Harford County – Alcoholic Beverages Licenses – Residency Requirement for Applicants

FOR the purpose of altering the residency requirement for applicants for alcoholic beverages licenses in Harford County; and generally relating to alcoholic beverages licenses in Harford County.

BY repealing and reenacting, with amendments, Article 2B – Alcoholic Beverages Section 9–101(a)(2) Annotated Code of Maryland (2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

9–101.

(a) A license may not be issued to a partnership, to a corporation, or to a limited liability company, but only to individuals authorized to act for a partnership, corporation, or limited liability company who shall assume all responsibilities as individuals, and be subject to all of the penalties, conditions and restrictions imposed upon licensees under the provisions of the Tax – General Article that relate to the alcoholic beverage tax and the provisions of this article. If the application is made for a partnership, the license shall be applied for and be issued to all the partners as individuals, all of whom shall have resided in the city or county in which the place of business is located for at least 2 years prior to the application.

(2) In Harford County, the applicant shall be a bona fide resident of Harford County [at the time of] FOR AT LEAST 1 YEAR BEFORE filing the application and shall remain a resident as long as the license is in effect. The applicant is not required to be a registered voter.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 460

(Senate Bill 82)

AN ACT concerning

Maryland Automobile Insurance Fund – Claims for Bodily Injury or Death – Payment Limitation

FOR the purpose of increasing the maximum amounts payable from the Maryland Automobile Insurance Fund for certain claims on account of injury to or death of one individual and of more than one individual arising from a motor vehicle accident; providing for the allocation of certain penalties among certain funds on or after a certain date; providing for the application of this Act; and generally relating to claims against the Maryland Automobile Insurance Fund.

BY repealing and reenacting, with amendments,

Article – Insurance Section 20–602 Annotated Code of Maryland (2011 Replacement Volume)

<u>BY repealing and reenacting, with amendments,</u> <u>Article – Transportation</u> <u>Section 17–106(e)</u>

<u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

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

Article – Insurance

(a) The maximum amount payable from the Fund, exclusive of interest and costs, for claims filed under this subtitle arising from one accident is:

(1) [\$20,000] **\$30,000** on account of injury to or death of one individual;

(2) subject to the limit specified in item (1) of this subsection, [\$40,000] **\$60,000** on account of injury to or death of more than one individual; and

(3) \$15,000 for damages to property.

(b) (1) The following deductions shall be made from the smaller of the applicable maximum amount under subsection (a) of this section and the amount of the judgment:

(i) \$250 from a judgment or part of a judgment for damages to property; and

(ii) the total amount that the claimant has received or is likely to receive:

1. from any source toward payment of the settlement or

judgment;

2. toward payment of a judgment against a person against whom the claimant has a cause of action, arising out of the same accident, for damages for bodily injury or death or damage to property;

3. under a policy affording indemnity for damage to or destruction of property of the applicant; and

4. by reason of the accident out of which the claim arises under any workers' compensation law.

(2) For the purposes of this subtitle, medical, hospital, funeral, or other benefits paid or payable for the applicant under the Maryland Workers' Compensation Act shall be considered to be received or receivable by the claimant.

(c) The Fund may recover any amount paid out of the Fund that exceeds the amount authorized under this subtitle by bringing an action against the person that received the excess payment.

(d) (1) Notwithstanding any workers' compensation law or similar law to the contrary, whenever the amount of a payment by the Fund has been reduced by the amount of benefits paid or to be paid in accordance with a workers' compensation law or similar law, the employer of an injured person or decedent and the insurer of that employer is not entitled to a lien on payment from the Fund.

(2) Workers' compensation benefits may not be reduced because of the reduced payment from the Fund.

Article – Transportation

<u>17–106.</u>

(e) (1) (i) In addition to any other penalty provided for in the Maryland Vehicle Law, if the required security for a vehicle terminates or otherwise lapses during its registration year, the Administration may assess the owner of the vehicle with a penalty of \$150 for each vehicle without the required security for a period of 1 to 30 days. If a fine is assessed, beginning on the 31st day the fine shall increase by a rate of \$7 for each day.

(ii) Each period during which the required security for a vehicle terminates or otherwise lapses shall constitute a separate violation.

(iii) The penalty imposed under this subsection may not exceed \$2,500 for each violation in a 12-month period.

(2) (i) <u>A penalty assessed under this subsection shall be paid as</u> follows:

<u>1.</u> <u>70% to be allocated as provided in subparagraphs (ii)</u> through **[**(iv)**] (VI)** of this paragraph; and

2. <u>30% to the Administration, which may be used by the</u> <u>Administration, subject to subsection (f) of this section, to provide funding for</u> <u>contracts with independent agents to assist in the recovery of evidences of registration</u> <u>as authorized in subsection (d)(3) of this section.</u>

(ii) For the fiscal year beginning July 1, 2001, the percentage of the penalties specified under subparagraph (i)1 of this paragraph shall be allocated among the Vehicle Theft Prevention Fund, the Motor Vehicle Registration Enforcement Fund, the School Bus Safety Enforcement Fund, the Transportation Trust Fund, and the General Fund as follows:

<u>1. \$400,000 to the Motor Vehicle Registration</u>

Enforcement Fund;

- <u>2.</u> <u>\$600,000 to the School Bus Safety Enforcement Fund;</u>
- <u>3.</u> <u>\$2,000,000 to the Vehicle Theft Prevention Fund;</u>
- <u>4.</u> <u>\$9,600,000 to the Transportation Trust Fund; and</u>

5. The balance to the General Fund.

(iii) For the fiscal year beginning July 1, 2002, the percentage of the penalties specified under subparagraph (i)1 of this paragraph shall be allocated among the Vehicle Theft Prevention Fund, the Maryland Automobile Insurance Fund, the Motor Vehicle Registration Enforcement Fund, the School Bus Safety Enforcement Fund, and the General Fund as follows:

<u>1. \$400,000 to the Motor Vehicle Registration</u> Enforcement Fund;

- 2. <u>\$600,000 to the School Bus Safety Enforcement Fund;</u>
- 3. \$2,000,000 to the Vehicle Theft Prevention Fund;
- 4. \$2,000,000 to the Maryland Automobile Insurance

<u>Fund; and</u>

5. <u>The balance to the General Fund.</u>

(iv) For each fiscal year beginning on or after July 1, 2003, the percentage of the penalties specified under subparagraph (i)1 of this paragraph shall be allocated among the School Bus Safety Enforcement Fund, the Vehicle Theft Prevention Fund, the Maryland Automobile Insurance Fund, and the General Fund as follows:

- 1. <u>\$600,000 to the School Bus Safety Enforcement Fund;</u>
- 2. \$2,000,000 to the Vehicle Theft Prevention Fund;

3. The amount distributed to the Maryland Automobile Insurance Fund in the prior fiscal year under the provisions of this paragraph adjusted by the change for the calendar year preceding the fiscal year in the Consumer Price Index – All Urban Consumers – Medical Care as published by the United States Bureau of Labor Statistics to the Maryland Automobile Insurance Fund; and

<u>4.</u> <u>The balance to the General Fund.</u>

(V) FOR EACH FISCAL YEAR BEGINNING ON JULY 1, 2013, THE PERCENTAGE OF THE PENALTIES SPECIFIED UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH SHALL BE ALLOCATED AMONG THE SCHOOL BUS SAFETY ENFORCEMENT FUND, THE VEHICLE THEFT PREVENTION FUND, THE MARYLAND AUTOMOBILE INSURANCE FUND, AND THE GENERAL FUND AS FOLLOWS:

Chapter 460

 1.
 \$600,000
 TO
 THE
 SCHOOL
 BUS
 SAFETY

 ENFORCEMENT FUND;

2. \$2,000,000 TO THE VEHICLE THEFT PREVENTION

FUND;

3. \$3,400,000 TO THE MARYLAND AUTOMOBILE

4. THE BALANCE TO THE GENERAL FUND.

(VI) FOR EACH FISCAL YEAR BEGINNING ON OR AFTER JULY 1, 2014, THE PERCENTAGE OF THE PENALTIES SPECIFIED UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH SHALL BE ALLOCATED AMONG THE SCHOOL BUS SAFETY ENFORCEMENT FUND, THE VEHICLE THEFT PREVENTION FUND, THE MARYLAND AUTOMOBILE INSURANCE FUND, AND THE GENERAL FUND AS FOLLOWS:

1.\$600,000TOTHESCHOOLBUSSAFETYENFORCEMENT FUND;

2. \$2,000,000 TO THE VEHICLE THEFT PREVENTION

FUND;

<u>3.</u> <u>TO THE MARYLAND AUTOMOBILE INSURANCE</u> <u>FUND, THE AMOUNT DISTRIBUTED TO THE MARYLAND AUTOMOBILE</u> <u>INSURANCE FUND IN THE PRIOR FISCAL YEAR UNDER THE PROVISIONS OF THIS</u> <u>PARAGRAPH ADJUSTED BY THE CHANGE FOR THE CALENDAR YEAR PRECEDING</u> <u>THE FISCAL YEAR IN THE CONSUMER PRICE INDEX – ALL URBAN CONSUMERS –</u> <u>MEDICAL CARE AS PUBLISHED BY THE UNITED STATES BUREAU OF LABOR</u> <u>STATISTICS; AND</u>

4. <u>The balance to the General Fund.</u>

(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) <u>Reinstate a registration suspended under this subsection;</u>

(ii) 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

T----

INSURANCE FUND; AND

(iii) <u>Renew a registration for a vehicle that is owned or co-owned</u> by that person.

(4) (i) In this paragraph, "family member" means any individual whose relationship to the vehicle owner is one of those listed under § 13–810(c)(1) of this article as being exempt from paying the excise tax imposed on the transfer of a vehicle.

(ii) The monetary penalties provided in this subsection may not be avoided by transferring title to the vehicle.

(iii) <u>Regardless of whether money or other valuable</u> <u>consideration is involved in the transfer, if title to a vehicle is transferred by an</u> <u>individual who has violated this subtitle to a family member, any suspension of the</u> <u>vehicle's registration that occurred before the transfer shall continue as if no transfer</u> <u>had occurred and a new registration may not be issued until the penalty fee is paid.</u>

(5) An amount equal to the monetary penalties paid to the Administration under paragraph (2) of this subsection may be used by the Administration only for the enforcement of this subtitle.

<u>SECTION 2. AND BE IT FURTHER ENACTED</u>, That this Act shall apply to claims filed based on accidents that occurred on or after October 1, 2012.

SECTION $\frac{2}{2}$, 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 461

(Senate Bill 123)

AN ACT concerning

Real Property – Purchase <u>Foreclosure Sale</u> of Residential Property by Secured Party – Notice to Local Supervisor of Assessments

FOR the purpose of requiring certain persons to provide a copy of a certain court order within a certain period of time to the local supervisor of assessments under certain circumstances; establishing joint liability for certain exemptions or credits and certain interest until the court order is received; providing for the application of this Act; making stylistic changes; and generally relating to the purchase of residential property by a secured party the purchaser of certain residential property at a foreclosure sale to provide a copy of the court order ratifying the sale to the local supervisor of assessments within a certain period of time; providing certain exceptions; requiring the supervisor of assessments to provide a receipt to the person providing a copy of the ratification order; providing that, if a copy of the ratification order is not provided to the local supervisor of assessments within a certain period of time, a certain reduction in property tax plus interest at a certain rate remains due and collectable as a property tax; defining certain terms; and generally relating to notice to the local supervisor of assessments of a foreclosure sale of certain residential property.

BY repealing and reenacting, with amendments, Article – Real Property Section 7–105.5 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Real Property</u> <u>Section 7–105.11</u> <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

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

Article - Real Property

7–105.5.

(A) IN THIS SECTION, "REAL ESTATE REPORTING PERSON" HAS THE MEANING STATED IN 26 U.S.C. § 6045.

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

(C) (1) IF PROPERTY PURCHASED BY A SECURED PARTY, BY THE SECURED PARTY'S ASSIGNEE OR REPRESENTATIVE, OR FOR THE SECURED PARTY'S ACCOUNT, IS RESIDENTIAL PROPERTY, THE SECURED PARTY OR THE REAL ESTATE REPORTING PERSON SHALL, WITHIN 30 DAYS AFTER THE DATE OF A COURT ORDER RATIFYING THE SALE, PROVIDE A COPY OF THE COURT ORDER TO THE SUPERVISOR OF ASSESSMENTS FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(2) IF A COPY OF THE ORDER RATIFYING THE SALE IS NOT PROVIDED TO THE SUPERVISOR OF ASSESSMENTS AS REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION, THE SECURED PARTY AND THE REAL ESTATE REPORTING PERSON SHALL BE JOINTLY LIABLE TO THE TAXING AUTHORITY FOR THE AMOUNT OF ANY EXEMPTION OR CREDIT RELATED TO PRINCIPAL RESIDENCY AND RECEIVED ON THE PROPERTY, PLUS INTEREST AT THE RATE PROVIDED FOR LATE PAYMENTS OF REAL PROPERTY TAX, UNTIL THE COURT **ORDER IS RECEIVED BY THE SUPERVISOR OF ASSESSMENTS.**

7–105.11.

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

(2) "INSTRUMENT OF WRITING" HAS THE MEANING STATED IN § 12–101 OF THE TAX – PROPERTY ARTICLE.

"RESIDENTIAL PROPERTY" MEANS REAL PROPERTY (3) **(I)** IMPROVED BY A DWELLING UNIT THAT IS DESIGNED PRINCIPALLY AND IS INTENDED FOR HUMAN HABITATION.

> **(II) "RESIDENTIAL PROPERTY" INCLUDES:**

> > 1. A RESIDENTIAL CONDOMINIUM UNIT; AND

2. A UNIT IN A COOPERATIVE PROJECT, AS DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(4) "TAX" HAS THE MEANING STATED IN § 14-801 OF THE TAX -**PROPERTY ARTICLE.**

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF **(B)** RESIDENTIAL PROPERTY IS PURCHASED AT A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON THE RESIDENTIAL PROPERTY, THE PURCHASER SHALL PROVIDE A COPY OF THE COURT ORDER RATIFYING THE FORECLOSURE SALE TO THE SUPERVISOR OF ASSESSMENTS FOR THE COUNTY IN WHICH THE RESIDENTIAL PROPERTY IS LOCATED BY THE LATER OF:

(1) **60** DAYS AFTER THE ENTRY OF THE COURT ORDER RATIFYING THE FORECLOSURE SALE; OR

IF A MOTION IS FILED UNDER MARYLAND RULE 2-535 (2) BEFORE THE EXPIRATION OF THE TIME PERIOD SET FORTH IN ITEM (1) OF THIS SUBSECTION, 30 DAYS AFTER THE ENTRY OF A COURT ORDER THAT RESOLVES THE MOTION WITHOUT NULLIFYING THE RATIFICATION ORDER.

(C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY IF:

(1) AN INSTRUMENT OF WRITING TRANSFERRING THE RESIDENTIAL PROPERTY HAS BEEN RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE RESIDENTIAL PROPERTY IS LOCATED BEFORE THE EXPIRATION OF THE TIME PERIOD SET FORTH IN SUBSECTION (B) OF THIS SECTION; OR

(2) <u>THE FORECLOSURE SALE IS SUBJECT TO:</u>

(I) <u>A PENDING APPEAL OF THE RATIFICATION ORDER;</u>

(II) <u>A BANKRUPTCY STAY; OR</u>

(III) <u>AN UNEXPIRED RIGHT OF REDEMPTION IN FAVOR OF</u> <u>THE UNITED STATES OR ANY AGENCY OR DEPARTMENT OF THE UNITED</u> <u>STATES.</u>

(D) THE SUPERVISOR OF ASSESSMENTS SHALL PROVIDE A RECEIPT TO THE PERSON PROVIDING A COPY OF THE RATIFICATION ORDER.

(E) IF A COPY OF THE RATIFICATION ORDER IS NOT PROVIDED TO THE SUPERVISOR OF ASSESSMENTS AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, ANY REDUCTION IN PROPERTY TAX RECEIVED BY THE RESIDENTIAL PROPERTY BECAUSE OF ITS STATUS AS AN OWNER-OCCUPIED PRINCIPAL RESIDENCE FROM THE DATE OF THE ENTRY OF THE RATIFICATION ORDER UNTIL THE EARLIER OF THE RECEIPT BY THE SUPERVISOR OF ASSESSMENTS OF A COPY OF THE RATIFICATION ORDER OR THE RECORDATION IN THE LAND RECORDS OF AN INSTRUMENT OF WRITING TRANSFERRING THE PROPERTY TO A THIRD PARTY SHALL REMAIN DUE AND COLLECTABLE AS A PROPERTY TAX UNDER TITLE 14 OF THE TAX – PROPERTY ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012, and shall be applicable to all taxable years beginning after June 30, 2012.

Approved by the Governor, May 22, 2012.

Chapter 462

(Senate Bill 133)

State Board of Pharmacy – Wholesale Distributor Permits – <u>Permit and</u> Application Requirements

FOR the purpose of <u>exempting a manufacturer that distributes its own prescription</u> <u>devices that are approved or authorized by the U.S. Food and Drug</u> <u>Administration from certain permit requirements</u>; altering the information required to be included in an application for a wholesale distributor permit; limiting a requirement that the State Board of Pharmacy or its designee conduct a certain inspection to apply only to applicants that hold prescription drugs or devices; altering certain requirements for a criminal history records check of a designated representative and the supervisor of a designated representative of an applicant; <u>making stylistic changes</u>; and generally relating to application requirements for a wholesale distributor permit issued by the State Board of Pharmacy.

BY repealing and reenacting, without amendments,

Article – Health Occupations Section 12–6C–05(a), (c), and (h) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations Section <u>12–6C–03(b) and</u> 12–6C–05(b) and (d) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing

Article – Health Occupations Section 12–6C–05(e) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations Section 12–6C–05(e) and 12–6C–05.1 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

<u>12–6C–03.</u>

(b) (1) A manufacturer engaged in wholesale distribution shall hold a wholesale distributor permit issued under this subtitle.

(2) Notwithstanding paragraph (1) of this subsection, the information and qualification requirements for obtaining a permit under this subtitle, beyond that required by federal law, do not apply to [a]:

(I) <u>A manufacturer [who] THAT distributes its own prescription</u> <u>drugs THAT ARE approved by the U.S. Food and Drug Administration; OR</u>

(II) <u>A MANUFACTURER THAT DISTRIBUTES ITS OWN</u> <u>PRESCRIPTION DEVICES THAT ARE APPROVED OR AUTHORIZED BY THE U.S.</u> <u>FOOD AND DRUG ADMINISTRATION.</u>

12-6C-05.

(a) To apply for a wholesale distributor permit, an applicant shall:

(1) Pay to the Board an application fee set by the Board; and

(2) Submit an application to the Board on the form that the Board requires.

(b) The application shall include the following:

(1) The name, full business address, and telephone number of the applicant;

(2) All trade or business names used by the applicant;

(3) Addresses, telephone numbers, and the names of contact persons for the facility used by the applicant for the storage, handling, and distribution of prescription drugs;

(4) The type of business form under which the applicant operates, such as partnership, corporation, or sole proprietorship;

(5) The name of each owner and operator of the applicant, including:

(i) If an individual, the name of the individual;

(ii) If a partnership, the name of the partnership and of each partner;

(iii) If a corporation, the name of the corporation, the name and title of each corporate officer and director, and the state of incorporation; and

(iv) If a sole proprietorship, the full name of the sole proprietor and the name of the sole proprietor's business entity;

(6) A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs;

(7) For the designated representative and the immediate supervisor of the designated representative at the applicant's place of business, **THE FOLLOWING**:

[(i) Fingerprints necessary to conduct a criminal history records

check; and

- (ii) The following:
 - 1.] (I) Name;
 - [2.] (II) Places of residence for the past 7 years;
 - [3.] (III) Date and place of birth;

[4.] (IV) The name and address of each business where the individual was employed during the past 7 years, and the individual's job title or office held at each business;

[5.] (V) A statement of whether, during the past 7 years, the individual has been the subject of any proceeding for the revocation of any professional or business license or any criminal violation and, if so, the nature and disposition of the proceeding;

[6.] (VI) A statement of whether, during the past 7 years, the individual has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control, or distribution of prescription drugs, together with details concerning the event;

[7.] (VII) A description of any involvement, including any investments other than the ownership of stock in a publicly traded company or mutual fund, by the individual during the past 7 years with any business that manufactures, administers, prescribes, distributes, or stores prescription drugs, and any lawsuits in which the business was named as a party;

[8.] (VIII) [A.] 1. A description of any misdemeanor or felony offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere; and

[B.] 2. If the individual indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal, within 15 days after the disposition of the appeal, a copy of the final written order of disposition; and

[9.] (IX) A photograph of the individual taken in the previous 180 days.

(c) The information required under subsection (b) of this section shall be provided under oath.

(d) The Board may not issue a wholesale distributor permit to an applicant unless the Board or its designee:

(1) [Conducts] **IF THE APPLICANT HOLDS PRESCRIPTION DRUGS OR DEVICES, CONDUCTS** a physical inspection of the applicant's place of business, including any facility of the applicant;

(2) Finds that the place of business and facility, if any, meets the Board's requirements;

(3) Determines that the designated representative of the applicant meets the following qualifications:

(i) Is at least 21 years of age;

(ii) Has been employed full time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and record keeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

 (iv) $\,$ Is actively involved in and aware of the daily operation of the wholesale distributor;

(v) Is physically present, except for an authorized absence such as sick leave or vacation leave, at the facility of the applicant during regular business hours;

(vi) Is serving as a designated representative for only one applicant at a time, or for two or more wholesale distributors who are located in the same facility and are members of an affiliated group, as defined in § 1504 of the Internal Revenue Code;

(vii) Does not have any convictions for a violation of any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

 $% \left(viii\right) \right)$ Does not have any convictions for a felony under federal, state, or local laws; and

(4) Determines that the immediate supervisor of the designated representative of the applicant meets the following qualifications:

(i) Is at least 21 years of age;

(ii) Has been employed full time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and record keeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the daily operation of the wholesale distributor;

(v) Does not have any convictions for a violation of any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(vi) Does not have any convictions for a felony under federal, state, or local laws.

[(e) (1) In this subsection, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) In accordance with the requirements of this subsection, the Board shall submit the fingerprints provided with a permit application to the Central Repository for a State and national criminal history records check of the designated representative and the immediate supervisor of the designated representative.

(3) As part of an application to the Central Repository for a State and national criminal history records check, the Board shall submit to the Central Repository:

(i) Two complete sets of legible fingerprints taken on forms approved by the director of the Central Repository and the Director of the Federal Bureau of Investigation; (ii) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(iii) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(4) In accordance with \$ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(5) Information obtained from the Central Repository under this subsection:

- (i) Shall be confidential;
- (ii) May not be redisseminated; and
- (iii) Shall be used only for the permitting purpose authorized by

this subtitle.

(6) The subject of a criminal history records check under this subsection may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.]

(E) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH \$12-6C-05.1 of this subtitle.

(h) Within 30 days after the date the Board receives a completed application, including the results of all required criminal history records checks, the Board shall notify the applicant of the Board's acceptance or rejection of the application.

12-6C-05.1.

(A) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(2) This subsection applies to applicants located in the State.

(3) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL SUBMIT TO THE **CENTRAL REPOSITORY:**

TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS **(I)** TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION:

(II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY **RECORDS: AND**

(III) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE (4) CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD THE CRIMINAL HISTORY RECORDS INFORMATION OF THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED **REPRESENTATIVE OF AN APPLICANT TO THE BOARD AND THE APPLICANT.**

THE BOARD SHALL ENSURE THAT INFORMATION OBTAINED (5) FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION:

- **(I)** IS KEPT CONFIDENTIAL;
- (II) IS NOT REDISSEMINATED; AND

(III) IS USED ONLY FOR THE PERMITTING PURPOSE AUTHORIZED BY THIS SUBTITLE.

THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK (6) UNDER THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

THIS SUBSECTION APPLIES TO APPLICANTS LOCATED **(B)** (1) OUTSIDE THE STATE.

(2) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK BY THE APPLICANT'S STATE OF RESIDENCE, IN ACCORDANCE WITH THE LAWS OF THE APPLICANT'S STATE OF RESIDENCE.

(3) THE CRIMINAL HISTORY RECORDS CHECK SHALL CONSIST OF:

(I) A STATE CRIMINAL HISTORY RECORDS CHECK FOR THE APPLICANT'S STATE OF RESIDENCE; AND

(II) A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(4) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL REQUEST THE APPROPRIATE ENTITY IN THE APPLICANT'S STATE OF RESIDENCE TO FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORDS CHECK TO THE BOARD AND THE APPLICANT.

(5) THE BOARD SHALL ENSURE THAT INFORMATION OBTAINED UNDER THIS SUBSECTION:

- (I) IS KEPT CONFIDENTIAL;
- (II) IS NOT REDISSEMINATED; AND

(III) IS USED ONLY FOR THE PERMITTING PURPOSE AUTHORIZED BY THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 463

(House Bill 316)

AN ACT concerning

State Board of Pharmacy – Wholesale Distributor Permits – <u>Permit and</u> Application Requirements

FOR the purpose of <u>exempting a manufacturer that distributes its own prescription</u> <u>devices that are approved or authorized by the U.S. Food and Drug</u> <u>Administration from certain permit requirements</u>; altering the information required to be included in an application for a wholesale distributor permit; limiting a requirement that the State Board of Pharmacy or its designee conduct a certain inspection to apply only to applicants that hold prescription drugs or devices; altering certain requirements for a criminal history records check of a designated representative and the supervisor of a designated representative of an applicant; <u>making stylistic changes</u>; and generally relating to application requirements for a wholesale distributor permit issued by the State Board of Pharmacy.

BY repealing and reenacting, without amendments, Article – Health Occupations Section 12–6C–05(a), (c), and (h) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Health Occupations Section <u>12–6C–03(b) and</u> 12–6C–05(b) and (d) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing

Article – Health Occupations Section 12–6C–05(e) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations Section 12–6C–05(e) and 12–6C–05.1 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

<u>12–6C–03.</u>

(b) (1) <u>A manufacturer engaged in wholesale distribution shall hold a</u> wholesale distributor permit issued under this subtitle.

(2) Notwithstanding paragraph (1) of this subsection, the information and qualification requirements for obtaining a permit under this subtitle, beyond that required by federal law, do not apply to [a]:

(I) <u>A manufacturer [who] THAT distributes its own prescription</u> <u>drugs THAT ARE approved by the U.S. Food and Drug Administration; OR</u>

(II) <u>A MANUFACTURER THAT DISTRIBUTES ITS OWN</u> <u>PRESCRIPTION DEVICES THAT ARE APPROVED OR AUTHORIZED BY THE U.S.</u> <u>FOOD AND DRUG ADMINISTRATION.</u>

12-6C-05.

(a) To apply for a wholesale distributor permit, an applicant shall:

(1) Pay to the Board an application fee set by the Board; and

(2) Submit an application to the Board on the form that the Board requires.

(b) The application shall include the following:

(1) The name, full business address, and telephone number of the applicant;

(2) All trade or business names used by the applicant;

(3) Addresses, telephone numbers, and the names of contact persons for the facility used by the applicant for the storage, handling, and distribution of prescription drugs;

(4) The type of business form under which the applicant operates, such as partnership, corporation, or sole proprietorship;

(5) The name of each owner and operator of the applicant, including:

(i) If an individual, the name of the individual;

(ii) If a partnership, the name of the partnership and of each partner;

(iii) If a corporation, the name of the corporation, the name and title of each corporate officer and director, and the state of incorporation; and

(iv) If a sole proprietorship, the full name of the sole proprietor and the name of the sole proprietor's business entity;

(6) A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs;

(7) For the designated representative and the immediate supervisor of the designated representative at the applicant's place of business, **THE FOLLOWING**:

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[(i) Fingerprints necessary to conduct a criminal history records

check; and

(ii) The following:
1.] (I) Name;
[2.] (II) Places of residence for the past 7 years;
[3.] (III) Date and place of birth;

[4.] (IV) The name and address of each business where the individual was employed during the past 7 years, and the individual's job title or office held at each business;

[5.] (V) A statement of whether, during the past 7 years, the individual has been the subject of any proceeding for the revocation of any professional or business license or any criminal violation and, if so, the nature and disposition of the proceeding;

[6.] (VI) A statement of whether, during the past 7 years, the individual has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control, or distribution of prescription drugs, together with details concerning the event;

[7.] (VII) A description of any involvement, including any investments other than the ownership of stock in a publicly traded company or mutual fund, by the individual during the past 7 years with any business that manufactures, administers, prescribes, distributes, or stores prescription drugs, and any lawsuits in which the business was named as a party;

[8.] (VIII) [A.] 1. A description of any misdemeanor or felony offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere; and

[B.] 2. If the individual indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal, within 15 days after the disposition of the appeal, a copy of the final written order of disposition; and

previous 180 days.

[9.] (IX) A photograph of the individual taken in the

(c) The information required under subsection (b) of this section shall be provided under oath.

(d) The Board may not issue a wholesale distributor permit to an applicant unless the Board or its designee:

(1) [Conducts] **IF THE APPLICANT HOLDS PRESCRIPTION DRUGS OR DEVICES, CONDUCTS** a physical inspection of the applicant's place of business, including any facility of the applicant;

(2) Finds that the place of business and facility, if any, meets the Board's requirements;

(3) Determines that the designated representative of the applicant meets the following qualifications:

(i) Is at least 21 years of age;

(ii) Has been employed full time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and record keeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the daily operation of the wholesale distributor;

(v) Is physically present, except for an authorized absence such as sick leave or vacation leave, at the facility of the applicant during regular business hours;

(vi) Is serving as a designated representative for only one applicant at a time, or for two or more wholesale distributors who are located in the same facility and are members of an affiliated group, as defined in § 1504 of the Internal Revenue Code;

(vii) Does not have any convictions for a violation of any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(viii) Does not have any convictions for a felony under federal, state, or local laws; and

(4) Determines that the immediate supervisor of the designated representative of the applicant meets the following qualifications:

(i) Is at least 21 years of age;

(ii) Has been employed full time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and record keeping relating to, prescription drugs;

(iii) Is employed by the applicant full time in a managerial level position;

(iv) Is actively involved in and aware of the daily operation of the wholesale distributor;

(v) Does not have any convictions for a violation of any federal, state, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances; and

(vi) Does not have any convictions for a felony under federal, state, or local laws.

[(e) (1) In this subsection, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) In accordance with the requirements of this subsection, the Board shall submit the fingerprints provided with a permit application to the Central Repository for a State and national criminal history records check of the designated representative and the immediate supervisor of the designated representative.

(3) As part of an application to the Central Repository for a State and national criminal history records check, the Board shall submit to the Central Repository:

(i) Two complete sets of legible fingerprints taken on forms approved by the director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and

(iii) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(4) In accordance with \$ 10–201 through 10–228 of the Criminal Procedure Article, the Central Repository shall forward to the Board and to the applicant the criminal history record information of the applicant.

(5) Information obtained from the Central Repository under this subsection:

- (i) Shall be confidential;
- (ii) May not be redisseminated; and
- (iii) Shall be used only for the permitting purpose authorized by this subtitle.

(6) The subject of a criminal history records check under this subsection may contest the contents of the printed statement issued by the Central Repository as provided in § 10-223 of the Criminal Procedure Article.]

(E) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK IN ACCORDANCE WITH \$12-6C-05.1 OF THIS SUBTITLE.

(h) Within 30 days after the date the Board receives a completed application, including the results of all required criminal history records checks, the Board shall notify the applicant of the Board's acceptance or rejection of the application.

12-6C-05.1.

(A) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(2) This subsection applies to applicants located in the State.

(3) AS PART OF AN APPLICATION TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK, THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

(III) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

IN ACCORDANCE WITH §§ 10–201 THROUGH 10–228 OF THE (4) CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD THE CRIMINAL HISTORY RECORDS INFORMATION OF THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT TO THE BOARD AND THE APPLICANT.

THE BOARD SHALL ENSURE THAT INFORMATION OBTAINED (5) FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION:

> **(I)** IS KEPT CONFIDENTIAL;

(II) IS NOT REDISSEMINATED; AND

(III) IS USED ONLY FOR THE PERMITTING PURPOSE AUTHORIZED BY THIS SUBTITLE.

THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK (6) UNDER THIS SUBSECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY THE CENTRAL REPOSITORY AS PROVIDED IN § 10-223 OF THE CRIMINAL PROCEDURE ARTICLE.

THIS SUBSECTION APPLIES TO APPLICANTS LOCATED **(B)** (1) **OUTSIDE THE STATE.**

(2) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK BY THE APPLICANT'S STATE OF RESIDENCE, IN ACCORDANCE WITH THE LAWS OF THE APPLICANT'S STATE OF RESIDENCE.

> (3) THE CRIMINAL HISTORY RECORDS CHECK SHALL CONSIST OF:

(I) A STATE CRIMINAL HISTORY RECORDS CHECK FOR THE **APPLICANT'S STATE OF RESIDENCE; AND**

> **(II)** A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(4) THE DESIGNATED REPRESENTATIVE AND THE IMMEDIATE SUPERVISOR OF THE DESIGNATED REPRESENTATIVE OF AN APPLICANT SHALL **REQUEST THE APPROPRIATE ENTITY IN THE APPLICANT'S STATE OF RESIDENCE** TO FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORDS CHECK TO THE BOARD AND THE APPLICANT.

(5) THE BOARD SHALL ENSURE THAT INFORMATION OBTAINED UNDER THIS SUBSECTION:

- (I) IS KEPT CONFIDENTIAL;
- (II) IS NOT REDISSEMINATED; AND

(III) IS USED ONLY FOR THE PERMITTING PURPOSE AUTHORIZED BY THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 464

(Senate Bill 135)

AN ACT concerning

Ground Leases – Registration – Failure to Register

FOR the purpose of prohibiting a ground lease holder from collecting certain ground rent payments, bringing a certain action, or obtaining a certain lien unless the ground lease is registered with the State Department of Assessments and Taxation and the ground lease holder has mailed a certain bill to certain addresses; altering the required contents of certain notices; repealing a certain deadline for registering a ground lease with the Department; repealing certain provisions of law relating to the extinguishment of the reversionary interest of a ground lease holder for failure to register the ground lease before a certain date; making certain conforming changes; establishing that certain ground lease extinguishment certificates are void and have no effect; requiring the Department, on request of a ground lease holder or leasehold tenant, to cause to be filed in the land records of the county in which a certain ground lease extinguishment certificate was filed, a certain notice that the extinguishment has been invalidated by a certain court decision and that the underlying leasehold interest remains in full force and effect; providing for the construction of this Act: and generally relating to ground leases.

BY repealing and reenacting, with amendments,

Article – Real Property Section 3–102(a), 8–402.3(d) and (e)(3), 8–704, 8–705, 8–709, 8–710, 8–711, and 14–116.1(d) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Real Property Section 8–402.3(c) and (e)(1), and 8–703 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing

Article – Real Property Section 8–707, 8–708, and 14–116.1(c) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Real Property Section 8–707 and 14–116.1(c) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Real Property

3-102.

(a) (1) Any other instrument affecting property, including any contract for the grant of property, or any subordination agreement establishing priorities between interests in property may be recorded.

(2) The following instruments also may be recorded:

(i) Any notice of deferred property footage assessment for street construction;

(ii) Any boundary survey plat signed and sealed by a professional land surveyor or property line surveyor licensed in the State;

(iii) Any assumption agreement by which a person agrees to assume the liability of a debt or other obligation secured by a mortgage or deed of trust;

(iv) Any release of personal liability of a borrower or guarantor under a mortgage or under a note or other obligation secured by a deed of trust;

(v) A ground rent redemption certificate or a ground rent extinguishment certificate issued under § 8–110 of this article [or a ground lease extinguishment certificate issued under § 8–708 of this article]; or

(vi) An affordable housing land trust agreement executed under Title 14, Subtitle 5 of this article with any transfer of property for which an affordable housing land trust has a reversionary interest.

(3) The recording of any instrument constitutes constructive notice from the date of recording.

8-402.3.

(c) (1) Notwithstanding any provision of a ground lease giving the ground lease holder the right to reenter, the establishment of a lien under this section is the remedy for nonpayment of a ground rent.

(2) This section does not affect the right of a ground lease holder to bring a civil action against the leasehold tenant seeking a money judgment for the amount of the past due ground rent.

(d) (1) Subject to §§ 8–111 and 8–111.1 of this title AND PARAGRAPH (2) OF THIS SUBSECTION, if a ground rent is unpaid 6 months after its due date, the ground lease holder may obtain a lien under this section in the amount of the ground rent due.

(2) THE GROUND LEASE HOLDER MAY NOT OBTAIN A LIEN UNDER THIS SECTION UNLESS:

(I) THE GROUND LEASE IS REGISTERED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER SUBTITLE 7 OF THIS TITLE; AND

(II) THE GROUND LEASE HOLDER HAS MAILED A BILL FOR THE PAYMENT DUE TO THE LAST KNOWN ADDRESS OF THE LEASEHOLD TENANT AND TO THE ADDRESS OF THE PROPERTY SUBJECT TO THE GROUND LEASE IN ACCORDANCE WITH § 14–116.1 OF THIS ARTICLE.

(e) (1) A ground lease holder seeking to create a lien under this section shall give written notice to:

(i) The leasehold tenant; and

(ii) Each mortgagee or trustee of the property whose lien is on

record.

- (3) A notice under this subsection shall include:
 - (i) The name and address of the party seeking to create the

lien;

- (ii) A statement of intent to create a lien;
- (iii) An identification of the ground lease;

(iv) A STATEMENT THAT THE GROUND LEASE IS REGISTERED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;

(V) The amount of ground rent alleged to be due;

[(vi)] (VII) A statement that the party to whom notice is given under this subsection has the right to object to the establishment of a lien by filing a complaint in the circuit court and the right to a hearing;

[(vii)] (VIII) An explanation of the procedure to file a complaint and request a hearing; and

[(viii)] (IX) A statement that, unless the past due ground rent is paid or a complaint is filed under subsection (f) of this section within 45 days after the notice is served, a lien will be imposed on the property.

8-703.

(a) The Department shall maintain an online registry of properties that are subject to ground leases.

(b) The Department is not responsible for the completeness or accuracy of the contents of the online registry.

8 - 704.

(a) A ground lease holder shall register a ground lease with the Department by submitting:

(1) A registration form that the Department requires; and

(2) The registration fee for each ground lease as provided under subsection (c) of this section.

(b) The registration form shall include:

(1) The premise address and tax identification number of the property for which the ground lease was created;

(2) The name and address of the ground lease holder;

(3) The name and address of the leasehold tenant;

(4) The name and address of the person to whom the ground rent payment is sent;

(5) The amount and payment dates of the ground rent installments;

(6) To the best of the ground lease holder's knowledge, a statement of the range of years in which the ground lease was created; and

(7) The liber and folio information for the current ground rent deed of record.

(c) The registration fee for a ground lease per ground lease holder is:

- (1) \$10 for the first ground lease; and
- (2) [For] **\$5** FOR each additional ground lease[:
 - (i) \$3 before October 1, 2008;
 - (ii) \$4 on or after October 1, 2008 and before October 1, 2009;

and

(iii) \$5 on or after October 1, 2009].

8 - 705.

(a) The Department shall register a ground lease when the Department receives:

- (1) A registration form; and
- (2) The appropriate registration fee for each ground lease.

(b) [(1)] If for any reason the Department is unable to register a ground lease for which a registration form and appropriate fee has been submitted, the

Department shall notify the ground lease holder of that ground lease, within 30 days of processing the registration form, of any information needed by the Department so as to complete the registration.

[(2) The ground lease holder shall have up to 30 days to supply the needed information to the Department before any action may be taken under § 8-708 of this subtitle.]

[8-707.

(a) Except as provided in subsection (b) of this section, a ground lease holder shall register a ground lease under this subtitle before September 30, 2010.

(b) If a ground lease holder is under a legal disability at the expiration of the registration period under subsection (a) of this section, the ground lease holder has 2 years after the removal of the disability to register the ground lease.]

8-707.

IF A GROUND LEASE IS NOT REGISTERED IN ACCORDANCE WITH THIS SUBTITLE, THE GROUND LEASE HOLDER MAY NOT:

(1) COLLECT ANY GROUND RENT PAYMENTS DUE UNDER THE GROUND LEASE;

(2) BRING A CIVIL ACTION AGAINST THE LEASEHOLD TENANT SEEKING A MONEY JUDGMENT FOR THE AMOUNT OF ANY GROUND RENT DUE TO ENFORCE ANY RIGHTS THE GROUND LEASE HOLDER MAY HAVE UNDER THE GROUND LEASE; OR

(3) OBTAIN A LIEN UNDER § 8–402.3 OF THIS TITLE.

[8-708.

(a) If a ground lease holder does not satisfy the requirements of § 8–707 of this subtitle, the reversionary interest of the ground lease holder under the ground lease is extinguished and ground rent is no longer payable to the ground lease holder.

(b) If a ground lease is extinguished under this section, on application of a leasehold tenant, the Department shall issue to the leasehold tenant a ground lease extinguishment certificate.

(c) The extinguishment of the ground lease is effective to conclusively vest a fee simple title in the leasehold tenant, free and clear of any and all right, title, or interest of the ground lease holder, any lien of a creditor of the ground lease holder, and any person claiming by, through, or under the ground lease holder when the

leasehold tenant records the certificate in the land records of the county in which the property is located.

(d) To the extent that the extinguishment of a ground lease under this section creates income for the leasehold tenant, that income may not be considered in the calculation of income for the purposes of determining eligibility for any State or local program.

(e) If the legal disability of a ground lease holder is removed after a ground lease is extinguished under this section:

(1) If the ground lease extinguishment certificate has been recorded, the ground lease holder:

(i) Is entitled to receive from the former leasehold tenant the redemption value of the ground lease; and

(ii) Has no claim on the property that had been subject to the ground lease; and

(2) If the ground lease extinguishment certificate has not been recorded, the ground lease holder:

(i) May reinstate the ground lease by registering the ground lease with the Department within 2 years after the removal of the legal disability; and

(ii) Is not entitled to ground rent for the period of the legal disability.

(f) If a ground lease is extinguished under this section and a ground lease extinguishment certificate has not been recorded, a buyer of the property for which the ground lease has been extinguished:

(1) May apply to the Department for a ground lease extinguishment certificate and file the certificate in the land records of the county in which the property is located; and

(2) Once the ground lease extinguishment certificate has been filed, may not be required to pay any security or any amount into an escrow account for the extinguished ground lease.]

[8–709.] **8–708.**

The Department shall work with the State Archives to coordinate the recordation, indexing, and linking of ground leases registered under this subtitle.

[8–710.**] 8–709.**

(A) The Department shall credit all fees collected under this subtitle to the fund established under 1-203.3 of the Corporations and Associations Article.

(B) Fees received shall be held in a ground lease registry account in that fund and shall help defray the costs of the registry created under this subtitle.

[8–711.] **8–710.**

The Department shall adopt regulations to carry out this subtitle.

14-116.1.

[(c) No later than 60 days before a yearly or half-yearly installment payment of a ground rent is due, a ground lease holder shall mail to the last known address of the leasehold tenant a bill for the payment due.]

(C) A GROUND LEASE HOLDER MAY NOT COLLECT A YEARLY OR HALF-YEARLY INSTALLMENT PAYMENT OF A GROUND RENT DUE UNDER THE GROUND LEASE UNLESS:

(1) THE GROUND LEASE IS REGISTERED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER TITLE 8, SUBTITLE 7 OF THIS ARTICLE; AND

(2) AT LEAST 60 DAYS BEFORE THE PAYMENT IS DUE, THE GROUND LEASE HOLDER MAILS A BILL TO THE LAST KNOWN ADDRESS OF THE LEASEHOLD TENANT AND TO THE ADDRESS OF THE PROPERTY SUBJECT TO THE GROUND LEASE.

(d) The bill shall include a notice in boldface type, at least as large as 14 point, in substantially the following form:

"NOTICE REQUIRED BY MARYLAND LAW

REGARDING YOUR GROUND RENT

This property (address) is subject to a ground lease. The annual payment on the ground lease ("ground rent") is \$(dollar amount), payable in yearly or half-yearly installments on (date or dates).

The next ground rent payment is due (day, month, year) in the amount of \$(dollar amount).

The payment of the ground rent should be sent to: (name of ground lease holder) (address) (phone number)

NOTE REGARDING YOUR RIGHTS AND RESPONSIBILITIES UNDER MARYLAND LAW:

THE GROUND LEASE HOLDER IS REQUIRED TO REGISTER THE GROUND LEASE WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND IS PROHIBITED FROM COLLECTING GROUND RENT PAYMENTS UNLESS THE GROUND LEASE IS REGISTERED. [As] IF THE GROUND LEASE IS REGISTERED, AS the owner of this property, you are obligated to pay the ground rent to the ground lease holder. TO DETERMINE WHETHER THE GROUND LEASE IS REGISTERED, YOU MAY CHECK THE WEB SITE OF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION. It is also your responsibility to notify the ground lease holder if you change your address or transfer ownership of the property.

If you fail to pay the ground rent on time, you are still responsible for paying the ground rent. In addition, the ground lease holder may take action to collect the past due ground rent which may result ultimately in your loss of the property. Please note that under Maryland law, a ground lease holder may demand not more than 3 years of past due ground rent. If you fail to pay the ground rent on time, you should contact a lawyer for advice.

As the owner of this property, you are entitled to redeem, or purchase, the ground lease from the ground lease holder and obtain absolute ownership of the property. The redemption amount is fixed by law but may also be negotiated with the ground lease holder for a different amount. For information on redeeming the ground lease, contact the ground lease holder. If the identity of the ground lease holder is unknown, the State Department of Assessments and Taxation provides a process to redeem the ground lease that may result in your obtaining absolute ownership of the property. If you would like to obtain absolute ownership of this property, you should contact a lawyer for advice.".

SECTION 2. AND BE IT FURTHER ENACTED, That any ground lease extinguishment certificate issued by the State Department of Assessments and Taxation under former § 8–708 of the Real Property Article is void and has no effect.

SECTION 3. AND BE IT FURTHER ENACTED, That, if a ground lease extinguishment certificate issued under § 8–708 of the Real Property Article, as it existed immediately before the effective date of this Act, was filed in the land records, on request of the ground lease holder or the leasehold tenant, the State Department of Assessments and Taxation shall cause to be filed in the land records of the appropriate county a notice that states "The Certificate of Ground Lease Extinguishment, recorded (insert the appropriate month, day, and year) has been invalidated by the Maryland Court of Appeals pursuant to its holding in Muskin v. State Department of Assessments and Taxation, 422 Md. 544 (2011) and the underlying leasehold interest remains in full force and effect unless otherwise redeemed under applicable Maryland law."

SECTION 4. AND BE IT FURTHER ENACTED, That this Act may not be construed to prohibit a ground lease holder who registers a ground lease under § 8–704 of the Real Property Article, as enacted by Section 1 of this Act, after the effective date of this Act from collecting ground rent payments or taking any other action to enforce any rights under the ground lease, subject to § 8–111.1 of the Real Property Article, after the ground lease is registered.

SECTION $\frac{3}{2}$. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 465

(House Bill 177)

AN ACT concerning

Ground Leases – Registration – Failure to Register

FOR the purpose of prohibiting a ground lease holder from collecting certain ground rent payments, bringing a certain action, or obtaining a certain lien unless the ground lease is registered with the State Department of Assessments and Taxation and the ground lease holder has mailed a certain bill to certain addresses; altering the required contents of certain notices; repealing a certain deadline for registering a ground lease with the Department; repealing certain provisions of law relating to the extinguishment of the reversionary interest of a ground lease holder for failure to register the ground lease before a certain date; requiring the Department to prepare a certain Deed of Redemption that contains certain information; establishing the cost of recording a Deed of Redemption: requiring the clerk to forward a copy of a recorded Deed of Redemption to the Department; making certain conforming changes; establishing that certain ground lease extinguishment certificates are void and have no effect; requiring the Department, on request of a ground lease holder or leasehold tenant, to cause to be filed in the land records of the county in which a certain ground lease extinguishment certificate was filed, a certain notice that the extinguishment has been invalidated by a certain court decision and that the underlying leasehold interest remains in full force and effect; providing for the construction of this Act: and generally relating to ground leases.

BY repealing and reenacting, with amendments,

Article – Real Property Section 3–102(a), 8–402.3(d) and (e)(3), 8–704, 8–705, 8–709, 8–710, <u>8–711</u>, <u>8–711</u>, and 14–116.1(d) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Real Property Section 8–402.3(c) and (e)(1), and 8–703 <u>8–703, and 8–711</u> *and 8–703* Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing

Article – Real Property Section 8–707, 8–708, and 14–116.1(c) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Real Property Section 8–707<u>.8–710.</u> and 14–116.1(c) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article - Real Property

3 - 102.

(a) (1) Any other instrument affecting property, including any contract for the grant of property, or any subordination agreement establishing priorities between interests in property may be recorded.

(2) The following instruments also may be recorded:

(i) Any notice of deferred property footage assessment for street construction;

(ii) Any boundary survey plat signed and sealed by a professional land surveyor or property line surveyor licensed in the State;

(iii) Any assumption agreement by which a person agrees to assume the liability of a debt or other obligation secured by a mortgage or deed of trust;

(iv) Any release of personal liability of a borrower or guarantor under a mortgage or under a note or other obligation secured by a deed of trust;

(v) A ground rent redemption certificate or a ground rent extinguishment certificate issued under § 8–110 of this article [or a ground lease extinguishment certificate issued under § 8–708 of this article]; or

(vi) An affordable housing land trust agreement executed under Title 14, Subtitle 5 of this article with any transfer of property for which an affordable housing land trust has a reversionary interest.

(3) The recording of any instrument constitutes constructive notice from the date of recording.

8-402.3.

(c) (1) Notwithstanding any provision of a ground lease giving the ground lease holder the right to reenter, the establishment of a lien under this section is the remedy for nonpayment of a ground rent.

(2) This section does not affect the right of a ground lease holder to bring a civil action against the leasehold tenant seeking a money judgment for the amount of the past due ground rent.

(d) (1) Subject to §§ 8–111 and 8–111.1 of this title AND PARAGRAPH (2) OF THIS SUBSECTION, if a ground rent is unpaid 6 months after its due date, the ground lease holder may obtain a lien under this section in the amount of the ground rent due.

(2) THE GROUND LEASE HOLDER MAY NOT OBTAIN A LIEN UNDER THIS SECTION UNLESS:

(I) THE GROUND LEASE IS REGISTERED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER SUBTITLE 7 OF THIS TITLE; AND

(II) THE GROUND LEASE HOLDER HAS MAILED A BILL FOR THE PAYMENT DUE TO THE LAST KNOWN ADDRESS OF THE LEASEHOLD TENANT AND TO THE ADDRESS OF THE PROPERTY SUBJECT TO THE GROUND LEASE IN ACCORDANCE WITH § 14–116.1 OF THIS ARTICLE.

(e) (1) A ground lease holder seeking to create a lien under this section shall give written notice to:

(i) The leasehold tenant; and

record.

(ii)

- (3) A notice under this subsection shall include:
 - (i) The name and address of the party seeking to create the

Each mortgagee or trustee of the property whose lien is on

lien;

- (ii) A statement of intent to create a lien;
- (iii) An identification of the ground lease;

(iv) A STATEMENT THAT THE GROUND LEASE IS REGISTERED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;

(V) The amount of ground rent alleged to be due;

[(v)] (VI) A description of the property sufficient to identify the property;

[(vi)] (VII) A statement that the party to whom notice is given under this subsection has the right to object to the establishment of a lien by filing a complaint in the circuit court and the right to a hearing;

[(vii)] (VIII) An explanation of the procedure to file a complaint and request a hearing; and

[(viii)] (IX) A statement that, unless the past due ground rent is paid or a complaint is filed under subsection (f) of this section within 45 days after the notice is served, a lien will be imposed on the property.

8-703.

(a) The Department shall maintain an online registry of properties that are subject to ground leases.

(b) The Department is not responsible for the completeness or accuracy of the contents of the online registry.

8 - 704.

(a) A ground lease holder shall register a ground lease with the Department by submitting:

(1) A registration form that the Department requires; and

Chapter 465

(2) The registration fee for each ground lease as provided under subsection (c) of this section.

(b) The registration form shall include:

(1) The premise address and tax identification number of the property for which the ground lease was created;

(2) The name and address of the ground lease holder;

(3) The name and address of the leasehold tenant;

(4) The name and address of the person to whom the ground rent payment is sent;

(5) The amount and payment dates of the ground rent installments;

(6) To the best of the ground lease holder's knowledge, a statement of the range of years in which the ground lease was created; and

(7) The liber and folio information for the current ground rent deed of record.

(c) The registration fee for a ground lease per ground lease holder is:

- (1) \$10 for the first ground lease; and
- (2) [For] **\$5** FOR each additional ground lease[:
 - (i) \$3 before October 1, 2008;
 - (ii) \$4 on or after October 1, 2008 and before October 1, 2009;

and

(iii) \$5 on or after October 1, 2009].

8 - 705.

(a) The Department shall register a ground lease when the Department receives:

- (1) A registration form; and
- (2) The appropriate registration fee for each ground lease.

(b) [(1)] If for any reason the Department is unable to register a ground lease for which a registration form and appropriate fee has been submitted, the

Department shall notify the ground lease holder of that ground lease, within 30 days of processing the registration form, of any information needed by the Department so as to complete the registration.

[(2) The ground lease holder shall have up to 30 days to supply the needed information to the Department before any action may be taken under § 8-708 of this subtitle.]

[8-707.

(a) Except as provided in subsection (b) of this section, a ground lease holder shall register a ground lease under this subtitle before September 30, 2010.

(b) If a ground lease holder is under a legal disability at the expiration of the registration period under subsection (a) of this section, the ground lease holder has 2 years after the removal of the disability to register the ground lease.]

8-707.

IF A GROUND LEASE IS NOT REGISTERED IN ACCORDANCE WITH THIS SUBTITLE, THE GROUND LEASE HOLDER MAY NOT:

(1) COLLECT ANY GROUND RENT PAYMENTS DUE UNDER THE GROUND LEASE;

(2) BRING A CIVIL ACTION AGAINST THE LEASEHOLD TENANT SEEKING A MONEY JUDGMENT FOR THE AMOUNT OF ANY GROUND RENT DUE TO ENFORCE ANY RIGHTS THE GROUND LEASE HOLDER MAY HAVE UNDER THE GROUND LEASE; OR

(3) OBTAIN A LIEN UNDER § 8–402.3 OF THIS TITLE.

[8-708.

(a) If a ground lease holder does not satisfy the requirements of § 8–707 of this subtitle, the reversionary interest of the ground lease holder under the ground lease is extinguished and ground rent is no longer payable to the ground lease holder.

(b) If a ground lease is extinguished under this section, on application of a leasehold tenant, the Department shall issue to the leasehold tenant a ground lease extinguishment certificate.

(c) The extinguishment of the ground lease is effective to conclusively vest a fee simple title in the leasehold tenant, free and clear of any and all right, title, or interest of the ground lease holder, any lien of a creditor of the ground lease holder, and any person claiming by, through, or under the ground lease holder when the

leasehold tenant records the certificate in the land records of the county in which the property is located.

(d) To the extent that the extinguishment of a ground lease under this section creates income for the leasehold tenant, that income may not be considered in the calculation of income for the purposes of determining eligibility for any State or local program.

(e) If the legal disability of a ground lease holder is removed after a ground lease is extinguished under this section:

(1) If the ground lease extinguishment certificate has been recorded, the ground lease holder:

(i) Is entitled to receive from the former leasehold tenant the redemption value of the ground lease; and

(ii) Has no claim on the property that had been subject to the ground lease; and

(2) If the ground lease extinguishment certificate has not been recorded, the ground lease holder:

(i) May reinstate the ground lease by registering the ground lease with the Department within 2 years after the removal of the legal disability; and

(ii) Is not entitled to ground rent for the period of the legal disability.

(f) If a ground lease is extinguished under this section and a ground lease extinguishment certificate has not been recorded, a buyer of the property for which the ground lease has been extinguished:

(1) May apply to the Department for a ground lease extinguishment certificate and file the certificate in the land records of the county in which the property is located; and

(2) Once the ground lease extinguishment certificate has been filed, may not be required to pay any security or any amount into an escrow account for the extinguished ground lease.]

[8–709.] **8–708.**

The Department shall work with the State Archives to coordinate the recordation, indexing, and linking of ground leases registered under this subtitle.

[8–710.**] 8–709.**

(A) The Department shall credit all fees collected under this subtitle to the fund established under 1-203.3 of the Corporations and Associations Article.

(B) Fees received shall be held in a ground lease registry account in that fund and shall help defray the costs of the registry created under this subtitle.

<u>8–710.</u>

(A) THE DEPARTMENT SHALL PREPARE A ONE-PAGE DEED OF REDEMPTION THAT CONTAINS THE FOLLOWING INFORMATION:

(1) THE ADDRESS AND TAX IDENTIFICATION NUMBER OF THE PROPERTY FOR WHICH THE GROUND LEASE WAS CREATED;

- (2) THE NAME AND ADDRESS OF THE GROUND LEASE HOLDER;
- (3) THE NAME AND ADDRESS OF THE LEASEHOLD TENANT;
- (4) <u>THE AMOUNT OF THE GROUND RENT INSTALLMENTS;</u>
- (5) THE AMOUNT OF THE REDEMPTION;

(6) A STATEMENT FROM THE SELLER GIVING A SPECIAL WARRANTY DEED;

(7) AN ACKNOWLEDGMENT UNDER § 4-204 OF THIS ARTICLE; AND

(8) (1) THE LIBER AND FOLIO INFORMATION FOR THE CURRENT GROUND RENT DEED OF RECORD; OR

(II) <u>A STATEMENT UNDER OATH THAT THE CURRENT</u> <u>GROUND RENT OWNER HAS COLLECTED THE GROUND RENT FOR MORE THAN 20</u> <u>YEARS WITHOUT PROTEST OR DISPUTE FROM ANY PERSON.</u>

(B) (1) THE FEE FOR RECORDING A DEED OF REDEMPTION IS \$10.

(2) No taxes, stamps, recording fees, or other charges may be collected for recording a Deed of Redemption other than the fee stated in paragraph (1) of this subsection.

(3) THE CLERK OF THE COUNTY IN WHICH THE DEED OF Redemption is recorded shall forward a copy of the Deed of Redemption to the Department.

[8-711. <u>8-710.</u>] 8-710.

The Department shall adopt regulations to carry out this subtitle.

14–116.1.

[(c) No later than 60 days before a yearly or half-yearly installment payment of a ground rent is due, a ground lease holder shall mail to the last known address of the leasehold tenant a bill for the payment due.]

(C) A GROUND LEASE HOLDER MAY NOT COLLECT A YEARLY OR HALF-YEARLY INSTALLMENT PAYMENT OF A GROUND RENT DUE UNDER THE GROUND LEASE UNLESS:

(1) THE GROUND LEASE IS REGISTERED WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER TITLE 8, SUBTITLE 7 OF THIS ARTICLE; AND

(2) AT LEAST 60 DAYS BEFORE THE PAYMENT IS DUE, THE GROUND LEASE HOLDER MAILS A BILL TO THE LAST KNOWN ADDRESS OF THE LEASEHOLD TENANT AND TO THE ADDRESS OF THE PROPERTY SUBJECT TO THE GROUND LEASE.

(d) The bill shall include a notice in boldface type, at least as large as 14 point, in substantially the following form:

"NOTICE REQUIRED BY MARYLAND LAW

REGARDING YOUR GROUND RENT

This property (address) is subject to a ground lease. The annual payment on the ground lease ("ground rent") is \$(dollar amount), payable in yearly or half-yearly installments on (date or dates).

The next ground rent payment is due (day, month, year) in the amount of \$(dollar amount).

The payment of the ground rent should be sent to: (name of ground lease holder) (address) (phone number)

NOTE REGARDING YOUR RIGHTS AND RESPONSIBILITIES UNDER MARYLAND LAW:

THE GROUND LEASE HOLDER IS REQUIRED TO REGISTER THE GROUND LEASE WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND IS PROHIBITED FROM COLLECTING GROUND RENT PAYMENTS UNLESS THE GROUND LEASE IS REGISTERED. [As] IF THE GROUND LEASE IS REGISTERED, AS the owner of this property, you are obligated to pay the ground rent to the ground lease holder. TO DETERMINE WHETHER THE GROUND LEASE IS REGISTERED, YOU MAY CHECK THE WEB SITE OF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION. It is also your responsibility to notify the ground lease holder if you change your address or transfer ownership of the property.

If you fail to pay the ground rent on time, you are still responsible for paying the ground rent. In addition, the ground lease holder may take action to collect the past due ground rent which may result ultimately in your loss of the property. Please note that under Maryland law, a ground lease holder may demand not more than 3 years of past due ground rent. If you fail to pay the ground rent on time, you should contact a lawyer for advice.

As the owner of this property, you are entitled to redeem, or purchase, the ground lease from the ground lease holder and obtain absolute ownership of the property. The redemption amount is fixed by law but may also be negotiated with the ground lease holder for a different amount. For information on redeeming the ground lease, contact the ground lease holder. If the identity of the ground lease holder is unknown, the State Department of Assessments and Taxation provides a process to redeem the ground lease that may result in your obtaining absolute ownership of the property. If you would like to obtain absolute ownership of this property, you should contact a lawyer for advice.".

SECTION 2. AND BE IT FURTHER ENACTED, That any ground lease extinguishment certificate issued by the State Department of Assessments and Taxation under former § 8–708 of the Real Property Article is void and has no effect.

SECTION 3. AND BE IT FURTHER ENACTED, That, if a ground lease extinguishment certificate issued under § 8–708 of the Real Property Article, as it existed immediately before the effective date of this Act, was filed in the land records, on request of the ground lease holder or the leasehold tenant, the State Department of Assessments and Taxation shall cause to be filed in the land records of the appropriate county a notice that states "The Certificate of Ground Lease Extinguishment, recorded (insert the appropriate month, day, and year) has been invalidated by the Maryland Court of Appeals pursuant to its holding in Muskin v. State Department of Assessments and Taxation, 422 Md. 544 (2011) and the underlying leasehold interest remains in full force and effect unless otherwise redeemed under applicable Maryland law."

SECTION 4. AND BE IT FURTHER ENACTED, That this Act may not be construed to prohibit a ground lease holder who registers a ground lease under § 8–704 of the Real Property Article, as enacted by Section 1 of this Act, after the effective date of this Act from collecting ground rent payments or taking any other action to enforce any rights under the ground lease, subject to § 8–111.1 of the Real Property Article, after the ground lease is registered.

SECTION $\frac{3}{2}$, 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 466

(Senate Bill 143)

AN ACT concerning

Education – Comprehensive Master Plans

FOR the purpose of requiring a local board of education to submit certain updates to the board's comprehensive master plan on or before certain dates; altering certain dates by which a local board of education is required to submit a certain master plan and certain updates to the plan; and generally relating to comprehensive master plans and updates to master plans submitted by local boards of education.

BY repealing and reenacting, without amendments, Article – Education Section 5–401(a) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Education Section 5–401(b) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

5 - 401.

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

(2) "Local performance standards" means standards for student and school performance developed by a county board.

(3) "Plan" means a comprehensive master plan.

(4) "State performance standards" means standards for student and school performance approved by the State Board.

(5) "Update" means an annual update to a county board's comprehensive master plan.

(b) (1) Each county board shall develop and implement a comprehensive master plan that describes the goals, objectives, and strategies that will be used to improve student achievement and meet State performance standards and local performance standards in each segment of the student population.

(2) (i) Each county board shall submit a plan to the Department on or before October 1, 2003.

(ii) Each county board shall submit an update to the plan required under subparagraph (i) of this paragraph for review and approval by the State Superintendent of Schools on or before:

- 1. October 15, [2008] **2012**;
- 2. October 15, [2009] **2013**; AND
- 3. October 15, **[**2010; and
- 4. October 15, 2011] **2014**.

(3) (i) On or before October 15, [2012] **2015**, each county board shall submit a plan to the Department.

(ii) Beginning in [2013] **2016**, each county board shall submit an annual update for review and approval by the State Superintendent of Schools on or before October 15 of each year.

(4) (i) Subject to subsection (i) of this section, the plan and updates required under paragraph (3) of this subsection shall cover a 5-year period.

(ii) At least 30 days before submitting a plan or update to the Department, a county board shall provide a copy of the proposed plan or update, with a copy of the final plan or update to follow, to the:

1. County council and if applicable, county executive; or

2. County commissioners.

(5) Each county board shall submit with the update required under paragraph (3)(ii) of this subsection:

(i) A detailed summary of how the board's current year approved budget and increases in expenditures over the prior year are consistent with the master plan; and

(ii) A summary of how the board's actual prior year budget and additional expenditures in the prior year's budget aligned with the master plan.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 467

(Senate Bill 167)

AN ACT concerning

Tax Credits for Qualifying Employees with Disabilities – Sunset Repeal <u>Extension</u>

FOR the purpose of <u>repealing</u> <u>extending</u> certain termination provisions and altering certain dates of applicability for certain tax credits allowed to employers that hire certain qualifying individuals with disabilities; and generally relating to certain tax credits allowed to employers that hire certain qualifying employees facing certain employment barriers.

BY repealing and reenacting, with amendments,

Chapter 112 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, Chapter 394 of the Acts of the General Assembly of 2006, Chapter 370 of the Acts of the General Assembly of 2007, Chapter 658 of the Acts of the General Assembly of 2008, Chapter 290 of the Acts of the General Assembly of 2009, Chapter 252 of the Acts of the General Assembly of 2010, and Chapter 558 of the Acts of the General Assembly of 2011

Section 4 and 6

BY repealing and reenacting, with amendments,

Chapter 113 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, Chapter 394 of the Acts of the General Assembly of 2006, Chapter 370 of the Acts of the General Assembly of 2007, Chapter 658 of the Acts of the General Assembly of 2008, Chapter 290 of the Acts of the General Assembly of 2009, Chapter 252 of the Acts of the General Assembly of 2010, and Chapter 558 of the Acts of the General Assembly of 2011

Section $4 \mbox{ and } 6$

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

Chapter 112 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, Chapter 394 of the Acts of 2006, Chapter 370 of the Acts of 2007, Chapter 658 of the Acts of 2008, Chapter 290 of the Acts of 2009, Chapter 252 of the Acts of 2010, and Chapter 558 of the Acts of 2011

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 [but before January 1, 2015 2016]; provided, however, that the tax credit under § 21–309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after October 1, 1997 [but before July 1, 2012 2013; and provided further that any excess credits under § 21–309 of the Education Article may be carried forward and, subject to the limitations under § 21–309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, 2015 2016].

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. [It shall remain in effect for a period of $\frac{14}{15}$ years and 9 months and at the end of June 30, $\frac{2012}{2013}$, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

Chapter 113 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, Chapter 394 of the Acts of 2006, Chapter 370 of the Acts of 2007, Chapter 658 of the Acts of 2008, Chapter 290 of the Acts of 2009, Chapter 252 of the Acts of 2010, and Chapter 558 of the Acts of 2011

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 [but before January 1, 2015 2016]; provided, however, that the tax credit under § 21–309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees

hired on or after October 1, 1997 **[**but before July 1, $\frac{2012}{2013}$; and provided further that any excess credits under § 21–309 of the Education Article may be carried forward and, subject to the limitations under § 21–309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, $\frac{2015}{2016}$.

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. [It shall remain in effect for a period of $\frac{14}{15}$ years and 9 months and at the end of June 30, $\frac{2012}{2013}$, 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, 2012.

Approved by the Governor, May 22, 2012.

Chapter 468

(Senate Bill 231)

AN ACT concerning

Individuals with Disabilities – Attendant Care Program

FOR the purpose of altering the method used by the Attendant Care Program in the Department of Disabilities to determine sliding payment scales for certain eligible individuals; altering the description of a certain category of eligible individuals who are at risk of placement in a nursing facility or similar institution; authorizing the Secretary of Disabilities to waive a certain proportional requirement if there is a waiting list for certain eligible individuals; authorizing the Secretary to adopt certain regulations; prohibiting the removal of certain eligible individuals from the Program under certain circumstances; altering a certain definition; and generally relating to the Attendant Care Program in the Department of Disabilities.

BY repealing and reenacting, without amendments,

Article – Human Services Section 7–401(a) and 7–402(a) Annotated Code of Maryland (2007 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Human Services Section 7–401(d), 7–402(b), and 7–404 Annotated Code of Maryland (2007 Volume and 2011 Supplement)

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

Article – Human Services

7 - 401.

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

(d) "Eligible individual" means an individual who:

(1) is at least 18 years old and under the age of 65 years **AT THE TIME OF THE INITIAL ELIGIBILITY DETERMINATION**; and

(2) has a severe chronic or permanent physical disability that precludes or significantly impairs the individual's independent performance of essential activities of daily living, self-care, or mobility.

7 - 402.

(a) (1) There is an Attendant Care Program in the Department.

(2) The purpose of the Program is to provide financial assistance to eligible individuals for attendant care services.

(b) The Department shall provide financial assistance in accordance with a sliding payment scale that the Department establishes by regulation FOR EACH CATEGORY OF ELIGIBLE INDIVIDUALS DESCRIBED IN § 7–404(A) OF THIS SUBTITLE.

7 - 404.

(a) (1) The Department shall ensure that at any given time at least 50% of the eligible individuals receiving financial assistance under the Program are:

- (i) gainfully employed;
- (ii) actively seeking employment; or

(iii) attending an institution of postsecondary or higher education, as defined in § 10–101 of the Education Article.

(2) The remainder of the eligible individuals receiving financial assistance under the Program shall be individuals who:

(i) reside in a nursing [home] FACILITY or similar institution licensed to provide chronic or intermediate care and who will be deinstitutionalized as a result of the Program; or

(ii) are [on an approved waiting list for] CERTIFIED BY AN ATTENDING PHYSICIAN OR CERTIFIED NURSE PRACTITIONER AS BEING AT RISK OF PLACEMENT IN a nursing [home] FACILITY or similar institution licensed to provide chronic or intermediate care IF ATTENDANT CARE SERVICES ARE NOT RECEIVED IN THE COMMUNITY.

(b) (1) SUBJECT TO THE AVAILABILITY OF FUNDS, THE SECRETARY MAY WAIVE THE PROPORTIONAL REQUIREMENT OF SUBSECTION (A)(1) OF THIS SECTION IN THE EVENT THERE IS A WAITING LIST OF ELIGIBLE INDIVIDUALS DESCRIBED IN SUBSECTION(A)(2) OF THIS SECTION.

(2) THE SECRETARY MAY ADOPT REGULATIONS TO ESTABLISH PRIORITIES AND PROCEDURES FOR A WAITING LIST OF ELIGIBLE INDIVIDUALS.

(3) AN ELIGIBLE INDIVIDUAL RECEIVING FINANCIAL ASSISTANCE MAY NOT BE REMOVED FROM THE PROGRAM TO ACHIEVE THE PROPORTIONAL REQUIREMENT UNDER SUBSECTION (A)(1) OF THIS SECTION.

(C) Financial assistance provided under the Program may not duplicate any other State or federal assistance for attendant care services that an eligible individual receives.

[(c)] (D) The Department shall limit participation in the Program to the number of eligible individuals who can be served with the funds appropriated for the Program in the State budget.

[(d)] (E) Each year, the Department shall review the eligibility of each individual receiving financial assistance.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 469

(Senate Bill 250)

AN ACT concerning

State Retirement and Pension System – Reemployment of Retirees – Exemptions

FOR the purpose of <u>providing that certain retirees of the Correctional Officers'</u> <u>Retirement System are subject to a certain offset of a retirement allowance</u> <u>under certain circumstances; clarifying the circumstances under which certain</u> <u>retirees of the Correctional Officers' Retirement System are subject to a certain</u> <u>offset of a retirement allowance;</u> altering the number of years required after retirement for certain retirees of the State Retirement and Pension System to be exempt from a certain earnings offset of their retirement allowance when reemployed by certain employers; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the reemployment of retirees in the State Retirement and Pension System.

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 24–405(b)(3)(i) and 25–403(b)(1) and (3)(i)

Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – State Personnel and Pensions Section 24–405(b)(1) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 24–405(b)(1)(i) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement) (As enacted by Chapter 644 of the Acts of the General Assembly of 2009)

BY repealing and reenacting, without amendments, Article – State Personnel and Pensions Section 24–405(b)(2)(i) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement) (As enacted by Chapter 644 of the Acts of the General Assembly of 2009) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

25 - 403.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

(I) <u>THE INDIVIDUAL'S CURRENT EMPLOYER IS A</u> <u>PARTICIPATING EMPLOYER OTHER THAN THE STATE AND IS THE SAME</u> <u>PARTICIPATING EMPLOYER THAT EMPLOYED THE INDIVIDUAL AT THE TIME OF</u> <u>THE INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH A</u> <u>PARTICIPATING EMPLOYER BEFORE THE INDIVIDUAL COMMENCED RECEIVING</u> <u>A SERVICE RETIREMENT ALLOWANCE OR VESTED ALLOWANCE; OR</u>

(II) the individual's current employer is any unit of State government; and

(II) the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(3) The reduction under this subsection does not apply to:

(i) an individual who has been retired for **[9] 5** years, beginning on January 1, after the date the individual retires;

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

Article – State Personnel and Pensions

24 - 405.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

(i) the individual's current employer is any unit of State government; and

(ii) the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced

receiving a service retirement allowance or vested allowance was also a unit of State government.

(3) The reduction under paragraph (1) of this subsection does not apply to:

(i) an individual who has been retired for [9] 5 years, beginning on January 1, after the date the individual retires;

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

Article – State Personnel and Pensions

24 - 405.

(b) (1) This subsection does not apply to:

(i) an individual who has been retired for [9] 5 years, beginning on January 1, after the date the individual retires; or

(2) (i) Subject to subparagraph (ii) of this paragraph, the Board of Trustees shall reduce an individual's allowance by the amount that the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect on the taking effect of the termination provisions specified in Chapter 644, § 3 of the Acts of the General Assembly of 2009. If that termination provision takes effect, Section 2 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 470

(House Bill 84)

AN ACT concerning

State Retirement and Pension System – Reemployment of Retirees – Exemptions FOR the purpose of <u>providing that certain retirees of the Correctional Officers'</u> <u>Retirement System are subject to a certain offset of a retirement allowance</u> <u>under certain circumstances; clarifying the circumstances under which certain</u> <u>retires retirees of the Correctional Officers' Retirement System are subject to a</u> <u>certain offset of a retirement allowance;</u> altering the number of years required after retirement for certain retirees of the State Retirement and Pension System to be exempt from a certain earnings offset of their retirement allowance when reemployed by certain employers; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the reemployment of retirees in the State Retirement and Pension System.

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 24–405(b)(3)(i) and 25–403(b)(1) and (3)(i) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – State Personnel and Pensions Section 24–405(b)(1) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 24–405(b)(1)(i) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement) (As enacted by Chapter 644 of the Acts of the General Assembly of 2009)

BY repealing and reenacting, without amendments, Article – State Personnel and Pensions Section 24–405(b)(2)(i) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement) (As enacted by Chapter 644 of the Acts of the General Assembly of 2009)

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

Article – State Personnel and Pensions

25 - 403.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

(I) <u>THE INDIVIDUAL'S CURRENT EMPLOYER IS A</u> <u>PARTICIPATING EMPLOYER OTHER THAN THE STATE AND IS THE SAME</u> <u>PARTICIPATING EMPLOYER THAT EMPLOYED THE INDIVIDUAL AT THE TIME OF</u> <u>THE INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH A</u> <u>PARTICIPATING EMPLOYER BEFORE THE INDIVIDUAL COMMENCED RECEIVING</u> <u>A SERVICE RETIREMENT ALLOWANCE OR VESTED ALLOWANCE; OR</u>

(II) the individual's current employer is any unit of State government; and

(II) the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(3) The reduction under this subsection does not apply to:

(i) an individual who has been retired for [9] 5 years, beginning on January 1, after the date the individual retires;

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

Article – State Personnel and Pensions

24 - 405.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

(i) the individual's current employer is any unit of State government; and

(ii) the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(3) The reduction under paragraph (1) of this subsection does not apply to:

(i) an individual who has been retired for [9] 5 years, beginning on January 1, after the date the individual retires;

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

Article – State Personnel and Pensions

24 - 405.

(b) (1) This subsection does not apply to:

(i) an individual who has been retired for [9] 5 years, beginning on January 1, after the date the individual retires; or

(2) (i) Subject to subparagraph (ii) of this paragraph, the Board of Trustees shall reduce an individual's allowance by the amount that the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect on the taking effect of the termination provisions specified in Chapter 644, § 3 of the Acts of the General Assembly of 2009. If that termination provision takes effect, Section 2 of this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 471

(Senate Bill 251)

AN ACT concerning

Teachers' Retirement and Pension Systems – Reemployment of Retirees – Maryland School for the Deaf Exemption

FOR the purpose of exempting from a certain offset of a retirement allowance certain retirees of the Teachers' Retirement System or the Teachers' Pension System who are employed by the Maryland School for the Deaf; <u>providing that the</u> <u>superintendent of the Maryland School for the Deaf may employ a certain</u> <u>number of certain retirees who will not be subject to a certain offset of a</u> <u>retirement allowance; requiring that the superintendent of the Maryland School</u> <u>for the Deaf is responsible for certain reimbursements under certain</u> circumstances; requiring the superintendent of the Maryland School for the Deaf to submit certain reports to the Board of Trustees for the State Retirement and Pension System and the Superintendent of the State Department of Education in a certain manner and by a certain date; and generally relating to the reemployment of retirees in the teachers' retirement and pension systems.

BY repealing and reenacting, without amendments, Article – State Personnel and Pensions Section 22–406(a) and (c)(4)(v) and (vi) and 23–407(a) and (c)(4)(iv) and (v) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions Section <u>22-406(c)(5)</u> and (6) and <u>23-407(c)(5)</u> and (6) <u>22-406(c)(5)</u>, (6), (8), (9), and (10) and <u>23-407(c)(5)</u>, (6), (8), (9), and (10)

Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – State Personnel and Pensions

22-406.

(a) In this section, "area of critical shortage" means an academic field identified by the State Department of Education in accordance with the provisions of § 18-703(g)(1) of the Education Article as having projected employment vacancies that substantially exceed projected qualified graduates.

(c) (4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(v) a retiree of the Teachers' Retirement System who:

1. is or has been certified to teach in the State;

2. has verification of satisfactory or better performance in the last assignment prior to retirement;

3. based on the retired teacher's qualifications, has been appointed in accordance with § 4-103 of the Education Article; and

4. receives verification of satisfactory or better performance each year the teacher is employed under paragraph (5) of this subsection;

(vi) a retiree of the Teachers' Retirement System who:

1. A. was employed as a principal within 5 years of retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection;

(5) (i) An individual who is rehired under paragraph (4)(v) of this subsection shall be employed as a classroom teacher, substitute classroom teacher, or teacher mentor in:

1. a public school that:

[1.] A. is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

[2.] **B.** is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

[3.] C. has more than 50% of the students attending that school who are eligible for free and reduced-price meals established by the United States Department of Agriculture; or

[4.] **D.** provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school; **OR**

2. THE MARYLAND SCHOOL FOR THE DEAF.

(ii) An individual rehired at a school described under subparagraph (i) of this paragraph shall teach:

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- 1. in an area of critical shortage;
- 2. a special education class for students with special

needs; or

3. a class for students with limited English proficiency.

(6) An individual who is rehired under paragraph (4)(vi) of this subsection shall be employed as a principal at:

(I) a public school that:

[(i)] **1.** is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

[(ii)] **2.** is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

[(iii)] **3.** has more than 50% of the students attending that school who are eligible for free and reduced-price meals established by the United States Department of Agriculture; or

[(iv)]4. provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school; OR

(II) THE MARYLAND SCHOOL FOR THE DEAF.

(8) (i) Notwithstanding paragraph (5) of this subsection, each superintendent of a local school system AND THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF may rehire an additional number of individuals described under paragraph (4)(v) of this subsection equal to the greater of:

<u>1.</u> <u>five; or</u>

2. <u>0.2% of the total full-time equivalent instructional</u> teachers employed by that local school system **OR THE MARYLAND SCHOOL FOR THE DEAF**, rounded up to the nearest whole number not to exceed 15, as reported annually by the State Department of Education.

(ii) At any one time, the total number of individuals rehired by a superintendent of a local school system OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF under this paragraph may not exceed the number determined under subparagraph (i) of this paragraph.

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(iii) <u>An individual rehired under this paragraph:</u>

<u>1.</u> <u>A.</u> <u>shall be reemployed at a school specified in</u> <u>paragraph (5)(i) of this subsection; and</u>

<u>B.</u> <u>may teach any subject or class or provide educational</u> services assigned by the individual's superintendent; or

<u>2.</u> <u>A.</u> <u>may be reemployed at any school assigned by</u> <u>the individual's superintendent; and</u>

<u>B.</u> <u>shall teach a subject or class or provide educational</u> <u>services specified in paragraph (5)(ii) of this subsection.</u>

(9) (i) The superintendent of the local school system OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF rehiring an individual under paragraph (4)(v) or (vi) of this subsection shall:

- <u>1.</u> approve the rehiring of that individual; and
- <u>2.</u> determine the school where the individual is to be

<u>reemployed.</u>

(ii) Within 30 days after rehiring an individual, the superintendent of a local school system OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF shall complete and file with the Board of Trustees and the State Department of Education a form provided by the Board of Trustees that certifies that the individual rehired by the local school system OR THE MARYLAND SCHOOL FOR THE DEAF under paragraph (4)(v) or (vi) of this subsection:

(vi) of this subsection;

<u>1.</u> satisfied the criteria provided in paragraph (4)(v) or

<u>2. was reemployed at a school described under</u> paragraph (5)(i) or (6) of this subsection; and

<u>3.</u> if rehired under paragraph (4)(v) of this subsection,

teaching in an area specified in paragraph (5)(ii) of

was:

this subsection; or

Α.

<u>B.</u> <u>teaching in any class or subject or providing</u> <u>educational services as provided under paragraph (8) of this subsection.</u> (iii) 1. On or before April 1 of each year, the Board of Trustees and the State Department of Education shall jointly review any forms filed by a superintendent of a local school system AND OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF under subparagraph (ii) of this paragraph during the previous calendar year.

2. If the Board of Trustees and the State Department of Education agree that a superintendent of a local school system **OR THE MARYLAND SCHOOL FOR THE DEAF** has rehired an individual that does not satisfy the criteria provided in paragraph (4)(v) or (vi) and (5), (6), or (8) of this subsection:

<u>A.</u> on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system OR THE MARYLAND SCHOOL FOR THE DEAF of this individual; and

<u>B.</u> the local school system OR THE MARYLAND SCHOOL FOR THE DEAF shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

(iv) If a superintendent of a local school system OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF rehires an individual that satisfies the criteria provided in paragraphs (4)(v) or (vi) and (5), (6), or (8) of this subsection and the Board of Trustees and the State Department of Education do not receive certification from the superintendent in the time required under subparagraph (ii) of this paragraph:

<u>1.</u> <u>on or before July 1 of the year of the finding, the</u> <u>Board of Trustees shall notify the superintendent of the local school system AND</u> OR <u>THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF of this</u> <u>individual; and</u>

2. <u>the local school system OR THE MARYLAND SCHOOL</u> FOR THE DEAF shall reimburse the Board of Trustees the amount equal to any reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection as a result of the superintendent's failure to submit certification under subparagraph (ii) of this paragraph.

(v) The local school system OR THE MARYLAND SCHOOL FOR THE DEAF shall make the reimbursement on or before December 31 of the year the local school system OR THE MARYLAND SCHOOL FOR THE DEAF receives notice from the Board of Trustees under subparagraph (iii)2A of this paragraph. (10) On or before August 1 of each year, the local superintendent AND <u>THE SUPERINTENDENT FOR</u> <u>OF</u> <u>THE MARYLAND SCHOOL FOR THE DEAF</u> shall report to the State Department of Education for the previous school year:

(i) the number of individuals rehired under paragraph (4)(v) or (vi) or (8) of this subsection;

(ii) <u>1.</u> the school and school system where each individual was rehired; and

<u>2.</u> <u>whether the school:</u>

<u>A.</u> was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

<u>B.</u> <u>was receiving funds under Title 1 of the federal No</u> <u>Child Left Behind Act of 2001;</u>

<u>C.</u> <u>has more than 50% of the students attending that</u> <u>school who are eligible for free and reduced–price meals established by the United</u> <u>States Department of Agriculture; or</u>

<u>D.</u> provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(iii) the original date of rehire for each individual;

(iv) the subject matter taught by each individual;

(v) the annual salary of each individual; and

(vi) the percentage of student population composed of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

23 - 407.

(a) In this section, "area of critical shortage" means an academic field identified by the State Department of Education in accordance with the provisions of § 18-703(g)(1) of the Education Article as having projected employment vacancies that substantially exceed projected qualified graduates.

(c) (4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(iv) a retiree of the Teachers' Pension System who:

1. is or has been certified to teach in the State;

2. has verification of satisfactory or better performance in the last assignment prior to retirement;

3. based on the retired teacher's qualifications, has been appointed in accordance with § 4-103 of the Education Article; and

4. receives verification of satisfactory or better performance each year the teacher is employed under paragraph (5) of this subsection;

(v) a retiree of the Teachers' Pension System who:

1. A. was employed as a principal within 5 years of retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection;

(5) (i) An individual who is rehired under paragraph (4)(iv) of this subsection shall be employed as a classroom teacher, substitute classroom teacher, or teacher mentor in:

1. a public school that:

[1.] A. is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

[2.] **B.** is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

[3.] C. has more than 50% of the students attending that school who are eligible for free and reduced-price meals established by the United States Department of Agriculture; or

[4.] **D.** provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school; **OR**

2. THE MARYLAND SCHOOL FOR THE DEAF.

(ii) An individual rehired at a school described under subparagraph (i) of this paragraph shall teach:

1. in an area of critical shortage;

needs; or

3. a class for students with limited English proficiency.

a special education class for students with special

(6) An individual who is rehired under paragraph (4)(v) of this subsection shall be employed as a principal at:

(I) a public school that:

2.

[(i)] **1.** is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

[(ii)] **2.** is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

[(iii)] **3.** has more than 50% of the students attending that school who are eligible for free and reduced-price meals established by the United States Department of Agriculture; or

[(iv)] 4. provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school; OR

(II) THE MARYLAND SCHOOL FOR THE DEAF.

(8) (i) Notwithstanding paragraph (5) of this subsection, each superintendent of a local school system AND THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF may rehire an additional number of individuals described under paragraph (4)(v) of this subsection equal to the greater of:

<u>1.</u> <u>five; or</u>

2. <u>0.2% of the total full-time equivalent instructional</u> teachers employed by that local school system **OR THE MARYLAND SCHOOL FOR THE DEAF**, rounded up to the nearest whole number not to exceed 15, as reported annually by the State Department of Education.

(ii) At any one time, the total number of individuals rehired by a superintendent of a local school system OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF under this paragraph may not exceed the number determined under subparagraph (i) of this paragraph.

(iii) <u>An individual rehired under this paragraph:</u>

<u>1.</u> <u>A.</u> <u>shall be reemployed at a school specified in</u> <u>paragraph (5)(i) of this subsection; and</u>

<u>B.</u> <u>may teach any subject or class or provide educational</u> services assigned by the individual's superintendent; or

<u>2.</u> <u>A.</u> <u>may be reemployed at any school assigned by</u> <u>the individual's superintendent; and</u>

<u>B.</u> <u>shall teach a subject or class or provide educational</u> services specified in paragraph (5)(ii) of this subsection.

(9) (i) The superintendent of the local school system OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF rehiring an individual under paragraph (4)(iv) or (v) of this subsection shall:

<u>1.</u> approve the rehiring of that individual; and

reemployed.

2. determine the school where the individual is to be

(ii) Within 30 days after rehiring an individual, the superintendent of a local school system OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF shall complete and file with the Board of Trustees and the State Department of Education a form provided by the Board of Trustees that certifies that the individual rehired by the local school system OR THE MARYLAND SCHOOL FOR THE DEAF under paragraph (4)(iv) or (v) of this subsection:

(v) of this subsection;

1. <u>satisfied the criteria provided in paragraph (4)(iv) or</u>

<u>2.</u> <u>was reemployed at a school described under</u> paragraph (5)(i) or (6) of this subsection; and

3.

was:

A. teaching in an area specified in paragraph (5)(ii) of

if rehired under paragraph (4)(iv) of this subsection,

this subsection; or

<u>B.</u> <u>teaching in any class or subject or providing</u> <u>educational services as provided under paragraph (8) of this subsection.</u>

(iii) 1. On or before April 1 of each year, the Board of Trustees and the State Department of Education shall jointly review any forms filed by a superintendent of a local school system AND OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF under subparagraph (ii) of this paragraph.

2. If the Board of Trustees and the State Department of Education agree that a superintendent of a local school system **OR THE MARYLAND SCHOOL FOR THE DEAF** has rehired an individual that does not satisfy the criteria provided in paragraph (4)(iv) or (v) and (5), (6), or (8) of this subsection:

<u>A.</u> on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system OR THE MARYLAND SCHOOL FOR THE DEAF of this individual; and

<u>B.</u> the local school system OR THE MARYLAND SCHOOL FOR THE DEAF shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

(iv) If a superintendent of a local school system OR THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF rehires an individual that satisfies the criteria provided in paragraphs (4)(iv) or (v) and (5), (6), or (8) of this subsection and the Board of Trustees and the State Department of Education do not receive certification from the superintendent in the time required under subparagraph (ii) of this paragraph:

<u>1.</u> <u>on or before July 1 of the year of the finding, the</u> <u>Board of Trustees shall notify the superintendent of the local school system AND</u> <u>OR</u> <u>THE SUPERINTENDENT OF THE MARYLAND SCHOOL FOR THE DEAF of this</u> <u>individual; and</u>

2. <u>the local school system OR</u> <u>THE</u> <u>MARYLAND</u> <u>SCHOOL FOR THE DEAF</u> shall reimburse the Board of Trustees the amount equal to any reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection as a result of the superintendent's failure to submit certification under subparagraph (ii) of this paragraph.

(v) The local school system OR THE MARYLAND SCHOOL FOR THE DEAF shall make the reimbursement on or before December 31 of the year the local school system OR THE MARYLAND SCHOOL FOR THE DEAF receives notice from the Board of Trustees under subparagraph (iii)2A of this paragraph.

(10) On or before August 1 of each year, the local superintendent AND THE SUPERINTENDENT FOR OF THE MARYLAND SCHOOL FOR THE DEAF shall report to the State Department of Education for the previous school year:

(i) the number of individuals rehired under paragraph (4)(iv) or (v) or (8) of this subsection;

(ii) <u>1.</u> the school and school system where each individual was rehired; and

<u>2.</u> whether the school:

<u>A.</u> was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

<u>B.</u> was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

<u>C.</u> <u>has more than 50% of the students attending that</u> <u>school who are eligible for free and reduced–price meals established by the United</u> <u>States Department of Agriculture; or</u>

<u>D.</u> provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(iii) the original date of rehire for each individual;

(iv) the subject matter taught by each individual;

(v) the annual salary of each individual; and

(vi) the percentage of student population composed of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 472

(Senate Bill 256)

AN ACT concerning

Property and Casualty Insurance – Commercial Policies – Notices of Premium Increases

FOR the purpose of altering the scope of certain provisions of law that require an insurer to send to certain persons a certain notice of a premium increase for policies of commercial insurance and policies of workers' compensation insurance; providing that the provisions of law do not apply to policies for which the renewal policy premium is in excess of a certain amount and a certain percentage increase over the expiring policy premium; providing for the application of this Act; and generally relating to notices of premium increases for property and casualty insurance.

BY repealing and reenacting, with amendments, Article – Insurance Section 27–608 Annotated Code of Maryland (2011 Replacement Volume)

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

Article – Insurance

27-608.

- (a) (1) This section applies to:
 - (i) policies of commercial insurance; and
 - (ii) policies of workers' compensation insurance.
 - (2) This section does not apply to policies:

(I) issued to exempt commercial policyholders, as defined in § 11-206(j) of this article; OR

(II) FOR WHICH THE RENEWAL POLICY PREMIUM IS:

1. IN EXCESS OF \$500 <u>\$1,000</u>; AND

2. AN INCREASE OVER THE EXPIRING POLICY PREMIUM OF 5% OR LESS THE LESSER OF 3% OR \$300.

(b) Unless an insurer has given notice of its intention not to renew a policy subject to this section, if the insurer seeks to increase the renewal policy premium, the insurer shall send a notice to the named insured and insurance producer, if any, not less than 45 days prior to the renewal date of the policy.

(c) Subject to subsection (d) of this section, a notice under this section shall include:

and

(1) both the expiring policy premium and the renewal policy premium;

(2) the telephone number for the insurer or insurance producer, if any, together with a statement that the insured may call to request additional information about the premium increase.

(d) (1) If an insurer seeks to increase the renewal policy premium and the insurer's rating methodology requires the insured to provide information to calculate the renewal policy premium, an insurer shall provide a reasonable estimate of the renewal policy premium if:

(i) the insurer has requested the required information from the insured; and

(ii) the insurer has not received the requested information.

(2) A reasonable estimate under this subsection shall be based upon the information available to the insurer at the time the notice is sent.

(e) The requirements of this section do not apply to the extent that the premium increase results from:

(1) an increase in the units of exposure;

(2) the application of an experience rating plan;

(3) the application of a retrospective rating plan;

(4) a change made by the insured that increases the insurer's exposure; or

(5) an audit of the insured.

(f) A notice required by this section shall be sent by first–class mail and may be sent together with the renewal policy.

(g) An insurer shall be considered to have met the notice requirement of this section if, not less than 45 days before the effective date of the renewal policy, the insurer has sent:

(1) (i) to the named insured, a renewal policy that includes the renewal policy premium; and

(ii) to the independent insurance producer, if any:

1. a copy of the renewal policy that includes the renewal policy premium through postal or electronic mail; or

2. at the same time as the insurer sends the renewal policy to the insured, a notice of the availability of the renewal policy through the insurer's online electronic system;

(2) to the named insured and insurance producer, if any, a written notice of renewal or continuation of coverage that includes the renewal or continuation premium; or

(3) to the named insured and insurance producer, if any, a renewal offer that includes a reasonable estimate of the renewal policy premium.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of commercial insurance and all policies of workers' compensation insurance issued, delivered, or renewed in the State on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 473

(House Bill 876)

AN ACT concerning

Property and Casualty Insurance – Commercial Policies – Notices of Premium Increases

FOR the purpose of altering the scope of certain provisions of law that require an insurer to send to certain persons a certain notice of a premium increase for policies of commercial insurance and policies of workers' compensation insurance; providing that the provisions of law do not apply to policies for which the renewal policy premium is in excess of a certain amount and a certain percentage increase over the expiring policy premium; providing for the application of this Act; and generally relating to notices of premium increases for property and casualty insurance.

BY repealing and reenacting, with amendments,

Article – Insurance Section 27–608 Annotated Code of Maryland (2011 Replacement Volume)

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

Article – Insurance

27-608.

- (a) (1) This section applies to:
 - (i) policies of commercial insurance; and
 - (ii) policies of workers' compensation insurance.
 - (2) This section does not apply to policies:

(I) issued to exempt commercial policyholders, as defined in § 11-206(j) of this article; OR

- (II) FOR WHICH THE RENEWAL POLICY PREMIUM IS:
 - 1. IN EXCESS OF \$500 <u>\$1,000</u>; AND

2. AN INCREASE OVER THE EXPIRING POLICY PREMIUM OF 5% OR LESS THE LESSER OF 3% OR \$300.

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(b) Unless an insurer has given notice of its intention not to renew a policy subject to this section, if the insurer seeks to increase the renewal policy premium, the insurer shall send a notice to the named insured and insurance producer, if any, not less than 45 days prior to the renewal date of the policy.

(c) Subject to subsection (d) of this section, a notice under this section shall include:

(1) both the expiring policy premium and the renewal policy premium;

and

(2) the telephone number for the insurer or insurance producer, if any, together with a statement that the insured may call to request additional information about the premium increase.

(d) (1) If an insurer seeks to increase the renewal policy premium and the insurer's rating methodology requires the insured to provide information to calculate the renewal policy premium, an insurer shall provide a reasonable estimate of the renewal policy premium if:

(1) insured; and

(i) the insurer has requested the required information from the

(ii) the insurer has not received the requested information.

(2) A reasonable estimate under this subsection shall be based upon the information available to the insurer at the time the notice is sent.

(e) The requirements of this section do not apply to the extent that the premium increase results from:

(1) an increase in the units of exposure;

(2) the application of an experience rating plan;

(3) the application of a retrospective rating plan;

(4) a change made by the insured that increases the insurer's exposure; or

(5) an audit of the insured.

(f) A notice required by this section shall be sent by first-class mail and may be sent together with the renewal policy.

(g) An insurer shall be considered to have met the notice requirement of this section if, not less than 45 days before the effective date of the renewal policy, the insurer has sent:

(1) (i) to the named insured, a renewal policy that includes the renewal policy premium; and

(ii) to the independent insurance producer, if any:

1. a copy of the renewal policy that includes the renewal policy premium through postal or electronic mail; or

2. at the same time as the insurer sends the renewal policy to the insured, a notice of the availability of the renewal policy through the insurer's online electronic system;

(2) to the named insured and insurance producer, if any, a written notice of renewal or continuation of coverage that includes the renewal or continuation premium; or

(3) to the named insured and insurance producer, if any, a renewal offer that includes a reasonable estimate of the renewal policy premium.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of commercial insurance and all policies of workers' compensation insurance issued, delivered, or renewed in the State on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 474

(Senate Bill 273)

AN ACT concerning

State Retirement and Pension System – Administrative and Operational Expenses – Certifications and Notifications

FOR the purpose of <u>altering the timing of a certain reimbursement to certain</u> <u>accumulation funds for certain administrative and operational expenses of the</u> <u>Board of Trustees for the State Retirement and Pension System and the State</u> <u>Retirement Agency; requiring that certain reimbursements to certain</u> accumulation funds be done in a certain manner; requiring the Board of <u>Trustees to offset certain reimbursements in a certain manner</u>; requiring the Board of Trustees for the State Retirement and Pension System to send certain certifications and notifications of the amounts payable by local employers for administrative and operational expenses of the Board of Trustees and the State Retirement Agency on or before certain dates <u>a certain date</u>; and generally relating to certain certifications and notifications of the amounts payable by local employers for administrative and operational expenses of the State Retirement and Pension System.

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions

Section <u>21–303(d)</u> and 21–316 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article - State Personnel and Pensions

21-303.

(d) (1) Except as provided in paragraph (2) of this subsection, each year, the Board of Trustees shall transfer from the accumulation fund of each State system to the expense fund of that system the amounts required by § 21–315 of this subtitle.

(2) The administrative and operational expenses of the Board of Trustees and the State Retirement Agency, not including amounts as authorized by the Board of Trustees necessary for investment management services, shall be paid by participating employers as provided in § 21–316 of this subtitle and may not be transferred from the accumulation fund of each system.

(3) (i) **1.** Notwithstanding paragraph (2) of this subsection, if a budget amendment is approved in any fiscal year for administrative and operational expenses for the Board of Trustees and the State Retirement Agency, the Board of Trustees may transfer the amount approved by budget amendment from the accumulation funds of the State Retirement and Pension System to the expense funds of the State Retirement and Pension System.

[(ii)] 2. A. [Any] SUBJECT TO HTEM SUBSUBSUBPARAGRAPH B OF THIS SUBSUBPARAGRAPH, ANY funds transferred from the accumulation funds under [subparagraph (i) of this paragraph] SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH shall be reimbursed to the accumulation funds on or before June 30 of the SECOND following fiscal year from payments for administrative and operational expenses received by the Board of Trustees under § 21–316 of this subtitle.

B. ANY FUNDS TRANSFERRED FROM THE ACCUMULATION FUNDS UNDER SUBSUBPARAGRAPH (1) 1 OF THIS SUBPARAGRAPH RESULTING FROM AN UNDERPAYMENT OF ADMINISTRATIVE AND OPERATIONAL EXPENSES OWED BY THE STATE OR LOCAL EMPLOYERS UNDER § 21-316 OF THIS SUBTITLE, SHALL BE REIMBURSED TO THE ACCUMULATION FUNDS AS PART OF THE ANNUAL OR **QUARTERLY** ADMINISTRATIVE AND OPERATIONAL EXPENSE REIMBURSEMENTS ON OR BEFORE JUNE 30 OF THE SECOND FOLLOWING FISCAL YEAR FROM PAYMENTS FOR ADMINISTRATIVE AND OPERATIONAL EXPENSES RECEIVED BY THE BOARD OF TRUSTEES UNDER § 21-316 OF THIS SUBTITLE BY THE APPROPRIATE **EMPLOYERS.**

(II) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, IF THE BOARD OF TRUSTEES AND THE STATE RETIREMENT AGENCY RECEIVE ADMINISTRATIVE AND OPERATIONAL EXPENSES IN EXCESS OF THE AMOUNT EXPENDED, THE BOARD OF TRUSTEES SHALL OFFSET THE ANNUAL OR QUARTERLY ADMINISTRATIVE AND OPERATIONAL EXPENSE REIMBURSEMENTS OF THE APPROPRIATE EMPLOYERS ON OR BEFORE JUNE 30 OF THE SECOND FOLLOWING FISCAL YEAR BY THE EXCESS AMOUNT OF ADMINISTRATIVE AND OPERATIONAL EXPENSES RECEIVED.

21 - 316.

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

(2) "Library" means a library that is established or operates under the Education Article.

State.

(3) "Local employer" means a participating employer other than the

(b) (1) Subject to paragraph (3) of this subsection, for each fiscal year, the State and each local employer shall pay to the Board of Trustees their pro rata shares of the amount necessary for the administrative and operational expenses of the Board of Trustees and the State Retirement Agency.

(2) The pro rata share of the State and of each local employer for each fiscal year shall be based on the number of members of the several systems employed by the State or local employer as of June 30 of the second prior fiscal year compared to the total membership of the several systems as of that date.

library.

(3) The State shall pay the pro rata share under this section of each

(c) As part of its annual budget submission for a fiscal year, the Board of Trustees shall certify to the Secretary of Budget and Management the percentage of the total membership of the several systems that is employed by the State, the libraries, and each local employer as of June 30 of the second prior fiscal year.

(d) (1) The Governor shall include in the budget bill an appropriation to the expense funds of the State Retirement and Pension System that equals the authorized administrative and operational expenses of the Board of Trustees and the State Retirement Agency for the fiscal year.

(2) The amounts payable by the State under this section with respect to members employed by each State unit shall be charged against the budget of that unit.

(3) The State shall pay its pro rata share of the amount of administrative and operational expenses authorized in the State budget to the Board of Trustees on July 1 of the applicable fiscal year.

(e) (1) **[**On or before <u>May 1</u> <u>FEBRUARY 1</u> of each year, the] **IN** ACCORDANCE WITH-PARAGRAPH (2) OF THIS SUBSECTION, THE Board of Trustees shall:

(i) [certify] <u>SEND A PRELIMINARY CERTIFICATION AND A</u> FINAL CERTIFICATION to each local employer other than a library OF the amount payable by the local employer that is equal to the percentage certified under subsection (c) of this section multiplied by the amount of administrative and operational expenses authorized in the State budget for the next fiscal year; and

(ii) notify the Secretary of Budget and Management and the Department of Legislative Services of the certifications sent under item (i) of this paragraph.

(2) (1) On or before May 1 of each year, the Board of Trustees shall send the preliminary certifications and notifications required under paragraph (1) of this subsection.

(II) ON OR BEFORE JULY 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SEND THE FINAL CERTIFICATIONS AND NOTIFICATIONS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(2)**] (3)** On or before October 1, January 1, April 16, and June 1 of each fiscal year, each local employer shall pay to the Board of Trustees 25% of the

amount certified to the local employer by the Board of Trustees under paragraph (1) of this subsection.

 $\{(3)\}$ (4) If a local employer does not pay the amounts required under this section within the time required, the local employer is liable for interest on delinquent amounts at a rate of 4% a year until payment.

(4) The Secretary of the Board of Trustees may allow a grace period not to exceed 10 calendar days for payment of the amounts certified under this section.

 $\{(5)\}$ On notification by the Secretary of the Board of Trustees that a delinquency exists, the State Comptroller immediately shall exercise the right of setoff against any money due or coming due to that local employer from the State.

(6) A participating governmental unit or employer required to make employer contributions under § 21–307 of this subtitle may deduct the payments required under this section from payments for employer contributions required under §§ 21–305 through 21–307 of this subtitle.

(f) On receipt of payments under this section, the Board of Trustees shall credit these amounts to the expense fund of the appropriate State system.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 475

(Senate Bill 292)

AN ACT concerning

Education – Veterans of the Afghanistan and Iraq Conflicts Scholarship – Extension

FOR the purpose of extending the date by which the Office of Student Financial Assistance may award an initial Veterans of the Afghanistan and Iraq Conflicts Scholarship; extending the date by which the Office may renew a Veterans of the Afghanistan and Iraq Conflicts Scholarship under certain circumstances; and generally relating to the Veterans of the Afghanistan and Iraq Conflicts Scholarship.

BY repealing and reenacting, with amendments,

Article – Education Section 18–604 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

18-604.

(a) For purposes of this section, an individual served in the Afghanistan or Iraq conflict if the individual was a member of the uniform services of the United States who served in:

(1) Afghanistan or contiguous air space, as defined in federal regulations, on or after October 24, 2001, and before a terminal date to be prescribed by the United States Secretary of Defense; or

(2) Iraq or contiguous waters or air space, as defined in federal regulations, on or after March 19, 2003, and before a terminal date to be prescribed by the United States Secretary of Defense.

(b) There is a Veterans of the Afghanistan and Iraq Conflicts Scholarship.

(c) An individual may apply to the Office for a scholarship under this section if the individual:

(1) Is a resident of Maryland;

(2) (i) Is accepted for admission or enrolled in the regular undergraduate program at an eligible institution; or

(ii) Is accepted for admission or 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) 1. Is a veteran, as defined under § 9–901 of the State Government Article, who served in the Afghanistan or Iraq conflict;

2. Is an active duty member of the armed forces who served in the Afghanistan or Iraq conflict; or

3. Is a member of a reserve component of the armed forces of the United States or the Maryland National Guard who was activated as a result of the Afghanistan or Iraq conflict described in subsection (a) of this section; or (ii) Is a son, daughter, or spouse of:

1. A veteran or active duty member of the armed forces who is serving or has served in the Afghanistan or Iraq conflict; or

2. A member of the reserve or Maryland National Guard who was activated as a result of the Afghanistan or Iraq conflict described in subsection (a) of this section.

(d) A scholarship awarded under this section shall supplement any federal education benefits for which a recipient qualifies as a result of an individual's military service or status as a dependent of a member of the armed forces or of a veteran of the armed forces.

(e) (1) Each scholarship may be used, at any eligible institution, to pay for educational expenses as defined by the Office, including:

- (i) Tuition and mandatory fees; and
- (ii) Room and board.

(2) The annual amount of a scholarship may not exceed 50% of the equivalent annual tuition, mandatory fees, and room and board 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.

(f) A scholarship recipient shall maintain a grade point average of at least 2.5 on a 4.0 scale.

(g) 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.

(h) A scholarship recipient shall file for federal and State financial aid by March 1 of each year.

(i) (1) The Office may not award an initial scholarship to an individual after June 30, [2016] **2020**.

(2) The Office may renew a scholarship after June 30, [2016] **2020**, if the individual received an initial scholarship before that date.

(j) A Senator or Delegate may authorize the Office to award all or a portion of the funds authorized under Subtitles 4 and 5 of this title to eligible recipients of scholarships awarded under this section. (k) (1) Funds for the Veterans of the Afghanistan and Iraq Conflicts Scholarship shall be as provided in the annual budget of the Commission by the Governor.

(2) (i) There is a Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund in the Commission.

(ii) The Commission:

1. May accept any gift or grant from any person or corporation for the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund;

2. Shall use any gift or grant that it receives for a scholarship from the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund; and

3. Shall deposit any gift or grant that it receives for the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund with the State Treasurer in a nonbudgeted account.

(3) (i) At the end of the fiscal year, the Commission shall prepare an annual report on the Veterans of the Afghanistan and Iraq Conflicts Scholarship Fund that includes an accounting of all financial receipts and expenditures to and from the Fund.

(ii) The Commission shall submit a copy of the report to the General Assembly as provided under § 2-1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 476

(Senate Bill 293)

AN ACT concerning

Education – Core Content Areas – Accountability Program

FOR the purpose of requiring the State Board of Education and the State Superintendent of Schools to assist each county board of education to establish certain goals and objectives that conform with certain objectives for subject

areas that include science and social studies; requiring each public school to survey current student achievement in science and social studies; requiring the State Board and the State Superintendent to design and implement certain assessment programs in certain subjects and requiring the social studies assessment program programs to provide certain information and feedback; requiring certain grade band assessments and end-of-course assessments to be established, implemented, implemented and administered annually at certain levels by a certain school year; requiring the State Department of Education to <u>conduct a certain statewide survey of public schools and public school teachers:</u> requiring the Department to compile and publish the survey results on the Department's Web site; requiring county boards of education to include certain information in the boards' comprehensive master plans and updates to the plans; requiring the State Board to develop and implement certain State-specific assessments by a certain school year if certain determinations are made regarding certain middle school and high school level assessments; requiring the Governor to include a certain appropriation in the fiscal year 2014 State budget bill if a certain amount of funding to administer a certain Maryland high school assessment is not provided in the fiscal year 2013 State budget bill; prohibiting implementation of certain provisions of this Act under certain circumstances; defining a certain term; and generally relating to an education accountability program for certain core content areas.

BY repealing and reenacting, without amendments,

Article – Education Section 5–401(a) and (b)(1) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Education Section 5–401(c) and 7–203 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

5 - 401.

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

(2) "Local performance standards" means standards for student and school performance developed by a county board.

(3) "Plan" means a comprehensive master plan.

(4) "State performance standards" means standards for student and school performance approved by the State Board.

(5) "Update" means an annual update to a county board's comprehensive master plan.

(b) (1) Each county board shall develop and implement a comprehensive master plan that describes the goals, objectives, and strategies that will be used to improve student achievement and meet State performance standards and local performance standards in each segment of the student population.

(c) The plan or update shall include:

(1) Goals and objectives as required under subsections (d) through (f) of this section that are aligned with State performance standards and local performance standards;

(2) Implementation strategies for meeting goals and objectives;

(3) Methods for measuring progress toward meeting goals and objectives;

(4) Time lines for implementation of the strategies for meeting goals and objectives;

(5) Time lines for meeting goals and objectives;

(6) A description of the alignment of the county board's budget with goals, objectives, and strategies for improving student achievement;

(7) The impact of the proposed goals, objectives, and implementation strategies on public school facilities and capital improvements that may be needed to implement the plan or update; [and]

(8) A DESCRIPTION OF HOW THE COUNTY BOARD PLANS TO ENSURE AND MEASURE THE ACADEMIC PROFICIENCY OF STUDENTS IN THE CORE ACADEMIC SUBJECTS LISTED IN § 7–203 OF THIS ARTICLE AT VARIOUS POINTS DURING THE ELEMENTARY AND SECONDARY EDUCATION OF THE STUDENTS; AND

[(8)] (9) Any other information required by the State Superintendent.

7-203.

(a) The State Board, the State Superintendent, each county board, and each public school shall implement a program of education accountability for the operation and management of the public schools.

(b) (1) IN THIS SUBSECTION, "GRADE BAND ASSESSMENT" MEANS ONE ASSESSMENT OF A MIDDLE SCHOOL STUDENT'S KNOWLEDGE IN A CORE ACADEMIC SUBJECT AREA DURING GRADES 6 THROUGH 8.

(2) The education accountability program shall include the following:

(1) (1) The State Board and the State Superintendent shall assist each county board to establish educational goals and objectives that conform with statewide educational objectives for subject areas including reading, writing, [and] mathematics, SCIENCE, AND SOCIAL STUDIES;

(2) (II) With the assistance of its county board, each public school shall survey current student achievement in reading, language, mathematics, SCIENCE, SOCIAL STUDIES, and other areas to assess its needs;

(3) (III) (1) 1. THE STATE BOARD AND THE STATE SUPERINTENDENT SHALL DESIGN AND IMPLEMENT ASSESSMENT PROGRAMS IN READING, LANGUAGE, MATHEMATICS, SCIENCE, AND SOCIAL STUDIES THAT INCLUDE WRITTEN RESPONSES;

(II) <u>2.</u> The social studies assessment program required in this subsection shall:

1. <u>A.</u> PROVIDE INFORMATION NEEDED TO IMPROVE PUBLIC SCHOOLS BY ENHANCING THE LEARNING GAINS OF STUDENTS AND ACADEMIC MASTERY OF THE SKILLS AND KNOWLEDGE SET FORTH IN THE STATE'S ADOPTED SOCIAL STUDIES CURRICULA AS DELINEATED <u>OR COMMON</u> <u>CORE CURRICULA; AND</u>

2. <u>B.</u> INFORM THE PUBLIC ANNUALLY OF THE EDUCATIONAL PROGRESS MADE IN SOCIAL STUDIES AT THE SCHOOL, LOCAL SCHOOL SYSTEM, AND STATE LEVELS; AND

<u>C.</u> <u>Provide timely feedback to schools and</u> <u>TEACHERS FOR THE PURPOSES OF ADAPTING THE INSTRUCTIONAL PROGRAM</u> <u>AND MAKING PLACEMENT DECISIONS FOR STUDENTS; AND</u>

(II) <u>3.</u> BEGINNING IN THE 2014–2015 SCHOOL YEAR, THE FOLLOWING ASSESSMENTS SHALL BE ESTABLISHED, IMPLEMENTED, IMPLEMENTED AND ADMINISTERED ANNUALLY: 1. AT THE ELEMENTARY AND MIDDLE SCHOOL LEVELS, A STATEWIDE, COMPREHENSIVE, GRADE BAND ASSESSMENT PROGRAM THAT MEASURES THE LEARNING GAINS OF EACH PUBLIC SCHOOL STUDENT TOWARDS ACHIEVING MASTERY OF THE STANDARDS SET FORTH IN THE STATE'S ADOPTED SOCIAL STUDIES CURRICULA; AND

<u>A.</u> <u>AT THE MIDDLE SCHOOL LEVEL, A STATEWIDE,</u> <u>COMPREHENSIVE, GRADE BAND ASSESSMENT PROGRAM THAT MEASURES THE</u> <u>LEARNING GAINS OF EACH PUBLIC SCHOOL STUDENT TOWARDS ACHIEVING</u> <u>MASTERY OF THE STANDARDS SET FORTH IN THE COMMON CORE CURRICULA</u> <u>OR THE STATE'S ADOPTED CURRICULA FOR THE CORE CONTENT AREAS OF</u> <u>READING, LANGUAGE, MATHEMATICS, SCIENCE, AND SOCIAL STUDIES; AND</u>

2. <u>B.</u> AT THE HIGH SCHOOL LEVEL, A STATEWIDE, STANDARDIZED, END-OF-COURSE ASSESSMENT THAT IS ALIGNED WITH AND THAT MEASURES EACH PUBLIC SCHOOL STUDENT'S SKILLS AND KNOWLEDGE OF THE STATE'S ADOPTED GOVERNMENT CURRICULA CONTENT AREAS OF READING, LANGUAGE, MATHEMATICS, SCIENCE, AND SOCIAL STUDIES;

[(3)] (4) (IV) Each public school shall establish as the basis for its assessment of its needs, project goals and objectives that are in keeping with the goals and objectives established by its county board and the State Board;

[(4)] (5) (V) With the assistance of its county board, the State Board, and the State Superintendent, each public school shall develop programs to meet its needs on the basis of the priorities it sets;

[(5)] (5) (VI) Evaluation programs shall be developed at the same time to determine if the goals and objectives are being met; and

[(6)] (7) (VII) A reevaluation of programs, goals, and objectives shall be undertaken regularly.

(3) (I) AFTER THE 2014–2015 SCHOOL YEAR, THE STATE BOARD SHALL DETERMINE WHETHER THE ASSESSMENTS AT THE MIDDLE SCHOOL AND HIGH SCHOOL LEVELS REQUIRED UNDER PARAGRAPH (2)(III)3 OF THIS SUBSECTION ADEQUATELY MEASURE THE SKILLS AND KNOWLEDGE SET FORTH IN THE STATE'S ADOPTED CURRICULA FOR THE CORE CONTENT AREAS OF READING, LANGUAGE, MATHEMATICS, SCIENCE, AND SOCIAL STUDIES.

(II) IF THE STATE BOARD MAKES A DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT AN ASSESSMENT DOES NOT

ADEQUATELY MEASURE THE SKILLS AND KNOWLEDGE SET FORTH IN THE STATE'S ADOPTED CURRICULA FOR A CORE CONTENT AREA, THE DEPARTMENT SHALL DEVELOP A STATE-SPECIFIC ASSESSMENT IN THAT CORE CONTENT AREA TO BE IMPLEMENTED IN THE 2016–2017 SCHOOL YEAR.

(c) National standardized testing may not be the only measure for evaluating educational accountability.

(d) The Department shall assist each county board to establish an education accountability program by providing:

(1) Guidelines for development and implementation of the program by the county boards; and

(2) Assistance and coordination where it is needed and requested by the county boards.

(E) (1) <u>The Department shall survey a statewide</u>, <u>Representative sample of public schools and public school teachers</u> <u>ANNUALLY TO MEASURE:</u>

(I) <u>The amount of instructional time spent on</u> <u>social studies and science instruction in elementary schools;</u>

(II) <u>The availability and use of appropriate</u> <u>instructional resources and teaching technology in social studies</u> <u>and science classrooms</u>;

(III) <u>The availability and use of appropriate</u> <u>professional development for social studies and science teachers;</u> <u>AND</u>

(IV) THE NUMBER OF SECONDARY SCHOOL SOCIAL STUDIES AND SCIENCE CLASSES THAT ARE TAUGHT BY TEACHERS WHO ARE:

- <u>1.</u> <u>Certified in the subject being taught; and</u>
- 2. NOT CERTIFIED IN THE SUBJECT BEING TAUGHT.
- (2) <u>THE DEPARTMENT SHALL:</u>

(I) COMPILE THE RESULTS OF THE SURVEY CONDUCTED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) PUBLISH THE RESULTS ON THE DEPARTMENT'S WEB

SITE.

(e) (F) The State Superintendent shall send the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly a report each January that includes:

(1) Documentation of the progress of the Department, the county boards, and each public school in this State towards their respective goals and objectives; and

(2) Recommendations for legislation that the State Board and the State Superintendent consider necessary to improve the quality of education in this State.

(f) (G) On the recommendation of the State Superintendent, the State Board shall include in its annual budget request the funds it considers necessary to carry out the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That if funding is not provided in the fiscal year 2013 State budget bill (Chapter 148 (S.B. 150) of the Acts of the General Assembly of 2012) in an amount sufficient to administer the Maryland high school assessment for government to meet the requirements of this Act, the Governor shall include an appropriation in the fiscal year 2014 State budget bill in an amount sufficient to administer the Maryland high school assessment for government to meet the requirements of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding § 7–203(b) of the Education Article, as enacted by Section 1 of this Act, if the State Board of Education has not adopted an assessment to measure the common core curricula before July 30, 2014, then the requirements of § 7–203(b)(2)(iii)3A and (3)(i) for middle school assessments, as enacted by Section 1 of this Act, may not be implemented until the first day of school in the school year that follows the adoption of an assessment to measure the common core curricula by the State Board.

SECTION $\frac{2}{2}$, <u>4.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 477

(House Bill 1227)

AN ACT concerning

Education – Core Content Areas – Accountability Program

FOR the purpose of requiring the State Board of Education and the State Superintendent of Schools to assist each county board of education to establish certain goals and objectives that conform with certain objectives for subject areas that include science and social studies; requiring each public school to survey current student achievement in science and social studies; requiring the State Board and the State Superintendent to design and implement certain assessment programs in certain subjects and requiring the social studies assessment program programs to provide certain information and feedback; requiring certain grade band assessments and end-of-course assessments to be implemented and administered annually at certain levels by a certain school year; requiring the State Department of Education to conduct a certain statewide survey of public schools and public school teachers; requiring the Department to compile and publish the survey results on the Department's Web site; requiring county boards of education to include certain information in the boards' comprehensive master plans and updates to the plans; defining a eertain term; requiring the State Department of Education Board to develop and implement a certain State specific assessment State-specific assessments by a certain school year if a certain determination is determinations are made regarding a certain middle school grade band and high school level assessment; assessments; requiring the Governor to include a certain appropriation in the fiscal year 2014 State budget bill if a certain amount of funding to administer a certain Maryland high school assessment is not provided in the fiscal year 2013 State budget bill; prohibiting implementation of certain provisions of this Act under certain circumstances; defining a certain term; and generally relating to an education accountability program for certain core content areas.

BY repealing and reenacting, without amendments,

Article – Education Section 5–401(a) and (b)(1) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Education Section 5–401(c) and 7–203 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

5-401.

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

(2) "Local performance standards" means standards for student and school performance developed by a county board.

(3) "Plan" means a comprehensive master plan.

(4) "State performance standards" means standards for student and school performance approved by the State Board.

(5) "Update" means an annual update to a county board's comprehensive master plan.

(b) (1) Each county board shall develop and implement a comprehensive master plan that describes the goals, objectives, and strategies that will be used to improve student achievement and meet State performance standards and local performance standards in each segment of the student population.

(c) The plan or update shall include:

(1) Goals and objectives as required under subsections (d) through (f) of this section that are aligned with State performance standards and local performance standards;

(2) Implementation strategies for meeting goals and objectives;

(3) Methods for measuring progress toward meeting goals and objectives;

(4) Time lines for implementation of the strategies for meeting goals and objectives;

(5) Time lines for meeting goals and objectives;

(6) A description of the alignment of the county board's budget with goals, objectives, and strategies for improving student achievement;

(7) The impact of the proposed goals, objectives, and implementation strategies on public school facilities and capital improvements that may be needed to implement the plan or update; [and]

(8) A DESCRIPTION OF HOW THE COUNTY BOARD PLANS TO ENSURE AND MEASURE THE ACADEMIC PROFICIENCY OF STUDENTS IN THE CORE ACADEMIC SUBJECTS LISTED IN § 7–203 OF THIS ARTICLE AT VARIOUS POINTS DURING THE ELEMENTARY AND SECONDARY EDUCATION OF THE STUDENTS; AND

[(8)] (9) Any other information required by the State Superintendent.

7 - 203.

(a) The State Board, the State Superintendent, each county board, and each public school shall implement a program of education accountability for the operation and management of the public schools.

(b) (1) IN THIS SUBSECTION, "GRADE BAND ASSESSMENT" MEANS:

(1) ONE ASSESSMENT OF AN ELEMENTARY SCHOOL STUDENT'S KNOWLEDGE IN A SPECIFIC SUBJECT AREA DURING GRADES 3 THROUGH 5; AND

(H) ONE ONE ASSESSMENT OF A MIDDLE SCHOOL STUDENT'S KNOWLEDGE IN A SPECIFIC CORE ACADEMIC SUBJECT AREA DURING GRADES 6 THROUGH 8.

(2) The education accountability program shall include the following:

[(1)] (I) The State Board and the State Superintendent shall assist each county board to establish educational goals and objectives that conform with statewide educational objectives for subject areas including reading, writing, [and] mathematics, SCIENCE, AND SOCIAL STUDIES;

[(2)] (II) With the assistance of its county board, each public school shall survey current student achievement in reading, language, mathematics, SCIENCE, SOCIAL STUDIES, and other areas to assess its needs;

(III) 1. THE STATE BOARD AND THE STATE SUPERINTENDENT SHALL IMPLEMENT ASSESSMENT PROGRAMS IN READING, LANGUAGE, MATHEMATICS, SCIENCE, AND SOCIAL STUDIES THAT INCLUDE WRITTEN RESPONSES;

2. The social studies assessment program required in this subsection shall:

A. PROVIDE INFORMATION NEEDED TO IMPROVE PUBLIC SCHOOLS BY ENHANCING THE LEARNING GAINS OF STUDENTS AND ACADEMIC MASTERY OF THE SKILLS AND KNOWLEDGE SET FORTH IN THE STATE'S ADOPTED CURRICULA OR COMMON CORE CURRICULA; AND B. INFORM THE PUBLIC ANNUALLY OF THE EDUCATIONAL PROGRESS MADE IN SOCIAL STUDIES AT THE SCHOOL, LOCAL SCHOOL SYSTEM, AND STATE LEVELS; AND

<u>C.</u> <u>Provide timely feedback to schools and</u> <u>TEACHERS FOR THE PURPOSES OF ADAPTING THE INSTRUCTIONAL PROGRAM</u> <u>AND MAKING PLACEMENT DECISIONS FOR STUDENTS; AND</u>

3. BEGINNING IN THE 2014–2015 SCHOOL YEAR, THE FOLLOWING ASSESSMENTS SHALL BE IMPLEMENTED AND ADMINISTERED ANNUALLY:

A. AT THE ELEMENTARY SCHOOL LEVEL, A STATEWIDE, COMPREHENSIVE, GRADE BAND ASSESSMENT PROGRAM THAT MEASURES THE LEARNING GAINS OF EACH PUBLIC SCHOOL STUDENT TOWARDS ACHIEVING MASTERY OF THE STANDARDS SET FORTH IN THE COMMON CORE CURRICULA;

B. AT THE MIDDLE SCHOOL LEVEL, A STATEWIDE, COMPREHENSIVE, GRADE BAND ASSESSMENT PROGRAM THAT MEASURES THE LEARNING GAINS OF EACH PUBLIC SCHOOL STUDENT TOWARDS ACHIEVING MASTERY OF THE STANDARDS SET FORTH IN THE STATE'S ADOPTED CURRICULA OR THE COMMON CORE CURRICULA COMMON CORE CURRICULA OR THE STATE'S ADOPTED CURRICULA FOR THE CORE CONTENT AREAS OF READING, LANGUAGE, MATHEMATICS, SCIENCE, AND SOCIAL STUDIES; AND

<u>C. B.</u> AT THE HIGH SCHOOL LEVEL, A STATEWIDE, STANDARDIZED, END-OF-COURSE ASSESSMENT THAT IS ALIGNED WITH AND THAT MEASURES EACH PUBLIC SCHOOL STUDENT'S SKILLS AND KNOWLEDGE OF THE STATE'S ADOPTED COVERNMENT CURRICULA <u>CURRICULA FOR THE CORE</u> <u>CONTENT AREAS OF READING, LANGUAGE, MATHEMATICS, SCIENCE, AND</u> <u>SOCIAL STUDIES</u>;

[(3)] (IV) Each public school shall establish as the basis for its assessment of its needs, project goals and objectives that are in keeping with the goals and objectives established by its county board and the State Board;

[(4)] (V) With the assistance of its county board, the State Board, and the State Superintendent, each public school shall develop programs to meet its needs on the basis of the priorities it sets;

[(5)] (VI) Evaluation programs shall be developed at the same time to determine if the goals and objectives are being met; and

[(6)] **(VII)** A reevaluation of programs, goals, and objectives shall be undertaken regularly.

(3) (I) AFTER THE 2014–2015 SCHOOL YEAR, THE STATE BOARD SHALL DETERMINE WHETHER THE ASSESSMENTS AT THE MIDDLE SCHOOL AND HIGH SCHOOL LEVELS REQUIRED UNDER PARAGRAPH (2)(III)3 OF THIS SUBSECTION ADEQUATELY MEASURE THE SKILLS AND KNOWLEDGE SET FORTH IN THE STATE'S ADOPTED CURRICULA FOR THE CORE CONTENT AREAS OF READING, LANGUAGE, MATHEMATICS, SCIENCE, AND SOCIAL STUDIES.

(II) IF THE STATE BOARD MAKES A DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT AN ASSESSMENT DOES NOT ADEQUATELY MEASURE THE SKILLS AND KNOWLEDGE SET FORTH IN THE STATE'S ADOPTED CURRICULA FOR A CORE CONTENT AREA, THE DEPARTMENT SHALL DEVELOP A STATE-SPECIFIC ASSESSMENT IN THAT CORE CONTENT AREA TO BE IMPLEMENTED IN THE 2016–2017 SCHOOL YEAR.

(c) National standardized testing may not be the only measure for evaluating educational accountability.

(d) The Department shall assist each county board to establish an education accountability program by providing:

(1) Guidelines for development and implementation of the program by the county boards; and

(2) Assistance and coordination where it is needed and requested by the county boards.

(E) (1) THE DEPARTMENT SHALL SURVEY A STATEWIDE, REPRESENTATIVE SAMPLE OF PUBLIC SCHOOLS AND PUBLIC SCHOOL TEACHERS ANNUALLY TO MEASURE:

(I) THE AMOUNT OF INSTRUCTIONAL TIME SPENT ON SOCIAL STUDIES AND SCIENCE INSTRUCTION IN ELEMENTARY SCHOOLS;

(II) THE AVAILABILITY AND USE OF APPROPRIATE INSTRUCTIONAL RESOURCES AND TEACHING TECHNOLOGY IN SOCIAL STUDIES AND SCIENCE CLASSROOMS;

(III) THE AVAILABILITY AND USE OF APPROPRIATE PROFESSIONAL DEVELOPMENT FOR SOCIAL STUDIES AND SCIENCE TEACHERS; AND

(IV) THE NUMBER OF SECONDARY SCHOOL SOCIAL STUDIES AND SCIENCE CLASSES THAT ARE TAUGHT BY TEACHERS WHO ARE:

<u>1.</u> <u>CERTIFIED IN THE SUBJECT BEING TAUGHT; AND</u>

2. NOT CERTIFIED IN THE SUBJECT BEING TAUGHT.

(2) <u>THE DEPARTMENT SHALL:</u>

(I) <u>COMPILE THE RESULTS OF THE SURVEY CONDUCTED</u> <u>UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND</u>

(II) PUBLISH THE RESULTS ON THE DEPARTMENT'S WEB

SITE.

(e) (F) The State Superintendent shall send the Governor and, subject to 2–1246 of the State Government Article, the General Assembly a report each January that includes:

(1) Documentation of the progress of the Department, the county boards, and each public school in this State towards their respective goals and objectives; and

(2) Recommendations for legislation that the State Board and the State Superintendent consider necessary to improve the quality of education in this State.

(f) (G) On the recommendation of the State Superintendent, the State Board shall include in its annual budget request the funds it considers necessary to carry out the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That, if after the 2014–2015 school year, the State Board of Education, in consultation with the Maryland Social Studies Advisory Council, determines that the middle school grade band assessment does not adequately measure the skills and knowledge set forth in the State's adopted social studies curricula, the State Department of Education shall develop a State specific assessment to be implemented in the 2016–2017 school year.

SECTION 2. AND BE IT FURTHER ENACTED, That if funding is not provided in the fiscal year 2013 State budget bill (Chapter 148 (S.B. 150) of the Acts of the General Assembly of 2012) in an amount sufficient to administer the Maryland high school assessment for government to meet the requirements of this Act, the Governor shall include an appropriation in the fiscal year 2014 State budget bill in an amount sufficient to administer the Maryland high school assessment for government to meet the requirements of this Act. SECTION 3. AND BE IT FURTHER ENACTED, That notwithstanding § 7–203(b) of the Education Article, as enacted by Section 1 of this Act, if the State Board of Education has not adopted an assessment to measure the common core curricula before July 30, 2014, then the requirements of § 7–203(b)(2)(iii)3A and (3)(i) for middle school assessments, as enacted by Section 1 of this Act, may not be implemented until the first day of school in the school year that follows the adoption of an assessment to measure the common core curricula by the State Board.

SECTION $\frac{3}{2}$ <u>4.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 478

(Senate Bill 296)

AN ACT concerning

Income Tax Credit – Security Clearance Expenses <u>Clearances – Employer</u> <u>Costs</u>

FOR the purpose of allowing an individual or a corporation to claim a credit against the State income tax for certain costs incurred to obtain federal security clearances and to construct or renovate certain sensitive compartmented information facilities; requiring the Department of Business and Economic Development to provide an application process for the credit at least a certain number of times each fiscal year; providing for the total amount of credit certificates that may be issued during a certain application period; providing for the distribution of credit certificates providing for applications to the Department of Business and Economic Development for approval of the credit and certification by the Department to taxpayers of approved credit amounts; limiting the total amount of credits that the Department may approve for any calendar year to a certain amount; requiring the Department to approve a prorated credit for each applicant if the total amount applied for exceeds the maximum that may be approved; requiring certain individuals or certain corporations to file amended tax returns in a certain manner to claim a certain tax credit; providing for the carryforward of the credit; providing that the total amount of credits that may be claimed may not exceed the amount of certificates issued to the individual or corporation; requiring the Department to notify the Comptroller of the maximum amount of each credit certificate; requiring the Comptroller to transfer the amount stated in the credit certificate from a certain Reserve Fund to the General Fund; establishing the Security Clearance Income Tax Credit Reserve Fund as a special, nonlapsing fund: requiring the Secretary of Business and Economic Development to administer

the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; requiring the Governor to make certain appropriations in certain fiscal years; requiring the Department, in consultation with the Comptroller, to adopt certain regulations; requiring the Department to report to the Governor and the General Assembly on or before a certain date each year; defining certain terms; providing for the application of this Act; and generally relating to a credit against the State income tax for certain costs incurred to obtain related to federal security clearances.

BY repealing and reenacting, without amendments,

Article – Tax – General Section 10–204(a) and 10–305(a) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – General Section 10–204(j) and 10–731 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Tax – General Section 10–305(d) Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article - Tax - General

10-204.

(a) To the extent excluded from federal adjusted gross income, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES ANY AMOUNT DEDUCTED FOR THE COSTS INCURRED TO OBTAIN A FEDERAL SECURITY CLEARANCE COSTS, AS DEFINED UNDER § 10–731 OF THIS TITLE, FOR SECURITY CLEARANCE ADMINISTRATIVE EXPENSES AND CONSTRUCTION AND EQUIPMENT COSTS INCURRED TO CONSTRUCT OR RENOVATE A SENSITIVE

<u>COMPARTMENTED INFORMATION FACILITY</u> IF THE <u>AN</u> AMOUNT IS INCLUDED IN THE APPLICATION FOR A CREDIT CERTIFICATE UNDER § 10–731 OF THIS TITLE.

10 - 305.

(a) To the extent excluded from federal taxable income, the amounts under this section are added to the federal taxable income of a corporation to determine Maryland modified income.

(d) The addition under subsection (a) of this section includes the additions required for an individual under:

(1) § 10–204(b) of this title (Dividends and interest from another state or local obligation);

(2) § 10-204(c)(2) of this title (Federal tax-exempt income);

(3) § 10–204(e) of this title (Oil percentage depletion allowance); [and]

(4) § 10–204(i) of this title (Deduction for qualified production activities income); AND

(5) § 10–204(J) OF THIS TITLE (DEDUCTION FOR COSTS INCURRED TO OBTAIN A FEDERAL SECURITY CLEARANCE FOR SECURITY CLEARANCE ADMINISTRATIVE EXPENSES AND CONSTRUCTION AND EQUIPMENT COSTS INCURRED TO CONSTRUCT OR RENOVATE A SENSITIVE COMPARTMENTED INFORMATION FACILITY).

10-731.

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

(2) <u>"COSTS" MEANS THE COSTS TO AN INDIVIDUAL OR</u> <u>CORPORATION FOR:</u>

(I) SECURITY CLEARANCE ADMINISTRATIVE EXPENSES INCURRED WITH REGARD TO AN EMPLOYEE IN THE STATE INCLUDING, BUT NOT LIMITED TO:

<u>1.</u> <u>PROCESSING APPLICATION REQUESTS FOR</u> <u>CLEARANCES FOR EMPLOYEES IN THE STATE;</u>

MAINTAINING, UPGRADING, OR INSTALLING 2. COMPUTER SYSTEMS IN THE STATE REQUIRED TO OBTAIN FEDERAL SECURITY **CLEARANCES: AND**

TRAINING EMPLOYEES IN THE STATE TO 3. **ADMINISTER THE APPLICATION PROCESS; AND**

(II) CONSTRUCTION AND EQUIPMENT COSTS INCURRED TO CONSTRUCT OR RENOVATE A SENSITIVE COMPARTMENTED INFORMATION FACILITY ("SCIF") LOCATED IN THE STATE AS REQUIRED BY THE FEDERAL GOVERNMENT.

"DEPARTMENT" (2) (3) MEANS THE DEPARTMENT OF **BUSINESS AND ECONOMIC DEVELOPMENT.**

"RESERVE FUND" MEANS THE SECURITY CLEARANCE (3) **INCOME TAX CREDIT RESERVE FUND ESTABLISHED UNDER SUBSECTION (E) OF** THIS SECTION.

(4) "SECRETARY" MEANS THE SECRETARY OF BUSINESS AND **ECONOMIC DEVELOPMENT.**

(B) (1) THREE TIMES EACH FISCAL YEAR THE DEPARTMENT SHALL ALLOW AN INDIVIDUAL OR CORPORATION TO APPLY FOR CREDIT CERTIFICATES FOR THE COSTS INCURRED TO OBTAIN FEDERAL SECURITY CLEARANCES.

EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS (2) (1) PARAGRAPH, DURING EACH APPLICATION PERIOD, THE TOTAL AMOUNT OF CREDIT CERTIFICATES THE DEPARTMENT MAY ISSUE MAY NOT EXCEED ONE-THIRD OF THE AMOUNT APPROPRIATED IN THE STATE BUDGET TO THE RESERVE FUND.

(II) IF THE AGGREGATE CREDIT AMOUNTS UNDER THE **CREDIT CERTIFICATES ISSUED DURING THE APPLICATION PERIOD TOTAL LESS** THAN THE TOTAL AMOUNT THE DEPARTMENT MAY ISSUE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER CREDIT CERTIFICATES DURING THE NEXT APPLICATION PERIOD.

(3) IF THE TOTAL AMOUNT OF CREDITS SOUGHT DURING THE APPLICATION PERIOD EXCEED THE AMOUNT AUTHORIZED TO BE ISSUED, THE DEPARTMENT SHALL APPROVE CREDIT CERTIFICATES IN AMOUNTS THAT ARE

(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2012, BUT BEFORE JANUARY 1, 2019 2017, AN INDIVIDUAL OR A CORPORATION MAY CLAIM CREDITS AGAINST THE STATE INCOME TAX FOR:

(1) <u>SECURITY CLEARANCE ADMINISTRATIVE EXPENSES, NOT TO</u> EXCEED \$100,000; AND

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, CONSTRUCTION AND EQUIPMENT COSTS INCURRED TO CONSTRUCT OR RENOVATE A SINGLE SCIF IN AN AMOUNT EQUAL TO THE LESSER OF 50% OF THE COSTS OR \$100,000.

(II) THE TOTAL AMOUNT OF CONSTRUCTION AND EQUIPMENT COSTS INCURRED TO CONSTRUCT OR RENOVATE MULTIPLE SCIFS FOR WHICH AN INDIVIDUAL OR A CORPORATION IS ELIGIBLE TO CLAIM AS A CREDIT AGAINST THE STATE INCOME TAX IS \$250,000.

(C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF THE TAXABLE YEAR IN WHICH THE COSTS WERE INCURRED, AN INDIVIDUAL OR A CORPORATION SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT FOR THE CREDITS ALLOWED UNDER SUBSECTION (B)(1) AND (2) OF THIS SECTION.

(2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION MAY NOT EXCEED \$2,000,000 FOR ANY CALENDAR YEAR.

(II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL INDIVIDUALS AND CORPORATIONS UNDER SUBSECTION (B) OF THIS SECTION EXCEEDS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL APPROVE A CREDIT UNDER SUBSECTION (B) OF THIS SECTION FOR EACH APPLICANT IN AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING THE CREDIT APPLIED FOR BY THE APPLICANT TIMES A FRACTION:

<u>1.</u> <u>THE NUMERATOR OF WHICH IS THE MAXIMUM</u> <u>SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND</u>

2. <u>THE DENOMINATOR OF WHICH IS THE TOTAL OF</u> <u>ALL CREDITS APPLIED FOR BY ALL APPLICANTS UNDER SUBSECTION (B) OF</u> <u>THIS SECTION IN THE CALENDAR YEAR.</u>

BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE (3) END OF THE TAXABLE YEAR IN WHICH THE COSTS WERE INCURRED, THE DEPARTMENT SHALL CERTIFY TO THE INDIVIDUAL OR CORPORATION THE AMOUNT OF TAX CREDITS APPROVED BY THE DEPARTMENT FOR THE INDIVIDUAL OR CORPORATION UNDER THIS SECTION.

(4) TO CLAIM THE APPROVED CREDITS ALLOWED UNDER THIS SECTION, AN INDIVIDUAL OR A CORPORATION SHALL:

(I) FILE AN AMENDED INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE COSTS WERE INCURRED; AND

(II) ATTACH A COPY OF THE DEPARTMENT'S CERTIFICATION OF THE APPROVED CREDIT AMOUNT TO THE AMENDED INCOME TAX RETURN.-IN-PROPORTION TO THE VALUE OF THE CREDIT CERTIFICATES APPLIED FOR-DURING THE APPLICATION PERIOD.

(C) (D) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN THE AMOUNT STATED IN THE CREDIT CERTIFICATE APPROVED BY THE SECRETARY FOR COSTS AS PROVIDED UNDER THIS SECTION.

(2) IF THE CREDIT ALLOWED FOR ANY TAXABLE YEAR UNDER THIS SECTION EXCEEDS THE TOTAL TAX OTHERWISE DUE, AN INDIVIDUAL OR CORPORATION MAY APPLY THE EXCESS AS A CREDIT AGAINST THE STATE INCOME TAX FOR SUCCEEDING TAXABLE YEARS UNTIL THE FULL AMOUNT OF THE EXCESS IS USED.

(D) (1) THE TOTAL AMOUNT OF CREDITS AN INDIVIDUAL OR **CORPORATION MAY CLAIM MAY NOT EXCEED THE AMOUNT OF THE CREDIT CERTIFICATES ISSUED TO THE INDIVIDUAL OR CORPORATION.**

(I) WITHIN 15 DAYS AFTER THE END OF EACH (2) APPLICATION PERIOD, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER OF THE MAXIMUM AMOUNT STATED IN EACH CREDIT CERTIFICATE ISSUED **DURING THE APPLICATION PERIOD.**

THE COMPTROLLER SHALL TRANSFER AN AMOUNT (II) EQUAL TO THE CREDIT AMOUNT STATED IN THE CREDIT CERTIFICATE FROM THE RESERVE FUND TO THE GENERAL FUND.

THERE IS A SECURITY CLEARANCE INCOME TAX CREDIT (E) (1) Reserve Fund.

(2) THE PURPOSE OF THE RESERVE FUND IS TO PROVIDE A BUDGETARY LIMIT ON THE AMOUNT OF TAX CREDITS THE DEPARTMENT MAY ISSUE EACH FISCAL YEAR.

(3) THE SECRETARY SHALL ADMINISTER THE RESERVE FUND.

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

(II) THE STATE TREASURER SHALL HOLD THE RESERVE Fund separately, and the Comptroller shall account for the Reserve Fund.

(5) (1) THE RESERVE FUND CONSISTS OF MONEY APPROPRIATED IN THE STATE BUDGET TO THE RESERVE FUND.

(II) FOR EACH OF FISCAL YEAR 2014 AND FISCAL YEAR 2015, THE GOVERNOR SHALL APPROPRIATE AT LEAST \$6,000,000 TO THE RESERVE FUND.

(6) THE RESERVE FUND MAY BE USED ONLY TO REIMBURSE THE GENERAL FUND FOR THE AMOUNT OF CREDIT CERTIFICATES ISSUED UNDER THIS SECTION.

(7) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE RESERVE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(II) ANY INVESTMENT EARNINGS OF THE RESERVE FUND SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

(F) (E) THE DEPARTMENT, IN CONSULTATION WITH THE COMPTROLLER, SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION AND TO SPECIFY THE COSTS ELIGIBLE FOR THE INCOME TAX CREDIT.

(G) (F) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE NUMBER OF CREDIT CERTIFICATES ISSUED CREDITS CERTIFIED IN THE PREVIOUS FISCAL CALENDAR YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2011.

Approved by the Governor, May 22, 2012.

Chapter 479

(Senate Bill 297)

AN ACT concerning

Property and Casualty Insurance – Certificates of Insurance and Certificate of Insurance Forms

FOR the purpose of prohibiting a person from preparing or issuing or requiring the preparation or issuance of a certificate of insurance unless the certificate of insurance form has been filed with and approved by the Maryland Insurance Commissioner; providing a certain exception; requiring the Commissioner to disapprove a certificate of insurance form or withdraw approval of a certificate of insurance form under certain circumstances; prohibiting a person from altering or modifying a certificate of insurance; requiring the Commissioner to adopt certain regulations; and generally relating to certificates of insurance and certificate of insurance forms.

BY repealing and reenacting, with amendments, Article – Insurance Section 19–116 Annotated Code of Maryland (2011 Replacement Volume)

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

Article – Insurance

19 - 116.

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

(2) "Certificate holder" means any person, other than a policyholder, that requests, obtains, or possesses a certificate of insurance.

(3) (i) "Certificate of insurance" or "certificate" means any document or instrument, however titled or described, that is prepared or issued by an

insurer or insurance producer as evidence of property insurance or casualty insurance coverage.

(ii) "Certificate of insurance" or "certificate" does not include a policy of insurance or an insurance binder.

- (4) "Insurer" includes a person that is self-insured.
- (5) "Person" includes a unit of State or local government.

(6) "Policyholder" means the owner of a policy of property insurance or casualty insurance.

(b) (1) This section applies to all certificate holders, policyholders, insurers, insurance producers, and certificates of insurance prepared or issued as evidence of insurance coverage on property, operations, or risks located in the State, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

(2) This section may not be construed to apply to a statement, summary, or evidence of property insurance, including a certificate, required by a lender that holds a loan secured by:

- (i) a mortgage;
- (ii) a lien;
- (iii) a deed of trust; or

(iv) any other security interest in real or personal property as security for the loan.

(C) (1) EXCEPT AS PROVIDED IN **PARAGRAPH** (2) <u>PARAGRAPHS (2)</u> <u>AND (3)</u> OF THIS SUBSECTION, A PERSON MAY NOT PREPARE OR ISSUE OR REQUIRE THE PREPARATION OR ISSUANCE OF A CERTIFICATE OF INSURANCE UNLESS THE CERTIFICATE OF INSURANCE FORM HAS BEEN FILED WITH AND APPROVED BY THE COMMISSIONER.

(2) ANY STANDARD CERTIFICATE OF INSURANCE FORM ADOPTED BY THE ASSOCIATION FOR COOPERATIVE OPERATIONS RESEARCH AND DEVELOPMENT (ACORD) OR THE INSURANCE SERVICES OFFICE (ISO) THAT OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS SECTION IS DEEMED APPROVED BY THE COMMISSIONER.

(3) THE COMMISSIONER MAY DESIGNATE A CERTIFICATE OF INSURANCE FORM REQUIRED BY A FEDERAL AGENCY AS DEEMED APPROVED. (D) THE COMMISSIONER SHALL DISAPPROVE A CERTIFICATE OF INSURANCE FORM FILED WITH THE COMMISSIONER UNDER THIS SECTION, OR WITHDRAW APPROVAL OF A CERTIFICATE OF INSURANCE FORM, IF THE FORM:

(1) IS UNJUST, UNFAIR, MISLEADING, OR DECEPTIVE OR VIOLATES PUBLIC POLICY;

(2) FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION; OR

(3) VIOLATES ANY LAW, INCLUDING ANY REGULATION ADOPTED BY THE COMMISSIONER.

[(c)] (E) A person may not require an insurer or insurance producer to prepare or issue, or a policyholder to provide, a certificate of insurance that contains false or misleading information relating to the policy of insurance referenced in the certificate.

(F) A PERSON MAY NOT ALTER OR MODIFY \triangleq <u>AN APPROVED</u> CERTIFICATE OF INSURANCE.

[(d)] (G) A person may not prepare or issue a certificate of insurance that the person knows contains false or misleading information or that purports to amend, alter, or extend the coverage provided by the policy of insurance referenced in the certificate.

[(e)] (H) A person may not prepare, issue, or require, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document that is inconsistent with this section.

[(f)] (I) (1) A certificate of insurance is not a policy of insurance and does not amend, alter, or extend the coverage provided by the policy of insurance referenced in the certificate.

(2) A certificate of insurance does not confer on a certificate holder new or additional coverage beyond the coverage provided in the policy of insurance referenced in the certificate.

[(g)] (J) The terms and conditions of a notice of cancellation, nonrenewal, material change, or other similar matters relating to a policy of insurance referenced in a certificate of insurance:

- (1) shall be governed by the policy of insurance; and
- (2) may not be altered by a certificate of insurance.

[(h)] (K) A certificate of insurance or any other document prepared, issued, or required in violation of this section is void and unenforceable.

[(i)] (L) The Commissioner may examine and investigate the activities of any person that the Commissioner reasonably believes has been or is engaged in an act or practice prohibited by this section.

(M) THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS THAT ESTABLISH AN APPROVAL PROCESS FOR CERTIFICATE OF INSURANCE FORMS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 480

(House Bill 463)

AN ACT concerning

Property and Casualty Insurance – Certificates of Insurance and Certificate of Insurance Forms

FOR the purpose of prohibiting a person from preparing or issuing or requiring the preparation or issuance of a certificate of insurance unless the certificate of insurance form has been filed with and approved by the Maryland Insurance Commissioner; providing a certain exception; requiring the Commissioner to disapprove a certificate of insurance form or withdraw approval of a certificate of insurance form under certain circumstances; prohibiting a person from altering or modifying a certificate of insurance; requiring the Commissioner to adopt certain regulations; and generally relating to certificates of insurance and certificate of insurance forms.

BY repealing and reenacting, with amendments,

Article – Insurance Section 19–116 Annotated Code of Maryland (2011 Replacement Volume)

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

Article – Insurance

19–116.

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

(2) "Certificate holder" means any person, other than a policyholder, that requests, obtains, or possesses a certificate of insurance.

(3) (i) "Certificate of insurance" or "certificate" means any document or instrument, however titled or described, that is prepared or issued by an insurer or insurance producer as evidence of property insurance or casualty insurance coverage.

(ii) "Certificate of insurance" or "certificate" does not include a policy of insurance or an insurance binder.

- (4) "Insurer" includes a person that is self-insured.
- (5) "Person" includes a unit of State or local government.

(6) "Policyholder" means the owner of a policy of property insurance or casualty insurance.

(b) (1) This section applies to all certificate holders, policyholders, insurers, insurance producers, and certificates of insurance prepared or issued as evidence of insurance coverage on property, operations, or risks located in the State, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

(2) This section may not be construed to apply to a statement, summary, or evidence of property insurance, including a certificate, required by a lender that holds a loan secured by:

- (i) a mortgage;
- (ii) a lien;
- (iii) a deed of trust; or

(iv) any other security interest in real or personal property as security for the loan.

(C) (1) EXCEPT AS PROVIDED IN **PARAGRAPH** (2) <u>PARAGRAPHS (2)</u> <u>AND (3)</u> OF THIS SUBSECTION, A PERSON MAY NOT PREPARE OR ISSUE OR REQUIRE THE PREPARATION OR ISSUANCE OF A CERTIFICATE OF INSURANCE UNLESS THE CERTIFICATE OF INSURANCE FORM HAS BEEN FILED WITH AND APPROVED BY THE COMMISSIONER.

(2) ANY STANDARD CERTIFICATE OF INSURANCE FORM ADOPTED BY THE ASSOCIATION FOR COOPERATIVE OPERATIONS RESEARCH AND DEVELOPMENT (ACORD) OR THE INSURANCE SERVICES OFFICE (ISO) THAT OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS SECTION IS DEEMED APPROVED BY THE COMMISSIONER.

(3) <u>The Commissioner may designate a certificate of</u> Insurance form required by a federal agency as deemed approved.

(D) THE COMMISSIONER SHALL DISAPPROVE A CERTIFICATE OF INSURANCE FORM FILED WITH THE COMMISSIONER UNDER THIS SECTION, OR WITHDRAW APPROVAL OF A CERTIFICATE OF INSURANCE FORM, IF THE FORM:

(1) IS UNJUST, UNFAIR, MISLEADING, OR DECEPTIVE OR VIOLATES PUBLIC POLICY;

(2) FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION; OR

(3) VIOLATES ANY LAW, INCLUDING ANY REGULATION ADOPTED BY THE COMMISSIONER.

[(c)] (E) A person may not require an insurer or insurance producer to prepare or issue, or a policyholder to provide, a certificate of insurance that contains false or misleading information relating to the policy of insurance referenced in the certificate.

(F) A PERSON MAY NOT ALTER OR MODIFY $\stackrel{\bullet}{\to}$ <u>AN APPROVED</u> CERTIFICATE OF INSURANCE.

[(d)] (G) A person may not prepare or issue a certificate of insurance that the person knows contains false or misleading information or that purports to amend, alter, or extend the coverage provided by the policy of insurance referenced in the certificate.

[(e)] (H) A person may not prepare, issue, or require, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document that is inconsistent with this section.

[(f)] (I) (1) A certificate of insurance is not a policy of insurance and does not amend, alter, or extend the coverage provided by the policy of insurance referenced in the certificate.

(2) A certificate of insurance does not confer on a certificate holder new or additional coverage beyond the coverage provided in the policy of insurance referenced in the certificate.

[(g)] (J) The terms and conditions of a notice of cancellation, nonrenewal, material change, or other similar matters relating to a policy of insurance referenced in a certificate of insurance:

- (1) shall be governed by the policy of insurance; and
- (2) may not be altered by a certificate of insurance.

[(h)] (K) A certificate of insurance or any other document prepared, issued, or required in violation of this section is void and unenforceable.

[(i)] (L) The Commissioner may examine and investigate the activities of any person that the Commissioner reasonably believes has been or is engaged in an act or practice prohibited by this section.

(M) THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS THAT ESTABLISH AN APPROVAL PROCESS FOR CERTIFICATE OF INSURANCE FORMS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 481

(Senate Bill 314)

AN ACT concerning

State Personnel – Traumatic Events – Mental Health Support Services

FOR the purpose of requiring a certain unit of State government to make available <u>obtain</u> mental health support services to for certain individuals affected by a traumatic event that occurs in a facility of the unit and results in the death of an individual; requiring certain mental health support services to be made available to certain employees for a certain purpose and within a certain period of time; defining a certain term certain terms; and generally relating to the provision of mental health support services by units of State government.

BY repealing and reenacting, without amendments,

<u>Article – State Government</u> <u>Section 8–306(a)(4)</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Personnel and Pensions
Section 5–401 to be under the new subtitle "Subtitle 4. Mental Health Services for Traumatic Events"
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

<u>Article – State Government</u>

<u>8–306.</u>

(a) (4) "State facility" means a facility that is owned, leased, or operated by the State for the purpose of providing health, juvenile, or correctional services to clients or inmates.

Article – State Personnel and Pensions

SUBTITLE 4. MENTAL HEALTH SERVICES FOR TRAUMATIC EVENTS.

5-401.

(A) (1) IN THIS SUBTITLE, "UNIT" MEANS THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) <u>"State facility" has the meaning stated in § 8–306(A)</u> OF THE STATE GOVERNMENT ARTICLE.

(3) <u>"Unit" means</u> a unit of the Executive Branch of State government.

(B) A UNIT SHALL MAKE AVAILABLE MENTAL HEALTH SUPPORT SERVICES TO ANY EMPLOYEE OR OTHER INDIVIDUAL AFFECTED BY IF A TRAUMATIC EVENT THAT OCCURS IN A STATE FACILITY OF THE <u>A</u> UNIT AND RESULTS IN THE DEATH OF AN INDIVIDUAL INDIVIDUAL, THE UNIT SHALL OBTAIN MENTAL HEALTH SUPPORT SERVICES FOR ANY EMPLOYEE OF THE UNIT AFFECTED BY THE TRAUMATIC EVENT. (C) THE MENTAL HEALTH SUPPORT SERVICES PROVIDED REQUIRED UNDER THIS SECTION SHALL BE MADE AVAILABLE;

(1) TO AN EMPLOYEE TO ENSURE THAT THE EMPLOYEE HAS THE MENTAL ABILITY TO RESUME THE EMPLOYEE'S DUTIES AND RESPONSIBILITIES; AND

(2) <u>PROVIDED</u> WITHIN 48 HOURS AFTER THE TRAUMATIC EVENT OCCURS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 482

(House Bill 1193)

AN ACT concerning

State Personnel – Traumatic Events – Mental Health Support Services

FOR the purpose of requiring a certain unit of State government to make available <u>obtain</u> mental health support services to for certain individuals affected by a traumatic event that occurs in a facility of the unit and results in the death of an individual; requiring certain mental health support services to be made available to certain employees for a certain purpose and within a certain period of time; defining a certain term certain terms; and generally relating to the provision of mental health support services by units of State government.

<u>BY repealing and reenacting, without amendments,</u> <u>Article – State Government</u> <u>Section 8–306(a)(4)</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Personnel and Pensions
Section 5–401 to be under the new subtitle "Subtitle 4. Mental Health Services for Traumatic Events"
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

<u>Article – State Government</u>

<u>8–306.</u>

(a) (4) "State facility" means a facility that is owned, leased, or operated by the State for the purpose of providing health, juvenile, or correctional services to clients or inmates.

Article – State Personnel and Pensions

SUBTITLE 4. MENTAL HEALTH SERVICES FOR TRAUMATIC EVENTS.

5-401.

(A) (1) IN THIS SUBTITLE, "UNIT" MEANS THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) <u>"STATE FACILITY" HAS THE MEANING STATED IN § 8–306(A)</u> OF THE STATE GOVERNMENT ARTICLE.

(3) <u>"Unit" means</u> a unit of the Executive Branch of State government.

(B) <u>A UNIT SHALL MAKE AVAILABLE MENTAL HEALTH SUPPORT</u> SERVICES TO ANY EMPLOYEE OR OTHER INDIVIDUAL AFFECTED BY IF A TRAUMATIC EVENT THAT OCCURS IN A <u>STATE</u> FACILITY OF THE <u>A</u> UNIT AND RESULTS IN THE DEATH OF AN INDIVIDUAL, THE UNIT SHALL OBTAIN MENTAL HEALTH SUPPORT SERVICES FOR ANY EMPLOYEE OF THE UNIT AFFECTED BY THE TRAUMATIC EVENT.

(C) THE <u>MENTAL HEALTH SUPPORT</u> SERVICES <u>PROVIDED</u> <u>REQUIRED</u> UNDER THIS SECTION SHALL BE <u>MADE AVAILABLE</u>:

(1) TO AN EMPLOYEE TO ENSURE THAT THE EMPLOYEE HAS THE MENTAL ABILITY TO RESUME THE EMPLOYEE'S DUTIES AND RESPONSIBILITIES; AND

(2) <u>PROVIDED</u> WITHIN 48 HOURS AFTER THE TRAUMATIC EVENT OCCURS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 483

(Senate Bill 332)

AN ACT concerning

Family Security Trust Fund – Requirement to Transfer Interest to the General Fund – Exemption

FOR the purpose of exempting the Family Security Trust Fund, <u>under certain</u> <u>circumstances</u>, from a certain requirement that certain interest accrue to the General Fund; <u>requiring the State Treasurer</u>, <u>under certain circumstances</u>, to <u>pay certain investment earnings into the General Fund of the State; making a</u> <u>conforming change</u>; and generally relating to an exemption for the Family Security Trust Fund from the requirement to transfer interest to the General Fund.

<u>BY repealing and reenacting, with amendments,</u> <u>Article – Health Occupations</u> <u>Section 7–4A–03</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – State Finance and Procurement Section 6–226(a)(2)(i) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 6–226(a)(2)(ii)62. and 63. Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Finance and Procurement Section 6–226(a)(2)(ii)64. Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Health Occupations

<u>7–4A–03.</u>

(a) <u>There is a Family Security Trust Fund.</u>

(b) <u>The Board shall:</u>

(1) Administer the Fund; and

(2) Over a reasonable period of time, build the Fund to a level of [at least] \$1,000,000 and thereafter maintain the Fund at that level.

(c) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(d) (1) The Board shall deposit all money collected to the credit of the Fund with the State Treasurer for placement into a special account.

(2) (i) The State Treasurer may invest or reinvest money in the Fund in the same manner as money in the State Retirement and Pension System.

(ii) The investment earnings shall be:

1. [Credited] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, CREDITED to the Fund; and

<u>2.</u> <u>Available for the same purposes as the money</u> <u>deposited into the Fund.</u>

(3) IF THE LEVEL OF THE FUND EXCEEDS \$1,000,000, THE STATE TREASURER SHALL PAY THE INVESTMENT EARNINGS OF THE FUND INTO THE GENERAL FUND OF THE STATE.

(e) The Fund is not liable for any other expenses or obligations of the Board.

(f) (1) Accounting and financial reports related to the Fund shall be publicly available in a timely manner.

(2) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

(g) (1) The Board may retain the services of appropriate experts or service providers to advise about, or administer, the Fund.

(2) The costs of the services described in paragraph (1) of this subsection shall be paid out of the Fund.

(h) The Board shall adopt regulations for the administration and claims procedures of the Fund.

Article – State Finance and Procurement

6-226.

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

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

- 62. Veterans Trust Fund; [and]
- 63. Transportation Trust Fund; AND

64. FAMILY SECURITY TRUST FUND, SUBJECT TO § 7-4A-03(D) OF THE HEALTH OCCUPATIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 484

(House Bill 71)

AN ACT concerning

Family Security Trust Fund – Requirement to Transfer Interest to the General Fund – Exemption FOR the purpose of exempting the Family Security Trust Fund, <u>under certain</u> <u>circumstances</u>, from a certain requirement that certain interest accrue to the General Fund; <u>requiring the State Treasurer</u>, <u>under certain circumstances</u>, to <u>pay certain investment earnings into the General Fund of the State; making a</u> <u>conforming change</u>; and generally relating to an exemption for the Family Security Trust Fund from the requirement to transfer interest to the General Fund.

BY repealing and reenacting, with amendments,

<u>Article – Health Occupations</u> <u>Section 7–4A–03</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – State Finance and Procurement Section 6–226(a)(2)(i) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 6–226(a)(2)(ii)62. and 63. Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Finance and Procurement Section 6–226(a)(2)(ii)64. Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

<u>7–4A–03.</u>

- (a) There is a Family Security Trust Fund.
- (b) <u>The Board shall:</u>
 - (1) Administer the Fund; and

(2) Over a reasonable period of time, build the Fund to a level of [at least] \$1,000,000 and thereafter maintain the Fund at that level.

(c) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(d) (1) The Board shall deposit all money collected to the credit of the Fund with the State Treasurer for placement into a special account.

(2) (i) <u>The State Treasurer may invest or reinvest money in the</u> Fund in the same manner as money in the State Retirement and Pension System.

(ii) The investment earnings shall be:

1. [Credited] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, CREDITED to the Fund; and

<u>deposited into the Fund.</u> <u>2.</u> <u>Available for the same purposes as the money</u>

(3) IF THE LEVEL OF THE FUND EXCEEDS \$1,000,000, THE STATE TREASURER SHALL PAY THE INVESTMENT EARNINGS OF THE FUND INTO THE GENERAL FUND OF THE STATE.

(e) The Fund is not liable for any other expenses or obligations of the Board.

(f) (1) Accounting and financial reports related to the Fund shall be publicly available in a timely manner.

(2) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

(g) (1) The Board may retain the services of appropriate experts or service providers to advise about, or administer, the Fund.

(2) The costs of the services described in paragraph (1) of this subsection shall be paid out of the Fund.

(h) The Board shall adopt regulations for the administration and claims procedures of the Fund.

Article – State Finance and Procurement

6-226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated

by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

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

- 62. Veterans Trust Fund; [and]
- 63. Transportation Trust Fund; AND

64. FAMILY SECURITY TRUST FUND<u>, SUBJECT TO §</u> 7-4A-03D 7-4A-03(D) OF THE HEALTH OCCUPATIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 485

(Senate Bill 335)

AN ACT concerning

Judges' Retirement System – Contribution Rates for New Members <u>and</u> <u>Vesting Requirements</u>

FOR the purpose of altering the rate of member contributions for individuals who become members of the Judges' Retirement System on or after a certain date; <u>altering the rate of member contributions for certain members of the Judges'</u> <u>Retirement System; providing for the effective date of certain provisions of this</u> <u>Act; requiring individuals who become members of the Judges' Retirement</u> <u>System on or after a certain date to earn a certain amount of eligibility service</u> <u>before becoming eligible to receive certain retirement allowances; altering the</u> <u>calculation of a normal service retirement allowance for certain members in the</u> <u>Judges' Retirement System;</u> and generally relating to the Judges' Retirement System.

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 27–202<u>, 27–401, and 27–402(c)</u> Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement) BY repealing and reenacting, with amendments,

<u>Article – State Personnel and Pensions</u> <u>Section 27–202</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement) (As enacted by Section 1 of this Act)

BY repealing

<u>Article – State Personnel and Pensions</u> <u>Section 29–301</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

<u>BY adding to</u>

<u>Article – State Personnel and Pensions</u> <u>Section 29–301</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

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

Article – State Personnel and Pensions

27 - 202.

(a) Except as provided in **f**subsection (b)**f** SUBSECTIONS-(B)-AND (C) of this section, a member's contribution rate is $\frac{6\%}{8\%}$ of the member's earnable compensation.

(b) THE CONTRIBUTION RATE FOR AN INDIVIDUAL WHO BECOMES A MEMBER ON OR AFTER JULY 1, 2012, IS 8% OF THE MEMBER'S EARNABLE COMPENSATION.

(C) After 16 years of service as a member, a member does not make any further contributions.

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

Article - State Personnel and Pensions

<u>27-202.</u>

(a) <u>Except as provided in [subsections (b) and (c)] SUBSECTION (B) of this</u> section, a member's contribution rate is [6%] 8% of the member's carnable <u>compensation</u>.

(b) [The contribution rate for an individual who becomes a member on or after July 1, 2012, is 8% of the member's earnable compensation.

(c)] <u>After 16 years of service as a member, a member does not make any</u> <u>further contributions.</u>

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2013.

<u>27–401.</u>

(A) (1) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO IS A MEMBER OF THE JUDGES' RETIREMENT SYSTEM ON OR BEFORE JUNE 30, 2012.

(2) <u>A member or former member is entitled to a retirement allowance:</u>

[(1)] (I) on termination of service, if the member is at least 60

<u>years old;</u>

[(2)] (II) on the recommendation of the medical board, if the member or former member resigns because of disability:

[(3)] (III) when retired by order of the Court of Appeals; or

[(4)] (IV) at the age of 60 years, if the former member's termination of service occurred earlier.

(B) (1) This subsection applies only to an individual who becomes a member of the Judges' Retirement System on or after July 1, 2012.

(2) <u>A MEMBER OR FORMER MEMBER IS ENTITLED TO A</u> <u>RETIREMENT ALLOWANCE:</u>

(I) ON TERMINATION OF SERVICE, IF THE MEMBER IS AT LEAST 60 YEARS OLD AND HAS AT LEAST 5 YEARS OF ELIGIBILITY SERVICE;

(II) ON THE RECOMMENDATION OF THE MEDICAL BOARD, IF THE MEMBER OR FORMER MEMBER RESIGNS BECAUSE OF DISABILITY;

(III) WHEN RETIRED BY ORDER OF THE COURT OF APPEALS;

<u>OR</u>

(IV) AT THE AGE OF 60 YEARS, IF THE FORMER MEMBER'S TERMINATION OF SERVICE OCCURRED EARLIER AND THE FORMER MEMBER HAD AT LEAST 5 YEARS OF ELIGIBILITY SERVICE WHEN THE FORMER MEMBER TERMINATED SERVICE.

<u>27–402.</u>

(c) (1) (1) This paragraph applies only to an individual who is a member of the Judges' Retirement System on or before June 30, 2012.

(II) On retirement under this subtitle by a retiree who has less than 16 years of service credit as a member, the retiree is entitled to a reduced retirement allowance that equals the retirement allowance computed under subsection (a) or (b) of this section multiplied by a fraction that has:

[(1)] 1. for its numerator, the number of years of service credit as a member; and

[(2)] <u>2.</u> for its denominator, 16.

(2) (1) This paragraph applies only to an individual who becomes a member of the Judges' Retirement System on or after July 1, 2012.

(II) ON RETIREMENT UNDER THIS SUBTITLE BY A RETIREE WHO HAS AT LEAST 5 YEARS BUT LESS THAN 16 YEARS OF SERVICE CREDIT AS A MEMBER, THE RETIREE IS ENTITLED TO A REDUCED RETIREMENT ALLOWANCE THAT EQUALS THE RETIREMENT ALLOWANCE COMPUTED UNDER SUBSECTION (A) OR (B) OF THIS SECTION MULTIPLIED BY A FRACTION THAT HAS:

<u>1.</u> <u>FOR ITS NUMERATOR, THE NUMBER OF YEARS OF</u> <u>SERVICE CREDIT AS A MEMBER; AND</u>

<u>2.</u> FOR ITS DENOMINATOR, 16.

<u>[29–301.</u>

This subtitle does not apply to the Judges' Retirement System.]

<u>29–301.</u>

(A) THIS SECTION APPLIES ONLY TO A MEMBER OF THE JUDGES' RETIREMENT SYSTEM WHO BECOMES A MEMBER ON OR AFTER JULY 1, 2012.

(B) (1) <u>A MEMBER MAY ELECT TO RECEIVE A VESTED ALLOWANCE IF:</u>

(1) THE MEMBER IS SEPARATED FROM EMPLOYMENT OTHER THAN BY DEATH OR RETIREMENT; AND

(II) <u>THE MEMBER HAS AT LEAST 5 YEARS OF ELIGIBILITY</u> <u>SERVICE.</u>

(2) <u>A MEMBER IS DEEMED TO HAVE ELECTED A VESTED</u> <u>ALLOWANCE, UNLESS THE MEMBER REQUESTS THE RETURN OF THE</u> <u>ACCUMULATED CONTRIBUTIONS BEFORE MEMBERSHIP ENDS.</u>

(C) <u>A VESTED ALLOWANCE IS A DEFERRED ALLOWANCE STARTING AT</u> <u>AGE 60.</u>

(D) A VESTED ALLOWANCE:

(1) IS COMPUTED AS A RETIREMENT ALLOWANCE UNDER § 27–402 OF THIS ARTICLE ON THE BASIS OF THE FORMER MEMBER'S CREDITABLE SERVICE AT THE TIME OF SEPARATION FROM EMPLOYMENT; AND

(2) MAY BE PAID IN ONE OF THE OPTIONAL FORMS OF ALLOWANCES UNDER § 21–403 OF THIS ARTICLE, IF AT RETIREMENT, THE MEMBER DOES NOT HAVE A SPOUSE OR CHILD UNDER THE AGE OF 18.

(E) (1) IF A FORMER MEMBER WHO ELECTED A VESTED ALLOWANCE REQUESTS THE RETURN OF ACCUMULATED CONTRIBUTIONS BEFORE PAYMENT OF THE VESTED ALLOWANCE BEGINS, THE BOARD OF TRUSTEES SHALL RETURN THE ACCUMULATED CONTRIBUTIONS TO THE FORMER MEMBER.

(2) WHEN ACCUMULATED CONTRIBUTIONS ARE RETURNED TO A FORMER MEMBER, THE FORMER MEMBER IS NOT ENTITLED TO FURTHER BENEFITS ON ACCOUNT OF THE FORMER MEMBER'S PREVIOUS MEMBERSHIP.

SECTION 2. <u>4.</u> <u>2.</u> AND BE IT FURTHER ENACTED, That. <u>except as provided</u> <u>in Section 3 of this Act</u>, this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 486

(Senate Bill 337)

AN ACT concerning

State Board of Nursing – Nurses, Nursing Assistants, Medication Technicians, and Electrologists – Licensure and Certification Requirements

FOR the purpose of requiring certain prosecutions for certain offenses relating to the licensing of nurses and electrologists to be instituted within a certain period of time after which the offense was committed; exempting individuals who provide certain care from the requirement that an individual must be licensed or certified before practicing certain health occupations; exempting individuals who respond to certain disaster situations from the requirement that an individual must be licensed before practicing registered nursing or licensed practical nursing in the State under certain circumstances; requiring certain nurses with multistate licensing privileges to hold a license in a certain home state in accordance with the Nurse Multistate Licensure Compact; establishing certain qualifications for applicants of a certificate to practice registered nursing as a certain advanced practice nurse; prohibiting certain individuals from practicing a certain type of nursing or using a certain title under certain circumstances; repealing a certain provision of law allowing certain applicants to submit evidence of completion of certain criminal history records checks through other state boards of nursing; requiring certain applicants to submit certain evidence and information to the State Board of Nursing as part of an application for licensure; prohibiting certain applicants from being entitled to be examined in the State for a license as a registered nurse or as a licensed practical nurse; altering a certain requirement for certain applicants to participate in a certain preceptorship program; authorizing the Board to issue certain licenses by endorsement; repealing certain requirements for the publication of notice of certain revocations or suspensions; repealing a certain requirement that to qualify as a certain skilled nursing assistant, an applicant must meet certain requirements; prohibiting certain individuals from practicing, attempting to practice, or offering to practice advanced practice nursing or electrology unless licensed by the Board; authorizing the Board to issue certain orders, impose certain fines, or seek certain relief; specifying that certain offenses are separate violations under certain circumstances; requiring the Board to pay certain money to the Comptroller; requiring the Comptroller to distribute certain money to the Board of Nursing Fund; authorizing the Board to refer certain cases to the Central Collection Unit of the Department of Budget and Fiscal Planning to institute and maintain certain proceedings; authorizing certain actions for injunctive relief to be brought by certain entities for certain purposes under certain circumstances in certain counties; providing that a person who violates certain provisions of law is guilty of a misdemeanor and on conviction is subject to a certain fine; providing for a certain exception to a violation of certain provisions of law; making certain technical corrections; defining certain terms; and generally relating to the licensure, certification, and penalties for violations of the laws and regulations that govern nurses, nursing assistants, medication technicians, and electrologists.

BY adding to

Article – Courts and Judicial Proceedings Section 5–106(bb) Annotated Code of Maryland (2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations Section 8–101, 8–301, 8–302, 8–304, 8–305, 8–307, 8–6A–02, 8–6A–05(b) and (c), 8–6A–08(b) and (k)(1), 8–6A–10(e), 8–6B–11, 8–701, and 8–710 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing

Article – Health Occupations Section 8–316(d) and 8–6A–10(d) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations Section 8–708 and 8–709 Annotated Code of Maryland (2009 Replacement Volume and 2011 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.

(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER TITLE 8, SUBTITLE 7 OR § 8-6B-23 of the Health Occupations Article shall be instituted within 3 years after the offense was committed.

Article – Health Occupations

8-101.

- (a) In this title the following words have the meanings indicated.
- (B) "ADVANCED PRACTICE NURSE" MEANS AN INDIVIDUAL WHO:

(1) IS LICENSED BY THE BOARD TO PRACTICE REGISTERED NURSING; AND

(2) IS CERTIFIED BY THE BOARD TO PRACTICE AS:

- (I) A NURSE PRACTITIONER;
- (II) A NURSE ANESTHETIST;
- (III) A NURSE MIDWIFE;
- (IV) A NURSE PSYCHOTHERAPIST; OR
- (V) A CLINICAL NURSE SPECIALIST.
- [(b)] (C) "Board" means the State Board of Nursing.

[(c)] (D) "License" means, unless the context requires otherwise, a license issued by the Board to practice:

- (1) Registered nursing; or
- (2) Licensed practical nursing.

[(d)] (E) "Licensed practical nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice licensed practical nursing.

[(e)] (F) "Nurse practitioner" means an individual who:

- (1) Is licensed by the Board to practice registered nursing; and
- (2) Is certified by the Board to practice as a nurse practitioner.
- [(f)] (G) "Practice as a nurse practitioner" means to independently:
 - (1) Perform an act under subsection **[**(h)**] (I)** of this section;
 - (2) Conduct a comprehensive physical assessment of an individual;

(3) Establish a medical diagnosis for common chronic stable or short-term health problems;

(4) Order, perform, and interpret laboratory tests;

- (5) Prescribe drugs as provided under § 8–508 of this title;
- (6) Perform diagnostic, therapeutic, or corrective measures;

(7) Refer an individual to an appropriate licensed physician or other health care provider; and

(8) Provide emergency care.

[(g)] (H) "Practice licensed practical nursing" means to perform in a team relationship an act that requires specialized knowledge, judgment, and skill based on principles of biological, physiological, behavioral, or sociological science to:

- (1) Administer treatment or medication to an individual;
- (2) Aid in the rehabilitation of an individual;
- (3) Promote preventive measures in community health;
- (4) Give counsel to an individual;
- (5) Safeguard life and health;
- (6) Teach or supervise; or

(7) Perform any additional acts authorized by the Board under § 8-205 of this title.

[(h)] (I) (1) "Practice registered nursing" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the biological, physiological, behavioral, or sociological sciences as the basis for assessment, nursing diagnosis, planning, implementation, and evaluation of the practice of nursing in order to:

- (i) Maintain health;
- (ii) Prevent illness; or
- (iii) Care for or rehabilitate the ill, injured, or infirm.
- (2) For these purposes, "practice registered nursing" includes:
 - (i) Administration;
 - (ii) Teaching;
 - (iii) Counseling;

(iv) Supervision, delegation and evaluation of nursing practice;

(v) Execution of therapeutic regimen, including the administration of medication and treatment;

(vi) Independent nursing functions and delegated medical functions; and

(vii) Performance of additional acts authorized by the Board under § 8–205 of this title.

[(i)] (J) "Registered nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice registered nursing.

8-301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice registered nursing in this State.

(b) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice licensed practical nursing in this State.

(c) This section does not apply to:

1.

(1) A student enrolled in an approved education program while practicing registered nursing or licensed practical nursing in that program;

(2) An individual employed by the federal government to practice registered nursing or licensed practical nursing while practicing within the scope of that employment, if the individual is authorized by any state to practice registered nursing or licensed practical nursing;

(3) An individual permitted to practice registered nursing or licensed practical nursing under rules and regulations adopted by the Board, if the individual:

(i) Otherwise has qualified to practice registered nursing or licensed practical nursing in any other state or country and is in this State temporarily; or

(ii) Has an application for a license pending before the Board:

But has not taken the examination required under

this title;

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2. Has taken an examination under this title, but the results of the examination are not yet known; or

3. Has taken and passed an examination under this title, but is waiting for the completion of the criminal history records check;

(4) An individual who provides gratuitous care for friends, **DOMESTIC PARTNERS**, or family **MEMBERS**; or

(5) An individual who [is assigned by the American Red Cross] **RESPONDS** to a disaster situation in this State to practice registered nursing or licensed practical nursing, if:

(I) [the] THE individual [is licensed] HAS AN ACTIVE UNENCUMBERED LICENSE to practice registered nursing or licensed practical nursing in another state AND THE INDIVIDUAL IS ASSIGNED BY:

1. THE AMERICAN RED CROSS; OR

2. A MEMBER OF THE MARYLAND EMERGENCY MANAGEMENT ASSISTANCE COMPACT UNDER § 14–803 OF THE PUBLIC SAFETY ARTICLE;

(II) THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY BY EXECUTIVE ORDER OR PROCLAMATION IN ACCORDANCE WITH § 3–401 OF THE STATE GOVERNMENT ARTICLE; AND

(III) THE INDIVIDUAL REPORTS TO THE DESIGNATED STAGING AREA IN ACCORDANCE WITH § 14–803(2)(B)(5)(IV) OF THE PUBLIC SAFETY ARTICLE.

(D) A REGISTERED NURSE OR LICENSED PRACTICAL NURSE IN A PARTY STATE TO THE NURSE MULTISTATE LICENSURE COMPACT SHALL HOLD A LICENSE IN ONLY ONE PARTY STATE AT A TIME, THAT IS ISSUED BY THE HOME STATE IN ACCORDANCE WITH SUBTITLE 7A OF THIS TITLE.

[(d)] (E) A registered nurse who has been granted multistate licensing privileges by a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of this title may practice registered nursing in the State.

[(e)] (F) A licensed practical nurse who has been granted multistate licensing privileges by a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of this title may practice practical nursing in the State.

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(a) Except as otherwise provided in this title, to qualify for a license or certification, an applicant shall be an individual who submits to a criminal history records check in accordance with § 8-303 of this subtitle and meets the requirements of this section.

(b) (1) An applicant for certification as [a certified nurse practitioner] AN ADVANCED PRACTICE NURSE shall:

(i) Be a registered nurse;

(ii) Complete [a nurse practitioner] AN EDUCATION program approved by the Board;

(iii) Submit to the Board:

1. A completed application for certification as a nurse practitioner, NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST for each area in which certification is sought;

2. Documentation of an active license in good standing as a registered nurse in the State;

3. Documentation that the applicant has graduated from an accredited program for ADVANCED PRACTICE NURSING FOR nurse practitioners, NURSE ANESTHETISTS, NURSE MIDWIVES, NURSE PSYCHOTHERAPISTS, OR CLINICAL NURSE SPECIALISTS; and

4. Documentation of certification as a nurse practitioner, NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST by a nationally recognized certifying body approved by the Board; and

(iv) Meet any other requirements that the Board sets.

(2) (I) An individual certified AS A NURSE PRACTITIONER by a national certifying body prior to October 1, 2010 who is certified by the Board and in good standing shall be deemed to meet the education requirements under subsection (b)(1)(iii)3 of this section.

(II) AN INDIVIDUAL CERTIFIED AS A NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST WHO IS CERTIFIED BY THE BOARD AND IN GOOD STANDING PRIOR TO OCTOBER 1, 2012, SHALL BE DEEMED TO MEET THE EDUCATION REQUIREMENTS UNDER SUBSECTION (B)(1)(III)3 OF THIS SECTION. (3) In addition to the requirements for renewal of a license under § 8–312 of this subtitle, the Board may establish continuing education or competency requirements for the renewal of a certificate under this subsection.

(4) (i) Subject to the provisions of this subsection, the Board may waive any requirement of this subsection for an applicant who is licensed or certified to practice as a nurse practitioner, NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST in any other state or country.

(ii) The Board may grant a waiver under this paragraph only if the applicant:

1. Pays the application fee required by the Board under § 8–304 of this subtitle;

2. Became licensed or certified in the other state or country under requirements substantially equivalent to the certification requirements of this title; and

3. Meets any other qualifications established by the

Board.

(5) (i) A certified nurse practitioner may not practice in the State unless the nurse practitioner has an approved attestation that:

1. The nurse practitioner has an agreement for collaboration and consulting with a physician licensed under Title 14 of this article and will refer to and consult with physicians and other health care providers as needed; and

2. The nurse practitioner will practice in accordance with the standards of practice of the American Academy of Nurse Practitioners or any other national certifying body recognized by the Board.

- (ii) The Board shall:
 - 1. Maintain an approved attestation; and

2. Make the approved attestation available to the State Board of Physicians on the request of the State Board of Physicians.

(6) Unless authorized to practice as a nurse practitioner under this title, a person may not:

(i) Represent to the public by title or by description of services, methods, or procedures, or otherwise, that the person is authorized to practice as a nurse practitioner in this State;

(ii) Use as a title or describe the services the person provides by use of the words "nurse practitioner" or "certified registered nurse practitioner"; or

(iii) Use the abbreviation "N.P.", "C.R.N.P.", or any other words, letters, or symbols with the intent to represent that the person practices as a nurse practitioner.

(7) UNLESS AUTHORIZED TO PRACTICE AS A NURSE ANESTHETIST UNDER THIS TITLE, A PERSON MAY NOT:

(I) PRACTICE NURSE ANESTHESIA UNLESS CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; OR

(II) USE THE TITLE "CERTIFIED NURSE ANESTHETIST", "NURSE ANESTHETIST", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE ANESTHETIST.

(8) UNLESS AUTHORIZED TO PRACTICE AS A NURSE MIDWIFE UNDER THIS TITLE, A PERSON MAY NOT:

(I) PRACTICE NURSE MIDWIFERY UNLESS CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; <u>OR</u>

(II) USE THE TITLE "CERTIFIED NURSE MIDWIFE", "NURSE MIDWIFE", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE MIDWIFE.

(9) UNLESS AUTHORIZED TO PRACTICE AS A NURSE PSYCHOTHERAPIST UNDER THIS TITLE, A PERSON MAY NOT:

(I) PRACTICE AS A NURSE PSYCHOTHERAPIST UNLESS CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; OR

(II) USE THE TITLE "ADVANCED PRACTICE NURSE", "CERTIFIED NURSE PSYCHOTHERAPIST", "REGISTERED NURSE/PSYCHIATRIC MENTAL HEALTH", "NURSE PSYCHOTHERAPIST", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE PSYCHOTHERAPIST. (10) UNLESS AUTHORIZED TO PRACTICE AS A CLINICAL NURSE SPECIALIST UNDER THIS TITLE, A PERSON MAY NOT:

(I) PRACTICE AS A CLINICAL NURSE SPECIALIST UNLESS CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; OR

(II) USE THE TITLE "CERTIFIED CLINICAL NURSE SPECIALIST", "CLINICAL NURSE SPECIALIST", "CLINICAL REGISTERED NURSE SPECIALIST", "CLINICAL NURSE SPECIALIST GRADUATE", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A CLINICAL NURSE SPECIALIST.

(c) An applicant for a license to practice registered nursing shall complete satisfactorily and meet all requirements for a diploma or degree from:

(1) A registered nursing education program approved by the Board; or

(2) An education program in registered nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(d) An applicant for a license to practice licensed practical nursing shall:

(1) Meet all requirements for a high school diploma or its equivalent;

and

(2) Complete satisfactorily and meet all requirements for a diploma from:

(i) A licensed practical nursing education program or its equivalent approved by the Board; or

(ii) An education program in licensed practical nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(e) Except as otherwise provided in this title, the applicant shall pass an examination developed by the National Council of State Boards of Nursing and administered at a testing site approved by the National Council.

(f) (1) Except as otherwise provided in this subsection, the Board shall require as part of its examination or licensing procedures that an applicant for a license to practice registered nursing or licensed practical nursing demonstrate an oral competency in the English language.

(2) Acceptable proof of proficiency in the oral communication of the English language under this section includes:

(i) After at least 3 years of enrollment, graduation from a recognized English-speaking undergraduate school;

(ii) Graduation from a recognized English-speaking professional school; or

(iii) Completion of at least 5 years of practicing nursing in another state or English-speaking territory of the United States.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charge or action that involves a problem with the oral communication of the English language is brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

(5) The Board may not require that an applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing to demonstrate an oral competency in the English language as part of its examination or licensing procedures if the other state has a similar oral competency component as part of its examination or licensing procedures.

(6) (i) The Board may issue a temporary license to any applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing and who, except for the oral competency in the English language component, is otherwise qualified for a license.

(ii) A temporary license issued under this subsection is valid only until the date when the next test to demonstrate oral competency in the English language is given.

(g) An applicant for a license or certification under this section shall be of good moral character.

8-304.

To apply for a license to practice registered nursing or licensed practical nursing, an applicant shall:

(1) [(i)] Submit to a criminal history records check in accordance with § 8-303 of this subtitle; [or

(ii) Have completed a criminal history records check in accordance with § 8–303 of this subtitle through another state board of nursing within the 5 years preceding the date of application;]

(2) Submit to the Board:

(i) An application on the form that the Board requires, **INCLUDING A CURRENT ADDRESS**;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met or has been met; [and]

(iii) Written, verified evidence of completion of the appropriate education requirements of § 8-302 of this subtitle; and

(IV) WRITTEN, VERIFIED EVIDENCE SATISFACTORY TO THE BOARD THAT THE APPLICANT'S PRIMARY STATE OF RESIDENCE IS MARYLAND OR A STATE THAT IS NOT A PARTY STATE TO THE NURSE MULTISTATE LICENSURE COMPACT SET FORTH IN SUBTITLE 7A OF THIS TITLE; AND

(3) Pay to the Board the application fee set by the Board.

8-305.

(a) Except as otherwise provided in [subsection (b)] SUBSECTIONS (B) AND (C) of this section, an applicant who otherwise qualifies for a license as a registered nurse or as a licensed practical nurse is entitled to be examined for that license as provided in this section.

(B) AN APPLICANT WHOSE PRIMARY STATE OF RESIDENCE IS A PARTY STATE TO THE NURSE MULTISTATE LICENSURE COMPACT SET FORTH IN SUBTITLE 7A OF THIS TITLE, OTHER THAN MARYLAND, IS NOT ENTITLED TO BE EXAMINED FOR A LICENSE AS A REGISTERED NURSE OR LICENSED PRACTICAL NURSE IN THE STATE.

[(b)] (C) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may deny the right to be examined for a license as a registered nurse or as a licensed practical nurse to any applicant who is found to have violated any provision of § 8-316 of this subtitle.

[(c)] (D) The Board shall determine the subjects, scope, form, and passing score for each examination given under this title.

[(d)] (E) (1) IN THIS SUBSECTION, "PRECEPTORSHIP PROGRAM" MEANS:

(I) AN ORGANIZED SYSTEM OF CLINICAL EXPERIENCE THAT PAIRS A NURSING STUDENT <u>ENROLLED IN A NURSING EDUCATION</u> <u>PROGRAM THAT IS RECOGNIZED BY THE BOARD</u> WITH A REGISTERED NURSE WHO MEETS THE QUALIFICATIONS FOR FACULTY AS SET FORTH UNDER <u>COMAR 10.27.01.11</u> <u>AS A PRECEPTOR</u> FOR THE PURPOSE OF ATTAINING SPECIFIED LEARNING OBJECTIVES; OR

(II) AN INDIVIDUALIZED AND SUPERVISED CLINICAL EXPERIENCE OFFERED BY AN INSTITUTION EMPLOYING NURSES THAT COMPLIES WITH THE REQUIREMENTS FOR TEMPORARY LICENSURE UNDER COMAR 10.27.01.11 FOR THE PURPOSE OF FACILITATING AN INACTIVE LICENSEE TO RETURN TO ACTIVE PRACTICE IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.

(2) An applicant whose nursing education program was completed 5 or more years prior to passing the licensure examination and who has not practiced for at least 1,000 hours in the previous 5 years may only be issued an inactive license until submission to the Board of satisfactory evidence that the applicant has successfully completed:

[(1)] (I) A nursing review course approved by the Board; or

[(2)] (II) A preceptorship program [provided by an employer and] approved by the Board.

[(e)] (F) (1) Except as provided in paragraph (2) of this subsection, an applicant who fails an examination may retake the examination if the applicant pays the reexamination fee set by the Board for each reexamination.

(2) The Board, by rule or regulation, may limit the number of times that an applicant may be reexamined after two failures and may limit the interval of time between reexaminations.

8-307.

(a) Subject to the provisions of this section, the Board may ISSUE A LICENSE BY ENDORSEMENT AND waive any appropriate examination requirement of this title for an applicant who is licensed or registered to practice registered nursing or licensed practical nursing in any other state or country.

(b) The Board may [grant] ISSUE a [waiver] LICENSE BY ENDORSEMENT under this section only if the applicant:

(1) Pays the application fee set by the Board under § 8-304 of this subtitle; and

(2) Provides adequate evidence that:

(i) At the time the applicant graduated from a nursing education program approved in the other state or country, the applicant met the educational qualifications then required by the laws of this State;

(ii) At the time the applicant became licensed or registered in the other state or country, the applicant passed in that or any other state or country an examination that was similar to the examination that then was given in this State; and

(iii) The applicant meets the qualifications otherwise required by this title.

8–316.

[(d) The Board shall file a notice for publication in the earliest publication of the Maryland Register of each revocation or suspension of a license under this section within 24 hours of the revocation or suspension.]

8-6A-02.

(a) Except as otherwise provided in this subtitle, an individual shall be certified by the Board to practice as a nursing assistant or medication technician before the individual may practice as a nursing assistant or medication technician in the State.

(b) This subtitle does not apply to an individual who:

(1) Practices a health occupation that the individual is authorized to practice under this article;

(2) Provides for the gratuitous care of friends, **DOMESTIC PARTNERS**, or family members;

(3) Performs nursing assistant tasks while a nursing student enrolled in an accredited nursing program and practicing under the direct supervision of qualified faculty or preceptors;

(4) Performs nursing assistant tasks as a student while:

(i) Enrolled in a Board–approved nursing assistant training program; and

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(ii) Practicing under the direct supervision of qualified faculty or preceptors;

(5) Performs medication technician tasks as a student while practicing under the direct supervision of qualified faculty; or

(6) Works as a principal or school secretary, does not administer medication as a routine part of the position, and has completed training by the delegating nurse for the occasion where the individual may need to administer medication in the absence of the nurse or medication technician.

(c) Nothing in this section shall preclude a registered nurse or licensed practical nurse from delegating a nursing task to an unlicensed individual provided that acceptance of delegated nursing tasks does not become a routine part of the unlicensed individual's job duties.

8–6A–05.

(b) To qualify for certification as a nursing assistant, a nursing assistant in a specific category, [a skilled nursing assistant within a specific category of nursing assistant,] or a medication technician, an applicant shall meet the requirements set by the Board.

(c) (1) An applicant for a certificate shall:

(i) Submit an application to the Board on the form that the Board requires;

(ii) Provide evidence, as required by the Board, of successful

completion of:

- 1. An approved nursing assistant training program;
- 2. An approved course in medication administration; or

3. A portion of an approved nursing education program that the Board determines meets the requirements of a nursing assistant training program or medication administration course;

- (iii) Pay to the Board an application fee set by the Board;
- (iv) Be of good moral character;
- (v) Be at least 16 years old to apply for certification as a nursing

assistant; and

(vi) Be at least 18 years old to apply for certification as a medication technician.

(2) Subject to paragraph (1) of this subsection, an applicant for certification as a certified nursing assistant shall submit to the Board:

(i) [1.] A criminal history records check in accordance with § 8–303 of this title[; or

2. Evidence of completion of a criminal history records check in accordance with § 8–303 of this title through another state board of nursing within the 5 years preceding the date of application] AND § 8–6A–08(K) OF THIS SUBTITLE; and

(ii) On the form required by the Board, written, verified evidence that the requirement of item (i) of this paragraph is being met or has been met.

(3) An applicant for certification as a certified medicine aide, in addition to the requirements under subsection (c)(1) of this section, shall submit an additional application to that effect to the Board on the form that the Board requires.

(4) An applicant for a certificate may not:

(i) Have committed any act or omission that would be grounds for discipline or denial of certification under this subtitle; and

(ii) Have a record of abuse, negligence, misappropriation of a resident's property, or any disciplinary action taken or pending in any other state or territory of the United States against the certification of the nursing assistant or medication technician in the state or territory.

8-6A-08.

(b) (1) At least 3 months before a certificate expires, the Board shall send a renewal notice to the nursing assistant or medication technician by:

(i) First–class mail to the last known mailing address of the nursing assistant or medication technician; or

(ii) Electronic means to the last known electronic address of the [licensee] **CERTIFICATE HOLDER**.

- (2) A renewal notice shall state:
 - (i) The date on which the current certificate expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(iii) The amount of the renewal fee.

(3) If a nursing assistant or medication technician is required to have a criminal history records check before a certificate may be renewed, the Board shall send the nursing assistant or medication technician the documents necessary for initiating the criminal history records check in conjunction with the renewal notice required under paragraph (1) of this subsection.

(k) (1) (i) [Beginning July 2009, the] **THE** Board shall [begin a process requiring] **REQUIRE** criminal history records checks in accordance with § 8–303 of this title on:

1. Selected applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board; and

2. Each former certified nursing assistant who files for reinstatement under subsection (g) of this section after failing to renew the [license] **CERTIFICATE** for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

8–6A–10.

[(d) The Board shall file a notice for publication in the earliest publication of the Maryland Register of each revocation or suspension of a certificate under this section within 24 hours of the revocation or suspension.]

[(e)] (D) If a certificate issued under this subtitle is suspended or revoked for a period of more than 1 year, the Board may reinstate the certificate after 1 year if the certificate holder:

(1) Meets the requirements for reinstatement as established by the Board in regulations; and

(2) Submits to a criminal history records check in accordance with § 8–303 of this title.

8–6B–11.

(a) Subject to the provisions of this section, the Board may ISSUE A LICENSE BY ENDORSEMENT AND waive the examination requirement of this subtitle for an individual who is licensed to practice electrology in another state.

(b) The Board may [grant] ISSUE a [waiver] LICENSE BY ENDORSEMENT under this section only if the applicant:

- (1) Pays the license fee required by the Board; and
- (2) Provides adequate evidence that the applicant:
 - (i) Meets the qualifications otherwise required by this subtitle;

(ii) Became licensed in the other state after passing in that state, or any other state, an examination that is substantially equivalent to an examination approved by the Board; and

(iii) Became licensed in the other state after meeting requirements that are substantially equivalent to the requirements of this subtitle.

8-701.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice registered nursing, **REGISTERED NURSING AS AN ADVANCED PRACTICE NURSE, OR LICENSED PRACTICAL NURSING** in this State unless licensed by the Board to practice registered nursing, **REGISTERED NURSING AS AN ADVANCED PRACTICE NURSE, OR LICENSED PRACTICAL NURSING, RESPECTIVELY**.

(b) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice [licensed practical nursing] **ELECTROLOGY** in this State unless licensed by the Board to practice [licensed practical nursing] **ELECTROLOGY**.

(c) (1) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a certified nursing assistant unless certified by the Board as a certified nursing assistant.

(2) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a certified nursing assistant in a specific category unless certified by the Board as a certified nursing assistant in that category.

(d) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a **CERTIFIED** medication technician in this State unless certified by the Board to practice as a certified medication technician.

(e) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a **CERTIFIED** medicine aide unless certified by the Board to practice as a certified medicine aide.

(f) A person may not require a licensee to perform an act that is beyond the licensee's knowledge and skills.

(g) A person may not direct a licensee to delegate a nursing task to a nurse when the person reasonably believes:

(1) The nurse lacks the knowledge and skills to perform the nursing task; or

(2) The patient's condition does not allow delegation of the nursing task.

8-708.

(A) SUBJECT TO THE HEARING PROVISIONS IN § 8–317 OF THIS TITLE AND IN ADDITION TO ANY OTHER PENALTY OR REMEDY FOR VIOLATIONS COMMITTED UNDER § 8–701 THROUGH § 8–707 OF THIS SUBTITLE, THE BOARD MAY:

- (1) ISSUE A PUBLIC CEASE AND DESIST ORDER;
- (2) IMPOSE A FINE OF NOT MORE THAN \$5,000 PER OFFENSE; OR

(3) ISSUE A PUBLIC CEASE AND DESIST ORDER AND IMPOSE A FINE OF NOT MORE THAN \$5,000 PER OFFENSE.

(B) THE BOARD MAY SEEK INJUNCTIVE RELIEF IN A COURT OF COMPETENT JURISDICTION.

(C) IN THIS SECTION, EACH SEPARATE OFFENSE IS A SEPARATE VIOLATION IF IT OCCURS:

- (1) AT A DIFFERENT DATE, LOCATION, OR TIME; OR
- (2) ON THE SAME DATE AND LOCATION, AT A DIFFERENT TIME.

(D) THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS SECTION TO THE COMPTROLLER.

(E) THE COMPTROLLER SHALL DISTRIBUTE ANY MONEY RECEIVED UNDER THIS SECTION TO THE BOARD OF NURSING FUND UNDER § 8–206 OF THIS TITLE.

(F) THE BOARD MAY REFER ALL CASES OF DELINQUENT PAYMENT TO THE CENTRAL COLLECTION UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT TO INSTITUTE AND MAINTAIN PROCEEDINGS TO ENSURE PROMPT PAYMENT.

8-709.

(A) AN ACTION FOR INJUNCTIVE RELIEF MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE BOARD TO ENJOIN PROHIBITED CONDUCT:

(1) UNDER § 8–701 THROUGH § 8–707 OF THIS SUBTITLE; OR

(2) THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER § 8-316, § 8-6A-10, OR § 8-6B-18 OF THIS TITLE.

(B) AN ACTION FOR INJUNCTIVE RELIEF UNDER THIS SECTION MAY BE BROUGHT BY:

- (1) THE BOARD;
- (2) THE ATTORNEY GENERAL IN THE NAME OF THE STATE; OR
- (3) A STATE'S ATTORNEY IN THE NAME OF THE STATE.

(C) AN ACTION FOR INJUNCTIVE RELIEF UNDER THIS SECTION MAY BE BROUGHT IN THE COUNTY IN WHICH:

(1) THE DEFENDANT RESIDES; OR

(2) THE DEFENDANT ENGAGED IN THE ACT SOUGHT TO BE ENJOINED.

8-710.

(a) Except for a violation of § 8-701(A) THROUGH (E) AND § 8-707 of this subtitle, a person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES § 8–701(A) THROUGH (E) OF THIS SUBTITLE IS GUILTY OF A

MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$25,000.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A LICENSEE OR CERTIFICATE HOLDER WHO HAS FAILED TO RENEW A LICENSE OR CERTIFICATE UNDER § 8–312, § 8–6A–08, OR § 8–6B–14 OF THIS TITLE.

(b) A person who violates any provision of § 8–707 of this subtitle is guilty of a misdemeanor and on conviction is subject:

(1) For a first offense, to a fine not exceeding \$100; and

(2) For any subsequent violation of the same provision, to a fine not exceeding \$500 or imprisonment not exceeding 6 months or both.

f(c) (1) [Subject] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, SUBJECT to the appropriate hearing and appeals provisions, the [appropriate health occupations board] BOARD, on the affirmative vote of the majority of its members, may reprimand a licensee or certificate holder, place a licensee or certificate holder on probation, or suspend or revoke a license or certificate of a person who violates any provision of [§ 8–701 of] this subtitle.

(2) A person who is licensed, certified, or otherwise authorized to provide health care services under this article is not subject to the penalty provided in subsections (a) {and}, (b), AND (C) of this section for a violation of § 8–701(f) and (g) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 487

(House Bill 238)

AN ACT concerning

State Board of Nursing – Nurses, Nursing Assistants, Medication Technicians, and Electrologists – Licensure and Certification Requirements

FOR the purpose of requiring certain prosecutions for certain offenses relating to the licensing of nurses and electrologists to be instituted within a certain period of

time after which the offense was committed; exempting individuals who provide certain care from the requirement that an individual must be licensed or certified before practicing certain health occupations; exempting individuals who respond to certain disaster situations from the requirement that an individual must be licensed before practicing registered nursing or licensed practical nursing in the State under certain circumstances; requiring certain nurses with multistate licensing privileges to hold a license in a certain home state in accordance with the Nurse Multistate Licensure Compact; establishing certain qualifications for applicants of a certificate to practice registered nursing as a certain advanced practice nurse; prohibiting certain individuals from practicing a certain type of nursing or using a certain title under certain circumstances; repealing a certain provision of law allowing certain applicants to submit evidence of completion of certain criminal history records checks through other state boards of nursing; requiring certain applicants to submit certain evidence and information to the State Board of Nursing as part of an application for licensure; prohibiting certain applicants from being entitled to be examined in the State for a license as a registered nurse or as a licensed practical nurse; altering a certain requirement for certain applicants to participate in a certain preceptorship program; authorizing the Board to issue certain licenses by endorsement; repealing certain requirements for the publication of notice of certain revocations or suspensions; repealing a certain requirement that to qualify as a certain skilled nursing assistant, an applicant must meet certain requirements: prohibiting certain individuals from practicing, attempting to practice, or offering to practice advanced practice nursing or electrology unless licensed by the Board; authorizing the Board to issue certain orders, impose certain fines, or seek certain relief; specifying that certain offenses are separate violations under certain circumstances; requiring the Board to pay certain money to the Comptroller: requiring the Comptroller to distribute certain money to the Board of Nursing Fund; authorizing the Board to refer certain cases to the Central Collection Unit of the Department of Budget and Fiscal Planning to institute and maintain certain proceedings; authorizing certain actions for injunctive relief to be brought by certain entities for certain purposes under certain circumstances in certain counties: providing that a person who violates certain provisions of law is guilty of a misdemeanor and on conviction is subject to a certain fine; providing for a certain exception to a violation of certain provisions of law; making certain technical corrections; defining certain terms; and generally relating to the licensure, certification, and penalties for violations of the laws and regulations that govern nurses, nursing assistants, medication technicians, and electrologists.

BY adding to

Article – Courts and Judicial Proceedings Section 5–106(bb) Annotated Code of Maryland (2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations Section 8–101, 8–301, 8–302, 8–304, 8–305, 8–307, 8–6A–02, 8–6A–05(b) and (c), 8–6A–08(b) and (k)(1), 8–6A–10(e), 8–6B–11, 8–701, and 8–710 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing

Article – Health Occupations Section 8–316(d) and 8–6A–10(d) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations Section 8–708 and 8–709 Annotated Code of Maryland (2009 Replacement Volume and 2011 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.

(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER TITLE 8, SUBTITLE 7 OR § 8–6B–23 OF THE HEALTH OCCUPATIONS ARTICLE SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE WAS COMMITTED.

Article – Health Occupations

8-101.

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

(B) "ADVANCED PRACTICE NURSE" MEANS AN INDIVIDUAL WHO:

(1) IS LICENSED BY THE BOARD TO PRACTICE REGISTERED NURSING; AND

- (2) IS CERTIFIED BY THE BOARD TO PRACTICE AS:
 - (I) A NURSE PRACTITIONER;
 - (II) A NURSE ANESTHETIST;

- (III) A NURSE MIDWIFE;
- (IV) A NURSE PSYCHOTHERAPIST; OR
- (V) A CLINICAL NURSE SPECIALIST.
- [(b)] (C) "Board" means the State Board of Nursing.

[(c)] (D) "License" means, unless the context requires otherwise, a license issued by the Board to practice:

- (1) Registered nursing; or
- (2) Licensed practical nursing.

[(d)] (E) "Licensed practical nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice licensed practical nursing.

[(e)] (F) "Nurse practitioner" means an individual who:

- (1) Is licensed by the Board to practice registered nursing; and
- (2) Is certified by the Board to practice as a nurse practitioner.
- [(f)] (G) "Practice as a nurse practitioner" means to independently:
 - (1) Perform an act under subsection **[**(h)**] (I)** of this section;
 - (2) Conduct a comprehensive physical assessment of an individual;

(3) Establish a medical diagnosis for common chronic stable or short-term health problems;

- (4) Order, perform, and interpret laboratory tests;
- (5) Prescribe drugs as provided under § 8–508 of this title;
- (6) Perform diagnostic, therapeutic, or corrective measures;

(7) Refer an individual to an appropriate licensed physician or other health care provider; and

(8) Provide emergency care.

[(g)] (H) "Practice licensed practical nursing" means to perform in a team relationship an act that requires specialized knowledge, judgment, and skill based on principles of biological, physiological, behavioral, or sociological science to:

- (1) Administer treatment or medication to an individual;
- (2) Aid in the rehabilitation of an individual;
- (3) Promote preventive measures in community health;
- (4) Give counsel to an individual;
- (5) Safeguard life and health;
- (6) Teach or supervise; or

(7) Perform any additional acts authorized by the Board under § 8–205 of this title.

[(h)] (I) (1) "Practice registered nursing" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the biological, physiological, behavioral, or sociological sciences as the basis for assessment, nursing diagnosis, planning, implementation, and evaluation of the practice of nursing in order to:

- (i) Maintain health;
- (ii) Prevent illness; or
- (iii) Care for or rehabilitate the ill, injured, or infirm.
- (2) For these purposes, "practice registered nursing" includes:
 - (i) Administration;
 - (ii) Teaching;
 - (iii) Counseling;
 - (iv) Supervision, delegation and evaluation of nursing practice;

(v) Execution of therapeutic regimen, including the administration of medication and treatment;

(vi) Independent nursing functions and delegated medical functions; and

(vii) Performance of additional acts authorized by the Board under § 8–205 of this title.

[(i)] (J) "Registered nurse" means, unless the context requires otherwise, an individual who is licensed by the Board to practice registered nursing.

8-301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice registered nursing in this State.

(b) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice licensed practical nursing in this State.

(c) This section does not apply to:

(1) A student enrolled in an approved education program while practicing registered nursing or licensed practical nursing in that program;

(2) An individual employed by the federal government to practice registered nursing or licensed practical nursing while practicing within the scope of that employment, if the individual is authorized by any state to practice registered nursing or licensed practical nursing;

(3) An individual permitted to practice registered nursing or licensed practical nursing under rules and regulations adopted by the Board, if the individual:

(i) Otherwise has qualified to practice registered nursing or licensed practical nursing in any other state or country and is in this State temporarily; or

(ii) Has an application for a license pending before the Board:

this title;

1. But has not taken the examination required under

2. Has taken an examination under this title, but the results of the examination are not yet known; or

3. Has taken and passed an examination under this title, but is waiting for the completion of the criminal history records check;

(4) An individual who provides gratuitous care for friends, **DOMESTIC PARTNERS**, or family **MEMBERS**; or

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(5) An individual who [is assigned by the American Red Cross] **RESPONDS** to a disaster situation in this State to practice registered nursing or licensed practical nursing, if:

(I) [the] THE individual [is licensed] HAS AN ACTIVE UNENCUMBERED LICENSE to practice registered nursing or licensed practical nursing in another state AND THE INDIVIDUAL IS ASSIGNED BY:

1. THE AMERICAN RED CROSS; OR

2. A MEMBER OF THE MARYLAND EMERGENCY MANAGEMENT ASSISTANCE COMPACT UNDER § 14–803 OF THE PUBLIC SAFETY ARTICLE;

(II) THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY BY EXECUTIVE ORDER OR PROCLAMATION IN ACCORDANCE WITH § 3–401 OF THE STATE GOVERNMENT ARTICLE; AND

(III) THE INDIVIDUAL REPORTS TO THE DESIGNATED STAGING AREA IN ACCORDANCE WITH § 14–803(2)(B)(5)(IV) OF THE PUBLIC SAFETY ARTICLE.

(D) A REGISTERED NURSE OR LICENSED PRACTICAL NURSE IN A PARTY STATE TO THE NURSE MULTISTATE LICENSURE COMPACT SHALL HOLD A LICENSE IN ONLY ONE PARTY STATE AT A TIME, THAT IS ISSUED BY THE HOME STATE IN ACCORDANCE WITH SUBTITLE 7A OF THIS TITLE.

[(d)] (E) A registered nurse who has been granted multistate licensing privileges by a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of this title may practice registered nursing in the State.

[(e)] (F) A licensed practical nurse who has been granted multistate licensing privileges by a party state to the Nurse Multistate Licensure Compact set forth in Subtitle 7A of this title may practice practical nursing in the State.

8-302.

(a) Except as otherwise provided in this title, to qualify for a license or certification, an applicant shall be an individual who submits to a criminal history records check in accordance with § 8–303 of this subtitle and meets the requirements of this section.

(b) (1) An applicant for certification as [a certified nurse practitioner] AN ADVANCED PRACTICE NURSE shall:

Martin O'Malley, Governor

(i) Be a registered nurse;

(ii) Complete [a nurse practitioner] AN EDUCATION program approved by the Board;

(iii) Submit to the Board:

1. A completed application for certification as a nurse practitioner, NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST for each area in which certification is sought;

2. Documentation of an active license in good standing as a registered nurse in the State;

3. Documentation that the applicant has graduated from an accredited program for ADVANCED PRACTICE NURSING FOR nurse practitioners, NURSE ANESTHETISTS, NURSE MIDWIVES, NURSE PSYCHOTHERAPISTS, OR CLINICAL NURSE SPECIALISTS; and

4. Documentation of certification as a nurse practitioner, NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST by a nationally recognized certifying body approved by the Board; and

(iv) Meet any other requirements that the Board sets.

(2) (I) An individual certified AS A NURSE PRACTITIONER by a national certifying body prior to October 1, 2010 who is certified by the Board and in good standing shall be deemed to meet the education requirements under subsection (b)(1)(iii)3 of this section.

(II) AN INDIVIDUAL CERTIFIED AS A NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST WHO IS CERTIFIED BY THE BOARD AND IN GOOD STANDING PRIOR TO OCTOBER 1, 2012, SHALL BE DEEMED TO MEET THE EDUCATION REQUIREMENTS UNDER SUBSECTION (B)(1)(III)3 OF THIS SECTION.

(3) In addition to the requirements for renewal of a license under § 8–312 of this subtitle, the Board may establish continuing education or competency requirements for the renewal of a certificate under this subsection.

(4) (i) Subject to the provisions of this subsection, the Board may waive any requirement of this subsection for an applicant who is licensed or certified to practice as a nurse practitioner, NURSE ANESTHETIST, NURSE MIDWIFE, NURSE

PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST in any other state or country.

(ii) The Board may grant a waiver under this paragraph only if the applicant:

1. Pays the application fee required by the Board under § 8–304 of this subtitle;

2. Became licensed or certified in the other state or country under requirements substantially equivalent to the certification requirements of this title; and

Board.

3. Meets any other qualifications established by the

(5) (i) A certified nurse practitioner may not practice in the State unless the nurse practitioner has an approved attestation that:

1. The nurse practitioner has an agreement for collaboration and consulting with a physician licensed under Title 14 of this article and will refer to and consult with physicians and other health care providers as needed; and

2. The nurse practitioner will practice in accordance with the standards of practice of the American Academy of Nurse Practitioners or any other national certifying body recognized by the Board.

- (ii) The Board shall:
 - 1. Maintain an approved attestation; and

2. Make the approved attestation available to the State Board of Physicians on the request of the State Board of Physicians.

(6) Unless authorized to practice as a nurse practitioner under this title, a person may not:

(i) Represent to the public by title or by description of services, methods, or procedures, or otherwise, that the person is authorized to practice as a nurse practitioner in this State;

(ii) Use as a title or describe the services the person provides by use of the words "nurse practitioner" or "certified registered nurse practitioner"; or

(iii) Use the abbreviation "N.P.", "C.R.N.P.", or any other words, letters, or symbols with the intent to represent that the person practices as a nurse practitioner.

(7) UNLESS AUTHORIZED TO PRACTICE AS A NURSE ANESTHETIST UNDER THIS TITLE, A PERSON MAY NOT:

(I) PRACTICE NURSE ANESTHESIA UNLESS CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; OR

(II) USE THE TITLE "CERTIFIED NURSE ANESTHETIST", "NURSE ANESTHETIST", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE ANESTHETIST.

(8) UNLESS AUTHORIZED TO PRACTICE AS A NURSE MIDWIFE UNDER THIS TITLE, A PERSON MAY NOT:

(I) PRACTICE NURSE MIDWIFERY UNLESS CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; <u>OR</u>

(II) USE THE TITLE "CERTIFIED NURSE MIDWIFE", "NURSE MIDWIFE", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE MIDWIFE.

(9) UNLESS AUTHORIZED TO PRACTICE AS A NURSE PSYCHOTHERAPIST UNDER THIS TITLE, A PERSON MAY NOT:

(I) PRACTICE AS A NURSE PSYCHOTHERAPIST UNLESS CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; OR

(II) USE THE TITLE "ADVANCED PRACTICE NURSE", "CERTIFIED NURSE PSYCHOTHERAPIST", "REGISTERED NURSE/PSYCHIATRIC MENTAL HEALTH", "NURSE PSYCHOTHERAPIST", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE PSYCHOTHERAPIST.

(10) UNLESS AUTHORIZED TO PRACTICE AS A CLINICAL NURSE SPECIALIST UNDER THIS TITLE, A PERSON MAY NOT:

(I) PRACTICE AS A CLINICAL NURSE SPECIALIST UNLESS CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; OR (II) USE THE TITLE "CERTIFIED CLINICAL NURSE SPECIALIST", "CLINICAL NURSE SPECIALIST", "CLINICAL NURSE SPECIALIST", "CLINICAL NURSE SPECIALIST GRADUATE", OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A CLINICAL NURSE SPECIALIST.

(c) An applicant for a license to practice registered nursing shall complete satisfactorily and meet all requirements for a diploma or degree from:

(1) A registered nursing education program approved by the Board; or

(2) An education program in registered nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(d) An applicant for a license to practice licensed practical nursing shall:

(1) Meet all requirements for a high school diploma or its equivalent;

and

(2) Complete satisfactorily and meet all requirements for a diploma from:

(i) A licensed practical nursing education program or its equivalent approved by the Board; or

(ii) An education program in licensed practical nursing in any other state or country that the Board finds substantially equivalent to the program in this State.

(e) Except as otherwise provided in this title, the applicant shall pass an examination developed by the National Council of State Boards of Nursing and administered at a testing site approved by the National Council.

(f) (1) Except as otherwise provided in this subsection, the Board shall require as part of its examination or licensing procedures that an applicant for a license to practice registered nursing or licensed practical nursing demonstrate an oral competency in the English language.

(2) Acceptable proof of proficiency in the oral communication of the English language under this section includes:

(i) After at least 3 years of enrollment, graduation from a recognized English-speaking undergraduate school;

(ii) Graduation from a recognized English-speaking professional school; or

(iii) Completion of at least 5 years of practicing nursing in another state or English-speaking territory of the United States.

(3) By regulation, the Board shall develop a procedure for testing individuals who because of their speech impairment are unable to complete satisfactorily a Board approved standardized test of oral competency.

(4) If any disciplinary charge or action that involves a problem with the oral communication of the English language is brought against a licensee under this title, the Board shall require the licensee to take and pass a Board approved standardized test of oral competency.

(5) The Board may not require that an applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing to demonstrate an oral competency in the English language as part of its examination or licensing procedures if the other state has a similar oral competency component as part of its examination or licensing procedures.

(6) (i) The Board may issue a temporary license to any applicant for a license to practice registered nursing or licensed practical nursing who was previously licensed in any other state to practice registered nursing or licensed practical nursing and who, except for the oral competency in the English language component, is otherwise qualified for a license.

(ii) A temporary license issued under this subsection is valid only until the date when the next test to demonstrate oral competency in the English language is given.

(g) An applicant for a license or certification under this section shall be of good moral character.

8-304.

To apply for a license to practice registered nursing or licensed practical nursing, an applicant shall:

(1) [(i)] Submit to a criminal history records check in accordance with § 8-303 of this subtitle; [or

(ii) Have completed a criminal history records check in accordance with § 8–303 of this subtitle through another state board of nursing within the 5 years preceding the date of application;]

(2) Submit to the Board:

(i) An application on the form that the Board requires, **INCLUDING A CURRENT ADDRESS**;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met or has been met; [and]

(iii) Written, verified evidence of completion of the appropriate education requirements of § 8–302 of this subtitle; and

(IV) WRITTEN, VERIFIED EVIDENCE SATISFACTORY TO THE BOARD THAT THE APPLICANT'S PRIMARY STATE OF RESIDENCE IS MARYLAND OR A STATE THAT IS NOT A PARTY STATE TO THE NURSE MULTISTATE LICENSURE COMPACT SET FORTH IN SUBTITLE 7A OF THIS TITLE; AND

(3) Pay to the Board the application fee set by the Board.

8-305.

(a) Except as otherwise provided in [subsection (b)] SUBSECTIONS (B) AND (C) of this section, an applicant who otherwise qualifies for a license as a registered nurse or as a licensed practical nurse is entitled to be examined for that license as provided in this section.

(B) AN APPLICANT WHOSE PRIMARY STATE OF RESIDENCE IS A PARTY STATE TO THE NURSE MULTISTATE LICENSURE COMPACT SET FORTH IN SUBTITLE 7A OF THIS TITLE, OTHER THAN MARYLAND, IS NOT ENTITLED TO BE EXAMINED FOR A LICENSE AS A REGISTERED NURSE OR LICENSED PRACTICAL NURSE IN THE STATE.

[(b)] (C) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may deny the right to be examined for a license as a registered nurse or as a licensed practical nurse to any applicant who is found to have violated any provision of § 8-316 of this subtitle.

[(c)] (D) The Board shall determine the subjects, scope, form, and passing score for each examination given under this title.

[(d)] (E) (1) IN THIS SUBSECTION, "PRECEPTORSHIP PROGRAM" MEANS:

(I) AN ORGANIZED SYSTEM OF CLINICAL EXPERIENCE THAT PAIRS A NURSING STUDENT <u>ENROLLED IN A NURSING EDUCATION</u> <u>PROGRAM THAT IS RECOGNIZED BY THE BOARD</u> WITH A REGISTERED NURSE WHO MEETS THE QUALIFICATIONS FOR FACULTY AS SET FORTH UNDER COMAR 19.27.91.11 AS A PRECEPTOR FOR THE PURPOSE OF ATTAINING SPECIFIED LEARNING OBJECTIVES; OR

(II) AN INDIVIDUALIZED AND SUPERVISED CLINICAL EXPERIENCE OFFERED BY AN INSTITUTION EMPLOYING NURSES THAT COMPLIES WITH THE REQUIREMENTS FOR TEMPORARY LICENSURE UNDER COMAR 10.27.01.11 FOR THE PURPOSE OF FACILITATING AN INACTIVE LICENSEE TO RETURN TO ACTIVE PRACTICE IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.

(2) An applicant whose nursing education program was completed 5 or more years prior to passing the licensure examination and who has not practiced for at least 1,000 hours in the previous 5 years may only be issued an inactive license until submission to the Board of satisfactory evidence that the applicant has successfully completed:

[(1)] (I) A nursing review course approved by the Board; or

[(2)] (II) A preceptorship program [provided by an employer and] approved by the Board.

[(e)] (F) (1) Except as provided in paragraph (2) of this subsection, an applicant who fails an examination may retake the examination if the applicant pays the reexamination fee set by the Board for each reexamination.

(2) The Board, by rule or regulation, may limit the number of times that an applicant may be reexamined after two failures and may limit the interval of time between reexaminations.

8-307.

(a) Subject to the provisions of this section, the Board may ISSUE A LICENSE BY ENDORSEMENT AND waive any appropriate examination requirement of this title for an applicant who is licensed or registered to practice registered nursing or licensed practical nursing in any other state or country.

(b) The Board may [grant] ISSUE a [waiver] LICENSE BY ENDORSEMENT under this section only if the applicant:

(1) Pays the application fee set by the Board under § 8-304 of this subtitle; and

(2) Provides adequate evidence that:

(i) At the time the applicant graduated from a nursing education program approved in the other state or country, the applicant met the educational qualifications then required by the laws of this State;

(ii) At the time the applicant became licensed or registered in the other state or country, the applicant passed in that or any other state or country an examination that was similar to the examination that then was given in this State; and

this title.

(iii) The applicant meets the qualifications otherwise required by

8–316.

[(d) The Board shall file a notice for publication in the earliest publication of the Maryland Register of each revocation or suspension of a license under this section within 24 hours of the revocation or suspension.]

8-6A-02.

(a) Except as otherwise provided in this subtitle, an individual shall be certified by the Board to practice as a nursing assistant or medication technician before the individual may practice as a nursing assistant or medication technician in the State.

(b) This subtitle does not apply to an individual who:

(1) Practices a health occupation that the individual is authorized to practice under this article;

(2) Provides for the gratuitous care of friends, **DOMESTIC PARTNERS**, or family members;

(3) Performs nursing assistant tasks while a nursing student enrolled in an accredited nursing program and practicing under the direct supervision of qualified faculty or preceptors;

(4) Performs nursing assistant tasks as a student while:

(i) Enrolled in a Board-approved nursing assistant training program; and

(ii) Practicing under the direct supervision of qualified faculty

or preceptors;

(5) Performs medication technician tasks as a student while practicing under the direct supervision of qualified faculty; or

(6) Works as a principal or school secretary, does not administer medication as a routine part of the position, and has completed training by the delegating nurse for the occasion where the individual may need to administer medication in the absence of the nurse or medication technician.

(c) Nothing in this section shall preclude a registered nurse or licensed practical nurse from delegating a nursing task to an unlicensed individual provided that acceptance of delegated nursing tasks does not become a routine part of the unlicensed individual's job duties.

8-6A-05.

(b) To qualify for certification as a nursing assistant, a nursing assistant in a specific category, [a skilled nursing assistant within a specific category of nursing assistant,] or a medication technician, an applicant shall meet the requirements set by the Board.

(c) (1) An applicant for a certificate shall:

(i) Submit an application to the Board on the form that the Board requires;

(ii) Provide evidence, as required by the Board, of successful completion of:

1. An approved nursing assistant training program;

2. An approved course in medication administration; or

3. A portion of an approved nursing education program that the Board determines meets the requirements of a nursing assistant training program or medication administration course;

(iii) Pay to the Board an application fee set by the Board;

(iv) Be of good moral character;

(v) Be at least 16 years old to apply for certification as a nursing assistant; and

 (vi) $\,$ Be at least 18 years old to apply for certification as a medication technician.

(2) Subject to paragraph (1) of this subsection, an applicant for certification as a certified nursing assistant shall submit to the Board:

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(i) [1.] A criminal history records check in accordance with § 8–303 of this title[; or

2. Evidence of completion of a criminal history records check in accordance with § 8–303 of this title through another state board of nursing within the 5 years preceding the date of application] AND § 8–6A–08(K) OF THIS SUBTITLE; and

(ii) On the form required by the Board, written, verified evidence that the requirement of item (i) of this paragraph is being met or has been met.

(3) An applicant for certification as a certified medicine aide, in addition to the requirements under subsection (c)(1) of this section, shall submit an additional application to that effect to the Board on the form that the Board requires.

(4) An applicant for a certificate may not:

(i) Have committed any act or omission that would be grounds for discipline or denial of certification under this subtitle; and

(ii) Have a record of abuse, negligence, misappropriation of a resident's property, or any disciplinary action taken or pending in any other state or territory of the United States against the certification of the nursing assistant or medication technician in the state or territory.

8-6A-08.

(b) (1) At least 3 months before a certificate expires, the Board shall send a renewal notice to the nursing assistant or medication technician by:

(i) First-class mail to the last known mailing address of the nursing assistant or medication technician; or

(ii) Electronic means to the last known electronic address of the [licensee] **CERTIFICATE HOLDER**.

- (2) A renewal notice shall state:
 - (i) The date on which the current certificate expires;

(ii) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(iii) The amount of the renewal fee.

(3) If a nursing assistant or medication technician is required to have a criminal history records check before a certificate may be renewed, the Board shall send the nursing assistant or medication technician the documents necessary for initiating the criminal history records check in conjunction with the renewal notice required under paragraph (1) of this subsection.

(k) (1) (i) [Beginning July 2009, the] **THE** Board shall [begin a process requiring] **REQUIRE** criminal history records checks in accordance with § 8–303 of this title on:

1. Selected applicants for certification as a certified nursing assistant who renew their certificates every 2 years as determined by regulations adopted by the Board; and

2. Each former certified nursing assistant who files for reinstatement under subsection (g) of this section after failing to renew the [license] **CERTIFICATE** for a period of 1 year or more.

(ii) An additional criminal history records check shall be performed every 12 years thereafter.

8–6A–10.

[(d) The Board shall file a notice for publication in the earliest publication of the Maryland Register of each revocation or suspension of a certificate under this section within 24 hours of the revocation or suspension.]

[(e)] (D) If a certificate issued under this subtitle is suspended or revoked for a period of more than 1 year, the Board may reinstate the certificate after 1 year if the certificate holder:

(1) Meets the requirements for reinstatement as established by the Board in regulations; and

(2) Submits to a criminal history records check in accordance with § 8–303 of this title.

8–6B–11.

(a) Subject to the provisions of this section, the Board may ISSUE A LICENSE BY ENDORSEMENT AND waive the examination requirement of this subtitle for an individual who is licensed to practice electrology in another state.

(b) The Board may [grant] ISSUE a [waiver] LICENSE BY ENDORSEMENT under this section only if the applicant:

(1) Pays the license fee required by the Board; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this subtitle;

(ii) Became licensed in the other state after passing in that state, or any other state, an examination that is substantially equivalent to an examination approved by the Board; and

(iii) Became licensed in the other state after meeting requirements that are substantially equivalent to the requirements of this subtitle.

8-701.

(a) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice registered nursing, **REGISTERED NURSING AS AN ADVANCED PRACTICE NURSE, OR LICENSED PRACTICAL NURSING** in this State unless licensed by the Board to practice registered nursing, **REGISTERED NURSING AS AN ADVANCED PRACTICE NURSE, OR LICENSED PRACTICAL NURSING, RESPECTIVELY**.

(b) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice [licensed practical nursing] **ELECTROLOGY** in this State unless licensed by the Board to practice [licensed practical nursing] **ELECTROLOGY**.

(c) (1) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a certified nursing assistant unless certified by the Board as a certified nursing assistant.

(2) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a certified nursing assistant in a specific category unless certified by the Board as a certified nursing assistant in that category.

(d) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a **CERTIFIED** medication technician in this State unless certified by the Board to practice as a certified medication technician.

(e) Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a **CERTIFIED** medicine aide unless certified by the Board to practice as a certified medicine aide.

(f) A person may not require a licensee to perform an act that is beyond the licensee's knowledge and skills.

(g) A person may not direct a licensee to delegate a nursing task to a nurse when the person reasonably believes:

(1) The nurse lacks the knowledge and skills to perform the nursing task; or

(2) The patient's condition does not allow delegation of the nursing task.

8-708.

(A) SUBJECT TO THE HEARING PROVISIONS IN § 8–317 OF THIS TITLE AND IN ADDITION TO ANY OTHER PENALTY OR REMEDY FOR VIOLATIONS COMMITTED UNDER § 8–701 THROUGH § 8–707 OF THIS SUBTITLE, THE BOARD MAY:

(1) ISSUE A PUBLIC CEASE AND DESIST ORDER;

(2) IMPOSE A FINE OF NOT MORE THAN \$5,000 PER OFFENSE; OR

(3) ISSUE A PUBLIC CEASE AND DESIST ORDER AND IMPOSE A FINE OF NOT MORE THAN \$5,000 PER OFFENSE.

(B) THE BOARD MAY SEEK INJUNCTIVE RELIEF IN A COURT OF COMPETENT JURISDICTION.

(C) IN THIS SECTION, EACH SEPARATE OFFENSE IS A SEPARATE VIOLATION IF IT OCCURS:

- (1) AT A DIFFERENT DATE, LOCATION, OR TIME; OR
- (2) ON THE SAME DATE AND LOCATION, AT A DIFFERENT TIME.

(D) THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS SECTION TO THE COMPTROLLER.

(E) THE COMPTROLLER SHALL DISTRIBUTE ANY MONEY RECEIVED UNDER THIS SECTION TO THE BOARD OF NURSING FUND UNDER § 8–206 OF THIS TITLE.

(F) THE BOARD MAY REFER ALL CASES OF DELINQUENT PAYMENT TO THE CENTRAL COLLECTION UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT TO INSTITUTE AND MAINTAIN PROCEEDINGS TO ENSURE PROMPT PAYMENT.

8-709.

(A) AN ACTION FOR INJUNCTIVE RELIEF MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE BOARD TO ENJOIN PROHIBITED CONDUCT:

(1) UNDER § 8–701 THROUGH § 8–707 OF THIS SUBTITLE; OR

(2) THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER § 8-316, § 8-6A-10, OR § 8-6B-18 OF THIS TITLE.

(B) AN ACTION FOR INJUNCTIVE RELIEF UNDER THIS SECTION MAY BE BROUGHT BY:

- (1) THE BOARD;
- (2) THE ATTORNEY GENERAL IN THE NAME OF THE STATE; OR
- (3) A STATE'S ATTORNEY IN THE NAME OF THE STATE.

(C) AN ACTION FOR INJUNCTIVE RELIEF UNDER THIS SECTION MAY BE BROUGHT IN THE COUNTY IN WHICH:

(1) THE DEFENDANT RESIDES; OR

(2) THE DEFENDANT ENGAGED IN THE ACT SOUGHT TO BE ENJOINED.

8 - 710.

(a) Except for a violation of § 8-701(A) THROUGH (E) AND § 8-707 of this subtitle, a person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES § 8–701(A) THROUGH (E) OF THIS SUBJECT IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$25,000.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A LICENSEE OR CERTIFICATE HOLDER WHO HAS FAILED TO RENEW A LICENSE OR CERTIFICATE UNDER § 8-312, § 8-6A-08, OR § 8-6B-14 OF THIS TITLE. $\{(b)\}$ (C) A person who violates any provision of § 8–707 of this subtitle is guilty of a misdemeanor and on conviction is subject:

(1) For a first offense, to a fine not exceeding \$100; and

(2) For any subsequent violation of the same provision, to a fine not exceeding \$500 or imprisonment not exceeding 6 months or both.

f(c) (1) [Subject] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, SUBJECT to the appropriate hearing and appeals provisions, the [appropriate health occupations board] BOARD, on the affirmative vote of the majority of its members, may reprimand a licensee or certificate holder, place a licensee or certificate holder on probation, or suspend or revoke a license or certificate of a person who violates any provision of [§ 8–701 of] this subtitle.

(2) A person who is licensed, certified, or otherwise authorized to provide health care services under this article is not subject to the penalty provided in subsections (a) {and}, (b), AND (C) of this section for a violation of § 8–701(f) and (g) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 488

(Senate Bill 343)

AN ACT concerning

State Government – Brokerage and Investment Management Services – Use of Minority Business Enterprises – Application

FOR the purpose of making certain additional State units that are responsible for the management of certain funds subject to the requirements under current law that are already applicable to certain units concerning the use of certain minority business enterprise brokerage and investment services firms; specifying that a certain annual report that must be submitted to the Governor and the General Assembly by all of the units that are subject to the minority business enterprise brokerage and investment services firm requirements include diversity information concerning brokerage and investment management services firms in all allocated asset classes; and generally relating

BY repealing and reenacting, without amendments,

Article 95 – Treasurer Section 22G(a), (b), (h), and (j) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Economic Development Section 14–102 Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY adding to

Article – Economic Development Section 14–103 Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development Section 14–103 Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY adding to

Article – Education

Section 11–1001 and the new subtitle "Subtitle 11. 10. Use of Minority Business Enterprises for Brokerage and Investment Management Services" Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Housing and Community Development Section 4–501.1 Annotated Code of Maryland (2006 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Insurance Section 20–303 Annotated Code of Maryland (2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment Section 10–122 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 6–222 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding

Article – State Finance and Procurement Section 14–306 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 21–116 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 35–302 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article 95 – Treasurer

22G.

(a) (1) There is a Local Government Investment Pool. The Local Government Investment Pool consists of the aggregate of all funds from local governments that are placed in the custody of the State and any funds of the State that are placed in the Local Government Investment Pool by the Treasurer for investment and reinvestment.

(2) The investment policies for the Local Government Investment Pool shall be established by the Treasurer.

(3) The Treasurer shall administer the Local Government Investment Pool on behalf of the participating local governments and, to the extent that State funds are included, on behalf of the State.

(4) The Treasurer shall develop such procedures necessary for the efficient administration of the Pool, including:

(i) Specification of minimum amounts which may be deposited in the Pool and minimum periods of time for which deposits shall be retained in the Pool;

(ii) Payment of amounts equivalent to administrative expenses from the earnings of the Pool; and

(iii) Distribution of the earnings in excess of expenses, or allocation of losses, to the several participants in a manner which equitably reflects the differing amount of their respective investments and the differing periods of time for which the amounts were in the custody of the Pool.

(b) (1) The Treasurer shall invest moneys in the Local Government Investment Pool in accordance with the provisions set forth in §§ 6-222 and 6-223 of the State Finance and Procurement Article.

(2) Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any other law, the Treasurer may invest, redeem, sell, exchange, and reinvest moneys in the Local Government Investment Pool in bankers' acceptances guaranteed by banking institutions.

(h) (1) Subject to the objectives and requirements of this section, the Treasurer shall formulate procedures for the investment and reinvestment of funds in the Investment Pool and the acquisition, retention, management, and disposition of investments of the Investment Pool.

(2) (i) The Treasurer may enter into a contractual agreement with a qualified Maryland fiscal agent and may compensate the agent for services rendered.

(ii) The agent may perform investment and administrative services which the Treasurer is authorized by this section to perform.

(j) For the purposes of this section, "local government" includes all of the legal entities, bodies, and agencies set out in § 22 of this article and local government insurance pools formed under Title 19, Subtitle 6 of the Insurance Article, but does not include the State and agencies of the State.

Article – Economic Development

14 - 102.

The Department, the Maryland State Office of Minority Business Enterprise, the Division of Labor and Industry of the Department of Labor, Licensing, and Regulation, and the Public Service Commission shall summarize their efforts to promote the policies related to broadening the ownership of capital in their respective annual reports as required by law.

14-103.

(A) THE DEPARTMENT SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FOR ANY FUND ESTABLISHED UNDER THIS ARTICLE CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE DEPARTMENT.

(B) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(C) (1) TO ASSIST THE DEPARTMENT IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY ANY FUND ESTABLISHED UNDER THIS ARTICLE.

(2) THE MEASURES UNDERTAKEN BY THE DEPARTMENT SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE DEPARTMENT'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED UNDER THIS ARTICLE.

(D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE DEPARTMENT SHALL DEVELOP GUIDELINES TO ASSIST IT IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP IT ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES UNDER THIS ARTICLE.

(E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE (1) BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY ANY FUND ESTABLISHED UNDER THIS ARTICLE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(2) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS UNDER THE CUSTODY OF EACH ENTITY THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS IN EACH ALLOCATED ASSET CLASS; AND

(3) THE MEASURES THE ENTITY IN THE UNDERTOOK IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

[14–103.] **14–104.**

This subtitle may be cited as the Broadened Ownership Act.

Article – Education

SUBTITLE 11. 10. USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.

11 - 1001.

(A) THE COMMISSION SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE COMMISSION FOR ANY FUND ESTABLISHED UNDER THIS DIVISION III CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE COMMISSION.

FOR PURPOSES OF THIS SECTION, BROKERAGE AND INVESTMENT **(B)** MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(C) (1) TO ASSIST THE COMMISSION IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND

INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMMISSION FOR ANY FUND ESTABLISHED UNDER THIS DIVISION III.

(2) THE MEASURES UNDERTAKEN BY THE COMMISSION SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE COMMISSION'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMMISSION.

(D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE COMMISSION SHALL DEVELOP GUIDELINES TO ASSIST THE COMMISSION IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE COMMISSION ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FOR ANY FUND ESTABLISHED UNDER THIS DIVISION III.

(E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE COMMISSION IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(2) THE PERCENTAGE AND DOLLAR VALUE OF THE COMMISSION'S ASSETS IN ANY FUND ESTABLISHED UNDER THIS ARTICLE THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS IN EACH ALLOCATED ASSET CLASS; AND

(3) THE MEASURES THE COMMISSION UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

Article - Housing and Community Development

4-501.1.

(A) THE DEPARTMENT SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE DEPARTMENT FOR THE FUNDS ESTABLISHED UNDER THIS SUBTITLE CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE DEPARTMENT.

(B) FOR PURPOSES OF THIS SECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(C) (1) TO ASSIST THE DEPARTMENT IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE DEPARTMENT FOR THE FUNDS ESTABLISHED UNDER THIS SUBTITLE.

(2) THE MEASURES UNDERTAKEN BY THE DEPARTMENT SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE DEPARTMENT'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE DEPARTMENT FOR THE FUNDS ESTABLISHED UNDER THIS SUBTITLE.

IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY **(D)** AFFAIRS, THE DEPARTMENT SHALL DEVELOP GUIDELINES TO ASSIST IT IN **IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES** IN ORDER TO HELP THE DEPARTMENT ACHIEVE THE OBJECTIVE FOR GREATER **USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT** MANAGEMENT SERVICES FOR THE FUNDS ESTABLISHED UNDER THIS SUBTITLE.

ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE DEPARTMENT **(E)** SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE (1) BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE **DEPARTMENT IN THE IMMEDIATELY PRECEDING FISCAL YEAR;**

(2) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS IN THE FUNDS ESTABLISHED UNDER THIS SUBTITLE THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS IN EACH ALLOCATED ASSET CLASS; AND

(3) THE MEASURES THE DEPARTMENT UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

Article – Insurance

20 - 303.

(a) (1) A financial management committee of the Fund shall manage and invest all moneys collected by or for the Fund through premiums, earnings from investments, or from other sources.

(2) The financial management committee consists of the Executive Director and two members of the Board of Trustees whom the Board of Trustees chooses.

(3) Of the two members from the Board of Trustees:

(i) one shall be chosen from the members appointed by the

Governor; and

(ii) one shall be chosen from the members appointed by the

Association.

(b) (1) Whenever the amount of moneys in the Fund exceeds the amount that the Executive Director believes is likely to be required immediately, the financial management committee may manage the excess as it considers appropriate and invest the excess in investments legal for casualty insurers under §§ 5–601 through 5–609 of this article.

(2) If use of the excess becomes necessary or expedient, the financial management committee may collect, sell, or otherwise realize on the investment and any accrued interest.

(c) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the financial management committee, the financial management committee shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the committee.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the financial management committee shall undertake measures

to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded by the Fund.

(ii) The measures undertaken by the financial management committee shall include the use of a wide variety of media, including the Fund's Web site, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Fund.

(3) In conjunction with the Governor's Office of Minority Affairs, the financial management committee shall develop guidelines to assist the committee in identifying and evaluating qualified minority business enterprises in order to help the Fund achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the financial management committee shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2–1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the financial management committee in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the Fund assets that are under the investment control of minority business enterprise brokerage and investment management services firms IN EACH ALLOCATED ASSET CLASS; and

(iii) the measures the financial management committee undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

Article – Labor and Employment

10-122.

(a) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board, the Board shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

(b) For purposes of this section, brokerage and investment management services shall include services relating to all allocated asset classes.

(c) (1) To assist it in achieving the goal described under subsection (a) of this section, the Board shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded by the Fund.

(2) The measures undertaken by the Board shall include the use of a wide variety of media, including the Board's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Fund.

(d) In conjunction with the Governor's Office of Minority Affairs, the Board shall develop guidelines to assist it in identifying and evaluating qualified minority business enterprises in order to help the Fund achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(e) On or before September 1 each year, the Board shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(1) the identity of the minority business enterprise brokerage and investment management services firms used by the Board in the immediately preceding fiscal year;

(2) the percentage and dollar value of the Fund assets that are under the investment control of minority business enterprise brokerage and investment management services firms IN EACH ALLOCATED ASSET CLASS; and

(3) the measures the Board undertook in the immediately preceding fiscal year in accordance with subsection (c)(2) of this section.

Article – State Finance and Procurement

6-222.

(a) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(1) an obligation for which the United States has pledged its faith and credit for the payment of the principal and interest;

(2) an obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress;

(3) a repurchase agreement collateralized in an amount not less than 102% of the principal amount by an obligation of the United States, its agencies or instrumentalities, provided the collateral is held by a custodian other than the seller designated by the buyer;

(4) bankers' acceptances guaranteed by a financial institution with a short-term debt rating in the highest letter and numerical rating by at least one

nationally recognized statistical rating organization as designated by either the United States Securities and Exchange Commission or the Treasurer;

(5) with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this paragraph;

(6) commercial paper that has received the highest letter and numerical rating by at least two nationally recognized statistical rating organizations as designated by the United States Securities and Exchange Commission, provided that such commercial paper may not exceed 10% of the total investments made by the Treasurer under this subsection;

(7) money market mutual funds that:

(i) are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a–1 et seq., as amended;

(ii) are operated in accordance with Rule 2A–7 of the Investment Company Act of 1940, 17 C.F.R. § 270.2A–7, as amended; and

(iii) have received the highest possible rating from at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission; and

(8) any investment portfolio created under the Maryland Local Government Investment Pool defined under Article 95, § 22G of the Code that is administered by the Office of the State Treasurer.

(b) The Treasurer may sell, redeem, or exchange an investment or reinvestment made under this section in accordance with the limitations of this section.

(c) Subject to § 2–1246 of the State Government Article, the Treasurer shall report by January 3 of each year to the General Assembly on investment activities for unexpended or surplus money over which the Treasurer has custody which have been conducted during the previous fiscal year. At a minimum, the report shall specify for General Fund investments and all other investments:

(1) the inventory of investments with maturity dates and the book and market value as of June 30;

(2) the net income earned;

(3) the percentage share of each category of investment in the portfolio; and

(4) any sale of investments prior to the maturity date.

(d) An investment made pursuant to this section shall be made:

(1) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(2) in a manner designed to reasonably match the anticipated cash flow of the State so that sufficient funds are available to pay obligations upon proper presentation for payment;

(3) so that a reasonable amount of cash or cash equivalents is available for unanticipated cash needs;

- (4) with due regard for minimizing risk while maximizing return;
- (5) using competitive purchasing practices except when impractical;
- (6) in accordance with a written investment policy;

(7) so that the securities and collateral may continue to be priced on a market to market basis; and

(8) to avoid the enhancement of the personal financial position of the Treasurer or any employee of the Treasurer who has responsibilities for such investments.

(e) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under this article and consistent with the fiduciary duties of the Treasurer, the Treasurer shall attempt to use to the greatest extent feasible minority business enterprises for brokerage and investment management services under this section.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes as described in subsection (a) of this section.

(2) (i) To assist the Treasurer in achieving the goal described under paragraph (1) of this subsection, the Treasurer shall undertake measures to

remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this section.

(ii) The measures undertaken by the Treasurer shall include the use of a wide variety of media, including the Treasurer's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Treasurer.

(3) In conjunction with the Governor's Office of Minority Affairs, the Treasurer shall develop guidelines to assist in identifying and evaluating qualified minority business enterprises in order to help the Treasurer achieve the objective for greater use of minority business enterprises for brokerage and investment management services under this section.

(4) On or before September 1 each year, the Treasurer shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Treasurer in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets under the custody of the Treasurer that are under the investment control of minority business enterprise brokerage and investment management services firms FOR EACH ALLOCATED ASSET CLASS; and

(iii) the measures the Treasurer undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

14_306.

(A) (1) THIS SECTION APPLIES TO:

(I) THE STATE TREASURER IN ACCORDANCE WITH § 6–222 OF THIS ARTICLE;

(II) THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT IN ACCORDANCE WITH § 14–103 OF THE ECONOMIC DEVELOPMENT ARTICLE;

(III) THE MARYLAND HIGHER EDUCATION COMMISSION IN ACCORDANCE WITH § 11–1001 OF THE EDUCATION ARTICLE; (IV) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT IN ACCORDANCE WITH § 4-501.1 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;

(V) THE MARYLAND INSURANCE FUND IN ACCORDANCE WITH § 20–303 OF THE INSURANCE ARTICLE;

(VI) THE INJURED WORKERS INSURANCE FUND IN ACCORDANCE WITH § 10–122 OF THE LABOR AND EMPLOYMENT ARTICLE; AND

(VII) THE STATE RETIREMENT AND PENSION SYSTEM IN ACCORDANCE WITH §§ 21–116 AND 35–302 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(2) IN ADDITION TO THE UNITS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION, THIS SECTION APPLIES TO ANY OTHER STATE UNIT DESIGNATED BY THE BOARD OF PUBLIC WORKS AND WITH RESPONSIBILITY FOR THE MANAGEMENT OF FUNDS ENTRUSTED TO THE UNIT.

(B) (1) (I) A UNIT SUBJECT TO THIS SECTION SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE UNIT CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THIS TITLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE UNIT.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST A UNIT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE UNIT SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED UNDER THIS SUBTITLE.

(II) THE MEASURES UNDERTAKEN BY THE UNIT SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE UNIT'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE UNIT.

(3) In consultation with the Governor's Office of Minority Affairs, a unit shall develop guidelines to assist the unit IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE UNIT ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE UNIT SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE UNIT IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS THAT ARE UNDER THE CONTROL OF THE UNIT THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS FOR EACH ALLOCATED ASSET CLASS; AND

(III) THE MEASURES THE UNIT UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

Article – State Personnel and Pensions

21 - 116.

(a) By resolution, the Board of Trustees shall specify the powers of the Investment Committee.

(b) The Investment Committee shall advise the Board of Trustees and make recommendations on:

(1) the investment programs;

(2) compliance of the investment programs with the policies of the Board of Trustees; and

(3) bonding for employees of the State Retirement Agency in the form and amount required by law.

(c) (1) Subject to subsection (d) of this section, the Board of Trustees shall adopt an investment policy manual that details:

(i) the functions of the Investment Division of the State Retirement Agency;

(ii) the goals and objectives of the several investment programs;

and

(iii) the policies that govern the selection and retention of investments.

(2) The Investment Committee shall:

(i) prepare and maintain the investment policy manual; and

(ii) submit the investment policy manual, and any subsequent amendments to the manual, to the Board of Trustees for approval.

(d) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board of Trustees, the Board of Trustees shall direct the Investment Committee to attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the Investment Committee shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this title.

(ii) The measures undertaken by the Investment Committee shall include the use of a wide variety of media, including the State Retirement Agency's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the State Retirement Agency.

(3) In consultation with the Governor's Office of Minority Affairs and the Investment Committee, the Board of Trustees shall develop guidelines to assist the Investment Committee in identifying and evaluating qualified minority business enterprises in order to help the State Retirement Agency achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the Investment Committee shall submit a report to the Board of Trustees, the Governor's Office of Minority

Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Investment Committee in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets that are under the control of the Investment Committee that are under the investment control of minority business enterprise brokerage and investment management services firms **FOR EACH ALLOCATED ASSET CLASS**; and

(iii) the measures the Investment Committee undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

35-302.

(A) Assets of the supplemental retirement plans may be deposited and invested in accordance with the investment elections allowed under the supplemental retirement plans notwithstanding any other law limiting the types of investments that may be made with State funds or imposing conditions on the deposit of State funds.

(B) (1) (I) THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE BOARD CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED UNDER THIS TITLE.

(II) THE MEASURES UNDERTAKEN BY THE BOARD SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE STATE RETIREMENT AGENCY'S MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS' WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE <u>STATE RETIREMENT AGENCY</u> <u>MARYLAND TEACHERS AND STATE EMPLOYEES</u> <u>SUPPLEMENTAL RETIREMENT PLANS</u>.

(3) IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST THE BOARD IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE <u>STATE RETIREMENT AGENCY</u> <u>MARYLAND</u> <u>TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS</u> ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS THAT ARE UNDER THE CONTROL OF THE BOARD THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS FOR EACH ALLOCATED ASSET CLASS; AND

(III) THE MEASURES THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 489

(House Bill 277)

AN ACT concerning

State Government – Brokerage and Investment Management Services – Use of Minority Business Enterprises – Application

FOR the purpose of making certain additional State units that are responsible for the management of certain funds subject to the requirements under current law that are already applicable to certain units concerning the use of certain minority business enterprise brokerage and investment services firms; specifying that a certain annual report that must be submitted to the Governor and the General Assembly by all of the units that are subject to the minority business enterprise brokerage and investment services firm requirements include diversity information concerning brokerage and investment management services firms in all allocated asset classes; and generally relating to the use of minority business enterprise brokerage brokerage and investment management services firms for certain purposes by certain State units.

BY repealing and reenacting, without amendments,

Article 95 – Treasurer Section 22G(a), (b), (h), and (j) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Economic Development Section 14–102 Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY adding to

Article – Economic Development Section 14–103 Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Economic Development Section 14–103 Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY adding to

Article – Education
Section 11–1001 and the new subtitle "Subtitle <u>11.</u> <u>10.</u> Use of Minority Business Enterprises for Brokerage and Investment Management Services"
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement) Article – Housing and Community Development Section 4–501.1 Annotated Code of Maryland (2006 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Insurance Section 20–303 Annotated Code of Maryland (2011 Replacement Volume)

BY repealing and reenacting, with amendments, Article – Labor and Employment Section 10–122 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 6–222 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding

Article – State Finance and Procurement Section 14–306 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 21–116 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 35–302 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article 95 – Treasurer

3321

(a) (1) There is a Local Government Investment Pool. The Local Government Investment Pool consists of the aggregate of all funds from local governments that are placed in the custody of the State and any funds of the State that are placed in the Local Government Investment Pool by the Treasurer for investment and reinvestment.

(2) The investment policies for the Local Government Investment Pool shall be established by the Treasurer.

(3) The Treasurer shall administer the Local Government Investment Pool on behalf of the participating local governments and, to the extent that State funds are included, on behalf of the State.

(4) The Treasurer shall develop such procedures necessary for the efficient administration of the Pool, including:

(i) Specification of minimum amounts which may be deposited in the Pool and minimum periods of time for which deposits shall be retained in the Pool;

(ii) Payment of amounts equivalent to administrative expenses from the earnings of the Pool; and

(iii) Distribution of the earnings in excess of expenses, or allocation of losses, to the several participants in a manner which equitably reflects the differing amount of their respective investments and the differing periods of time for which the amounts were in the custody of the Pool.

(b) (1) The Treasurer shall invest moneys in the Local Government Investment Pool in accordance with the provisions set forth in §§ 6-222 and 6-223 of the State Finance and Procurement Article.

(2) Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any other law, the Treasurer may invest, redeem, sell, exchange, and reinvest moneys in the Local Government Investment Pool in bankers' acceptances guaranteed by banking institutions.

(h) (1) Subject to the objectives and requirements of this section, the Treasurer shall formulate procedures for the investment and reinvestment of funds in the Investment Pool and the acquisition, retention, management, and disposition of investments of the Investment Pool.

(2) (i) The Treasurer may enter into a contractual agreement with a qualified Maryland fiscal agent and may compensate the agent for services rendered.

(ii) The agent may perform investment and administrative services which the Treasurer is authorized by this section to perform.

(j) For the purposes of this section, "local government" includes all of the legal entities, bodies, and agencies set out in § 22 of this article and local government insurance pools formed under Title 19, Subtitle 6 of the Insurance Article, but does not include the State and agencies of the State.

Article – Economic Development

14-102.

The Department, the Maryland State Office of Minority Business Enterprise, the Division of Labor and Industry of the Department of Labor, Licensing, and Regulation, and the Public Service Commission shall summarize their efforts to promote the policies related to broadening the ownership of capital in their respective annual reports as required by law.

14-103.

(A) THE DEPARTMENT SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FOR ANY FUND ESTABLISHED UNDER THIS ARTICLE CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE DEPARTMENT.

(B) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(C) (1) TO ASSIST THE DEPARTMENT IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY ANY FUND ESTABLISHED UNDER THIS ARTICLE.

(2) THE MEASURES UNDERTAKEN BY THE DEPARTMENT SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE DEPARTMENT'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED UNDER THIS ARTICLE. (D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE DEPARTMENT SHALL DEVELOP GUIDELINES TO ASSIST IT IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP IT ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES UNDER THIS ARTICLE.

(E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY ANY FUND ESTABLISHED UNDER THIS ARTICLE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(2) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS UNDER THE CUSTODY OF EACH ENTITY THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS IN EACH ALLOCATED ASSET CLASS; AND

(3) THE MEASURES THE ENTITY UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

[14–103.**] 14–104.**

This subtitle may be cited as the Broadened Ownership Act.

Article – Education

SUBTITLE 11. USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.

11-1001.

(A) THE COMMISSION SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE COMMISSION FOR ANY FUND ESTABLISHED UNDER THIS DIVISION III CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE COMMISSION. (B) FOR PURPOSES OF THIS SECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(C) (1) TO ASSIST THE COMMISSION IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMMISSION FOR ANY FUND ESTABLISHED UNDER THIS DIVISION III.

(2) THE MEASURES UNDERTAKEN BY THE COMMISSION SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE COMMISSION'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMMISSION.

(D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE COMMISSION SHALL DEVELOP GUIDELINES TO ASSIST THE COMMISSION IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE COMMISSION ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FOR ANY FUND ESTABLISHED UNDER THIS DIVISION III.

(E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE COMMISSION IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(2) THE PERCENTAGE AND DOLLAR VALUE OF THE COMMISSION'S ASSETS IN ANY FUND ESTABLISHED UNDER THIS ARTICLE THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS IN EACH ALLOCATED ASSET CLASS; AND

(3) THE MEASURES THE COMMISSION UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

Article – Housing and Community Development

4-501.1.

(A) THE DEPARTMENT SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE DEPARTMENT FOR THE FUNDS ESTABLISHED UNDER THIS SUBTITLE CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE DEPARTMENT.

(B) FOR PURPOSES OF THIS SECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(C) (1) TO ASSIST THE DEPARTMENT IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE DEPARTMENT FOR THE FUNDS ESTABLISHED UNDER THIS SUBTITLE.

(2) THE MEASURES UNDERTAKEN BY THE DEPARTMENT SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE DEPARTMENT'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE DEPARTMENT FOR THE FUNDS ESTABLISHED UNDER THIS SUBTITLE.

(D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE DEPARTMENT SHALL DEVELOP GUIDELINES TO ASSIST IT IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE DEPARTMENT ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FOR THE FUNDS ESTABLISHED UNDER THIS SUBTITLE.

(E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON: (1) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE DEPARTMENT IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(2) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS IN THE FUNDS ESTABLISHED UNDER THIS SUBTITLE THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS IN EACH ALLOCATED ASSET CLASS; AND

(3) THE MEASURES THE DEPARTMENT UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

Article – Insurance

20 - 303.

(a) (1) A financial management committee of the Fund shall manage and invest all moneys collected by or for the Fund through premiums, earnings from investments, or from other sources.

(2) The financial management committee consists of the Executive Director and two members of the Board of Trustees whom the Board of Trustees chooses.

(3) Of the two members from the Board of Trustees:

(i) one shall be chosen from the members appointed by the Governor; and

(ii) one shall be chosen from the members appointed by the

Association.

(b) (1) Whenever the amount of moneys in the Fund exceeds the amount that the Executive Director believes is likely to be required immediately, the financial management committee may manage the excess as it considers appropriate and invest the excess in investments legal for casualty insurers under §§ 5–601 through 5–609 of this article.

(2) If use of the excess becomes necessary or expedient, the financial management committee may collect, sell, or otherwise realize on the investment and any accrued interest.

(c) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement

Article and consistent with the fiduciary duties of the financial management committee, the financial management committee shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the committee.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the financial management committee shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded by the Fund.

(ii) The measures undertaken by the financial management committee shall include the use of a wide variety of media, including the Fund's Web site, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Fund.

(3) In conjunction with the Governor's Office of Minority Affairs, the financial management committee shall develop guidelines to assist the committee in identifying and evaluating qualified minority business enterprises in order to help the Fund achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the financial management committee shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2–1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the financial management committee in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the Fund assets that are under the investment control of minority business enterprise brokerage and investment management services firms IN EACH ALLOCATED ASSET CLASS; and

(iii) the measures the financial management committee undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

Article – Labor and Employment

10 - 122.

(a) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board, the Board shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

(b) For purposes of this section, brokerage and investment management services shall include services relating to all allocated asset classes.

(c) (1) To assist it in achieving the goal described under subsection (a) of this section, the Board shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded by the Fund.

(2) The measures undertaken by the Board shall include the use of a wide variety of media, including the Board's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Fund.

(d) In conjunction with the Governor's Office of Minority Affairs, the Board shall develop guidelines to assist it in identifying and evaluating qualified minority business enterprises in order to help the Fund achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(e) On or before September 1 each year, the Board shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(1) the identity of the minority business enterprise brokerage and investment management services firms used by the Board in the immediately preceding fiscal year;

(2) the percentage and dollar value of the Fund assets that are under the investment control of minority business enterprise brokerage and investment management services firms **IN EACH ALLOCATED ASSET CLASS**; and

(3) the measures the Board undertook in the immediately preceding fiscal year in accordance with subsection (c)(2) of this section.

Article – State Finance and Procurement

6-222.

(a) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(1) an obligation for which the United States has pledged its faith and credit for the payment of the principal and interest;

(2) an obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress;

(3) a repurchase agreement collateralized in an amount not less than 102% of the principal amount by an obligation of the United States, its agencies or instrumentalities, provided the collateral is held by a custodian other than the seller designated by the buyer;

(4) bankers' acceptances guaranteed by a financial institution with a short-term debt rating in the highest letter and numerical rating by at least one nationally recognized statistical rating organization as designated by either the United States Securities and Exchange Commission or the Treasurer;

(5) with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this paragraph;

(6) commercial paper that has received the highest letter and numerical rating by at least two nationally recognized statistical rating organizations as designated by the United States Securities and Exchange Commission, provided that such commercial paper may not exceed 10% of the total investments made by the Treasurer under this subsection;

(7) money market mutual funds that:

(i) are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a–1 et seq., as amended;

(ii) are operated in accordance with Rule 2A–7 of the Investment Company Act of 1940, 17 C.F.R. § 270.2A–7, as amended; and

(iii) have received the highest possible rating from at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission; and

(8) any investment portfolio created under the Maryland Local Government Investment Pool defined under Article 95, § 22G of the Code that is administered by the Office of the State Treasurer.

(b) The Treasurer may sell, redeem, or exchange an investment or reinvestment made under this section in accordance with the limitations of this section.

(c) Subject to § 2–1246 of the State Government Article, the Treasurer shall report by January 3 of each year to the General Assembly on investment activities for unexpended or surplus money over which the Treasurer has custody which have been conducted during the previous fiscal year. At a minimum, the report shall specify for General Fund investments and all other investments:

(1) the inventory of investments with maturity dates and the book and market value as of June 30;

(2) the net income earned;

(3) the percentage share of each category of investment in the portfolio; and

- (4) any sale of investments prior to the maturity date.
- (d) An investment made pursuant to this section shall be made:

(1) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(2) in a manner designed to reasonably match the anticipated cash flow of the State so that sufficient funds are available to pay obligations upon proper presentation for payment;

(3) so that a reasonable amount of cash or cash equivalents is available for unanticipated cash needs;

- (4) with due regard for minimizing risk while maximizing return;
- (5) using competitive purchasing practices except when impractical;
- (6) in accordance with a written investment policy;

(7) so that the securities and collateral may continue to be priced on a market to market basis; and

(8) to avoid the enhancement of the personal financial position of the Treasurer or any employee of the Treasurer who has responsibilities for such investments.

(e) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under this article and consistent with the fiduciary duties of the Treasurer, the Treasurer shall attempt to use to the greatest extent feasible minority business enterprises for brokerage and investment management services under this section.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes as described in subsection (a) of this section.

(2) (i) To assist the Treasurer in achieving the goal described under paragraph (1) of this subsection, the Treasurer shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this section.

(ii) The measures undertaken by the Treasurer shall include the use of a wide variety of media, including the Treasurer's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Treasurer.

(3) In conjunction with the Governor's Office of Minority Affairs, the Treasurer shall develop guidelines to assist in identifying and evaluating qualified minority business enterprises in order to help the Treasurer achieve the objective for greater use of minority business enterprises for brokerage and investment management services under this section.

(4) On or before September 1 each year, the Treasurer shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Treasurer in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets under the custody of the Treasurer that are under the investment control of minority business enterprise brokerage and investment management services firms FOR EACH ALLOCATED ASSET CLASS; and

(iii) the measures the Treasurer undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

14-306.

(A) (1) THIS SECTION APPLIES TO:

(1) THE STATE TREASURER IN ACCORDANCE WITH § 6–222 OF THIS ARTICLE;

(II) THE DEPARTMENT OF ECONOMIC AND COMMUNITY <u>Business and Economic</u>-Development in accordance with § 14–103 of THE Economic Development Article;

(III) THE MARYLAND HIGHER EDUCATION COMMISSION IN ACCORDANCE WITH § 11–1001 OF THE EDUCATION ARTICLE;

(IV) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT IN ACCORDANCE WITH § 4-501.1 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;

(V) THE MARYLAND <u>AUTOMOBILE</u>-INSURANCE FUND IN ACCORDANCE WITH § 20-303 OF THE INSURANCE ARTICLE;

(VI) THE INJURED WORKERS INSURANCE FUND IN ACCORDANCE WITH § 10–122 OF THE LABOR AND EMPLOYMENT ARTICLE; AND

(VII) THE STATE RETIREMENT AND PENSION SYSTEM IN ACCORDANCE WITH §§ 21–116 AND 35–302 § 21–116 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND

(VIII) <u>THE MARYLAND TEACHERS AND STATE EMPLOYEES</u> <u>SUPPLEMENTAL RETIREMENT PLANS IN ACCORDANCE WITH § 35–302 OF THE</u> <u>STATE PERSONNEL AND PENSIONS ARTICLE</u>.

(2) IN ADDITION TO THE UNITS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION, THIS SECTION APPLIES TO ANY OTHER STATE UNIT DESIGNATED BY THE BOARD OF PUBLIC WORKS AND WITH RESPONSIBILITY FOR THE MANAGEMENT OF FUNDS ENTRUSTED TO THE UNIT.

(B) (1) (I) A UNIT SUBJECT TO THIS SECTION SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE UNIT CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THIS TITLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE UNIT.

(II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES. (2) (1) TO ASSIST A UNIT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE UNIT SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED UNDER THIS SUBTITLE.

(II) THE MEASURES UNDERTAKEN BY THE UNIT SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE UNIT'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE UNIT.

(3) IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, A UNIT SHALL DEVELOP GUIDELINES TO ASSIST THE UNIT IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE UNIT ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE UNIT SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE UNIT IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS THAT ARE UNDER THE CONTROL OF THE UNIT THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS FOR EACH ALLOCATED ASSET CLASS; AND

(III) THE MEASURES THE UNIT UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

Article – State Personnel and Pensions

21 - 116.

(a) By resolution, the Board of Trustees shall specify the powers of the Investment Committee.

(b) The Investment Committee shall advise the Board of Trustees and make recommendations on:

(1) the investment programs;

(2) compliance of the investment programs with the policies of the Board of Trustees; and

(3) bonding for employees of the State Retirement Agency in the form and amount required by law.

(c) (1) Subject to subsection (d) of this section, the Board of Trustees shall adopt an investment policy manual that details:

(i) the functions of the Investment Division of the State Retirement Agency;

(ii) the goals and objectives of the several investment programs;

and

(iii) the policies that govern the selection and retention of investments.

(2) The Investment Committee shall:

(i) prepare and maintain the investment policy manual; and

(ii) submit the investment policy manual, and any subsequent amendments to the manual, to the Board of Trustees for approval.

(d) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board of Trustees, the Board of Trustees shall direct the Investment Committee to attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the Investment Committee shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this title.

(ii) The measures undertaken by the Investment Committee shall include the use of a wide variety of media, including the State Retirement Agency's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the State Retirement Agency.

(3) In consultation with the Governor's Office of Minority Affairs and the Investment Committee, the Board of Trustees shall develop guidelines to assist the Investment Committee in identifying and evaluating qualified minority business enterprises in order to help the State Retirement Agency achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the Investment Committee shall submit a report to the Board of Trustees, the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Investment Committee in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets that are under the control of the Investment Committee that are under the investment control of minority business enterprise brokerage and investment management services firms **FOR EACH ALLOCATED ASSET CLASS**; and

(iii) the measures the Investment Committee undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

35-302.

(A) Assets of the supplemental retirement plans may be deposited and invested in accordance with the investment elections allowed under the supplemental retirement plans notwithstanding any other law limiting the types of investments that may be made with State funds or imposing conditions on the deposit of State funds.

(B) (1) (I) THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE BOARD CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD. (II) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(2) (I) TO ASSIST IT IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED UNDER THIS TITLE.

(II) THE MEASURES UNDERTAKEN BY THE BOARD SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE STATE RETIREMENT AGENCY'S MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS' WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE STATE RETIREMENT AGENCY MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS.

(3) IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST THE BOARD IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE STATE RETIREMENT AGENCY MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.

(4) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(II) THE PERCENTAGE AND DOLLAR VALUE OF THE ASSETS THAT ARE UNDER THE CONTROL OF THE BOARD THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS FOR EACH ALLOCATED ASSET CLASS; AND (III) THE MEASURES THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 490

(Senate Bill 346)

AN ACT concerning

Harford County - Deer Hunting on Private Property - Sundays

FOR the purpose of authorizing a person in Harford County to hunt deer on certain Sundays on private property using certain hunting equipment during certain months; and generally relating to hunting on private property on Sundays.

BY repealing and reenacting, with amendments,

Article – Natural Resources Section 10–410(a) Annotated Code of Maryland (2007 Replacement Volume and 2011 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), (4), and (6) 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;

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, **HARFORD**, 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, **HARFORD COUNTY**, and St. Mary's County, a person may hunt deer on private property on:

and

(i) The first Sunday of the bow hunting season in November;

(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, Howard, and Prince George's counties; and
- (ii) In Baltimore City.

(6) A person who is 16 years of age or younger may hunt deer with a firearm on a Sunday through participation in the junior deer hunt established under 10–405(a) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 491

(Senate Bill 352)

AN ACT concerning

National Human Trafficking Resource Center Hotline Information – Sign Posting Requirements

FOR the purpose of requiring the business owner of a privately owned bus station or truck stop located in the State to post in restrooms in a certain manner a certain sign that provides National Human Trafficking Resource Center Hotline information; requiring a certain agency that determines a certain violation has occurred to provide a certain notice to the business owner of a bus station or truck stop or the business owner's agent; subjecting a business owner of a bus station or truck stop that violates the sign posting requirement to a certain civil penalty if certain signs are not posted within a certain period of time after the business owner receives a certain notice; specifying that, for each restroom in which the business owner fails to post a sign in accordance with this Act, the business owner is subject to a separate civil penalty; requiring the State Highway Administration to post in a certain manner a certain sign that provides National Human Trafficking Resource Center Hotline information in the restrooms at rest areas within the right–of–way of any interstate or State highway; defining a certain term; and generally relating to sign posting requirements for National Human Trafficking Resource Center Hotline information.

BY adding to

Article – Business Regulation Section 19–103 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Transportation Section 8–655 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Business Regulation

19-103.

(A) IN THIS SECTION, "TRUCK STOP" MEANS A FACILITY:

(1) THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE SERVICES TO LONG-HAUL TRUCK DRIVERS; AND

- (2) THAT PROVIDES:
- (I) SHOWER FACILITIES TO THE TRUCK DRIVERS FOR A FEE; OR
 - (II) PARKING FOR THE TRUCK DRIVERS' VEHICLES.

(B) (1) THE OWNER OF A PRIVATELY OWNED BUS STATION OR TRUCK STOP SHALL POST THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE INFORMATION SIGN DESCRIBED IN § 15–207 OF THIS ARTICLE IN EACH RESTROOM OF THE BUS STATION OR TRUCK STOP.

(2) A SIGN REQUIRED UNDER THIS SECTION SHALL BE POSTED:

(I) ON THE INSIDE OF EACH STALL DOOR IN THE RESTROOM; OR

(II) ON THE BACK OF THE DOOR AT THE ENTRANCE TO THE RESTROOM.

(C) (1) AN AGENCY THAT ENFORCES THIS SECTION AND DETERMINES THAT A VIOLATION OF THIS SECTION HAS OCCURRED SHALL NOTIFY THE BUSINESS OWNER OF THE BUS STATION OR TRUCK STOP, OR THE BUSINESS OWNER'S AGENT, OF THE VIOLATION.

(2) IF THE BUSINESS OWNER OF THE BUS STATION OR TRUCK STOP DOES NOT POST SIGNS AS REQUIRED UNDER THIS SECTION WITHIN 24 HOURS AFTER RECEIVING THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BUSINESS OWNER IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000.

(3) FOR EACH RESTROOM IN WHICH A BUSINESS OWNER FAILS TO POST A SIGN IN ACCORDANCE WITH THIS SECTION, THE BUSINESS OWNER IS SUBJECT TO A SEPARATE CIVIL PENALTY.

Article – Transportation

8-655.

(A) THE ADMINISTRATION SHALL POST THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE INFORMATION SIGN DESCRIBED IN § 15–207 OF THE BUSINESS REGULATION ARTICLE IN EACH RESTROOM AT A REST AREA WITHIN THE RIGHT-OF-WAY OF AN INTERSTATE OR STATE HIGHWAY.

(B) A SIGN REQUIRED UNDER THIS SECTION SHALL BE POSTED:

(1) ON THE INSIDE OF EACH STALL DOOR IN THE RESTROOM; OR

(2) ON THE BACK OF THE DOOR AT THE ENTRANCE TO THE RESTROOM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 492

(House Bill 607)

AN ACT concerning

National Human Trafficking Resource Center Hotline Information – Sign Posting Requirements

FOR the purpose of requiring the business owner of a privately owned bus station or truck stop located in the State to post in restrooms in a certain manner a certain sign that provides National Human Trafficking Resource Center Hotline information; requiring a certain agency that determines a certain violation has occurred to provide a certain notice to the business owner of a bus station or truck stop or the business owner's agent; subjecting a business owner of a bus station or truck stop that violates the sign posting requirement to a certain civil penalty if certain signs are not posted within a certain period of time after the business owner receives a certain notice; specifying that, for each restroom in which the business owner fails to post a sign in accordance with this Act, the business owner is subject to a separate civil penalty; requiring the State Highway Administration to post in a certain manner a certain sign that provides National Human Trafficking Resource Center Hotline information in the restrooms at rest areas within the right-of-way of any interstate or State highway; defining a certain term; and generally relating to sign posting requirements for National Human Trafficking Resource Center Hotline information.

BY adding to

Article – Business Regulation Section 19–103 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Transportation Section 8–655 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Business Regulation

19-103.

(A) IN THIS SECTION, "TRUCK STOP" MEANS A FACILITY:

(1) THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE SERVICES TO LONG-HAUL TRUCK DRIVERS; AND

(2) THAT PROVIDES:

(I) SHOWER FACILITIES TO THE TRUCK DRIVERS FOR A FEE; OR

(II) PARKING FOR THE TRUCK DRIVERS' VEHICLES.

(B) (1) THE OWNER OF A PRIVATELY OWNED BUS STATION OR TRUCK STOP SHALL POST THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE INFORMATION SIGN DESCRIBED IN § 15–207 OF THIS ARTICLE IN EACH RESTROOM OF THE BUS STATION OR TRUCK STOP.

(2) A SIGN REQUIRED UNDER THIS SECTION SHALL BE POSTED:

(I) ON THE INSIDE OF EACH STALL DOOR IN THE RESTROOM; OR

(II) ON THE BACK OF THE DOOR AT THE ENTRANCE TO THE RESTROOM.

(C) (1) AN AGENCY THAT ENFORCES THIS SECTION AND DETERMINES THAT A VIOLATION OF THIS SECTION HAS OCCURRED SHALL NOTIFY THE BUSINESS OWNER OF THE BUS STATION OR TRUCK STOP, OR THE BUSINESS OWNER'S AGENT, OF THE VIOLATION.

(2) IF THE BUSINESS OWNER OF THE BUS STATION OR TRUCK STOP DOES NOT POST SIGNS AS REQUIRED UNDER THIS SECTION WITHIN 24 HOURS AFTER RECEIVING THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BUSINESS OWNER IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000.

(3) FOR EACH RESTROOM IN WHICH A BUSINESS OWNER FAILS TO POST A SIGN IN ACCORDANCE WITH THIS SECTION, THE BUSINESS OWNER IS SUBJECT TO A SEPARATE CIVIL PENALTY.

Article – Transportation

8-655.

(A) THE ADMINISTRATION SHALL POST THE NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE INFORMATION SIGN DESCRIBED IN § 15–207 OF THE BUSINESS REGULATION ARTICLE IN EACH RESTROOM AT A REST AREA WITHIN THE RIGHT-OF-WAY OF AN INTERSTATE OR STATE HIGHWAY.

(B) A SIGN REQUIRED UNDER THIS SECTION SHALL BE POSTED:

(1) ON THE INSIDE OF EACH STALL DOOR IN THE RESTROOM; OR

(2) ON THE BACK OF THE DOOR AT THE ENTRANCE TO THE RESTROOM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 493

(Senate Bill 354)

AN ACT concerning

Baltimore City – Alcoholic Beverages – Beer, Wine, and Liquor Tasting Licenses

FOR the purpose of establishing a beer, wine, and liquor tasting license in certain wards and precincts of certain legislative districts in Baltimore City to allow holders of certain licenses to hold tastings daily throughout the year; establishing a certain license fee; <u>authorizing a Class B-D-7 license to be transferred from a certain location to another location in Baltimore City;</u> making certain technical changes; and generally relating to beer, wine, and liquor tastings in certain wards and precincts <u>and license transfers</u> in Baltimore City.

BY repealing and reenacting, with amendments, Article 2B – Alcoholic Beverages

Article 2B – Alcoholic Beverages Section 8–403.2 <u>and 9–204.1(e)</u> Annotated Code of Maryland (2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

8 - 403.2.

(a) This section applies only in:

(1) Ward 27, precincts 42 and 44 of the 41st Legislative District of Baltimore City;

(2) Ward 27, precinct 41 of the 43rd Legislative District of Baltimore City; and

(3) Ward 11, precinct 5 of the 44th Legislative District of Baltimore City.

(b) The Board of Liquor License Commissioners for Baltimore City 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.

(c) (1) The fees for a 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; [and]

(iii) \$300 annually for a 52-day tasting license, which may be used consecutively or nonconsecutively; **AND**

(IV) \$750 ANNUALLY FOR A TASTING LICENSE THAT MAY BE USED DAILY THROUGHOUT THE YEAR.

(2) The fees for a Class BWLT license are in addition to the Class A annual license fee.

(d) (1) A Class BWLT license authorizes the holder to allow the on-premises consumption of beer, light wine, and liquor for tasting or sampling.

(2) A person may consume beer, light wine, or liquor covered by a Class BWLT license in a quantity not exceeding:

- (i) 1 ounce of light wine from a given brand in a single day;
- (ii) 3 ounces of beer from a given brand in a single day; and
- (iii) One-half ounce of liquor from a given brand in a single day.

(e) At the end of each day for which a Class BWLT license is valid, the holder of the license shall dispose of any unconsumed alcoholic beverage remaining in a container that was opened for tasting or sampling.

(f) (1) Each Class A license holder that seeks issuance of a Class BWLT license for which the holder is eligible shall apply for the license on forms provided by the Board of Liquor License Commissioners for Baltimore City.

(2) The forms provided by the Board of Liquor License Commissioners for Baltimore City under paragraph (1) of this subsection FOR LICENSES ISSUED UNDER SUBSECTION (C)(1)(I) THROUGH (III) OF THIS SECTION shall specify the date or dates on which the tasting is requested to occur.

(3) The application and payment for the daily license UNDER SUBSECTION (C)(1)(I) OF THIS SECTION shall be submitted at least 7 days in advance of the tasting event or 7 days in advance of the first day of consecutive day tasting events.

(4) The application and payment for the 26-day tasting license and the 52-day tasting license shall be made at least 7 days in advance of the first proposed tasting event.

(5) The holder of a 26-day tasting license and a 52-day tasting license shall notify the Board of Liquor License Commissioners for Baltimore City, on forms approved by the Board of Liquor License Commissioners for Baltimore City, of additional tasting events authorized by the licenses.

(g) The provisions of this section are not restricted by:

(1) § 12-107(b) of this article; and

(2) The provisions in § 9-102 of this article that prohibit the issuance of two licenses for the same premises.

(h) The holder of a Class BWLT license may exercise the privileges of this section during the hours and days provided for under the holder's respective Class A license.

9-204.1.

(e) (1) Except as provided in paragraph (2) of this subsection, licenses for the sale of alcoholic beverages of any class may not be transferred into the areas covered by this section.

(2) (1) A licensed drugstore may transfer the license into the 45th alcoholic beverages district.

(II) ONE CLASS B-D-7 LICENSE ISSUED FOR A PROPERTY SURROUNDED BY WEST PRESTON STREET ON THE NORTH, MORTON STREET ON THE EAST, WEST BIDDLE STREET ON THE SOUTH, AND MARYLAND AVENUE ON THE WEST MAY BE TRANSFERRED TO A PROPERTY SURROUNDED BY WEST EAGER STREET AND EAST EAGER STREET ON THE NORTH, LOVEGROVE STREET ON THE EAST, WEST READ STREET AND EAST READ STREET ON THE SOUTH, AND MORTON STREET ON THE WEST.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 494

(Senate Bill 362)

AN ACT concerning

Education – Age for Compulsory Public School Attendance – Exemptions

FOR the purpose of altering the age at which certain children are required to attend a public school regularly during the entire school year, subject to certain exceptions; altering the age of certain children for which certain persons are responsible for the child's attendance at school or receipt of certain instruction; requiring certain children to return to attendance at school under certain circumstances; requiring the State Department of Education to complete certain tasks on or before a certain date; requiring the State Department of Education, in consultation with the Department of Labor, Licensing, and Regulation, to develop a certain program and request necessary legislation on or before a certain date; requiring the county boards of education to submit certain plans to the State Department of Education to submit certain persons and entities on or before certain dates; making certain stylistic changes; providing for the application of this Act; providing for delayed effective dates; and generally relating to the age for compulsory public school attendance.

BY repealing and reenacting, with amendments,

Article – Education Section 7–301 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement) BY repealing and reenacting, with amendments, Article – Education Section 7–301(a), (a–1)(1), (c), and (e)(2) <u>(e)(2)</u>, <u>and (g)</u> Annotated Code of Maryland (2008 Replacement Volume and 2011 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 – Education

7 - 301.

(A) THIS SECTION DOES NOT APPLY TO A CHILD UNDER THE AGE OF 17 YEARS WHO:

(1) HAS OBTAINED A MARYLAND HIGH SCHOOL DIPLOMA, AN EQUIVALENT OUT-OF-STATE HIGH SCHOOL DIPLOMA, OR A GED;

(2) IS A STUDENT WITH DISABILITIES AND HAS COMPLETED THE REQUIREMENTS FOR A MARYLAND HIGH SCHOOL CERTIFICATE OF COMPLETION;

(3) IS RECEIVING REGULAR, THOROUGH INSTRUCTION DURING THE SCHOOL YEAR IN THE STUDIES USUALLY TAUGHT IN THE PUBLIC SCHOOLS TO CHILDREN OF THE SAME AGE, INCLUDING HOME SCHOOLING UNDER COMAR 13A.10.01;

(4) HAS COMPLETED AN INSTRUCTION PROGRAM UNDER PARAGRAPH (3) OF THIS SUBSECTION;

(4) (5) IS SEVERELY ILL AND REQUIRES HOME OR HOSPITAL INSTRUCTION;

- (5) (6) IS MARRIED;
- (6) (7) IS IN MILITARY SERVICE;

(7) (8) IS COMMITTED BY COURT ORDER TO AN INSTITUTION WITHOUT AN EDUCATIONAL PROGRAM;

(8) (9) PROVIDES FINANCIAL SUPPORT TO THE CHILD'S FAMILY AS DOCUMENTED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES;

(9) (10) SUBJECT TO THE APPROVAL OF THE COUNTY SUPERINTENDENT, HAS BEEN EXPELLED UNDER § 7–305 OF THIS SUBTITLE;

(10) (11) IS PREGNANT OR A PARENT AND IS ENROLLED IN AN ALTERNATIVE EDUCATIONAL PROGRAM;

(11) (12) ATTENDS AN ALTERNATIVE EDUCATIONAL PROGRAM;

(12) (13) SUBJECT TO WRITTEN PARENTAL CONSENT AND WRITTEN AGREEMENT WITH THE COUNTY BOARD, ATTENDS A PUBLIC SCHOOL ON A PART-TIME BASIS AND ATTENDS A PRIVATE CAREER SCHOOL AS DEFINED UNDER § 10–101 OF THIS ARTICLE OR PARTICIPATES IN GED COURSES ON A PART-TIME BASIS; OR

(13) (14) IS WAIVED FROM THE PROVISIONS OF THIS SECTION BY THE STATE SUPERINTENDENT.

[(a)] (A-1) (1) Except as otherwise provided in this section, each child who resides in this State and is 5 years old or older and under [16] 17 shall attend a public school regularly during the entire school year [unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age].

(2) In accordance with regulations of the State Board of Education, a child who resides in this State and is 5 years old may be exempted from mandatory school attendance for 1 year if the child's parent or guardian files a written request with the local school system asking that the child's attendance be delayed due to the child's level of maturity.

(3) Except as provided in subsection (f) of this section or in regulations of the State Board of Education, each child who resides in this State shall attend a kindergarten program regularly during the school year prior to entering the first grade unless the child is otherwise receiving regular, thorough instruction in the skills and studies usually taught in a kindergarten program of a public school.

(b) A county superintendent, school principal, or an individual authorized by the county superintendent or principal may excuse a student for a lawful absence.

(c) Each person who has legal custody or care and control of a child who is 5 years old or older and under [16] 17 shall see that the child attends school or receives instruction as required by this section.

(d) (1) This section applies to any child who has a mental, emotional, or physical handicap.

(2) This section does not apply to a child:

(i) Whose mental, emotional, or physical condition makes [his] THE CHILD'S instruction detrimental to [his] THE CHILD'S progress; or

(ii) Whose presence in school presents a danger of serious physical harm to others.

(3) With the advice of the school principal, supervisor, pupil personnel supervisor, or visiting teacher and with the written recommendation of a licensed physician or a State Department of Education certified or licensed psychologist, the county superintendent may:

(i) Make other appropriate provisions for the free education of any student excepted from attendance under paragraph (2) of this subsection; or

(ii) Permit the parents or guardians of that student to withdraw [him] THE CHILD from public school, for as long as the attendance of the child in a public school would be detrimental to [his] THE CHILD'S progress or [his] THE CHILD'S presence in school would present a danger of serious physical harm to others.

(4) If a child is withdrawn from a public school under this subsection, the county board shall make other appropriate provisions for the education of the child.

(5) If an appropriate educational placement is not available immediately, the county board shall make interim provisions for the education of the child until an appropriate placement becomes available.

(e) (1) Any person who induces or attempts to induce a child to [absent himself] **BE ABSENT** unlawfully from school or employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor and on conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

(2) Any person who has legal custody or care and control of a child who is 5 years old or older and under [16] 17 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed \$50 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or both.

(3) (I) As to any sentence imposed under this section, the court may suspend the fine or the prison sentence and establish terms and conditions [which] THAT would promote the child's attendance.

(II) The suspension authority provided for [in] UNDER SUBPARAGRAPH (I) OF this [subsection] PARAGRAPH is in addition to and not in limitation of the suspension authority under § 6–221 of the Criminal Procedure Article.

(e–1) (1) This subsection applies only:

(i) In a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program under § 3-8C-02 of the Courts Article; and

(ii) To the extent that funds are provided in an annual State budget for a Truancy Reduction Pilot Program.

(2) A charge under this section may be filed in the juvenile court and assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts Article.

(3) (i) For a person with legal custody or care and control of a child at the time of an alleged violation of this section, it is an affirmative defense to a charge under this section that the person made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school.

(ii) If the court finds the affirmative defense is valid, the court shall dismiss the charge under this section against the defendant.

(4) The court may condition marking a charge under this section stet on participation of the defendant in the appropriate Truancy Reduction Pilot Program under Title 3, Subtitle 8C of the Courts Article.

(f) A child may be exempted from attending kindergarten if a parent or guardian of the child files a written request with the local school system and verifies that the child is enrolled:

- (1) Full time in a licensed child care center;
- (2) Full time in a registered family child care home; or
- (3) Part time in a Head Start 5 year old program.

(G) SUBJECT TO DATA BEING AVAILABLE THROUGH THE MARYLAND LONGITUDINAL DATA SYSTEM ESTABLISHED UNDER § 24–702 OF THIS ARTICLE AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A CHILD UNDER THE AGE OF 17 YEARS SHALL RETURN TO ATTENDANCE AT A PUBLIC SCHOOL REGULARLY DURING THE SCHOOL YEAR AS REQUIRED BY THIS SECTION, IF THE CHILD:

(1) IS NO LONGER PARTICIPATING IN GED COURSES; AND

(2) HAS NOT OBTAINED A PASSING SCORE ON THE GED TEST THAT RESULTED IN THE ISSUANCE OF A MARYLAND HIGH SCHOOL DIPLOMA.

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

Article – Education

7-301.

(a) This section does not apply to a child under the age of [17] **18** years who:

(1) Has obtained a Maryland high school diploma, an equivalent out-of-state high school diploma, or a GED;

(2) Is a student with disabilities and has completed the requirements for a Maryland high school certificate of completion;

(3) Is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age, including home schooling under COMAR 13A.10.01;

(4) <u>Has completed an instruction program under paragraph (3) of this</u> <u>subsection;</u>

(4) (5) Is severely ill and requires home or hospital instruction;

(5) (6) Is married;

(6) (7) Is in military service;

(7) (8) Is committed by court order to an institution without an educational program;

(B) (9) Provides financial support to the child's family as documented by a local department of social services;

(9) (10) Subject to the approval of the county superintendent, has been expelled under § 7–305 of this subtitle;

(10) (11) Is pregnant or a parent and is enrolled in an alternative educational program;

(11) (12) Attends an alternative educational program;

(12) (13) Subject to written parental consent and written agreement with the county board, attends a public school on a part-time basis and attends a private career school as defined under § 10–101 of this article or participates in GED courses on a part-time basis; or

(13) (14) Is waived from the provisions of this section by the State Superintendent.

(a-1) (1) Except as otherwise provided in this section, each child who resides in this State and is 5 years old or older and under [17] 18 shall attend a public school regularly during the entire school year.

(c) Each person who has legal custody or care and control of a child who is 5 years old or older and under [17] 18 shall see that the child attends school or receives instruction as required by this section.

(e) (2) Any person who has legal custody or care and control of a child who is 5 years old or older and under [17] 18 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed \$50 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or both.

(g) Subject to data being available through the Maryland Longitudinal Data System established under § 24–702 of this article and except as otherwise provided in this section, a child under the age of [17] 18 years shall return to attendance at a public school regularly during the school year as required by this section, if the child:

(1) <u>Is no longer participating in GED courses; and</u>

(2) Has not obtained a passing score on the GED test that resulted in the issuance of a Maryland high school diploma.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) On or before December 1, 2012, the State Department of Education shall:

(1) <u>update</u> the <u>Drop</u> <u>Out</u> <u>Prevention/School</u> <u>Completion/Intervention/Resource Guide, synthesize the information, and analyze the</u> <u>effectiveness of local programs and services;</u>

(2) report on the methodology for estimating the expected number of students per local school system that will remain in school as a result of this Act:

(3) estimate how to calculate State aid based on this methodology; and

(4) <u>review available data from other states that have increased their</u> <u>compulsory age of attendance during the last decade.</u>

(b) On or before December 1, 2012, the State Department of Education, in consultation with the Department of Labor, Licensing, and Regulation, shall develop a GED Options Program and request the departmental legislation necessary to implement the Program.

(c) On or before July 1, 2013, each county board of education shall submit a report to the State Department of Education on its plans for implementation of the provisions of this Act.

(d) On or before September 1, 2013, the State Department of Education shall submit to the Governor, the Secretary of Budget and Management, and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee, the Senate Budget and Taxation Committee, the House Ways and Means Committee, and the House Appropriations Committee a compilation of the reports submitted by the county boards of education under subsection (c) of this section and any recommendations for programs, interventions, and services that are necessary prior to implementation of this Act.

(e) On or before September 1, 2013, the State Department of Education shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on:

(1) <u>successful interventions at the early childhood and elementary</u> <u>school level;</u>

(2) <u>best practices for parental education and involvement; and</u>

(3) <u>alternative educational pathways.</u>

(f) On or before March 1, 2016, the State Department of Education shall submit a preliminary report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act. (g) On or before August 1, 2016, the State Department of Education shall submit a final report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of Section 1 of this Act.

(h) On or before August 1, 2018, the State Department of Education shall submit a final report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of Section 2 of this Act.

<u>SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be</u> <u>construed to apply only prospectively and may not be applied or interpreted to have any</u> <u>effect on or application to:</u>

- (1) any child who is 16 years old or older before July 1, 2015; or
- (2) any child who is 17 years old or older before July 1, 2017.

<u>SECTION 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act</u> <u>shall take effect July 1, 2015.</u>

SECTION 3. <u>6.</u> AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, <u>2016</u> <u>2017</u>.

SECTION 4. <u>7.</u> AND BE IT FURTHER ENACTED, That, except as provided in <u>Section 3</u> <u>Sections 5 and 6</u> of this Act, this Act shall take effect <u>June 1, 2014</u> <u>July 1,</u> <u>2012</u>.

Approved by the Governor, May 22, 2012.

Chapter 495

(Senate Bill 364)

AN ACT concerning

Loan Assistance Repayment Program – Nancy Grasmick Teacher Grant <u>Scholars</u>

FOR the purpose of establishing the Nancy Grasmick Teacher Grant Award in the Janet L. Hoffman Loan Assistance Repayment Program in the State; requiring the Office of Student Financial Assistance to assist in the repayment of certain higher education loans owed by certain individuals who receive certain degrees from certain institutions of higher education in the State or out of the State; requiring the Office to assist in the repayment of the amount of any higher education loan owed by certain public school teachers in the State who teach certain subjects or teach in certain schools in Maryland for a certain amount of

time; providing that a recipient of a Nancy Grasmick Teacher Award shall be known as a Nancy Grasmick Teacher Scholar; requiring that certain regulations establishing priority for participation in the Janet L. Hoffman Loan Assistance Repayment Program include, for teacher applicants only, an individual who qualifies for a Nancy Grasmick Teacher Award and meets other specified qualifications; prohibiting the Office from approving more than a certain percentage of awards for teacher applicants to Nancy Grasmick Teacher Scholars; requiring certain funds to be used to implement this Act; making this Act subject to a certain contingency; providing for the application of this Act; and generally relating to the creation of the Nancy Grasmick Teacher <u>Award</u> in the Loan Assistance Repayment Program.

BY repealing and reenacting, without amendments,

Article – Education Section 18–1501, 18–1503, 18–1504, and 18–1505 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Education Section 18–1502 <u>and 18–1503</u> Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

18-1501.

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

(b) (1) "Eligible field of employment" means employment in the State by an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code of 1986.

(2) "Eligible field of employment" includes employment by the State or any local government in the State, but does not include being employed as a judicial clerk in any court.

(c) "Higher education loan" means any loan for undergraduate or graduate study that is obtained for tuition, educational expenses, or living expenses from:

(1) A college or university, government, or commercial source; or

(2) An organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code of 1986.

(d) "Program" means the Janet L. Hoffman Loan Assistance Repayment Program.

18-1502.

(a) There is a program of loan assistance repayment known as the Janet L. Hoffman Loan Assistance Repayment Program in the State.

(b) The Office of Student Financial Assistance shall assist in the repayment of the amount of any higher education loan owed by an individual who:

(1) (i) Receives a graduate, professional, or undergraduate degree from:

- 1. A college or university in the State of Maryland; **f**or**}**
- 2. A school of law; OR

3. FOR A RECIPIENT OF THE NANCY GRASMICK TEACHER GRANT, A PUBLIC OR PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION IN THE STATE OR OUT OF THE STATE THAT POSSESSES A CERTIFICATE OF APPROVAL FROM THE APPROPRIATE HIGHER EDUCATION AUTHORITY IN THAT STATE; or

(ii) Receives a Resident Teacher Certificate (RTC) from the Department after completing an alternative teaching preparation program approved by the State Superintendent;

(2) Obtains eligible employment;

(3) Receives an income that is less than the maximum eligible total income levels established by the Office, including any additional sources of income; and

(4) Satisfies any other criteria established by the Office.

(C) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, THE OFFICE SHALL ASSIST IN THE REPAYMENT OF THE AMOUNT OF ANY HIGHER EDUCATION LOAN OWED BY A PUBLIC SCHOOL TEACHER IN THE STATE WHO:

(1) HAS TAUGHT <u>IN MARYLAND</u> FOR AT LEAST 2 YEARS:

(I) IN SCIENCE, TECHNOLOGY, ENGINEERING, OR MATH SUBJECTS; OR

(II) IN A SCHOOL IN WHICH AT LEAST 75% OF THE STUDENTS ARE ENROLLED IN THE FREE AND REDUCED LUNCH PROGRAM IN THE STATE FOR 2 YEARS; AND

(2) HAS RECEIVED THE HIGHEST PERFORMANCE EVALUATION RATING FOR THE MOST RECENT YEAR AVAILABLE IN THE COUNTY IN WHICH THE TEACHER TAUGHT (THE GRANT TO BE KNOWN AS THE NANCY GRASMICK TEACHER GRANT AWARD).

A RECIPIENT OF A NANCY GRASMICK TEACHER AWARD SHALL BE **(D)** KNOWN AS A NANCY GRASMICK TEACHER SCHOLAR.

[(c)] (D) (E) An applicant for assistance in the repayment of a commercial loan shall demonstrate to the Office that the commercial loan was used for tuition, educational expenses, or living expenses for graduate or undergraduate study.

[(d)] (F) Assistance in the repayment of a loan from an entity set forth in § 18–1501(c)(2) of this subtitle shall require the approval of the Office.

18 - 1503.

The Office of Student Financial Assistance shall adopt regulations to (a) establish:

The maximum starting income for eligibility in the Janet L. (1)Hoffman Loan Assistance Repayment Program;

The maximum total income for eligibility in the Janet L. Hoffman (2)Loan Assistance Repayment Program, including any additional sources of income;

That priority for participation in the Program shall be given to an (3)individual who:

last 3 years;

(i) Graduated from an institution of higher education in the

- Is a resident of the State: (ii)
- (iii) Is employed on a full-time basis; and

(iv) 1. Provides, as the principal part of the individual's employment, legal services to low-income residents in the State who cannot afford legal services, nursing services in nursing shortage areas in the State as defined in § 18-802 of this title, or other services in an eligible field of employment in which there is a shortage of qualified practitioners to low-income or underserved residents or areas of the State; <u>OR</u>

2. FOR TEACHER APPLICANTS ONLY, QUALIFIES FOR A NANCY GRASMICK TEACHER AWARD;

(4) A limit on the total amount of assistance provided by the Office of Student Financial Assistance in repaying the loan of an eligible individual, based on the individual's total income and outstanding higher education loan balance;

(5) A procedure and schedule for the payment of the amount of loan assistance provided by the Office of Student Financial Assistance to the eligible individual; and

(6) An annual review of the eligibility of each individual participating in the Program.

(B) THE OFFICE OF STUDENT FINANCIAL ASSISTANCE MAY NOT APPROVE MORE THAN 50% OF THE TOTAL NUMBER OF AWARDS FOR TEACHER APPLICANTS TO NANCY GRASMICK TEACHER SCHOLARS.

(b) (C) The Office of Student Financial Assistance shall adopt any other regulations necessary to implement this subtitle.

18-1504.

(a) Funds for the Janet L. Hoffman Loan Assistance Repayment Program described in subsection (b)(2) of this section shall be allocated by the Commission to an individual who:

(1) Has received a graduate degree from a school of law; and

(2) Has submitted an application for the Janet L. Hoffman Loan Assistance Repayment Program that the Commission disapproved due to insufficient funds.

(b) Funds for the Janet L. Hoffman Loan Assistance Repayment Program shall:

(1) Be provided on an annual basis in the State budget; and

(2) Include money paid to the Program from the fee charged for a special admission of an out–of–state attorney under § 7–202(e) of the Courts Article.

(c) If a federal matching grant loan program furnishes professional services in an eligible field of employment to low-income or underserved residents of the State, the Office may apply not more than 50 percent of the funds provided in the State budget for the Janet L. Hoffman Loan Assistance Repayment Program to the State's participation in the federal program.

18-1505.

Subject to § 2–1246 of the State Government Article, the Office of Student Financial Assistance shall report to the General Assembly by January 1 of each year on the implementation of the Janet L. Hoffman Loan Assistance Repayment Program.

SECTION 2. AND BE IT FURTHER ENACTED, That funds for this Act shall be provided from State revenues received from commercial gaming using table games, including baccarat, blackjack, craps, poker, and roulette.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is contingent on the passage of legislation during the 2012 Session of the General Assembly and its ratification by the votors of the State that authorizes commercial gaming using table games, including baccarat, blackjack, craps, poker, and roulette. If legislation authorizing commercial gaming using table games is not passed or is not ratified by the votors of the State, this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect on the proclamation of the Governor that a constitutional amendment authorizing commercial gaming using table games as described in Section 3 of this Act, having received a majority of the votes cast at the general election, has been adopted by the people of Maryland, and shall be applicable beginning in the academic year following the proclamation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 496

(House Bill 613)

AN ACT concerning

Loan Assistance Repayment Program - Nancy Grasmick Teacher Scholars

FOR the purpose of establishing the Nancy Grasmick Teacher Grant Award in the Janet L. Hoffman Loan Assistance Repayment Program; requiring the Office of Student Financial Assistance to assist in the repayment of certain higher education loans owed by certain individuals who receive certain degrees from certain institutions of higher education in the State or out of the State; requiring the Office to assist in the repayment of the amount of any higher education loan owed by certain public school teachers in the State who teach certain subjects or teach in certain schools in Maryland for a certain amount of time; providing that a recipient of a Nancy Grasmick Teacher Grant Award shall be known as a Nancy Grasmick Teacher Scholar; requiring that certain regulations establishing priority for participation in the Janet L. Hoffman Loan Assistance Repayment Program include, for teacher applicants only, an individual who qualifies for a Nancy Grasmick Teacher Grant Award and meets other specified qualifications; prohibiting the Office from approving more than a certain percentage of awards for teacher applicants to Nancy Grasmick Teacher Scholars; and generally relating to the creation of the Nancy Grasmick Teacher Grant Award in the Loan Assistance Repayment Program.

BY repealing and reenacting, without amendments,

Article – Education Section 18–1501, 18–1504, and 18–1505 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Education Section 18–1502 and 18–1503 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

18 - 1501.

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

(b) (1) "Eligible field of employment" means employment in the State by an organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code of 1986.

(2) "Eligible field of employment" includes employment by the State or any local government in the State, but does not include being employed as a judicial clerk in any court. (c) "Higher education loan" means any loan for undergraduate or graduate study that is obtained for tuition, educational expenses, or living expenses from:

(1) A college or university, government, or commercial source; or

(2) An organization, institution, association, society, or corporation that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code of 1986.

(d) "Program" means the Janet L. Hoffman Loan Assistance Repayment Program.

18-1502.

(a) There is a program of loan assistance repayment known as the Janet L. Hoffman Loan Assistance Repayment Program in the State.

(b) The Office of Student Financial Assistance shall assist in the repayment of the amount of any higher education loan owed by an individual who:

(1) (i) Receives a graduate, professional, or undergraduate degree from:

1. A college or university in the State of Maryland; for

2. A school of law; or

3. FOR A RECIPIENT OF THE NANCY GRASMICK TEACHER GRANT, A PUBLIC OR PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION IN THE STATE OR OUT OF THE STATE THAT POSSESSES A CERTIFICATE OF APPROVAL FROM THE APPROPRIATE HIGHER EDUCATION AUTHORITY IN THAT STATE; OR

(ii) Receives a Resident Teacher Certificate (RTC) from the Department after completing an alternative teaching preparation program approved by the State Superintendent;

(2) Obtains eligible employment;

(3) Receives an income that is less than the maximum eligible total income levels established by the Office, including any additional sources of income; and

(4) Satisfies any other criteria established by the Office.

(C) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, THE OFFICE SHALL ASSIST IN THE REPAYMENT OF THE AMOUNT OF ANY HIGHER EDUCATION LOAN OWED BY A PUBLIC SCHOOL TEACHER IN THE STATE WHO:

(1) HAS TAUGHT <u>IN MARYLAND</u> FOR AT LEAST 2 YEARS:

(I) IN SCIENCE, TECHNOLOGY, ENGINEERING, OR MATH SUBJECTS; OR

(II) IN A SCHOOL IN WHICH AT LEAST 75% OF THE STUDENTS ARE ENROLLED IN THE FREE AND REDUCED LUNCH PROGRAM IN THE STATE FOR 2 YEARS; AND

(2) HAS RECEIVED THE HIGHEST PERFORMANCE EVALUATION RATING FOR THE MOST RECENT YEAR AVAILABLE IN THE COUNTY IN WHICH THE TEACHER TAUGHT (THE GRANT TO BE KNOWN AS THE NANCY GRASMICK TEACHER GRANT AWARD).

(D) A RECIPIENT OF A NANCY GRASMICK TEACHER GRANT AWARD SHALL BE KNOWN AS A NANCY GRASMICK TEACHER SCHOLAR.

[(c)] (E) An applicant for assistance in the repayment of a commercial loan shall demonstrate to the Office that the commercial loan was used for tuition, educational expenses, or living expenses for graduate or undergraduate study.

[(d)] (F) Assistance in the repayment of a loan from an entity set forth in 18-1501(c)(2) of this subtitle shall require the approval of the Office.

18–1503.

(a) The Office of Student Financial Assistance shall adopt regulations to establish:

(1) The maximum starting income for eligibility in the Janet L. Hoffman Loan Assistance Repayment Program;

(2) The maximum total income for eligibility in the Janet L. Hoffman Loan Assistance Repayment Program, including any additional sources of income;

(3) That priority for participation in the Program shall be given to an individual who:

(i) Graduated from an institution of higher education in the

last 3 years;

- (ii) Is a resident of the State;
- (iii) Is employed on a full-time basis; and

(iv) **1.** Provides, as the principal part of the individual's employment, legal services to low-income residents in the State who cannot afford legal services, nursing services in nursing shortage areas in the State as defined in § 18-802 of this title, or other services in an eligible field of employment in which there is a shortage of qualified practitioners to low-income or underserved residents or areas of the State; **OR**

2. **QUALIFIES** FOR A NANCY GRASMICK TEACHER GRANT AWARD;

(4) A limit on the total amount of assistance provided by the Office of Student Financial Assistance in repaying the loan of an eligible individual, based on the individual's total income and outstanding higher education loan balance;

(5) A procedure and schedule for the payment of the amount of loan assistance provided by the Office of Student Financial Assistance to the eligible individual; and

(6) An annual review of the eligibility of each individual participating in the Program.

(B) THE OFFICE OF STUDENT FINANCIAL ASSISTANCE MAY NOT APPROVE MORE THAN 50% OF THE TOTAL NUMBER OF AWARDS FOR TEACHER APPLICANTS TO NANCY GRASMICK TEACHER SCHOLARS.

(b) (C) The Office of Student Financial Assistance shall adopt any other regulations necessary to implement this subtitle.

18-1504.

(a) Funds for the Janet L. Hoffman Loan Assistance Repayment Program described in subsection (b)(2) of this section shall be allocated by the Commission to an individual who:

(1) Has received a graduate degree from a school of law; and

(2) Has submitted an application for the Janet L. Hoffman Loan Assistance Repayment Program that the Commission disapproved due to insufficient funds.

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(b) Funds for the Janet L. Hoffman Loan Assistance Repayment Program shall:

(1) Be provided on an annual basis in the State budget; and

(2) Include money paid to the Program from the fee charged for a special admission of an out-of-state attorney under § 7–202(e) of the Courts Article.

(c) If a federal matching grant loan program furnishes professional services in an eligible field of employment to low-income or underserved residents of the State, the Office may apply not more than 50 percent of the funds provided in the State budget for the Janet L. Hoffman Loan Assistance Repayment Program to the State's participation in the federal program.

18-1505.

Subject to § 2–1246 of the State Government Article, the Office of Student Financial Assistance shall report to the General Assembly by January 1 of each year on the implementation of the Janet L. Hoffman Loan Assistance Repayment Program.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 497

(Senate Bill 390)

AN ACT concerning

Caroline County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person in Caroline County to hunt deer on certain Sundays on private property using certain hunting equipment during certain months; and generally relating to hunting on private property on Sundays.

BY repealing and reenacting, with amendments, Article – Natural Resources Section 10–410(a) Annotated Code of Maryland (2007 Replacement Volume and 2011 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), (4), and (6) 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, **CAROLINE**, 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, **CAROLINE 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, Howard, and Prince George's counties; and

(ii) In Baltimore City.

(6) A person who is 16 years of age or younger may hunt deer with a firearm on a Sunday through participation in the junior deer hunt established under 10-405(a) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 498

(Senate Bill 405)

AN ACT concerning

Life Sciences Advisory Board – Purpose and Membership

FOR the purpose of establishing the purpose of the Life Sciences Advisory Board in the Department of Business and Economic Development; altering the membership of the Advisory Board; and generally relating to the Life Sciences Advisory Board.

BY repealing and reenacting, without amendments, Article – Economic Development Section 3–201 Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Economic Development Section 3–202 and 3–203(a) Annotated Code of Maryland (2008 Volume and 2011 Supplement)

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

Article – Economic Development

3-201.

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

(b) "Advisory Board" means the Maryland Life Sciences Advisory Board.

(c) "Life sciences" includes the fields of biotechnology, pharmaceuticals, biomedical technologies, life systems technologies, food sciences, environmental sciences, and biomedical devices.

3-202.

(A) There is a Maryland Life Sciences Advisory Board in the Department.

(B) THE PURPOSE OF THE ADVISORY BOARD IS TO RECOMMEND STATE AND FEDERAL POLICIES, PRIORITIES, PRACTICES, AND LEGISLATION TO EXPEDITE THE CREATION OF PRIVATE SECTOR JOBS THROUGH THE COMMERCIALIZATION OF LIFE SCIENCES RESEARCH.

3-203.

- (a) The Advisory Board consists of the following [15] **18** members:
 - (1) the Secretary;

(2) a representative of the Maryland Technology Development Corporation, designated by the Maryland Technology Development Corporation; and

(3) the following members appointed by the Governor:

(i) three representing federal agencies located in the State with life sciences missions;

(ii) [four] SEVEN with executive experience in life sciences businesses located in the State, AT LEAST FOUR OF WHOM REPRESENT SMALL BUSINESSES;

(iii) four representing institutions of higher education located in the State, one of whom shall represent a community college;

(iv) one with general business marketing experience in a life sciences business located in the State; and

(v) one member of the general public.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 499

(House Bill 141)

AN ACT concerning

Life Sciences Advisory Board – Purpose and Membership

FOR the purpose of establishing the purpose of the Life Sciences Advisory Board in the Department of Business and Economic Development; altering the membership of the Advisory Board; and generally relating to the Life Sciences Advisory Board.

BY repealing and reenacting, without amendments, Article – Economic Development Section 3–201 Annotated Code of Maryland (2008 Volume and 2011 Supplement) BY repealing and reenacting, with amendments, Article – Economic Development Section 3–202 and 3–203(a) Annotated Code of Maryland (2008 Volume and 2011 Supplement)

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

Article – Economic Development

3-201.

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

(b) "Advisory Board" means the Maryland Life Sciences Advisory Board.

(c) "Life sciences" includes the fields of biotechnology, pharmaceuticals, biomedical technologies, life systems technologies, food sciences, environmental sciences, and biomedical devices.

3-202.

(A) There is a Maryland Life Sciences Advisory Board in the Department.

(B) THE PURPOSE OF THE ADVISORY BOARD IS TO RECOMMEND STATE AND FEDERAL POLICIES, PRIORITIES, PRACTICES, AND LEGISLATION TO EXPEDITE THE CREATION OF PRIVATE SECTOR JOBS THROUGH THE COMMERCIALIZATION OF LIFE SCIENCES RESEARCH.

3-203.

(a) The Advisory Board consists of the following $\frac{15}{18}$ members:

(1) the Secretary;

(2) a representative of the Maryland Technology Development Corporation, designated by the Maryland Technology Development Corporation; and

(3) the following members appointed by the Governor:

(i) **{**three representing federal agencies located in the State with life sciences missions;

(ii) four] SEVEN with executive experience in life sciences businesses located in the State, AT LEAST FOUR OF WHOM REPRESENT SMALL BUSINESSES;

f(iii)**] (II) f**four**] TWO** representing institutions of higher education located in the State, one of whom shall represent a community college;

(III) ONE REPRESENTATIVE FROM THE NATIONAL INSTITUTES OF HEALTH;

(IV) ONE REPRESENTATIVE FROM THE UNITED STATES FOOD AND DRUG ADMINISTRATION;

 $\{(iv)\}$ fone with general business marketing experience in a life sciences business located in the State **ONE MEMBER OF THE MARYLAND GENERAL ASSEMBLY**; and

f(v)**] (VI)** one member of the **f**general public**] MARYLAND DELEGATION TO THE UNITED STATES CONGRESS, OR THE MEMBER'S DESIGNEE**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 500

(Senate Bill 415)

AN ACT concerning

Handling Human Remains with Dignity Act of 2012

FOR the purpose of requiring a funeral establishment or crematory, on taking custody of the body of a decedent <u>in accordance with all authorizations required by law</u>, to maintain the body in a certain manner; requiring a funeral establishment or crematory to maintain the body of a decedent with refrigeration and at a certain temperature under certain circumstances; requiring a funeral establishment or a crematory to notify the State Board of Morticians and Funeral Directors <u>or the Office of Cemetery Oversight</u> and a certain other person if the funeral establishment or crematory cannot comply with certain provisions of this Act; specifying that a certain notice must be given within a certain time period and include certain information; prohibiting the body of a decedent from being embalmed or artificially preserved except under certain circumstances; requiring a funeral establishment or crematory to store the body of a decedent at a specified location; prohibiting a funeral establishment, crematory, or transportation service from transporting or storing the body of a decedent together with certain other remains; prohibiting the body of a decedent, while in the custody of a funeral establishment or crematory, from being transported to a certain facility except under certain circumstances; authorizing the <u>Board State</u> <u>Board of Morticians and Funeral Directors and the Office of Cemetery</u> <u>Oversight</u> to take certain disciplinary action against a licensee <u>or permit holder</u> who fails to comply with certain provisions of this Act; and generally relating to the transportation and storage of bodies of decedents.

BY repealing and reenacting, without amendments,

<u>Article – Business Regulation</u> <u>Section 5–101(a) and (g)</u> <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

<u>Article – Business Regulation</u> Section 5–310(a)(11) and (12) <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Business Regulation</u> <u>Section 5–310(a)(13)</u> <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health – General Section 5–513 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Health Occupations Section 7–101(a) and (d) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Health Occupations Section 7–316(a)(30) and (31) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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BY adding to Article – Health Occupations Section 7–316(a)(32) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

<u>Article – Business Regulation</u>

<u>5–101.</u>

- (a) In this title the following words have the meanings indicated.
- (g) <u>"Director" means the Director of the Office of Cemetery Oversight.</u>

5-310.

(a) Subject to the hearing provisions of § 5–312 of this subtitle, the Director may deny a registration or permit to an applicant, reprimand a person subject to the registration or permit provisions of this title, or suspend or revoke a registration or permit if an applicant, registrant, or permit holder, or an agent, employee, officer, director, or partner of the applicant, registrant, or permit holder:

(11) fails to comply with any terms of settlement under a binding arbitration agreement; [or]

(12) is found guilty by a court in this State of violating an unfair or deceptive trade practices provision under Title 13 of the Commercial Law Article; **OR**

(13) FAILS TO COMPLY WITH § 5–513 OF THE HEALTH – GENERAL ARTICLE.

Article – Health – General

5-513.

(A) ON TAKING CUSTODY OF THE BODY OF A DECEDENT <u>IN</u> <u>ACCORDANCE WITH ALL AUTHORIZATIONS REQUIRED BY LAW</u>, A FUNERAL ESTABLISHMENT OR CREMATORY SHALL MAINTAIN THE BODY IN A MANNER THAT PROVIDES FOR COMPLETE COVERAGE OF THE BODY AND PREVENTS LEAKAGE OR SPILLAGE EXCEPT DURING: (1) IDENTIFICATION, EMBALMING, OR PREPARATION OF AN UNEMBALMED BODY FOR FINAL DISPOSITION;

(2) **RESTORATION AND DRESSING OF A BODY IN PREPARATION** FOR FINAL DISPOSITION; AND

(3) VIEWING DURING A VISITATION OR FUNERAL SERVICE.

(B) IF THE UNEMBALMED BODY OF A DECEDENT IS TO BE STORED FOR MORE THAN 72 48 HOURS BEFORE FINAL DISPOSITION, A FUNERAL ESTABLISHMENT OR CREMATORY SHALL MAINTAIN THE BODY WITH REFRIGERATION AND AT A TEMPERATURE LOWER THAN 44 DEGREES FAHRENHEIT DETERMINED BY REGULATION.

(C) (1) IF A FUNERAL ESTABLISHMENT OR CREMATORY CANNOT SECURE THE BODY OF A DECEDENT OR CANNOT STORE THE BODY AS REQUIRED IN SUBSECTION (B) OF THIS SECTION DUE TO AN UNFORESEEN CIRCUMSTANCE, THE FUNERAL ESTABLISHMENT OR CREMATORY SHALL NOTIFY THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS <u>OR THE OFFICE OF</u> <u>CEMETERY OVERSIGHT</u> AND THE PERSON AUTHORIZED TO ARRANGE FOR THE FINAL DISPOSITION OF THE BODY UNDER § 5–509 OF THIS SUBTITLE.

(2) THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BE MADE WITHIN 24 HOURS AFTER THE OCCURRENCE OF THE UNFORESEEN CIRCUMSTANCE; AND

(II) INCLUDE THE NAME AND LOCATION OF THE FACILITY WHERE THE BODY IS BEING TRANSFERRED, THE REASON FOR THE TRANSFER, AND THE METHOD OF STORAGE.

(D) THE BODY OF A DECEDENT MAY NOT BE EMBALMED OR ARTIFICIALLY PRESERVED WITHOUT:

(1) THE EXPRESS PERMISSION OF THE PERSON AUTHORIZED TO ARRANGE FOR THE FINAL DISPOSITION OF THE BODY UNDER § 5–509 OF THIS SUBTITLE; OR

(2) A COURT ORDER.

(E) A FUNERAL ESTABLISHMENT OR CREMATORY SHALL STORE THE BODY OF A DECEDENT UNTIL FINAL DISPOSITION AT A LOCATION APPROVED BY

THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS FOR THAT FUNERAL ESTABLISHMENT OR CREMATORY:

(1) <u>A FUNERAL ESTABLISHMENT LICENSED UNDER TITLE 7 OF</u> THE HEALTH OCCUPATIONS ARTICLE;

(2) A CREMATORY LICENSED UNDER TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE;

(3) <u>A CREMATORY PERMITTED UNDER TITLE 5 OF THE BUSINESS</u> <u>REGULATION ARTICLE; OR</u>

(4) <u>ANOTHER FACILITY THAT HAS PASSED AN INSPECTION WITH</u> <u>THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS OR THE OFFICE</u> <u>OF CEMETERY OVERSIGHT WITHIN THE PAST 2 YEARS</u>.

(F) A FUNERAL ESTABLISHMENT, CREMATORY, OR TRANSPORTATION SERVICE MAY NOT TRANSPORT OR STORE THE BODY OF A DECEDENT TOGETHER WITH ANIMAL REMAINS IN THE SAME CONFINED SPACE.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WHILE THE BODY OF A DECEDENT IS IN THE CUSTODY OF A FUNERAL ESTABLISHMENT OR CREMATORY IN THE STATE, THE BODY MAY NOT BE TRANSPORTED FOR PREPARATION OR STORAGE TO A FACILITY THAT IS NOT WITHIN THE JURISDICTION OF THE STATE OR, LICENSED BY THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS, OR PERMITTED BY THE OFFICE OF <u>CEMETERY OVERSIGHT</u>.

(2) THE BODY OF A DECEDENT MAY BE TRANSPORTED FOR PREPARATION OR STORAGE TO A FACILITY THAT IS NOT WITHIN THE JURISDICTION OF THE STATE OR, LICENSED BY THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS, OR PERMITTED BY THE OFFICE OF <u>CEMETERY OVERSIGHT</u> IF:

(I) THE FACILITY HAS ENTERED INTO A WRITTEN AGREEMENT WITH THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS <u>OR THE OFFICE OF CEMETERY OVERSIGHT</u> TO ALLOW THE STATE TO MAKE UNANNOUNCED INSPECTIONS OF THE FACILITY; AND

(II) THE PERSON AUTHORIZED TO ARRANGE FOR THE FINAL DISPOSITION OF THE BODY UNDER § 5–509 OF THIS SUBTITLE HAS:

<u>1.</u> <u>HAS</u> GIVEN WRITTEN PERMISSION FOR THE BODY TO BE TRANSPORTED TO THE FACILITY; <u>OR</u>

2. A. <u>HAS GIVEN ORAL PERMISSION FOR THE</u> BODY TO BE TRANSPORTED TO THE FACILITY; AND

B. WITHIN 36 HOURS AFTER GIVING ORAL PERMISSION, PROVIDES WRITTEN VERIFICATION OF THE ORAL PERMISSION.

Article – Health Occupations

7–101.

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

(d) "Board" means the Maryland State Board of Morticians and Funeral Directors.

7 - 316.

(a) Subject to the hearing provisions of § 7–319 of this subtitle and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

(30) Fails to comply with inspection requirements in the time specified by the Board; [or]

(31) Fails to provide the Board the certification required under § 7–405(i) of this title; \mathbf{OR}

(32) FAILS TO COMPLY WITH § 5–513 OF THE HEALTH – GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 501

(House Bill 540)

AN ACT concerning

Handling Human Remains with Dignity Act of 2012

FOR the purpose of requiring a funeral establishment or crematory, on taking custody of the body of a decedent in accordance with all authorizations required by law, to maintain the body in a certain manner; requiring a funeral establishment or crematory to maintain the body of a decedent with refrigeration and at a certain temperature under certain circumstances; requiring a funeral establishment or a crematory to notify the State Board of Morticians and Funeral Directors or the Office of Cemetery Oversight and a certain other person if the funeral establishment or crematory cannot comply with certain provisions of this Act; specifying that a certain notice must be given within a certain time period and include certain information; prohibiting the body of a decedent from being embalmed or artificially preserved except under certain circumstances; requiring a funeral establishment or crematory to store the body of a decedent at a specified location; prohibiting a funeral establishment, crematory, or transportation service from transporting or storing the body of a decedent together with certain other remains; prohibiting the body of a decedent, while in the custody of a funeral establishment or crematory, from being transported to a certain facility except under certain circumstances; authorizing the Board State Board of Morticians and Funeral Directors and the Office of Cemetery Oversight to take certain disciplinary action against a licensee or permit holder who fails to comply with certain provisions of this Act; and generally relating to the transportation and storage of bodies of decedents.

BY repealing and reenacting, without amendments,

<u>Article – Business Regulation</u> <u>Section 5–101(a) and (g)</u> <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

<u>Article – Business Regulation</u> <u>Section 5–310(a)(11) and (12)</u> <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Business Regulation</u> <u>Section 5–310(a)(13)</u> <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health – General Section 5–513 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement) BY repealing and reenacting, without amendments, Article – Health Occupations Section 7–101(a) and (d) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Health Occupations Section 7–316(a)(30) and (31) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations Section 7–316(a)(32) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Business Regulation

<u>5–101.</u>

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

(g) "Director" means the Director of the Office of Cemetery Oversight.

<u>5–310.</u>

(a) Subject to the hearing provisions of § 5–312 of this subtitle, the Director may deny a registration or permit to an applicant, reprimand a person subject to the registration or permit provisions of this title, or suspend or revoke a registration or permit if an applicant, registrant, or permit holder, or an agent, employee, officer, director, or partner of the applicant, registrant, or permit holder:

(11) fails to comply with any terms of settlement under a binding arbitration agreement; [or]

(12) is found guilty by a court in this State of violating an unfair or deceptive trade practices provision under Title 13 of the Commercial Law Article; **OR**

(13) FAILS TO COMPLY WITH § 5–513 OF THE HEALTH – GENERAL ARTICLE. 5 - 513.

ON TAKING CUSTODY OF THE BODY OF A DECEDENT IN (A) ACCORDANCE WITH ALL AUTHORIZATIONS REQUIRED BY LAW, A FUNERAL ESTABLISHMENT OR CREMATORY SHALL MAINTAIN THE BODY IN A MANNER THAT PROVIDES FOR COMPLETE COVERAGE OF THE BODY AND PREVENTS LEAKAGE OR SPILLAGE EXCEPT DURING:

(1) IDENTIFICATION, EMBALMING, OR PREPARATION OF AN **UNEMBALMED BODY FOR FINAL DISPOSITION;**

RESTORATION AND DRESSING OF A BODY IN PREPARATION (2) FOR FINAL DISPOSITION; AND

> VIEWING DURING A VISITATION OR FUNERAL SERVICE. (3)

IF THE UNEMBALMED BODY OF A DECEDENT IS TO BE STORED FOR **(B)** MORE THAN 72 48 HOURS BEFORE FINAL DISPOSITION, A FUNERAL ESTABLISHMENT OR CREMATORY SHALL MAINTAIN THE BODY WITH **REFRIGERATION AND AT A TEMPERATURE** HOWER THAN 44 DEGREES **FAHRENHEIT** DETERMINED BY REGULATION.

(C) (1) IF A FUNERAL ESTABLISHMENT OR CREMATORY CANNOT SECURE THE BODY OF A DECEDENT OR CANNOT STORE THE BODY AS REQUIRED IN SUBSECTION (B) OF THIS SECTION DUE TO AN UNFORESEEN CIRCUMSTANCE, THE FUNERAL ESTABLISHMENT OR CREMATORY SHALL NOTIFY THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS OR THE OFFICE OF **CEMETERY OVERSIGHT AND THE PERSON AUTHORIZED TO ARRANGE FOR THE** FINAL DISPOSITION OF THE BODY UNDER § 5–509 OF THIS SUBTITLE.

THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF (2) THIS SUBSECTION SHALL:

BE MADE WITHIN 24 HOURS AFTER THE OCCURRENCE **(I)** OF THE UNFORESEEN CIRCUMSTANCE: AND

INCLUDE THE NAME AND LOCATION OF THE FACILITY **(II)** WHERE THE BODY IS BEING TRANSFERRED, THE REASON FOR THE TRANSFER, AND THE METHOD OF STORAGE.

(D) THE BODY OF A DECEDENT MAY NOT BE EMBALMED OR **ARTIFICIALLY PRESERVED WITHOUT:**

(1) THE EXPRESS PERMISSION OF THE PERSON AUTHORIZED TO ARRANGE FOR THE FINAL DISPOSITION OF THE BODY UNDER § 5–509 OF THIS SUBTITLE; OR

(2) A COURT ORDER.

(E) A FUNERAL ESTABLISHMENT OR CREMATORY SHALL STORE THE BODY OF A DECEDENT UNTIL FINAL DISPOSITION AT A LOCATION APPROVED BY THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS FOR THAT FUNERAL ESTABLISHMENT OR CREMATORY:

(1) <u>A FUNERAL ESTABLISHMENT LICENSED UNDER TITLE 7 OF</u> <u>THE HEALTH OCCUPATIONS ARTICLE;</u>

(2) <u>A CREMATORY LICENSED UNDER TITLE 7 OF THE HEALTH</u> OCCUPATIONS ARTICLE;

(3) <u>A CREMATORY PERMITTED UNDER TITLE 5 OF THE BUSINESS</u> REGULATION ARTICLE; OR

(4) <u>ANOTHER FACILITY THAT HAS PASSED AN INSPECTION WITH</u> <u>THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS OR THE OFFICE</u> <u>OF CEMETERY OVERSIGHT WITHIN THE PAST 2 YEARS</u>.

(F) A FUNERAL ESTABLISHMENT, CREMATORY, OR TRANSPORTATION SERVICE MAY NOT TRANSPORT OR STORE THE BODY OF A DECEDENT TOGETHER WITH ANIMAL REMAINS IN THE SAME CONFINED SPACE.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WHILE THE BODY OF A DECEDENT IS IN THE CUSTODY OF A FUNERAL ESTABLISHMENT OR CREMATORY IN THE STATE, THE BODY MAY NOT BE TRANSPORTED FOR PREPARATION OR STORAGE TO A FACILITY THAT IS NOT WITHIN THE JURISDICTION OF THE STATE OR, LICENSED BY THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS, OR PERMITTED BY THE OFFICE OF <u>CEMETERY OVERSIGHT</u>.

(2) THE BODY OF A DECEDENT MAY BE TRANSPORTED FOR PREPARATION OR STORAGE TO A FACILITY THAT IS NOT WITHIN THE JURISDICTION OF THE STATE OR, LICENSED BY THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS, OR PERMITTED BY THE OFFICE OF <u>CEMETERY OVERSIGHT</u> IF:

(I) THE FACILITY HAS ENTERED INTO A WRITTEN AGREEMENT WITH THE STATE BOARD OF MORTICIANS AND FUNERAL DIRECTORS <u>OR THE OFFICE OF CEMETERY OVERSIGHT</u> TO ALLOW THE STATE TO MAKE UNANNOUNCED INSPECTIONS OF THE FACILITY; AND

(II) THE PERSON AUTHORIZED TO ARRANGE FOR THE FINAL DISPOSITION OF THE BODY UNDER § 5–509 OF THIS SUBTITLE HAS:

<u>1.</u> <u>Has</u> given written permission for the body to be transported to the facility; <u>or</u>

2. <u>A. HAS GIVEN ORAL PERMISSION FOR THE</u> BODY TO BE TRANSPORTED TO THE FACILITY; AND

B. WITHIN 36 HOURS AFTER GIVING ORAL PERMISSION, PROVIDES WRITTEN VERIFICATION OF THE ORAL PERMISSION.

Article – Health Occupations

7 - 101.

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

(d) "Board" means the Maryland State Board of Morticians and Funeral Directors.

7-316.

(a) Subject to the hearing provisions of § 7–319 of this subtitle and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

(30) Fails to comply with inspection requirements in the time specified by the Board; [or]

(31) Fails to provide the Board the certification required under § 7–405(i) of this title; \mathbf{OR}

(32) FAILS TO COMPLY WITH § 5–513 OF THE HEALTH – GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 502

(Senate Bill 421)

AN ACT concerning

Public Safety - Explosives - Package of Components

FOR the purpose of altering the definition of "explosives" to include two or more components that are packaged together for sale and when combined create advertised and sold together with instructions on how to combine the components to create a bomb or destructive device designed to operate by chemical, mechanical, or explosive action a certain explosive; and generally relating to explosives.

BY repealing and reenacting, without amendments, Article – Public Safety Section 11–101(a), 11–105(a), and 11–114 Annotated Code of Maryland (2011 Replacement Volume)

BY repealing and reenacting, with amendments, Article – Public Safety Section 11–101(c) Annotated Code of Maryland (2011 Replacement Volume)

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

Article – Public Safety

11-101.

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

(c) (1) "Explosives" means gunpowder, powders for blasting, high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powder, and any chemical compound or mechanical mixture that contains oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion, or detonation of any part of the compound or mixture may and is intended to cause an explosion.

(2) "Explosives" includes:

(I) bombs and destructive devices designed to operate by chemical, mechanical, or explosive action; AND

(II) TWO OR MORE COMPONENTS THAT ARE **PACKAGED** TOGETHER FOR SALE AND WHEN COMBINED CREATE <u>ADVERTISED AND SOLD</u> TOGETHER WITH INSTRUCTIONS ON HOW TO COMBINE THE COMPONENTS TO <u>CREATE</u> A BOMB OR DESTRUCTIVE DEVICE DESIGNED TO OPERATE BY CHEMICAL, MECHANICAL, OR EXPLOSIVE ACTION AN EXPLOSIVE, AS DEFINED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) "Explosives" does not include fixed ammunition for small arms, small arms ammunition primers, small arms percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, friction primers, fireworks, or common matches when used in their original configuration.

11 - 105.

(a) Except as otherwise provided in this subtitle, a person shall obtain a license issued under this subtitle before the person engages in business as a manufacturer or dealer, possesses explosives other than explosives for use in firearms, or possesses or stores explosives for use in firearms in the State.

11–114.

(a) Except as otherwise provided in this subtitle, a person may not engage in business as a manufacturer or dealer in the State unless the person is licensed under this subtitle.

(b) Except as otherwise provided in this subtitle, a person may not possess explosives other than explosives for use in firearms in the State unless the person is licensed under this subtitle.

(c) Except as otherwise provided in this subtitle, a dealer may not sell, barter, give, or dispose of explosives other than explosives for use in firearms to a person unless the person is licensed under this subtitle.

(d) The owner or operator of a mine, quarry, or other operation that uses explosives, and a contractor performing work that uses explosives, may not engage in business as a dealer in the State unless the person is licensed under this subtitle.

(e) An employee of an owner or operator of a mine, quarry, or other operation that uses explosives, or of a contractor performing work that uses explosives, may not possess explosives in a place not necessary for the employee to perform the employee's duties unless the employee is licensed to possess explosives under this subtitle.

(f) A person may not violate a regulation adopted under this subtitle.

(g) Except as otherwise provided in § 11–116 of this subtitle, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 503

(House Bill 875)

AN ACT concerning

Public Safety - Explosives - Package of Components

FOR the purpose of altering the definition of "explosives" to include two or more components that are packaged together for sale and when combined create a bomb or destructive device designed to operate by chemical, mechanical, or explosive action advertised and sold together with instructions on how to combine the components to create a certain explosive; and generally relating to explosives.

BY repealing and reenacting, without amendments, Article – Public Safety Section 11–101(a), 11–105(a), and 11–114 Annotated Code of Maryland (2011 Replacement Volume)

BY repealing and reenacting, with amendments, Article – Public Safety Section 11–101(c) Annotated Code of Maryland (2011 Replacement Volume)

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

Article – Public Safety

11-101.

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

(c) (1) "Explosives" means gunpowder, powders for blasting, high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powder, and any chemical compound or mechanical mixture that contains oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion, or detonation of any part of the compound or mixture may and is intended to cause an explosion.

(2) "Explosives" includes:

(I) bombs and destructive devices designed to operate by chemical, mechanical, or explosive action; AND

(II) TWO OR MORE COMPONENTS THAT ARE **PACKAGED** TOGETHER FOR SALE AND WHEN COMBINED CREATE A BOMB OR DESTRUCTIVE DEVICE DESIGNED TO OPERATE BY CHEMICAL, MECHANICAL, OR EXPLOSIVE ACTION ADVERTISED AND SOLD TOGETHER WITH INSTRUCTIONS ON HOW TO COMBINE THE COMPONENTS TO CREATE AN EXPLOSIVE, AS DEFINED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) "Explosives" does not include fixed ammunition for small arms, small arms ammunition primers, small arms percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, friction primers, fireworks, or common matches when used in their original configuration.

11 - 105.

(a) Except as otherwise provided in this subtitle, a person shall obtain a license issued under this subtitle before the person engages in business as a manufacturer or dealer, possesses explosives other than explosives for use in firearms, or possesses or stores explosives for use in firearms in the State.

11–114.

(a) Except as otherwise provided in this subtitle, a person may not engage in business as a manufacturer or dealer in the State unless the person is licensed under this subtitle.

(b) Except as otherwise provided in this subtitle, a person may not possess explosives other than explosives for use in firearms in the State unless the person is licensed under this subtitle.

(c) Except as otherwise provided in this subtitle, a dealer may not sell, barter, give, or dispose of explosives other than explosives for use in firearms to a person unless the person is licensed under this subtitle.

(d) The owner or operator of a mine, quarry, or other operation that uses explosives, and a contractor performing work that uses explosives, may not engage in business as a dealer in the State unless the person is licensed under this subtitle.

(e) An employee of an owner or operator of a mine, quarry, or other operation that uses explosives, or of a contractor performing work that uses explosives, may not possess explosives in a place not necessary for the employee to perform the employee's duties unless the employee is licensed to possess explosives under this subtitle.

(f) A person may not violate a regulation adopted under this subtitle.

(g) Except as otherwise provided in § 11–116 of this subtitle, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 504

(Senate Bill 422)

AN ACT concerning

Criminal Procedure – Office of the Public Defender – Representation <u>Criminal Defendants – Citations and Appearances</u>

FOR the purpose of prohibiting a District Court commissioner from issuing an arrest warrant based solely on an application for statement of charges filed by a person other than a peace officer or State's Attorney except under certain circumstances; requiring a police officer to issue a citation for certain offenses under certain circumstances; establishing that a police officer may issue a citation to a defendant only under certain circumstances declaring the intention of the General Assembly to monitor certain time; authorizing an individual to file an application for a statement of charges with a District Court commissioner; authorizing a District Court commissioner to issue a summons or an arrest warrant under certain circumstances; requiring a police officer to charge a person by citation for certain misdemeanors and local ordinance violations; establishing that a police officer may charge a defendant by citation only under certain circumstances; providing that, under certain circumstances, an officer who has grounds to make a warrantless arrest may issue a citation in

lieu of making the arrest or make the arrest and subsequently issue a citation in *lieu of continued custody*; prohibiting a certain statement made by a defendant during the course of an initial appearance before a District Court commissioner from being used as evidence against the defendant in a criminal proceeding or juvenile proceeding; establishing that a defendant who is denied pretrial release by a District Court commissioner or who remains in custody after a District Court commissioner has determined conditions of release under certain circumstances must be presented to a District Court or a circuit court judge at a certain time; repealing the requirement that the Office of the Public Defender provide representation to a certain indigent individual in all stages of a certain proceeding; altering the specific events in which the Office of the Public Defender is required to represent indigent individuals in criminal proceedings; requiring the Office of the Public Defender to provide representation to an indigent individual at a bail hearing before a District Court or circuit court judge: providing that representation is not required to be provided by the Office of the Public Defender to certain indigent individuals at a certain initial appearance before a District Court commissioner; establishing that a defendant who is denied pretrial release by a District Court commissioner or who remains in custody after a District Court commissioner has determined conditions of release under certain circumstances must be presented to the District Court within a certain time period after the determination; establishing a Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender; providing for the membership and duties of the Task Force; providing for the designation of a chair of the Task Force; requiring the Department of Legislative Services to provide staff for the Task Force; prohibiting members of the Task Force from receiving compensation; authorizing a member to receive certain reimbursement; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date dates; providing for the application of certain provisions of this Act; requiring certain law enforcement officers to record certain information pertaining to the issuance of certain citations; requiring the Police Training Commission and the Maryland Statistical Analysis Center (MSAC). in consultation with the Administrative Office of the Courts, to develop a certain format for the recording of certain data and to develop certain procedures relating to the compilation and submission of certain data on or before a certain date; requiring the Police Training Commission to develop certain guidelines for certain data collection and a certain model policy relating to citations; requiring the MSAC to analyze certain data based on a methodology developed in conjunction with the Police Training Commission; requiring the MSAC to make certain reports to the General Assembly, the Governor, and law enforcement agencies; requiring law enforcement agencies to adopt certain policies regarding the issuance of certain citations; defining certain terms; providing for the application of certain provisions of this Act; providing for the termination of a certain provision of *certain provisions* of this Act; making this Act an emergency measure; providing for the effective date of a certain provision of this Act; and generally relating to

representation by the Office of the Public Defender <u>citations for and</u> <u>appearances by criminal defendants</u>.

BY repealing and reenacting, with amendments,

<u>Article – Courts and Judicial Proceedings</u> <u>Section 2–607</u> <u>Annotated Code of Maryland</u> (2006 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Courts and Judicial Proceedings</u> <u>Section 10–922</u> <u>Annotated Code of Maryland</u> (2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Criminal Procedure Section <u>4–101 and</u> 16–204 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Criminal Procedure</u> <u>Section</u> <u>4–101.1 and</u> <u>5–215</u> <u>Annotated Code of Maryland</u> (2008 Replacement Volume and 2011 Supplement)

Preamble

<u>WHEREAS, The recent court decision in DeWolfe v. Richmond established the</u> right of indigent defendants to counsel at bail proceedings in the State; and

<u>WHEREAS</u>, In 2011, over 170,000 people appeared before a District Court commissioner in the State where their liberty was subject to restriction and over 70,000 of them were granted release on personal recognizance without the benefit of the presence of counsel; and

<u>WHEREAS, A defendant who is not represented at a bail proceeding must</u> <u>speak to secure his freedom and thereby risk self-incrimination and prejudice to</u> <u>rights; and</u>

<u>WHEREAS, Many defendants cannot afford bail set at even a low amount of</u> <u>\$100 and some wait in jail for weeks before a court appearance for misdemeanor</u> <u>crimes; and</u>

<u>WHEREAS</u>, <u>Unnecessary pretrial detention has a severely disproportionate</u> racial impact and major social costs; and <u>WHEREAS</u>, Implementation of the changes called for by the DeWolfe decision will be extremely costly at a time when the State is already struggling with revenue shortfalls; and

<u>WHEREAS</u>, <u>Alternatives to the incarceration of indigent individuals can reduce</u> <u>expenses to the State and local government without sacrificing public safety; and</u>

<u>WHEREAS</u>, Altering the charging process for some misdemeanor crimes will improve the current administration of justice while also preserving the rights of indigent defendants, now, therefore,

<u>SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF</u> <u>MARYLAND, That it is the intent of the General Assembly to continue to monitor the</u> <u>issues relating to representation of indigent defendants and to determine whether</u> <u>modification of this Act is required during the 2015 session of the General Assembly or</u> <u>earlier if an appellate court issues a decision related to the relevant issues in DeWolfe v.</u> <u>Richmond or the Task Force established under Section 4 of this Act issues its report</u> <u>and recommendations.</u>

SECTION <u>1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF</u> <u>MARYLAND</u> <u>2. AND BE IT FURTHER ENACTED</u>, That the Laws of Maryland read as follows:

<u> Article – Courts and Judicial Proceedings</u>

<u>2-607.</u>

(a) (1) The administrative judge of each district, with the approval of the Chief Judge of the District Court, may appoint the number of commissioners necessary to perform the functions of the office within each county.

(2) <u>In multicounty districts, the administrative judge shall obtain the</u> recommendation of the resident judge in each county as to the number of commissioners required in the county and as to the persons to be appointed.

(b) (1) Commissioners shall be adult residents of the counties in which they serve, but they need not be lawyers.

(2) Each commissioner shall hold office at the pleasure of the Chief Judge of the District Court, and has the powers and duties prescribed by law.

(3) Except without additional compensation, unless otherwise fixed by law, an employee of the District Court, who is an adult, may be granted, in the same manner, commissioner powers and duties in the county where the employee is employed.

(c) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, A commissioner shall receive applications and determine probable cause for the issuance of charging documents.

(2) [A] EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, A commissioner shall advise arrested persons of their constitutional rights, set bond or commit persons to jail in default of bond or release them on personal recognizance if circumstances warrant, and conduct investigations and inquiries into the circumstances of any matter presented to the commissioner in order to determine if probable cause exists for the issuance of a charging document, warrant, or criminal summons and, in general, perform all the functions of committing magistrates as exercised by the justices of the peace prior to July 5, 1971.

(3) There shall be in each county, at all times, one or more commissioners available for the convenience of the public and police in obtaining charging documents, warrants, or criminal summonses and to advise arrested persons of their rights as required by law.

(4) <u>A commissioner may exercise the powers of office in any county to</u> which the commissioner is assigned by the Chief Judge of the District Court or a designee of the Chief Judge of the District Court.

(5) The Chief Judge of the District Court may authorize one or more commissioners to perform the duties of a commissioner regarding persons arrested in a county other than the county in which the commissioner resides and for which the commissioner was appointed when the arrested persons are brought before the commissioner by a peace officer of the jurisdiction in which that arrest was made.

(6) <u>A COMMISSIONER MAY NOT ISSUE AN ARREST WARRANT</u> <u>BASED SOLELY ON AN APPLICATION FOR STATEMENT OF CHARGES FILED BY A</u> <u>PERSON OTHER THAN A PEACE OFFICER OR STATE'S ATTORNEY UNLESS</u>:

(I) THE HEALTH, SAFETY, OR WELFARE OF A PERSON IS AT

RISK; OR

(II) THE PERSON FILING THE APPLICATION FOR STATEMENT OF CHARGES HAS A POLICE REPORT OF THE INCIDENT

(I) AN INDIVIDUAL MAY FILE AN APPLICATION FOR A STATEMENT OF CHARGES WITH A DISTRICT COURT COMMISSIONER.

(II) ON REVIEW OF AN APPLICATION FOR A STATEMENT OF CHARGES, A DISTRICT COURT COMMISSIONER MAY ISSUE A SUMMONS OR AN ARREST WARRANT. (III) A DISTRICT COURT COMMISSIONER MAY ISSUE AN ARREST WARRANT ONLY ON A FINDING THAT:

<u>1.</u> <u>There is probable cause to believe that</u> <u>The defendant committed the offense charged in the charging</u> <u>Document; and</u>

<u>2.</u> <u>A.</u> <u>The defendant previously has failed</u> <u>TO RESPOND TO A SUMMONS THAT HAS BEEN PERSONALLY SERVED OR A</u> <u>CITATION;</u>

<u>B.</u> <u>The whereabouts of the defendant are</u> <u>UNKNOWN AND THE ISSUANCE OF A WARRANT IS NECESSARY TO SUBJECT THE</u> <u>DEFENDANT TO THE JURISDICTION OF THE COURT;</u>

<u>C.</u> <u>The defendant is in custody for another</u> Offense; or

<u>D.</u> <u>There is probable cause to believe that</u> <u>The defendant poses a danger to another person or to the</u> <u>COMMUNITY.</u>

(d) (1) The authority under this subsection applies only to a respondent who is an adult.

(2) <u>A commissioner may issue an interim order for protection of a</u> person eligible for relief in accordance with § 4–504.1 of the Family Law Article or a petitioner in accordance with § 3–1503.1 of this article.

(e) Notwithstanding the residence requirements set out in subsection (b) of this section, the Chief Judge of the District Court or a designee of the Chief Judge of the District Court may assign a commissioner of the District Court to serve temporarily in any county.

10-922.

A STATEMENT MADE DURING THE COURSE OF AN INITIAL APPEARANCE OF <u>A DEFENDANT BEFORE A DISTRICT COURT COMMISSIONER IN ACCORDANCE</u> WITH MARYLAND RULE 4–213 MAY NOT BE USED AS EVIDENCE AGAINST THE DEFENDANT IN A CRIMINAL PROCEEDING.

Article – Criminal Procedure

3392

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

(2) (i) <u>"Citation" means a written charging document that a police</u> officer or fire marshal issues to a defendant, alleging the defendant has committed a crime.

(ii) <u>"Citation" does not include an indictment, information, or</u> statement of charges.

- (3) <u>"Fire marshal" means:</u>
 - (i) the State Fire Marshal;
 - (ii) <u>a deputy State fire marshal; or</u>
 - (iii) as designated under § 6–304 of the Public Safety Article:
 - <u>1.</u> <u>an assistant State fire marshal; or</u>
 - <u>2.</u> <u>a special assistant State fire marshal.</u>
- (4) <u>"Police officer" has the meaning stated in § 2–101 of this article.</u>

(b) Within areas of the National Park System, a United States Park Police officer may exercise the authority of a police officer to issue a citation under this section.

(c) (1) Subject to paragraph (2) (3) of this subsection, in addition to any other law allowing a crime to be charged by citation, a police officer [may issue a] SHALL CHARGE BY citation for:

(i) <u>[sale of an alcoholic beverage to an underage drinker or</u> intoxicated person under Article 2B, § 12–108 of the Code;

(ii) malicious destruction of property under § 6–301 of the Criminal Law Article, if the amount of damage to the property is less than \$500;

(iii) disturbing the peace or disorderly conduct under § 10–201 of the Criminal Law Article; or

(iv) misdemeanor theft under § 7–104(g)(2) or (3) of the Criminal Law Article] ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION THAT DOES NOT CARRY A PENALTY OF IMPRISONMENT; (II) ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION FOR WHICH THE MAXIMUM PENALTY OF IMPRISONMENT IS 90 DAYS OR LESS, EXCEPT:

<u>1.</u> <u>FAILURE TO COMPLY WITH A PEACE ORDER</u> <u>UNDER § 3–1508 OF THE COURTS ARTICLE;</u>

2. FAILURE TO COMPLY WITH A PROTECTIVE ORDER UNDER § 4–509 OF THE FAMILY LAW ARTICLE; OR

<u>3.</u> <u>VIOLATION OF A CONDITION OF PRETRIAL OR</u> <u>POSTTRIAL RELEASE WHILE CHARGED WITH A SEXUAL CRIME AGAINST A MINOR</u> <u>UNDER § 5–213.1 OF THIS ARTICLE; OR</u>

<u>4.</u> <u>POSSESSION OF AN ELECTRONIC CONTROL</u> <u>DEVICE AFTER CONVICTION OF A DRUG FELONY OR CRIME OF VIOLENCE UNDER</u> § 4–109(B) OF THE CRIMINAL LAW ARTICLE;

<u>5.</u> <u>VIOLATION OF AN OUT-OF-STATE DOMESTIC</u> <u>VIOLENCE ORDER UNDER § 4–508.1 OF THE FAMILY LAW ARTICLE; OR</u>

6. <u>ABUSE OR NEGLECT OF AN ANIMAL UNDER §</u> 10–604 of the Criminal Law Article; or

(III) POSSESSION OF MARIJUANA UNDER § 5–601 OF THE CRIMINAL LAW ARTICLE.

(2) (3) A police officer may issue a citation to a defendant CHARGE A DEFENDANT BY CITATION ONLY if:

(I) the officer is satisfied with the defendant's evidence of identity [and];

(II) <u>THE OFFICER reasonably believes that the defendant will</u> comply with the citation;

(III) THE OFFICER REASONABLY BELIEVES THAT THE FAILURE TO CHARGE ON A STATEMENT OF CHARGES WILL NOT POSE A THREAT TO PUBLIC SAFETY;

(IV) THE DEFENDANT IS NOT SUBJECT TO ARREST FOR ANOTHER CRIMINAL CHARGE ARISING OUT OF THE SAME INCIDENT; AND (V) <u>THE DEFENDANT COMPLIES WITH ALL LAWFUL ORDERS</u> BY THE OFFICER.

(4) BEFORE CHARGING A DEFENDANT BY CITATION UNDER THIS SUBSECTION, AN OFFICER MAY:

- (I) ARREST THE DEFENDANT;
- (II) PERFORM A SEARCH INCIDENT TO ARREST;
- (III) FINGERPRINT AND PHOTOGRAPH THE DEFENDANT;

(IV) <u>CHECK FOR ACTIVE WARRANTS AGAINST THE</u> DEFENDANT; AND

(V) <u>PERFORM_ROUTINE_PROCEDURES_TO_DETERMINE_THE</u> <u>IDENTITY OF THE DEFENDANT</u> <u>A POLICE OFFICER WHO HAS GROUNDS TO MAKE</u> <u>A WARRANTLESS ARREST FOR AN OFFENSE THAT MAY BE CHARGED BY CITATION</u> <u>UNDER THIS SUBSECTION MAY:</u>

(I) ISSUE A CITATION IN LIEU OF MAKING THE ARREST; OR

(II) MAKE THE ARREST AND SUBSEQUENTLY ISSUE A CITATION IN LIEU OF CONTINUED CUSTODY.

(d) (1) Subject to paragraph (2) of this subsection, in addition to any other law allowing a crime to be charged by citation, a fire marshal may issue a citation for:

(i) discharging fireworks without a permit under § 10–104 or § 10–110 of the Public Safety Article;

(ii) possessing with intent to discharge or allowing the discharge of fireworks under § 10–104 or § 10–110 of the Public Safety Article; or

(iii) maintaining a fire hazard under § 6–317 of the Public Safety Article.

(2) <u>A fire marshal may issue a citation if the fire marshal is satisfied</u> with the defendant's evidence of identity and reasonably believes that the defendant will comply with the citation.

(e) (1) This section does not apply to a citation that is:

(i) <u>authorized for a violation of a parking ordinance or a</u> regulation adopted by a State unit or political subdivision of the State under Title 26, <u>Subtitle 3 of the Transportation Article;</u> (ii) <u>authorized by the Department of Natural Resources under §</u> <u>1–205 of the Natural Resources Article; or</u>

(iii) authorized by Baltimore City under § 16–16A (special enforcement officers) of the Code of Public Local Laws of Baltimore City for violation of a code, ordinance, or public local law of Baltimore City concerning building, housing, health, fire, safety, zoning, or sanitation.

(2) Except as otherwise expressly provided by law, the Chief Judge of the District Court shall prescribe a uniform, statewide form of a citation.

(3) Except for the uniform motor vehicle citation form, the law enforcement agencies of the State, the United States Park Police, and the Office of the State Fire Marshal shall reimburse the District Court for printing the citation forms that law enforcement officers and the State Fire Marshal require.

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

<u>Article – Courts and Judicial Proceedings</u>

<u>10–922.</u>

<u>A STATEMENT MADE DURING THE COURSE OF AN INITIAL APPEARANCE OF</u> <u>A DEFENDANT BEFORE A DISTRICT COURT COMMISSIONER IN ACCORDANCE</u> <u>WITH MARYLAND RULE 4–213 MAY NOT BE USED AS EVIDENCE AGAINST THE</u> <u>DEFENDANT IN A CRIMINAL PROCEEDING OR JUVENILE PROCEEDING.</u>

<u> Article – Criminal Procedure</u>

<u>5–215.</u>

<u>A DEFENDANT WHO IS DENIED PRETRIAL RELEASE BY A DISTRICT COURT</u> <u>COMMISSIONER OR WHO FOR ANY REASON REMAINS IN CUSTODY AFTER A</u> <u>DISTRICT COURT COMMISSIONER HAS DETERMINED CONDITIONS OF RELEASE</u> <u>UNDER MARYLAND RULE 4–216 SHALL BE PRESENTED TO A DISTRICT COURT</u> <u>JUDGE IMMEDIATELY IF THE COURT IS IN SESSION, OR IF THE COURT IS NOT IN</u> <u>SESSION, AT THE NEXT SESSION OF THE COURT.</u>

16-204.

(a) Representation of an indigent individual may be provided in accordance with this title by the Public Defender or, subject to the supervision of the Public Defender, by the deputy public defender, district public defenders, assistant public defenders, or panel attorneys. (b) (1) Indigent defendants or parties shall be provided representation under this title in:

(i) a criminal or juvenile proceeding in which a defendant or party is alleged to have committed a serious offense;

(ii) a criminal or juvenile proceeding in which an attorney is constitutionally required to be present prior to presentment being made before a commissioner or judge;

(iii) a postconviction proceeding for which the defendant has a right to an attorney under Title 7 of this article;

(iv) any other proceeding in which confinement under a judicial commitment of an individual in a public or private institution may result;

(v) a proceeding involving children in need of assistance under § 3–813 of the Courts Article; or

(vi) a family law proceeding under Title 5, Subtitle 3, Part II or Part III of the Family Law Article, including:

1. for a parent, a hearing in connection with guardianship or adoption;

2. a hearing under § 5–326 of the Family Law Article for which the parent has not waived the right to notice; and

3. an appeal.

(2) (I) Representation EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, REPRESENTATION shall be provided to an indigent individual in fall stages of a proceeding listed in paragraph (1) of this subsection, including, in criminal proceedings, custody, interrogation, AT BAIL REVIEW BAIL HEARING BEFORE A DISTRICT COURT OR CIRCUIT COURT JUDGE, preliminary hearing, arraignment, trial, and appeal.

(II) REPRESENTATION IS NOT REQUIRED TO BE PROVIDED TO AN INDIGENT INDIVIDUAL AT AN INITIAL APPEARANCE BEFORE A DISTRICT COURT COMMISSIONER.

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

Article - Criminal Procedure

<u>5-215.</u>

A DEFENDANT WHO IS DENIED PRETRIAL RELEASE BY A DISTRICT COURT COMMISSIONER OR WHO FOR ANY REASON REMAINS IN CUSTODY AFTER A DISTRICT COURT COMMISSIONER HAS DETERMINED CONDITIONS OF RELEASE UNDER MARYLAND RULE 4–216 SHALL BE PRESENTED TO A DISTRICT COURT JUDGE WITHIN 48 HOURS OF THE DETERMINATION BY THE DISTRICT COURT COMMISSIONER.

(A) A DEFENDANT WHO IS DENIED PRETRIAL RELEASE BY A DISTRICT COURT COMMISSIONER OR WHO FOR ANY REASON REMAINS IN CUSTODY AFTER A DISTRICT COURT COMMISSIONER HAS DETERMINED CONDITIONS OF RELEASE UNDER MARYLAND RULE 4-216 SHALL BE PRESENTED IMMEDIATELY TO A DISTRICT COURT JUDGE IF THE COURT IS THEN IN SESSION, OR IF NOT, AT THE NEXT SESSION OF THE COURT.

(B) <u>A DEFENDANT MAY NOT REMAIN IN CUSTODY MORE THAN 48 HOURS</u> <u>AFTER A DETERMINATION OF THE DISTRICT COURT COMMISSIONER WITHOUT</u> <u>BEING PRESENTED TO A DISTRICT COURT JUDGE.</u>

SECTION 3. <u>4.</u> AND BE IT FURTHER ENACTED, That:

(a) <u>There is a Task Force to Study the Laws and Policies Relating to</u> <u>Representation of Indigent Criminal Defendants by the Office of the Public Defender.</u>

(b) <u>The Task Force consists of the following members:</u>

(1) two members of the Senate of Maryland, appointed by the President of the Senate on or before May 1, 2012;

(2) two members of the House of Delegates, appointed by the Speaker of the House on or before May 1, 2012;

(3) the Governor of Maryland, or the Governor's designee;

(4) <u>the Public Defender of Maryland, or the Public Defender's</u> <u>designee:</u>

(5) the Chief Judge of the District Court of Maryland, or the Chief Judge's designee;

(6) the Coordinator of Commissioner Activity of the District Court of Maryland, or the Coordinator's designee;

<u>designee;</u>	<u>(7)</u>	<u>the</u> S	Superintendent of State Police, or the Superintendent's	
<u>designee;</u>	<u>(8)</u>	<u>the</u> A	Attorney General of Maryland, or the Attorney General's	
<u>(9)</u> Secretary's design		<u>the Secretary of Public Safety and Correctional Services, or the</u> <u>ee; and</u>		
<u>(10)</u> <u>May 1, 2012:</u>		the following individuals, appointed by the Governor on or before		
Association;	L	<u>(i)</u>	<u>a representative of the Maryland State's Attorneys'</u>	
Richmond litigation		<u>(ii)</u> on;	an attorney representing the plaintiffs in the DeWolfe v.	
Association,	Inc.;	<u>(iii)</u>	a representative of the Maryland Chiefs of Police	
		<u>(iv)</u>	a representative of the Maryland Sheriffs' Association;	
<u>(</u> Administrators Asso		<u>(v)</u> sociatio	<u>a representative of the Maryland Correctional</u> on;	
		<u>(vi)</u>	an advocate for the rights of victims of domestic violence;	
		<u>(vii)</u>	<u>a victims' rights advocate;</u>	
		<u>(viii)</u>	a representative of the Maryland Association of Counties;	
		<u>(ix)</u>	a representative of the Pretrial Justice Institute;	
		<u>(x)</u>	a representative of the Public Justice Center;	
		<u>(xi)</u>	<u>a representative of NAACP – Legal Defense;</u>	
(xiii) (xii) <u>a representative of the National Association of</u> Criminal Defense Lawyers;				
Union; and		(xiv) (<u>(xiii)</u> <u>a representative of the American Civil Liberties</u>	
		(xv) (x	<u>xiv)</u> an academic expert in the provision of counsel to the	

and

(c) <u>On or before May 1, 2012, the Governor shall appoint a chair of the Task</u> Force from its membership.

(d) <u>The Department of Legislative Services shall provide staff for the Task</u> <u>Force.</u>

(e) <u>A member of the Task Force:</u>

(1) <u>may not receive compensation for serving as a member of the Task</u> Force; but

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

- (f) <u>The Task Force shall:</u>
 - (1) study the adequacy and cost of State laws and policies relating to:

(*i*) representation of indigent criminal defendants by the Office of the Public Defender; and

(ii) the District Court commissioner and pretrial release systems;

(2) <u>consider and make recommendations regarding options for and</u> cost of improving:

(i) the system of representation of indigent criminal defendants; and

(ii) the District Court commissioner and pretrial release systems.

(g) (1) On or before November 1, 2012, the Task Force shall submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Judicial Proceedings Committee and the House Judiciary Committee.

(2) On or before November 1, 2013, the Task Force shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Judicial Proceedings Committee and the House Judiciary Committee.

<u>SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland</u> <u>read as follows:</u>

<u> Article – Criminal Procedure</u>

<u>4–101.1.</u>

(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.

(B) THE POLICE TRAINING COMMISSION AND THE MARYLAND STATISTICAL ANALYSIS CENTER, IN CONSULTATION WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL DEVELOP A FORMAT FOR THE EFFICIENT RECORDING OF DATA REQUIRED TO BE SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION.

(C) ON OR BEFORE DECEMBER 31, 2012, THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE MARYLAND STATISTICAL ANALYSIS CENTER, SHALL DEVELOP:

(1) <u>GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY USE</u> <u>AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED UNDER SUBSECTION</u> (E) OF THIS SECTION FOR USE IN COUNSELING AND IMPROVED TRAINING; AND

(2) <u>A MODEL POLICY AGAINST THE ISSUANCE OF A CITATION ON</u> <u>THE BASIS OF RACE THAT A LAW ENFORCEMENT AGENCY CAN USE IN</u> <u>DEVELOPING ITS POLICY IN ACCORDANCE WITH SUBSECTION (H) OF THIS</u> <u>SECTION.</u>

(D) THIS SECTION APPLIES TO EACH LAW ENFORCEMENT AGENCY THAT HAS ONE OR MORE LAW ENFORCEMENT OFFICERS. (E) EACH TIME A LAW ENFORCEMENT OFFICER ISSUES A CITATION IN ACCORDANCE WITH § 4–101 OF THIS SUBTITLE, THAT OFFICER SHALL REPORT THE FOLLOWING INFORMATION ON THE MARYLAND UNIFORM CITATION FORM CONSISTENT WITH THE PROCEDURES DEVELOPED UNDER SUBSECTION (F) OF THIS SECTION USING THE FORMAT DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION:

(1) THE DATE, LOCATION, AND TIME OF THE ISSUANCE OF THE CITATION;

- (2) THE OFFENSE CHARGED;
- (3) THE GENDER OF THE OFFENDER;
- (4) THE DATE OF BIRTH OF THE OFFENDER;

(5) THE STATE AND, IF AVAILABLE, THE COUNTY OF RESIDENCE OF THE OFFENDER; AND

- (6) THE RACE OR ETHNICITY OF THE OFFENDER AS:
 - (I) <u>ASIAN;</u>
 - (II) <u>BLACK;</u>
 - (III) HISPANIC;
 - (IV) WHITE; OR
 - (V) OTHER.

(F) ON OR BEFORE DECEMBER 31, 2012, THE POLICE TRAINING COMMISSION AND THE MARYLAND STATISTICAL ANALYSIS CENTER, IN CONSULTATION WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL DEVELOP A PROCEDURE FOR:

(1) THE COMPILATION OF DATA REQUIRED TO BE COLLECTED UNDER THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) <u>THE SUBMISSION OF THE REPORT TO THE MARYLAND</u> <u>STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING</u> <u>CALENDAR YEAR BEGINNING ON MARCH 1, 2014.</u> (G) (1) THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL ANALYZE THE ANNUAL REPORTS SUBMITTED UNDER SUBSECTION (F) 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 beginning on September 1, 2014.

(H) (1) <u>A LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY</u> <u>AGAINST THE ISSUANCE OF A CITATION ON THE BASIS OF RACE THAT IS TO BE</u> <u>USED AS A MANAGEMENT TOOL TO PROMOTE NONDISCRIMINATORY LAW</u> <u>ENFORCEMENT AND IN THE TRAINING AND COUNSELING OF ITS OFFICERS.</u>

(2) (1) <u>The policy shall prohibit the practice of using</u> <u>AN INDIVIDUAL'S RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO ISSUE A</u> <u>CITATION.</u>

(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 under subsection (e) of this section and to review the annual report of the Maryland Statistical Analysis Center for purposes of paragraph (1) of this subsection.

<u>SECTION 4.</u> 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2012 January 1, 2013.

SECTION 7. AND BE IT FURTHER ENACTED, That the obligation of the Office of the Public Defender to provide representation to indigent defendants at bail hearings before District Court or circuit court judges under § 16–204 of the Criminal Procedure Article, as enacted by Section 3 of this Act, applies only to bail hearings occurring on or after June 1, 2012.

<u>SECTION 8. AND BE IT FURTHER ENACTED, That, beginning January 1,</u> 2013, data shall be collected under Section 5 of this Act through December 31, 2017, and the Maryland Statistical Analysis Center shall issue a final report of its findings to

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the Governor, the General Assembly, in accordance with § 2–1246 of the State Government Article, and each law enforcement agency on or before August 31, 2018.

SECTION $\frac{2}{2} = 9$. 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 and, except as provided in Section 4 6 of this Act, shall take effect from the date it is enacted. Section $\frac{2}{3}$ 4 of this Act shall remain effective until June 1, 2014, and, at the end of May 31, 2014, with no further action required by the General Assembly, Section $\frac{2}{3}$ 4 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall remain effective until September 1, 2018, and, at the end of August 31, 2018, with no further action required by the General Assembly, Section 5 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.

Chapter 505

(House Bill 261)

AN ACT concerning

Criminal Procedure – Office of the Public Defender – Representation Criminal Defendants – Court Citations and Appearances

FOR the purpose of repealing the requirement that the Office of the Public Defender provide representation to a certain indigent individual in all stages of a certain proceeding: altering the specific events in which the Office of the Public Defender is required to represent indigent individuals in criminal proceedings; providing that a certain provision of law may not be construed to require representation by the Office of the Public Defender at a certain initial appearance declaring the intention of the General Assembly to monitor certain issues and determine whether modification of this Act is required at a certain time; prohibiting certain ex parte communications between a District Court commissioner and a State's Attorney, an attorney for the defendant, or a law enforcement officer authorizing an individual to file an application for a statement of charges with a District Court commissioner; authorizing a District Court commissioner to issue a summons or an arrest warrant under certain circumstances; requiring a police officer to charge a person by citation for certain misdemeanors and local ordinance violations: establishing that a police officer may charge a defendant by citation only under certain circumstances; providing that, under certain circumstances, an officer who has grounds to make a warrantless arrest may issue a citation in lieu of making the arrest or make the arrest and subsequently issue a citation in lieu of continued custody; prohibiting

a certain statement made by a defendant during the course of an initial appearance before a District Court commissioner from being used as evidence against the defendant in a criminal proceeding or juvenile proceeding; establishing that a defendant who is denied pretrial release by a District Court commissioner or who remains in custody after a District Court commissioner has determined conditions of release under certain circumstances must be presented to a District Court or circuit court judge within a certain time period except under certain circumstances at a certain time: repealing the requirement that the Office of the Public Defender provide representation to a certain indigent individual in all stages of a certain proceeding; altering the specific events in which the Office of the Public Defender is required to represent indigent individuals in criminal proceedings; requiring the Office of the Public Defender to provide representation to an indigent individual at a bail hearing before a District Court or circuit court judge; providing that representation is not required to be provided by the Office of the Public Defender to certain indigent individuals at a certain initial appearance before a District Court commissioner; establishing a Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender; providing for the membership and duties of the Task Force; providing for the designation of a chair of the Task Force; requiring the Department of Legislative Services to provide staff for the Task Force; prohibiting members of the Task Force from receiving compensation; authorizing a member to receive certain reimbursement; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before certain dates; requiring certain law enforcement officers to record certain information pertaining to the issuance of certain citations; requiring the Police Training Commission and the Maryland Statistical Analysis Center (MSAC), in consultation with the Administrative Office of the Courts, to develop a certain format for the recording of certain data and to develop certain procedures relating to the compilation and submission of certain data on or before a certain date; requiring the Police Training Commission to develop certain guidelines for certain data collection and a certain model policy relating to citations: requiring the MSAC to analyze certain data based on a methodology developed in conjunction with the Police Training Commission; requiring the MSAC to make certain reports to the General Assembly, the Governor, and law enforcement agencies; requiring law enforcement agencies to adopt certain policies regarding the issuance of certain citations; defining certain terms; providing for the application of certain provisions of this Act; providing for the termination of a certain provision of this <u>Act</u>; making this Act an emergency measure; *providing for the effective date of a certain provision of this Act*; and generally relating to representation by the Office of the Public Defender. court citations for and appearances by criminal defendants.

<u>BY repealing and reenacting, with amendments,</u> <u>Article – Courts and Judicial Proceedings</u> <u>Section 2–607</u> <u>Annotated Code of Maryland</u> (2006 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Courts and Judicial Proceedings</u> <u>Section 2–607(f) and 10–922</u> <u>Annotated Code of Maryland</u> (2006 Replacement Volume and 2011 Supplement)

<u>BY adding to</u>

<u>Article – Criminal Procedure</u> <u>Section 5–215</u> <u>Annotated Code of Maryland</u> (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Criminal Procedure Section <u>4–101 and</u> 16–204 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Criminal Procedure</u> <u>Section 4–101.1 and 5–215</u> <u>Annotated Code of Maryland</u> (2008 Replacement Volume and 2011 Supplement)

<u>Preamble</u>

WHEREAS, This Act implements a right to counsel at bail hearings before a District Court or circuit court judge in response to the decision of the Court of Appeals of Maryland in DeWolfe v. Richmond, No. 34, September 2011 Term, issued January 4, 2012; and

<u>WHEREAS, The Court in DeWolfe v. Richmond held that the plain meaning of §</u> <u>16–204(b) of the Criminal Procedure Article prior to enactment of this Act entitled</u> <u>indigent defendants to public defender representation at an initial appearance before a</u> <u>District Court commissioner; and</u>

<u>WHEREAS, The question of whether or not a constitutional right to counsel</u> before a District Court commissioner exists was not reached by the Court of Appeals; and

<u>WHEREAS, It is anticipated that this question will be addressed by the Court</u> <u>of Appeals or other appropriate appellate court as part of continuing litigation in</u> <u>DeWolfe v. Richmond or another claim or action; and</u> WHEREAS, The Task Force established by Section 3 of this Act shall address the adequacy and cost of laws and policies regarding the representation of indigent defendants by the Public Defender and the District Court commissioner and pretrial release systems; now, therefore,

<u>WHEREAS, The recent court decision in DeWolfe v. Richmond established the</u> <u>right of indigent defendants to counsel at bail proceedings in the State; and</u>

<u>WHEREAS, In 2011, over 170,000 people appeared before a District Court</u> commissioner in the State where their liberty was subject to restriction and over 70,000 of them were granted release on personal recognizance without the benefit of the presence of counsel; and

<u>WHEREAS, A defendant who is not represented at a bail proceeding must speak</u> to secure his freedom and thereby risk self-incrimination and prejudice to rights; and

<u>WHEREAS, Many defendants cannot afford bail set at even a low amount of</u> <u>\$100 and some wait in jail for weeks before a court appearance for misdemeanor</u> <u>crimes; and</u>

<u>WHEREAS, Unnecessary pretrial detention has a severely disproportionate</u> <u>racial impact and major social costs; and</u>

<u>WHEREAS, Implementation of the changes called for by the DeWolfe decision</u> will be extremely costly at a time when the State is already struggling with revenue shortfalls; and

<u>WHEREAS, Alternatives to the incarceration of indigent individuals can reduce</u> <u>expenses to the State and local government without sacrificing public safety; and</u>

<u>WHEREAS, Altering the charging process for some misdemeanor crimes will</u> <u>improve the current administration of justice while also preserving the rights of</u> <u>indigent defendants; now, therefore,</u>

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That it is the intent of the General Assembly to continue to monitor the issues relating to representation of indigent defendants and to determine whether modification of this Act is required during the 2015 session of the General Assembly or earlier if an appellate court issues a decision related to the relevant issues in DeWolfe v. Richmond or the Task Force established under Section $\frac{2}{3}$ 4 of this Act issues its report and recommendations.

SECTION <u>1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF</u> <u>MARYLAND</u> <u>2. AND BE IT FURTHER ENACTED</u>, That the Laws of Maryland read as follows:

Article - Courts and Judicial Proceedings

<u>2–607.</u>

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EX PARTE COMMUNICATIONS BETWEEN A DISTRICT COURT COMMISSIONER AND A STATE'S ATTORNEY, AN ATTORNEY FOR THE DEFENDANT, OR A LAW ENFORCEMENT OFFICER ARE PROHIBITED.

(2) AN EX PARTE COMMUNICATION FOR SCHEDULING, ADMINISTRATIVE, OR EMERGENCY PURPOSES IS ALLOWED, IF:

(1) THE COMMUNICATION DOES NOT ADDRESS SUBSTANTIVE MATTERS;

(II) NO PARTY WILL GAIN A PROCEDURAL, SUBSTANTIVE, OR TACTICAL ADVANTAGE AS A RESULT OF THE COMMUNICATION; AND

(III) THE COMMISSIONER PROMPTLY NOTIFIES THE OTHER PARTIES AND GIVES THEM AN OPPORTUNITY TO RESPOND.

(a) (1) The administrative judge of each district, with the approval of the Chief Judge of the District Court, may appoint the number of commissioners necessary to perform the functions of the office within each county.

(2) In multicounty districts, the administrative judge shall obtain the recommendation of the resident judge in each county as to the number of commissioners required in the county and as to the persons to be appointed.

(b) (1) Commissioners shall be adult residents of the counties in which they serve, but they need not be lawyers.

(2) <u>Each commissioner shall hold office at the pleasure of the Chief</u> Judge of the District Court, and has the powers and duties prescribed by law.

(3) Except without additional compensation, unless otherwise fixed by law, an employee of the District Court, who is an adult, may be granted, in the same manner, commissioner powers and duties in the county where the employee is employed.

(c) (1) A commissioner shall receive applications and determine probable cause for the issuance of charging documents.

(2) A commissioner shall advise arrested persons of their constitutional rights, set bond or commit persons to jail in default of bond or release them on personal recognizance if circumstances warrant, and conduct investigations and inquiries into the circumstances of any matter presented to the commissioner in order to determine if probable cause exists for the issuance of a charging document, warrant, or criminal

summons and, in general, perform all the functions of committing magistrates as exercised by the justices of the peace prior to July 5, 1971.

(3) There shall be in each county, at all times, one or more commissioners available for the convenience of the public and police in obtaining charging documents, warrants, or criminal summonses and to advise arrested persons of their rights as required by law.

(4) <u>A commissioner may exercise the powers of office in any county to</u> which the commissioner is assigned by the Chief Judge of the District Court or a designee of the Chief Judge of the District Court.

(5) The Chief Judge of the District Court may authorize one or more commissioners to perform the duties of a commissioner regarding persons arrested in a county other than the county in which the commissioner resides and for which the commissioner was appointed when the arrested persons are brought before the commissioner by a peace officer of the jurisdiction in which that arrest was made.

(6) (1) AN INDIVIDUAL MAY FILE AN APPLICATION FOR A STATEMENT OF CHARGES WITH A DISTRICT COURT COMMISSIONER.

(II) ON REVIEW OF AN APPLICATION FOR A STATEMENT OF CHARGES, A DISTRICT COURT COMMISSIONER MAY ISSUE A SUMMONS OR AN ARREST WARRANT.

(III) A DISTRICT COURT COMMISSIONER MAY ISSUE AN ARREST WARRANT ONLY ON A FINDING THAT:

<u>1.</u> <u>There is probable cause to believe that</u> <u>The defendant committed the offense charged in the charging</u> <u>Document; and</u>

<u>2.</u> <u>A.</u> <u>The defendant previously has failed</u> <u>TO RESPOND TO A SUMMONS THAT HAS BEEN PERSONALLY SERVED OR A</u> <u>CITATION;</u>

B. <u>The whereabouts of the defendant are</u> <u>UNKNOWN AND THE ISSUANCE OF A WARRANT IS NECESSARY TO SUBJECT THE</u> <u>DEFENDANT TO THE JURISDICTION OF THE COURT;</u>

OFFENSE; OR

C. THE DEFENDANT IS IN CUSTODY FOR ANOTHER

<u>D.</u> <u>There is probable cause to believe that</u> <u>The defendant poses a danger to another person or to the</u> <u>COMMUNITY.</u>

(d) (1) The authority under this subsection applies only to a respondent who is an adult.

(2) <u>A commissioner may issue an interim order for protection of a</u> person eligible for relief in accordance with § 4–504.1 of the Family Law Article or a petitioner in accordance with § 3–1503.1 of this article.

(e) Notwithstanding the residence requirements set out in subsection (b) of this section, the Chief Judge of the District Court or a designee of the Chief Judge of the District Court may assign a commissioner of the District Court to serve temporarily in any county.

<u>Article – Criminal Procedure</u>

<u>4–101.</u>

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

(2) (i) "Citation" means a written charging document that a police officer or fire marshal issues to a defendant, alleging the defendant has committed a crime.

(*ii*) <u>"Citation" does not include an indictment, information, or</u> <u>statement of charges.</u>

- (3) <u>"Fire marshal" means:</u>
 - (i) the State Fire Marshal;
 - (ii) <u>a deputy State fire marshal; or</u>
 - (iii) as designated under § 6–304 of the Public Safety Article:
 - <u>1.</u> an assistant State fire marshal; or
 - 2. <u>a special assistant State fire marshal.</u>
- (4) "Police officer" has the meaning stated in § 2-101 of this article.

(b) <u>Within areas of the National Park System, a United States Park Police</u> officer may exercise the authority of a police officer to issue a citation under this section. (c) (1) Subject to paragraph (2) of this subsection, in addition to any other law allowing a crime to be charged by citation, a police officer [may issue a] SHALL CHARGE BY citation for:

(i) [sale of an alcoholic beverage to an underage drinker or intoxicated person under Article 2B, § 12-108 of the Code;

(*ii*) malicious destruction of property under § 6–301 of the Criminal Law Article, if the amount of damage to the property is less than \$500;

(iii) disturbing the peace or disorderly conduct under § 10–201 of the Criminal Law Article; or

(iv) misdemeanor theft under § 7–104(g)(2) or (3) of the Criminal Law Article] ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION THAT DOES NOT CARRY A PENALTY OF IMPRISONMENT;

(II) ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION FOR WHICH THE MAXIMUM PENALTY OF IMPRISONMENT IS 90 DAYS OR LESS, EXCEPT:

<u>1.</u> <u>FAILURE TO COMPLY WITH A PEACE ORDER UNDER</u> § 3–1508 OF THE COURTS ARTICLE;

2. FAILURE TO COMPLY WITH A PROTECTIVE ORDER UNDER § 4–509 OF THE FAMILY LAW ARTICLE;

<u>3.</u> <u>VIOLATION OF A CONDITION OF PRETRIAL OR</u> <u>POSTTRIAL RELEASE WHILE CHARGED WITH A SEXUAL CRIME AGAINST A MINOR</u> <u>UNDER § 5–213.1 OF THIS ARTICLE;</u>

<u>4.</u> <u>POSSESSION OF AN ELECTRONIC CONTROL</u> <u>DEVICE AFTER CONVICTION OF A DRUG FELONY OR CRIME OF VIOLENCE UNDER</u> § 4–109(B) OF THE CRIMINAL LAW ARTICLE;

5. <u>VIOLATION OF AN OUT-OF-STATE DOMESTIC</u> VIOLENCE ORDER UNDER § 4–508.1 OF THE FAMILY LAW ARTICLE; OR

<u>6.</u> <u>ABUSE OR NEGLECT OF AN ANIMAL UNDER §</u> <u>10–604 of the Criminal Law Article; or</u>

(III) POSSESSION OF MARIJUANA UNDER § 5–601 OF THE CRIMINAL LAW ARTICLE. (2) A police officer may [issue a citation to] CHARGE a defendant BY CITATION ONLY if:

(I) the officer is satisfied with the defendant's evidence of identity [and];

(II) <u>THE OFFICER</u> reasonably believes that the defendant will comply with the citation;

(III) THE OFFICER REASONABLY BELIEVES THAT THE FAILURE TO CHARGE ON A STATEMENT OF CHARGES WILL NOT POSE A THREAT TO PUBLIC SAFETY;

(IV) THE DEFENDANT IS NOT SUBJECT TO ARREST FOR ANOTHER CRIMINAL CHARGE ARISING OUT OF THE SAME INCIDENT; AND

(V) <u>THE DEFENDANT COMPLIES WITH ALL LAWFUL ORDERS</u> <u>BY THE OFFICER.</u>

(3) <u>A POLICE OFFICER WHO HAS GROUNDS TO MAKE A</u> <u>WARRANTLESS ARREST FOR AN OFFENSE THAT MAY BE CHARGED BY CITATION</u> <u>UNDER THIS SUBSECTION MAY:</u>

(I) ISSUE A CITATION IN LIEU OF MAKING THE ARREST; OR

(II) MAKE THE ARREST AND SUBSEQUENTLY ISSUE A CITATION IN LIEU OF CONTINUED CUSTODY.

(d) (1) Subject to paragraph (2) of this subsection, in addition to any other law allowing a crime to be charged by citation, a fire marshal may issue a citation for:

(i) discharging fireworks without a permit under § 10–104 or § 10–110 of the Public Safety Article:

(*ii*) possessing with intent to discharge or allowing the discharge of fireworks under § 10–104 or § 10–110 of the Public Safety Article; or

(iii) maintaining a fire hazard under § 6–317 of the Public Safety Article.

(2) <u>A fire marshal may issue a citation if the fire marshal is satisfied</u> with the defendant's evidence of identity and reasonably believes that the defendant will comply with the citation.

(e) (1) This section does not apply to a citation that is:

(i) <u>authorized for a violation of a parking ordinance or a</u> regulation adopted by a State unit or political subdivision of the State under Title 26, Subtitle 3 of the Transportation Article;

(ii) authorized by the Department of Natural Resources under § 1-205 of the Natural Resources Article; or

(iii) authorized by Baltimore City under § 16–16A (special enforcement officers) of the Code of Public Local Laws of Baltimore City for violation of a code, ordinance, or public local law of Baltimore City concerning building, housing, health, fire, safety, zoning, or sanitation.

(2) <u>Except as otherwise expressly provided by law, the Chief Judge of</u> the District Court shall prescribe a uniform, statewide form of a citation.

(3) Except for the uniform motor vehicle citation form, the law enforcement agencies of the State, the United States Park Police, and the Office of the State Fire Marshal shall reimburse the District Court for printing the citation forms that law enforcement officers and the State Fire Marshal require.

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

<u> Article – Courts and Judicial Proceedings</u>

<u>10–922.</u>

A STATEMENT MADE DURING THE COURSE OF AN INITIAL APPEARANCE OF A DEFENDANT BEFORE A DISTRICT COURT COMMISSIONER IN ACCORDANCE WITH MARYLAND RULE 4–213 MAY NOT BE USED AS EVIDENCE AGAINST THE DEFENDANT IN A CRIMINAL PROCEEDING OR JUVENILE PROCEEDING.

Article – Criminal Procedure

<u>5–215.</u>

A DEFENDANT WHO IS DENIED PRETRIAL RELEASE BY A DISTRICT COURT COMMISSIONER OR WHO FOR ANY REASON REMAINS IN CUSTODY AFTER A DISTRICT COURT COMMISSIONER HAS DETERMINED CONDITIONS OF RELEASE UNDER MARYLAND RULE 4–216 SHALL BE PRESENTED TO A DISTRICT COURT OR CIRCUIT COURT JUDGE WITHIN 48 HOURS OF THE DETERMINATION BY THE DISTRICT COURT COMMISSIONER, EXCEPT FOR WEEKENDS AND HOLIDAYS IMMEDIATELY IF THE COURT IS IN SESSION, OR IF THE COURT IS NOT IN SESSION, AT THE NEXT SESSION OF THE COURT. 16-204.

(a) Representation of an indigent individual may be provided in accordance with this title by the Public Defender or, subject to the supervision of the Public Defender, by the deputy public defender, district public defenders, assistant public defenders, or panel attorneys.

(b) (1) Indigent defendants or parties shall be provided representation under this title in:

(i) a criminal or juvenile proceeding in which a defendant or party is alleged to have committed a serious offense;

(ii) a criminal or juvenile proceeding in which an attorney is constitutionally required to be present prior to presentment being made before a commissioner or judge;

(iii) a postconviction proceeding for which the defendant has a right to an attorney under Title 7 of this article;

(iv) any other proceeding in which confinement under a judicial commitment of an individual in a public or private institution may result;

(v) a proceeding involving children in need of assistance under § 3–813 of the Courts Article; or

(vi) a family law proceeding under Title 5, Subtitle 3, Part II or Part III of the Family Law Article, including:

1. for a parent, a hearing in connection with guardianship or adoption;

2. a hearing under § 5–326 of the Family Law Article for which the parent has not waived the right to notice; and

3. an appeal.

(2) (I) Representation <u>EXCEPT AS PROVIDED IN SUBPARAGRAPH</u> (II) OF THIS PARAGRAPH, REPRESENTATION shall be provided to an indigent individual in fall stages of a proceeding listed in paragraph (1) of this subsection, including, in criminal proceedings, fcustody, interrogation, AT BAIL REVIEW BAIL HEARING BEFORE A DISTRICT COURT OR CIRCUIT COURT JUDGE, preliminary hearing, arraignment, trial, and appeal.

(II) THIS PARAGRAPH MAY NOT BE CONSTRUED TO REQUIRE REPRESENTATION AT AN INITIAL APPEARANCE IN DISTRICT COURT

OR CIRCUIT COURT UNDER MARYLAND RULE 4–213. REPRESENTATION IS NOT REQUIRED TO BE PROVIDED TO AN INDIGENT INDIVIDUAL AT AN INITIAL APPEARANCE BEFORE A DISTRICT COURT COMMISSIONER.

SECTION 3. 4. AND BE IT FURTHER ENACTED, That:

(a) <u>There is a Task Force to Study the Laws and Policies Relating to</u> <u>Representation of Indigent Criminal Defendants by the Office of the Public Defender.</u>

(b) <u>The Task Force consists of the following members:</u>

(1) two members of the Senate of Maryland, appointed by the President of the Senate on or before May 1, 2012;

(2) two members of the House of Delegates, appointed by the Speaker of the House on or before May 1, 2012;

(3) the Governor of Maryland, or the Governor's designee;

(4) <u>the Public Defender of Maryland, or the Public Defender's</u> <u>designee;</u>

(5) the Chief Judge of the District Court of Maryland, or the Chief Judge's designee;

(6) <u>the Coordinator of Commissioner Activity of the District Court of</u> <u>Maryland, or the Coordinator's designee;</u>

(7) <u>the Superintendent of State Police, or the Superintendent's</u> <u>designee;</u>

(8) <u>the Attorney General of Maryland, or the Attorney General's</u> <u>designee</u>;

(9) the Secretary of Public Safety and Correctional Services, or the Secretary's designee; and

(10) <u>the following individuals, appointed by the Governor on or before</u> <u>May 1, 2012:</u>

(i) <u>a representative of the Maryland State's Attorneys'</u> <u>Association;</u>

(ii) an attorney representing the plaintiffs in the Quinton Richmond, et al. v. Paul DeWolfe, Jr., et al. litigation DeWolfe v. Richmond litigation; (iii) <u>a representative of the Maryland Chiefs of Police</u> <u>Association, Inc.</u>;

(iv) <u>a representative of the Maryland Sheriffs' Association;</u>

(v) a representative of the Maryland Correctional Administrators Association;

- (vi) an advocate for the rights of victims of domestic violence;
- (vii) <u>a victims' rights advocate;</u>
- (viii) <u>a representative of the Maryland Association of Counties;</u>
- (ix) <u>a representative of the Pretrial Justice Institute;</u>
- (x) <u>a representative of the Public Justice Center;</u>
- (xi) <u>a representative of NAACP Legal Defense;</u>

(xii) <u>a representative of the National Association of Criminal</u> Defense Lawyers;

- (xiii) a representative of the American Civil Liberties Union; and
- (xiv) an academic expert in the provision of counsel to the

indigent.

(c) <u>On or before May 1, 2012, the Governor shall appoint a chair of the Task</u> Force from its membership.

(d) <u>The Department of Legislative Services shall provide staff for the Task</u> <u>Force.</u>

(e) <u>A member of the Task Force:</u>

(1) may not receive compensation for serving 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) <u>The Task Force shall:</u>

(1) study the adequacy and cost of State laws and policies relating to:

(i) representation of indigent criminal defendants by the Office of the Public Defender; and

(ii) the District Court commissioner and pretrial release systems; and

(2) <u>consider and make recommendations regarding options for and</u> <u>costs of improving:</u>

(i) the system of representation of indigent criminal defendants; and

(ii) the District Court commissioner and pretrial release

(g) (1) On or before November 1, 2012, the Task Force shall submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Judicial Proceedings Committee and the House Judiciary Committee.

(2) On or before November 1, 2013, the Task Force shall submit a final report of its findings and recommendations to the Governor, and, in accordance with § 2–1246 of the State Government Article, the Senate Judicial Proceedings Committee and the House Judiciary Committee.

<u>SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland</u> <u>read as follows:</u>

<u> Article – Criminal Procedure</u>

<u>4–101.1.</u>

systems.

(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.

(B) THE POLICE TRAINING COMMISSION AND THE MARYLAND STATISTICAL ANALYSIS CENTER, IN CONSULTATION WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL DEVELOP A FORMAT FOR THE EFFICIENT RECORDING OF DATA REQUIRED TO BE SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION.

(C) ON OR BEFORE DECEMBER 31, 2012, THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE MARYLAND STATISTICAL ANALYSIS CENTER, SHALL DEVELOP:

(1) <u>GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY USE</u> <u>AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED UNDER SUBSECTION</u> (E) OF THIS SECTION FOR USE IN COUNSELING AND IMPROVED TRAINING; AND

(2) <u>A MODEL POLICY AGAINST THE ISSUANCE OF A CITATION ON</u> THE BASIS OF RACE THAT A LAW ENFORCEMENT AGENCY CAN USE IN DEVELOPING ITS POLICY IN ACCORDANCE WITH SUBSECTION (H) OF THIS <u>SECTION.</u>

(D) THIS SECTION APPLIES TO EACH LAW ENFORCEMENT AGENCY THAT HAS ONE OR MORE LAW ENFORCEMENT OFFICERS.

(E) EACH TIME A LAW ENFORCEMENT OFFICER ISSUES A CITATION IN ACCORDANCE WITH § 4–101 OF THIS SUBTITLE, THAT OFFICER SHALL REPORT THE FOLLOWING INFORMATION ON THE MARYLAND UNIFORM CITATION FORM CONSISTENT WITH THE PROCEDURES DEVELOPED UNDER SUBSECTION (F) OF THIS SECTION USING THE FORMAT DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION:

(1) THE DATE, LOCATION, AND TIME OF THE ISSUANCE OF THE CITATION;

- (2) THE OFFENSE CHARGED;
- (3) <u>THE GENDER OF THE OFFENDER;</u>

(4) THE DATE OF BIRTH OF THE OFFENDER;

(5) THE STATE AND, IF AVAILABLE, THE COUNTY OF RESIDENCE OF THE OFFENDER; AND

- (6) THE RACE OR ETHNICITY OF THE OFFENDER AS:
 - (I) <u>ASIAN;</u>
 - (II) <u>BLACK;</u>
 - (III) HISPANIC;
 - (IV) WHITE; OR
 - (V) <u>OTHER.</u>

(F) ON OR BEFORE DECEMBER 31, 2012, THE POLICE TRAINING COMMISSION AND THE MARYLAND STATISTICAL ANALYSIS CENTER, IN CONSULTATION WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL DEVELOP A PROCEDURE FOR:

(1) THE COMPILATION OF DATA REQUIRED TO BE COLLECTED UNDER THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) THE SUBMISSION OF THE REPORT TO THE MARYLAND STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING CALENDAR YEAR BEGINNING ON MARCH 1, 2014.

(G) (1) THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL ANALYZE THE ANNUAL REPORTS SUBMITTED UNDER SUBSECTION (F) 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 beginning on September 1, 2014.

(H) (1) <u>A LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY</u> AGAINST THE ISSUANCE OF A CITATION ON THE BASIS OF RACE THAT IS TO BE <u>USED AS A MANAGEMENT TOOL TO PROMOTE NONDISCRIMINATORY LAW</u> <u>ENFORCEMENT AND IN THE TRAINING AND COUNSELING OF ITS OFFICERS.</u>

(2) (1) <u>The policy shall prohibit the practice of using</u> <u>AN INDIVIDUAL'S RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO ISSUE A</u> <u>CITATION.</u>

(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 under subsection (e) of this section and to review the annual report of the Maryland Statistical Analysis Center for purposes of paragraph (1) of this subsection.

<u>SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act</u> <u>shall take effect January 1, 2013.</u>

SECTION 4. 7. AND BE IT FURTHER ENACTED. That the obligation of the Office of the Public Defender to provide representation to indigent defendants at bail hearings before District Court or circuit court judges under § 16–204 of the Criminal Procedure Article, as enacted by Section 2 3 of this Act, applies only to bail hearings occurring on or after June 1, 2012.

<u>SECTION 8. AND BE IT FURTHER ENACTED, That, beginning January 1,</u> 2013, data shall be collected under Section 5 of this Act through December 31, 2017, and the Maryland Statistical Analysis Center shall issue a final report of its findings to the Governor, the General Assembly, in accordance with § 2–1246 of the State Government Article, and each law enforcement agency on or before August 31, 2018.

SECTION 2 = 5. 9. 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 and, except as provided in Section 6 of this Act, shall take effect from the date it is enacted. Section $\frac{2}{3}$ 4 of this Act shall remain effective until June 1, 2014, and, at the end of May 31, 2014, with no further action required by the General Assembly, Section $\frac{2}{3}$ 4 of this Act shall remain effective and effect. Section 5 of this Act shall remain effective until September 1, 2018, and, at the end of August 31, 2018, with no further action required by the General Assembly, Section 5 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.

Chapter 506

(Senate Bill 431)

AN ACT concerning

Workers' Compensation – Emergency Responders – Revisions

FOR the purpose of altering the definition of "on duty" in the workers' compensation law to include the performance of certain duties assigned to certain individuals appointed as deputy sheriffs or members of a certain fire police unit; <u>altering</u> <u>the definition of "volunteer company" to include a volunteer fire police unit</u>; specifying that a certain yearly stipend to help offset out-of-pocket expenses that is paid to certain emergency responders may not be used when determining the average weekly wage of the members for workers' compensation purposes; <u>specifying that certain emergency responders who receive a certain membership</u> <u>benefit may not be considered</u> <u>paid covered</u> <u>employees for a certain purpose</u> <u>based on receipt of a certain membership benefit</u>; and generally relating to workers' compensation for emergency responders.

BY repealing and reenacting, with amendments, Article – Labor and Employment Section 9–234 and 9–602(g) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Labor and Employment Section 9–602(a) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article - Labor and Employment

9-234.

- (a) (1) In this section the following words have the meanings indicated.
 - (2) (i) "On duty" means:

Chapter 506

1. fighting a fire;

2. performing a duty of a member of an advanced life support unit or an ambulance, first aid, or rescue squad in a volunteer company;

3. except as provided in subparagraph (ii) of this paragraph, performing a duty that the volunteer company assigns to the member;

4. performing a duty that a written bylaw or rule of government adopted for the volunteer company assigns to the member;

5. going to or from performing a duty included under item 1, 2, 3, or 4 of this subparagraph;

6. accompanying an accident or fire victim while being transported to a hospital in a helicopter; [or]

7. returning to the home station of the individual after accompanying a victim under item 6 of this subparagraph;

8. PERFORMING A DUTY ASSIGNED TO A MEMBER OF A FIRE COMPANY APPOINTED AS A DEPUTY SHERIFF UNDER § 7–302 OR § 7–303 OF THE PUBLIC SAFETY ARTICLE; OR

9. PERFORMING A DUTY ASSIGNED TO AN INDIVIDUAL APPOINTED TO SERVE AS A MEMBER OF THE FIRE POLICE IN WASHINGTON COUNTY UNDER § 7–304 OF THE PUBLIC SAFETY ARTICLE.

(ii) "On duty" does not include attendance of a member of a volunteer company at a social function unless a written bylaw or rule of government adopted for the volunteer company requires the attendance or participation of the member.

- (3) "Volunteer company" means:
 - (i) a volunteer advanced life support unit;
 - (ii) a volunteer ambulance company or squad;
 - (iii) a volunteer fire company or department; and
 - (iv) a volunteer rescue company, department, or squad<u>; AND</u>
 - (V) <u>A VOLUNTEER FIRE POLICE UNIT</u>.

(b) An individual who is a covered employee under subsection (h)(2), (k), (n), (o)(2), (p)(1)(ii), (r)(3), (v), or (x)(1) of this section continues to be a covered employee while:

(1) accompanying an accident or fire victim who is being transported to a hospital in a helicopter; and

(2) returning to the home station of the individual after accompanying a victim under item (1) of this subsection.

(c) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Allegany County is not a covered employee.

(2) The Board of County Commissioners for Allegany County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(d) A member of a volunteer company in Anne Arundel County is a covered employee while on duty.

(e) A member of a volunteer company in Baltimore County is a covered employee while on duty.

(f) A member of a volunteer company in Calvert County is a covered employee while on duty.

(g) A member of a volunteer company in Caroline County is a covered employee while on duty.

(h) (1) Unless an election is made in accordance with this subsection, a member of a volunteer company in Carroll County is not a covered employee.

(2) A volunteer fire company in Carroll County may elect to make its members covered employees.

(3) A volunteer fire company that elects to make its members covered employees shall pay the premium for the coverage.

(i) (1) A member of a volunteer company in Cecil County who meets the guidelines set under paragraph (2) of this subsection is a covered employee while on duty.

(2) The Board of County Commissioners of Cecil County may set guidelines to determine the eligibility of members of a volunteer company in the county for coverage under this subsection. (3) The guidelines under paragraph (2) of this subsection may not limit the number of covered employees in a volunteer company.

(j) (1) Unless an election is made in accordance with this subsection, a member of a volunteer company in Charles County is not a covered employee.

(2) The Board of County Commissioners of Charles County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(k) A member of a volunteer company in Dorchester County is a covered employee.

(l) A member of a volunteer company in Frederick County is a covered employee while on duty.

(m) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Garrett County is not a covered employee.

(2) The Board of County Commissioners for Garrett County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(n) A member of a volunteer company in Harford County is a covered employee.

(o) An individual is a covered employee:

(1) while on duty as an actively participating member of a volunteer company in Howard County; or

(2) if not covered under item (1) of this subsection, while a member of a volunteer company in Howard County participating in the activities of the volunteer company.

(p) (1) An individual is a covered employee:

(i) while on duty as an actively participating member of a volunteer company in Kent County; or

(ii) if not covered under item (i) of this paragraph, while a member of a volunteer company in Kent County.

(2) The Board of County Commissioners of Kent County shall impose annually a tax on assessable property in the county in an amount that is sufficient to pay for coverage under this subsection. (3) The Board of County Commissioners of Kent County may limit the number of members in a volunteer company in the county.

(q) A member of a volunteer company in Montgomery County is a covered employee while on duty.

(r) An individual is a covered employee:

(1) while on duty as a member of the Laurel volunteer rescue squad in Prince George's County; or

(2) while a member of a volunteer company in Prince George's County.

(s) A member of a volunteer company in Queen Anne's County is a covered employee while on duty.

(t) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in St. Mary's County is not a covered employee.

(2) The Board of County Commissioners for St. Mary's County may provide by resolution for the members of a volunteer company in the county to be covered employees while on duty.

(u) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Somerset County is not a covered employee.

(2) The Board of County Commissioners for Somerset County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(v) (1) A member of a volunteer company in Talbot County is a covered employee.

(2) The County Council of Talbot County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(w) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Washington County is not a covered employee.

(2) The Board of County Commissioners for Washington County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(x) (1) A member of a volunteer company in Wicomico County is a covered employee.

(y) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Worcester County is not a covered employee.

(2) The Board of County Commissioners for Worcester County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(z) (1) For the purposes of this title, a member of a volunteer company who is a covered employee under this section is an employee of the political subdivision of the State where the volunteer company is organized.

(2) A member of a volunteer company shall be covered while on duty by a policy of workers' compensation insurance.

(AA) A MEMBER OF A VOLUNTEER COMPANY WHO IS NOT A COVERED EMPLOYEE UNDER THIS SECTION MAY NOT OTHERWISE BE CONSIDERED A PAID COVERED EMPLOYEE OF THE VOLUNTEER COMPANY FOR RECEIVING AS A MEMBERSHIP BENEFIT A YEARLY STIPEND OF \$5,200 OR LESS TO HELP OFFSET OUT-OF-POCKET EXPENSES.

9-602.

(a) (1) Except as otherwise provided in this section, the average weekly wage of a covered employee shall be computed by determining the average of the weekly wages of the covered employee:

- (i) when the covered employee is working full time; and
- (ii) at the time of:
 - 1. the accidental personal injury; or

2. the last injurious exposure of the covered employee to the hazards of an occupational disease.

(2) For purposes of a computation under paragraph (1) of this subsection, wages shall include:

(i) tips; and

(ii) the reasonable value of housing, lodging, meals, rent, and other similar advantages that the covered employee received from the employer.

(3) If a covered employee establishes that, because of the age and experience of the covered employee at the time of the accidental personal injury or last injurious exposure to the hazards of the occupational disease, the wages of the covered employee could be expected to increase under normal circumstances, the expected increase may be taken into account when computing the average weekly wage of the covered employee under paragraph (1) of this subsection.

(g) (1) [For] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR the purpose of computing the average weekly wage of an individual who is a covered employee under § 9–234 of this title, the wages of the covered employee shall be:

[(1)](I) for a covered employee who received a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure, the salary or wages from the other employment; or

[(2)](II) for a covered employee who did not receive a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure:

[(i)] 1. if the covered employee derived income from a source other than salary or wages at the time of the accidental personal injury or last injurious exposure, an amount that allows the maximum compensation under this title;

[(ii)] 2. if the covered employee was not engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, the weekly income last received by the covered employee when engaged in a business enterprise; or

[(iii)] **3.** if the covered employee had never been engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, an amount that allows the minimum compensation under this title.

(2) A YEARLY STIPEND OF \$5,200 OR LESS TO HELP OFFSET OUT-OF-POCKET EXPENSES THAT A VOLUNTEER ADVANCED LIFE SUPPORT UNIT, VOLUNTEER AMBULANCE COMPANY, VOLUNTEER FIRE COMPANY, VOLUNTEER FIRE POLICE UNIT, OR VOLUNTEER RESCUE SQUAD COMPANY, AS DEFINED IN § 9–234 OF THIS TITLE, PAYS TO A MEMBER MAY NOT BE USED WHEN DETERMINING THE AVERAGE WEEKLY WAGE OF THE MEMBER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 507

(House Bill 1085)

AN ACT concerning

Workers' Compensation – Emergency Responders – Revisions

FOR the purpose of altering the definition of "on duty" in the workers' compensation law to include the performance of certain duties assigned to certain individuals appointed as deputy sheriffs or members of a certain fire police unit; <u>altering</u> <u>the definition of "volunteer company" to include a volunteer fire police unit;</u> specifying that a certain yearly stipend to help offset out-of-pocket expenses that is paid to certain emergency responders may not be used when determining the average weekly wage of the members for workers' compensation purposes; specifying that certain emergency responders who receive a certain membership benefit may not be considered <u>paid covered</u> employees for a certain purpose <u>based on receipt of a certain membership benefit</u>; and generally relating to workers' compensation for emergency responders.

BY repealing and reenacting, with amendments,

Article – Labor and Employment Section 9–234 and 9–602(g) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Labor and Employment Section 9–602(a) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Labor and Employment Section 9–604(c) Annotated Code of Maryland (2008 Replacement Volume and 2011 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 - 234.

Martin O'Malley, Governor

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

(2) (i) "On duty" means:

1. fighting a fire;

2. performing a duty of a member of an advanced life support unit or an ambulance, first aid, or rescue squad in a volunteer company;

3. except as provided in subparagraph (ii) of this paragraph, performing a duty that the volunteer company assigns to the member;

4. performing a duty that a written bylaw or rule of government adopted for the volunteer company assigns to the member;

5. going to or from performing a duty included under item 1, 2, 3, or 4 of this subparagraph;

6. accompanying an accident or fire victim while being transported to a hospital in a helicopter; [or]

7. returning to the home station of the individual after accompanying a victim under item 6 of this subparagraph;

8. PERFORMING A DUTY ASSIGNED TO A MEMBER OF A FIRE COMPANY APPOINTED AS A DEPUTY SHERIFF UNDER § 7–302 OR § 7–303 OF THE PUBLIC SAFETY ARTICLE; OR

9. PERFORMING A DUTY ASSIGNED TO AN INDIVIDUAL APPOINTED TO SERVE AS A MEMBER OF THE FIRE POLICE IN WASHINGTON COUNTY UNDER § 7–304 OF THE PUBLIC SAFETY ARTICLE.

(ii) "On duty" does not include attendance of a member of a volunteer company at a social function unless a written bylaw or rule of government adopted for the volunteer company requires the attendance or participation of the member.

- (3) "Volunteer company" means:
 - (i) a volunteer advanced life support unit;
 - (ii) a volunteer ambulance company or squad;
 - (iii) a volunteer fire company or department; and
 - (iv) a volunteer rescue company, department, or squad<u>; AND</u>

(V) A VOLUNTEER FIRE POLICE UNIT.

(b) An individual who is a covered employee under subsection (h)(2), (k), (n), (o)(2), (p)(1)(ii), (r)(3), (v), or (x)(1) of this section continues to be a covered employee while:

(1) accompanying an accident or fire victim who is being transported to a hospital in a helicopter; and

(2) returning to the home station of the individual after accompanying a victim under item (1) of this subsection.

(c) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Allegany County is not a covered employee.

(2) The Board of County Commissioners for Allegany County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(d) A member of a volunteer company in Anne Arundel County is a covered employee while on duty.

(e) A member of a volunteer company in Baltimore County is a covered employee while on duty.

(f) A member of a volunteer company in Calvert County is a covered employee while on duty.

(g) A member of a volunteer company in Caroline County is a covered employee while on duty.

(h) (1) Unless an election is made in accordance with this subsection, a member of a volunteer company in Carroll County is not a covered employee.

(2) A volunteer fire company in Carroll County may elect to make its members covered employees.

(3) A volunteer fire company that elects to make its members covered employees shall pay the premium for the coverage.

(i) (1) A member of a volunteer company in Cecil County who meets the guidelines set under paragraph (2) of this subsection is a covered employee while on duty.

(2) The Board of County Commissioners of Cecil County may set guidelines to determine the eligibility of members of a volunteer company in the county for coverage under this subsection.

(3) The guidelines under paragraph (2) of this subsection may not limit the number of covered employees in a volunteer company.

(j) (1) Unless an election is made in accordance with this subsection, a member of a volunteer company in Charles County is not a covered employee.

(2) The Board of County Commissioners of Charles County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(k) A member of a volunteer company in Dorchester County is a covered employee.

(l) A member of a volunteer company in Frederick County is a covered employee while on duty.

(m) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Garrett County is not a covered employee.

(2) The Board of County Commissioners for Garrett County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(n) A member of a volunteer company in Harford County is a covered employee.

(o) An individual is a covered employee:

(1) while on duty as an actively participating member of a volunteer company in Howard County; or

(2) if not covered under item (1) of this subsection, while a member of a volunteer company in Howard County participating in the activities of the volunteer company.

(p) (1) An individual is a covered employee:

(i) while on duty as an actively participating member of a volunteer company in Kent County; or

(ii) if not covered under item (i) of this paragraph, while a member of a volunteer company in Kent County.

(2) The Board of County Commissioners of Kent County shall impose annually a tax on assessable property in the county in an amount that is sufficient to pay for coverage under this subsection.

(3) The Board of County Commissioners of Kent County may limit the number of members in a volunteer company in the county.

(q) A member of a volunteer company in Montgomery County is a covered employee while on duty.

(r) An individual is a covered employee:

(1) while on duty as a member of the Laurel volunteer rescue squad in Prince George's County; or

(2) while a member of a volunteer company in Prince George's County.

(s) A member of a volunteer company in Queen Anne's County is a covered employee while on duty.

(t) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in St. Mary's County is not a covered employee.

(2) The Board of County Commissioners for St. Mary's County may provide by resolution for the members of a volunteer company in the county to be covered employees while on duty.

(u) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Somerset County is not a covered employee.

(2) The Board of County Commissioners for Somerset County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(v) (1) A member of a volunteer company in Talbot County is a covered employee.

(2) The County Council of Talbot County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(w) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Washington County is not a covered employee.

(2) The Board of County Commissioners for Washington County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty. (x) (1) A member of a volunteer company in Wicomico County is a covered employee.

(2) The County Council of Wicomico County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(y) (1) Unless an election is made under paragraph (2) of this subsection, a member of a volunteer company in Worcester County is not a covered employee.

(2) The Board of County Commissioners for Worcester County may provide by resolution for members of a volunteer company in the county to be covered employees while on duty.

(z) (1) For the purposes of this title, a member of a volunteer company who is a covered employee under this section is an employee of the political subdivision of the State where the volunteer company is organized.

(2) A member of a volunteer company shall be covered while on duty by a policy of workers' compensation insurance.

(AA) <u>A MEMBER OF A VOLUNTEER COMPANY WHO IS NOT A COVERED</u> EMPLOYEE UNDER THIS SECTION MAY NOT OTHERWISE BE CONSIDERED A *PAID* COVERED EMPLOYEE <u>OF THE VOLUNTEER COMPANY</u> FOR RECEIVING AS A MEMBERSHIP BENEFIT A YEARLY STIPEND OF \$5,200 OR LESS TO HELP OFFSET OUT-OF-POCKET EXPENSES.

9-602.

(a) (1) Except as otherwise provided in this section, the average weekly wage of a covered employee shall be computed by determining the average of the weekly wages of the covered employee:

- (i) when the covered employee is working full time; and
- (ii) at the time of:
 - 1. the accidental personal injury; or

2. the last injurious exposure of the covered employee to the hazards of an occupational disease.

(2) For purposes of a computation under paragraph (1) of this subsection, wages shall include:

(i) tips; and

(ii) the reasonable value of housing, lodging, meals, rent, and other similar advantages that the covered employee received from the employer.

(3) If a covered employee establishes that, because of the age and experience of the covered employee at the time of the accidental personal injury or last injurious exposure to the hazards of the occupational disease, the wages of the covered employee could be expected to increase under normal circumstances, the expected increase may be taken into account when computing the average weekly wage of the covered employee under paragraph (1) of this subsection.

(g) (1) [For] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR the purpose of computing the average weekly wage of an individual who is a covered employee under § 9–234 of this title, the wages of the covered employee shall be:

[(1)] (I) for a covered employee who received a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure, the salary or wages from the other employment; or

[(2)] (II) for a covered employee who did not receive a salary or wages from other employment at the time of the accidental personal injury or last injurious exposure:

[(i)] 1. if the covered employee derived income from a source other than salary or wages at the time of the accidental personal injury or last injurious exposure, an amount that allows the maximum compensation under this title;

[(ii)] 2. if the covered employee was not engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, the weekly income last received by the covered employee when engaged in a business enterprise; or

[(iii)] 3. if the covered employee had never been engaged in a business enterprise at the time of the accidental personal injury or last injurious exposure, an amount that allows the minimum compensation under this title.

(2) A YEARLY STIPEND OF \$5,200 OR LESS TO HELP OFFSET OUT-OF-POCKET EXPENSES THAT A VOLUNTEER ADVANCED LIFE SUPPORT UNIT, VOLUNTEER AMBULANCE COMPANY, VOLUNTEER FIRE COMPANY, VOLUNTEER FIRE POLICE UNIT, OR VOLUNTEER RESCUE SQUAD COMPANY, AS DEFINED IN § 9–234 OF THIS TITLE, PAYS TO A MEMBER MAY NOT BE USED WHEN DETERMINING THE AVERAGE WEEKLY WAGE OF THE MEMBER.

9-604.

(C) A MEMBER OF A VOLUNTEER ADVANCED LIFE SUPPORT UNIT, VOLUNTEER AMBULANCE COMPANY, VOLUNTEER FIRE COMPANY, VOLUNTEER POLICE UNIT, OR VOLUNTEER RESCUE SQUAD WHO RECEIVES AS A MEMBERSHIP BENEFIT A YEARLY STIPEND OF \$5,200 OR LESS TO HELP OFFSET OUT-OF-POCKET EXPENSES MAY NOT BE CONSIDERED AN EMPLOYEE FOR THE PURPOSE OF DETERMINING THE WORKERS' COMPENSATION BENEFITS OWED TO THE VOLUNTEER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 508

(Senate Bill 439)

AN ACT concerning

Frederick County – Alcoholic Beverages – Citations Issued by Inspectors

FOR the purpose of removing Frederick County from the list of counties whose alcoholic beverages inspectors are prohibited from carrying a weapon when issuing a citation for certain violations; clarifying language; and generally relating to alcoholic beverages inspectors in Frederick County.

BY repealing and reenacting, with amendments,

Article – Criminal Law Section 10–119(b) Annotated Code of Maryland (2002 Volume and 2011 Supplement)

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

Article – Criminal Law

10 - 119.

(b) (1) A citation for a violation of \$10-113 through 10-115 or a violation of \$10-118 of this part may be issued by:

[(1)] (I) a police officer authorized to make arrests;

[(2)] (II) in State forestry reservations, State parks, historic monuments, and recreation areas, a forest or park warden under § 5-206(a) or (b) of the Natural Resources Article; and

[(3)] (III) [in] SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IN Anne Arundel County, Frederick County, Harford County, Montgomery County, and Prince George's County, and only in the inspector's jurisdiction, an alcoholic beverages inspector who investigates license violations under Article 2B of the Code [if the inspector:

(i) has successfully completed an appropriate program of training in the proper use of arrest authority and pertinent police procedures as required by the board of license commissioners; and

duties].

(2) IN ANNE ARUNDEL COUNTY, FREDERICK COUNTY, HARFORD COUNTY, MONTGOMERY COUNTY, AND PRINCE GEORGE'S COUNTY, THE INSPECTOR SHALL SUCCESSFULLY COMPLETE AN APPROPRIATE PROGRAM OF

does not carry firearms in the performance of the inspector's

(3) IN ANNE ARUNDEL COUNTY, HARFORD COUNTY,
 MONTGOMERY AND DEPIGE CEORGE'S COUNTY THE DESERTED MAN

TRAINING IN THE PROPER USE OF ARREST AUTHORITY AND PERTINENT POLICE

MONTGOMERY COUNTY, AND PRINCE GEORGE'S COUNTY, THE INSPECTOR MAY NOT CARRY A FIREARM IN THE PERFORMANCE OF THE INSPECTOR'S DUTIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

(ii)

Chapter 509

(Senate Bill 452)

AN ACT concerning

Other Tobacco Products <u>Licenses – Repeal</u> <u>– Restrictions on Sale,</u> <u>Distribution, and Shipment – Exemptions</u>

FOR the purpose of <u>providing that certain provisions of law relating to the regulation</u> <u>of other tobacco products do not apply to a seller located outside the State when</u> <u>selling, holding for sale, shipping, or delivering certain cigars or pipe tobacco to</u> consumers in the State; providing that certain provisions of law regulating the sale and distribution of other tobacco products do not apply to the order. purchase, sale, or shipment of certain cigars or pipe tobacco by a licensed other tobacco products retailer or licensed tobacconist; requiring the Comptroller to submit a certain report by a certain date on a certain policy regarding the direct shipment of premium cigars and pipe tobacco to consumers in Maryland; and generally relating to the regulation of other tobacco products. repealing provisions of law related to the requirement that a person have a license whenever the person acts in the State as an other tobacco products manufacturer, retailer, storage warehouse, or wholesaler or tobacconist; repealing certain record-keeping and reporting requirements for an other tobacco products wholesaler; repealing the authority for the Comptroller to adopt regulations to require a common carrier that brings other tobacco products into the State to submit certain information to the Comptroller; repealing certain requirements for a person who ships, imports, or sells other tobacco products into or within the State; repealing certain prohibitions on selling or shipping other tobacco products that are ordered or purchased by mail or through a computer network, telephonic network, or other electronic network; repealing certain prohibitions on delivery of other tobacco products directly to a consumer; requiring a person who transports other tobacco products by vehicle on a public road to have certain information in the vehicle; repealing references to provisions repealed under this Act; repealing the prohibition on a county, municipal corporation, special taxing district, or other political subdivision from imposing a tax on other tobacco products; repealing the requirement that a wholesaler shall complete and file with the Comptroller a tobacco tax return for other tobacco products on or before a certain day; requiring a wholesaler to complete and file with the Comptroller a tobacco tax return for other tobacco products on a date specified by the Comptroller in regulation; requiring the tobacco tax to be paid by the wholesaler who sells the other tobacco products to a consumer; requiring a retailer or consumer to pay the tobacco tax on other tobacco products on which the tobacco tax has not been paid; requiring the Comptroller to adopt regulations establishing a system of administering, collecting, and enforcing the tobacco tax on other tobacco products; providing for specific regulations which the Comptroller may adopt to establish a system of administering, collecting, and enforcing the tobacco tax on other tobacco products; repealing a requirement that a person subject to the tobacco tax post security as an other tobacco products wholesaler; altering a certain penalty for a person who willfully ships, imports, sells into or within, or transports within the State other tobacco products on which the tobacco tax has not been paid; altering the definition of certain terms; defining certain terms; and generally relating to the regulation of other tobacco products in the State.

BY repealing

Article -- Business Regulation

Section 16.5–101 through 16.5–218 and the title "Title 16.5. Other Tobacco Products Licenses"

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Business Regulation Section 16–217 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Business Regulation</u> <u>Section 16.5–103 to be under the amended subtitle "Subtitle 1. Definitions;</u> <u>General Provisions"</u> <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Business Regulation Section 16–219 <u>16.5–217</u> Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General Section 12–101, 12–102, 12–103, 12–104, 12–201, 12–202, 12–301, 12–302, 13–825(h), and 13–1015 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – General Section 12–306 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16.5–101 through 16.5–218 and the title "Title 16.5. Other Tobacco Products Licenses" of Article – Business Regulation of the Annotated Code of Maryland be repealed.

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

Article – Business Regulation

Subtitle 1. Definitions; GENERAL PROVISIONS.

<u>16.5–103.</u>

NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THIS TITLE DOES NOT APPLY TO A SELLER LOCATED OUTSIDE THE STATE WHEN SELLING, HOLDING FOR SALE, SHIPPING, OR DELIVERING PREMIUM CIGARS OR PIPE TOBACCO TO CONSUMERS IN THE STATE.

<u>16.5–217.</u>

(a) This section applies to a person who is engaged in the business of selling or distributing other tobacco products.

(b) (1) THIS SUBSECTION DOES NOT APPLY TO THE ORDER, PURCHASE, SALE, OR SHIPMENT OF PREMIUM CIGARS OR PIPE TOBACCO BY A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR LICENSED TOBACCONIST.

[(1)] (2) Except as provided in paragraph [(2)] (3) of this subsection, a person covered under this section may not:

(i) sell or ship other tobacco products, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, directly to a consumer or other unlicensed recipient in this State; or

(ii) cause other tobacco products, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, to be shipped directly to a consumer or other unlicensed recipient in this State.

[(2)] (3) <u>A licensed other tobacco products retailer or licensed</u> tobacconist may deliver not more than two packages of other tobacco products directly to a consumer if the delivery is made by the licensed other tobacco products retailer or licensed tobacconist or an employee of the licensed other tobacco products retailer or licensed tobacconist.

(c) (1) <u>A licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is:</u>

(i) <u>subject to discipline by the Comptroller under § 16.5–208 of</u> this subtitle; and

(ii) guilty of a felony and on conviction is subject to a fine not exceeding \$50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both. (2) A person other than a licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.

16-217.

THE COMPTROLLER BY REGULATION MAY REQUIRE A COMMON CARRIER THAT BRINGS CIGARETTES INTO THE STATE TO SUBMIT TO THE COMPTROLLER A COPY OF ANY FREIGHT BILL RELATING TO THE CIGARETTE SHIPMENT.

16-219.

(a) IN THIS SECTION, "OTHER TOBACCO PRODUCTS" HAS THE MEANING STATED IN § 12–101 OF THE TAX – GENERAL ARTICLE.

(B) A person who transports cigarettes OR OTHER TOBACCO PRODUCTS by vehicle on a public road shall have in the vehicle a delivery ticket or invoice that states:

- (1) the name and address of the seller or consignor;
- (2) the name and address of a buyer or consignee who is:

(i) a person in the State authorized by Title 12 of the Tax – General Article to hold unstamped cigarettes OR OTHER TOBACCO PRODUCTS on which the tobacco tax has not been paid; or

(ii) a person in another jurisdiction authorized to hold cigarettes OR OTHER TOBACCO PRODUCTS on which the tax imposed by that jurisdiction has not been paid; and

(3) the quantity and brands of the cigarettes **OR OTHER TOBACCO PRODUCTS** that are being transported.

[(b) The Comptroller by regulation may require a common carrier that brings cigarettes into the State to submit to the Comptroller a copy of any freight bill relating to the cigarette shipment.]

Article - Tax - General

<u>12-101.</u>

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

(b) <u>"Cigarette" means any size or shaped roll for smoking that is made of</u> tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.

(c) ["Manufacturer" means a person who acts as a manufacturer as defined in § 16–201 of the Business Regulation Article or as an other tobacco products manufacturer as defined in § 16.5–101 of the Business Regulation Article.

(d)] "Other tobacco product" means:

(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

[(e) <u>"Other tobacco products retailer" means a person authorized under §</u> 16.5–205(b) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

(f)](D) "Sell" means to exchange or transfer, or to make an agreement to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.

[(g)] (E) "Tax stamp" means a device in the design and denomination that the Comptroller authorizes by regulation for the purpose of being affixed to a package of cigarettes as evidence that the tobacco tax is paid.

[(h) <u>"Tobacconist" means a person authorized under § 16.5–205(e) of the</u> Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

(i)](F) "Unstamped cigarettes" means a package of cigarettes to which tax stamps are not affixed in the amount and manner required in § 12–304 of this title.

[(j)] (G) "Wholesale price" means the price for which a wholesaler buys other tobacco products, exclusive of any discount, trade allowance, rebate, or other reduction.

[(k)] (II) "Wholesaler" means, unless the context requires otherwise [,]:

(1) a person who acts as a wholesaler as defined in § 16–201 of the Business Regulation Article [or as an other tobacco products wholesaler as defined in § 16.5–101 of the Business Regulation Article]; OR

(2) A PERSON WHO:

(I) HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO ANOTHER PERSON FOR RESALE; OR

(II) SELLS OTHER TOBACCO PRODUCTS TO ANOTHER PERSON FOR RESALE.

12-102.

(a) Except as provided in § 12–104 of this subtitle, a tax is imposed on eigarettes and other tobacco products in the State.

(b) A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose a tax on cigarettes [or other tobacco products].

12-103.

(a) A rebuttable presumption exists that any cigarette or other tobacco product in the State is subject to the tobacco tax.

(b) Cigarettes or other tobacco products are contraband tobacco products if they:

(1) are possessed or sold in the State in a manner that is not authorized under this title or under Title 16 [or Title 16.5] of the Business Regulation Article; or

(2) are transported by vehicle in the State by a person who does not have, in the vehicle, the records required by § 16–219 [or § 16.5–215] of the Business Regulation Article for the transportation of cigarettes or other tobacco products.

(c) A person who possesses cigarettes or other tobacco products has the burden of proving that the cigarettes or other tobacco products are not subject to the tobacco tax.

12-104.

(a) <u>"Consumer" means a person who possesses cigarettes or other tobacco</u> products for a purpose other than selling or transporting the cigarettes or other tobacco products.

(b) The tobacco tax does not apply to:

(1) cigarettes that a licensed wholesaler under Title 16 of the Business Regulation Article is holding for sale outside the State or to a United States armed forces exchange or commissary;

(2) other tobacco products that [an other tobacco products] A wholesaler-[licensed under Title 16.5 of the Business Regulation Article] is holding for sale outside the State or to a United States armed forces exchange or commissary; or

(3) cigarettes or other tobacco products that:

(i) a consumer brings into the State:

1. if the quantity brought from another state does not exceed:

A. for a nonresident consumer traveling through this State, other tobacco products having a retail value of \$25 or 1 carton of cigarettes; or

B. for any other consumer, other tobacco products having a retail value of \$5 or 2 packages of cigarettes; or

2. if the quantity brought from a United States armed forces installation or reservation does not exceed:

A. for a consumer who is a member of an armed forces unit or who is entitled by law to make a purchase at an armed forces exchange, other tobacco products having a retail value of \$50 or 2 cartons of cigarettes; or

B. for any other consumer, other tobacco products having a retail value of \$5 or 2 packages of cigarettes that were bought at an armed forces exchange or commissary;

(ii) a person is transporting by vehicle in the State if the person has, in the vehicle, the records required by § 16–219 [or § 16.5–215] of the Business Regulation Article for the transportation of cigarettes or other tobacco products; or

(iii) are held in storage in a licensed storage warehouse on behalf of a licensed cigarette manufacturer [or an other tobacco products manufacturer].

12-201.

(a) A manufacturer shall complete and file with the Comptroller a tobacco tax return:

(1) on or before the 15th day of the month that follows the month in which the manufacturer distributes in the State free sample cigarettes of the manufacturer; and

(2) if the Comptroller so specifies, by regulation, on other dates for each month in which the manufacturer does not distribute any sample cigarettes.

(b) [A licensed other tobacco products manufacturer shall file the information return that the Comptroller requires.

(c)] A licensed storage warehouse operator [and a licensed other tobacco products storage warehouse operator] shall file the information return that the Comptroller requires.

<u>12-202.</u>

(a) A wholesaler shall complete and file with the Comptroller a tobacco tax return:

(1) for cigarettes:

(i) on or before the 21st day of the month that follows the month in which the wholesaler has the first possession, in the State, of unstamped eigarettees for which tax stamps are required; and

(ii) if the Comptroller so specifies, by regulation, on other dates for each month in which the wholesaler does not have the first possession of any unstamped cigarettes in the State; and

(2) for other tobacco products, on [or before the 21st day of the month that follows the month in which the wholesaler has possession of other tobacco products on which the tobacco tax has not been paid] THE DATES AND FOR THE PERIODS THAT THE COMPTROLLER SPECIFIES BY REGULATION.

(b) Each return shall state the quantity of cigarettes or the wholesale price of other tobacco products sold during the period that the return covers.

12-301.

In this subtitle, "licensed wholesaler" means a wholesaler who is licensed under Title 16, Subtitle 2 of the Business Regulation Article to act as a wholesaler [or under Title 16.5, Subtitle 2 of the Business Regulation Article to act as an other tobacco products wholesaler].

12-302.

(a) A manufacturer of sample cigarettes shall pay the tobacco tax on those cigarettes distributed in the State without charge, in the manner that the Comptroller

requires by regulation, with the return that covers the period in which the manufacturer distributed those cigarettes.

(b) The wholesaler who first possesses in the State unstamped cigarettes for which tax stamps are required shall pay the tobacco tax on those cigarettes by buying and affixing tax stamps.

(c) (1) The tobacco tax on other tobacco products shall be paid by the wholesaler who sells the other tobacco products to a retailer OR CONSUMER in the State.

(2) IF A RETAILER OR CONSUMER POSSESSES OTHER TOBACCO PRODUCTS IN THE STATE ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID, THE RETAILER OR CONSUMER SHALL PAY THE TOBACCO TAX ON THOSE OTHER TOBACCO PRODUCTS.

{(d) (1) A licensed other tobacco products retailer or a licensed tobacconist shall pay the tobacco tax on other tobacco products on which the tobacco tax has not been paid by filing a quarterly tax return, with any supporting schedules, on forms provided by the Comptroller on the following dates covering tax liabilities in the preceding quarter:

- (i) January 21;
- (ii) April 21;
- (iii) July 21; and
- (iv) October 21.

(2) A licensed other tobacco products retailer or a licensed tobacconist required to file a tax return under paragraph (1) of this subsection shall pay a tobacco tax at the rate provided in § 12–105(b) of this title based on the invoice amount charged by the licensed other tobacco products manufacturer, exclusive of any discount, trade allowance, rebate, or other reduction.]

12-306.

(A) BY REGULATION, THE COMPTROLLER SHALL ESTABLISH A SYSTEM OF ADMINISTERING, COLLECTING, AND ENFORCING THE TOBACCO TAX ON OTHER TOBACCO PRODUCTS.

(B) **REGULATIONS ADOPTED UNDER THIS SECTION MAY INCLUDE:**

(1) SELF-ASSESSMENT, FILING OF RETURNS, AND MAINTENANCE AND RETENTION OF RECORDS BY WHOLESALERS OR RETAILERS;

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(2) PAYMENT OF THE TAX BY:

(I) A WHOLESALER WHO SELLS OTHER TOBACCO PRODUCTS TO A RETAILER OR CONSUMER IN THE STATE; OR

(II) A RETAILER OR CONSUMER WHO POSSESSES OTHER TOBACCO PRODUCTS IN THE STATE ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID; AND

(3) ANY OTHER PROVISION THAT THE COMPTROLLER CONSIDERS NECESSARY TO EFFICIENTLY AND ECONOMICALLY ADMINISTER, COLLECT, AND ENFORCE THE TAX.

13 825.

(h) (1) The Comptroller may require a person subject to the tobacco tax to post security for the tax in the following amounts:

(i) for a manufacturer or wholesaler:

1. \$10,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$10,000[.]; AND

(ii) for a subwholesaler or vending machine operator:

1. \$1,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$1,000**[**; and

(iii) for an other tobacco products wholesaler:

1. \$5,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$5,000].

(2) Except as provided in paragraph (5) of this subsection, the Comptroller may exempt a person from posting security for the tobacco tax if the person is and has been for the past 5 years:

(i) licensed as required under § 16-202 of the Business Regulation Article to act as a wholesaler [or § 16.5-201 to act as an other tobacco products wholesaler]; and

(ii) 1. in continuous compliance with the tobacco tax laws, as determined under paragraph (3) of this subsection; and

2. in continuous compliance with the conditions of the person's security posted under this subsection.

(3) For purposes of paragraph (2) of this subsection, a person is in continuous compliance with the tobacco tax laws for a period if the person has not, at any time during that period:

(i) failed to pay any tobacco tax or any tobacco tax assessment

(ii) failed to file a tobacco tax return when due; or

(iii) otherwise violated any of the provisions of Title 12 or Title 13 of this article or Title 16 for Title 16.5 of the Business Regulation Article.

(4) (i) An exemption granted under paragraph (2) of this subsection is effective only to the extent that a person's potential tobacco tax liability does not exceed an amount determined by the Comptroller based on the person's experience during the 5-year compliance period under paragraph (2) of this subsection.

(ii) The Comptroller may revoke an exemption granted to a person under paragraph (2) of this subsection if the person at any time fails to be in continuous compliance with the tobacco tax laws, as described in paragraph (3) of this subsection.

(iii) The Comptroller may reinstate an exemption revoked under subparagraph (ii) of this paragraph if the person meets the requirements of paragraph (2)(i) and (ii) of this subsection for a period of 2 years following the revocation.

(5) The Comptroller may not exempt a person from posting a bond or other security for the tobacco tax unless the Comptroller determines that the person is solvent and financially able to pay the person's potential tobacco tax liability.

(6) If a corporation is granted an exemption from posting a bond or other security for the tobacco tax, any officer of the corporation who exercises direct control over its fiscal management is personally liable for any tobacco tax, interest and penalties owed by the corporation.

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when due:

A person who willfully ships, imports, sells into or within, or transports within, this State cigarettes or other tobacco products on which the tobacco tax has not been paid in violation of Title 12 of this article or § [16–219, § 16–222, § 16.5–215, or § 16.5–216] **16–219 OR § 16–222** of the Business Regulation Article is guilty of a felony and, on conviction, is subject to a fine not exceeding \$50 for each carton of cigarettes [or each package of other tobacco products] transported or imprisonment not exceeding 2 years or both.

SECTION 3. <u>2.</u> AND BE IT FURTHER ENACTED, <u>That:</u>

(a) On or before November 1, 2012, the Comptroller shall submit a report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the viability and efficacy of instituting in Maryland the policy of permitting direct shipment of premium cigars and pipe tobacco to consumers in the State.

(b) The report shall include:

(1) an evaluation of related fiscal, tax, and other public policy and regulatory issues; and

(2) <u>a determination regarding:</u>

(i) the best practices for preventing access by minors to premium cigars and pipe tobacco that is shipped directly to consumers:

(ii) any significant increase or decrease in access to or demand for premium cigars and pipe tobacco by minors that has been documented as the result of direct shipment of premium cigars and pipe tobacco;

- (iii) the best means for collecting relevant tax revenues;
- (iv) the benefits and costs to consumers; and

(v) <u>the effect of direct premium cigar and pipe tobacco shipment</u> <u>laws on in–State licensed other tobacco products retailers and tobacconists and other</u> <u>local businesses.</u>

<u>SECTION 3. AND BE IT FURTHER ENACTED</u>. That this Act shall take effect July June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 510

(House Bill 570)

AN ACT concerning

Other Tobacco Products <u>Licenses – Repeal – Restrictions on Sale,</u> <u>Distribution, and Shipment – Exemptions</u>

FOR the purpose of providing that certain provisions of law relating to the regulation of other tobacco products do not apply to a seller located outside the State when selling, holding for sale, shipping, or delivering certain cigars or pipe tobacco to consumers in the State; providing that certain provisions of law regulating the sale and distribution of other tobacco products do not apply to the order. purchase, sale, or shipment of certain cigars or pipe tobacco by a licensed other tobacco products retailer or licensed tobacconist; requiring the Comptroller to submit a certain report by a certain date on a certain policy regarding the direct shipment of premium cigars and pipe tobacco to consumers in Maryland; and generally relating to the regulation of other tobacco products. repealing provisions of law related to the requirement that a person have a license whenever the person acts in the State as an other tobacco products manufacturer, retailer, storage warehouse, or wholesaler or tobacconist; repealing certain record-keeping and reporting requirements for an other tobacco products wholesaler; repealing the authority for the Comptroller to adopt regulations to require a common carrier that brings other tobacco products into the State to submit certain information to the Comptroller; repealing certain requirements for a person who ships, imports, or sells other tobacco products into or within the State: repealing certain prohibitions on selling or shipping other tobacco products that are ordered or purchased by mail or through a computer network, telephonic network, or other electronic network; repealing certain prohibitions on delivery of other tobacco products directly to a consumer; requiring a person who transports other tobacco products by vehicle on a public road to have certain information in the vehicle; repealing references to provisions repealed under this Act; repealing the prohibition on a county, municipal corporation, special taxing district, or other political subdivision from imposing a tax on other tobacco products; repealing the requirement that a wholesaler shall complete and file with the Comptroller a tobacco tax return for other tobacco products on or before a certain day; requiring a wholesaler to complete and file with the Comptroller a tobacco tax return for other tobacco products on a date specified by the Comptroller in regulation; requiring the tobacco tax to be paid by the wholesaler who sells the other tobacco products to a consumer; requiring a retailer or consumer to pay the tobacco tax on other tobacco products on which the tobacco tax has not been paid; requiring the Comptroller to adopt regulations establishing a system of administering, collecting, and enforcing the tobacco tax on other tobacco products: providing for specific regulations which the Comptroller may adopt to establish a system of administering, collecting, and enforcing the tobacco tax on

other tobacco products; repealing a requirement that a person subject to the tobacco tax post security as an other tobacco products wholesaler; altering a certain penalty for a person who willfully ships, imports, sells into or within, or transports within the State other tobacco products on which the tobacco tax has not been paid; altering the definition of certain terms; defining certain terms; and generally relating to the regulation of other tobacco products in the State.

BY repealing

Article – Business Regulation Section 16.5–101 through 16.5–218 and the title "Title 16.5. Other Tobacco Products Licenses" Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Business Regulation Section 16–217 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – Business Regulation</u> <u>Section 16.5–103 to be under the amended subtitle "Subtitle 1. Definitions;</u> <u>General Provisions"</u> <u>Annotated Code of Maryland</u> (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Business Regulation Section 16–219 <u>16.5–217</u> Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 12–101, 12–102, 12–103, 12–104, 12–201, 12–202, 12–301, 12–302, 13–825(h), and 13–1015 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – General Section 12–306 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16.5–101 through 16.5–218 and the title "Title 16.5. Other Tobacco Products Licenses" of Article – Business Regulation of the Annotated Code of Maryland be repealed.

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

Article – Business Regulation

Subtitle 1. Definitions; GENERAL PROVISIONS.

<u>16.5–103.</u>

NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THIS TITLE DOES NOT APPLY TO A SELLER LOCATED OUTSIDE THE STATE WHEN SELLING, HOLDING FOR SALE, SHIPPING, OR DELIVERING PREMIUM CIGARS OR PIPE TOBACCO TO CONSUMERS IN THE STATE.

<u>16.5–217.</u>

(a) This section applies to a person who is engaged in the business of selling or distributing other tobacco products.

(b) (1) THIS SUBSECTION DOES NOT APPLY TO THE ORDER, PURCHASE, SALE, OR SHIPMENT OF PREMIUM CIGARS OR PIPE TOBACCO BY A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR LICENSED TOBACCONIST.

[(1)] (2) Except as provided in paragraph [(2)] (3) of this subsection, a person covered under this section may not:

(i) sell or ship other tobacco products, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, directly to a consumer or other unlicensed recipient in this State; or

(ii) cause other tobacco products, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, to be shipped directly to a consumer or other unlicensed recipient in this State.

[(2)] (3) <u>A licensed other tobacco products retailer or licensed</u> tobacconist may deliver not more than two packages of other tobacco products directly to a consumer if the delivery is made by the licensed other tobacco products retailer or licensed tobacconist or an employee of the licensed other tobacco products retailer or licensed tobacconist. (c) (1) <u>A licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is:</u>

(i) subject to discipline by the Comptroller under § 16.5–208 of this subtitle; and

(ii) guilty of a felony and on conviction is subject to a fine not exceeding \$50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.

(2) <u>A person other than a licensee who sells or ships other tobacco</u> products in violation of this section or causes other tobacco products to be shipped in violation of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.

16-217.

THE COMPTROLLER BY REGULATION MAY REQUIRE A COMMON CARRIER THAT BRINGS CIGARETTES INTO THE STATE TO SUBMIT TO THE COMPTROLLER A COPY OF ANY FREIGHT BILL RELATING TO THE CIGARETTE SHIPMENT.

16-219.

(a) IN THIS SECTION, "OTHER TOBACCO PRODUCTS" HAS THE MEANING STATED IN § 12–101 OF THE TAX – GENERAL ARTICLE.

(B) A person who transports cigarettes OR OTHER TOBACCO PRODUCTS by vehicle on a public road shall have in the vehicle a delivery ticket or invoice that states:

- (1) the name and address of the seller or consignor;
- (2) the name and address of a buyer or consignee who is:

(i) a person in the State authorized by Title 12 of the Tax – General Article to hold unstamped cigarettes OR OTHER TOBACCO PRODUCTS on which the tobacco tax has not been paid; or

(ii) a person in another jurisdiction authorized to hold cigarettes OR OTHER TOBACCO PRODUCTS on which the tax imposed by that jurisdiction has not been paid; and (3) the quantity and brands of the cigarettes OR OTHER TOBACCO PRODUCTS that are being transported.

[(b) The Comptroller by regulation may require a common carrier that brings eigarettes into the State to submit to the Comptroller a copy of any freight bill relating to the cigarette shipment.]

Article - Tax - General

<u>12–101.</u>

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

(b) "Cigarette" means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.

(c) ["Manufacturer" means a person who acts as a manufacturer as defined in § 16–201 of the Business Regulation Article or as an other tobacco products manufacturer as defined in § 16.5–101 of the Business Regulation Article.

(d)] "Other tobacco product" means:

(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

(c) "Other tobacco products retailer" means a person authorized under § 16.5–205(b) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

(f)] (D) "Sell" means to exchange or transfer, or to make an agreement to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.

[(g)] (E) <u>"Tax stamp" means a device in the design and denomination that</u> the Comptroller authorizes by regulation for the purpose of being affixed to a package of cigarettes as evidence that the tobacco tax is paid.

[(h) "Tobacconist" means a person authorized under § 16.5–205(e) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

(i)] (F) <u>"Unstamped cigarettes" means a package of cigarettes to which tax</u> stamps are not affixed in the amount and manner required in § 12–304 of this title.

[(j)] (G) "Wholesale price" means the price for which a wholesaler buys other tobacco products, exclusive of any discount, trade allowance, rebate, or other reduction.

[(k)] (II) "Wholesaler" means, unless the context requires otherwise[,]:

(1) a person who acts as a wholesaler as defined in § 16–201 of the Business Regulation Article [or as an other tobacco products wholesaler as defined in § 16.5–101 of the Business Regulation Article]; OR

(2) A PERSON WHO:

(I) HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO ANOTHER PERSON FOR RESALE; OR

(II) SELLS OTHER TOBACCO PRODUCTS TO ANOTHER PERSON FOR RESALE.

<u>12-102.</u>

(a) Except as provided in § 12–104 of this subtitle, a tax is imposed on cigarettes and other tobacco products in the State.

(b) A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose a tax on cigarettes [or other tobacco products].

<u>12-103.</u>

(a) A rebuttable presumption exists that any cigarette or other tobacco product in the State is subject to the tobacco tax.

(b) Cigarettes or other tobacco products are contraband tobacco products if they:

(1) are possessed or sold in the State in a manner that is not authorized under this title or under Title 16 [or Title 16.5] of the Business Regulation Article; or

(2) are transported by vehicle in the State by a person who does not have, in the vehicle, the records required by § 16–219 [or § 16.5–215] of the Business Regulation Article for the transportation of cigarettes or other tobacco products.

(c) A person who possesses cigarettes or other tobacco products has the burden of proving that the cigarettes or other tobacco products are not subject to the tobacco tax.

12-104.

(a) <u>"Consumer" means a person who possesses cigarettes or other tobacco</u> products for a purpose other than selling or transporting the cigarettes or other tobacco products.

(b) The tobacco tax does not apply to:

(1) cigarettes that a licensed wholesaler under Title 16 of the Business Regulation Article is holding for sale outside the State or to a United States armed forces exchange or commissary;

(2) other tobacco products that [an other tobacco products] A wholesaler [licensed under Title 16.5 of the Business Regulation Article] is holding for sale outside the State or to a United States armed forces exchange or commissary; or

(3) eigarettes or other tobacco products that:

- (i) a consumer brings into the State:
 - 1. if the quantity brought from another state does not

exceed:

A. for a nonresident consumer traveling through this State, other tobacco products having a retail value of \$25 or 1 carton of cigarettes; or

B. for any other consumer, other tobacco products having a retail value of \$5 or 2 packages of cigarettes; or

2. if the quantity brought from a United States armed forces installation or reservation does not exceed:

A. for a consumer who is a member of an armed forces unit or who is entitled by law to make a purchase at an armed forces exchange, other tobacco products having a retail value of \$50 or 2 cartons of cigarettes; or

B. for any other consumer, other tobacco products having a retail value of \$5 or 2 packages of cigarettes that were bought at an armed forces exchange or commissary;

(ii) a person is transporting by vehicle in the State if the person has, in the vehicle, the records required by § 16–219 [or § 16.5–215] of the Business Regulation Article for the transportation of cigarettes or other tobacco products; or (iii) are held in storage in a licensed storage warehouse on behalf of a licensed cigarette manufacturer [or an other tobacco products manufacturer].

 $\frac{12-201}{2}$

(a) A manufacturer shall complete and file with the Comptroller a tobacco tax return:

(1) on or before the 15th day of the month that follows the month in which the manufacturer distributes in the State free sample cigarettes of the manufacturer; and

(2) if the Comptroller so specifies, by regulation, on other dates for each month in which the manufacturer does not distribute any sample cigarettes.

(b) [A licensed other tobacco products manufacturer shall file the information return that the Comptroller requires.

(c)] A licensed storage warehouse operator [and a licensed other tobacco products storage warehouse operator] shall file the information return that the Comptroller requires.

<u>12 202.</u>

(a) A wholesaler shall complete and file with the Comptroller a tobacco tax return:

(1) for cigarettes:

(i) on or before the 21st day of the month that follows the month in which the wholesaler has the first possession, in the State, of unstamped eigarettees for which tax stamps are required; and

(ii) if the Comptroller so specifies, by regulation, on other dates for each month in which the wholesaler does not have the first possession of any unstamped cigarettes in the State; and

(2) for other tobacco products, on [or before the 21st day of the month that follows the month in which the wholesaler has possession of other tobacco products on which the tobacco tax has not been paid] THE DATES AND FOR THE PERIODS THAT THE COMPTROLLER SPECIFIES BY REGULATION.

(b) Each return shall state the quantity of cigarettes or the wholesale price of other tobacco products sold during the period that the return covers.

12-301.

In this subtitle, "licensed wholesaler" means a wholesaler who is licensed under Title 16, Subtitle 2 of the Business Regulation Article to act as a wholesaler for under Title 16.5, Subtitle 2 of the Business Regulation Article to act as an other tobacco products wholesaler.

<u>12-302.</u>

(a) A manufacturer of sample cigarettes shall pay the tobacco tax on those cigarettes distributed in the State without charge, in the manner that the Comptroller requires by regulation, with the return that covers the period in which the manufacturer distributed those cigarettes.

(b) The wholesaler who first possesses in the State unstamped cigarettes for which tax stamps are required shall pay the tobacco tax on those cigarettes by buying and affixing tax stamps.

(c) (1) The tobacco tax on other tobacco products shall be paid by the wholesaler who sells the other tobacco products to a retailer OR CONSUMER in the State.

(2) IF A RETAILER OR CONSUMER POSSESSES OTHER TOBACCO PRODUCTS IN THE STATE ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID, THE RETAILER OR CONSUMER SHALL PAY THE TOBACCO TAX ON THOSE OTHER TOBACCO PRODUCTS.

[(d) (1) A licensed other tobacco products retailer or a licensed tobacconist shall pay the tobacco tax on other tobacco products on which the tobacco tax has not been paid by filing a quarterly tax return, with any supporting schedules, on forms provided by the Comptroller on the following dates covering tax liabilities in the preceding quarter:

- (i) January 21;
- (ii) April 21;
- (iii) July 21; and
- (iv) October 21.

(2) A licensed other tobacco products retailer or a licensed tobacconist required to file a tax return under paragraph (1) of this subsection shall pay a tobacco tax at the rate provided in § 12–105(b) of this title based on the invoice amount charged by the licensed other tobacco products manufacturer, exclusive of any discount, trade allowance, rebate, or other reduction.] $\frac{12-306}{12-306}$

(A) BY REGULATION, THE COMPTROLLER SHALL ESTABLISH A SYSTEM OF ADMINISTERING, COLLECTING, AND ENFORCING THE TOBACCO TAX ON OTHER TOBACCO PRODUCTS.

(B) **REGULATIONS ADOPTED UNDER THIS SECTION MAY INCLUDE:**

SELF-ASSESSMENT, FILING OF RETURNS, AND MAINTENANCE (1) AND RETENTION OF RECORDS BY WHOLESALERS OR RETAILERS:

(2) PAYMENT OF THE TAX BY:

(I) A WHOLESALER WHO SELLS OTHER TOBACCO PRODUCTS TO A RETAILER OR CONSUMER IN THE STATE; OR

(II) A RETAILER OR CONSUMER WHO POSSESSES OTHER TOBACCO PRODUCTS IN THE STATE ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID: AND

ANY OTHER PROVISION THAT THE COMPTROLLER CONSIDERS (3) NECESSARY TO EFFICIENTLY AND ECONOMICALLY ADMINISTER. COLLECT. AND ENFORCE THE TAX.

<u>13 825</u>

The Comptroller may require a person subject to the tobacco tax to (h) (1) post security for the tax in the following amounts:

- for a manufacturer or wholesaler: (i)
 - \$10,000, plus 1.

2 the amount, if any, by which the tobacco tax due for any 1 month exceeds \$10,000[.]; AND

> for a subwholesaler or vending machine operator: (ii)

> > 1. \$1,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$1,000 [; and

> (iii) for an other tobacco products wholesaler:

1. \$5,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds \$5,000].

(2) Except as provided in paragraph (5) of this subsection, the Comptroller may exempt a person from posting security for the tobacco tax if the person is and has been for the past 5 years:

(i) licensed as required under § 16–202 of the Business Regulation Article to act as a wholesaler [or § 16.5–201 to act as an other tobacco products wholesaler]; and

(ii) 1. in continuous compliance with the tobacco tax laws, as determined under paragraph (3) of this subsection; and

2. in continuous compliance with the conditions of the person's security posted under this subsection.

(3) For purposes of paragraph (2) of this subsection, a person is in continuous compliance with the tobacco tax laws for a period if the person has not, at any time during that period:

(i) failed to pay any tobacco tax or any tobacco tax assessment when due;

(ii) failed to file a tobacco tax return when due; or

(iii) otherwise violated any of the provisions of Title 12 or Title 13 of this article or Title 16 for Title 16.5 of the Business Regulation Article.

(4) (i) An exemption granted under paragraph (2) of this subsection is effective only to the extent that a person's potential tobacco tax liability does not exceed an amount determined by the Comptroller based on the person's experience during the 5-year compliance period under paragraph (2) of this subsection.

(ii) The Comptroller may revoke an exemption granted to a person under paragraph (2) of this subsection if the person at any time fails to be in continuous compliance with the tobacco tax laws, as described in paragraph (3) of this subsection.

(iii) The Comptroller may reinstate an exemption revoked under subparagraph (ii) of this paragraph if the person meets the requirements of paragraph (2)(i) and (ii) of this subsection for a period of 2 years following the revocation. (5) The Comptroller may not exempt a person from posting a bond or other security for the tobacco tax unless the Comptroller determines that the person is solvent and financially able to pay the person's potential tobacco tax liability.

(6) If a corporation is granted an exemption from posting a bond or other security for the tobacco tax, any officer of the corporation who exercises direct control over its fiscal management is personally liable for any tobacco tax, interest and penalties owed by the corporation.

13–1015.

A person who willfully ships, imports, sells into or within, or transports within, this State cigarettes or other tobacco products on which the tobacco tax has not been paid in violation of Title 12 of this article or § [16–219, § 16–222, § 16.5–215, or § 16.5–216] 16–219 OR § 16–222 of the Business Regulation Article is guilty of a felony and, on conviction, is subject to a fine not exceeding \$50 for each carton of cigarettes [or each package of other tobacco products] transported or imprisonment not exceeding 2 years or both.

SECTION 3. <u>2.</u> AND BE IT FURTHER ENACTED, <u>*That:*</u>

(a) On or before November 1, 2012, the Comptroller shall submit a report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the viability and efficacy of instituting in Maryland the policy of permitting direct shipment of premium cigars and pipe tobacco to consumers in the State.

(b) <u>The report shall include:</u>

(1) an evaluation of related fiscal, tax, and other public policy and regulatory issues; and

(2) <u>a determination regarding:</u>

(i) the best practices for preventing access by minors to premium cigars and pipe tobacco that is shipped directly to consumers;

(ii) any significant increase or decrease in access to or demand for premium cigars and pipe tobacco by minors that has been documented as the result of direct shipment of premium cigars and pipe tobacco;

(iii) the best means for collecting relevant tax revenues;

(iv) the benefits and costs to consumers; and

(v) the effect of direct premium cigar and pipe tobacco shipment laws on in–State licensed other tobacco products retailers and tobacconists and other local businesses. <u>SECTION 3. AND BE IT FURTHER ENACTED</u>, That this Act shall take effect July June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 511

(Senate Bill 455)

AN ACT concerning

State Personnel – Special Appointments – Status

FOR the purpose of repealing certain provisions of law that designate certain positions and employees as special appointments in the State Personnel Management System; authorizing the Chief Executive Officer of the Maryland Correctional Enterprises to hire certain individuals consistent with certain policies and procedures as of a certain date; establishing that certain special appointment positions in the Maryland Correctional Enterprises are managerial, supervisory, and confidential positions; repealing a provision of law that certain employees in the Maryland Correctional Enterprises may be in the skilled service category of the State Personnel Management System; providing that assistant certain attorneys general and certain positions that provide direct support to the Attorney General and certain positions are special appointments in the State Personnel Management System; providing that certain at-will positions that are encumbered on a certain date shall remain at-will positions until the positions are vacant; providing that the Attorney General retains certain authority for certain positions as of a certain date; and generally relating to State personnel and special appointments.

BY repealing and reenacting, with amendments,

Article – Correctional Services Section 3–506 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Government Section 6–105(a) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Correctional Services

3-506.

(a) $\{(1)\}$ The Chief Executive Officer:

 $\{(i)\}$ shall determine the personnel requirements of Maryland Correctional Enterprises; and

f(ii)**] (2) is the appointing authority for all personnel of Maryland Correctional Enterprises<u>; AND</u>**

(III) MAY HIRE INDIVIDUALS AND INMATES CONSISTENT WITH EXISTING POLICIES AND PROCEDURES OF THE MARYLAND CORRECTIONAL ENTERPRISES AS OF JULY 1, 2012.

 $\{(2)\}$ (B) The number of positions for Maryland Correctional Enterprises shall be included within the total personnel allocations provided for the Department.

(b) Except as provided in subsection (c) of this section or any other law, each position in Maryland Correctional Enterprises is a special appointment in the State Personnel Management System SPECIAL APPOINTMENT POSITIONS IN THE MARYLAND CORRECTIONAL ENTERPRISES ARE MANAGERIAL, SUPERVISORY, AND CONFIDENTIAL POSITIONS.

(c) Unless the employee is a special appointment, each office clerk and office secretary position in Maryland Correctional Enterprises is in the skilled service employment category of the State Personnel Management System.]

Article – State Government

6 - 105.

(a) (1) The Attorney General may employ a staff in accordance with the State budget.

(2) [Staff members] ASSISTANT ATTORNEYS GENERAL ATTORNEYS, POSITIONS THAT PROVIDE DIRECT SUPPORT TO THE ATTORNEY GENERAL, AND POSITIONS THAT PROVIDE DIRECT SUPPORT TO THE POSITIONS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, appointed under this subsection: (i) notwithstanding any other law, and except as provided in paragraph (3) of this subsection, are deemed special appointments within the meaning of § 6–405(a) of the State Personnel and Pensions Article;

(ii) may not be determined to be special appointments under § 6–405(b) of the State Personnel and Pensions Article; and

(iii) serve at the pleasure of the Attorney General.

(3) The following positions are special appointments under § 6-405(b) of the State Personnel and Pensions Article:

- (i) Deputy Attorney General;
- (ii) special assistant to the Attorney General;
- (iii) executive counsel to the Attorney General;
- (iv) director or chief of a division or unit in the Office; and
- (v) principal counsel to a State unit.

(4) (i) Staff appointed under this subsection is entitled to compensation as provided in the State budget.

(ii) Unless the State budget provides otherwise, the salary of a Deputy Attorney General, assistant Attorney General, or special attorney appointed under this subsection is payable from the funds of the Office.

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

SECTION 2. AND BE IT FURTHER ENACTED, That an at-will position that is designated as a special appointment that is encumbered on the effective date of this Act and the status of which would change as a result of Section 1 of this Act shall remain an at-will position until the position becomes vacant.

<u>SECTION 3. AND BE IT FURTHER ENACTED, That for positions designated</u> as special appointments on June 30, 2012, the Office of the Attorney General shall retain the same recruitment authority that the Office possessed on June 30, 2012.

SECTION 3- 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 512

(House Bill 526)

AN ACT concerning

State Personnel - Special Appointments - Status

FOR the purpose of repealing certain provisions of law that designate certain positions and employees as special appointments in the State Personnel Management System; authorizing the Chief Executive Officer of the Maryland Correctional Enterprises to hire certain individuals consistent with certain policies and procedures as of a certain date; establishing that certain special appointment positions in the Maryland Correctional Enterprises are managerial. supervisory, and confidential positions; repealing a provision of law that certain employees in the Maryland Correctional Enterprises may be in the skilled service category of the State Personnel Management System; providing that assistant certain attorneys general and certain positions that provide direct support to the Attorney General and certain positions are special appointments in the State Personnel Management System; providing that certain at-will positions that are encumbered on a certain date shall remain at-will positions until the positions are vacant; providing that the Attorney General retains certain authority for certain positions as of a certain date; and generally relating to State personnel and special appointments.

BY repealing and reenacting, with amendments,

Article – Correctional Services Section 3–506 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Government Section 6–105(a) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Correctional Services

3 - 506.

(a) $\{(1)\}$ The Chief Executive Officer:

 $\{(i)\}$ shall determine the personnel requirements of Maryland Correctional Enterprises; and

f(ii)**] (2)** is the appointing authority for all personnel of Maryland Correctional Enterprises ENTERPRISES; AND

(III) MAY HIRE INDIVIDUALS AND INMATES CONSISTENT WITH EXISTING POLICIES AND PROCEDURES OF THE MARYLAND CORRECTIONAL ENTERPRISES AS OF JULY 1, 2012.

 $\{(2)\}$ (B) The number of positions for Maryland Correctional Enterprises shall be included within the total personnel allocations provided for the Department.

[(b) Except as provided in subsection (c) of this section or any other law, each position in Maryland Correctional Enterprises is a special appointment in the State Personnel Management System SPECIAL APPOINTMENT POSITIONS IN THE MARYLAND CORRECTIONAL ENTERPRISES ARE MANAGERIAL, SUPERVISORY, AND CONFIDENTIAL POSITIONS.

(c) Unless the employee is a special appointment, each office clerk and office secretary position in Maryland Correctional Enterprises is in the skilled service employment category of the State Personnel Management System.]

Article – State Government

6 - 105.

(a) (1) The Attorney General may employ a staff in accordance with the State budget.

(2) [Staff members] ASSISTANT ATTORNEYS GENERAL ATTORNEYS, POSITIONS THAT PROVIDE DIRECT SUPPORT TO THE ATTORNEY GENERAL, AND POSITIONS THAT PROVIDE DIRECT SUPPORT TO THE POSITIONS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, appointed under this subsection:

(i) notwithstanding any other law, and except as provided in paragraph (3) of this subsection, are deemed special appointments within the meaning of § 6–405(a) of the State Personnel and Pensions Article;

(ii) may not be determined to be special appointments under § 6–405(b) of the State Personnel and Pensions Article; and

(iii) serve at the pleasure of the Attorney General.

(3) The following positions are special appointments under § 6-405(b) of the State Personnel and Pensions Article:

- (i) Deputy Attorney General;
- (ii) special assistant to the Attorney General;
- (iii) executive counsel to the Attorney General;
- (iv) director or chief of a division or unit in the Office; and
- (v) principal counsel to a State unit.

(4) (i) Staff appointed under this subsection is entitled to compensation as provided in the State budget.

(ii) Unless the State budget provides otherwise, the salary of a Deputy Attorney General, assistant Attorney General, or special attorney appointed under this subsection is payable from the funds of the Office.

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

SECTION 2. AND BE IT FURTHER ENACTED, That an at-will position that is designated as a special appointment that is encumbered on the effective date of this Act and the status of which would change as a result of Section 1 of this Act shall remain an at-will position until the position becomes vacant.

<u>SECTION 3. AND BE IT FURTHER ENACTED, That for positions designated</u> as special appointments on June 30, 2012, the Office of the Attorney General shall retain the same recruitment authority that the office possessed on June 30, 2012.

SECTION $\frac{3}{2}$ <u>4.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 513

(Senate Bill 456)

AN ACT concerning

Health Insurance – Health Benefit Plan Premium Rate Review

FOR the purpose of prohibiting a carrier that issues or delivers a health benefit plan in the State from charging a premium to certain persons or changing a premium before the applicable premium rate or premium rate change is filed with and approved by the Maryland Insurance Commissioner; requiring any applicable premium rate or premium rate change to be filed with the Commissioner at least a certain period of time before its proposed effective date; requiring the Commissioner to require a carrier to provide certain information under certain circumstances; extending the period of time before the proposed effective date of a premium rate filing under certain circumstances; authorizing the Commissioner to authorize an earlier or later effective date of a premium rate filing; providing that a premium rate filing is deemed approved unless disapproved by the Commissioner within a certain period of time in accordance with certain provisions of law and certain regulations applicable to certain carriers; requiring the Commissioner to disapprove or modify a proposed premium rate filing under certain circumstances: requiring the Commissioner to consider certain factors in a certain manner in determining whether to disapprove or modify a premium rate filing; requiring each premium rate filing and any supporting information filed to be open to public inspection; authorizing a carrier to request a certain finding by the Commissioner; authorizing a person to obtain copies of a premium rate filing and any supporting information; authorizing the Commissioner to require a carrier to demonstrate that its premium rates and method for setting premium rates for a health benefit plan are not inadequate, unfairly discriminatory, or excessive in relation to benefits, notwithstanding the Commissioner's previous approval; requiring the Commissioner to issue a certain order to a carrier under certain circumstances; requiring the Commissioner to hold a hearing before issuing a certain order and to provide written notice of the hearing; providing that an order does not affect a certain health benefit plan; providing that each decision or finding of the Commissioner about premium rates is subject to judicial review; providing that a nonprofit health service plan and a health maintenance organization that offer a certain health benefit plan are subject to certain provisions of law; establishing the provisions of law that prevail if there is a conflict between certain provisions of law; providing for the application of this Act; defining certain terms; and generally relating to health benefit plan premium rate review under health insurance.

BY adding to

Article – Insurance

Section 11–601 through 11–603 to be under the new subtitle "Subtitle 6. Health Benefit Plan Premium Rate Review"

Annotated Code of Maryland (2011 Replacement Volume)

BY repealing and reenacting, with amendments, Article – Insurance Section 14–126(a) and (b)(3)

Annotated Code of Maryland

(2011 Replacement Volume)

BY repealing and reenacting, with amendments, Article – Health – General Section 19–713(a) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Insurance

SUBTITLE 6. HEALTH BENEFIT PLAN PREMIUM RATE REVIEW.

11-601.

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

- (B) "CARRIER" MEANS A PERSON THAT:
 - (1) OFFERS A HEALTH BENEFIT PLAN IN THE STATE; AND
 - (2) IS:
 - (I) AN INSURER;
 - (II) A NONPROFIT HEALTH SERVICE PLAN; OR
 - (III) A HEALTH MAINTENANCE ORGANIZATION.

(C) "CONTRACT HOLDER" MEANS A PERSON TO WHICH A CARRIER HAS ISSUED A HEALTH BENEFIT PLAN.

(D) (1) "HEALTH BENEFIT PLAN" MEANS:

(I) A HEALTH INSURANCE CONTRACT, A NONPROFIT HEALTH SERVICE PLAN CONTRACT, OR A HEALTH MAINTENANCE ORGANIZATION CONTRACT THAT INCLUDES BENEFITS FOR MEDICAL CARE; OR

(II) A CERTIFICATE OF HEALTH INSURANCE ISSUED OR DELIVERED TO A MARYLAND RESIDENT UNDER A CONTRACT ISSUED TO AN ASSOCIATION LOCATED IN THE STATE OR ANY OTHER STATE. (2) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE:

(I) ONE OR MORE, OR ANY COMBINATION OF THE FOLLOWING:

1. COVERAGE ONLY FOR ACCIDENT OR DISABILITY **INCOME INSURANCE;**

2. COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;

3. LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

4. WORKERS' COMPENSATION OR SIMILAR **INSURANCE;**

- 5. **AUTOMOBILE MEDICAL PAYMENT INSURANCE;**
- **6**. **CREDIT-ONLY INSURANCE;**
- 7. COVERAGE FOR ON-SITE MEDICAL CLINICS; AND

8. OTHER SIMILAR INSURANCE COVERAGE, AS SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO P.L. 104-191, UNDER WHICH BENEFITS FOR MEDICAL CARE ARE SECONDARY OR INCIDENTAL TO OTHER INSURANCE BENEFITS;

(II) THE FOLLOWING BENEFITS IF THEY ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE OR ARE OTHERWISE NOT AN INTEGRAL PART OF A HEALTH BENEFIT PLAN:

> 1. LIMITED SCOPE DENTAL OR VISION BENEFITS;

2. **BENEFITS FOR LONG-TERM CARE, NURSING HOME** CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION **OF THESE BENEFITS; AND**

3. OTHER SIMILAR LIMITED BENEFITS AS SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO P.L. 104–191;

(III) THE FOLLOWING BENEFITS IF OFFERED AS **INDEPENDENT, NONCOORDINATED BENEFITS:**

1. COVERAGE ONLY FOR A SPECIFIED DISEASE OR ILLNESS; AND

2. HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY INSURANCE; OR

(IV) THE FOLLOWING BENEFITS IF OFFERED AS A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE:

1. MEDICARE SUPPLEMENTAL HEALTH INSURANCE, AS DEFINED IN § 1882(G)(1) OF THE SOCIAL SECURITY ACT;

2. COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10, UNITED STATES CODE; AND

3. SIMILAR SUPPLEMENTAL COVERAGE PROVIDED TO COVERAGE UNDER AN EMPLOYER SPONSORED PLAN.

(E) "MEDICAL CARE" MEANS:

(1) ITEMS OR SERVICES FOR THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF A DISEASE, INJURY, OR CONDITION AFFECTING ANY STRUCTURE OR FUNCTION OF THE BODY; AND

(2) TRANSPORTATION PRIMARILY FOR AND ESSENTIAL TO MEDICAL CARE DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

11-602.

THIS SUBTITLE APPLIES TO A CARRIER THAT ISSUES OR DELIVERS A HEALTH BENEFIT PLAN IN THE STATE.

11-603.

(A) A CARRIER SUBJECT TO THIS SUBTITLE MAY NOT CHARGE A PREMIUM TO A CONTRACT HOLDER OR TO AN INDIVIDUAL COVERED UNDER A HEALTH BENEFIT PLAN BEFORE THE APPLICABLE PREMIUM RATE IS FILED WITH AND APPROVED BY THE COMMISSIONER.

(B) A CARRIER SUBJECT TO THIS SUBTITLE MAY NOT CHANGE THE PREMIUM CHARGED TO A CONTRACT HOLDER OR TO AN INDIVIDUAL COVERED UNDER A HEALTH BENEFIT PLAN UNTIL THE APPLICABLE PREMIUM RATE CHANGE HAS BEEN FILED WITH AND APPROVED BY THE COMMISSIONER. (C) (1) (1) ANY APPLICABLE PREMIUM RATE OR PREMIUM RATE CHANGE OF A CARRIER SUBJECT TO THIS SUBTITLE SHALL BE FILED WITH THE COMMISSIONER AT LEAST 90 DAYS BEFORE ITS PROPOSED EFFECTIVE DATE.

(II) IF THE PREMIUM RATES FILED ARE NOT ACCOMPANIED BY INFORMATION SUFFICIENT FOR THE COMMISSIONER TO DETERMINE WHETHER THE PREMIUM RATE FILING MEETS THE REQUIREMENTS OF THIS SUBTITLE, THE COMMISSIONER SHALL REQUIRE THE CARRIER TO PROVIDE THE NEEDED INFORMATION.

(III) IF THE COMMISSIONER REQUIRES ADDITIONAL INFORMATION, THE 90-DAY PERIOD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BEGIN AGAIN ON THE DATE THE REQUIRED INFORMATION IS RECEIVED BY THE COMMISSIONER.

(IV) ON WRITTEN APPLICATION BY THE CARRIER, THE COMMISSIONER MAY AUTHORIZE A PROPOSED PREMIUM RATE THAT THE COMMISSIONER HAS APPROVED TO BECOME EFFECTIVE:

1. BEFORE THE EXPIRATION OF THE 90-DAY REVIEW PERIOD OR ANY EXTENSION OF THE 90-DAY REVIEW PERIOD; OR

2. AT A LATER DATE.

(2) A PREMIUM RATE FILING IS DEEMED APPROVED UNLESS DISAPPROVED BY THE COMMISSIONER WITHIN THE 90-DAY PERIOD OR ANY EXTENSION OF THE 90-DAY PERIOD DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3):

(I) FOR INSURERS, IN ACCORDANCE WITH § 12–203 OF THIS ARTICLE AND REGULATIONS ADOPTED UNDER TITLE 31, SUBTITLE 10 OF THE CODE OF MARYLAND REGULATIONS;

(II) FOR NONPROFIT HEALTH SERVICE PLANS, IN ACCORDANCE WITH § 14–126 OF THIS ARTICLE; AND

(III) FOR HEALTH MAINTENANCE ORGANIZATIONS, IN ACCORDANCE WITH § 19–713 OF THE HEALTH – GENERAL ARTICLE AND REGULATIONS ADOPTED UNDER TITLE 31, SUBTITLE 12 OF THE CODE OF MARYLAND REGULATIONS. (2) (I) THE COMMISSIONER SHALL DISAPPROVE OR MODIFY A PROPOSED PREMIUM RATE FILING IF THE PROPOSED PREMIUM RATES APPEAR, BASED ON STATISTICAL ANALYSIS AND REASONABLE ASSUMPTIONS, TO BE INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS.

(II) IN DETERMINING WHETHER TO DISAPPROVE OR MODIFY A PREMIUM RATE FILING OF A CARRIER, THE COMMISSIONER SHALL CONSIDER, TO THE EXTENT APPROPRIATE:

1. PAST AND PROSPECTIVE LOSS EXPERIENCE IN AND OUTSIDE THE STATE;

2. UNDERWRITING PRACTICE AND JUDGMENT, TO THE EXTENT APPROPRIATE;

3. A REASONABLE MARGIN FOR RESERVE NEEDS;

4. PAST AND PROSPECTIVE EXPENSES, BOTH COUNTRYWIDE AND THOSE SPECIFICALLY APPLICABLE TO THE STATE; AND

5. ANY OTHER RELEVANT FACTORS IN AND OUTSIDE THE STATE.

(4) (3) (I) EACH PREMIUM RATE FILING AND ANY SUPPORTING INFORMATION FILED UNDER THIS SUBTITLE SHALL BE OPEN TO PUBLIC INSPECTION AS SOON AS FILED.

(II) <u>A CARRIER MAY REQUEST A FINDING BY THE</u> <u>COMMISSIONER THAT CERTAIN INFORMATION FILED WITH THE COMMISSIONER</u> <u>BE CONSIDERED CONFIDENTIAL COMMERCIAL INFORMATION UNDER §</u> <u>10–617(D) OF THE STATE GOVERNMENT ARTICLE AND NOT SUBJECT TO PUBLIC</u> <u>INSPECTION.</u>

(III) ON REQUEST AND PAYMENT OF A REASONABLE FEE, A PERSON MAY OBTAIN COPIES OF A PREMIUM RATE FILING AND ANY SUPPORTING INFORMATION.

(D) NOTWITHSTANDING THE COMMISSIONER'S PREVIOUS APPROVAL OF A PREMIUM RATE FILING OF A CARRIER SUBJECT TO THIS SECTION, THE COMMISSIONER, AT ANY TIME, MAY REQUIRE THE CARRIER TO DEMONSTRATE THAT, BASED ON STATISTICAL ANALYSIS AND REASONABLE ASSUMPTIONS AND CONSIDERING THE FACTORS LISTED IN SUBSECTION (C)(2) (C)(2) OF THIS SECTION, ITS PREMIUM RATES FOR A HEALTH BENEFIT PLAN ARE NOT

INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS.

(E) (1) IF, AFTER THE APPLICABLE REVIEW PERIOD ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER FINDS THAT THE PREMIUM RATES IN A PREMIUM RATE FILING OF A CARRIER SUBJECT TO THIS SECTION ARE INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE, AS DETERMINED UNDER SUBSECTION (C)(2) OF THIS SECTION, THE COMMISSIONER SHALL ISSUE TO THE CARRIER AN ORDER THAT:

(I) SPECIFIES THE REASONS WHY THE PREMIUM RATE FILING WAS NOT APPROVED IS INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS UNDER SUBSECTION (C)(3) (C)(2) OF THIS SECTION; AND

(II) STATES WHEN, WITHIN A REASONABLE PERIOD AFTER THE ORDER, THE PREMIUM RATE FILING WILL NO LONGER BE EFFECTIVE.

(2) (I) THE COMMISSIONER SHALL HOLD A HEARING BEFORE ISSUING AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF THE HEARING TO THE CARRIER AT LEAST 10 DAYS BEFORE THE HEARING.

(III) THE WRITTEN NOTICE SHALL SPECIFY THE MATTERS TO BE CONSIDERED AT THE HEARING.

(3) AN ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT AFFECT A HEALTH BENEFIT PLAN ISSUED OR DELIVERED BEFORE THE EXPIRATION OF THE PERIOD STATED IN THE ORDER.

(F) EACH DECISION OR FINDING OF THE COMMISSIONER ABOUT PREMIUM RATES MADE UNDER THIS SUBTITLE IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH SUBTITLE 5 OF THIS TITLE.

14 - 126.

(a) (1) A corporation subject to this subtitle may not amend its certificate of incorporation, bylaws, or the terms and provisions of contracts issued or proposed to be issued to subscribers to the plan until the proposed amendments have been submitted to and approved by the Commissioner and the applicable fees required by 2–112 of this article have been paid.

(2) (I) A corporation subject to this subtitle may not change the table of rates charged or proposed to be charged to subscribers for a form of contract

issued or to be issued for health care services until the proposed change has been submitted to and approved by the Commissioner.

(II) 1. A NONPROFIT HEALTH SERVICE PLAN THAT OFFERS A HEALTH BENEFIT PLAN, AS DEFINED IN § 11–601 OF THIS ARTICLE, IS SUBJECT TO TITLE 11, SUBTITLE 6 OF THIS ARTICLE FOR THE HEALTH BENEFIT PLAN.

2. IF THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THIS ARTICLE CONFLICT WITH THE PROVISIONS OF THIS SECTION, THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THIS ARTICLE SHALL PREVAIL.

(3) The Commissioner shall approve an amendment to the articles of incorporation or bylaws under paragraph (1) of this subsection unless the Commissioner determines the amendment is contrary to the public interest.

(b) (3) (i) The Commissioner shall disapprove or modify the proposed change if:

<u>1.</u> <u>the table of rates appears by statistical analysis and</u> reasonable assumptions to be **INADEQUATE**, **UNFAIRLY DISCRIMINATORY**, **OR** <u>excessive in relation to benefits; or</u>

<u>2.</u> <u>the form contains provisions that are unjust, unfair,</u> <u>inequitable, inadequate, misleading, or deceptive or encourage misrepresentations of</u> <u>the coverage.</u>

(ii) In determining whether to disapprove or modify the form or table of rates, the Commissioner shall consider, **TO THE EXTENT APPROPRIATE**:

<u>1. past and prospective loss experience within and</u> <u>outside the State;</u>

appropriate];

- 2. <u>underwriting practice and judgment [to the extent</u>
- <u>3.</u> <u>a reasonable margin for reserve needs;</u>

<u>4.</u> <u>past and prospective expenses, both countrywide and</u> <u>those specifically applicable to the State; and</u>

5. <u>any other relevant factors within and outside the</u> State.

Article – Health – General

3475

19-713.

(a) (1) Each health maintenance organization shall file with the Commissioner and pay the applicable filing fee as provided in § 2-112 of the Insurance Article, before they become effective:

[(1)] (I) All rates that the health maintenance organization charges subscribers or groups of subscribers; and

[(2)] (II) The form and content of each contract between the health maintenance organization and its subscribers or groups of subscribers.

(2) (I) A HEALTH MAINTENANCE ORGANIZATION THAT OFFERS A HEALTH BENEFIT PLAN, AS DEFINED IN § 11–601 OF THE INSURANCE ARTICLE, IS SUBJECT TO TITLE 11, SUBTITLE 6 OF THE INSURANCE ARTICLE FOR THE HEALTH BENEFIT PLAN.

(II) IF THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THE INSURANCE ARTICLE CONFLICT WITH THE PROVISIONS OF THIS SECTION, THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THE INSURANCE ARTICLE SHALL PREVAIL.

SECTION 2. AND BE IT FURTHER ENACTED, <u>That this Act shall apply to all</u> <u>health benefit plan rate filings received by the Maryland Insurance Commissioner on</u> <u>or after the effective date of this Act.</u>

<u>SECTION 3. AND BE IT FURTHER ENACTED</u>, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 514

(House Bill 465)

AN ACT concerning

Health Insurance – Health Benefit Plan Premium Rate Review

FOR the purpose of prohibiting a carrier that issues or delivers a health benefit plan in the State from charging a premium to certain persons or changing a premium before the applicable premium rate or premium rate change is filed with and approved by the Maryland Insurance Commissioner; requiring any applicable premium rate or premium rate change to be filed with the Commissioner at

least a certain period of time before its proposed effective date; requiring the Commissioner to require a carrier to provide certain information under certain circumstances: extending the period of time before the proposed effective date of a premium rate filing under certain circumstances; authorizing the Commissioner to authorize an earlier or later effective date of a premium rate filing; providing that a premium rate filing is deemed approved unless disapproved by the Commissioner within a certain period of time in accordance with certain provisions of law and certain regulations applicable to certain carriers; requiring the Commissioner to disapprove or modify a proposed premium rate filing under certain circumstances; requiring the Commissioner to consider certain factors in a certain manner in determining whether to disapprove or modify a premium rate filing; requiring each premium rate filing and any supporting information filed to be open to public inspection; authorizing a carrier to request a certain finding by the Commissioner; authorizing a person to obtain copies of a premium rate filing and any supporting information; authorizing the Commissioner to require a carrier to demonstrate that its premium rates and method for setting premium rates for a health benefit plan are not inadequate, unfairly discriminatory, or excessive in relation to benefits, notwithstanding the Commissioner's previous approval; requiring the Commissioner to issue a certain order to a carrier under certain circumstances; requiring the Commissioner to hold a hearing before issuing a certain order and to provide written notice of the hearing; providing that an order does not affect a certain health benefit plan; providing that each decision or finding of the Commissioner about premium rates is subject to judicial review; providing that a nonprofit health service plan and a health maintenance organization that offer a certain health benefit plan are subject to certain provisions of law; establishing the provisions of law that prevail if there is a conflict between certain provisions of law; providing for the application of this Act; defining certain terms; and generally relating to health benefit plan premium rate review under health insurance.

BY adding to

Article – Insurance

Section 11–601 through 11–603 to be under the new subtitle "Subtitle 6. Health Benefit Plan Premium Rate Review"

Annotated Code of Maryland

(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Insurance Section 14–126(a) <u>and (b)(3)</u> Annotated Code of Maryland (2011 Replacement Volume)

BY repealing and reenacting, with amendments, Article – Health – General Section 19–713(a) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Insurance

SUBTITLE 6. HEALTH BENEFIT PLAN PREMIUM RATE REVIEW.

11-601.

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

- (B) "CARRIER" MEANS A PERSON THAT:
 - (1) OFFERS A HEALTH BENEFIT PLAN IN THE STATE; AND
 - (2) IS:
 - (I) AN INSURER;
 - (II) A NONPROFIT HEALTH SERVICE PLAN; OR
 - (III) A HEALTH MAINTENANCE ORGANIZATION.

(C) "CONTRACT HOLDER" MEANS A PERSON TO WHICH A CARRIER HAS ISSUED A HEALTH BENEFIT PLAN.

(D) (1) "HEALTH BENEFIT PLAN" MEANS:

(I) A HEALTH INSURANCE CONTRACT, A NONPROFIT HEALTH SERVICE PLAN CONTRACT, OR A HEALTH MAINTENANCE ORGANIZATION CONTRACT THAT INCLUDES BENEFITS FOR MEDICAL CARE; OR

(II) A CERTIFICATE OF HEALTH INSURANCE ISSUED OR DELIVERED TO A MARYLAND RESIDENT UNDER A CONTRACT ISSUED TO AN ASSOCIATION LOCATED IN THE STATE OR ANY OTHER STATE.

(2) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE:

(I) ONE OR MORE, OR ANY COMBINATION OF THE FOLLOWING:

COVERAGE ONLY FOR ACCIDENT OR DISABILITY 1. **INCOME INSURANCE;**

2. COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;

3. LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;

4. WORKERS' COMPENSATION OR SIMILAR **INSURANCE;**

> 5. **AUTOMOBILE MEDICAL PAYMENT INSURANCE;**

6. **CREDIT-ONLY INSURANCE;**

7. COVERAGE FOR ON-SITE MEDICAL CLINICS; AND

8. OTHER SIMILAR INSURANCE COVERAGE, AS SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO P.L. 104–191. UNDER WHICH BENEFITS FOR MEDICAL CARE ARE SECONDARY OR INCIDENTAL TO OTHER INSURANCE BENEFITS;

THE FOLLOWING BENEFITS IF THEY ARE PROVIDED **(II)** UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE OR ARE OTHERWISE NOT AN INTEGRAL PART OF A HEALTH BENEFIT PLAN:

> 1. LIMITED SCOPE DENTAL OR VISION BENEFITS;

2. BENEFITS FOR LONG-TERM CARE, NURSING HOME CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION **OF THESE BENEFITS; AND**

3. **OTHER SIMILAR LIMITED BENEFITS AS SPECIFIED** IN FEDERAL REGULATIONS ISSUED PURSUANT TO P.L. 104–191;

(III) THE FOLLOWING IF OFFERED AS BENEFITS INDEPENDENT, NONCOORDINATED BENEFITS:

1. COVERAGE ONLY FOR A SPECIFIED DISEASE OR **ILLNESS; AND**

2. HOSPITAL INDEMNITY OR OTHER FIXED **INDEMNITY INSURANCE; OR**

(IV) THE FOLLOWING BENEFITS IF OFFERED AS A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE:

1. MEDICARE SUPPLEMENTAL HEALTH INSURANCE, AS DEFINED IN § 1882(G)(1) OF THE SOCIAL SECURITY ACT;

2. COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10, UNITED STATES CODE; AND

3. SIMILAR SUPPLEMENTAL COVERAGE PROVIDED TO COVERAGE UNDER AN EMPLOYER SPONSORED PLAN.

(E) "MEDICAL CARE" MEANS:

(1) ITEMS OR SERVICES FOR THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF A DISEASE, INJURY, OR CONDITION AFFECTING ANY STRUCTURE OR FUNCTION OF THE BODY; AND

(2) TRANSPORTATION PRIMARILY FOR AND ESSENTIAL TO MEDICAL CARE DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

11-602.

THIS SUBTITLE APPLIES TO A CARRIER THAT ISSUES OR DELIVERS A HEALTH BENEFIT PLAN IN THE STATE.

11-603.

(A) A CARRIER SUBJECT TO THIS SUBTITLE MAY NOT CHARGE A PREMIUM TO A CONTRACT HOLDER OR TO AN INDIVIDUAL COVERED UNDER A HEALTH BENEFIT PLAN BEFORE THE APPLICABLE PREMIUM RATE IS FILED WITH AND APPROVED BY THE COMMISSIONER.

(B) A CARRIER SUBJECT TO THIS SUBTITLE MAY NOT CHANGE THE PREMIUM CHARGED TO A CONTRACT HOLDER OR TO AN INDIVIDUAL COVERED UNDER A HEALTH BENEFIT PLAN UNTIL THE APPLICABLE PREMIUM RATE CHANGE HAS BEEN FILED WITH AND APPROVED BY THE COMMISSIONER.

(C) (1) (1) ANY APPLICABLE PREMIUM RATE OR PREMIUM RATE CHANGE OF A CARRIER SUBJECT TO THIS SUBTITLE SHALL BE FILED WITH THE COMMISSIONER AT LEAST 90 DAYS BEFORE ITS PROPOSED EFFECTIVE DATE.

(II) IF THE PREMIUM RATES FILED ARE NOT ACCOMPANIED BY INFORMATION SUFFICIENT FOR THE COMMISSIONER TO DETERMINE WHETHER THE PREMIUM RATE FILING MEETS THE REQUIREMENTS OF THIS SUBTITLE, THE COMMISSIONER SHALL REQUIRE THE CARRIER TO PROVIDE THE **NEEDED INFORMATION.**

(III) IF THE COMMISSIONER REQUIRES ADDITIONAL INFORMATION, THE 90-DAY PERIOD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BEGIN AGAIN ON THE DATE THE REQUIRED INFORMATION IS RECEIVED BY THE COMMISSIONER.

(IV) ON WRITTEN APPLICATION BY THE CARRIER. THE COMMISSIONER MAY AUTHORIZE A PROPOSED PREMIUM RATE THAT THE **COMMISSIONER HAS APPROVED TO BECOME EFFECTIVE:**

BEFORE THE EXPIRATION OF THE 90-DAY REVIEW 1. PERIOD OR ANY EXTENSION OF THE 90-DAY REVIEW PERIOD: OR

> 2 AT A LATER DATE.

A PREMIUM RATE FILING IS DEEMED APPROVED UNLESS (2) DISAPPROVED BY THE COMMISSIONER WITHIN THE 90-DAY PERIOD OR ANY EXTENSION OF THE 90-DAY PERIOD DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3):

FOR INSURERS, IN ACCORDANCE WITH § 12–203 OF THIS **(I)** ARTICLE AND REGULATIONS ADOPTED UNDER TITLE 31, SUBTITLE 10 OF THE **CODE OF MARYLAND REGULATIONS:**

(II) FOR NONPROFIT HEALTH SERVICE PLANS, IN ACCORDANCE WITH § 14–126 OF THIS ARTICLE; AND

(III) FOR HEALTH MAINTENANCE ORGANIZATIONS, IN ACCORDANCE WITH § 19-713 OF THE HEALTH - GENERAL ARTICLE AND REGULATIONS ADOPTED UNDER TITLE 31, SUBTITLE 12 OF THE CODE OF MARYLAND REGULATIONS.

THE COMMISSIONER SHALL DISAPPROVE OR MODIFY A (2) **(I)** PROPOSED PREMIUM RATE FILING IF THE PROPOSED PREMIUM RATES APPEAR, BASED ON STATISTICAL ANALYSIS AND REASONABLE ASSUMPTIONS, TO BE INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS.

(II) IN DETERMINING WHETHER TO DISAPPROVE OR MODIFY A PREMIUM RATE FILING OF A CARRIER, THE COMMISSIONER SHALL CONSIDER, TO THE EXTENT APPROPRIATE:

1. PAST AND PROSPECTIVE LOSS EXPERIENCE IN AND OUTSIDE THE STATE;

2. UNDERWRITING PRACTICE AND JUDGMENT, TO THE EXTENT APPROPRIATE;

3. A REASONABLE MARGIN FOR RESERVE NEEDS;

4. PAST AND PROSPECTIVE EXPENSES, BOTH COUNTRYWIDE AND THOSE SPECIFICALLY APPLICABLE TO THE STATE; AND

5. ANY OTHER RELEVANT FACTORS IN AND OUTSIDE THE STATE.

(4) (3) (I) EACH PREMIUM RATE FILING AND ANY SUPPORTING INFORMATION FILED UNDER THIS SUBTITLE SHALL BE OPEN TO PUBLIC INSPECTION AS SOON AS FILED.

(II) <u>A CARRIER MAY REQUEST A FINDING BY THE</u> <u>COMMISSIONER THAT CERTAIN INFORMATION FILED WITH THE COMMISSIONER</u> <u>BE CONSIDERED CONFIDENTIAL COMMERCIAL INFORMATION UNDER §</u> <u>10–617(D) OF THE STATE GOVERNMENT ARTICLE AND NOT SUBJECT TO PUBLIC</u> <u>INSPECTION.</u>

(III) ON REQUEST AND PAYMENT OF A REASONABLE FEE, A PERSON MAY OBTAIN COPIES OF A PREMIUM RATE FILING AND ANY SUPPORTING INFORMATION.

(D) NOTWITHSTANDING THE COMMISSIONER'S PREVIOUS APPROVAL OF A PREMIUM RATE FILING OF A CARRIER SUBJECT TO THIS SECTION, THE COMMISSIONER, AT ANY TIME, MAY REQUIRE THE CARRIER TO DEMONSTRATE THAT, BASED ON STATISTICAL ANALYSIS AND REASONABLE ASSUMPTIONS AND CONSIDERING THE FACTORS LISTED IN SUBSECTION (C)(2) OF THIS SECTION, ITS PREMIUM RATES FOR A HEALTH BENEFIT PLAN ARE NOT INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS.

(E) (1) IF, AFTER THE APPLICABLE REVIEW PERIOD ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER FINDS THAT THE PREMIUM RATES IN A PREMIUM RATE FILING OF A CARRIER SUBJECT TO THIS SECTION ARE <u>INADEQUATE</u>, <u>UNFAIRLY DISCRIMINATORY</u>, <u>OR</u> EXCESSIVE, AS DETERMINED UNDER SUBSECTION (C)(3) <u>(C)(2)</u> OF THIS SECTION, THE COMMISSIONER SHALL ISSUE TO THE CARRIER AN ORDER THAT:

(I) SPECIFIES THE REASONS WHY THE PREMIUM RATE FILING WAS NOT APPROVED IS INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS UNDER SUBSECTION (C)(3) (C)(2) OF THIS SECTION; AND

(II) STATES WHEN, WITHIN A REASONABLE PERIOD AFTER THE ORDER, THE PREMIUM RATE FILING WILL NO LONGER BE EFFECTIVE.

(2) (I) THE COMMISSIONER SHALL HOLD A HEARING BEFORE ISSUING AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF THE HEARING TO THE CARRIER AT LEAST 10 DAYS BEFORE THE HEARING.

(III) THE WRITTEN NOTICE SHALL SPECIFY THE MATTERS TO BE CONSIDERED AT THE HEARING.

(3) AN ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT AFFECT A HEALTH BENEFIT PLAN ISSUED OR DELIVERED BEFORE THE EXPIRATION OF THE PERIOD STATED IN THE ORDER.

(F) EACH DECISION OR FINDING OF THE COMMISSIONER ABOUT PREMIUM RATES MADE UNDER THIS SUBTITLE IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH SUBTITLE 5 OF THIS TITLE.

14 - 126.

(a) (1) A corporation subject to this subtitle may not amend its certificate of incorporation, bylaws, or the terms and provisions of contracts issued or proposed to be issued to subscribers to the plan until the proposed amendments have been submitted to and approved by the Commissioner and the applicable fees required by 2–112 of this article have been paid.

(2) (I) A corporation subject to this subtitle may not change the table of rates charged or proposed to be charged to subscribers for a form of contract issued or to be issued for health care services until the proposed change has been submitted to and approved by the Commissioner.

(II) 1. A NONPROFIT HEALTH SERVICE PLAN THAT OFFERS A HEALTH BENEFIT PLAN, AS DEFINED IN § 11–601 OF THIS ARTICLE, IS

SUBJECT TO TITLE 11, SUBTITLE 6 OF THIS ARTICLE FOR THE HEALTH BENEFIT PLAN.

2. IF THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THIS ARTICLE CONFLICT WITH THE PROVISIONS OF THIS SECTION, THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THIS ARTICLE SHALL PREVAIL.

(3) The Commissioner shall approve an amendment to the articles of incorporation or bylaws under paragraph (1) of this subsection unless the Commissioner determines the amendment is contrary to the public interest.

(b) (3) (i) The Commissioner shall disapprove or modify the proposed change if:

<u>1.</u> <u>the table of rates appears by statistical analysis and</u> reasonable assumptions to be **INADEQUATE**, **UNFAIRLY DISCRIMINATORY**, **OR** <u>excessive in relation to benefits; or</u>

<u>2.</u> <u>the form contains provisions that are unjust, unfair,</u> <u>inequitable, inadequate, misleading, or deceptive or encourage misrepresentations of</u> <u>the coverage.</u>

(ii) In determining whether to disapprove or modify the form or table of rates, the Commissioner shall consider, TO THE EXTENT APPROPRIATE:

outside the State;	<u>1.</u>	past and prospective loss experience within and
<u>appropriate];</u>	<u>2.</u>	underwriting practice and judgment [to the extent
	<u>3.</u>	<u>a reasonable margin for reserve needs;</u>
<u>4.</u> <u>past and prospective expenses, both countrywide and</u> <u>those specifically applicable to the State; and</u>		
<u>State.</u>	<u>5.</u>	any other relevant factors within and outside the

Article – Health – General

19-713.

(a) (1) Each health maintenance organization shall file with the Commissioner and pay the applicable filing fee as provided in § 2-112 of the Insurance Article, before they become effective:

[(1)] (I) All rates that the health maintenance organization charges subscribers or groups of subscribers; and

[(2)] (II) The form and content of each contract between the health maintenance organization and its subscribers or groups of subscribers.

(2) (I) A HEALTH MAINTENANCE ORGANIZATION THAT OFFERS A HEALTH BENEFIT PLAN, AS DEFINED IN § 11–601 OF THE INSURANCE ARTICLE, IS SUBJECT TO TITLE 11, SUBTITLE 6 OF THE INSURANCE ARTICLE FOR THE HEALTH BENEFIT PLAN.

(II) IF THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THE INSURANCE ARTICLE CONFLICT WITH THE PROVISIONS OF THIS SECTION, THE PROVISIONS OF TITLE 11, SUBTITLE 6 OF THE INSURANCE ARTICLE SHALL PREVAIL.

SECTION 2. AND BE IT FURTHER ENACTED, <u>That this Act shall apply to all</u> <u>health benefit plan rate filings received by the Maryland Insurance Commissioner on</u> <u>or after the effective date of this Act.</u>

<u>SECTION 3. AND BE IT FURTHER ENACTED</u>, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 515

(Senate Bill 463)

AN ACT concerning

Local Government Self-Insurance Funds – Exclusion from Investment Guidelines

FOR the purpose of altering the definition of "public funds", as it relates to certain local government investment guidelines, to exclude certain funds held by certain local governments for self-insurance purposes; and generally relating to public funds subject to local government investment guidelines.

BY repealing and reenacting, without amendments, Article 95 – Treasurer Section 22F(a)(1) and (6) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article 95 – Treasurer Section 22F(a)(7) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article 95 – Treasurer

22F.

- (a) (1) In this section the following words have the meanings indicated.
 - (6) "Local government unit" means:
 - (i) Baltimore City;
 - (ii) A community college;
 - (iii) A county;
 - (iv) A municipal corporation;
 - (v) The Washington Suburban Sanitary Commission;
 - (vi) A public corporation authorized to issue debt; or
 - (vii) An authority of the State authorized to issue debt.

(7) (i) "Public funds" means any revenue held by a local government unit as part of:

- 1. A general fund;
- 2. A special fund;
- 3. A capital improvement fund;
- 4. A debt service fund;
- 5. An enterprise fund;
- 6. An internal service fund; or

7. Except as otherwise provided in subparagraph (ii) of this paragraph, any other account of the local government unit.

(ii) "Public funds" does not include revenues held as part of a pension fund, other postemployment benefits fund, [or] trust fund account, OR FOR SELF-INSURANCE PURPOSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 516

(House Bill 174)

AN ACT concerning

Local Government Self-Insurance Funds – Investment Guidelines

FOR the purpose of altering the definition of "public funds", as it relates to certain local government investment guidelines, to exclude certain funds held by certain local governments for self-insurance purposes; and generally relating to public funds subject to local government investment guidelines.

BY repealing and reenacting, without amendments,

Article 95 – Treasurer Section 22F(a)(1) and (6) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article 95 – Treasurer Section 22F(a)(7) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article 95 – Treasurer

22F.

Martin O'Malley, Governor

- (a) (1) In this section the following words have the meanings indicated.
 - (6) "Local government unit" means:
 - (i) Baltimore City;
 - (ii) A community college;
 - (iii) A county;
 - (iv) A municipal corporation;
 - (v) The Washington Suburban Sanitary Commission;
 - (vi) A public corporation authorized to issue debt; or
 - (vii) An authority of the State authorized to issue debt.

(7) (i) "Public funds" means any revenue held by a local government unit as part of:

- 1. A general fund;
- 2. A special fund;
- 3. A capital improvement fund;
- 4. A debt service fund;
- 5. An enterprise fund;
- 6. An internal service fund; or

7. Except as otherwise provided in subparagraph (ii) of this paragraph, any other account of the local government unit.

(ii) "Public funds" does not include revenues held as part of a pension fund, other postemployment benefits fund, [or] trust fund account, OR FOR SELF-INSURANCE PURPOSES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 517

(Senate Bill 474)

AN ACT concerning

State Board of Professional Counselors and Therapists – Certified Professional Counselor–Alcohol and Drug – Repeal

FOR the purpose of repealing certain provisions of law relating to the requirements that must be met to qualify as a certified professional counselor-alcohol and drug; repealing a certain requirement that the State Board of Professional Counselors and Therapists grant a certain waiver to certain applicants; prohibiting the Board from placing a certified professional counselor-alcohol and drug on inactive status; prohibiting the Board from reinstating the certificate of a certified professional counselor-alcohol and drug under certain circumstances; providing that this Act may not be construed to invalidate certain certificates or to prohibit certain renewals; and generally relating to the repeal of the certified professional counselor-alcohol and drug certificate.

BY repealing

Article – Health Occupations Section 17–402 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations Section 17–405 and 17–505 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 17–402 of Article – Health Occupations of the Annotated Code of Maryland be repealed.

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

Article – Health Occupations

17 - 405.

(a) The Board shall waive the requirements for certification for an applicant to practice alcohol and drug counseling if the applicant meets the requirements of this section.

[(b) If the applicant is licensed or certified to practice as a professional counselor-alcohol and drug, the Board shall grant a waiver under this section only if the applicant:

(1) Is licensed or certified in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17-402 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

(c)] (B) If the applicant is licensed or certified to practice as an associate counselor-alcohol and drug, the Board shall grant a waiver under this section only if the applicant:

(1) Is licensed or certified in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17-403 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

[(d)] (C) If the applicant is licensed or certified to practice as a supervised counselor-alcohol and drug, the Board shall grant a waiver under this section only if the applicant:

(1) Is licensed or certified in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17-404 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

[(e)] (D) The Board shall adopt regulations to carry out this section.

17 - 505.

(a) (1) Except as provided in paragraph (3) of this subsection, the Board shall place a licensee or certificate holder on inactive status, if the licensee or certificate holder:

(ii) Pays the inactive status fee set by the Board.

(2) The Board shall issue a license or certificate to an individual who is on inactive status if the individual complies with the renewal requirements that are in effect when the individual requests the renewal of the license or certificate.

(3) The Board may not place A **CERTIFIED PROFESSIONAL COUNSELOR-ALCOHOL AND DRUG**, a certified professional counselor-marriage and family therapist, or a certified professional counselor on inactive status.

(b) (1) Except as provided in paragraph (2) of this subsection, the Board, in accordance with its regulations, may reinstate the license of a licensee or the certificate of a certificate holder who has failed to renew the license or certificate for any reason.

(2) The Board may not reinstate the certificate of A CERTIFIED PROFESSIONAL COUNSELOR-ALCOHOL AND DRUG, a certified professional counselor-marriage and family therapist, or certified professional counselor who has failed to renew the certificate for any reason.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed to invalidate a certificate issued by the State Board of Professional Counselors and Therapists to a certified professional counselor-alcohol and drug before the effective date of this Act or to prohibit the timely renewal by the Board of a valid certificate.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 518

(House Bill 348)

AN ACT concerning

State Board of Professional Counselors and Therapists – Certified Professional Counselor–Alcohol and Drug – Repeal FOR the purpose of repealing certain provisions of law relating to the requirements that must be met to qualify as a certified professional counselor-alcohol and drug; repealing a certain requirement that the State Board of Professional Counselors and Therapists grant a certain waiver to certain applicants; prohibiting the Board from placing a certified professional counselor-alcohol and drug on inactive status; prohibiting the Board from reinstating the certificate of a certified professional counselor-alcohol and drug under certain circumstances; providing that this Act may not be construed to invalidate certain certificates or to prohibit certain renewals; and generally relating to the repeal of the certified professional counselor-alcohol and drug certificate.

BY repealing

Article – Health Occupations Section 17–402 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations Section 17–405 and 17–505 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 17–402 of Article – Health Occupations of the Annotated Code of Maryland be repealed.

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

Article – Health Occupations

17 - 405.

(a) The Board shall waive the requirements for certification for an applicant to practice alcohol and drug counseling if the applicant meets the requirements of this section.

[(b) If the applicant is licensed or certified to practice as a professional counselor-alcohol and drug, the Board shall grant a waiver under this section only if the applicant:

(1) Is licensed or certified in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17-402 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

(c)] (B) If the applicant is licensed or certified to practice as an associate counselor-alcohol and drug, the Board shall grant a waiver under this section only if the applicant:

(1) Is licensed or certified in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of 17–403 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

[(d)] (C) If the applicant is licensed or certified to practice as a supervised counselor-alcohol and drug, the Board shall grant a waiver under this section only if the applicant:

(1) Is licensed or certified in another state, territory, or jurisdiction that has requirements that are equivalent to or exceed the requirements of § 17-404 of this subtitle;

(2) Submits an application to the Board on a form that the Board requires; and

(3) Pays to the Board an application fee set by the Board.

[(e)] (D) The Board shall adopt regulations to carry out this section.

17 - 505.

(a) (1) Except as provided in paragraph (3) of this subsection, the Board shall place a licensee or certificate holder on inactive status, if the licensee or certificate holder:

(i) Submits to the Board an application for inactive status on the form required by the Board; and

(ii) Pays the inactive status fee set by the Board.

(2) The Board shall issue a license or certificate to an individual who is on inactive status if the individual complies with the renewal requirements that are in effect when the individual requests the renewal of the license or certificate. (3) The Board may not place A CERTIFIED PROFESSIONAL COUNSELOR-ALCOHOL AND DRUG, a certified professional counselor-marriage and family therapist, or a certified professional counselor on inactive status.

(b) (1) Except as provided in paragraph (2) of this subsection, the Board, in accordance with its regulations, may reinstate the license of a licensee or the certificate of a certificate holder who has failed to renew the license or certificate for any reason.

(2) The Board may not reinstate the certificate of A CERTIFIED PROFESSIONAL COUNSELOR-ALCOHOL AND DRUG, a certified professional counselor-marriage and family therapist, or certified professional counselor who has failed to renew the certificate for any reason.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed to invalidate a certificate issued by the State Board of Professional Counselors and Therapists to a certified professional counselor–alcohol and drug before the effective date of this Act or to prohibit the timely renewal by the Board of a valid certificate.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 519

(Senate Bill 476)

AN ACT concerning

State Government – Financial Education and Capability Commission

FOR the purpose of establishing the Financial Education and Capability Commission; providing for the composition, co-chairs, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to meet at least a certain number of times each year; requiring the Commission to monitor the implementation of public and private initiatives to improve the financial education and capability of residents of the State and to make recommendations regarding certain matters; requiring the Commission to make certain reports to the Governor and the General Assembly on or before a certain date each year; defining a certain term; specifying the terms of the initial appointed members of the Commission; and generally relating to the Financial Education and Capability Commission.

BY adding to

Article – State Government Section 9–801 through 9–804 to be under the new subtitle "Subtitle 8. Financial Education and Capability Commission" Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – State Government

SUBTITLE 8. FINANCIAL EDUCATION AND CAPABILITY COMMISSION.

9-801.

IN THIS SUBTITLE, "COMMISSION" MEANS THE FINANCIAL EDUCATION AND CAPABILITY COMMISSION.

9-802.

THERE IS A FINANCIAL EDUCATION AND CAPABILITY COMMISSION.

9-803.

(A) 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 STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;

(4) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(5) THE COMMISSIONER OF FINANCIAL REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, OR THE COMMISSIONER'S DESIGNEE;

(6) THE EXECUTIVE DIRECTOR OF THE FAMILY INVESTMENT ADMINISTRATION IN THE DEPARTMENT OF HUMAN RESOURCES, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(7) THE CHIEF OF THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL, OR THE CHIEF'S DESIGNEE;

(8) THE STATE TREASURER, OR THE STATE TREASURER'S DESIGNEE;

(9) THE COMPTROLLER, OR THE COMPTROLLER'S DESIGNEE; AND

(10) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(I) ONE MEMBER OF THE BOARD OF TRUSTEES OF THE MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS;

(II) ONE MEMBER OF THE COLLEGE SAVINGS PLANS OF MARYLAND BOARD;

(III) ONE MEMBER OF THE MARYLAND HIGHER EDUCATION COMMISSION;

(IV) ONE MEMBER OF THE MARYLAND STATE EDUCATION ASSOCIATION WHO TEACHES A COURSE INVOLVING PRINCIPLES OF FINANCIAL EDUCATION;

(V) ONE REPRESENTATIVE OF THE MARYLAND CASH CAMPAIGN;

(VI) ONE REPRESENTATIVE OF A COMMUNITY-FOCUSED NONPROFIT ORGANIZATION THAT PROVIDES FREE FINANCIAL EDUCATION IN THE STATE;

(VII) ONE REPRESENTATIVE OF A PHILANTHROPIC ORGANIZATION THAT PROVIDES FUNDING FOR FINANCIAL EDUCATION IN THE STATE;

(VIII) ONE REPRESENTATIVE OF THE MARYLAND COUNCIL ON ECONOMIC EDUCATION OR THE MARYLAND COALITION FOR FINANCIAL LITERACY;

(IX) ONE REPRESENTATIVE OF A BANK, WHETHER OR NOT STATE-CHARTERED, THAT HAS A BRANCH IN THE STATE;

(X) ONE REPRESENTATIVE OF A CREDIT UNION, WHETHER OR NOT STATE-CHARTERED, THAT HAS A BRANCH IN THE STATE;

(XI) ONE LICENSED MORTGAGE BROKER HOLDING THE MARYLAND ASSOCIATION OF MORTGAGE BROKERS' "LENDING SEAL OF **INTEGRITY"; AND**

(XII) ONE MEMBER OF THE MARYLAND ASSOCIATION OF CPAS.

(B) (1) THE TERM OF AN APPOINTED MEMBER OF THE COMMISSION IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR APPOINTED MEMBERS OF THE COMMISSION ON OCTOBER 1, 2012.

AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES (3) TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(1) THE PRESIDENT OF THE SENATE SHALL DESIGNATE ONE OF **(C)** THE MEMBERS APPOINTED FROM THE SENATE AS CO-CHAIR OF THE COMMISSION.

THE SPEAKER OF THE HOUSE OF DELEGATES SHALL (2) DESIGNATE ONE OF THE MEMBERS APPOINTED FROM THE HOUSE AS CO-CHAIR OF THE COMMISSION.

THE **DEPARTMENT OF LEGISLATIVE SERVICES AND THE (**D**) DEPARTMENT OF LABOR, LICENSING, AND REGULATION JOINTLY MARYLAND** CASH CAMPAIGN SHALL PROVIDE STAFF FOR THE COMMISSION.

(E) A MEMBER OF THE COMMISSION:

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

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

(F) THE COMMISSION SHALL MEET AT LEAST TWO TIMES EACH YEAR AT THE TIMES AND PLACES DETERMINED BY THE COMMISSION.

9-804.

(A) THE COMMISSION SHALL:

(1) MONITOR THE IMPLEMENTATION OF PUBLIC AND PRIVATE INITIATIVES TO IMPROVE THE FINANCIAL EDUCATION AND CAPABILITY OF RESIDENTS OF THE STATE; AND

(2) MAKE RECOMMENDATIONS ON THE COORDINATION OF FINANCIAL EDUCATION AND CAPABILITY EFFORTS ACROSS STATE AGENCIES.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON ITS RECOMMENDATIONS AND THE STATUS OF EFFORTS UNDERTAKEN BY STATE AGENCIES OR IN PARTNERSHIP WITH STATE AGENCIES TO IMPROVE THE FINANCIAL EDUCATION AND CAPABILITY OF RESIDENTS OF THE STATE.

(2) EVERY 3 YEARS, THE REPORT OF THE COMMISSION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A COMPREHENSIVE DISCUSSION OF STATEWIDE EFFORTS TO IMPROVE THE FINANCIAL EDUCATION AND CAPABILITY OF RESIDENTS OF THE STATE, INCLUDING INITIATIVES FUNDED BY THE STATE OR A LOCAL GOVERNMENT AND THOSE UNDERTAKEN IN THE PRIVATE SECTOR BY NONPROFIT ORGANIZATIONS, FINANCIAL INSTITUTIONS, AND OTHER PERSONS.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Financial Education and Capability Commission shall expire as follows:

- (1) three members in 2013;
- (2) three members in 2014;
- (3) three members in 2015; and

(4) three members in 2016.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 520

(House Bill 515)

AN ACT concerning

State Government – Financial Education and Capability Commission

FOR the purpose of establishing the Financial Education and Capability Commission; providing for the composition, co-chairs, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to meet at least a certain number of times each year; requiring the Commission to monitor the implementation of public and private initiatives to improve the financial education and capability of residents of the State and to make recommendations regarding certain matters; requiring the Commission to make certain reports to the Governor and the General Assembly on or before a certain date each year; defining a certain term; specifying the terms of the initial appointed members of the Commission; and generally relating to the Financial Education and Capability Commission.

BY adding to

Article – State Government Section 9–801 through 9–804 to be under the new subtitle "Subtitle 8. Financial Education and Capability Commission" Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – State Government

SUBTITLE 8. FINANCIAL EDUCATION AND CAPABILITY COMMISSION.

9-801.

IN THIS SUBTITLE, "COMMISSION" MEANS THE FINANCIAL EDUCATION AND CAPABILITY COMMISSION.

9-802.

THERE IS A FINANCIAL EDUCATION AND CAPABILITY COMMISSION.

9-803.

(A) 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 STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;

(4) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(5) THE COMMISSIONER OF FINANCIAL REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, OR THE COMMISSIONER'S DESIGNEE;

(6) THE EXECUTIVE DIRECTOR OF THE FAMILY INVESTMENT ADMINISTRATION IN THE DEPARTMENT OF HUMAN RESOURCES, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(7) THE CHIEF OF THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL, OR THE CHIEF'S DESIGNEE;

(8) THE STATE TREASURER, OR THE STATE TREASURER'S DESIGNEE;

(9) THE COMPTROLLER, OR THE COMPTROLLER'S DESIGNEE; AND

(10) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(I) ONE MEMBER OF THE BOARD OF TRUSTEES OF THE MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS;

(II) ONE MEMBER OF THE COLLEGE SAVINGS PLANS OF MARYLAND BOARD;

(III) ONE MEMBER OF THE MARYLAND HIGHER EDUCATION COMMISSION;

(IV) ONE MEMBER OF THE MARYLAND STATE EDUCATION ASSOCIATION WHO TEACHES A COURSE INVOLVING PRINCIPLES OF FINANCIAL EDUCATION WHO TEACHES A COURSE INVOLVING PRINCIPLES OF FINANCIAL EDUCATION;

(V) ONE REPRESENTATIVE OF THE MARYLAND CASH CAMPAIGN;

(VI) ONE REPRESENTATIVE OF A COMMUNITY-FOCUSED NONPROFIT ORGANIZATION THAT PROVIDES FREE FINANCIAL EDUCATION IN THE STATE;

(VII) ONE REPRESENTATIVE OF A PHILANTHROPIC ORGANIZATION THAT PROVIDES FUNDING FOR FINANCIAL EDUCATION IN THE STATE;

(VIII) ONE REPRESENTATIVE OF THE MARYLAND COUNCIL ON ECONOMIC EDUCATION OR THE MARYLAND COALITION FOR FINANCIAL LITERACY;

(IX) ONE REPRESENTATIVE OF A BANK, WHETHER OR NOT STATE-CHARTERED, THAT HAS A BRANCH IN THE STATE;

(X) ONE REPRESENTATIVE OF A CREDIT UNION, WHETHER OR NOT STATE-CHARTERED, THAT HAS A BRANCH IN THE STATE;

(XI) ONE LICENSED MORTGAGE BROKER HOLDING THE MARYLAND ASSOCIATION OF MORTGAGE BROKERS' "LENDING SEAL OF INTEGRITY"; AND

(XII) ONE MEMBER OF THE MARYLAND ASSOCIATION OF CPAS.

(B) (1) THE TERM OF AN APPOINTED MEMBER OF THE COMMISSION IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR APPOINTED MEMBERS OF THE COMMISSION ON OCTOBER 1, 2012.

(3) AT THE END OF A TERM, AN APPOINTED 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 REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(C) (1) THE PRESIDENT OF THE SENATE SHALL DESIGNATE ONE OF THE MEMBERS APPOINTED FROM THE SENATE AS CO-CHAIR OF THE COMMISSION.

(2) THE SPEAKER OF THE HOUSE OF DELEGATES SHALL DESIGNATE ONE OF THE MEMBERS APPOINTED FROM THE HOUSE AS CO-CHAIR OF THE COMMISSION.

(D) THE DEPARTMENT OF LEGISLATIVE SERVICES AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION JOINTLY MARYLAND <u>CASH CAMPAIGN</u> SHALL PROVIDE STAFF FOR THE COMMISSION.

(E) A MEMBER OF THE COMMISSION:

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

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

(F) THE COMMISSION SHALL MEET AT LEAST TWO TIMES EACH YEAR AT THE TIMES AND PLACES DETERMINED BY THE COMMISSION.

9-804.

(A) THE COMMISSION SHALL:

(1) MONITOR THE IMPLEMENTATION OF PUBLIC AND PRIVATE INITIATIVES TO IMPROVE THE FINANCIAL EDUCATION AND CAPABILITY OF RESIDENTS OF THE STATE; AND

(2) MAKE RECOMMENDATIONS ON THE COORDINATION OF FINANCIAL EDUCATION AND CAPABILITY EFFORTS ACROSS STATE AGENCIES.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON ITS RECOMMENDATIONS AND THE STATUS OF EFFORTS UNDERTAKEN BY STATE AGENCIES OR IN PARTNERSHIP WITH STATE AGENCIES TO IMPROVE THE FINANCIAL EDUCATION AND CAPABILITY OF RESIDENTS OF THE STATE.

(2) EVERY 3 YEARS, THE REPORT OF THE COMMISSION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A COMPREHENSIVE DISCUSSION OF STATEWIDE EFFORTS TO IMPROVE THE FINANCIAL EDUCATION AND CAPABILITY OF RESIDENTS OF THE STATE, INCLUDING INITIATIVES FUNDED BY THE STATE OR A LOCAL GOVERNMENT AND THOSE UNDERTAKEN IN THE PRIVATE SECTOR BY NONPROFIT ORGANIZATIONS, FINANCIAL INSTITUTIONS, AND OTHER PERSONS.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Financial Education and Capability Commission shall expire as follows:

- (1) three members in 2013;
- (2) three members in 2014;
- (3) three members in 2015; and
- (4) three members in 2016.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 521

(Senate Bill 477)

AN ACT concerning

Job Creation Tax Credit – Amount of Credit and Termination Provisions

FOR the purpose of altering the determination of the amount <u>termination provisions</u> of a certain job creation tax credit earned by a qualified business entity under certain circumstances; altering the termination provisions for the tax credit; providing for the application of this Act; and generally relating to the job creation tax credit program.

BY repealing and reenacting, without amendments, Article – Economic Development Section 6–301(e) <u>and 6–304(b)</u> Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Economic Development Section 6–304(b) and 6–309 Annotated Code of Maryland (2008 Volume and 2011 Supplement)

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

Article – Economic Development

6-301.

(e) "Revitalization area" means:

(1) an enterprise zone designated by the Secretary under § 5–704 of this article;

(2) an enterprise zone designated by the United States government under 42 U.S.C. \$ 11501 through 11505;

(3) an empowerment zone or enterprise community designated by the United States government under 26 U.S.C. §§ 1391 through 1397F; or

(4) a sustainable community, as defined in § 6–301 of the Housing and Community Development Article.

6-304.

Chapter 521

(b) (1) Except as provided in this section, the credit earned under this section:

(i) for qualified employees working in a facility not located in a revitalization area, is the lesser of:

1. **{**\$1,000**} \\$5,000** multiplied by the number of qualified employees employed by the qualified business entity during the credit year; and <u>OR</u>

2. $\{2.5\%\}$ $\frac{12.5\%}{12.5\%}$ of the wages paid by the qualified business entity during the credit year to the qualified employees; and

(ii) for qualified employees working in a facility located in a revitalization area, is the lesser of:

1. **[**\$1,500**] \\$7,500 \\$4,500** multiplied by the number of qualified employees employed by the qualified business entity during the credit year; and <u>OR</u>

2. $\{5\%\}$ 25% $\frac{15\%}{15\%}$ of the wages paid by the qualified business entity during the credit year to the qualified employees.

(2) The credit earned by a qualified business entity under this subtitle may not exceed \$1,000,000 for any credit year.

6-309.

(a) (1) Subject to paragraph (2) <u>SUBSECTION (B)</u> of this subsection <u>SECTION</u>, this subtitle and the tax credit authorized under it shall terminate on January 1, [2014] **2020**.

(2) (B) As provided in this subtitle, for taxable years beginning on or after January 1, [2014] 2020, tax credits earned in credit years beginning before January 1, [2014] 2020, may AFTER TERMINATION OF THIS SUBTITLE:

(1) <u>A BUSINESS ENTITY MAY BE CONSIDERED FOR ELIGIBILITY</u> FOR THE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE BASED ON POSITIONS FILLED BEFORE TERMINATION OF THIS SUBTITLE, PROVIDED THAT THE OTHER REQUIREMENTS OF THE SUBTITLE ARE SATISFIED; AND

(2) <u>TAX CREDITS EARNED MAY</u> be allowed ratably over a 2-year period, may be carried forward, and are subject to recapture in accordance with § 6-305 of this subtitle.

(b) The tax credit authorized under this subtitle:

(1) may be claimed only for qualified positions at a newly established or expanded business facility that commences operations before January 1, [2013] **2019**; and

(2) may not be earned for a credit year beginning on or after January 1, [2014] 2020.

SECTION 2. AND BE IT FURTHER ENACTED, That § 6-304(b) of the Economic Development Article, as amended by this Act, shall be applicable to the job creation tax credit earned by a person certified as a qualified business entity on or after July 1, 2012.

SECTION $\frac{3}{2}$ AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 522

(House Bill 1107)

AN ACT concerning

Job Creation Tax Credit - Amount of Credit and Termination Provisions

FOR the purpose of altering the determination of the amount <u>termination provisions</u> of a certain job creation tax credit earned by a qualified business entity under certain circumstances; altering the termination provisions for the tax credit; providing for the application of this Act; and generally relating to the job creation tax credit program.

BY repealing and reenacting, without amendments, Article – Economic Development Section 6–301(e) <u>and 6–304(b)</u> Annotated Code of Maryland (2008 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Economic Development Section 6–304(b) and 6–309 Annotated Code of Maryland (2008 Volume and 2011 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Economic Development

6-301.

(e) "Revitalization area" means:

(1) an enterprise zone designated by the Secretary under § 5–704 of this article;

(2) an enterprise zone designated by the United States government under 42 U.S.C. §§ 11501 through 11505;

(3) an empowerment zone or enterprise community designated by the United States government under 26 U.S.C. §§ 1391 through 1397F; or

(4) a sustainable community, as defined in § 6–301 of the Housing and Community Development Article.

6-304.

(b) (1) Except as provided in this section, the credit earned under this section:

(i) for qualified employees working in a facility not located in a revitalization area, is the lesser of:

1. **{**\$1,000**} \$5,000** multiplied by the number of qualified employees employed by the qualified business entity during the credit year; and

2. $\{2.5\%\}$ **12.5%** of the wages paid by the qualified business entity during the credit year to the qualified employees; and

(ii) for qualified employees working in a facility located in a revitalization area, is the lesser of:

1. **{**\$1,500**} \$7,500** multiplied by the number of qualified employees employed by the qualified business entity during the credit year; and

2. $\{5\%\}$ 25% of the wages paid by the qualified business entity during the credit year to the qualified employees.

(2) The credit earned by a qualified business entity under this subtitle may not exceed \$1,000,000 for any credit year.

6 - 309.

(a) (1) Subject to paragraph (2) <u>SUBSECTION (B)</u> of this subsection <u>SECTION</u>, this subtitle and the tax credit authorized under it shall terminate on January 1, [2014] **2020**.

(2) (B) As provided in this subtitle, for taxable years beginning on or after January 1, [2014] 2020, tax credits earned in credit years beginning before January 1, [2014] 2020, may AFTER TERMINATION OF THIS SUBTITLE:

(1) A BUSINESS ENTITY MAY BE CONSIDERED FOR ELIGIBILITY FOR THE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE BASED ON POSITIONS FILLED BEFORE TERMINATION OF THIS SUBTITLE, PROVIDED THAT THE OTHER REQUIREMENTS OF THE SUBTITLE ARE SATISFIED; AND

(2) <u>TAX CREDITS EARNED MAY</u> be allowed ratably over a 2-year period, may be carried forward, and are subject to recapture in accordance with § 6-305 of this subtitle.

(b) The tax credit authorized under this subtitle:

(1) may be claimed only for qualified positions at a newly established or expanded business facility that commences operations before January 1, [2013] **2019**; and

(2) may not be earned for a credit year beginning on or after January 1, [2014] 2020.

SECTION 2. AND BE IT FURTHER ENACTED, That § 6–304(b) of the Economic Development Article, as amended by this Act, shall be applicable to the job creation tax credit earned by a person certified as a qualified business entity on or after July 1, 2012.

SECTION $\frac{3}{2}$. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 523

(Senate Bill 485)

AN ACT concerning

Continuing Care Retirement Communities – Regulation

FOR the purpose of requiring certain providers to set aside operating reserves that, before a certain date, equal a certain percentage of certain expenses of a facility; requiring certain providers to set aside operating reserves that, on or after beginning on a certain date, equal a certain percentage of certain expenses of a facility; beginning on a certain date, providing for the manner in which certain requirements under this Act relating to assets held by providers as operating reserves shall be met; beginning on a certain date, providing that certain assets held by providers may be encumbered under certain circumstances; requiring providers of certain facilities, for purposes of a certain operating reserve requirement, to make a certain calculation based on certain operating expenses; adding to the information to be included in a disclosure statement; requiring certain providers to make certain information related to meetings of a governing body available to subscribers within a certain time period; requiring providers to make a certain response to a grievance in writing; requiring providers to make available a copy of a certain budget; requiring certain marketing materials to include a certain disclaimer; providing that certain providers may not sell or make certain transfers of ownership of a facility unless the Department of Aging approves the sale or transfer; providing for the application of certain provisions of this Act; adding to the information to be included in a continuing care agreement; authorizing the Department of Aging to consider whether a continuing care agreement complies with certain laws; providing for the circumstances under which a provider is not required to submit certain agreements to the Department of Aging for approval; requiring a provider to make certain statements in its continuing care agreement under certain circumstances; authorizing a provider to include certain provisions in its continuing care agreement; requiring the Secretary of Aging and the Insurance Commissioner to conduct certain studies and make certain reports on or before certain dates: making the provisions of this Act severable; making certain stylistic and conforming changes; and generally relating to the regulation of continuing care retirement communities.

BY repealing and reenacting, with amendments,

Article – Human Services

Section 10-420(b), 10-423(a), 10-425(a), 10-427, 10-428, 10-429, 10-432, 10-444(a) and (b), and 10-445 Annotated Code of Maryland (2007 Volume and 2011 Supplement)

BY adding to

Article – Human Services Section 10–430 and 10–443 Annotated Code of Maryland (2007 Volume and 2011 Supplement)

3509

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

Article – Human Services

10 - 420.

(b) (1) Except as otherwise provided in this part, a provider shall set aside for each facility subject to this subtitle operating reserves **THAT**:

(I) **BEFORE JANUARY 1, 2023,** equal [to] 15% of the facility's net operating expenses for the most recent fiscal year for which a certified financial statement is available; **AND**

(II) ON OR AFTER <u>BEGINNING</u> JANUARY 1, 2023, EQUAL 25% OF THE FACILITY'S NET OPERATING EXPENSES FOR THE MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE.

(2) The provider shall keep the operating reserves in a reasonably liquid form in the judgment of the provider.

(3) BEGINNING JANUARY 1, 2014, THE ASSETS HELD BY THE PROVIDER AS THE OPERATING RESERVES REQUIRED UNDER THIS SUBSECTION:

(I) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, SHALL BE UNRESTRICTED CASH AND INVESTMENTS; AND

(II) MAY NOT:

1. INCLUDE BE MET WITH A LINE OF CREDIT; OR

2. EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, BE HYPOTHECATED, PLEDGED AS COLLATERAL, OR OTHERWISE ENCUMBERED BY THE PROVIDER IN ANY MANNER.

(4) BEGINNING JANUARY 1, 2014, THE ASSETS HELD BY THE PROVIDER AS THE OPERATING RESERVES MAY BE ENCUMBERED IF:

(I) THE ASSETS ARE ENCUMBERED BY CONTRACTUAL OBLIGATIONS UNDERTAKEN BEFORE JANUARY 1, 2014, THAT HAVE NOT MATERIALLY CHANGED SINCE JANUARY 1, 2014; OR

(II) THE ASSETS ARE ENCUMBERED AS PART OF A GENERAL SECURITY PLEDGE OF ASSETS OR SIMILAR COLLATERALIZATION THAT IS PART OF THE PROVIDER'S LONG-TERM CAPITAL DEBT COVENANTS INCLUDED IN THE PROVIDER'S LONG-TERM DEBT INDENTURE OR SIMILAR FINANCIAL INSTRUMENT BUT WHICH REMAIN AVAILABLE TO THE PROVIDER TO PAY OPERATING EXPENSES WITHOUT SUBSTANTIAL RESTRICTIONS OR LIMITATIONS.

10-423.

(a) For a facility that has not been the subject of a conversion and that has residents who are not parties to continuing care agreements, the provider shall [set aside] CALCULATE THE AMOUNT OF operating reserves [equal to at least 15% of] **REQUIRED UNDER § 10–420 OF THIS SUBTITLE BASED ON** the pro rata proportion of the net operating expenses [calculated] AS SPECIFIED under subsection (b) of this section.

10-425.

(a) A disclosure statement shall include:

(1) A TABLE OF CONTENTS;

[(1)] (2) the name, address, and description of the facility and the identity of the owner or owners of the facility and the land on which it is located;

[(2)] (3) the name and address of the provider and of any parent or subsidiary;

[(3)] (4) the organizational structure and management of the provider, including:

(i) for a corporation or limited liability company, its name, the state in which it is incorporated or formed, and the name of the chief executive officer;

(ii) for a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;

(iii) for an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;

(iv) for a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, the state in which it is incorporated or formed, and the name of the chief executive officer; (v) for a trust, the name of the trustee, the names of the owners of beneficial interests in the trust, the state governing it, and the name of the primary individual responsible for overseeing its activities; and

(vi) a statement whether the provider is qualified, or intends to qualify, as a tax–exempt organization under the Internal Revenue Code;

[(4)] (5) the name and occupation of each officer, director, trustee, managing or general partner, and each person with a 10% or greater equity or beneficial interest in the provider, and a description of the person's financial interest in or occupation with the provider;

[(5)] (6) the name and address of any entity in which a person identified in item [(4)] (5) of this subsection has a 10% or greater financial interest and that is anticipated to provide goods, premises, or services with a value of \$10,000 or more to the facility or provider in a fiscal year and a description of the goods, premises, or services and their anticipated cost to the facility or provider, which need not include salary, wage, or benefit information of employees of the provider;

[(6)] (7) a description of any matter in which an individual identified in item [(4)] (5) of this subsection:

(i) has been convicted of a felony or pleaded nolo contendere to a felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(ii) has been held liable or enjoined in a civil action by final judgment, if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation as a fiduciary;

(iii) has been subject to an effective injunctive or restrictive order of a court of record in an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons; or

(iv) in the past 10 years, had a state or federal license or permit suspended or revoked because a governmental unit brought an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons;

[(7)] (8) a description of the provider's form of governance and the composition of its governing body, and a statement that the provider will satisfy the requirements of \$ 10-426 and 10-427 of this subtitle;

(9) IF THE PROVIDER HAS A GOVERNING BODY, A DESCRIPTION OF THE PROCESS USED BY THE PROVIDER TO:

Chapter 523

(I) SELECT A SUBSCRIBER MEMBER OF ITS GOVERNING

BODY; AND

SUBTITLE.

(II) SATISFY THE REQUIREMENTS OF § 10–427(A) OF THIS

[(8)] (10) a statement of any affiliation of the provider with a religious, charitable, or other nonprofit organization, and the extent of the organization's responsibility for the financial and contractual obligations of the provider;

[(9)] (11) if the facility will be managed on a day-to-day basis by a person other than an individual who is directly employed by the provider, the name of the proposed manager or management company and a description of the business experience of the manager or company in operating or managing similar facilities;

[(10)] (12) a copy of the most recent certified financial statement obtainable under generally accepted accounting principles;

[(11)] (13) a description of the long-term financing for the facility;

[(12)] (14) a cash flow forecast for the current and the next two fiscal

years;

[(13)] (15) a description of any activity related to a renovation, expansion, or new development during the preceding fiscal year or proposed for the current fiscal year;

[(14)**] (16)** a description of:

(i) the steps that have been or will be taken to comply with the operating reserve requirements under 10-420(b) of this subtitle; and

(ii) the provider's investment policy related to the required reserves, including how often and by whom the reserve fund investment is reviewed;

[(15)] (17) a description of the financial arrangements that the provider has made, if any, to address the renewal and replacement of the buildings and improvements at the facility, such as the establishment of a renewal and replacement fund;

[(16)] (18) if the facility has not reached 85% occupancy of its independent living units, a summary of the feasibility study;

[(17)] (19) if applicable, a description of the conditions under which the provider may be issued an initial certificate of registration and may use escrowed deposits;

[(18)] (20) a description of all basic fees, including entrance fees, fees for health related services, and periodic fees that the provider collects from subscribers, and the amount and frequency of any fee changes during the previous 5 years or, if the facility has been in operation less than 5 years, for each year of operation;

[(19)] (21) a summary of the basic services provided or proposed to be provided at the facility under the continuing care agreement, including the extent to which health related services are provided, that clearly states which services are indicated in the agreement as included in the basic fee and which services are or will be made available at or by the facility at an extra charge;

[(20)] (22) if applicable, a statement that it is the provider's policy to impose a surcharge on some, but not all, subscribers because of a condition or circumstance that applies only to those subscribers and that the surcharge is not part of the entrance fee refund required under § 10–448 of this subtitle;

[(21)] (23) a description of the role of any resident association;

[(22)] (24) a description of the internal grievance procedure;

(25) IF THE PROVIDER OFFERS A CONTINUING CARE AGREEMENT THAT PROMISES A CONTRACTUAL ENTRANCE FEE REFUND AFTER OCCUPANCY, A STATEMENT WHETHER THE PORTION OF THE ENTRANCE FEE TO BE REFUNDED IS HELD IN TRUST OR ESCROW FOR THE SUBSCRIBER AFTER OCCUPANCY, AND IF SO HELD, A DESCRIPTION OF WHERE AND HOW THE FUNDS ARE HELD;

(26) IF THE PROVIDER OFFERS AN EXTENSIVE AGREEMENT, THE FOLLOWING STATEMENT: "IF YOU HAVE A LONG-TERM CARE INSURANCE POLICY, REQUEST YOUR ADVISORS TO REVIEW THE POLICY AND THE CONTINUING CARE AGREEMENT TO DETERMINE WHETHER THERE ARE POTENTIAL AREAS OF DUPLICATION OR AREAS WHERE BENEFITS CAN BE COORDINATED.";

[(23)] (27) a statement that the provider will amend its disclosure statement whenever the provider or the Department considers an amendment necessary to prevent the disclosure statement from containing:

(i) a material misstatement of a fact required by this section to be stated in the disclosure statement; or

(ii) an omission of a material fact required by this section to be stated in the disclosure statement; and

[(24)] (28) any other material information about the facility or the provider that the Department requires or that the provider wishes to include.

10-427.

(a) (1) If a provider has a governing body, at least one of the provider's subscribers shall be a full and regular member of the governing body.

(2) If the provider owns or operates more than three facilities in the State, the governing body shall include at least one of the provider's subscribers for every three facilities in the State.

(3) Subject to paragraph (4) of this subsection, a member of the governing body who is selected to meet the requirements of this subsection shall be a subscriber at a facility in the State and be selected according to the same general written standards and criteria used to select other members of the governing body.

(4) The governing body shall confer with the resident association at each of the provider's facilities before the subscriber officially joins the governing body.

(5) The Secretary may waive the requirements of this subsection for a provider in the process of decertifying as a provider, if the Secretary determines that there are no subscribers willing and able to serve on the governing body.

(b) (1) If a provider does not have a governing body, the provider shall appoint a select committee of its officers or partners to meet at least twice a year with the resident association at each of its facilities to address concerns of the subscribers and to ensure that the opinions of subscribers are relayed to all officers or partners of the provider.

(2) If a facility does not have a resident association, the committee shall meet with a reasonable number of representatives, not required to exceed fifteen, that the subscribers elect.

(C) AS DETERMINED BY THE PROVIDER'S GOVERNING BODY, THE PROVIDER SHALL MAKE AVAILABLE TO SUBSCRIBERS EITHER THE NONCONFIDENTIAL PORTIONS OF THE MINUTES OF EACH MEETING OF THE GOVERNING BODY OR A SUMMARY OF THE NONCONFIDENTIAL PORTIONS OF THE MINUTES, WITHIN 1 MONTH OF APPROVAL OF THE MINUTES.

10-428.

(a) A provider shall establish an internal grievance procedure to address a subscriber's grievance.

(b) The internal grievance procedure shall at least:

(1) allow a subscriber or group of subscribers collectively to submit a written grievance to the provider;

(2) require the provider to send a written acknowledgment to the subscriber OR GROUP OF SUBSCRIBERS within 5 days after receipt of the written grievance;

(3) require the provider to assign personnel to investigate the grievance;

(4) give a subscriber **OR GROUP OF SUBSCRIBERS** who [files] **FILE** a written grievance the right to meet with management of the provider within 30 days after receipt of the written grievance to present the [subscriber's] grievance; and

(5) require the provider to respond IN WRITING within 45 days after receipt of the written grievance regarding the investigation and resolution of the grievance.

(c) (1) Within 30 days after the conclusion of an internal grievance procedure established under this section, a subscriber, **GROUP OF SUBSCRIBERS**, or provider may seek mediation through one of the Community Mediation Centers in the State or another mediation provider.

(2) If a provider [or], subscriber, OR GROUP OF SUBSCRIBERS seeks mediation under paragraph (1) of this subsection:

(i) the mediation shall be nonbinding; and

(ii) the provider [and], subscriber, OR GROUP OF SUBSCRIBERS may not be represented by counsel.

10-429.

A provider shall make readily available to its subscribers for review at the facility:

(1) copies of all materials that the provider submits to the Department that are required to be disclosed under the Public Information Act; AND

(2) A COPY OF THE MOST RECENT FINALIZED BUDGET OF THE FACILITY.

10-430.

ALL MARKETING MATERIALS, INCLUDING DISCLOSURE STATEMENTS, THAT STATE THAT PART OR ALL OF THE ENTRANCE FEE IS OR MAY BE REFUNDABLE SHALL INCLUDE A CONSPICUOUS DISCLAIMER THAT STATES AT LEAST THE FOLLOWING: "CAREFULLY READ THE CONTINUING CARE AGREEMENT FOR THE CONDITIONS THAT MUST BE SATISFIED BEFORE THE PROVIDER IS REQUIRED TO PAY THE ENTRANCE FEE REFUND.".

10-432.

(a) (1) [This section and §§ 10–433 through 10–435 of this subtitle do] **SUBSECTION (B)(2) OF THIS SECTION DOES** not apply to [a transfer of ownership of a facility, or] a transfer of ownership or control of a person that owns or controls a facility, if:

(i) the transfer is part of a business reorganization; and

(ii) the same person or persons holding THE RIGHT TO CONTROL OR HOLDING a majority of ownership [or right to control] before the business reorganization will retain, directly or indirectly, [a majority of ownership or] THE right to control OR A MAJORITY OF OWNERSHIP, RESPECTIVELY, after the business reorganization.

(2) The provider shall notify the Department and the facility's subscribers 30 days before any reorganization described in paragraph (1) of this subsection.

(b) Unless the Department approves the sale or transfer in accordance with 10-433 through 10-435 of this subtitle:

(1) EXCEPT FOR THE GRANT OF A MORTGAGE OR DEED OF TRUST TO AN UNRELATED THIRD PARTY, a provider that holds a preliminary, initial, or renewal certificate of registration [or] MAY NOT SELL OR OTHERWISE TRANSFER, DIRECTLY OR INDIRECTLY, OWNERSHIP OF A FACILITY OR ANY OWNERSHIP INTEREST IN A FACILITY; AND

(2) a person with an ownership interest in or a right to control the provider, through governing body appointments or contractual or similar arrangements, may not sell or otherwise transfer, directly or indirectly[:]

 $[\![1)\!]$, THE RIGHT TO CONTROL OR more than 50% of the [provider's ownership of a facility; or

(2) more than 50% of the ownership of or right to control] **OWNERSHIP OF** a person that owns or controls a facility.

(c) Any series of sales or other transfers described in subsection (b) of this section that occur in a 12-month period shall be aggregated for purposes of this section and \$10-433 through 10-435 of this subtitle.

10-443.

THE PROVISIONS OF PART IV OF THIS SUBTITLE ARE IN ADDITION TO, AND NOT IN LIEU OF, OTHER APPLICABLE LAWS.

10-444.

(a) Except as provided in subsection [(b)(23)] (B)(25) of this section, a requirement of this section does not apply to any continuing care agreement entered into before the effective date of the requirement.

(b) In a form acceptable to the Department, each continuing care agreement shall:

(1) show the total consideration paid by the subscriber for continuing care, including the value of all property transferred, donations, entrance fees, subscriptions, monthly fees, and any other fees paid or payable by or on behalf of a subscriber;

(2) specify all services that are to be provided by the provider to each subscriber, such as food, shelter, medical care, nursing care, or other health related services, including in detail all items that each subscriber will receive, and whether the items will be provided for life or for a designated time period;

plans;

(3) designate the classes of subscribers according to types of payment

(4) subject to subsection (c) of this section, describe the procedures to be followed by the provider when the provider temporarily or permanently changes the subscriber's accommodations within the facility or transfers the subscriber to another health facility;

(5) describe the policies that will be implemented if the subscriber becomes unable to pay the monthly fees;

(6) state the policy of the provider concerning changes in accommodations and the procedure to implement that policy if the number of persons occupying an individual unit changes;

(7) provide in clear and understandable language, in boldface type, and in the largest type used in the body of the agreement:

(i) the terms governing the refund of any portion of the entrance fee if the provider discharges the subscriber or the subscriber cancels the agreement; and

(ii) whether monthly fees, if charged, will be subject to periodic increases:

(8) state the terms under which an agreement is canceled by the death of the subscriber;

(9) provide that charges for care paid in advance in a lump sum may not be increased or changed for the duration of the agreed–upon care;

(10) state that the **PROVIDER REPRESENTS THAT THE** subscriber has received, at least two weeks before signing the agreement[,]:

(I) the current version of the written rules of the provider;

(II) THE CONTINUING CARE AGREEMENT FORM, WITH THE ATTACHMENTS, EXHIBITS, AND ADDENDA; AND

(III) THE CURRENT DISCLOSURE STATEMENT, WITH THE ATTACHMENTS, EXHIBITS, AND ADDENDA;

(11) describe the living quarters;

(12) if applicable, state the conditions under which a subscriber may assign a unit for the use of another individual;

(13) state the provider's religious or charitable affiliations and the extent, if any, to which the affiliate organization is responsible for the provider's financial and contractual obligations;

(14) state the subscriber's and provider's respective rights and obligations concerning:

(i) use of the facility; and

(ii) any real and personal property of the subscriber placed in the provider's custody;

(15) state that subscribers have the right to organize and operate a subscriber association at the facility and to meet privately to conduct business;

(16) state that there is an internal grievance procedure to address a subscriber's grievance;

(17) state the fee adjustments, if any, that will be made if the subscriber is voluntarily absent from the facility for an extended period of time;

(18) specify the circumstances, if any, under which the subscriber will be required to apply for Medicaid, Medicare, public assistance, or any public benefit program and whether the facility participates in Medicare or medical assistance;

(19) state that the subscriber received a copy of the latest certified financial statement at least two weeks before signing the agreement and that the subscriber has reviewed the statement;

(20) STATE THAT THE SUBSCRIBER ACKNOWLEDGES REVIEWING ALL OF THE TERMS OF THE ENTRANCE FEE REFUND CLAUSES AND PROVISIONS CONTAINED IN THE CONTINUING CARE AGREEMENT;

[(20)] (21) provide that, on request, the provider will make available to the subscriber any certified financial statement submitted to the Department;

[(21)] (22) if applicable, describe the conditions under which the provider may be issued an initial certificate of registration and the conditions under which the provider may use escrowed deposits, and state the amount of the subscriber's deposit;

[(22)] (23) state that fees collected by a provider under the terms of a continuing care agreement may only be used for purposes set forth in the agreement;

(24) INCLUDE ONE OF THE FOLLOWING <u>MODEL</u> STATEMENTS <u>OR A</u> <u>SUBSTANTIALLY SIMILAR STATEMENT</u>:

(I) "THE PROVIDER AGREES THAT, FOR AS LONG AS THE SUBSCRIBER'S CONTINUING CARE AGREEMENT REMAINS IN EFFECT, THE PROVIDER SHALL USE ONLY ONLY USE FEES PAID BY THE SUBSCRIBERS OF THE COMMUNITY FOR PURPOSES DIRECTLY RELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE COMMUNITY.";

(II) "THE PROVIDER DOES NOT CURRENTLY USE FEES PAID BY SUBSCRIBERS OF THE COMMUNITY FOR PURPOSES OTHER THAN THOSE DIRECTLY RELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE COMMUNITY, BUT THE PROVIDER RESERVES THE FUTURE RIGHT TO USE FEES PAID BY SUBSCRIBERS OF THE COMMUNITY FOR PURPOSES UNRELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE COMMUNITY."; OR

(III) "THE PROVIDER MAY USE FEES PAID BY SUBSCRIBERS OF THE COMMUNITY FOR PURPOSES UNRELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE COMMUNITY, INCLUDING FOR THE FURTHERANCE OF THE PROVIDER'S CORPORATE MISSION, TO DISTRIBUTE PROFITS, OR TO BENEFIT AN AFFILIATED COMMUNITY.";

[(23)] (25) allow a subscriber to designate a beneficiary to receive any refundable portion of the entrance fee that is owed due to the death of the subscriber on or after the date of occupancy, if the designation is:

- (i) in writing;
- (ii) witnessed by at least two competent witnesses;
- (iii) not contingent; and
- (iv) specified in percentages and accounts for 100% of the refund

due;

[(24)] (26) state the funeral and burial services, if any, that the provider will provide; [and]

(27) CONTAIN A TABLE OF CONTENTS;

(28) IF THE PROVIDER OFFERS A CONTINUING CARE AGREEMENT THAT PROMISES A CONTRACTUAL ENTRANCE FEE REFUND AFTER OCCUPANCY, STATE WHETHER THE PORTION OF THE ENTRANCE FEE TO BE REFUNDED IS HELD IN TRUST OR ESCROW FOR THE SUBSCRIBER AFTER OCCUPANCY, AND IF SO HELD, STATE WHERE AND HOW THE FUNDS ARE HELD;

(29) IF THE PAYMENT OF A CONTRACTUAL ENTRANCE FEE REFUND AFTER OCCUPANCY IS CONDITIONED ON THE REOCCUPANCY OR RECONTRACTING OF THE SUBSCRIBER'S UNIT, STATE THAT THE PROVIDER AGREES TO MAKE REASONABLE EFFORTS TO SATISFY THE CONDITION; AND

[(25)] (30) contain the following statement in boldface type and in the largest type used in the agreement: "A preliminary certificate of registration or certificate of registration is not an endorsement or guarantee of this facility by the State of Maryland. The Maryland Department of Aging urges you to consult with an attorney and a suitable financial advisor before signing any documents.".

10-445.

(a) (1) (i) If a provider's feasibility study has been approved under § 10–409 of this subtitle, the Department, within 120 days after receipt of a continuing care agreement or any other related agreement submitted by a provider, shall determine whether the agreement complies with the requirements of this subtitle.

(ii) At any time during the review process, the Department may submit comments to or request additional information from the provider to determine whether the agreement complies with the requirements of this subtitle AND OTHER APPLICABLE LAW.

(iii) If the Department submits comments or a request for additional information under subparagraph (ii) of this paragraph, the 120-day review period under subparagraph (i) of this paragraph is suspended.

(iv) On receipt of any requested information or modifications to the agreement necessitated by the Department's comments under subparagraph (iii) of this paragraph, the Department, within the number of days remaining in the 120-day review period, shall:

1. complete its review to determine whether the agreement meets the requirements of this subtitle AND OTHER APPLICABLE LAW IDENTIFIED BY THE DEPARTMENT IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH; and

2. approve or disapprove the agreement.

(v) 1. If the Department does not approve the agreement, the Department shall notify the provider in writing, including citations to the specific provisions of law that the Department determined were not complied with in the agreement.

2. A provider may appeal the disapproval of an agreement under subparagraph (iv) of this paragraph under the provisions of Title 10, Subtitle 2 of the State Government Article.

(2) If the Department does not act within 120 days, the agreement is deemed approved.

(b) The provider shall maintain the continuing care agreement at the facility and make it available for inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle 18, of the Health – General Article and Title 10, Subtitle 3 of the Health – General Article. (c) If a provider is seeking approval for a modification to an approved continuing care agreement or other related agreement, the Department shall limit its review to:

(1) the section of the agreement being modified and any sections directly affected by the modification; and

(2) any section of the agreement that may have been affected by a change in the law or a regulation that was enacted after the Department approved the agreement.

[(d) If the provider executes a separate assisted living agreement or comprehensive care agreement, the provider is not required to submit the assisted living agreement or comprehensive care agreement or any requests for modifications to the Department for approval.]

(D) IF THE CONTINUING CARE AGREEMENT IS NOT AN EXTENSIVE AGREEMENT OR A MODIFIED AGREEMENT AND THE PROVIDER USES A SEPARATE ASSISTED LIVING AGREEMENT:

(1) THE PROVIDER IS NOT REQUIRED TO SUBMIT THE ASSISTED LIVING AGREEMENT OR ANY REQUESTS FOR MODIFICATIONS TO THE DEPARTMENT FOR APPROVAL; AND

(2) (I) THE PROVIDER SHALL STATE IN ITS CONTINUING CARE AGREEMENT THAT, IF THE SUBSCRIBER WISHES TO TRANSFER TO ASSISTED LIVING, THE SUBSCRIBER WILL BE REQUIRED TO SIGN AN ADDITIONAL SEPARATE AGREEMENT FOR ASSISTED LIVING SERVICES THAT WILL NOT BE APPROVED BY THE DEPARTMENT FOR COMPLIANCE WITH LEGAL REQUIREMENTS OR COORDINATION WITH THE CONTINUING CARE AGREEMENT; AND

(II) THE PROVIDER MAY INCLUDE A PROVISION IN ITS CONTINUING CARE AGREEMENT STATING THAT ASSISTED LIVING CONTRACTS AND SERVICES ARE REGULATED BY THE OFFICE OF HEALTH CARE QUALITY WITHIN THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(E) IF THE CONTINUING CARE AGREEMENT IS NOT AN EXTENSIVE AGREEMENT OR A MODIFIED AGREEMENT AND THE PROVIDER USES A SEPARATE COMPREHENSIVE CARE AGREEMENT:

(1) THE PROVIDER IS NOT REQUIRED TO SUBMIT THE COMPREHENSIVE CARE AGREEMENT OR ANY REQUESTS FOR MODIFICATIONS TO THE DEPARTMENT FOR APPROVAL; AND (2) (I) THE PROVIDER SHALL STATE IN ITS CONTINUING CARE AGREEMENT THAT, IF THE SUBSCRIBER WISHES TO TRANSFER TO COMPREHENSIVE CARE, THE SUBSCRIBER WILL BE REQUIRED TO SIGN AN ADDITIONAL SEPARATE AGREEMENT FOR COMPREHENSIVE CARE SERVICES THAT WILL NOT BE APPROVED BY THE DEPARTMENT FOR COMPLIANCE WITH LEGAL REQUIREMENTS OR COORDINATION WITH THE CONTINUING CARE AGREEMENT; AND

(II) THE PROVIDER MAY INCLUDE A PROVISION IN ITS CONTINUING CARE AGREEMENT STATING THAT COMPREHENSIVE CARE FACILITIES CONTRACTS AND SERVICES ARE REGULATED BY THE OFFICE OF HEALTH CARE QUALITY WITHIN THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Aging and the Insurance Commissioner shall:

(a) (1) study the feasibility, and if feasible, the advantages and disadvantages of creating a guaranty corporation, interstate compact, or similar construct to protect the financial interests of continuing care subscribers in the event of a continuing care provider's insolvency; and

(2) report the results of the study to the General Assembly, in accordance with § 2–1246 of the State Government Article, on or before November 1, 2013; and

(b) (1) study the advantages and disadvantages of requiring periodic actuarial studies for fee-for-service contracts offered by continuing care retirement communities, including the use of any other pricing models to determine long-term obligations; and

(2) report the results of the study to the General Assembly, in accordance with § 2–1246 of the State Government Article, on or before June 30, 2013.

SECTION $\frac{2}{2}$ 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. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 524

(House Bill 556)

AN ACT concerning

Continuing Care Retirement Communities – Regulation

FOR the purpose of requiring certain providers to set aside operating reserves that, before a certain date, equal a certain percentage of certain expenses of a facility; requiring certain providers to set aside operating reserves that, on or after beginning on a certain date, equal a certain percentage of certain expenses of a facility; beginning on a certain date, providing for the manner in which certain requirements under this Act relating to assets held by providers as operating reserves shall be met; beginning on a certain date, providing that certain assets held by providers may be encumbered under certain circumstances; requiring providers of certain facilities, for purposes of a certain operating reserve requirement, to make a certain calculation based on certain operating expenses; adding to the information to be included in a disclosure statement; requiring certain providers to make certain information related to meetings of a governing body available to subscribers within a certain time period; requiring providers to make a certain response to a grievance in writing; requiring providers to make available a copy of a certain budget; requiring certain marketing materials to include a certain disclaimer; providing that certain providers may not sell or make certain transfers of ownership of a facility unless the Department of Aging approves the sale or transfer; providing for the application of certain provisions of this Act; adding to the information to be included in a continuing care agreement; authorizing the Department of Aging to consider whether a continuing care agreement complies with certain laws; providing for the circumstances under which a provider is not required to submit certain agreements to the Department of Aging for approval; requiring a provider to make certain statements in its continuing care agreement under certain circumstances; authorizing a provider to include certain provisions in its continuing care agreement; requiring the Secretary of Aging and the Insurance Commissioner to conduct certain studies and make certain reports on or before eertain dates; making the provisions of this Act severable; making certain stylistic and conforming changes; and generally relating to the regulation of continuing care retirement communities.

BY repealing and reenacting, with amendments,

Article – Human Services Section 10–420(b), 10–423(a), 10–425(a), 10–427, 10–428, 10–429, 10–432, 10–444(a) and (b), and 10–445 Annotated Code of Maryland (2007 Volume and 2011 Supplement) BY adding to Article – Human Services Section 10–430 and 10–443 Annotated Code of Maryland (2007 Volume and 2011 Supplement)

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

Article – Human Services

10-420.

(b) (1) Except as otherwise provided in this part, a provider shall set aside for each facility subject to this subtitle operating reserves **THAT**:

(I) **BEFORE JANUARY 1, 2023,** equal [to] 15% of the facility's net operating expenses for the most recent fiscal year for which a certified financial statement is available; **AND**

(II) ON OR AFTER <u>BEGINNING</u> JANUARY 1, 2023, EQUAL 25% OF THE FACILITY'S NET OPERATING EXPENSES FOR THE MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE.

(2) The provider shall keep the operating reserves in a reasonably liquid form in the judgment of the provider.

(3) BEGINNING JANUARY 1, 2014, THE ASSETS HELD BY THE PROVIDER AS THE OPERATING RESERVES REQUIRED UNDER THIS SUBSECTION:

(I) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, SHALL BE UNRESTRICTED CASH AND INVESTMENTS; AND

- (II) MAY NOT:
 - 1. INCLUDE BE MET WITH A LINE OF CREDIT; OR

2. EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, BE HYPOTHECATED, PLEDGED AS COLLATERAL, OR OTHERWISE ENCUMBERED BY THE PROVIDER IN ANY MANNER.

(4) BEGINNING JANUARY 1, 2014, THE ASSETS HELD BY THE PROVIDER AS THE OPERATING RESERVES MAY BE ENCUMBERED IF:

(I) THE ASSETS ARE ENCUMBERED BY CONTRACTUAL OBLIGATIONS UNDERTAKEN BEFORE JANUARY 1, 2014, THAT HAVE NOT MATERIALLY CHANGED SINCE JANUARY 1, 2014; OR

(II) THE ASSETS ARE ENCUMBERED AS PART OF A GENERAL SECURITY PLEDGE OF ASSETS OR SIMILAR COLLATERALIZATION THAT IS PART OF THE PROVIDER'S LONG-TERM CAPITAL DEBT COVENANTS INCLUDED IN THE PROVIDER'S LONG-TERM DEBT INDENTURE OR SIMILAR FINANCIAL INSTRUMENT BUT WHICH REMAIN AVAILABLE TO THE PROVIDER TO PAY OPERATING EXPENSES WITHOUT SUBSTANTIAL RESTRICTIONS OR LIMITATIONS.

10-423.

(a) For a facility that has not been the subject of a conversion and that has residents who are not parties to continuing care agreements, the provider shall [set aside] CALCULATE THE AMOUNT OF operating reserves [equal to at least 15% of] **REQUIRED UNDER § 10–420 OF THIS SUBTITLE BASED ON** the pro rata proportion of the net operating expenses [calculated] AS SPECIFIED under subsection (b) of this section.

10-425.

(a) A disclosure statement shall include:

(1) A TABLE OF CONTENTS;

[(1)] (2) the name, address, and description of the facility and the identity of the owner or owners of the facility and the land on which it is located;

[(2)] (3) the name and address of the provider and of any parent or subsidiary;

[(3)] (4) the organizational structure and management of the provider, including:

(i) for a corporation or limited liability company, its name, the state in which it is incorporated or formed, and the name of the chief executive officer;

(ii) for a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;

(iii) for an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;

(iv) for a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, the state in which it is incorporated or formed, and the name of the chief executive officer;

(v) for a trust, the name of the trustee, the names of the owners of beneficial interests in the trust, the state governing it, and the name of the primary individual responsible for overseeing its activities; and

(vi) a statement whether the provider is qualified, or intends to qualify, as a tax–exempt organization under the Internal Revenue Code;

[(4)] (5) the name and occupation of each officer, director, trustee, managing or general partner, and each person with a 10% or greater equity or beneficial interest in the provider, and a description of the person's financial interest in or occupation with the provider;

[(5)] (6) the name and address of any entity in which a person identified in item [(4)] (5) of this subsection has a 10% or greater financial interest and that is anticipated to provide goods, premises, or services with a value of \$10,000 or more to the facility or provider in a fiscal year and a description of the goods, premises, or services and their anticipated cost to the facility or provider, which need not include salary, wage, or benefit information of employees of the provider;

[(6)] (7) a description of any matter in which an individual identified in item [(4)] (5) of this subsection:

(i) has been convicted of a felony or pleaded nolo contendere to a felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(ii) has been held liable or enjoined in a civil action by final judgment, if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation as a fiduciary;

(iii) has been subject to an effective injunctive or restrictive order of a court of record in an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons; or

(iv) in the past 10 years, had a state or federal license or permit suspended or revoked because a governmental unit brought an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons; [(7)] (8) a description of the provider's form of governance and the composition of its governing body, and a statement that the provider will satisfy the requirements of \$ 10-426 and 10-427 of this subtitle;

(9) IF THE PROVIDER HAS A GOVERNING BODY, A DESCRIPTION OF THE PROCESS USED BY THE PROVIDER TO:

(I) SELECT A SUBSCRIBER MEMBER OF ITS GOVERNING BODY; AND

(II) SATISFY THE REQUIREMENTS OF § 10-427(A) OF THIS SUBTITLE.

[(8)] (10) a statement of any affiliation of the provider with a religious, charitable, or other nonprofit organization, and the extent of the organization's responsibility for the financial and contractual obligations of the provider;

[(9)] (11) if the facility will be managed on a day-to-day basis by a person other than an individual who is directly employed by the provider, the name of the proposed manager or management company and a description of the business experience of the manager or company in operating or managing similar facilities;

[(10)] (12) a copy of the most recent certified financial statement obtainable under generally accepted accounting principles;

[(11)] (13) a description of the long-term financing for the facility;

[(12)] (14) a cash flow forecast for the current and the next two fiscal years;

[(13)] (15) a description of any activity related to a renovation, expansion, or new development during the preceding fiscal year or proposed for the current fiscal year;

[(14)**] (16)** a description of:

(i) the steps that have been or will be taken to comply with the operating reserve requirements under 10-420(b) of this subtitle; and

(ii) the provider's investment policy related to the required reserves, including how often and by whom the reserve fund investment is reviewed;

[(15)] (17) a description of the financial arrangements that the provider has made, if any, to address the renewal and replacement of the buildings and

improvements at the facility, such as the establishment of a renewal and replacement fund;

[(16)] (18) if the facility has not reached 85% occupancy of its independent living units, a summary of the feasibility study;

[(17)] (19) if applicable, a description of the conditions under which the provider may be issued an initial certificate of registration and may use escrowed deposits;

[(18)] (20) a description of all basic fees, including entrance fees, fees for health related services, and periodic fees that the provider collects from subscribers, and the amount and frequency of any fee changes during the previous 5 years or, if the facility has been in operation less than 5 years, for each year of operation;

[(19)] (21) a summary of the basic services provided or proposed to be provided at the facility under the continuing care agreement, including the extent to which health related services are provided, that clearly states which services are indicated in the agreement as included in the basic fee and which services are or will be made available at or by the facility at an extra charge;

[(20)] (22) if applicable, a statement that it is the provider's policy to impose a surcharge on some, but not all, subscribers because of a condition or circumstance that applies only to those subscribers and that the surcharge is not part of the entrance fee refund required under § 10–448 of this subtitle;

[(21)] (23) a description of the role of any resident association;

[(22)] (24) a description of the internal grievance procedure;

(25) IF THE PROVIDER OFFERS A CONTINUING CARE AGREEMENT THAT PROMISES A CONTRACTUAL ENTRANCE FEE REFUND AFTER OCCUPANCY, A STATEMENT WHETHER THE PORTION OF THE ENTRANCE FEE TO BE REFUNDED IS HELD IN TRUST OR ESCROW FOR THE SUBSCRIBER AFTER OCCUPANCY, AND IF SO HELD, A DESCRIPTION OF WHERE AND HOW THE FUNDS ARE HELD;

(26) IF THE PROVIDER OFFERS AN EXTENSIVE AGREEMENT, THE FOLLOWING STATEMENT: "IF YOU HAVE A LONG-TERM CARE INSURANCE POLICY, REQUEST YOUR ADVISORS TO REVIEW THE POLICY AND THE CONTINUING CARE AGREEMENT TO DETERMINE WHETHER THERE ARE POTENTIAL AREAS OF DUPLICATION OR AREAS WHERE BENEFITS CAN BE COORDINATED."; [(23)] (27) a statement that the provider will amend its disclosure statement whenever the provider or the Department considers an amendment necessary to prevent the disclosure statement from containing:

(i) a material misstatement of a fact required by this section to be stated in the disclosure statement; or

(ii) an omission of a material fact required by this section to be stated in the disclosure statement; and

[(24)] (28) any other material information about the facility or the provider that the Department requires or that the provider wishes to include.

10-427.

(a) (1) If a provider has a governing body, at least one of the provider's subscribers shall be a full and regular member of the governing body.

(2) If the provider owns or operates more than three facilities in the State, the governing body shall include at least one of the provider's subscribers for every three facilities in the State.

(3) Subject to paragraph (4) of this subsection, a member of the governing body who is selected to meet the requirements of this subsection shall be a subscriber at a facility in the State and be selected according to the same general written standards and criteria used to select other members of the governing body.

(4) The governing body shall confer with the resident association at each of the provider's facilities before the subscriber officially joins the governing body.

(5) The Secretary may waive the requirements of this subsection for a provider in the process of decertifying as a provider, if the Secretary determines that there are no subscribers willing and able to serve on the governing body.

(b) (1) If a provider does not have a governing body, the provider shall appoint a select committee of its officers or partners to meet at least twice a year with the resident association at each of its facilities to address concerns of the subscribers and to ensure that the opinions of subscribers are relayed to all officers or partners of the provider.

(2) If a facility does not have a resident association, the committee shall meet with a reasonable number of representatives, not required to exceed fifteen, that the subscribers elect.

(C) AS DETERMINED BY THE PROVIDER'S GOVERNING BODY, THE PROVIDER SHALL MAKE AVAILABLE TO SUBSCRIBERS EITHER THE

NONCONFIDENTIAL PORTIONS OF THE MINUTES OF EACH MEETING OF THE GOVERNING BODY OR A SUMMARY OF THE NONCONFIDENTIAL PORTIONS OF THE MINUTES, WITHIN 1 MONTH OF APPROVAL OF THE MINUTES.

10-428.

(a) A provider shall establish an internal grievance procedure to address a subscriber's grievance.

(b) The internal grievance procedure shall at least:

(1) allow a subscriber or group of subscribers collectively to submit a written grievance to the provider;

(2) require the provider to send a written acknowledgment to the subscriber OR GROUP OF SUBSCRIBERS within 5 days after receipt of the written grievance;

(3) require the provider to assign personnel to investigate the grievance;

(4) give a subscriber **OR GROUP OF SUBSCRIBERS** who [files] **FILE** a written grievance the right to meet with management of the provider within 30 days after receipt of the written grievance to present the [subscriber's] grievance; and

(5) require the provider to respond IN WRITING within 45 days after receipt of the written grievance regarding the investigation and resolution of the grievance.

(c) (1) Within 30 days after the conclusion of an internal grievance procedure established under this section, a subscriber, **GROUP OF SUBSCRIBERS**, or provider may seek mediation through one of the Community Mediation Centers in the State or another mediation provider.

(2) If a provider [or], subscriber, OR GROUP OF SUBSCRIBERS seeks mediation under paragraph (1) of this subsection:

(i) the mediation shall be nonbinding; and

(ii) the provider [and], subscriber, OR GROUP OF SUBSCRIBERS may not be represented by counsel.

10-429.

A provider shall make readily available to its subscribers for review at the facility:

(1) copies of all materials that the provider submits to the Department that are required to be disclosed under the Public Information Act; AND

(2) A COPY OF THE MOST RECENT FINALIZED BUDGET OF THE FACILITY.

10-430.

ALL MARKETING MATERIALS, INCLUDING DISCLOSURE STATEMENTS, THAT STATE THAT PART OR ALL OF THE ENTRANCE FEE IS OR MAY BE REFUNDABLE SHALL INCLUDE A CONSPICUOUS DISCLAIMER THAT STATES AT LEAST THE FOLLOWING: "CAREFULLY READ THE CONTINUING CARE AGREEMENT FOR THE CONDITIONS THAT MUST BE SATISFIED BEFORE THE PROVIDER IS REQUIRED TO PAY THE ENTRANCE FEE REFUND.".

10-432.

(a) (1) [This section and §§ 10–433 through 10–435 of this subtitle do] **SUBSECTION (B)(2) OF THIS SECTION DOES** not apply to [a transfer of ownership of a facility, or] a transfer of ownership or control of a person that owns or controls a facility, if:

(i) the transfer is part of a business reorganization; and

(ii) the same person or persons holding THE RIGHT TO CONTROL OR HOLDING a majority of ownership [or right to control] before the business reorganization will retain, directly or indirectly, [a majority of ownership or] THE right to control OR A MAJORITY OF OWNERSHIP, RESPECTIVELY, after the business reorganization.

(2) The provider shall notify the Department and the facility's subscribers 30 days before any reorganization described in paragraph (1) of this subsection.

(b) Unless the Department approves the sale or transfer in accordance with 10-433 through 10-435 of this subtitle:

(1) EXCEPT FOR THE GRANT OF A MORTGAGE OR DEED OF TRUST TO AN UNRELATED THIRD PARTY, a provider that holds a preliminary, initial, or renewal certificate of registration [or] MAY NOT SELL OR OTHERWISE TRANSFER, DIRECTLY OR INDIRECTLY, OWNERSHIP OF A FACILITY OR ANY OWNERSHIP INTEREST IN A FACILITY; AND (2) a person with an ownership interest in or a right to control the provider, through governing body appointments or contractual or similar arrangements, may not sell or otherwise transfer, directly or indirectly[:]

[(1)], THE RIGHT TO CONTROL OR more than 50% of the [provider's ownership of a facility; or

(2) more than 50% of the ownership of or right to control] **OWNERSHIP OF** a person that owns or controls a facility.

(c) Any series of sales or other transfers described in subsection (b) of this section that occur in a 12-month period shall be aggregated for purposes of this section and \$10-433 through 10-435 of this subtitle.

10-443.

THE PROVISIONS OF PART IV OF THIS SUBTITLE ARE IN ADDITION TO, AND NOT IN LIEU OF, OTHER APPLICABLE LAWS.

10-444.

(a) Except as provided in subsection [(b)(23)] (B)(25) of this section, a requirement of this section does not apply to any continuing care agreement entered into before the effective date of the requirement.

(b) In a form acceptable to the Department, each continuing care agreement shall:

(1) show the total consideration paid by the subscriber for continuing care, including the value of all property transferred, donations, entrance fees, subscriptions, monthly fees, and any other fees paid or payable by or on behalf of a subscriber;

(2) specify all services that are to be provided by the provider to each subscriber, such as food, shelter, medical care, nursing care, or other health related services, including in detail all items that each subscriber will receive, and whether the items will be provided for life or for a designated time period;

(3) designate the classes of subscribers according to types of payment plans;

(4) subject to subsection (c) of this section, describe the procedures to be followed by the provider when the provider temporarily or permanently changes the subscriber's accommodations within the facility or transfers the subscriber to another health facility; (5) describe the policies that will be implemented if the subscriber becomes unable to pay the monthly fees;

(6) state the policy of the provider concerning changes in accommodations and the procedure to implement that policy if the number of persons occupying an individual unit changes;

(7) provide in clear and understandable language, in boldface type, and in the largest type used in the body of the agreement:

(i) the terms governing the refund of any portion of the entrance fee if the provider discharges the subscriber or the subscriber cancels the agreement; and

(ii) whether monthly fees, if charged, will be subject to periodic increases;

(8) state the terms under which an agreement is canceled by the death of the subscriber;

(9) provide that charges for care paid in advance in a lump sum may not be increased or changed for the duration of the agreed–upon care;

(10) state that the **PROVIDER REPRESENTS THAT THE** subscriber has received, at least two weeks before signing the agreement[,]:

(I) the current version of the written rules of the provider;

(II) THE CONTINUING CARE AGREEMENT FORM, WITH THE ATTACHMENTS, EXHIBITS, AND ADDENDA; AND

(III) THE CURRENT DISCLOSURE STATEMENT, WITH THE ATTACHMENTS, EXHIBITS, AND ADDENDA;

(11) describe the living quarters;

(12) if applicable, state the conditions under which a subscriber may assign a unit for the use of another individual;

(13) state the provider's religious or charitable affiliations and the extent, if any, to which the affiliate organization is responsible for the provider's financial and contractual obligations;

(14) state the subscriber's and provider's respective rights and obligations concerning:

(i) use of the facility; and

(ii) any real and personal property of the subscriber placed in the provider's custody;

(15) state that subscribers have the right to organize and operate a subscriber association at the facility and to meet privately to conduct business;

(16) state that there is an internal grievance procedure to address a subscriber's grievance;

(17) state the fee adjustments, if any, that will be made if the subscriber is voluntarily absent from the facility for an extended period of time;

(18) specify the circumstances, if any, under which the subscriber will be required to apply for Medicaid, Medicare, public assistance, or any public benefit program and whether the facility participates in Medicare or medical assistance;

(19) state that the subscriber received a copy of the latest certified financial statement at least two weeks before signing the agreement and that the subscriber has reviewed the statement;

(20) STATE THAT THE SUBSCRIBER ACKNOWLEDGES REVIEWING ALL OF THE TERMS OF THE ENTRANCE FEE REFUND CLAUSES AND PROVISIONS CONTAINED IN THE CONTINUING CARE AGREEMENT;

[(20)] (21) provide that, on request, the provider will make available to the subscriber any certified financial statement submitted to the Department;

[(21)] (22) if applicable, describe the conditions under which the provider may be issued an initial certificate of registration and the conditions under which the provider may use escrowed deposits, and state the amount of the subscriber's deposit;

[(22)] (23) state that fees collected by a provider under the terms of a continuing care agreement may only be used for purposes set forth in the agreement;

(24) INCLUDE ONE OF THE FOLLOWING <u>MODEL</u> STATEMENTS <u>OR A</u> <u>SUBSTANTIALLY SIMILAR STATEMENT</u>:

(I) "THE PROVIDER AGREES THAT, FOR AS LONG AS THE SUBSCRIBER'S CONTINUING CARE AGREEMENT REMAINS IN EFFECT, THE PROVIDER SHALL USE ONLY ONLY USE FEES PAID BY THE SUBSCRIBERS OF THE COMMUNITY FOR PURPOSES DIRECTLY RELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE COMMUNITY."; (II) "THE PROVIDER DOES NOT CURRENTLY USE FEES PAID BY SUBSCRIBERS OF THE COMMUNITY FOR PURPOSES OTHER THAN THOSE DIRECTLY RELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE COMMUNITY, BUT THE PROVIDER RESERVES THE FUTURE RIGHT TO USE FEES PAID BY SUBSCRIBERS OF THE COMMUNITY FOR PURPOSES UNRELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE COMMUNITY."; OR

(III) "THE PROVIDER MAY USE FEES PAID BY SUBSCRIBERS OF THE COMMUNITY FOR PURPOSES UNRELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF THE COMMUNITY, INCLUDING FOR THE FURTHERANCE OF THE PROVIDER'S CORPORATE MISSION, TO DISTRIBUTE PROFITS, OR TO BENEFIT AN AFFILIATED COMMUNITY.";

[(23)] (25) allow a subscriber to designate a beneficiary to receive any refundable portion of the entrance fee that is owed due to the death of the subscriber on or after the date of occupancy, if the designation is:

- (i) in writing;
- (ii) witnessed by at least two competent witnesses;
- (iii) not contingent; and
- (iv) specified in percentages and accounts for 100% of the refund

due;

[(24)] (26) state the funeral and burial services, if any, that the provider will provide; [and]

(27) CONTAIN A TABLE OF CONTENTS;

(28) IF THE PROVIDER OFFERS A CONTINUING CARE AGREEMENT THAT PROMISES A CONTRACTUAL ENTRANCE FEE REFUND AFTER OCCUPANCY, STATE WHETHER THE PORTION OF THE ENTRANCE FEE TO BE REFUNDED IS HELD IN TRUST OR ESCROW FOR THE SUBSCRIBER AFTER OCCUPANCY, AND IF SO HELD, STATE WHERE AND HOW THE FUNDS ARE HELD;

(29) IF THE PAYMENT OF A CONTRACTUAL ENTRANCE FEE REFUND AFTER OCCUPANCY IS CONDITIONED ON THE REOCCUPANCY OR RECONTRACTING OF THE SUBSCRIBER'S UNIT, STATE THAT THE PROVIDER AGREES TO MAKE REASONABLE EFFORTS TO SATISFY THE CONDITION; AND

[(25)] (30) contain the following statement in boldface type and in the largest type used in the agreement: "A preliminary certificate of registration or

certificate of registration is not an endorsement or guarantee of this facility by the State of Maryland. The Maryland Department of Aging urges you to consult with an attorney and a suitable financial advisor before signing any documents.".

10-445.

(a) (1) (i) If a provider's feasibility study has been approved under § 10-409 of this subtitle, the Department, within 120 days after receipt of a continuing care agreement or any other related agreement submitted by a provider, shall determine whether the agreement complies with the requirements of this subtitle.

(ii) At any time during the review process, the Department may submit comments to or request additional information from the provider to determine whether the agreement complies with the requirements of this subtitle AND OTHER APPLICABLE LAW.

(iii) If the Department submits comments or a request for additional information under subparagraph (ii) of this paragraph, the 120-day review period under subparagraph (i) of this paragraph is suspended.

(iv) On receipt of any requested information or modifications to the agreement necessitated by the Department's comments under subparagraph (iii) of this paragraph, the Department, within the number of days remaining in the 120–day review period, shall:

1. complete its review to determine whether the agreement meets the requirements of this subtitle AND OTHER APPLICABLE LAW IDENTIFIED BY THE DEPARTMENT IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS PARAGRAPH; and

2. approve or disapprove the agreement.

(v) 1. If the Department does not approve the agreement, the Department shall notify the provider in writing, including citations to the specific provisions of law that the Department determined were not complied with in the agreement.

2. A provider may appeal the disapproval of an agreement under subparagraph (iv) of this paragraph under the provisions of Title 10, Subtitle 2 of the State Government Article.

(2) If the Department does not act within 120 days, the agreement is deemed approved.

(b) The provider shall maintain the continuing care agreement at the facility and make it available for inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle 18, of the Health – General Article and Title 10, Subtitle 3 of the Health – General Article.

(c) If a provider is seeking approval for a modification to an approved continuing care agreement or other related agreement, the Department shall limit its review to:

(1) the section of the agreement being modified and any sections directly affected by the modification; and

(2) any section of the agreement that may have been affected by a change in the law or a regulation that was enacted after the Department approved the agreement.

[(d) If the provider executes a separate assisted living agreement or comprehensive care agreement, the provider is not required to submit the assisted living agreement or comprehensive care agreement or any requests for modifications to the Department for approval.]

(D) IF THE CONTINUING CARE AGREEMENT IS NOT AN EXTENSIVE AGREEMENT OR A MODIFIED AGREEMENT AND THE PROVIDER USES A SEPARATE ASSISTED LIVING AGREEMENT:

(1) THE PROVIDER IS NOT REQUIRED TO SUBMIT THE ASSISTED LIVING AGREEMENT OR ANY REQUESTS FOR MODIFICATIONS TO THE DEPARTMENT FOR APPROVAL; AND

(2) **(I)** THE PROVIDER SHALL STATE IN ITS CONTINUING CARE AGREEMENT THAT, IF THE SUBSCRIBER WISHES TO TRANSFER TO ASSISTED LIVING, THE SUBSCRIBER WILL BE REQUIRED TO SIGN AN ADDITIONAL SEPARATE AGREEMENT FOR ASSISTED LIVING SERVICES THAT WILL NOT BE THE DEPARTMENT FOR APPROVED BY COMPLIANCE WITH LEGAL **REQUIREMENTS OR COORDINATION WITH THE CONTINUING CARE AGREEMENT;** AND

(II) THE PROVIDER MAY INCLUDE A PROVISION IN ITS CONTINUING CARE AGREEMENT STATING THAT ASSISTED LIVING CONTRACTS AND SERVICES ARE REGULATED BY THE OFFICE OF HEALTH CARE QUALITY WITHIN THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

(E) IF THE CONTINUING CARE AGREEMENT IS NOT AN EXTENSIVE AGREEMENT OR A MODIFIED AGREEMENT AND THE PROVIDER USES A SEPARATE COMPREHENSIVE CARE AGREEMENT: (1) THE PROVIDER IS NOT REQUIRED TO SUBMIT THE COMPREHENSIVE CARE AGREEMENT OR ANY REQUESTS FOR MODIFICATIONS TO THE DEPARTMENT FOR APPROVAL; AND

(2) (I) THE PROVIDER SHALL STATE IN ITS CONTINUING CARE AGREEMENT THAT, IF THE SUBSCRIBER WISHES TO TRANSFER TO COMPREHENSIVE CARE, THE SUBSCRIBER WILL BE REQUIRED TO SIGN AN ADDITIONAL SEPARATE AGREEMENT FOR COMPREHENSIVE CARE SERVICES THAT WILL NOT BE APPROVED BY THE DEPARTMENT FOR COMPLIANCE WITH LEGAL REQUIREMENTS OR COORDINATION WITH THE CONTINUING CARE AGREEMENT; AND

(II) THE PROVIDER MAY INCLUDE A PROVISION IN ITS CONTINUING CARE AGREEMENT STATING THAT COMPREHENSIVE CARE FACILITIES CONTRACTS AND SERVICES ARE REGULATED BY THE OFFICE OF HEALTH CARE QUALITY WITHIN THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Aging and the Insurance Commissioner shall:

(a) (1) study the feasibility, and if feasible, the advantages and disadvantages of creating a guaranty corporation, interstate compact, or similar construct to protect the financial interests of continuing care subscribers in the event of a continuing care provider's insolvency; and

(2) report the results of the study to the General Assembly, in accordance with § 2–1246 of the State Government Article, on or before November 1, 2013; and

(b) (1) study the advantages and disadvantages of requiring periodic actuarial studies for fee-for-service contracts offered by continuing care retirement communities, including the use of any other pricing models to determine long-term obligations; and

(2) report the results of the study to the General Assembly, in accordance with § 2–1246 of the State Government Article, on or before June 30, 2013.

SECTION $\frac{3}{2}$ 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. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 525

(Senate Bill 496)

AN ACT concerning

Criminal Procedure – Unexecuted Warrant, Summons, or Other Criminal Process – Invalidation and Destruction

FOR the purpose of authorizing a law enforcement agency to make a certain request to a certain State's Attorney to have a certain unexecuted warrant, summons, or other criminal process invalidated and destroyed under certain circumstances; authorizing the State's Attorney to petition a certain administrative judge for the invalidation and destruction of a certain unexecuted warrant, summons, or other <u>criminal process</u>; requiring the State's Attorney to petition a certain administrative judge for the invalidation and destruction of a certain unexecuted warrant, summons, or other criminal process; authorizing the State's Attorney to argue against the invalidation and destruction of a certain unexecuted warrant, summons, or other criminal process under certain circumstances; providing for the manner in which a court may order the invalidation and destruction of a certain unexecuted warrant, summons, or other criminal process; prohibiting an arrest from being made under the authority of a certain warrant, *summons*, or other criminal process; authorizing the State's Attorney to enter a nolle prosequi or place a certain case on the stet docket at a certain time; providing for the application of this Act; and generally relating to the invalidation and destruction of unexecuted warrants, summons, or other criminal processes.

BY adding to

Article – Criminal Procedure Section 4–109 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

(A) A LAW ENFORCEMENT AGENCY MAY MAKE A WRITTEN REQUEST FOR THE STATE'S ATTORNEY WITHIN THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY TO PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT TO HAVE AN UNEXECUTED WARRANT FOR A MISDEMEANOR OFFENSE, SUMMONS, OR OTHER CRIMINAL PROCESS IN THE POSSESSION OF THE LAW ENFORCEMENT AGENCY INVALIDATED AND DESTROYED DUE TO THE AGE OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS AND UNAVAILABILITY OF THE DEFENDANT, OR OTHER SPECIAL CIRCUMSTANCES.

(B) ON RECEIPT OF A REQUEST UNDER SUBSECTION (A) OF THIS SECTION, THE STATE'S ATTORNEY SHALL PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS <u>A WARRANT</u>, SUMMONS, OR OTHER CRIMINAL PROCESS FOR A MISDEMEANOR OFFENSE IN THE POSSESSION OF THE LAW ENFORCEMENT AGENCY INVALIDATED AND DESTROYED DUE TO THE AGE OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS AND UNAVAILABILITY OF THE DEFENDANT, OR OTHER SPECIAL CIRCUMSTANCES, IF:

(1) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR THE ARREST OF THE DEFENDANT IN ORDER THAT THE DEFENDANT MIGHT STAND FOR TRIAL AND HAS REMAINED UNEXECUTED FOR AT LEAST 5 YEARS;

(2) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR THE FAILURE OF THE DEFENDANT TO MAKE A DEFERRED PAYMENT OF A FINE OR COSTS AS ORDERED BY THE COURT AND HAS REMAINED UNEXECUTED FOR AT LEAST 5 YEARS;

(3) THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR A VIOLATION OF PROBATION AND HAS REMAINED UNEXECUTED FOR AT LEAST 5 YEARS;

(4) EXCEPT AS PROVIDED IN ITEM (5) OF THIS SUBSECTION, THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS WAS ISSUED FOR THE ARREST OF THE DEFENDANT FOR THE FAILURE OF THE DEFENDANT TO APPEAR AS DIRECTED BY THE COURT AND HAS REMAINED UNEXECUTED FOR AT LEAST 5 YEARS; OR

(5) THE DEFENDANT WAS RELEASED ON BAIL POSTED BY A PRIVATE SURETY, AND THE WARRANT WAS ISSUED FOR THE ARREST OF THE DEFENDANT FOR THE FAILURE OF THE DEFENDANT TO APPEAR AS DIRECTED BY THE COURT AND HAS REMAINED UNEXECUTED FOR AT LEAST 10 YEARS. (B) (1) ON RECEIPT OF A REQUEST MADE UNDER SUBSECTION (A)(1), (A)(2), (A)(3), OR (A)(4) OF THIS SECTION, THE STATE'S ATTORNEY:

(1) IF THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS HAS REMAINED UNEXECUTED FOR MORE THAN 5 YEARS BUT LESS THAN 7 YEARS, MAY PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER PROCESS; AND

(II) IF THE WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS HAS REMAINED UNEXECUTED FOR AT LEAST 7 YEARS, SHALL PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER PROCESS.

(2) ON RECEIPT OF A REQUEST MADE UNDER SUBSECTION (A)(5) OF THIS SECTION, THE STATE'S ATTORNEY SHALL PETITION THE ADMINISTRATIVE JUDGE OF THE DISTRICT FOR THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS.

(C) THE STATE'S ATTORNEY MAY ARGUE AGAINST THE INVALIDATION AND DESTRUCTION OF THE UNEXECUTED WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS DUE TO A JUSTIFIABLE CONTINUING ACTIVE INVESTIGATION OF THE CASE.

(D) UNLESS PRESERVATION IS DETERMINED BY THE COURT TO BE JUSTIFIABLE, THE COURT SHALL ORDER THE INVALIDATION AND DESTRUCTION OF AN UNEXECUTED WARRANT FOR A MISDEMEANOR OFFENSE, SUMMONS, OR OTHER CRIMINAL PROCESS IN ACCORDANCE WITH § 1–605 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

(E) AN ARREST MAY NOT BE MADE UNDER THE AUTHORITY OF A WARRANT OR OTHER CRIMINAL PROCESS THAT HAS BEEN ORDERED INVALIDATED AND DESTROYED.

(F) THE STATE'S ATTORNEY MAY ENTER A NOLLE PROSEQUI OR PLACE THE CASE ON THE STET DOCKET AT THE TIME OF THE COURT ORDER UNDER THIS SECTION.

(G) NOTHING IN THIS SECTION MAY BE CONSTRUED TO:

(1) PREVENT THE REISSUANCE OF A WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS;

(2) AFFECT THE TIME WITHIN WHICH A PROSECUTION FOR A MISDEMEANOR MAY BE COMMENCED; OR

(3) AFFECT ANY PENDING CRIMINAL CHARGE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 526

(Senate Bill 497)

AN ACT concerning

Employees' Retirement and Pension Systems – Reemployment of Retirees – Parole and Probation Employees

FOR the purpose of exempting certain individuals who are retirees of the Employees' Retirement System or the Employees' Pension System from certain earnings offsets under certain circumstances if the individuals are reemployed as parole and probation employees; <u>requiring the Secretary of Public Safety and</u> <u>Correctional Services to submit a certain report on certain retirees on or before</u> <u>a certain date</u>; and generally relating to reemployment of certain retirees of the Employees' Retirement System or Employees' Pension System.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions Section 22–406(c)(4)(viii) and (ix) and 23–407(c)(4)(vi) and (vii) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Personnel and Pensions Section 22–406(c)(4)(x) <u>and (p)</u> and 23–407(c)(4)(viii) <u>and (p)</u> Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article - State Personnel and Pensions

22 - 406.

(c) (4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(viii) a retiree of the Employees' Retirement System who is reemployed on a contractual basis by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1–301 of the Health Occupations Article, in:

1. a State residential center as defined in § 7–101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10–101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article; [or]

(ix) a retiree of the Employees' Retirement System and the Judges' Retirement System who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; **OR**

(X) A RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM WHO IS REEMPLOYED ON A CONTRACTUAL BASIS FOR NOT MORE THAN 4 YEARS AS A PAROLE AND PROBATION EMPLOYEE AS DESCRIBED IN § 6-108 IN A POSITION AUTHORIZED UNDER TITLE 6, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE.

(P) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

(1) THE NUMBER OF REHIRED RETIREES UNDER SUBSECTION (C)(4)(X) OF THIS SECTION;

(2) THE ANNUAL SALARY OF EACH REHIRED RETIREE AT THE TIME OF RETIREMENT AND THE CURRENT ANNUAL SALARY OF EACH REHIRED RETIREE;

(3) THE NUMBER OF PAROLE AND PROBATION EMPLOYEES HIRED WHO ARE NOT RETIREES; AND

(4) THE ANNUAL SALARY OF EACH PAROLE AND PROBATION EMPLOYEE WHO IS HIRED.

23-407.

(c) (4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(vi) a retiree of the Employees' Pension System who is reemployed on a contractual basis by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1–301 of the Health Occupations Article in:

1. a State residential center as defined in § 7–101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10–101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article; [or]

(vii) a retiree of the Employees' Pension System and the Judges' Retirement System who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; **OR**

(VIII) A RETIREE OF THE EMPLOYEES' PENSION SYSTEM WHO IS REEMPLOYED ON A CONTRACTUAL BASIS <u>FOR NOT MORE THAN 4 YEARS</u> AS A PAROLE AND PROBATION EMPLOYEE <u>AS DESCRIBED IN § 6–108</u> <u>IN A POSITION</u> <u>AUTHORIZED UNDER TITLE 6, SUBTITLE 1</u> OF THE CORRECTIONAL SERVICES ARTICLE.

(P) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES: (1) THE NUMBER OF REHIRED RETIREES UNDER SUBSECTION (C)(4)(VIII) OF THIS SECTION;

(2) THE ANNUAL SALARY OF EACH REHIRED RETIREE AT THE TIME OF RETIREMENT AND THE CURRENT ANNUAL SALARY OF EACH REHIRED RETIREE;

(3) THE NUMBER OF PAROLE AND PROBATION EMPLOYEES HIRED WHO ARE NOT RETIREES; AND

(4) THE ANNUAL SALARY OF EACH PAROLE AND PROBATION EMPLOYEE WHO IS HIRED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 527

(House Bill 630)

AN ACT concerning

State Retirement and Pension Systems – Reemployment of Retirees – Parole and Probation Employees

FOR the purpose of exempting certain individuals who are retirees of the Employees' Retirement System or the Employees' Pension System from certain earnings offsets under certain circumstances if the individuals are reemployed as parole and probation employees; <u>requiring the Secretary of Public Safety and Correctional Services to submit a certain report on certain retirees on or before a certain date</u>; and generally relating to reemployment of certain retirees of the Employees' Retirement System or Employees' Pension System.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions Section 22–406(c)(4)(viii) and (ix) and 23–407(c)(4)(vi) and (vii) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Personnel and Pensions Section 22-406(c)(4)(x) and (p) and 23-407(c)(4)(viii) and (p) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – State Personnel and Pensions

22-406.

(c) (4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(viii) a retiree of the Employees' Retirement System who is reemployed on a contractual basis by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1–301 of the Health Occupations Article, in:

1. a State residential center as defined in § 7–101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10–101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article; [or]

(ix) a retiree of the Employees' Retirement System and the Judges' Retirement System who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; **OR**

(X) A RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM WHO IS REEMPLOYED ON A CONTRACTUAL BASIS FOR NOT MORE THAN 4 YEARS AS A PAROLE AND PROBATION EMPLOYEE AS DESCRIBED IN § 6–108 IN A POSITION AUTHORIZED UNDER TITLE 6, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE.

(P) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

(1) THE NUMBER OF REHIRED RETIREES UNDER SUBSECTION (C)(4)(X) OF THIS SECTION;

(2) THE ANNUAL SALARY OF EACH REHIRED RETIREE AT THE TIME OF RETIREMENT AND THE CURRENT ANNUAL SALARY OF EACH REHIRED RETIREE;

(3) THE NUMBER OF PAROLE AND PROBATION EMPLOYEES HIRED WHO ARE NOT RETIREES; AND

(4) THE ANNUAL SALARY OF EACH PAROLE AND PROBATION EMPLOYEE WHO IS HIRED.

23-407.

(c) (4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(vi) a retiree of the Employees' Pension System who is reemployed on a contractual basis by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1–301 of the Health Occupations Article in:

1. a State residential center as defined in § 7–101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10–101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article; [or]

(vii) a retiree of the Employees' Pension System and the Judges' Retirement System who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; **OR**

(VIII) A RETIREE OF THE EMPLOYEES' PENSION SYSTEM WHO IS REEMPLOYED ON A CONTRACTUAL BASIS <u>FOR NOT MORE THAN 4 YEARS</u> AS A PAROLE AND PROBATION EMPLOYEE <u>AS DESCRIBED IN § 6–108</u> <u>IN A POSITION</u> <u>AUTHORIZED UNDER TITLE 6, SUBTITLE 1</u> OF THE CORRECTIONAL SERVICES ARTICLE. (P) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

(1) THE NUMBER OF REHIRED RETIREES UNDER SUBSECTION (C)(4)(VIII) OF THIS SECTION;

(2) THE ANNUAL SALARY OF EACH REHIRED RETIREE AT THE TIME OF RETIREMENT AND THE CURRENT ANNUAL SALARY OF EACH REHIRED RETIREE;

(3) THE NUMBER OF PAROLE AND PROBATION EMPLOYEES HIRED WHO ARE NOT RETIREES; AND

(4) THE ANNUAL SALARY OF EACH PAROLE AND PROBATION EMPLOYEE WHO IS HIRED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 528

(Senate Bill 507)

AN ACT concerning

Financial Institutions – Interest Payable on Escrow Accounts and Specific Purpose Savings Accounts

FOR the purpose of altering the interest rate payable by certain lending institutions on escrow accounts created in connection with loans secured by a first mortgage or first deed of trust on residential real property; requiring the interest rate to be adjusted under certain circumstances; altering the interest rate payable by certain banking institutions on interest bearing accounts instituted for a specific purpose; repealing certain obsolete language; providing for the application of this Act; and generally relating to rates of interest payable on escrow accounts and savings accounts.

BY repealing and reenacting, with amendments, Article – Commercial Law Section 12–109 and 12–1026(b) Annotated Code of Maryland (2005 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Commercial Law Section 12–1026(a) Annotated Code of Maryland (2005 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Financial Institutions Section 5–302(b) Annotated Code of Maryland (2011 Replacement Volume and 2011 Supplement)

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

Article – Commercial Law

12 - 109.

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

(2) "Lending institution" means a bank, savings bank, or savings and loan association doing business in Maryland.

(3) "Escrow account" means an expense or escrow account which tends to protect the security of a loan by the accumulation of funds for the payment of taxes, insurance premiums, or other expenses.

(b) (1) [After May 31, 1974, a] A lending institution which lends money secured by a first mortgage or first deed of trust on any interest in residential real property and creates or is the assignee of an escrow account in connection with that loan shall pay interest to the borrower on the funds in the escrow account at [the greater of:

(i) A rate of 3 percent per annum simple interest; or

(ii) The rate of interest regularly paid by the lending institution on regular passbook savings accounts] AN ANNUAL RATE NOT LESS THAN THE 6-MONTH AVERAGE DEALER BID RATE ON NATIONALLY TRADED CERTIFICATES OF DEPOSIT, AS PUBLISHED BY THE FEDERAL RESERVE IN "SELECTED INTEREST RATES (DAILY) – H.15", AS OF THE FIRST BUSINESS DAY OF THE CALENDAR YEAR. (2) Interest on these funds shall be:

(i) ADJUSTED, IF APPLICABLE, AS OF THE FIRST DAY OF EACH CALENDAR YEAR TO REFLECT THE RATE TO BE PAID DURING THAT YEAR, AS DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION;

(II) Computed on the average monthly balance in the escrow account; and

[(ii)] (III) Paid annually to the borrower by crediting the escrow account with the amount of interest due.

(3) The lending institution shall annually provide the borrower with a statement of the escrow balance.

(c) The provisions of this section do not apply to a lending institution which provides for the payment of taxes, insurance, or other expenses under the direct reduction method by which these expenses, when paid by the lender, are added to the outstanding principal balance of the loan.

(d) This section does not apply if the loan is purchased by an out-of-state lender through the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation and the out-of-state lender as a condition of purchase elects to service the loan. However, this section shall apply if the out-of-state lender sells the loan to a Maryland lender or places the loan with a Maryland lender for servicing.

12 - 1026.

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

(2) "Lending institution" means a bank, savings bank, or savings and loan association doing business in Maryland.

(3) "Escrow account" means an expense or escrow account which tends to protect the security of a loan by the accumulation of funds for the payment of taxes, insurance premiums, or other expenses.

(b) (1) A lending institution that makes a loan to a consumer borrower secured by a first mortgage or first deed of trust on residential real property and creates or is the assignee of an escrow account in connection with that loan shall pay interest to the consumer borrower on the funds in the escrow account at [the greater of:

(i) A rate of 3 percent per annum simple interest; or

(ii) The rate of interest regularly paid by the lending institution on regular passbook savings accounts] AN ANNUAL RATE NOT LESS THAN THE 6-MONTH AVERAGE DEALER BID RATE ON NATIONALLY TRADED CERTIFICATES OF DEPOSIT, AS PUBLISHED BY THE FEDERAL RESERVE IN "SELECTED INTEREST RATES (DAILY) – H.15", AS OF THE FIRST BUSINESS DAY OF THE CALENDAR YEAR.

(2) Interest on these funds shall be:

(i) ADJUSTED, IF APPLICABLE, AS OF THE FIRST DAY OF EACH CALENDAR YEAR TO REFLECT THE RATE TO BE PAID DURING THAT YEAR, AS DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION;

(II) Computed on the average monthly balance in the escrow account; and

[(ii)] (III) Paid annually to the borrower by crediting the escrow account with the amount of interest due.

(3) The lending institution shall annually provide the consumer borrower with a statement of the escrow balance.

(4) The provisions of this subsection do not apply to a lending institution that provides for the payment of taxes, insurance, or other expenses under the direct reduction method by which these expenses, when paid by the lending institution, are added to the outstanding principal balance of the loan.

(5) (i) This subsection does not apply if the loan:

1. Is purchased by an out-of-state lender through the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

2. The out–of–state lender elects to service the loan as a condition of purchase.

(ii) Notwithstanding subparagraph (i) of this paragraph, this subsection shall apply if the out–of–state lender:

- 1. Sells the loan to a Maryland lender; or
- 2. Places the loan with a Maryland lender for servicing.

Article – Financial Institutions

(b) A banking institution shall pay [at least 3 percent annual] interest on each interest bearing account that is instituted for a specific purpose, including "Christmas" or "vacation" accounts, for a period of 1 year or less AT AN ANNUAL RATE NOT LESS THAN THE 6-MONTH AVERAGE DEALER BID RATE ON NATIONALLY TRADED CERTIFICATES OF DEPOSIT, AS PUBLISHED BY THE FEDERAL RESERVE IN "SELECTED INTEREST RATES (DAILY) – H.15", AS OF THE FIRST BUSINESS DAY OF THE CALENDAR YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to escrow accounts and savings accounts established on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 529

(House Bill 533)

AN ACT concerning

Financial Institutions – Interest Payable on Escrow Accounts and Specific Purpose Savings Accounts

FOR the purpose of altering the interest rate payable by certain lending institutions on escrow accounts created in connection with loans secured by a first mortgage or first deed of trust on residential real property; requiring the interest rate to be adjusted under certain circumstances; altering the interest rate payable by certain banking institutions on interest bearing accounts instituted for a specific purpose; repealing certain obsolete language; providing for the application of this Act; and generally relating to rates of interest payable on escrow accounts and savings accounts.

BY repealing and reenacting, with amendments,

Article – Commercial Law Section 12–109 and 12–1026(b) Annotated Code of Maryland (2005 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Commercial Law Section 12–1026(a) Annotated Code of Maryland (2005 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Financial Institutions Section 5–302(b) Annotated Code of Maryland (2011 Replacement Volume and 2011 Supplement)

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

Article – Commercial Law

12-109.

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

(2) "Lending institution" means a bank, savings bank, or savings and loan association doing business in Maryland.

(3) "Escrow account" means an expense or escrow account which tends to protect the security of a loan by the accumulation of funds for the payment of taxes, insurance premiums, or other expenses.

(b) (1) [After May 31, 1974, a] A lending institution which lends money secured by a first mortgage or first deed of trust on any interest in residential real property and creates or is the assignee of an escrow account in connection with that loan shall pay interest to the borrower on the funds in the escrow account at [the greater of:

(i) A rate of 3 percent per annum simple interest; or

(ii) The rate of interest regularly paid by the lending institution on regular passbook savings accounts] AN ANNUAL RATE NOT LESS THAN THE 6-MONTH AVERAGE DEALER BID RATE ON NATIONALLY TRADED CERTIFICATES OF DEPOSIT, AS PUBLISHED BY THE FEDERAL RESERVE IN "SELECTED INTEREST RATES (DAILY) – H.15", AS OF THE FIRST BUSINESS DAY OF THE CALENDAR YEAR.

(2) Interest on these funds shall be:

(i) ADJUSTED, IF APPLICABLE, AS OF THE FIRST DAY OF EACH CALENDAR YEAR TO REFLECT THE RATE TO BE PAID DURING THAT YEAR, AS DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION; account; and

(II)

[(ii)] (III) Paid annually to the borrower by crediting the escrow account with the amount of interest due.

Computed on the average monthly balance in the escrow

(3) The lending institution shall annually provide the borrower with a statement of the escrow balance.

(c) The provisions of this section do not apply to a lending institution which provides for the payment of taxes, insurance, or other expenses under the direct reduction method by which these expenses, when paid by the lender, are added to the outstanding principal balance of the loan.

(d) This section does not apply if the loan is purchased by an out-of-state lender through the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation and the out-of-state lender as a condition of purchase elects to service the loan. However, this section shall apply if the out-of-state lender sells the loan to a Maryland lender or places the loan with a Maryland lender for servicing.

12 - 1026.

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

(2) "Lending institution" means a bank, savings bank, or savings and loan association doing business in Maryland.

(3) "Escrow account" means an expense or escrow account which tends to protect the security of a loan by the accumulation of funds for the payment of taxes, insurance premiums, or other expenses.

(b) (1) A lending institution that makes a loan to a consumer borrower secured by a first mortgage or first deed of trust on residential real property and creates or is the assignee of an escrow account in connection with that loan shall pay interest to the consumer borrower on the funds in the escrow account at [the greater of:

(i) A rate of 3 percent per annum simple interest; or

(ii) The rate of interest regularly paid by the lending institution on regular passbook savings accounts] AN ANNUAL RATE NOT LESS THAN THE 6-MONTH AVERAGE DEALER BID RATE ON NATIONALLY TRADED CERTIFICATES OF DEPOSIT, AS PUBLISHED BY THE FEDERAL RESERVE IN "SELECTED INTEREST RATES (DAILY) – H.15", AS OF THE FIRST BUSINESS DAY OF THE CALENDAR YEAR.

(2) Interest on these funds shall be:

(i) ADJUSTED, IF APPLICABLE, AS OF THE FIRST DAY OF EACH CALENDAR YEAR TO REFLECT THE RATE TO BE PAID DURING THAT YEAR, AS DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION;

(II) Computed on the average monthly balance in the escrow account; and

[(ii)] (III) Paid annually to the borrower by crediting the escrow account with the amount of interest due.

(3) The lending institution shall annually provide the consumer borrower with a statement of the escrow balance.

(4) The provisions of this subsection do not apply to a lending institution that provides for the payment of taxes, insurance, or other expenses under the direct reduction method by which these expenses, when paid by the lending institution, are added to the outstanding principal balance of the loan.

(5) (i) This subsection does not apply if the loan:

1. Is purchased by an out-of-state lender through the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

2. The out–of–state lender elects to service the loan as a condition of purchase.

(ii) Notwithstanding subparagraph (i) of this paragraph, this subsection shall apply if the out–of–state lender:

- 1. Sells the loan to a Maryland lender; or
- 2. Places the loan with a Maryland lender for servicing.

Article – Financial Institutions

5 - 302.

(b) A banking institution shall pay [at least 3 percent annual] interest on each interest bearing account that is instituted for a specific purpose, including "Christmas" or "vacation" accounts, for a period of 1 year or less AT AN ANNUAL RATE NOT LESS THAN THE 6-MONTH AVERAGE DEALER BID RATE ON NATIONALLY TRADED CERTIFICATES OF DEPOSIT, AS PUBLISHED BY THE FEDERAL RESERVE IN "SELECTED INTEREST RATES (DAILY) – H.15", AS OF THE FIRST BUSINESS DAY OF THE CALENDAR YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to escrow accounts and savings accounts established on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 530

(Senate Bill 524)

AN ACT concerning

Maryland After–School and Summer Opportunity Fund Program

FOR the purpose of transferring the Maryland After–School Opportunity Fund Program from the State Department of Education to the Governor's Office for Children; altering the name of the Program; requiring the Executive Committee of the Program's Advisory Board to use a certain framework and consult with a certain network; altering the membership of the Program's Advisory Board and requiring the Advisory Board to develop a certain strategy; requiring a certain plan to address certain issues; limiting grant eligibility to nonprofit organizations; establishing certain parameters for awarding grants; requiring the Executive Committee to review annually certain regulations and to adopt certain regulations by a certain time; making conforming changes; defining certain terms; and generally relating to the Maryland After–School and Summer Opportunity Fund Program.

BY transferring

Article – Education

Section 7–1201 through 7–1207, respectively, and the subtitle "Subtitle 12. Maryland After–School Opportunity Fund Program"

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

to be

Article – Human Services

Section 8–1101 through 8–1107, respectively, and the subtitle "Subtitle 11. Maryland After–School Opportunity Fund Program" Annotated Code of Maryland (2007 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Human Services Section 8–1101 through 8–1107 to be under the amended subtitle "Subtitle 11. Maryland After–School and Summer Opportunity Fund Program" Annotated Code of Maryland (2007 Volume and 2011 Supplement) (As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7–1201 through 7–1207, respectively, and the subtitle "Subtitle 12. Maryland After–School Opportunity Fund Program" of Article – Education of the Annotated Code of Maryland be transferred to be Section(s) 8–1101 through 8–1107, respectively, and the subtitle "Subtitle 11. Maryland After–School Opportunity Fund Program" of Article – Human Services of the Annotated Code of Maryland.

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

Article – Human Services

Subtitle 11. Maryland After–School AND SUMMER Opportunity Fund Program.

8-1101.

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

(b) "Advisory Board" means the Advisory Board on After–School AND SUMMER Opportunity programs.

(c) "After-school **AND SUMMER** opportunity programs" means enrichment programs for school age children that take place:

- (1) before school starts each day and after school ends each day;
- (2) on weekends;
- (3) on holidays;
- (4) during vacations; and
- (5) during summer break.

(d) ["Department" means the State Department of Education.

(e)] "Executive Committee" means the Executive Committee of the Advisory Board.

[(f)] (E) (1) "Fund" means the Maryland After–School AND SUMMER Opportunity Fund.

(2) "Fund" does not include:

(I) money provided under the Purchase of Child Care Program administered by the STATE Department OF EDUCATION; OR

(II) MONEY PROVIDED UNDER THE CHILDREN'S CABINET INTERAGENCY FUND ADMINISTERED BY THE OFFICE.

(F) "NONPROFIT ORGANIZATION" MEANS AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

(g) "Program" means the Maryland After–School AND SUMMER Opportunity Fund Program.

(h) (1) "Technical assistance" [includes] MEANS assistance in the identification and implementation of effective practices for after-school AND SUMMER programs.

(2) "TECHNICAL ASSISTANCE" INCLUDES ASSISTANCE IN COMPLIANCE WITH THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK.

8-1102.

(a) There is a Maryland After-School AND SUMMER Opportunity Fund Program.

(b) There is a Maryland After–School AND SUMMER Opportunity Fund in the Program.

(c) The Executive Committee, in consultation with the Advisory Board, shall administer the Program.

(d) The Executive Committee shall [consult with the Maryland Partnership for Children, Youth, and Families in developing the Program's standards and in operating the Program] USE THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' **QUALITY STANDARDS FRAMEWORK TO MONITOR AND ASSESS AFTER-SCHOOL AND SUMMER PROGRAMS THAT PARTICIPATE IN THE PROGRAM PROGRAM**.

(E) THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK DOES NOT SUPERSEDE APPLICABLE CHILD CARE CENTER LICENSING REGULATIONS.

8–1103.

(a) There is an Advisory Board on After–School AND SUMMER Opportunity programs in the Program.

(b) The Advisory Board shall consist of the following individuals:

(1) the Governor or the Governor's designee;

(2) the President of the Senate of Maryland or the President's designee;

(3) the Speaker of the House of Delegates of Maryland or the Speaker's designee;

(4) the State Superintendent of Schools or the Superintendent's designee;

(5) the Secretaries of Health and Mental Hygiene, Juvenile Services, and Human Resources or their designees;

(6) the Special Secretary of the **GOVERNOR'S** Office for Children[, Youth, and Families] or the Special Secretary's designee;

(7) one representative of the Office of Crime Control and Prevention designated by the Governor; and

(8) [fifteen] **SEXTEEN** <u>SEVENTEEN</u> individuals serving 2-year terms, to be appointed by the Governor, as follows:

(i) two members who represent the children's advocacy community;

(ii) two members of the after-school provider community who represent providers not included in [items (vi) and] ITEM (vii) of this item;

(iii) two members who are parents of students enrolled in the State in kindergarten through grade 12;

(iv) two members who are students enrolled in the State in grades 6 through 12;

(v) one teacher who is working in a school in the State;

(vi) one member who [is a registered family child care provider who serves school age children] REPRESENTS THE STATEWIDE NETWORK OF CHILD CARE RESOURCE AND REFERRAL CENTERS;

(vii) one member who [is a staff member of a licensed child care center who serves school age children] REPRESENTS THE STATEWIDE ALLIANCE OF LICENSED SCHOOL AGE CHILD CARE PROVIDERS;

(viii) one member of a local management board;

(ix) one member of a local board of education;

(x) one member who is a professional in the field of recreation and parks that delivers [licensed or regulated child care]AFTER SCHOOL AND SUMMER programs; [and]

(xi) one member who represents the concerns of [developmentally] disabled children; AND

(XII) ONE MEMBER WHO REPRESENTS THE OFFICE OF CHILD CARE IN THE STATE DEPARTMENT OF EDUCATION; AND

(XIII) ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF DISABILITIES.

- (c) (1) There is an Executive Committee of the Advisory Board.
 - (2) The Executive Committee consists of the following individuals:
 - (i) the Governor or the Governor's designee;
 - (ii) the Secretary of Human Resources or the Secretary's

designee;

(iii) the State Superintendent of Schools or the Superintendent's

designee;

(iv) the Secretary of Juvenile Services or the Secretary's

designee;

(v) the Secretary of Health and Mental Hygiene or the Secretary's designee; and

(vi) the Special Secretary of the **GOVERNOR'S** Office for Children[, Youth, and Families] or the Special Secretary's designee.

(d) (1) The Governor shall serve as the chair of the Advisory Board and of the Executive Committee.

(2) The Governor may designate the Lieutenant Governor or one of the secretaries serving on the Advisory Committee and the Executive Committee to act as chair in the Governor's absence.

(E) THE ADVISORY BOARD SHALL DEVELOP A STRATEGY TO PROVIDE TECHNICAL ASSISTANCE THROUGH THE MARYLAND OUT OF SCHOOL TIME NETWORK.

8-1104.

(a) The [Department] **OFFICE** shall administer the Fund as directed by the Executive Committee.

(b) (1) Prior to final action by the Executive Committee, the Advisory Board shall review and make recommendations on:

- (i) Program standards;
- (ii) requests for proposals; and
- (iii) criteria for awarding grants.

(2) A member of the Advisory Board may not vote on or make any recommendation to the Executive Committee if the member has a financial interest that may be substantially affected by that recommendation.

(c) (1) On or before December 15 of each year, the Executive Committee, in consultation with the Advisory Board, shall review and update the comprehensive plan of after-school AND SUMMER opportunity programs as described in paragraph (2) of this subsection.

- (2) The comprehensive plan shall address at least the following issues:
 - (i) integration of public and private funding sources;
 - (ii) maximization of federal funding opportunities;

(iii) consideration of the special needs of [developmentally] disabled children, including needed services, supports, and appropriate provider training;

(iv) promotion of the use of school buildings and local public transportation resources for after-school **AND SUMMER** opportunity programs;

(v) where [applicable, use of the local child care resource and referral centers of the Maryland Child Care Resource Network for] NEEDED, technical assistance [purposes] FOR COMPLIANCE WITH THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK;

(vi) promotion of continued expansion of high quality after–school **AND SUMMER** opportunity programs in the State; and

(vii) [consideration of implementing the full range of options for improving the delivery of after-school opportunity programs, including the potential expansion of the purchase of care voucher system] INTEGRATION OF ANY PLANS DEVELOPED BY LOCAL JURISDICTIONS.

(d) (1) Each fiscal year, in consultation with the Advisory Board and subject to the availability of money in the Fund, the Executive Committee shall issue a request for proposals under the State procurement law soliciting bids for a grant from the Fund.

(2) Subject to subsection (b)(2) of this section, the Executive Committee may award a grant from the Fund to an applicant only after consultation with the Advisory Board and upon a favorable vote of a majority of the members of the Executive Committee.

(3) In any fiscal year, the total grants awarded to applicants operating within a particular county or Baltimore City may not exceed 15% of the total grants awarded in that fiscal year.

(4) ONLY NONPROFIT ORGANIZATIONS ARE ELIGIBLE TO RECEIVE A GRANT.

(5) The Executive Committee must identify and ensure that a responsible NONPROFIT organization will administer any grant awarded from the Fund.

(e) (1) In selecting [an] A NONPROFIT organization to administer a grant from the Fund, the Executive Committee shall select the responsive and responsible bidder whose application best incorporates features that will have a positive measurable impact on one or more of the conditions of well-being for Maryland children and youth identified by [the Maryland Partnership for Children, Youth, and Families] THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK.

(2) THE EXECUTIVE COMMITTEE SHALL ENSURE FUNDS ARE GRANTED TO NONPROFIT ORGANIZATIONS IN ALL GEOGRAPHIC AREAS OF THE STATE AS EQUITABLY AS POSSIBLE.

(f) The Executive Committee may award a planning grant from the Fund to assist [an] NONPROFIT [organization] ORGANIZATIONS in a county to prepare an application for a grant for the next fiscal year.

(G) THE EXECUTIVE COMMITTEE MAY AWARD A CAPACITY BUILDING GRANT FROM THE FUND TO ASSIST NONPROFIT ORGANIZATIONS TO INCREASE STAFF CAPACITY, TRAINING, AND SUSTAINABILITY OF THE PROGRAMS.

8–1105.

Subject to § 2–1246 of the State Government Article, the Executive Committee shall report by December 31 of each year to the General Assembly on the implementation of the Program, including an evaluation of the effectiveness of the after–school **AND SUMMER** opportunity programs funded by grants under the Program.

8-1106.

(A) The Executive Committee shall adopt regulations to carry out the provisions of this subtitle.

(B) THE EXECUTIVE COMMITTEE SHALL ANNUALLY REVIEW REGULATIONS.

8-1107.

This subtitle may be cited as the Maryland After–School AND SUMMER Opportunity Fund Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Executive Committee established under Title 8, Subtitle 11 of the Human Services Article of the Annotated Code of Maryland shall adopt regulations to carry out the provisions of this Act within 3 months from the enactment of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 531

(House Bill 886)

AN ACT concerning

Maryland After-School and Summer Opportunity Fund Program

FOR the purpose of transferring the Maryland After–School Opportunity Fund Program from the State Department of Education to the Governor's Office for Children; altering the name of the Program; requiring the Executive Committee of the Program's Advisory Board to use a certain framework and consult with a certain network; altering the membership of the Program's Advisory Board and requiring the Advisory Board to develop a certain strategy; requiring a certain plan to address certain issues; limiting grant eligibility to nonprofit organizations; establishing certain parameters for awarding grants; requiring the Executive Committee to review annually certain regulations and to adopt certain regulations by a certain time; making conforming changes; defining certain terms; and generally relating to the Maryland After–School and Summer Opportunity Fund Program.

BY transferring

Article – Education

Section 7–1201 through 7–1207, respectively, and the subtitle "Subtitle 12. Maryland After–School Opportunity Fund Program" Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

to be

Article – Human Services

Section 8–1101 through 8–1107, respectively, and the subtitle "Subtitle 11. Maryland After–School Opportunity Fund Program" Annotated Code of Maryland (2007 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Human Services

Section 8–1101 through 8–1107 to be under the amended subtitle "Subtitle 11. Maryland After–School and Summer Opportunity Fund Program"
Annotated Code of Maryland
(2007 Volume and 2011 Supplement)
(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7–1201 through 7–1207, respectively, and the subtitle "Subtitle 12. Maryland After–School Opportunity Fund Program" of Article –

Education of the Annotated Code of Maryland be transferred to be Section(s) 8–1101 through 8–1107, respectively, and the subtitle "Subtitle 11. Maryland After–School Opportunity Fund Program" of Article – Human Services of the Annotated Code of Maryland.

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

Article – Human Services

Subtitle 11. Maryland After–School AND SUMMER Opportunity Fund Program.

8–1101.

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

(b) "Advisory Board" means the Advisory Board on After–School AND SUMMER Opportunity programs.

(c) "After-school **AND SUMMER** opportunity programs" means enrichment programs for school age children that take place:

- (1) before school starts each day and after school ends each day;
- (2) on weekends;
- (3) on holidays;
- (4) during vacations; and
- (5) during summer break.
- (d) ["Department" means the State Department of Education.

(e)] "Executive Committee" means the Executive Committee of the Advisory Board.

[(f)] (E) (1) "Fund" means the Maryland After–School AND SUMMER Opportunity Fund.

(2) "Fund" does not include:

(I) money provided under the Purchase of Child Care Program administered by the STATE Department OF EDUCATION; OR

(II) MONEY PROVIDED UNDER THE CHILDREN'S CABINET INTERAGENCY FUND ADMINISTERED BY THE OFFICE.

(F) "NONPROFIT ORGANIZATION" MEANS AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.

(g) "Program" means the Maryland After–School AND $\ensuremath{\textbf{SUMMER}}$ Opportunity Fund Program.

(h) (1) "Technical assistance" [includes] MEANS assistance in the identification and implementation of effective practices for after-school AND SUMMER programs.

(2) "TECHNICAL ASSISTANCE" INCLUDES ASSISTANCE IN COMPLIANCE WITH THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK.

8-1102.

(a) There is a Maryland After-School AND SUMMER Opportunity Fund Program.

(b) There is a Maryland After–School AND SUMMER Opportunity Fund in the Program.

(c) The Executive Committee, in consultation with the Advisory Board, shall administer the Program.

(d) The Executive Committee shall [consult with the Maryland Partnership for Children, Youth, and Families in developing the Program's standards and in operating the Program] USE THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK TO MONITOR AND ASSESS AFTER–SCHOOL AND SUMMER PROGRAMS THAT PARTICIPATE IN THE PROGRAM.

(E) THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK DOES NOT SUPERSEDE APPLICABLE CHILD CARE CENTER LICENSING REGULATIONS.

8–1103.

(a) There is an Advisory Board on After–School AND SUMMER Opportunity programs in the Program.

(b) The Advisory Board shall consist of the following individuals:

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(1) the Governor or the Governor's designee;

(2) the President of the Senate of Maryland or the President's designee;

(3) the Speaker of the House of Delegates of Maryland or the Speaker's designee;

(4) the State Superintendent of Schools or the Superintendent's designee;

(5) the Secretaries of Health and Mental Hygiene, Juvenile Services, and Human Resources or their designees;

(6) the Special Secretary of the **GOVERNOR'S** Office for Children[, Youth, and Families] or the Special Secretary's designee;

(7) one representative of the Office of Crime Control and Prevention designated by the Governor; and

(8) [fifteen] **SEXTEEN** <u>SEVENTEEN</u> individuals serving 2-year terms, to be appointed by the Governor, as follows:

(i) two members who represent the children's advocacy community;

(ii) two members of the after-school provider community who represent providers not included in [items (vi) and] ITEM (vii) of this item;

(iii) two members who are parents of students enrolled in the State in kindergarten through grade 12;

(iv) two members who are students enrolled in the State in grades 6 through 12;

(v) one teacher who is working in a school in the State;

(vi) one member who [is a registered family child care provider who serves school age children] REPRESENTS THE STATEWIDE NETWORK OF CHILD CARE RESOURCE AND REFERRAL CENTERS;

(vii) one member who [is a staff member of a licensed child care center who serves school age children] **REPRESENTS THE STATEWIDE ALLIANCE OF LICENSED SCHOOL AGE CHILD CARE PROVIDERS**; (viii) one member of a local management board;

(ix) one member of a local board of education;

(x) one member who is a professional in the field of recreation and parks that delivers [licensed or regulated child care] AFTER SCHOOL AND SUMMER programs; [and]

(xi) one member who represents the concerns of [developmentally] disabled children; AND

(XII) ONE MEMBER WHO REPRESENTS THE OFFICE OF CHILD CARE IN THE STATE DEPARTMENT OF EDUCATION; AND

(XIII) ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF DISABILITIES.

(c) (1) There is an Executive Committee of the Advisory Board.

(2) The Executive Committee consists of the following individuals:

- (i) the Governor or the Governor's designee;
- (ii) the Secretary of Human Resources or the Secretary's

designee;

(iii) the State Superintendent of Schools or the Superintendent's

designee;

(iv) the Secretary of Juvenile Services or the Secretary's designee;

 $(v) \ \ \, \mbox{the Secretary of Health}$ and Mental Hygiene or the Secretary's designee; and

(vi) the Special Secretary of the **GOVERNOR'S** Office for Children[, Youth, and Families] or the Special Secretary's designee.

(d) (1) The Governor shall serve as the chair of the Advisory Board and of the Executive Committee.

(2) The Governor may designate the Lieutenant Governor or one of the secretaries serving on the Advisory Committee and the Executive Committee to act as chair in the Governor's absence.

(E) THE ADVISORY BOARD SHALL DEVELOP A STRATEGY TO PROVIDE TECHNICAL ASSISTANCE THROUGH THE MARYLAND OUT OF SCHOOL TIME NETWORK.

8-1104.

(a) The [Department] **OFFICE** shall administer the Fund as directed by the Executive Committee.

(b) (1) Prior to final action by the Executive Committee, the Advisory Board shall review and make recommendations on:

- (i) Program standards;
- (ii) requests for proposals; and
- (iii) criteria for awarding grants.

(2) A member of the Advisory Board may not vote on or make any recommendation to the Executive Committee if the member has a financial interest that may be substantially affected by that recommendation.

(c) (1) On or before December 15 of each year, the Executive Committee, in consultation with the Advisory Board, shall review and update the comprehensive plan of after-school AND SUMMER opportunity programs as described in paragraph (2) of this subsection.

- (2) The comprehensive plan shall address at least the following issues:
 - (i) integration of public and private funding sources;
 - (ii) maximization of federal funding opportunities;

(iii) consideration of the special needs of [developmentally] disabled children, including needed services, supports, and appropriate provider training;

(iv) promotion of the use of school buildings and local public transportation resources for after–school **AND SUMMER** opportunity programs;

(v) where [applicable, use of the local child care resource and referral centers of the Maryland Child Care Resource Network for] NEEDED, technical assistance [purposes] FOR COMPLIANCE WITH THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK; (vi) promotion of continued expansion of high quality after-school AND SUMMER opportunity programs in the State; and

(vii) [consideration of implementing the full range of options for improving the delivery of after-school opportunity programs, including the potential expansion of the purchase of care voucher system] INTEGRATION OF ANY PLANS DEVELOPED BY LOCAL JURISDICTIONS.

(d) (1) Each fiscal year, in consultation with the Advisory Board and subject to the availability of money in the Fund, the Executive Committee shall issue a request for proposals under the State procurement law soliciting bids for a grant from the Fund.

(2) Subject to subsection (b)(2) of this section, the Executive Committee may award a grant from the Fund to an applicant only after consultation with the Advisory Board and upon a favorable vote of a majority of the members of the Executive Committee.

(3) In any fiscal year, the total grants awarded to applicants operating within a particular county or Baltimore City may not exceed 15% of the total grants awarded in that fiscal year.

(4) ONLY NONPROFIT ORGANIZATIONS ARE ELIGIBLE TO RECEIVE A GRANT.

(5) The Executive Committee must identify and ensure that a responsible NONPROFIT organization will administer any grant awarded from the Fund.

(e) (1) In selecting [an] A NONPROFIT organization to administer a grant from the Fund, the Executive Committee shall select the responsive and responsible bidder whose application best incorporates features that will have a positive measurable impact on one or more of the conditions of well-being for Maryland children and youth identified by [the Maryland Partnership for Children, Youth, and Families] THE MARYLAND OUT OF SCHOOL TIME PROGRAMS' QUALITY STANDARDS FRAMEWORK.

(2) THE EXECUTIVE COMMITTEE SHALL ENSURE FUNDS ARE GRANTED TO NONPROFIT ORGANIZATIONS IN ALL GEOGRAPHIC AREAS OF THE STATE AS EQUITABLY AS POSSIBLE.

(f) The Executive Committee may award a planning grant from the Fund to assist [an] NONPROFIT [organization] ORGANIZATIONS in a county to prepare an application for a grant for the next fiscal year.

(G) THE EXECUTIVE COMMITTEE MAY AWARD A CAPACITY BUILDING GRANT FROM THE FUND TO ASSIST NONPROFIT ORGANIZATIONS TO INCREASE STAFF CAPACITY, TRAINING, AND SUSTAINABILITY OF THE PROGRAMS.

8-1105.

Subject to § 2–1246 of the State Government Article, the Executive Committee shall report by December 31 of each year to the General Assembly on the implementation of the Program, including an evaluation of the effectiveness of the after-school **AND SUMMER** opportunity programs funded by grants under the Program.

8–1106.

(A) The Executive Committee shall adopt regulations to carry out the provisions of this subtitle.

(B) THE EXECUTIVE COMMITTEE SHALL ANNUALLY REVIEW REGULATIONS.

8-1107.

This subtitle may be cited as the Maryland After–School AND SUMMER Opportunity Fund Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Executive Committee established under Title 8, Subtitle 11 of the Human Services Article of the Annotated Code of Maryland shall adopt regulations to carry out the provisions of this Act within 3 months from the enactment of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 532

(Senate Bill 534)

AN ACT concerning

Baltimore City – Alcoholic Beverages License – Repeal of Voter Registration Requirement for Licensees FOR the purpose of repealing, as to Baltimore City, the requirement that an authorized person of a limited liability company who holds an alcoholic beverages license that was issued granted on or before a certain date be a registered voter in the City; and generally relating to alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, with amendments, Article 2B – Alcoholic Beverages Section 9–101(c)(1) Annotated Code of Maryland (2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

9–101.

(c) (1) (I) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF the application is made for a limited liability company, the license shall be applied for by and be issued to 3 of the authorized persons of that limited liability company, as individuals, for the use of the limited liability company, at least 1 of whom shall be a registered voter and taxpayer of the county or city, or the State when the application is filed with the Comptroller, and shall also have resided there at least 2 years before the application.

(II) IN BALTIMORE CITY, AN AUTHORIZED PERSON OF A LIMITED LIABILITY COMPANY WHO HOLDS AN ALCOHOLIC BEVERAGES LICENSE FOR THE USE OF THE LIMITED LIABILITY COMPANY <u>THAT WAS ISSUED</u> <u>GRANTED</u> <u>ON OR BEFORE JUNE 1, 2012</u>, NEED NOT BE A REGISTERED VOTER IN BALTIMORE CITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 533

(House Bill 232)

AN ACT concerning

Baltimore City – Alcoholic Beverages License – Repeal of Voter Registration Requirement for Licensees

FOR the purpose of repealing, as to Baltimore City, the requirement that an authorized person of a limited liability company who holds an alcoholic beverages license <u>that was granted on or before a certain date</u> be a registered voter in the City; and generally relating to alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, with amendments, Article 2B – Alcoholic Beverages Section 9–101(c)(1) Annotated Code of Maryland (2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

9–101.

(c) (1) **(I) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF** the application is made for a limited liability company, the license shall be applied for by and be issued to 3 of the authorized persons of that limited liability company, as individuals, for the use of the limited liability company, at least 1 of whom shall be a registered voter and taxpayer of the county or city, or the State when the application is filed with the Comptroller, and shall also have resided there at least 2 years before the application.

(II) IN BALTIMORE CITY, AN AUTHORIZED PERSON OF A LIMITED LIABILITY COMPANY WHO HOLDS AN ALCOHOLIC BEVERAGES LICENSE FOR THE USE OF THE LIMITED LIABILITY COMPANY <u>THAT WAS GRANTED ON OR</u> <u>BEFORE JUNE 1, 2012</u>, NEED NOT BE A REGISTERED VOTER IN BALTIMORE CITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 534

(Senate Bill 540)

AN ACT concerning

Maryland Health Care Commission – Preauthorization of Medical Services and Pharmaceuticals – Standards <u>Health Care Services – Benchmarks</u>

FOR the purpose of requiring the Maryland Health Care Commission to adopt regulations to establish standards for the preauthorization of medical services and pharmaceuticals by certain payors, pharmacy benefits managers, and providers; requiring certain standards to include a certain exemption process; providing that certain standards may include certain penalties work with payors and providers to attain benchmarks for standardizing and automating the process required by payors for preauthorizing health care services; requiring the benchmarks to include, on or before certain dates, establishment or utilization of certain features; providing that the benchmarks do not apply to certain preauthorizations; requiring the Commission to establish by regulation a process through which a payor or provider may be waived from attaining the benchmarks for certain extenuating circumstances; requiring the Commission, on or before a certain date, to reconvene a certain workgroup for a certain purpose; requiring payors to report to the Commission on or before certain dates on their attainment and plans for attainment of certain benchmarks; requiring the Commission, on or before certain dates, to report to the Governor and to certain committees of the General Assembly on the progress in attaining the benchmarks and, taking into account the recommendations of the workgroup, any adjustment needed to certain benchmark dates; authorizing the Commission to adopt certain regulations; defining certain terms; and generally relating to the Maryland Health Care Commission and eertain preauthorization standards benchmarks for preauthorization of health care services.

BY repealing and reenacting, without amendments,

Article – Health – General Section 19–101 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health – General Section 19–108.2 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article - Health - General

In this subtitle, "Commission" means the Maryland Health Care Commission.

19-108.2.

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

(2) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN § 19–111 OF THIS SUBTITLE.

(2) <u>"HEALTH CARE SERVICE" HAS THE MEANING STATED IN §</u> 15–10A–01 OF THE INSURANCE ARTICLE.

(3) "PAYOR" HAS THE MEANING STATED IN § 19–111 OF THIS SUBTITLE MEANS:

(I) <u>AN INSURER OR NONPROFIT HEALTH SERVICE PLAN</u> THAT PROVIDES HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE–INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE;

(II) <u>A HEALTH MAINTENANCE ORGANIZATION THAT</u> PROVIDES HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; <u>OR</u>

(III) <u>A PHARMACY BENEFITS MANAGER THAT IS REGISTERED</u> WITH THE MARYLAND INSURANCE COMMISSIONER.

(4) "PHARMACY BENEFITS MANAGER" HAS THE MEANING STATED IN § 15–1601 OF THE INSURANCE ARTICLE.

(5) (4) "PROVIDER" HAS THE MEANING STATED IN § 19–7A–01 OF THIS TITLE.

(B) IN ADDITION TO THE DUTIES STATED ELSEWHERE IN THIS SUBTITLE, THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING STANDARDS FOR PREAUTHORIZATION BY:

(1) PAYORS FOR MEDICAL SERVICES AND PHARMACEUTICALS TO BE PROVIDED AFTER DECEMBER 31, 2012; (2) PHARMACY BENEFITS MANAGERS FOR MEDICAL SERVICES AND PHARMACEUTICALS TO BE PROVIDED AFTER DECEMBER 31, 2012; AND

(3) PROVIDERS FOR MEDICAL SERVICES AND PHARMACEUTICALS ORDERED AFTER DECEMBER 31, 2015.

(C) THE STANDARDS ADOPTED UNDER SUBSECTION (B) OF THIS SECTION:

(1) SHALL INCLUDE A PROCESS FOR A PAYOR, PHARMACY BENEFITS MANAGER, OR PROVIDER UNDER SUBSECTION (B) OF THIS SECTION TO OBTAIN AN EXEMPTION FROM COMPLIANCE WITH THE STANDARDS FOR EXTENUATING CIRCUMSTANCES, INCLUDING:

(I) THE LACK OF BROADBAND INTERNET ACCESS;

(II) A PRACTICE WITH A LOW PATIENT VOLUME AS DEFINED BY THE COMMISSION; OR

(III) A SPECIALTY PROVIDER THAT DOES NOT MAKE MEDICAL REFERRALS OR PRESCRIBE PHARMACEUTICALS; AND

(2) MAY INCLUDE PENALTIES FOR NONCOMPLIANCE.

(B) IN ADDITION TO THE DUTIES STATED ELSEWHERE IN THIS SUBTITLE, THE COMMISSION SHALL WORK WITH PAYORS AND PROVIDERS TO ATTAIN BENCHMARKS FOR STANDARDIZING AND AUTOMATING THE PROCESS REQUIRED BY PAYORS FOR PREAUTHORIZING HEALTH CARE SERVICES.

(C) <u>The benchmarks described in subsection (b) of this</u> <u>section shall include:</u>

(1) ON OR BEFORE OCTOBER 1, 2012 ("PHASE 1"), ESTABLISHMENT OF ONLINE ACCESS FOR PROVIDERS TO EACH PAYOR'S:

(I) LIST OF HEALTH CARE SERVICES THAT REQUIRE PREAUTHORIZATION; AND

(II) <u>Key criteria for making a determination on a</u> <u>PREAUTHORIZATION REQUEST;</u>

(2) ON OR BEFORE MARCH 1, 2013 ("PHASE 2"), ESTABLISHMENT BY EACH PAYOR OF AN ONLINE PROCESS FOR:

(I) ACCEPTING ELECTRONICALLY A PREAUTHORIZATION **REQUEST FROM A PROVIDER; AND**

(II) ASSIGNING TO A PREAUTHORIZATION REQUEST A UNIQUE ELECTRONIC IDENTIFICATION NUMBER THAT A PROVIDER MAY USE TO TRACK THE REQUEST DURING THE PREAUTHORIZATION PROCESS, WHETHER OR NOT THE REQUEST IS TRACKED ELECTRONICALLY, THROUGH A CALL CENTER, OR BY FAX:

ON OR BEFORE JULY 1, 2013 ("PHASE 3"), ESTABLISHMENT (3) BY EACH PAYOR OF AN ONLINE PREAUTHORIZATION SYSTEM TO APPROVE:

(I) IN REAL TIME, ELECTRONIC PREAUTHORIZATION **REQUESTS FOR PHARMACEUTICAL SERVICES:**

FOR WHICH NO ADDITIONAL INFORMATION IS 1. NEEDED BY THE PAYOR TO PROCESS THE PREAUTHORIZATION REQUEST; AND

> 2. THAT MEET THE PAYOR'S CRITERIA FOR

APPROVAL;

(II) WITHIN 1 BUSINESS DAY AFTER RECEIVING ALL PERTINENT INFORMATION ON REQUESTS NOT APPROVED IN REAL TIME, ELECTRONIC PREAUTHORIZATION REQUESTS FOR PHARMACEUTICAL SERVICES THAT:

> 1. **ARE NOT URGENT; AND**

2. DO NOT MEET THE STANDARDS FOR REAL-TIME APPROVAL UNDER ITEM (I) OF THIS ITEM; AND

(III) WITHIN 2 BUSINESS DAYS AFTER RECEIVING ALL PERTINENT INFORMATION, ELECTRONIC PREAUTHORIZATION REQUESTS FOR HEALTH CARE SERVICES, EXCEPT PHARMACEUTICAL SERVICES, THAT ARE NOT **URGENT: AND**

> (4) **ON OR BEFORE JULY 1, 2015, UTILIZATION BY PROVIDERS OF:**

(I) THE ONLINE PREAUTHORIZATION SYSTEM **ESTABLISHED BY PAYORS; OR**

(II) IF A NATIONAL TRANSACTION STANDARD HAS BEEN ESTABLISHED AND ADOPTED BY THE HEALTH CARE INDUSTRY, AS DETERMINED BY THE COMMISSION, THE PROVIDER'S PRACTICE MANAGEMENT, ELECTRONIC HEALTH RECORD, OR E–PRESCRIBING SYSTEM.

(D) THE BENCHMARKS DESCRIBED IN SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY TO PREAUTHORIZATIONS OF HEALTH CARE SERVICES REQUESTED BY PROVIDERS EMPLOYED BY A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19–713.6 OF THIS TITLE.

(E) THE ONLINE PREAUTHORIZATION SYSTEM DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION SHALL:

(1) PROVIDE REAL-TIME NOTICE TO PROVIDERS ABOUT PREAUTHORIZATION REQUESTS APPROVED IN REAL TIME; AND

(2) PROVIDE NOTICE TO PROVIDERS, WITHIN THE TIME FRAMES SPECIFIED IN SUBSECTION (C)(3)(II) AND (III) OF THIS SECTION AND IN A MANNER THAT IS ABLE TO BE TRACKED BY PROVIDERS, ABOUT PREAUTHORIZATION REQUESTS NOT APPROVED IN REAL TIME.

(F) (1) THE COMMISSION SHALL ESTABLISH BY REGULATION A PROCESS THROUGH WHICH A PAYOR OR PROVIDER MAY BE WAIVED FROM ATTAINING THE BENCHMARKS DESCRIBED IN SUBSECTIONS (B) AND (C) OF THIS SECTION FOR EXTENUATING CIRCUMSTANCES.

(2) FOR A PROVIDER, THE EXTENUATING CIRCUMSTANCES MAY INCLUDE:

- (I) THE LACK OF BROADBAND INTERNET ACCESS;
- (II) LOW PATIENT VOLUME; OR

(III) NOT MAKING MEDICAL REFERRALS OR PRESCRIBING PHARMACEUTICALS.

(3) FOR A PAYOR, THE EXTENUATING CIRCUMSTANCES MAY INCLUDE:

(I) LOW PREMIUM VOLUME; OR

(II) FOR A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION, AS DEFINED IN § 19–713.6 OF THIS TITLE, PREAUTHORIZATIONS OF HEALTH CARE SERVICES REQUESTED BY PROVIDERS NOT EMPLOYED BY THE GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.

(G) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL RECONVENE THE MULTISTAKEHOLDER WORKGROUP WHOSE COLLABORATION **RESULTED IN THE 2011 REPORT "RECOMMENDATIONS FOR IMPLEMENTING ELECTRONIC PRIOR AUTHORIZATIONS".**

> (2) **THE WORKGROUP SHALL:**

(I) REVIEW THE PROGRESS TO DATE IN ATTAINING THE BENCHMARKS DESCRIBED IN SUBSECTIONS (B) AND (C) OF THIS SECTION; AND

MAKE RECOMMENDATIONS TO THE COMMISSION FOR **(II)** ADJUSTMENTS TO THE BENCHMARK DATES.

(H) (1) **PAYORS SHALL REPORT TO THE COMMISSION:**

> **(I)** ON OR BEFORE MARCH 1, 2013, ON:

THE STATUS OF THEIR ATTAINMENT OF THE 1. PHASE 1 AND PHASE 2 BENCHMARKS; AND

2. AN OUTLINE OF THEIR PLANS FOR ATTAINING THE PHASE 3 BENCHMARKS; AND

(II) ON OR BEFORE DECEMBER 1, 2013, ON THEIR ATTAINMENT OF THE PHASE 3 BENCHMARKS.

(2) THE COMMISSION SHALL SPECIFY THE CRITERIA PAYORS MUST USE IN REPORTING ON THEIR ATTAINMENT AND PLANS.

(1) ON OR BEFORE MARCH 31, 2013, THE COMMISSION SHALL **(I)** 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 GENERAL ASSEMBLY, ON:

(I) THE PROGRESS IN ATTAINING THE BENCHMARKS FOR STANDARDIZING AND AUTOMATING THE PROCESS REQUIRED BY PAYORS FOR PREAUTHORIZING HEALTH CARE SERVICES; AND

TAKING INTO ACCOUNT THE RECOMMENDATIONS OF (II) THE MULTISTAKEHOLDER WORKGROUP UNDER SUBSECTION (G) OF THIS SECTION, ANY ADJUSTMENT NEEDED TO THE PHASE 2 OR PHASE 3 BENCHMARK DATES.

(2) ON OR BEFORE DECEMBER 31, 2013, AND ON OR BEFORE DECEMBER 31 IN EACH SUCCEEDING YEAR THROUGH 2016, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE GENERAL ASSEMBLY ON THE ATTAINMENT OF THE BENCHMARKS FOR STANDARDIZING AND AUTOMATING THE PROCESS REQUIRED BY PAYORS FOR PREAUTHORIZING HEALTH CARE SERVICES.

(J) IF NECESSARY TO ATTAIN THE BENCHMARKS, THE COMMISSION MAY ADOPT REGULATIONS TO:

(1) ADJUST THE PHASE 2 OR PHASE 3 BENCHMARK DATES;

(2) REQUIRE PAYORS AND PROVIDERS TO COMPLY WITH THE BENCHMARKS; AND

(3) ESTABLISH PENALTIES FOR NONCOMPLIANCE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 535

(House Bill 470)

AN ACT concerning

Maryland Health Care Commission – Preauthorization of Medical Services and Pharmaceuticals – Standards <u>Health Care Services – Benchmarks</u>

FOR the purpose of requiring the Maryland Health Care Commission to adopt regulations to establish standards for the preauthorization of medical services and pharmaceuticals by certain payors, pharmacy benefits managers, and providers; requiring certain standards to include a certain exemption process; providing that certain standards may include certain penalties; work with payors and providers to attain benchmarks for standardizing and automating the process required by payors for preauthorizing health care services; requiring the benchmarks to include, on or before certain dates, establishment or utilization of certain features; providing that the benchmarks do not apply to certain preauthorizations; requiring the Commission to establish by regulation a process through which a payor or provider may be waived from attaining the benchmarks for certain extenuating circumstances; requiring the Commission, on or before a certain date, to reconvene a certain workgroup for a certain purpose; requiring payors to report to the Commission on or before certain dates on their attainment and plans for attainment of certain benchmarks; requiring the Commission, on or before certain dates, to report to the Governor and the General Assembly on the progress in attaining the benchmarks and, taking into account the recommendations of the workgroup, any adjustment needed to certain benchmark dates; authorizing the Commission to adopt certain

<u>certain benchmark dates; authorizing the Commission to adopt certain</u> <u>regulations; defining certain terms;</u> and generally relating to the Maryland Health Care Commission and certain preauthorization standards <u>benchmarks</u> <u>for preauthorization of health care services</u>.

BY repealing and reenacting, without amendments,

Article – Health – General Section 19–101 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health – General Section 19–108.2 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

19–101.

In this subtitle, "Commission" means the Maryland Health Care Commission.

19-108.2.

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

(2) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN § 19–111 OF THIS SUBTITLE.

(2) <u>"HEALTH CARE SERVICE" HAS THE MEANING STATED IN §</u> 15–10A–01 OF THE INSURANCE ARTICLE.

(3) "PAYOR" HAS THE MEANING STATED IN § 19–111 OF THIS SUBTITLE MEANS: (I) <u>AN INSURER OR NONPROFIT HEALTH SERVICE PLAN</u> <u>THAT PROVIDES HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS</u> <u>OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE</u> <u>POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE;</u>

(II) <u>A HEALTH MAINTENANCE ORGANIZATION THAT</u> PROVIDES HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; <u>OR</u>

(III) <u>A PHARMACY BENEFITS MANAGER THAT IS REGISTERED</u> WITH THE MARYLAND INSURANCE COMMISSIONER.

(4) "PHARMACY BENEFITS MANAGER" HAS THE MEANING STATED IN § 15–1601 OF THE INSURANCE ARTICLE.

(5) (4) "PROVIDER" HAS THE MEANING STATED IN § 19-7A-01 OF THIS TITLE.

(B) IN ADDITION TO THE DUTIES STATED ELSEWHERE IN THIS SUBTITLE, THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING STANDARDS FOR PREAUTHORIZATION BY:

(1) PAYORS FOR MEDICAL SERVICES AND PHARMACEUTICALS TO BE PROVIDED AFTER DECEMBER 31, 2012;

(2) PHARMACY BENEFITS MANAGERS FOR MEDICAL SERVICES AND PHARMACEUTICALS TO BE PROVIDED AFTER DECEMBER 31, 2012; AND

(3) PROVIDERS FOR MEDICAL SERVICES AND PHARMACEUTICALS ORDERED AFTER DECEMBER 31, 2015.

(C) THE STANDARDS ADOPTED UNDER SUBSECTION (B) OF THIS SECTION:

(1) SHALL INCLUDE A PROCESS FOR A PAYOR, PHARMACY BENEFITS MANAGER, OR PROVIDER UNDER SUBSECTION (B) OF THIS SECTION TO OBTAIN AN EXEMPTION FROM COMPLIANCE WITH THE STANDARDS FOR EXTENUATING CIRCUMSTANCES, INCLUDING:

(I) THE LACK OF BROADBAND INTERNET ACCESS;

(II) A PRACTICE WITH A LOW PATIENT VOLUME AS DEFINED BY THE COMMISSION; OR

(III) A SPECIALTY PROVIDER THAT DOES NOT MAKE MEDICAL REFERRALS OR PRESCRIBE PHARMACEUTICALS; AND

(2) MAY INCLUDE PENALTIES FOR NONCOMPLIANCE.

(B) IN ADDITION TO THE DUTIES STATED ELSEWHERE IN THIS SUBTITLE, THE COMMISSION SHALL WORK WITH PAYORS AND PROVIDERS TO ATTAIN BENCHMARKS FOR STANDARDIZING AND AUTOMATING THE PROCESS REQUIRED BY PAYORS FOR PREAUTHORIZING HEALTH CARE SERVICES.

(C) THE BENCHMARKS DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) ON OR BEFORE OCTOBER 1, 2012 ("PHASE 1"), ESTABLISHMENT OF ONLINE ACCESS FOR PROVIDERS TO EACH PAYOR'S:

(I) LIST OF HEALTH CARE SERVICES THAT REQUIRE PREAUTHORIZATION; AND

(II) KEY CRITERIA FOR MAKING A DETERMINATION ON A PREAUTHORIZATION REQUEST;

(2) ON OR BEFORE MARCH 1, 2013 ("PHASE 2"), ESTABLISHMENT BY EACH PAYOR OF AN ONLINE PROCESS FOR:

(I) <u>ACCEPTING ELECTRONICALLY A PREAUTHORIZATION</u> REQUEST FROM A PROVIDER; AND

(II) ASSIGNING TO A PREAUTHORIZATION REQUEST A UNIQUE ELECTRONIC IDENTIFICATION NUMBER THAT A PROVIDER MAY USE TO TRACK THE REQUEST DURING THE PREAUTHORIZATION PROCESS, WHETHER OR NOT THE REQUEST IS TRACKED ELECTRONICALLY, THROUGH A CALL CENTER, OR BY FAX;

(3) ON OR BEFORE JULY 1, 2013 ("PHASE 3"), ESTABLISHMENT BY EACH PAYOR OF AN ONLINE PREAUTHORIZATION SYSTEM TO APPROVE:

(I) IN REAL TIME, ELECTRONIC PREAUTHORIZATION REQUESTS FOR PHARMACEUTICAL SERVICES: 1. FOR WHICH NO ADDITIONAL INFORMATION IS NEEDED BY THE PAYOR TO PROCESS THE PREAUTHORIZATION REQUEST; AND

<u>2.</u> <u>That meet the payor's criteria for</u> <u>Approval;</u>

(II) WITHIN 1 BUSINESS DAY AFTER RECEIVING ALL PERTINENT INFORMATION ON REQUESTS NOT APPROVED IN REAL TIME, ELECTRONIC PREAUTHORIZATION REQUESTS FOR PHARMACEUTICAL SERVICES THAT:

<u>1.</u> ARE NOT URGENT; AND

2. <u>DO NOT MEET THE STANDARDS FOR REAL-TIME</u> APPROVAL UNDER ITEM (I) OF THIS ITEM; AND

(III) WITHIN 2 BUSINESS DAYS AFTER RECEIVING ALL PERTINENT INFORMATION, ELECTRONIC PREAUTHORIZATION REQUESTS FOR HEALTH CARE SERVICES, EXCEPT PHARMACEUTICAL SERVICES, THAT ARE NOT URGENT; AND

(4) ON OR BEFORE JULY 1, 2015, UTILIZATION BY PROVIDERS OF:

(I) THE ONLINE PREAUTHORIZATION SYSTEM ESTABLISHED BY PAYORS; OR

(II) IF A NATIONAL TRANSACTION STANDARD HAS BEEN ESTABLISHED AND ADOPTED BY THE HEALTH CARE INDUSTRY, AS DETERMINED BY THE COMMISSION, THE PROVIDER'S PRACTICE MANAGEMENT, ELECTRONIC HEALTH RECORD, OR E-PRESCRIBING SYSTEM.

(D) THE BENCHMARKS DESCRIBED IN SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY TO PREAUTHORIZATIONS OF HEALTH CARE SERVICES REQUESTED BY PROVIDERS EMPLOYED BY A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19–713.6 OF THIS TITLE.

(E) THE ONLINE PREAUTHORIZATION SYSTEM DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION SHALL:

(1) PROVIDE REAL-TIME NOTICE TO PROVIDERS ABOUT PREAUTHORIZATION REQUESTS APPROVED IN REAL TIME; AND

(2) PROVIDE NOTICE TO PROVIDERS, WITHIN THE TIME FRAMES SPECIFIED IN SUBSECTION (C)(3)(II) AND (III) OF THIS SECTION AND IN A MANNER THAT IS ABLE TO BE TRACKED BY PROVIDERS, ABOUT PREAUTHORIZATION REQUESTS NOT APPROVED IN REAL TIME.

THE COMMISSION SHALL ESTABLISH BY REGULATION A **(F)** (1) PROCESS THROUGH WHICH A PAYOR OR PROVIDER MAY BE WAIVED FROM ATTAINING THE BENCHMARKS DESCRIBED IN SUBSECTIONS (B) AND (C) OF THIS SECTION FOR EXTENUATING CIRCUMSTANCES.

(2) FOR A PROVIDER, THE EXTENUATING CIRCUMSTANCES MAY **INCLUDE:**

- **(I)** THE LACK OF BROADBAND INTERNET ACCESS;
- **(II)** LOW PATIENT VOLUME; OR

(III) NOT MAKING MEDICAL REFERRALS OR PRESCRIBING PHARMACEUTICALS.

(3) FOR A PAYOR, THE EXTENUATING CIRCUMSTANCES MAY **INCLUDE:**

> **(I)** LOW PREMIUM VOLUME; OR

FOR A GROUP MODEL HEALTH MAINTENANCE **(II)** ORGANIZATION, AS DEFINED IN § 19–713.6 OF THIS TITLE, PREAUTHORIZATIONS OF HEALTH CARE SERVICES REQUESTED BY PROVIDERS NOT EMPLOYED BY THE **GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.**

(G) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL RECONVENE THE MULTISTAKEHOLDER WORKGROUP WHOSE COLLABORATION **RESULTED IN THE 2011 REPORT "RECOMMENDATIONS FOR IMPLEMENTING** ELECTRONIC PRIOR AUTHORIZATIONS".

> (2) **THE WORKGROUP SHALL:**

(I) REVIEW THE PROGRESS TO DATE IN ATTAINING THE BENCHMARKS DESCRIBED IN SUBSECTIONS (B) AND (C) OF THIS SECTION; AND

(II) MAKE RECOMMENDATIONS TO THE COMMISSION FOR ADJUSTMENTS TO THE BENCHMARK DATES.

- (H) (1) **PAYORS SHALL REPORT TO THE COMMISSION:**
 - **(I)** ON OR BEFORE MARCH 1, 2013, ON:

1. <u>The status of their attainment of the</u> <u>Phase 1 and Phase 2 benchmarks; and</u>

2. <u>AN OUTLINE OF THEIR PLANS FOR ATTAINING</u> THE PHASE 3 BENCHMARKS; AND

(II) ON OR BEFORE DECEMBER 1, 2013, ON THEIR ATTAINMENT OF THE PHASE 3 BENCHMARKS.

(2) <u>THE COMMISSION SHALL SPECIFY THE CRITERIA PAYORS</u> MUST USE IN REPORTING ON THEIR ATTAINMENT AND PLANS.

(I) (1) ON OR BEFORE MARCH 31, 2013, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON:

(I) <u>THE PROGRESS IN ATTAINING THE BENCHMARKS FOR</u> <u>STANDARDIZING AND AUTOMATING THE PROCESS REQUIRED BY PAYORS FOR</u> <u>PREAUTHORIZING HEALTH CARE SERVICES; AND</u>

(II) TAKING INTO ACCOUNT THE RECOMMENDATIONS OF THE MULTISTAKEHOLDER WORKGROUP UNDER SUBSECTION (G) OF THIS SECTION, ANY ADJUSTMENT NEEDED TO THE PHASE 2 OR PHASE 3 BENCHMARK DATES.

(2) ON OR BEFORE DECEMBER 31, 2013, AND ON OR BEFORE DECEMBER 31 IN EACH SUCCEEDING YEAR THROUGH 2016, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE ATTAINMENT OF THE BENCHMARKS FOR STANDARDIZING AND AUTOMATING THE PROCESS REQUIRED BY PAYORS FOR PREAUTHORIZING HEALTH CARE SERVICES.

(J) IF NECESSARY TO ATTAIN THE BENCHMARKS, THE COMMISSION MAY ADOPT REGULATIONS TO:

(1) ADJUST THE PHASE 2 OR PHASE 3 BENCHMARK DATES;

(2) <u>Require payors and providers to comply with the</u> <u>BENCHMARKS; AND</u>

(3) ESTABLISH PENALTIES FOR NONCOMPLIANCE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 536

(Senate Bill 542)

AN ACT concerning

Local Government Investment Pool – Authorized Participants

FOR the purpose of renaming the Local Government Investment Pool to be the Investment Pool; expanding the list of participants that may place certain funds in the Local Government Investment Pool to include certain units of State government or certain entities created by the State in addition to certain local governmental entities; making stylistic changes; defining certain terms; and generally relating to investment pools the Local Government Investment Pool.

BY repealing and reenacting, with amendments, Article 95 – Treasurer Section 22G Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article 95 – Treasurer

22G.

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

(II) "AUTHORIZED PARTICIPANT" MEANS:

1. THE GOVERNING BODY OF EACH COUNTY OR MUNICIPALITY;

2. A COUNTY BOARD OF EDUCATION;

3. The governing body of each road, drainage, improvement, construction, or soil conservation district or commission in the State;

4. THE UPPER POTOMAC RIVER COMMISSION;

5. ANY OTHER POLITICAL SUBDIVISION OR BODY POLITIC OF THE STATE;

6. A LOCAL GOVERNMENT INSURANCE POOL FORMED UNDER TITLE 19, SUBTITLE 6 OF THE INSURANCE ARTICLE; OR

7. ON APPROVAL OF THE TREASURER, A UNIT OF STATE GOVERNMENT OR AN ENTITY CREATED BY THE STATE IF THE FUNDS OF THE UNIT OR ENTITY ARE NOT STATE MONEY OVER WHICH THE TREASURER HAS INVESTMENT AUTHORITY.

(III) "POOL" MEANS THE <u>LOCAL GOVERNMENT</u> INVESTMENT POOL.

(2) There is [a Local Government] AN Investment Pool.

(3) The [Local Government Investment] Pool consists of [the aggregate of]:

(I) [all] ALL funds from local governments <u>AUTHORIZED</u> <u>PARTICIPANTS</u> that are placed in the custody of the State; and

(II) [any] ANY funds of the State that are placed in the [Local Government Investment] Pool by the Treasurer [for investment and reinvestment].

[(2)] (4) The investment policies for the [Local Government Investment] Pool shall be established by the Treasurer.

[(3)] (5) The Treasurer shall administer the [Local Government Investment] Pool on behalf of the [participating local governments] AUTHORIZED PARTICIPANTS and, to the extent that State [funds are] MONEY IS included, on behalf of the State.

[(4)] (6) The Treasurer shall develop such procedures necessary for the efficient administration of the Pool, including:

(i) Specification of minimum AND MAXIMUM amounts [which] THAT may be deposited BY ANY AUTHORIZED PARTICIPANT in the Pool and minimum periods of time for which deposits shall be retained in the Pool;

(ii) Payment of amounts equivalent to administrative expenses from the earnings of the Pool; and

(iii) Distribution of the earnings in excess of expenses, or allocation of losses, to the [several] AUTHORIZED participants in a manner [which] THAT equitably reflects the differing amount of their respective investments and the differing periods of time for which the amounts were in the custody of the Pool.

(b) (1) The Treasurer shall invest moneys in the [Local Government Investment] Pool in accordance with the provisions set forth in §§ 6-222 and 6-223 of the State Finance and Procurement Article.

(2) Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any other law, the Treasurer may invest, redeem, sell, exchange, and reinvest moneys in the [Local Government Investment] Pool in bankers' acceptances guaranteed by banking institutions.

(c) (1) The governing authority of any [local government] AUTHORIZED PARTICIPANT having funds which are available for investment and which are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its financial officer to remit funds to the Treasurer for investment as part of the [Local Government Investment] Pool.

(2) The governing authority of any [local government] AUTHORIZED PARTICIPANT having funds intended for other postemployment benefits that are available for investment, as authorized under § 22 of this article, may direct its financial officer to remit those funds to the Treasurer for investment as part of the [Investment] Pool.

(3) Upon determination by the [local] governing authority OF AN AUTHORIZED PARTICIPANT that it is in the best interest of the [local government] AUTHORIZED PARTICIPANT to deposit funds in the [Investment] Pool, it shall adopt and file with the Treasurer a certified copy of a resolution or ordinance authorizing investment of its funds in the [Investment] Pool. The resolution or ordinance shall name the [local government] official or officials OF THE AUTHORIZED PARTICIPANT WHO ARE responsible for deposit and withdrawal of such funds.

(4) The resolution or ordinance filed with the Treasurer shall be accompanied by a statement as to the approximate cash flow requirements of the [local government] AUTHORIZED PARTICIPANT for the invested funds. Subsequent deposits into the [Investment] Pool shall be accompanied by a statement as to the intended duration of the investment or the anticipated date of withdrawal of the funds from the Pool.

(d) A separate account designated by name or number for each AUTHORIZED participant in the [fund] POOL, including the State, shall be kept to record individual transactions and totals of all investments belonging to each AUTHORIZED participant. A monthly report showing the changes in investments made during the preceding month shall be furnished to each AUTHORIZED participant in the [Investment] Pool. Details of any investment transaction shall be furnished to any AUTHORIZED participant upon request.

(e) The principal and credited income of each account maintained for [a] AN AUTHORIZED participant in the [Investment] Pool shall be subject to payment from the Pool upon request, provided that the request for payment is made in accordance with the terms of the deposit. Accumulated income shall be credited to each AUTHORIZED participant account at least monthly.

(f) Except as provided in this section, all instruments of title of all investments of the [Investment] Pool shall remain in the custody of the Treasurer. The Treasurer may deposit with one or more fiscal agents or banks those instruments of title [he] THE TREASURER considers advisable, to be held in safekeeping by the agents or banks for collection of the principal and interest or other income, or of the proceeds of sale. The Treasurer shall collect the principal and interest or other income from investments of the [Investment] Pool, the instruments of title to which are in [his] THE TREASURER'S custody, when due and payable.

(g) A payment may not be issued upon any account in an amount greater than the sum total of the particular account to which it applies. If such payment is issued, it shall be refunded by the distributee.

(h) (1) Subject to the objectives and requirements of this section, the Treasurer shall formulate procedures for the investment and reinvestment of funds in the [Investment] Pool and the acquisition, retention, management, and disposition of investments of the [Investment] Pool.

(2) (i) The Treasurer may enter into a contractual agreement with a qualified Maryland fiscal agent and may compensate the agent for services rendered.

(ii) The agent may perform investment and administrative services which the Treasurer is authorized by this section to perform.

(i) Funds placed in the [Local Government Investment] Pool, other than funds of the State, may not be considered to be [Treasury funds] MONEY OF THE STATE. [(j) For the purposes of this section, "local government" includes all of the legal entities, bodies, and agencies set out in § 22 of this article and local government insurance pools formed under Title 19, Subtitle 6 of the Insurance Article, but does not include the State and agencies of the State.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 537

(House Bill 575)

AN ACT concerning

Local Government Investment Pool – Authorized Participants

FOR the purpose of renaming the Local Government Investment Pool to be the Investment Pool; expanding the list of participants that may place certain funds in the Local Government Investment Pool to include certain units of State government or certain entities created by the State in addition to certain local governmental entities; making stylistic changes; defining certain terms; and generally relating to investment pools the Local Government Investment Pool.

BY repealing and reenacting, with amendments,

Article 95 – Treasurer Section 22G Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article 95 – Treasurer

22G.

(a) (1) **(I)** IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "AUTHORIZED PARTICIPANT" MEANS:

1.

MUNICIPALITY;

2. A COUNTY BOARD OF EDUCATION;

3. The governing body of each road, drainage, improvement, construction, or soil conservation district or commission in the State;

4. THE UPPER POTOMAC RIVER COMMISSION;

THE GOVERNING BODY OF EACH COUNTY OR

5. ANY OTHER POLITICAL SUBDIVISION OR BODY POLITIC OF THE STATE;

6. A LOCAL GOVERNMENT INSURANCE POOL FORMED UNDER TITLE 19, SUBTITLE 6 OF THE INSURANCE ARTICLE; OR

7. ON APPROVAL OF THE TREASURER, A UNIT OF STATE GOVERNMENT OR AN ENTITY CREATED BY THE STATE IF THE FUNDS OF THE UNIT OR ENTITY ARE NOT STATE MONEY OVER WHICH THE TREASURER HAS INVESTMENT AUTHORITY.

(III) "POOL" MEANS THE <u>LOCAL GOVERNMENT</u> INVESTMENT POOL.

(2) There is **f**a Local Government**f AN** Investment Pool.

(3) The [Local Government Investment] Pool consists of [the aggregate of]:

(I) [all] ALL funds from local governments <u>AUTHORIZED</u> <u>PARTICIPANTS</u> that are placed in the custody of the State; and

(II) [any] ANY funds of the State that are placed in the [Local Government Investment] Pool by the Treasurer [for investment and reinvestment].

[(2)] (4) The investment policies for the [Local Government Investment] Pool shall be established by the Treasurer.

[(3)] (5) The Treasurer shall administer the [Local Government Investment] Pool on behalf of the [participating local governments] AUTHORIZED PARTICIPANTS and, to the extent that State [funds are] MONEY IS included, on behalf of the State.

[(4)] (6) The Treasurer shall develop such procedures necessary for the efficient administration of the Pool, including:

(i) Specification of minimum AND MAXIMUM amounts [which] THAT may be deposited BY ANY AUTHORIZED PARTICIPANT in the Pool and minimum periods of time for which deposits shall be retained in the Pool;

(ii) Payment of amounts equivalent to administrative expenses from the earnings of the Pool; and

(iii) Distribution of the earnings in excess of expenses, or allocation of losses, to the [several] AUTHORIZED participants in a manner [which] THAT equitably reflects the differing amount of their respective investments and the differing periods of time for which the amounts were in the custody of the Pool.

(b) (1) The Treasurer shall invest moneys in the [Local Government Investment] Pool in accordance with the provisions set forth in §§ 6-222 and 6-223 of the State Finance and Procurement Article.

(2) Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any other law, the Treasurer may invest, redeem, sell, exchange, and reinvest moneys in the [Local Government Investment] Pool in bankers' acceptances guaranteed by banking institutions.

(c) (1) The governing authority of any [local government] AUTHORIZED PARTICIPANT having funds which are available for investment and which are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its financial officer to remit funds to the Treasurer for investment as part of the [Local Government Investment] Pool.

(2) The governing authority of any [local government] AUTHORIZED PARTICIPANT having funds intended for other postemployment benefits that are available for investment, as authorized under § 22 of this article, may direct its financial officer to remit those funds to the Treasurer for investment as part of the [Investment] Pool.

(3) Upon determination by the [local] governing authority OF AN AUTHORIZED PARTICIPANT that it is in the best interest of the [local government] AUTHORIZED PARTICIPANT to deposit funds in the [Investment] Pool, it shall adopt and file with the Treasurer a certified copy of a resolution or ordinance authorizing investment of its funds in the [Investment] Pool. The resolution or ordinance shall name the [local government] official or officials OF THE AUTHORIZED PARTICIPANT WHO ARE responsible for deposit and withdrawal of such funds. (4) The resolution or ordinance filed with the Treasurer shall be accompanied by a statement as to the approximate cash flow requirements of the [local government] AUTHORIZED PARTICIPANT for the invested funds. Subsequent deposits into the [Investment] Pool shall be accompanied by a statement as to the intended duration of the investment or the anticipated date of withdrawal of the funds from the Pool.

(d) A separate account designated by name or number for each AUTHORIZED participant in the [fund] POOL, including the State, shall be kept to record individual transactions and totals of all investments belonging to each AUTHORIZED participant. A monthly report showing the changes in investments made during the preceding month shall be furnished to each AUTHORIZED participant in the [Investment] Pool. Details of any investment transaction shall be furnished to any AUTHORIZED participant upon request.

(e) The principal and credited income of each account maintained for [a] AN AUTHORIZED participant in the [Investment] Pool shall be subject to payment from the Pool upon request, provided that the request for payment is made in accordance with the terms of the deposit. Accumulated income shall be credited to each AUTHORIZED participant account at least monthly.

(f) Except as provided in this section, all instruments of title of all investments of the [Investment] Pool shall remain in the custody of the Treasurer. The Treasurer may deposit with one or more fiscal agents or banks those instruments of title [he] THE TREASURER considers advisable, to be held in safekeeping by the agents or banks for collection of the principal and interest or other income, or of the proceeds of sale. The Treasurer shall collect the principal and interest or other income from investments of the [Investment] Pool, the instruments of title to which are in [his] THE TREASURER'S custody, when due and payable.

(g) A payment may not be issued upon any account in an amount greater than the sum total of the particular account to which it applies. If such payment is issued, it shall be refunded by the distributee.

(h) (1) Subject to the objectives and requirements of this section, the Treasurer shall formulate procedures for the investment and reinvestment of funds in the [Investment] Pool and the acquisition, retention, management, and disposition of investments of the [Investment] Pool.

(2) (i) The Treasurer may enter into a contractual agreement with a qualified Maryland fiscal agent and may compensate the agent for services rendered.

(ii) The agent may perform investment and administrative services which the Treasurer is authorized by this section to perform.

(i) Funds placed in the [Local Government Investment] Pool, other than funds of the State, may not be considered to be [Treasury funds] MONEY OF THE STATE.

[(j) For the purposes of this section, "local government" includes all of the legal entities, bodies, and agencies set out in § 22 of this article and local government insurance pools formed under Title 19, Subtitle 6 of the Insurance Article, but does not include the State and agencies of the State.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 538

(Senate Bill 549)

AN ACT concerning

Small Business Reserve Program – Definition of Small Business – Revision

- FOR the purpose of altering the definition of "small business" under the Small Business Reserve Program under the State procurement law; including small businesses that meet either the limitation on employees employed by the business or the limitation on gross sales of the business under the Small Business Reserve Program; requiring the Department of General Services to report to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Small Business Reserve Program.
- BY repealing and reenacting, without amendments, Article – State Finance and Procurement Section 14–501(a) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)
- BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 14–501(c) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

<u>Preamble</u>

<u>WHEREAS, Maryland small businesses are an integral component and driving</u> force for job creation and economic security; and

<u>WHEREAS, The Maryland Small Business Reserve Program plays a key role in</u> <u>supporting Maryland small businesses, creating a forum for fostering increased</u> <u>competitive opportunities for growth; and</u>

<u>WHEREAS, The Maryland Small Business Reserve Program is also an</u> <u>important race-neutral program intended to reduce the impact of discrimination</u> <u>against minority- and women-owned businesses, especially those businesses seeking to</u> <u>become prime contractors, and to promote the development of competitive and</u> <u>economically viable minority- and women-owned businesses; and</u>

<u>WHEREAS, Increasing opportunities for more small business through increased</u> participation in the Small Business Reserve Program is in the best interest of <u>Maryland; and</u>

<u>WHEREAS, In order to meet its objectives, the structure, composition, and</u> requirements of participation in the Small Business Reserve Program must be accessible and fair, and structured to create a fair competitive environment for all potential program participants; 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 - 501.

- (a) In this subtitle the following words have the meanings indicated.
- (c) "Small business" means:

(1) a certified minority business enterprise, as defined in 14–301 of this title, that meets the criteria specified under paragraph (2) of this subsection; or

- (2) a business, other than a broker, that meets the following criteria:
 - (i) the business is independently owned and operated;
 - (ii) the business is not a subsidiary of another business;
 - (iii) the business is not dominant in its field of operation; AND

(iv) **1. A.** the wholesale operations of the business did not employ more than 50 persons[, and the gross sales of the business did not exceed an average of \$4,000,000] in its most recently completed 3 fiscal years;

[(v)] **B.** the retail operations of the business did not employ more than 25 persons[, and the gross sales of the business did not exceed an average of \$3,000,000] in its most recently completed 3 fiscal years;

[(vi)] C. the manufacturing operations of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$2,000,000] in its most recently completed 3 fiscal years;

[(vii)] **D.** the service operations of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$10,000,000] in its most recently completed 3 fiscal years;

[(viii)] **E.** the construction operations of the business did not employ more than 50 persons[, and the gross sales of the business did not exceed an average of \$7,000,000] in its most recently completed 3 fiscal years; and

[(ix)] **F.** the architectural and engineering services of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$4,500,000] in its most recently completed 3 fiscal years; **OR**

2. A. THE GROSS SALES OF THE WHOLESALE OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$4,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

B. THE GROSS SALES OF THE RETAIL OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$3,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

C. THE GROSS SALES OF THE MANUFACTURING OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$2,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

D. THE GROSS SALES OF THE SERVICE OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$10,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

E. THE GROSS SALES OF THE CONSTRUCTION OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$7,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS; AND

F. THE GROSS SALES OF THE ARCHITECTURAL AND ENGINEERING SERVICES OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$4,500,000 in its most recently completed 3 fiscal years.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Department of General Services, in consultation with the Governor's Office of Minority Affairs and the Maryland Department of Transportation, shall study the Small Business Reserve Program to evaluate the Program's structure, composition, and requirements for participation and its impact and shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act and the effect of this Act on small business participation in the Small Business Reserve Program recommendations concerning the changes enacted by this Act to the requirements for participation in the Program, including the Program's financial and employment guidelines, and additional legislation to implement any recommended changes.

SECTION $\frac{2}{2}$, 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. It shall remain effective for a period of 2 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 22, 2012.

Chapter 539

(House Bill 456)

AN ACT concerning

Small Business Reserve Program – Definition of Small Business – Revision

FOR the purpose of altering the definition of "small business" under the Small Business Reserve Program under the State procurement law; including small businesses that meet either the limitation on employees employed by the business or the limitation on gross sales of the business under the Small Business Reserve Program; requiring the Department of General Services to report to certain committees of the General Assembly on or before a certain date; providing for the termination of this Act; and general relating to the Small Business Reserve Program.

BY repealing and reenacting, without amendments, Article – State Finance and Procurement Section 14–501(a) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 14–501(c) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

<u>Preamble</u>

<u>WHEREAS, Maryland small businesses are an integral component and driving</u> force for job creation and economic security; and

<u>WHEREAS, The Maryland Small Business Reserve Program plays a key role in</u> <u>supporting Maryland small businesses, creating a forum for fostering increased</u> <u>competitive opportunities for growth; and</u>

<u>WHEREAS, The Maryland Small Business Reserve Program is also an</u> <u>important race-neutral program intended to reduce the impact of discrimination</u> <u>against minority- and women-owned businesses, especially those businesses seeking</u> <u>to become prime contractors, and to promote the development of competitive and</u> <u>economically viable minority- and women-owned businesses; and</u>

<u>WHEREAS, Increasing opportunities for more small business through increased</u> participation in the Small Business Reserve Program is in the best interest of <u>Maryland; and</u>

WHEREAS, In order to meet its objectives, the structure, composition, and requirements of participation in the Small Business Reserve Program must be accessible and fair, and structured to create a fair competitive environment for all potential program participants; 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

14-501.

- (a) In this subtitle the following words have the meanings indicated.
- (c) "Small business" means:

(1) a certified minority business enterprise, as defined in § 14-301 of this title, that meets the criteria specified under paragraph (2) of this subsection; or

- (2) a business, other than a broker, that meets the following criteria:
 - (i) the business is independently owned and operated;
 - (ii) the business is not a subsidiary of another business;
 - (iii) the business is not dominant in its field of operation; AND

(iv) **1. A.** the wholesale operations of the business did not employ more than 50 persons[, and the gross sales of the business did not exceed an average of \$4,000,000] in its most recently completed 3 fiscal years;

[(v)] **B.** the retail operations of the business did not employ more than 25 persons[, and the gross sales of the business did not exceed an average of \$3,000,000] in its most recently completed 3 fiscal years;

[(vi)] C. the manufacturing operations of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$2,000,000] in its most recently completed 3 fiscal years;

[(vii)] **D.** the service operations of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$10,000,000] in its most recently completed 3 fiscal years;

[(viii)]E. the construction operations of the business did not employ more than 50 persons[, and the gross sales of the business did not exceed an average of \$7,000,000] in its most recently completed 3 fiscal years; and

[(ix)] **F.** the architectural and engineering services of the business did not employ more than 100 persons[, and the gross sales of the business did not exceed an average of \$4,500,000] in its most recently completed 3 fiscal years; **OR**

2. A. THE GROSS SALES OF THE WHOLESALE OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$4,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

B. THE GROSS SALES OF THE RETAIL OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$3,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS; C. THE GROSS SALES OF THE MANUFACTURING OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$2,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

D. THE GROSS SALES OF THE SERVICE OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$10,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS;

E. THE GROSS SALES OF THE CONSTRUCTION OPERATIONS OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$7,000,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS; AND

F. THE GROSS SALES OF THE ARCHITECTURAL AND ENGINEERING SERVICES OF THE BUSINESS DID NOT EXCEED AN AVERAGE OF \$4,500,000 IN ITS MOST RECENTLY COMPLETED 3 FISCAL YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Department of General Services, in consultation with the Governor's Office of Minority Affairs and the Maryland Department of Transportation, shall study the Small Business Reserve Program to evaluate the Program's structure, composition, and requirements for participation and its impact and shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on recommendations concerning the changes enacted by this Act to the requirements for participation in the Program, including the Program's financial and employment guidelines, and additional legislation to implement any recommended changes.

SECTION 2. <u>3.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. It shall remain effective for a period of 2 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 22, 2012.

Chapter 540

(Senate Bill 571)

AN ACT concerning

Libraries – Maryland <u>Task Force to Study the Establishment of a</u> Deaf Culture Digital Library FOR the purpose of requiring the Division of Library Development and Services in the State Department of Education to establish and coordinate the Maryland Deaf Culture Digital Library; requiring the Division to coordinate with the Governor's Office of the Deaf and Hard of Hearing in establishing the digital library; specifying a certain purpose and content of the digital library creating the Task Force to Study the Establishment of a Deaf Culture Digital Library; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the establishment of a Deaf Culture Digital Library.

BY repealing and reenacting, with amendments,

Article – Education Section 23–105 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article - Education

23-105.

(a) In addition to any other powers granted and duties imposed by this title, and subject to the authority of the State Board, the Division of Library Development and Services has the powers and duties set forth in this section.

(b) The Division of Library Development and Services shall:

(1) Provide leadership and guidance for the planning and coordinated development of library and information service in this State;

(2) Develop statewide public and school library services and networks, resource centers, and other arrangements to meet the library and information needs of this State;

(3) Provide professional and technical advice on improving library services in this State to:

- (i) Public and school library officials;
- (ii) State government agencies; and

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		(iii)	Any other person;
	(4)	(i)	Collect library statistics and other data;
studies of th	em;	(ii)	Identify library needs and provide for needed research and
		(iii)	Publish and distribute findings in these areas; and
education se	rvices	(iv) and ag	Coordinate library services with other information and encies;
for library p	(5) urpose		vister federal and State funds appropriated to it by the State

(6) (i) Develop and recommend professional standards and policies for libraries; and

(ii) Establish requirements and procedures for the certification of librarians and library personnel;

(7) Provide:

(i) Specialized library service to the blind and other physically handicapped individuals in this State; and

(ii) Other desirable specialized library services;

(8) Encourage, advise, and assist in establishing, operating, and coordinating libraries at State institutions and agencies and administer the operation of library and information services for the Department;

(9) Administer the State grant program for county public library capital projects, in accordance with § 23–510 of this title;

(10) Adopt guidelines for the administration of public libraries and recommend to the State Board rules and regulations to implement this title;

(11) Cooperate with national library agencies and those of any other state; [and]

(12) (I) ESTABLISH THE MARYLAND DEAF CULTURE DIGITAL LIBRARY IN COORDINATION WITH THE GOVERNOR'S OFFICE OF THE DEAF AND HARD OF HEARING; AND

(II) COORDINATE THE MARYLAND DEAF CULTURE DIGITAL LIBRARY TO EDUCATE INDIVIDUALS ABOUT DEAF CULTURES IN THE UNITED STATES AND OTHER COUNTRIES, WHICH SHALL INCLUDE:

1. **REFERENCE MATERIAL; AND**

2. LINKS TO OTHER RESOURCES; AND

[(12)] (13) Perform any other duty necessary for its proper operation.

(a) <u>There is a Task Force to Study the Establishment of a Deaf Culture</u> <u>Library.</u>

(b) The Task Force consists of the following 11 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 State Superintendent's designee; and

(4) the following six members, appointed by the Governor:

(i) <u>one representative of the Division of Library Development</u> and Services in the State Department of Education;

(ii) <u>one representative of the Governor's Office of the Deaf and</u> <u>Hard of Hearing:</u>

(iii) one representative of the Maryland Library Association; and

(iv) three representatives of the deaf community or of deaf organizations in the State.

- (c) <u>The Governor shall designate the chair of the Task Force.</u>
- (d) <u>The State Department of Education shall provide staff for the Task Force.</u>
- (e) <u>A member of the Task Force:</u>
 - (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) <u>The Task Force shall:</u>

(1) study the establishment of a Deaf Culture Digital Library, including potential funding sources for the library through a public-private partnership or the establishment of a friends of the library organization; and

(2) <u>make recommendations regarding the coordination of a Deaf</u> <u>Culture Digital Library to educate individuals about deaf cultures in the United</u> <u>States and other countries, including reference material and links to other resources.</u>

(g) On or before December 1, 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 October July 1, 2012. It shall remain effective for a period of 1 year and, at the end of June 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 22, 2012.

Chapter 541

(House Bill 390)

AN ACT concerning

<u>Libraries – Maryland</u> <u>Task Force to Study the Establishment of a</u> Deaf Culture Digital Library

FOR the purpose of requiring the Division of Library Development and Services in the State Department of Education to establish and coordinate the Maryland Deaf Culture Digital Library; requiring the Division to coordinate with the Governor's Office of the Deaf and Hard of Hearing in establishing the digital library; specifying a certain purpose and content of the digital library creating the Task Force to Study the Establishment of a Deaf Culture Digital Library; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of <u>this Act</u>; and generally relating to the establishment of the <u>Maryland Task</u> <u>Force to Study the Establishment of a</u> Deaf Culture Digital Library.

BY repealing and reenacting, with amendments,

Article – Education Section 23–105 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article - Education

23-105.

(a) In addition to any other powers granted and duties imposed by this title, and subject to the authority of the State Board, the Division of Library Development and Services has the powers and duties set forth in this section.

(b) The Division of Library Development and Services shall:

(1) Provide leadership and guidance for the planning and coordinated development of library and information service in this State;

(2) Develop statewide public and school library services and networks, resource centers, and other arrangements to meet the library and information needs of this State;

(3) Provide professional and technical advice on improving library services in this State to:

- (i) Public and school library officials;
- (ii) State government agencies; and
- (iii) Any other person;
- (4) (i) Collect library statistics and other data;
 - (ii) Identify library needs and provide for needed research and

studies of them;

(iii) Publish and distribute findings in these areas; and

(iv) Coordinate library services with other information and education services and agencies;

(5) Administer federal and State funds appropriated to it by the State for library purposes;

(6) (i) Develop and recommend professional standards and policies for libraries; and

(ii) Establish requirements and procedures for the certification of librarians and library personnel;

(7) Provide:

(i) Specialized library service to the blind and other physically handicapped individuals in this State; and

(ii) Other desirable specialized library services;

(8) Encourage, advise, and assist in establishing, operating, and coordinating libraries at State institutions and agencies and administer the operation of library and information services for the Department;

(9) Administer the State grant program for county public library capital projects, in accordance with § 23–510 of this title;

(10) Adopt guidelines for the administration of public libraries and recommend to the State Board rules and regulations to implement this title;

(11) Cooperate with national library agencies and those of any other state; [and]

(12) (I) ESTABLISH THE MARYLAND DEAF CULTURE DIGITAL LIBRARY IN COORDINATION WITH THE GOVERNOR'S OFFICE OF THE DEAF AND HARD OF HEARING; AND

(II) COORDINATE THE MARYLAND DEAF CULTURE DIGITAL LIBRARY TO EDUCATE INDIVIDUALS ABOUT DEAF CULTURES IN THE UNITED STATES AND OTHER COUNTRIES, WHICH SHALL INCLUDE:

- 1. REFERENCE MATERIAL; AND
- 2. LINKS TO OTHER RESOURCES; AND

[(12)] (13) Perform any other duty necessary for its proper operation.

<u>SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF</u> <u>MARYLAND, That:</u>

<u>(a)</u>	<u>There</u>	is a T	ask Force to Study the Establishment of a Deaf Culture	
<u>Library.</u>				
<u>(b)</u>	<u>The Ta</u>	<u>ask For</u>	ce consists of the following 11 members:	
President of			nembers of the Senate of Maryland, appointed by the	
of the House		<u>two me</u>	embers of the House of Delegates, appointed by the Speaker	
<u>designee; an</u>		<u>the Sta</u>	ate Superintendent of Education, or the Superintendent's	
	<u>(4)</u>	<u>the foll</u>	owing six members, appointed by the Governor:	
and Services			one representative of the Division of Library Development Department of Education:	
<u>Hard of Hea</u>		<u>(ii)</u>	one representative of the Governor's Office of the Deaf and	
		<u>(iii)</u> <u>(</u>	one representative of the Maryland Library Association; and	
organization			<u>three representatives of the deaf community or of deaf</u>	
<u>(c)</u>	<u>The G</u>	overnor	r shall designate the chair of the Task Force.	
<u>(d)</u>	The State Department of Education shall provide staff for the Task Force.			
<u>(e)</u>	<u>A men</u>	nber of	the Task Force:	
	<u>(1)</u>	<u>may no</u>	ot receive compensation as a member of the Task Force; but	
State Travel			<u>tled to reimbursement for expenses under the Standard</u> as provided in the State budget.	
<u>(f)</u>	<u>The Ta</u>	ask For	<u>ce shall:</u>	
	(1)	study	the establishment of a Deaf Culture Digital Library	

(1) study the establishment of a Deaf Culture Digital Library, including potential funding sources for the library through a public–private partnership or the establishment of a friends of the library organization; and (2) <u>make recommendations regarding the coordination of a Deaf</u> <u>Culture Digital Library to educate individuals about deaf cultures in the United</u> <u>States and other countries, including reference material and links to other resources.</u>

(g) <u>On or before December 1, 2012, the Task Force shall report its findings</u> and recommendations to the Governor and, in accordance with § 2–1246 of the State <u>Government Article, the General Assembly.</u>

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October July 1, 2012. It shall remain effective for a period of 1 year, and at the end of June 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 22, 2012.

Chapter 542

(Senate Bill 579)

AN ACT concerning

Alcoholic Beverages – Farm Brewery Manufacturer's License

FOR the purpose of creating a Class 8 farm brewery manufacturer's license; specifying a certain annual fee for the license; authorizing a licensee to sell and deliver beer manufactured in a facility on the licensed farm or in another facility to certain persons; requiring that the beer be manufactured in a certain manner; requiring that a farm brewery be located only at the place stated on the license; providing that a licensee may exercise the privileges of the license, notwithstanding local law; specifying the privileges that may be exercised by a licensee, including providing samples of beer, selling certain foods, storing beer, brewing beer, bottling beer, or contracting for a certain number of barrels of beer each calendar year; specifying the times during which a licensee may exercise the privileges of the license; specifying the days of operation for a licensee; prohibiting a licensee from selling or allowing to be consumed at a certain location certain alcoholic beverages other than the beer produced by the licensee under this Act; specifying that certain provisions of law apply to a licensee; authorizing a licensee to sponsor a certain multibrewery activity at the licensed farm under certain conditions; specifying the privileges that a licensee may exercise at a multibrewery activity and the times that the activity may be held; authorizing the Office of the Comptroller to issue a special brewery promotional event permit to a licensee under certain conditions; specifying the privileges that may be exercised by the licensee at the special brewery promotional event; requiring that the beer at the special brewery promotional

event be sold by the glass and for consumption on the premises only; and generally relating to Class 8 farm brewery licenses.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages Section 2–201(a) Annotated Code of Maryland (2011 Replacement Volume)

BY adding to

Article 2B – Alcoholic Beverages Section 2–209 Annotated Code of Maryland (2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

2-201.

(a) The annual fees for manufacturer's licenses are as follows:

Class 1	Distillery	2,000
Class 2	Rectifying	600
Class 3	Winery	750
Class 4	Limited Winery	200
Class 5	Brewery	1,500
Class 6	Pub–Brewery	500
Class 7	Micro–Brewery	500
CLASS 8	FARM BREWERY	200

2-209.

(A) (1) THERE IS A CLASS 8 FARM BREWERY LICENSE.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A CLASS 8 FARM BREWERY LICENSE ALLOWS THE LICENSEE TO SELL AND DELIVER BEER MANUFACTURED IN A FACILITY ON THE LICENSED FARM OR IN A FACILITY OTHER THAN ONE ON THE LICENSED FARM TO:

(I) A WHOLESALER LICENSED TO SELL AND DELIVER BEER IN THE STATE; OR (II) A PERSON IN ANOTHER STATE AUTHORIZED TO ACQUIRE BEER.

(3) THE BEER TO BE SOLD AND DELIVERED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE MANUFACTURED WITH AN INGREDIENT MOSTLY FROM AN <u>A MARYLAND</u> AGRICULTURAL PRODUCT, INCLUDING HOPS, GRAIN, AND FRUIT, PRODUCED ON THE LICENSED FARM.

(4) A CLASS 8 FARM BREWERY MAY BE LOCATED ONLY AT THE PLACE STATED ON THE LICENSE.

(5) NOTWITHSTANDING ANY LOCAL LAW, A LICENSEE MAY EXERCISE THE PRIVILEGES OF A CLASS 8 FARM BREWERY LICENSE.

(6) A LICENSEE MAY:

(I) SELL BEER PRODUCED BY THE LICENSEE FOR CONSUMPTION ON THE LICENSED FARM;

(II) IN AN AMOUNT NOT EXCEEDING 6 FLUID OUNCES PER BRAND, PROVIDE SAMPLES OF BEER THAT THE LICENSEE PRODUCES TO A CONSUMER:

- 1. AT NO CHARGE; OR
- 2. FOR A FEE; AND

(III) SELL OR SERVE:

- 1. BREAD AND OTHER BAKED GOODS;
- 2. CHILI;
- 3. CHOCOLATE;
- 4. CRACKERS;
- 5. CURED MEAT;
- 6. FRUITS (WHOLE AND CUT);
- 7. SALADS AND VEGETABLES (WHOLE AND CUT);
- 8. HARD AND SOFT CHEESE (WHOLE AND CUT);

Martin O'Malley, Governor

9. ICE CREAM;

10. JELLY;

11. JAM;

12. VINEGAR;

13. PIZZA;

14. PREPACKAGED SANDWICHES AND OTHER PREPACKAGED FOODS READY TO BE EATEN;

15. SOUP; AND

16. CONDIMENTS.

(7) SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, A LICENSEE MAY EXERCISE THE PRIVILEGES OF THE LICENSE EACH DAY DURING THE FOLLOWING TIMES:

(I) FROM 10 A.M. TO 6 P.M., FOR CONSUMPTION OF BEER AND SALES AND SERVICE OF FOOD AT THE LICENSED FARM; AND

(II) **FROM 10** A.M. TO **10** P.M., FOR:

1. SAMPLING OF BEER;

2. CONSUMPTION OF BEER OFF THE LICENSED FARM IF THE BEER IS PACKAGED IN SEALED OR RESEALABLE CONTAINERS, SUCH AS GROWLERS; AND

3. GUESTS WHO ATTEND A PLANNED PROMOTION EVENT OR OTHER ORGANIZED ACTIVITY AT THE LICENSED FARM.

(8) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A CLASS 8 FARM BREWERY LICENSE ALLOWS THE LICENSEE TO OPERATE 7 DAYS A WEEK.

(II) IN GARRETT COUNTY, A LICENSEE MAY OPEN ON SUNDAYS <u>DURING THE HOURS ALLOWED UNDER § 11-512(C)(3) OF THIS</u> <u>ARTICLE</u> TO ENGAGE IN THE ACTIVITIES LISTED IN PARAGRAPH (3) OF THIS SUBSECTION ONLY IN AN ELECTION DISTRICT WHERE THE VOTERS, IN A REFERENDUM AUTHORIZED BY LAW, HAVE APPROVED SUNDAY SALES AT A FARM.

(9) EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, A LICENSEE MAY NOT SELL OR ALLOW TO BE CONSUMED AT THE LOCATION OF THE FARM BREWERY ANY ALCOHOLIC BEVERAGE OTHER THAN THE BEER PRODUCED BY THE LICENSEE UNDER THE AUTHORITY OF THIS SECTION.

(10) NOTHING IN THIS SUBSECTION LIMITS THE APPLICATION OF RELEVANT PROVISIONS OF TITLE 21 OF THE HEALTH – GENERAL ARTICLE, AND REGULATIONS ADOPTED UNDER THAT TITLE, TO A LICENSEE.

(B) THE PLACE LISTED ON THE CLASS 8 FARM BREWERY LICENSE SHALL BE IN COMPLIANCE WITH § 9-103 of this article.

(C) A LICENSEE MAY:

(1) STORE ON ITS LICENSED FARM, IN A SEGREGATED AREA APPROVED BY THE COMPTROLLER, BEER PRODUCED AT THE LICENSED FARM FOR SALE AND DELIVERY TO A WHOLESALER LICENSED IN THE STATE OR A PERSON OUTSIDE OF THE STATE AUTHORIZED TO ACQUIRE THE BEER;

(2) BREW, BOTTLE, OR CONTRACT FOR NOT MORE THAN 15,000 BARRELS OF BEER EACH CALENDAR YEAR;

(3) CONTRACT WITH THE HOLDER OF A CLASS 5 BREWERY LICENSE OR A CLASS 2 RECTIFYING LICENSE TO BREW AND BOTTLE BEER FROM INGREDIENTS PRODUCED ON THE LICENSED FARM;

(4) IMPORT, EXPORT, AND TRANSPORT ITS BEER IN ACCORDANCE WITH THIS SECTION; AND

(5) STORE BEER AT A WAREHOUSE FOR WHICH THE LICENSEE HAS BEEN ISSUED AN INDIVIDUAL STORAGE PERMIT, FOR SALE AND DELIVERY TO A WHOLESALER LICENSED IN THE STATE OR A PERSON OUTSIDE OF THE STATE AUTHORIZED TO ACQUIRE THE BEER, OR SHIPMENT BACK TO THE LICENSED FARM, IF:

(I) THE LICENSEE DOES NOT SERVE OR SELL BEER AT THE WAREHOUSE; AND

(II) THE COMPTROLLER HAS FULL ACCESS AT ALL TIMES TO THE WAREHOUSE TO ENFORCE THIS ARTICLE.

(D) (1) A LICENSEE MAY SPONSOR A MULTIBREWERY ACTIVITY AT THE LICENSED FARM THAT:

(I) INCLUDES THE PRODUCTS OF OTHER <u>MARYLAND</u> BREWERIES; AND

(II) PROVIDES FOR THE SALE OF BEER BY THE GLASS FOR CONSUMPTION ON THE PREMISES ONLY.

(2) IN A SEGREGATED AREA APPROVED BY THE COMPTROLLER ON THE LICENSED FARM, A LICENSEE MAY STORE THE PRODUCTS OF OTHER <u>MARYLAND</u> BREWERIES FOR THE MULTIBREWERY ACTIVITY.

(3) THE MULTIBREWERY ACTIVITY:

- (I) MAY BE HELD FROM 10 A.M. TO 10 P.M. EACH DAY; AND
- (II) MAY NOT EXCEED 3 CONSECUTIVE DAYS.

(E) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A SPECIAL BREWERY PROMOTIONAL EVENT PERMIT TO A LICENSEE.

(2) AT LEAST 15 DAYS BEFORE HOLDING A PLANNED PROMOTIONAL EVENT, THE LICENSEE SHALL OBTAIN A PERMIT FROM THE COMPTROLLER BY FILING A NOTICE OF THE PROMOTIONAL EVENT ON THE FORM THAT THE COMPTROLLER PROVIDES.

(3) THE PERMIT AUTHORIZES THE LICENSEE TO CONDUCT AT THE LICENSED FARM A PROMOTIONAL EVENT AT WHICH THE LICENSEE MAY:

(I) PROVIDE SAMPLES OF NOT MORE THAN 6 FLUID OUNCES PER BRAND TO CONSUMERS; AND

(II) SELL BEER PRODUCED BY THE LICENSEE TO PERSONS WHO PARTICIPATE IN THE EVENT.

(4) THE BEER AT THE EVENT SHALL BE SOLD BY THE GLASS AND FOR CONSUMPTION ON THE PREMISES ONLY.

(5) THE LICENSEE MAY NOT BE ISSUED MORE THAN 12 PERMITS IN A CALENDAR YEAR.

(6) A SINGLE PROMOTIONAL EVENT:

(I) MAY BE HELD FROM 10 A.M. TO 10 P.M. EACH DAY; AND

- (II) MAY NOT EXCEED 3 CONSECUTIVE DAYS.
- (7) THE PERMIT FEE IS \$25 PER EVENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 543

(House Bill 1126)

AN ACT concerning

Alcoholic Beverages – Farm Brewery Manufacturer's License

FOR the purpose of creating a Class 8 farm brewery manufacturer's license; specifying a certain annual fee for the license; authorizing a licensee to sell and deliver beer manufactured in a facility on the licensed farm or in another facility to certain persons; requiring that the beer be manufactured in a certain manner; requiring that a farm brewery be located only at the place stated on the license; providing that a licensee may exercise the privileges of the license, notwithstanding local law; specifying the privileges that may be exercised by a licensee, including providing samples of beer, selling certain foods, storing beer, brewing beer, bottling beer, or contracting for a certain number of barrels of beer each calendar year; specifying the times during which a licensee may exercise the privileges of the license; specifying the days of operation for a licensee; prohibiting a licensee from selling or allowing to be consumed at a certain location certain alcoholic beverages other than the beer produced by the licensee under this Act; specifying that certain provisions of law apply to a licensee; authorizing a licensee to sponsor a certain multibrewery activity at the licensed farm under certain conditions; specifying the privileges that a licensee may exercise at a multibrewery activity and the times that the activity may be held; authorizing the Office of the Comptroller to issue a special brewery promotional event permit to a licensee under certain conditions; specifying the privileges that may be exercised by the licensee at the special brewery promotional event; requiring that the beer at the special brewery promotional event be sold by the glass and for consumption on the premises only; and generally relating to Class 8 farm brewery licenses.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages Section 2–201(a) Annotated Code of Maryland (2011 Replacement Volume)

BY adding to

Article 2B – Alcoholic Beverages Section 2–209 Annotated Code of Maryland (2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

2-201.

(a) The annual fees for manufacturer's licenses are as follows:

Class 1	Distillery	2,000
Class 2	Rectifying	600
Class 3	Winery	750
Class 4	Limited Winery	200
Class 5	Brewery	1,500
Class 6	Pub–Brewery	500
Class 7	Micro–Brewery	500
CLASS 8	FARM BREWERY	200

2-209.

(A) (1) THERE IS A CLASS 8 FARM BREWERY LICENSE.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A CLASS 8 FARM BREWERY LICENSE ALLOWS THE LICENSEE TO SELL AND DELIVER BEER MANUFACTURED IN A FACILITY ON THE LICENSED FARM OR IN A FACILITY OTHER THAN ONE ON THE LICENSED FARM TO:

(I) A WHOLESALER LICENSED TO SELL AND DELIVER BEER IN THE STATE; OR

(II) A PERSON IN ANOTHER STATE AUTHORIZED TO ACQUIRE BEER.

(3) THE BEER TO BE SOLD AND DELIVERED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE MANUFACTURED WITH AN INGREDIENT **MOSTLY** FROM AN A MARYLAND AGRICULTURAL PRODUCT, INCLUDING HOPS, GRAIN, AND FRUIT, PRODUCED ON THE LICENSED FARM.

A CLASS 8 FARM BREWERY MAY BE LOCATED ONLY AT THE (4) PLACE STATED ON THE LICENSE.

(5) NOTWITHSTANDING ANY LOCAL LAW, A LICENSEE MAY EXERCISE THE PRIVILEGES OF A CLASS 8 FARM BREWERY LICENSE.

> (6) A LICENSEE MAY:

(I) SELL BEER PRODUCED BY THE LICENSEE FOR **CONSUMPTION ON THE LICENSED FARM;**

IN AN AMOUNT NOT EXCEEDING 6 FLUID OUNCES PER **(II)** BRAND, PROVIDE SAMPLES OF BEER THAT THE LICENSEE PRODUCES TO A **CONSUMER:**

- **1.** AT NO CHARGE; OR
- 2. FOR A FEE; AND

(III) SELL OR SERVE:

- 1. **BREAD AND OTHER BAKED GOODS;**
- 2. CHILI;
- CHOCOLATE; 3.
- 4. **CRACKERS;**
- 5. CURED MEAT;
- 6. FRUITS (WHOLE AND CUT);
- 7. SALADS AND VEGETABLES (WHOLE AND CUT);
- 8. HARD AND SOFT CHEESE (WHOLE AND CUT);
- ICE CREAM; 9.
- **JELLY;** 10.
- JAM; 11.

Martin O'Malley, Governor

12. VINEGAR;

13. PIZZA;

14. PREPACKAGED SANDWICHES AND OTHER PREPACKAGED FOODS READY TO BE EATEN;

15. SOUP; AND

16. CONDIMENTS.

(7) SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, A LICENSEE MAY EXERCISE THE PRIVILEGES OF THE LICENSE EACH DAY DURING THE FOLLOWING TIMES:

(I) FROM 10 A.M. TO 6 P.M., FOR CONSUMPTION OF BEER AND SALES AND SERVICE OF FOOD AT THE LICENSED FARM; AND

- (II) FROM 10 A.M. TO 10 P.M., FOR:
 - 1. SAMPLING OF BEER;

2. CONSUMPTION OF BEER OFF THE LICENSED FARM IF THE BEER IS PACKAGED IN SEALED OR RESEALABLE CONTAINERS, SUCH AS GROWLERS; AND

3. GUESTS WHO ATTEND A PLANNED PROMOTION EVENT OR OTHER ORGANIZED ACTIVITY AT THE LICENSED FARM.

(8) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A CLASS 8 FARM BREWERY LICENSE ALLOWS THE LICENSEE TO OPERATE 7 DAYS A WEEK.

(II) IN GARRETT COUNTY, A LICENSEE MAY OPEN ON SUNDAYS <u>DURING THE HOURS ALLOWED UNDER § 11–512(C)(3) OF THIS</u> <u>ARTICLE</u> TO ENGAGE IN THE ACTIVITIES LISTED IN PARAGRAPH (3) OF THIS SUBSECTION ONLY IN AN ELECTION DISTRICT WHERE THE VOTERS, IN A REFERENDUM AUTHORIZED BY LAW, HAVE APPROVED SUNDAY SALES AT A FARM.

(9) EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, A LICENSEE MAY NOT SELL OR ALLOW TO BE CONSUMED AT THE LOCATION OF THE FARM BREWERY ANY ALCOHOLIC BEVERAGE OTHER THAN THE BEER PRODUCED BY THE LICENSEE UNDER THE AUTHORITY OF THIS SECTION.

(10) NOTHING IN THIS SUBSECTION LIMITS THE APPLICATION OF RELEVANT PROVISIONS OF TITLE 21 OF THE HEALTH – GENERAL ARTICLE, AND REGULATIONS ADOPTED UNDER THAT TITLE, TO A LICENSEE.

(B) THE PLACE LISTED ON THE CLASS 8 FARM BREWERY LICENSE SHALL BE IN COMPLIANCE WITH § 9-103 of this article.

(C) A LICENSEE MAY:

(1) STORE ON ITS LICENSED FARM, IN A SEGREGATED AREA APPROVED BY THE COMPTROLLER, BEER PRODUCED AT THE LICENSED FARM FOR SALE AND DELIVERY TO A WHOLESALER LICENSED IN THE STATE OR A PERSON OUTSIDE OF THE STATE AUTHORIZED TO ACQUIRE THE BEER;

(2) BREW, BOTTLE, OR CONTRACT FOR NOT MORE THAN 15,000 BARRELS OF BEER EACH CALENDAR YEAR;

(3) CONTRACT WITH THE HOLDER OF A CLASS 5 BREWERY LICENSE OR A CLASS 2 RECTIFYING LICENSE TO BREW AND BOTTLE BEER FROM INGREDIENTS PRODUCED ON THE LICENSED FARM;

(4) IMPORT, EXPORT, AND TRANSPORT ITS BEER IN ACCORDANCE WITH THIS SECTION; AND

(5) STORE BEER AT A WAREHOUSE FOR WHICH THE LICENSEE HAS BEEN ISSUED AN INDIVIDUAL STORAGE PERMIT, FOR SALE AND DELIVERY TO A WHOLESALER LICENSED IN THE STATE OR A PERSON OUTSIDE OF THE STATE AUTHORIZED TO ACQUIRE THE BEER, OR SHIPMENT BACK TO THE LICENSED FARM, IF:

(I) THE LICENSEE DOES NOT SERVE OR SELL BEER AT THE WAREHOUSE; AND

(II) THE COMPTROLLER HAS FULL ACCESS AT ALL TIMES TO THE WAREHOUSE TO ENFORCE THIS ARTICLE.

(D) (1) A LICENSEE MAY SPONSOR A MULTIBREWERY ACTIVITY AT THE LICENSED FARM THAT:

(I) INCLUDES THE PRODUCTS OF OTHER <u>MARYLAND</u> BREWERIES; AND (II) PROVIDES FOR THE SALE OF BEER BY THE GLASS FOR CONSUMPTION ON THE PREMISES ONLY.

(2) IN A SEGREGATED AREA APPROVED BY THE COMPTROLLER ON THE LICENSED FARM, A LICENSEE MAY STORE THE PRODUCTS OF OTHER <u>MARYLAND</u> BREWERIES FOR THE MULTIBREWERY ACTIVITY.

- (3) THE MULTIBREWERY ACTIVITY:
 - (I) MAY BE HELD FROM 10 A.M. TO 10 P.M. EACH DAY; AND
 - (II) MAY NOT EXCEED 3 CONSECUTIVE DAYS.

(E) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A SPECIAL BREWERY PROMOTIONAL EVENT PERMIT TO A LICENSEE.

(2) AT LEAST 15 DAYS BEFORE HOLDING A PLANNED PROMOTIONAL EVENT, THE LICENSEE SHALL OBTAIN A PERMIT FROM THE COMPTROLLER BY FILING A NOTICE OF THE PROMOTIONAL EVENT ON THE FORM THAT THE COMPTROLLER PROVIDES.

(3) THE PERMIT AUTHORIZES THE LICENSEE TO CONDUCT AT THE LICENSED FARM A PROMOTIONAL EVENT AT WHICH THE LICENSEE MAY:

(I) PROVIDE SAMPLES OF NOT MORE THAN 6 FLUID OUNCES PER BRAND TO CONSUMERS; AND

(II) SELL BEER PRODUCED BY THE LICENSEE TO PERSONS WHO PARTICIPATE IN THE EVENT.

(4) THE BEER AT THE EVENT SHALL BE SOLD BY THE GLASS AND FOR CONSUMPTION ON THE PREMISES ONLY.

(5) THE LICENSEE MAY NOT BE ISSUED MORE THAN 12 PERMITS IN A CALENDAR YEAR.

- (6) A SINGLE PROMOTIONAL EVENT:
 - (I) MAY BE HELD FROM 10 A.M. TO 10 P.M. EACH DAY; AND
 - (II) MAY NOT EXCEED 3 CONSECUTIVE DAYS.
- (7) THE PERMIT FEE IS \$25 PER EVENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 544

(Senate Bill 580)

AN ACT concerning

Income Tax – Subtraction Modification – Mortgage Forgiveness Debt Relief

FOR the purpose of allowing a subtraction modification under the Maryland income tax for income from the discharge of certain indebtedness related to certain costs incurred with respect to a principal residence; providing that the amount of the subtraction may not exceed a certain amount for certain taxpayers; providing for an addition modification if a property is sold or exchanged under certain circumstances; providing for the application and termination of this Act; *providing for the termination of certain provisions of this Act;* and generally relating to an income tax subtraction modification for income from the discharge of certain indebtedness.

BY repealing and reenacting, without amendments,

Article – Tax – General Section 10–205(a) and 10–208(a) <u>10–207(a)</u> Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – General Section 10–205(k) and 10–208(r) <u>10–207(y)</u> Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

10-205.

(a) In addition to the modification under § 10–204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(K) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES, IF A TAXPAYER SOLD OR EXCHANGED A PROPERTY IN THE CURRENT TAXABLE YEAR FOR WHICH A SUBTRACTION MODIFICATION UNDER $\frac{10-208(R)}{10-207(Y)}$ § 10-207(Y) OF THIS SUBTITLE HAS BEEN CLAIMED, THE DIFFERENCE BETWEEN:

(1) THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME AS REPORTABLE UNDER THE FEDERAL MORTGAGE FORGIVENESS DEBT RELIEF ACT OF 2007, AS AMENDED, PRIOR TO ITS EXPIRATION ON DECEMBER 31, 2012, AND WITHOUT REGARD TO THE DATE LIMITATION IN § 108(A)(1)(E) OF THE INTERNAL REVENUE CODE; AND

(2) THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME AS CLAIMED IN THE TAXABLE YEAR.

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

<u> Article – Tax – General</u>

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.

<u>10–207.</u>

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

 $(\underline{\mathbf{R}})$ (Y) (1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR INDEBTEDNESS DISCHARGED FOR QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS UNDER THE FEDERAL MORTGAGE FORGIVENESS DEBT RELIEF ACT OF 2007, AS AMENDED, PRIOR TO ITS EXPIRATION ON DECEMBER 31, 2012, AND WITHOUT REGARD TO THE DATE LIMITATION IN § 108(A)(1)(E) OF THE INTERNAL REVENUE CODE.

(2) THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION APPLIES ONLY TO AN OWNER–OCCUPIED PRINCIPAL RESIDENCE.

(3) THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED:

(I) **\$1,000,000** FOR AN INDIVIDUAL; OR

(II) \$2,000,000 FOR A MARRIED COUPLE FILING A JOINT RETURN OR AN INDIVIDUAL DESCRIBED IN § 2 OF THE INTERNAL REVENUE CODE AS A HEAD OF HOUSEHOLD OR AS A SURVIVING SPOUSE.

SECTION 2. 3. AND BE IT FURTHER ENACTED, That <u>Section 2 of</u> this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2012, but before January 1, 2014. It shall remain effective for a period of 2 years and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

<u>SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect</u> July 1, 2012, and, except as provided in Section 3 of this Act, shall be applicable to all taxable years beginning after December 31, 2012.

Approved by the Governor, May 22, 2012.

Chapter 545

(House Bill 600)

AN ACT concerning

Income Tax – Subtraction Modification – Mortgage Forgiveness Debt Relief

FOR the purpose of allowing a subtraction modification under the Maryland income tax for income from the discharge of certain indebtedness related to certain costs incurred with respect to a principal residence; providing that the amount of the subtraction may not exceed a certain amount for certain taxpayers; providing for an addition modification if a property is sold or exchanged under certain circumstances; providing for the application and termination of this Act; *providing for the termination of certain provisions of this Act;* and generally relating to an income tax subtraction modification for income from the discharge of certain indebtedness.

BY repealing and reenacting, without amendments, Article – Tax – General Section 10–205(a) and 10–208(a) <u>10–207(a)</u> Annotated Code of Maryland 3625

(2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – General Section 10–205(k) and 10–208(r) <u>10–207(y)</u> Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

10-205.

(a) In addition to the modification under § 10–204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(K) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES, IF A TAXPAYER SOLD OR EXCHANGED A PROPERTY IN THE CURRENT TAXABLE YEAR FOR WHICH A SUBTRACTION MODIFICATION UNDER § 10-208(R)10-207(Y) OF THIS SUBTITLE HAS BEEN CLAIMED, THE DIFFERENCE BETWEEN:

(1) THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME AS REPORTABLE UNDER THE FEDERAL MORTGAGE FORGIVENESS DEBT RELIEF ACT OF 2007, AS AMENDED, PRIOR TO ITS EXPIRATION ON DECEMBER 31, 2012, AND WITHOUT REGARD TO THE DATE LIMITATION IN § 108(A)(1)(E) OF THE INTERNAL REVENUE CODE; AND

(2) THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME AS CLAIMED IN THE TAXABLE YEAR.

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

<u> Article – Tax – General</u>

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.

<u>10–207.</u>

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

 $(\underline{\mathbf{R}})$ (<u>Y</u>) (1) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR INDEBTEDNESS DISCHARGED FOR QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS UNDER THE FEDERAL MORTGAGE FORGIVENESS DEBT RELIEF ACT OF 2007, AS AMENDED, PRIOR TO ITS EXPIRATION ON DECEMBER 31, 2012, AND WITHOUT REGARD TO THE DATE LIMITATION IN § 108(A)(1)(E) OF THE INTERNAL REVENUE CODE.

(2) THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION APPLIES ONLY TO AN OWNER–OCCUPIED PRINCIPAL RESIDENCE.

(3) THE SUBTRACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED:

(I) \$1,000,000 FOR AN INDIVIDUAL; OR

(II) \$2,000,000 FOR A MARRIED COUPLE FILING A JOINT RETURN OR AN INDIVIDUAL DESCRIBED IN § 2 OF THE INTERNAL REVENUE CODE AS A HEAD OF HOUSEHOLD OR AS A SURVIVING SPOUSE.

SECTION $\frac{2}{2}$. 3. AND BE IT FURTHER ENACTED, That <u>Section 2 of</u> this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2012, but before January 1, 2014. It shall remain effective for a period of 2 years and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

<u>SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect</u> July 1, 2012, and, except as provided in Section 3 of this Act, shall be applicable to all taxable years beginning after December 31, 2012.

Approved by the Governor, May 22, 2012.

Chapter 546

(Senate Bill 591)

AN ACT concerning

Real Property – Manufactured Homes – Conversion <u>Affixation</u> to and Severance from Real Property

FOR the purpose of providing for the conversion affixation of a manufactured home to real property under certain circumstances; requiring a certain affidavit of conversion affixation to contain or be accompanied by certain information, documentation, and statements; requiring an affidavit of conversion affixation to be recorded under certain circumstances; providing that an affidavit of affixation is not necessary to convey or encumber a manufactured home; providing that the property tax status of a manufactured home shall be governed by certain provisions of law; providing that a manufactured home shall be converted to real property under certain circumstances; providing that a recorded affidavit of conversion has no legal effect under certain circumstances the recordation of an affidavit of affixation does not represent a sale or transfer of real property for certain purposes: requiring the owner of certain property to send a certified copy of an affidavit of affixation and any attachments to the Motor Vehicle Administration at a certain time; requiring the Administration to record the affidavit and attachments in its records; requiring the Administration to make certain records available to certain individuals; requiring the owner of a manufactured home that is or will to be severed from real property to file an affidavit of severance under certain circumstances; requiring an affidavit of severance to contain certain information and statements; requiring an affidavit of severance to be recorded under certain circumstances; requiring the Administration to accept a certain copy of a certain affidavit of severance for filing and issue a certain certificate of title in a certain manner; requiring a custodian to disclose personal information in the public records of the Administration to certain individuals; requiring the Administration to develop a certain model affidavit; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to manufactured homes and the conversion affixation to and severance from real property.

BY repealing and reenacting, without amendments,

<u>Article – Commercial Law</u> <u>Section 9–102(a)(54)</u> <u>Annotated Code of Maryland</u> (2002 Replacement Volume and 2011 Supplement)

BY adding to

Article – Real Property

Section 8B–101 through 8B–302 to be under the new title "Title 8B. Manufactured Homes"

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

<u>BY repealing and reenacting, with amendments,</u> <u>Article – State Government</u> <u>Section 10–616(p)(5)(xiv) and (xv)</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – State Government</u> <u>Section 10–616(p)(5)(xvi)</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

<u>BY repealing and reenacting, without amendments,</u> <u>Article – Transportation</u> <u>Section 13–101</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

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

Article – Commercial Law

<u>9–102.</u>

(a) In this title:

(54) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

Article – Real Property

TITLE 8B. MANUFACTURED HOMES.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

8B-101.

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

(B) "ATTACHED TO A PERMANENT FOUNDATION" MEANS ANCHORED TO REAL PROPERTY BY ATTACHMENT TO A PERMANENT FOUNDATION AND CONNECTED TO UTILITIES, INCLUDING WATER, GAS, ELECTRICITY, OR SEWER OR SEPTIC SERVICE.

(C) <u>"CERTIFICATE OF ORIGIN" HAS THE MEANING STATED IN § 13–101</u> OF THE TRANSPORTATION ARTICLE.

(D) <u>"CERTIFICATE OF TITLE" MEANS A TITLE ISSUED BY THE MOTOR</u> <u>VEHICLE ADMINISTRATION FOR A MANUFACTURED HOME UNDER TITLE 13 OF</u> <u>THE TRANSPORTATION ARTICLE.</u>

(C) "CLERK" MEANS THE CLERK OF THE CIRCUIT COURT OF THE COUNTY WHERE REAL PROPERTY IS LOCATED ON WHICH A MANUFACTURED HOME IS OR WILL BE ATTACHED TO A PERMANENT FOUNDATION.

(D) (E) "CONVERT" MEANS TO MAKE A MANUFACTURED HOME THAT IS ATTACHED TO A PERMANENT FOUNDATION CONSIDERED AS PERMANENTLY AFFIXED TO REAL PROPERTY AND HAVING ALL THE INCIDENTS OF REAL PROPERTY A PARCEL OF REAL PROPERTY AND TREATED AS AN INTEGRAL PART OF THE PARCEL.

(E) (F) (1) "MANUFACTURED HOME" MEANS A STRUCTURE THAT IS:

(I) **TRANSPORTABLE IN ONE OR MORE SECTIONS;**

(II) 1. IN THE TRAVELING MODE, 8 BODY FEET IN WIDTH OR MORE OR 40 BODY FEET IN LENGTH OR MORE; OR

2. AS ERECTED ON SITE, 320 SQUARE FEET OR

MORE;

(III) BUILT ON A PERMANENT CHASSIS; AND

(IV) **DESIGNED TO BE USED AS A DWELLING, WITH OR** WITHOUT A PERMANENT FOUNDATION, WHEN CONNECTED TO UTILITIES.

(2) "MANUFACTURED HOME" INCLUDES THE PLUMBING, HEATING, AIR-CONDITIONING, AND ELECTRICAL SYSTEMS CONTAINED IN THE STRUCTURE.

(3) "MANUFACTURED HOME" DOES NOT INCLUDE A SELF-PROPELLED RECREATIONAL VEHICLE HAS THE MEANING STATED IN § 9–102(A) OF THE COMMERCIAL LAW ARTICLE.

"OWNER" MEANS A PERSON THAT HAS AN OWNERSHIP (F) (G) INTEREST IN A MANUFACTURED HOME.

(G) (H) "SEVER" MEANS TO REMOVE A MANUFACTURED HOME FROM THE PERMANENT FOUNDATION TO WHICH IT IS ATTACHED SEPARATE A MANUFACTURED HOME THAT HAS BEEN CONVERTED TO REAL PROPERTY FROM THE PARCEL OF REAL PROPERTY TO WHICH IT HAS BEEN AFFIXED.

8B-102.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ON (A) SATISFACTION OF THE REQUIREMENTS OF SUBTITLE 2 OF THIS TITLE:

- (1) A MANUFACTURED HOME SHALL BE:
 - **(I) CONVERTED TO REAL PROPERTY; AND**

(II) GOVERNED BY THE LAWS APPLICABLE TO REAL PROPERTY AND NOT SUBJECT TO TITLE 13 OF THE TRANSPORTATION ARTICLE;

(2) ANY MORTGAGE, DEED OF TRUST, LIEN, OR SECURITY INTEREST THAT CAN ATTACH TO REAL PROPERTY SHALL ATTACH IN THE SAME MANNER TO A MANUFACTURED HOME THAT IS CONVERTED TO REAL PROPERTY AS TO THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME HAS BEEN AFFIXED; AND

(3) THE TITLE AND ALL RIGHTS TO A MANUFACTURED HOME SHALL BE TRANSFERRED BY DEED WITH THE TRANSFER OF THE REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS HAS BEEN AFFIXED.

(B) THIS SECTION DOES NOT APPLY TO A MANUFACTURED HOME FOR WHICH AN AFFIDAVIT OF SEVERANCE HAS BEEN RECORDED UNDER § 8B-302 OF THIS TITLE.

8B-103.

EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE, AN AN AFFIDAVIT OF CONVERSION AFFIXATION IS NOT NECESSARY TO CONVEY OR ENCUMBER A MANUFACTURED HOME.

<u>8B-104.</u>

THE PROPERTY TAX STATUS OF A MANUFACTURED HOME SHALL BE GOVERNED BY THE TAX – PROPERTY ARTICLE.

SUBTITLE 2. CONVERSION TO REAL PROPERTY.

8B-201.

A MANUFACTURED HOME SHALL BE CONVERTED TO REAL PROPERTY WHEN <u>ALL OF</u> THE FOLLOWING EVENTS HAVE OCCURRED:

(1) THE MANUFACTURED HOME IS OR WILL BE ATTACHED TO A PERMANENT FOUNDATION;

(2) THE OWNERSHIP INTERESTS IN THE MANUFACTURED HOME AND THE <u>PARCEL OF</u> REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS OR WILL BE AFFIXED ARE IDENTICAL; AND

(3) AN AFFIDAVIT OF CONVERSION AFFIXATION COMPLYING WITH THE REQUIREMENTS OF § 8B–202 OF THIS SUBTITLE HAS BEEN RECORDED WITH THE CLERK OF THE COURT OF THE COUNTY IN WHICH THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS AFFIXED IS LOCATED.

8B-202.

(A) AN AFFIDAVIT OF CONVERSION <u>AFFIXATION</u> SHALL CONTAIN OR BE ACCOMPANIED BY:

(1) A DESCRIPTION OF THE MANUFACTURED HOME, INCLUDING:

(I) THE NAME OF THE MANUFACTURER, MAKE, MODEL NAME, MODEL YEAR, DIMENSIONS, AND MANUFACTURER'S SERIAL NUMBER; AND

(II) A STATEMENT WHETHER THE MANUFACTURED HOME IS NEW OR USED;

(2) A COPY OF THE CERTIFICATE OF ORIGIN, IF AVAILABLE, AND A COPY OF THE CERTIFICATE OF TITLE, IF AVAILABLE, FOR THE MANUFACTURED HOME, AS PRESCRIBED UNDER TITLE 13 OF THE TRANSPORTATION ARTICLE; (3) A STATEMENT OF THE <u>THE</u> STREET ADDRESS AND LEGAL DESCRIPTION OF THE <u>PARCEL OF</u> REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS OR WILL BE AFFIXED; AND

(4) (3) A STATEMENT UNDER OATH FROM THE OWNER THAT:

(I) THE THE OWNERSHIP INTERESTS IN THE MANUFACTURED HOME AND THE <u>PARCEL OF</u> REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS OR WILL BE AFFIXED ARE IDENTICAL <u>OR WILL BE</u> <u>IDENTICAL AFTER FILING THE AFFIDAVIT OF AFFIXATION IN THE LAND</u> <u>RECORDS</u>; AND

(II) THE MANUFACTURED HOME IS FREE AND CLEAR OF ANY LIEN, SECURITY INTEREST, OR ENCUMBRANCE.

(4) <u>A STATEMENT THAT THE MANUFACTURED HOME IS OR WILL</u> <u>BE ATTACHED TO THE REAL PROPERTY DESCRIBED AT THE TIME OF THE FILING</u> <u>OF THE AFFIDAVIT OF AFFIXATION IN THE LAND RECORDS.</u>

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN AFFIDAVIT OF AFFIXATION SHALL BE ACCOMPANIED BY:

(I) <u>AN ORIGINAL CERTIFICATE OF TITLE ISSUED BY THE</u> MOTOR VEHICLE ADMINISTRATION FOR THE MANUFACTURED HOME THAT:

<u>1.</u> <u>HAS THE WORD "SURRENDERED" CLEARLY</u> <u>WRITTEN ON ITS FACE; AND</u>

2. IF THE CERTIFICATE OF TITLE INDICATES THAT THERE IS A LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST FOR THE MANUFACTURED HOME, IS ACCOMPANIED BY A RELEASE FROM EACH PARTY THAT HAS A SECURITY INTEREST IN THE MANUFACTURED HOME; OR

(II) <u>A MANUFACTURER'S CERTIFICATE OF ORIGIN FOR THE</u> MANUFACTURED HOME THAT:

1. <u>Has the word "surrendered" clearly</u> <u>written on its face; and</u>

2. IF THE MANUFACTURER'S CERTIFICATE OF ORIGIN INDICATES THAT THERE IS A LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST FOR THE MANUFACTURED HOME, IS ACCOMPANIED BY A RELEASE FROM EACH PARTY THAT HAS A SECURITY INTEREST IN THE MANUFACTURED HOME. (2) IF THE OWNER IS UNABLE TO LOCATE AN ORIGINAL CERTIFICATE OF TITLE OR A MANUFACTURER'S CERTIFICATE OF ORIGIN, THE AFFIDAVIT OF AFFIXATION SHALL BE ACCOMPANIED BY A REPORT PREPARED AND ACKNOWLEDGED BY AN ATTORNEY LICENSED TO PRACTICE IN THE STATE OR A TITLE INSURANCE PRODUCER LICENSED TO DO BUSINESS IN THE STATE THAT:

(I) IDENTIFIES THE PARTY PREPARING THE REPORT;

(II) STATES THAT A SEARCH HAS BEEN CONDUCTED OF:

<u>1.</u> <u>The land records of the county in which</u> <u>The parcel of real property to which the manufactured home is or</u> <u>WILL BE AFFIXED IS LOCATED; AND</u>

2. <u>The records maintained by the Motor</u> <u>Vehicle Administration; and</u>

(III) STATES THAT NO LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST HAS BEEN FOUND FOR THE MANUFACTURED HOME.

(C) (1) IF AN AFFIDAVIT OF AFFIXATION IS ACCOMPANIED BY AN ORIGINAL CERTIFICATE OF TITLE, THE AFFIDAVIT SHALL BE ACCOMPANIED BY:

(I) <u>A STATEMENT THAT IT IS THE INTENT OF THE OWNER</u> TO SURRENDER THE CERTIFICATE OF TITLE; AND

(II) <u>A STATEMENT THAT:</u>

<u>1.</u> <u>THERE IS NO LIEN, ENCUMBRANCE, OR OTHER</u> <u>SECURITY INTEREST FOR THE MANUFACTURED HOME; OR</u>

2. ANY LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST FOR THE MANUFACTURED HOME HAS BEEN SATISFIED AND THE APPROPRIATE RELEASES ARE ATTACHED AND MADE A PART OF THE AFFIDAVIT OF AFFIXATION.

(2) IF AN AFFIDAVIT OF AFFIXATION IS ACCOMPANIED BY A MANUFACTURER'S CERTIFICATE OF ORIGIN, THE AFFIDAVIT SHALL BE ACCOMPANIED BY:

(I) <u>A STATEMENT THAT A CERTIFICATE OF TITLE HAS NOT</u> BEEN ISSUED FOR THE MANUFACTURED HOME;

(II) <u>A STATEMENT THAT IT IS THE INTENT OF THE OWNER</u> TO SURRENDER THE MANUFACTURER'S CERTIFICATE OF ORIGIN; AND

(III) A STATEMENT THAT:

<u>1.</u> <u>THERE IS NO LIEN, ENCUMBRANCE, OR OTHER</u> <u>SECURITY INTEREST FOR THE MANUFACTURED HOME; OR</u>

2. ANY LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST FOR THE MANUFACTURED HOME HAS BEEN SATISFIED AND THE APPROPRIATE RELEASES ARE ATTACHED AND MADE A PART OF THE AFFIDAVIT OF AFFIXATION.

(3) IF AN AFFIDAVIT OF AFFIXATION IS ACCOMPANIED BY A STATEMENT FROM AN ATTORNEY OR TITLE INSURANCE PRODUCER, THE AFFIDAVIT ALSO SHALL BE ACCOMPANIED BY:

(I) <u>A STATEMENT THAT THE OWNER IS UNABLE TO LOCATE</u> <u>A CERTIFICATE OF TITLE OR A MANUFACTURER'S CERTIFICATE OF ORIGIN FOR</u> <u>THE MANUFACTURED HOME; AND</u>

(II) A STATEMENT THAT:

1. THERE IS NO LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST FOR THE MANUFACTURED HOME; OR

2. <u>Any lien, encumbrance, or other security</u> <u>INTEREST FOR THE MANUFACTURED HOME HAS BEEN SATISFIED AND THE</u> <u>APPROPRIATE RELEASES ARE ATTACHED AND MADE A PART OF THE AFFIDAVIT</u> <u>OF AFFIXATION.</u>

(D) AN AFFIDAVIT OF AFFIXATION SHALL BE SIGNED UNDER PENALTY OF PERJURY AND ACKNOWLEDGED.

(B) (E) THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE <u>PARCEL OF</u> REAL PROPERTY IS LOCATED TO WHICH A MANUFACTURED HOME IS OR WILL BE AFFIXED <u>IS LOCATED</u>:

(1) SHALL ACCEPT AN AFFIDAVIT OF CONVERSION <u>AFFIXATION</u> AND ANY ATTACHMENTS FOR RECORDATION AND INDEXING; AND

(2) MAY CHARGE A REASONABLE FEE FOR THE RECORDATION.

(C) THE OWNER OF THE MANUFACTURED HOME SHALL FILE A CERTIFIED COPY OF THE RECORDED AFFIDAVIT OF CONVERSION WITH THE MOTOR VEHICLE ADMINISTRATION.

8B-203.

IF A RECORDED AFFIDAVIT OF CONVERSION CONTAINS ANY INVALID OR INCOMPLETE INFORMATION AS TO THE EXISTENCE OF ANY LIEN, SECURITY INTEREST, OR ENCUMBRANCE AGAINST THE MANUFACTURED HOME:

(1) THE RECORDED AFFIDAVIT OF CONVERSION HAS NO LEGAL EFFECT; AND

(2) THE MANUFACTURED HOME MAY NOT BE CONSIDERED AS CONVERTED TO REAL PROPERTY.

(F) <u>The recordation of an affidavit of affixation does not</u> <u>REPRESENT A SALE OR TRANSFER OF REAL PROPERTY FOR THE PURPOSE OF</u> <u>THE COLLECTION OF ANY TAX OR FEE CHARGED BY THE STATE OR ANY COUNTY</u> <u>OR MUNICIPALITY.</u>

(G) (1) IMMEDIATELY AFTER FILING AN AFFIDAVIT OF AFFIXATION WITH THE CLERK OF THE CIRCUIT COURT, THE OWNER OF THE PROPERTY TO WHICH A MANUFACTURED HOME HAS BEEN AFFIXED SHALL SEND A CERTIFIED COPY OF THE AFFIDAVIT AND ANY ATTACHMENTS TO THE MOTOR VEHICLE ADMINISTRATION.

(2) ON RECEIPT OF A CERTIFIED COPY OF AN AFFIDAVIT OF AFFIXATION AND ANY ATTACHMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE MOTOR VEHICLE ADMINISTRATION SHALL RECORD THE AFFIDAVIT AND ATTACHMENTS IN THE ADMINISTRATION'S RECORDS.

8**B**-203.

THE MOTOR VEHICLE ADMINISTRATION SHALL MAKE AVAILABLE RECORDS FOR MANUFACTURED HOMES TO ATTORNEYS, TITLE INSURANCE PRODUCERS, AND OTHER INDIVIDUALS AUTHORIZED TO CONDUCT A TITLE SEARCH.

SUBTITLE 3. SEVERANCE FROM REAL PROPERTY.

8B-301.

IF A MANUFACTURED HOME FOR WHICH AN AFFIDAVIT OF CONVERSION <u>AFFIXATION</u> HAS BEEN RECORDED IS OR WILL <u>TO</u> BE SEVERED FROM REAL PROPERTY, THE OWNER SHALL <u>RECORD AND</u> FILE AN AFFIDAVIT OF SEVERANCE AS PROVIDED UNDER § 8B–302 OF THIS SUBTITLE.

8B-302.

(A) AN AFFIDAVIT OF SEVERANCE SHALL CONTAIN OR BE ACCOMPANIED BY:

(1) A STATEMENT IDENTIFYING THE OWNER OF THE REAL PROPERTY FROM WHICH THE MANUFACTURED HOME IS OR WILL TO BE SEVERED, INCLUDING THE NAME, RESIDENCE, AND MAILING ADDRESS OF THE OWNER;

(2) A DESCRIPTION OF THE MANUFACTURED HOME, INCLUDING THE NAME OF THE MANUFACTURER, THE MAKE, MODEL NAME, MODEL YEAR, DIMENSIONS, MANUFACTURER'S SERIAL NUMBER, AND A STATEMENT WHETHER THE MANUFACTURED HOME IS NEW OR USED;

(3) THE LIBER AND FOLIO NUMBER FOR AND THE RECORDATION DATE OF THE AFFIDAVIT OF CONVERSION <u>AFFIXATION</u> FOR THE MANUFACTURED HOME; AND

(4) A STATEMENT BY AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE STATE, OR A TITLE INSURANCE PRODUCER LICENSED BY THE STATE, THAT STATES THAT THE MANUFACTURED HOME AND THE REAL PROPERTY FROM WHICH THE MANUFACTURED HOME IS OR WILL <u>TO</u> BE SEVERED ARE FREE AND CLEAR OF ANY LIEN, SECURITY INTEREST, OR ENCUMBRANCE.

(B) AN AFFIDAVIT OF SEVERANCE SHALL BE ACKNOWLEDGED IN WRITING AND NOTARIZED.

(C) THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED FROM WHICH A MANUFACTURED HOME IS OR WILL <u>TO</u> BE SEVERED <u>IS LOCATED</u>:

(1) SHALL ACCEPT AN AFFIDAVIT OF SEVERANCE AND ANY ATTACHMENTS FOR RECORDATION AND INDEXING; AND

(2) MAY CHARGE A REASONABLE FEE FOR THE RECORDATION.

(D) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE MOTOR VEHICLE ADMINISTRATION, THE ADMINISTRATION SHALL:

(1) ACCEPT A CERTIFIED COPY OF A RECORDED AFFIDAVIT OF SEVERANCE FOR FILING; AND

(2) ISSUE A CERTIFICATE OF TITLE FOR THE SEVERED MANUFACTURED HOME.

<u>Article – State Government</u>

<u>10–616.</u>

(p) (5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(xiv) for use by a hospital to obtain, for hospital security purposes, information relating to ownership of vehicles parked on hospital property; [and]

(xv) for use by a procurement organization requesting information under § 4–516 of the Estates and Trusts Article for the purposes of organ, tissue, and eye donation; AND

(XVI) FOR USE BY AN ATTORNEY, A TITLE INSURANCE PRODUCER, OR ANY OTHER INDIVIDUAL AUTHORIZED TO CONDUCT A TITLE SEARCH OF A MANUFACTURED HOME UNDER TITLE 8B OF THE REAL PROPERTY ARTICLE.

<u>Article – Transportation</u>

<u>13–101.</u>

In this subtitle, "certificate of origin" means a certification by the manufacturer, on a form that the Administration approves, that:

(1) Certifies that the vehicle described in it has been transferred to the dealer or other person named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce; and

(2) <u>Describes the vehicle by including:</u>

(i) <u>Its make, model, year, vehicle identification number, type of</u> body, number of cylinders, and engine number; and

(ii) Any other information that the Administration requires.

SECTION 2. AND BE IT FURTHER ENACTED, <u>That the Motor Vehicle</u> <u>Administration shall develop a model affidavit of affixation that meets the</u> <u>requirements of § 8B–202 of the Real Property Article, as enacted by Section 1 of this</u> <u>Act, for use in affixing a manufactured home to real property.</u>

<u>SECTION 3. AND BE IT FURTHER ENACTED</u>, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 547

(House Bill 678)

AN ACT concerning

Real Property – Manufactured Homes – Conversion <u>Affixation</u> to and Severance from Real Property

FOR the purpose of providing for the conversion affixation of a manufactured home to real property under certain circumstances; requiring a certain affidavit of conversion affixation to contain or be accompanied by certain information, documentation, and statements; requiring an affidavit of conversion affixation to be recorded under certain circumstances; providing that an affidavit of affixation is not necessary to convey or encumber a manufactured home; providing that the property tax status of a manufactured home shall be governed by certain provisions of law; providing that a manufactured home shall be converted to real property under certain circumstances; providing that a recorded affidavit of conversion has no legal effect under certain circumstances the recordation of an affidavit of affixation does not represent a sale or transfer of real property for certain purposes; requiring the owner of certain property to send a certified copy of an affidavit of affixation and any attachments to the Motor Vehicle Administration at a certain time; requiring the Administration to record the affidavit and attachments in its records; requiring the Administration to make certain records available to certain individuals; requiring the owner of a manufactured home that is to be severed from real property to file an affidavit of severance under certain circumstances; requiring an affidavit of severance to contain certain information and statements; requiring an affidavit of severance to be recorded under certain circumstances; requiring the Administration to accept a certain copy of a certain affidavit of severance for filing and issue a certain certificate of title in a certain manner; requiring a custodian to disclose personal information in the public records of the Administration to certain individuals; requiring the Administration to develop a certain model affidavit; providing for the application of certain provisions of this Act; defining certain terms; and

generally relating to manufactured homes and the conversion <u>affixation</u> to and severance from real property.

BY repealing and reenacting, without amendments,

<u>Article – Commercial Law</u> <u>Section 9–102(a)(54)</u> <u>Annotated Code of Maryland</u> (2002 Replacement Volume and 2011 Supplement)

BY adding to

Article – Real Property

Section 8B–101 through 8B–302 to be under the new title "Title 8B. Manufactured Homes"

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

<u>Article – State Government</u> <u>Section 10–616(p)(5)(xiv) and (xv)</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

BY adding to

<u>Article – State Government</u> <u>Section 10–616(p)(5)(xvi)</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

<u>BY repealing and reenacting, without amendments,</u> <u>Article – Transportation</u> <u>Section 13–101</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

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

<u> Article – Commercial Law</u>

<u>9–102.</u>

(a) In this title:

(54) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

Article – Real Property

TITLE 8B. MANUFACTURED HOMES.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

8B-101.

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

(B) "ATTACHED TO A PERMANENT FOUNDATION" MEANS ANCHORED TO REAL PROPERTY BY ATTACHMENT TO A PERMANENT FOUNDATION AND CONNECTED TO UTILITIES, INCLUDING WATER, GAS, ELECTRICITY, OR SEWER OR SEPTIC SERVICE.

(C) <u>"CERTIFICATE OF ORIGIN" HAS THE MEANING STATED IN § 13–101</u> OF THE TRANSPORTATION ARTICLE.

(D) <u>"CERTIFICATE OF TITLE" MEANS A TITLE ISSUED BY THE MOTOR</u> VEHICLE ADMINISTRATION FOR A MANUFACTURED HOME UNDER TITLE 13 OF THE TRANSPORTATION ARTICLE.

(C) (E) "CONVERT" MEANS TO MAKE A MANUFACTURED HOME THAT IS ATTACHED TO A PERMANENT FOUNDATION CONSIDERED AS PERMANENTLY AFFIXED TO A PARCEL OF REAL PROPERTY AND TREATED AS AN INTEGRAL PART OF THE PARCEL.

(D) (<u>F</u>) (1) "MANUFACTURED HOME" MEANS A STRUCTURE THAT IS:

(I) TRANSPORTABLE IN ONE OR MORE SECTIONS;

(II) 1. IN THE TRAVELING MODE, 8 BODY FEET IN WIDTH OR MORE OR 10 BODY FEET IN LENGTH OR MORE; OR 2. AS ERECTED ON SITE, 320 SQUARE FEET OR

MORE;

(III) BUILT ON A PERMANENT CHASSIS; AND

(IV) **DESIGNED TO BE USED AS A DWELLING, WITH OR** WITHOUT A PERMANENT FOUNDATION, WHEN CONNECTED TO UTILITIES.

(2) "MANUFACTURED HOME" INCLUDES THE PLUMBING, HEATING, AIR-CONDITIONING, AND ELECTRICAL SYSTEMS CONTAINED IN THE STRUCTURE.

(3) "MANUFACTURED HOME" DOES NOT INCLUDE A SELF-PROPELLED RECREATIONAL VEHICLE HAS THE MEANING STATED IN § 9–102(A) OF THE COMMERCIAL LAW ARTICLE.

 $(\underline{\mathbf{G}})$ "Owner" means a person that has an ownership interest in a manufactured home.

(F) (H) "SEVER" MEANS TO SEPARATE A MANUFACTURED HOME THAT HAS BEEN CONVERTED TO REAL PROPERTY FROM THE PARCEL OF REAL PROPERTY TO WHICH IT HAS BEEN AFFIXED.

8B-102.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ON SATISFACTION OF THE REQUIREMENTS OF SUBTITLE 2 OF THIS TITLE:

(1) A MANUFACTURED HOME SHALL BE:

(I) CONVERTED TO REAL PROPERTY; AND

(II) GOVERNED BY THE LAWS APPLICABLE TO REAL PROPERTY AND NOT SUBJECT TO TITLE 13 OF THE TRANSPORTATION ARTICLE;

(2) ANY MORTGAGE, DEED OF TRUST, LIEN, OR SECURITY INTEREST THAT CAN ATTACH TO REAL PROPERTY SHALL ATTACH IN THE SAME MANNER TO A MANUFACTURED HOME THAT IS CONVERTED TO REAL PROPERTY AS TO THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME HAS BEEN AFFIXED; AND

(3) THE TITLE AND ALL RIGHTS TO A MANUFACTURED HOME SHALL BE TRANSFERRED BY DEED WITH THE TRANSFER OF THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME HAS BEEN AFFIXED.

THIS SECTION DOES NOT APPLY TO A MANUFACTURED HOME FOR **(B)** WHICH AN AFFIDAVIT OF SEVERANCE HAS BEEN RECORDED UNDER § 8B-302 OF THIS TITLE.

8B-103.

EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE, AN AN AFFIDAVIT OF CONVERSION AFFIXATION IS NOT NECESSARY TO CONVEY OR ENCUMBER A MANUFACTURED HOME.

8B–104.

THE PROPERTY TAX STATUS OF A MANUFACTURED HOME SHALL BE **GOVERNED BY THE TAX – PROPERTY ARTICLE.**

SUBTITLE 2. CONVERSION TO REAL PROPERTY.

8B-201.

A MANUFACTURED HOME SHALL BE CONVERTED TO REAL PROPERTY WHEN ALL OF THE FOLLOWING EVENTS HAVE OCCURRED:

THE MANUFACTURED HOME IS OR WILL BE ATTACHED TO A (1) **PERMANENT FOUNDATION;**

THE OWNERSHIP INTERESTS IN THE MANUFACTURED HOME (2) AND THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS OR WILL BE AFFIXED ARE IDENTICAL; AND

(3) AN AFFIDAVIT OF CONVERSION AFFIXATION COMPLYING WITH THE REQUIREMENTS OF § 8B-202 OF THIS SUBTITLE HAS BEEN RECORDED WITH THE CLERK OF THE COURT OF THE COUNTY IN WHICH THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS AFFIXED IS LOCATED.

8B-202.

AN AFFIDAVIT OF CONVERSION AFFIXATION SHALL CONTAIN OR BE (A) **ACCOMPANIED BY:**

(1) A DESCRIPTION OF THE MANUFACTURED HOME, INCLUDING:

(I) THE NAME OF THE MANUFACTURER, MAKE, MODEL NAME, MODEL YEAR, DIMENSIONS, AND MANUFACTURER'S SERIAL NUMBER; AND

(II) A STATEMENT WHETHER THE MANUFACTURED HOME IS NEW OR USED;

(2) A COPY OF THE CERTIFICATE OF ORIGIN, IF AVAILABLE, AND A COPY OF THE CERTIFICATE OF TITLE, IF AVAILABLE, FOR THE MANUFACTURED HOME, AS PRESCRIBED UNDER TITLE 13 OF THE TRANSPORTATION ARTICLE;

(3) A STATEMENT OF THE <u>THE</u> STREET ADDRESS AND LEGAL DESCRIPTION OF THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS OR WILL BE AFFIXED; AND

(4) (3) A STATEMENT UNDER OATH FROM THE OWNER THAT:

(1) THE THE OWNERSHIP INTERESTS IN THE MANUFACTURED HOME AND THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS OR WILL BE AFFIXED ARE IDENTICAL <u>OR WILL BE</u> IDENTICAL AFTER FILING THE AFFIDAVIT OF AFFIXATION IN THE LAND RECORDS; AND

(II) THE MANUFACTURED HOME IS FREE AND CLEAR OF ANY LIEN, SECURITY INTEREST, OR ENCUMBRANCE.

(4) A STATEMENT THAT THE MANUFACTURED HOME IS OR WILL BE ATTACHED TO THE REAL PROPERTY DESCRIBED AT THE TIME OF THE FILING OF THE AFFIDAVIT OF AFFIXATION IN THE LAND RECORDS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN AFFIDAVIT OF AFFIXATION SHALL BE ACCOMPANIED BY:

(I) <u>AN ORIGINAL CERTIFICATE OF TITLE ISSUED BY THE</u> MOTOR VEHICLE ADMINISTRATION FOR THE MANUFACTURED HOME THAT:

1.HAS THE WORD "SURRENDERED" CLEARLYWRITTEN ON ITS FACE; AND

2. IF THE CERTIFICATE OF TITLE INDICATES THAT THERE IS A LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST FOR THE MANUFACTURED HOME, IS ACCOMPANIED BY A RELEASE FROM EACH PARTY THAT HAS A SECURITY INTEREST IN THE MANUFACTURED HOME; OR (II) <u>A MANUFACTURER'S CERTIFICATE OF ORIGIN FOR THE</u> <u>MANUFACTURED HOME THAT:</u>

<u>1.</u> <u>HAS THE WORD "SURRENDERED" CLEARLY</u> <u>WRITTEN ON ITS FACE; AND</u>

2. IF THE MANUFACTURER'S CERTIFICATE OF ORIGIN INDICATES THAT THERE IS A LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST FOR THE MANUFACTURED HOME, IS ACCOMPANIED BY A RELEASE FROM EACH PARTY THAT HAS A SECURITY INTEREST IN THE MANUFACTURED HOME.

(2) IF THE OWNER IS UNABLE TO LOCATE AN ORIGINAL CERTIFICATE OF TITLE OR A MANUFACTURER'S CERTIFICATE OF ORIGIN, THE AFFIDAVIT OF AFFIXATION SHALL BE ACCOMPANIED BY A REPORT PREPARED AND ACKNOWLEDGED BY AN ATTORNEY LICENSED TO PRACTICE IN THE STATE OR A TITLE INSURANCE PRODUCER LICENSED TO DO BUSINESS IN THE STATE THAT:

- (I) <u>IDENTIFIES THE PARTY PREPARING THE REPORT;</u>
- (II) STATES THAT A SEARCH HAS BEEN CONDUCTED OF:

<u>1.</u> <u>The land records of the county in which</u> <u>The parcel of real property to which the manufactured home is or</u> <u>WILL BE AFFIXED IS LOCATED; AND</u>

2. <u>The records maintained by the Motor</u> <u>Vehicle Administration; and</u>

(III) STATES THAT NO LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST HAS BEEN FOUND FOR THE MANUFACTURED HOME.

(C) (1) IF AN AFFIDAVIT OF AFFIXATION IS ACCOMPANIED BY AN ORIGINAL CERTIFICATE OF TITLE, THE AFFIDAVIT SHALL BE ACCOMPANIED BY:

(I) <u>A STATEMENT THAT IT IS THE INTENT OF THE OWNER</u> TO SURRENDER THE CERTIFICATE OF TITLE; AND

(II) <u>A STATEMENT THAT:</u>

<u>1.</u> <u>THERE IS NO LIEN, ENCUMBRANCE, OR OTHER</u> <u>SECURITY INTEREST FOR THE MANUFACTURED HOME; OR</u> 2. <u>ANY LIEN, ENCUMBRANCE, OR OTHER SECURITY</u> INTEREST FOR THE MANUFACTURED HOME HAS BEEN SATISFIED AND THE APPROPRIATE RELEASES ARE ATTACHED AND MADE A PART OF THE AFFIDAVIT OF AFFIXATION.

(2) IF AN AFFIDAVIT OF AFFIXATION IS ACCOMPANIED BY A MANUFACTURER'S CERTIFICATE OF ORIGIN, THE AFFIDAVIT SHALL BE ACCOMPANIED BY:

(I) <u>A STATEMENT THAT A CERTIFICATE OF TITLE HAS NOT</u> BEEN ISSUED FOR THE MANUFACTURED HOME;

(II) <u>A STATEMENT THAT IT IS THE INTENT OF THE OWNER</u> TO SURRENDER THE MANUFACTURER'S CERTIFICATE OF ORIGIN; AND

(III) A STATEMENT THAT:

<u>1.</u> <u>THERE IS NO LIEN, ENCUMBRANCE, OR OTHER</u> <u>SECURITY INTEREST FOR THE MANUFACTURED HOME; OR</u>

2. ANY LIEN, ENCUMBRANCE, OR OTHER SECURITY INTEREST FOR THE MANUFACTURED HOME HAS BEEN SATISFIED AND THE APPROPRIATE RELEASES ARE ATTACHED AND MADE A PART OF THE AFFIDAVIT OF AFFIXATION.

(3) IF AN AFFIDAVIT OF AFFIXATION IS ACCOMPANIED BY A STATEMENT FROM AN ATTORNEY OR TITLE INSURANCE PRODUCER, THE AFFIDAVIT ALSO SHALL BE ACCOMPANIED BY:

(I) <u>A STATEMENT THAT THE OWNER IS UNABLE TO LOCATE</u> <u>A CERTIFICATE OF TITLE OR A MANUFACTURER'S CERTIFICATE OF ORIGIN FOR</u> <u>THE MANUFACTURED HOME; AND</u>

(II) <u>A STATEMENT THAT:</u>

<u>1.</u> <u>THERE IS NO LIEN, ENCUMBRANCE, OR OTHER</u> <u>SECURITY INTEREST FOR THE MANUFACTURED HOME; OR</u>

2. <u>Any lien, encumbrance, or other security</u> <u>interest for the manufactured home has been satisfied and the</u> <u>Appropriate releases are attached and made a part of the affidavit</u> <u>OF AFFIXATION.</u>

(D) AN AFFIDAVIT OF AFFIXATION SHALL BE SIGNED UNDER PENALTY OF PERJURY AND ACKNOWLEDGED.

THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN (B) (E) WHICH THE PARCEL OF REAL PROPERTY TO WHICH A MANUFACTURED HOME IS OR WILL BE AFFIXED IS LOCATED:

(1) SHALL ACCEPT AN AFFIDAVIT OF CONVERSION AFFIXATION AND ANY ATTACHMENTS FOR RECORDATION AND INDEXING; AND

> (2) MAY CHARGE A REASONABLE FEE FOR THE RECORDATION.

THE OWNER OF THE MANUFACTURED HOME SHALL FILE A (C) **CERTIFIED COPY OF THE RECORDED AFFIDAVIT OF CONVERSION WITH THE** MOTOR VEHICLE ADMINISTRATION.

8B-203.

IF A RECORDED AFFIDAVIT OF CONVERSION CONTAINS ANY INVALID OR **INCOMPLETE INFORMATION AS TO THE EXISTENCE OF ANY LIEN, SECURITY INTEREST, OR ENCUMBRANCE AGAINST THE MANUFACTURED HOME:**

(1) THE RECORDED AFFIDAVIT OF CONVERSION HAS NO LEGAL EFFECT: AND

(2) THE MANUFACTURED HOME MAY NOT BE CONSIDERED AS CONVERTED TO REAL PROPERTY.

THE RECORDATION OF AN AFFIDAVIT OF AFFIXATION DOES NOT **(F)** REPRESENT A SALE OR TRANSFER OF REAL PROPERTY FOR THE PURPOSE OF THE COLLECTION OF ANY TAX OR FEE CHARGED BY THE STATE OR ANY COUNTY OR MUNICIPALITY.

IMMEDIATELY AFTER FILING AN AFFIDAVIT OF AFFIXATION (G) (1) WITH THE CLERK OF THE CIRCUIT COURT, THE OWNER OF THE PROPERTY TO WHICH A MANUFACTURED HOME HAS BEEN AFFIXED SHALL SEND A CERTIFIED COPY OF THE AFFIDAVIT AND ANY ATTACHMENTS TO THE MOTOR VEHICLE ADMINISTRATION.

(2) ON RECEIPT OF A CERTIFIED COPY OF AN AFFIDAVIT OF AFFIXATION AND ANY ATTACHMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE MOTOR VEHICLE ADMINISTRATION SHALL RECORD THE AFFIDAVIT AND ATTACHMENTS IN THE ADMINISTRATION'S RECORDS.

<u>8B-203.</u>

THE MOTOR VEHICLE ADMINISTRATION SHALL MAKE AVAILABLE RECORDS FOR MANUFACTURED HOMES TO ATTORNEYS, TITLE INSURANCE PRODUCERS, AND OTHER INDIVIDUALS AUTHORIZED TO CONDUCT A TITLE <u>SEARCH.</u>

SUBTITLE 3. SEVERANCE FROM REAL PROPERTY.

8B-301.

IF A MANUFACTURED HOME FOR WHICH AN AFFIDAVIT OF CONVERSION AFFIXATION HAS BEEN RECORDED IS TO BE SEVERED FROM REAL PROPERTY, THE OWNER SHALL <u>RECORD AND</u> FILE AN AFFIDAVIT OF SEVERANCE AS PROVIDED UNDER § 8B–302 OF THIS SUBTITLE.

8B-302.

(A) AN AFFIDAVIT OF SEVERANCE SHALL CONTAIN OR BE ACCOMPANIED BY:

(1) A STATEMENT IDENTIFYING THE OWNER OF THE REAL PROPERTY FROM WHICH THE MANUFACTURED HOME IS TO BE SEVERED, INCLUDING THE NAME, RESIDENCE, AND MAILING ADDRESS OF THE OWNER;

(2) A DESCRIPTION OF THE MANUFACTURED HOME, INCLUDING THE NAME OF THE MANUFACTURER, THE MAKE, MODEL NAME, MODEL YEAR, DIMENSIONS, MANUFACTURER'S SERIAL NUMBER, AND A STATEMENT WHETHER THE MANUFACTURED HOME IS NEW OR USED;

(3) THE LIBER AND FOLIO NUMBER FOR AND THE RECORDATION DATE OF THE AFFIDAVIT OF CONVERSION <u>AFFIXATION</u> FOR THE MANUFACTURED HOME; AND

(4) A STATEMENT BY AN ATTORNEY ADMITTED TO PRACTICE LAW IN THE STATE, OR A TITLE INSURANCE PRODUCER LICENSED BY THE STATE, THAT STATES THAT THE MANUFACTURED HOME AND THE REAL PROPERTY FROM WHICH THE MANUFACTURED HOME IS TO BE SEVERED ARE FREE AND CLEAR OF ANY LIEN, SECURITY INTEREST, OR ENCUMBRANCE.

(B) AN AFFIDAVIT OF SEVERANCE SHALL BE ACKNOWLEDGED IN WRITING AND NOTARIZED.

(C) THE CLERK OF THE CIRCUIT COURT OF THE COUNTY IN WHICH THE REAL PROPERTY FROM WHICH A MANUFACTURED HOME IS TO BE SEVERED IS LOCATED:

(1) SHALL ACCEPT AN AFFIDAVIT OF SEVERANCE AND ANY ATTACHMENTS FOR RECORDATION AND INDEXING; AND

(2) MAY CHARGE A REASONABLE FEE FOR THE RECORDATION.

(D) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE MOTOR VEHICLE ADMINISTRATION, THE ADMINISTRATION SHALL:

(1) ACCEPT A CERTIFIED COPY OF A RECORDED AFFIDAVIT OF SEVERANCE FOR FILING; AND

(2) ISSUE A CERTIFICATE OF TITLE FOR THE SEVERED MANUFACTURED HOME.

<u> Article – State Government</u>

<u>10–616.</u>

(p) (5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(xiv) for use by a hospital to obtain, for hospital security purposes, information relating to ownership of vehicles parked on hospital property; [and]

(xv) for use by a procurement organization requesting information under § 4–516 of the Estates and Trusts Article for the purposes of organ, tissue, and eye donation; AND

(XVI) FOR USE BY AN ATTORNEY, A TITLE INSURANCE PRODUCER, OR ANY OTHER INDIVIDUAL AUTHORIZED TO CONDUCT A TITLE SEARCH OF A MANUFACTURED HOME UNDER TITLE 8B OF THE REAL PROPERTY ARTICLE.

<u> Article – Transportation</u>

<u>13–101.</u>

In this subtitle, "certificate of origin" means a certification by the manufacturer, on a form that the Administration approves, that: (1) Certifies that the vehicle described in it has been transferred to the dealer or other person named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce; and

(2) <u>Describes the vehicle by including:</u>

(i) <u>Its make, model, year, vehicle identification number, type of</u> body, number of cylinders, and engine number; and

(ii) Any other information that the Administration requires.

SECTION 2. AND BE IT FURTHER ENACTED, <u>That the Motor Vehicle</u> <u>Administration shall develop a model affidavit of affixation that meets the</u> <u>requirements of § 8B–202 of the Real Property Article, as enacted by Section 1 of this</u> <u>Act, for use in affixing a manufactured home to real property.</u>

<u>SECTION 3. AND BE IT FURTHER ENACTED</u>, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 548

(Senate Bill 597)

AN ACT concerning

Elections – Baltimore City – Election Dates

FOR the purpose of altering the dates of certain elections for municipal offices in Baltimore City; specifying the terms term of municipal officers in Baltimore City who are elected in <u>a</u> certain years; year; providing for a delayed effective <u>date</u>; and generally relating to elections in Baltimore City.

BY repealing and reenacting, with amendments, Article – Election Law Section 8–201 and 8–301 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

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 last Tuesday in June; and

(ii) in the year in which the President of the United States is elected, on the first Tuesday in April.

(b) In Baltimore City, there shall be a primary election for municipal offices

(1) IN THE YEAR 2016, on the [second] FIRST Tuesday [following the first Monday in September in the year following the election of the Governor] IN APRIL IN THE YEAR IN WHICH THE PRESIDENT OF THE UNITED STATES IS ELECTED; AND

(2) BEGINNING IN THE YEAR 2018, ON THE LAST TUESDAY IN JUNE IN THE YEAR THAT THE GOVERNOR IS ELECTED.

8-301.

(a) (1) There shall be a statewide general election in each even-numbered year.

(2) A statewide general election shall be held on the Tuesday following the first Monday in November.

(b) In Baltimore City, there shall be a general election for municipal offices#

(1) IN THE YEAR 2016, on the Tuesday following the first Monday in November fin the year IN WHICH THE PRESIDENT OF THE UNITED STATES IS ELECTED following the election of the Governor]; AND

(2) BEGINNING IN THE YEAR 2018, ON THE TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER IN THE YEAR THE GOVERNOR IS ELECTED.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, the term of a municipal officer of Baltimore City elected‡

- (1) in the year 2011 is 5 years; and
- (2) in the year 2016 is 2 years.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012 January 1, 2013.

Approved by the Governor, May 22, 2012.

Chapter 549

(House Bill 250)

AN ACT concerning

Elections – Baltimore City – Election Dates

FOR the purpose of altering the dates of certain elections for municipal offices in Baltimore City; specifying the terms <u>term</u> of municipal officers in Baltimore City who were elected in a certain year; <u>providing for a delayed effective date</u>; and generally relating to elections in Baltimore City.

BY repealing and reenacting, with amendments,

Article – Election Law Section 8–201 and 8–301 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

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 last Tuesday in June; and

(ii) in the year in which the President of the United States is elected, on the first Tuesday in April.

(b) [In] **BEGINNING IN THE YEAR 2016, IN** Baltimore City, there shall be a primary election for municipal offices on the [second] **FIRST** Tuesday [following the

first Monday] in [September] APRIL in the year [following the election of the Governor] IN WHICH THE PRESIDENT OF THE UNITED STATES IS ELECTED.

8-301.

(a) (1) There shall be a statewide general election in each even–numbered year.

(2) A statewide general election shall be held on the Tuesday following the first Monday in November.

(b) **[**In**] BEGINNING IN 2016, IN** Baltimore City, there shall be a general election for municipal offices on the Tuesday following the first Monday in November in the year [following the election of the Governor] IN WHICH THE PRESIDENT OF THE UNITED STATES IS ELECTED.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, the term of a municipal officer of Baltimore City elected in the year 2011 is 5 years.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012 January 1, 2013.

Approved by the Governor, May 22, 2012.

Chapter 550

(Senate Bill 605)

AN ACT concerning

Education – Children in State–Supervised Care – Geographical Attendance Area <u>Domicile Requirements for Attendance – Exception</u>

FOR the purpose of authorizing a child to remain in a school in a certain geographical attendance area regardless of whether the child resides within the area under certain circumstances; requiring that certain determinations regarding the best interests of certain children in State supervised care be made in accordance with certain factors; requiring a county superintendent to allow a child to remain at a certain school the child attended prior to the child's removal from the child's home by a certain agency under certain circumstances; requiring the Secretary of Human Resources, in coordination with the State Superintendent of Schools, and the Secretary of Juvenile Services each to adopt certain regulations establishing certain factors relating to the best interests of certain

children; prohibiting a certain school from requiring a person enrolling a child in the school to produce certain documentation; requiring a certain child placement agency that has been unable to produce certain records to assist a certain school in obtaining the records under certain circumstances; requiring a certain child to remain enrolled in a certain school during a period of time when records are obtained; defining a certain term; requiring the State Department of Education to adopt certain regulations to implement <u>a certain Act</u> certain provisions of a certain federal law; and generally relating to authorizing a child in State supervised care to remain in a school regardless of whether the child resides in the geographical area of the school the domicile requirements for attendance at that school.

BY repealing and reenacting, with amendments,

Article – Education Section 4–109, 7–101(b), and 8–501 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Education Section 8–503.1 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

<u>4–109.</u>

(a) Subject to approval by the State Superintendent and in accordance with the applicable bylaws, rules, and regulations of the State Board, a county board may establish a public school if, in its judgment, it is advisable.

(b) On approval by the State Superintendent, any school established under this section becomes a part of the State program of public education.

(c) (1) With the advice of the county superintendent, the county board shall determine the geographical attendance area for each school established under this section.

(2) **REGARDLESS OF WHETHER A CHILD RESIDES WITHIN A** SCHOOL'S GEOGRAPHIC ATTENDANCE AREA, THE CHILD MAY REMAIN AT THE SCHOOL THE CHILD HAS BEEN ATTENDING IF: (1) THE CHILD IS A CHILD IN STATE-SUPERVISED CARE, AS DEFINED IN § 8–501 OF THIS ARTICLE; AND

(II) THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE DEPARTMENT OF JUVENILE SERVICES DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO CONTINUE AT THAT SCHOOL.

(3) THE DETERMINATION OF THE BEST INTERESTS OF A CHILD IN STATE-SUPERVISED CARE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE FACTORS UNDER THE REGULATIONS ADOPTED IN ACCORDANCE WITH § 7–101(B)(2)(III) OF THIS ARTICLE.

7 - 101.

(b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of this subsection, each child shall attend a public school in the county where the child is domiciled with the child's parent, guardian, or relative providing informal kinship care, as defined in subsection (c) of this section.

(2) (I) Upon request and in accordance with a county board's policies concerning residency, a county superintendent may allow a child to attend school in the county even if the child is not domiciled in that county with the child's parent or guardian.

(II) A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD TO REMAIN AT THE SCHOOL THE CHILD ATTENDED PRIOR TO THE CHILD'S REMOVAL FROM THE CHILD'S HOME BY A CHILD WELFARE AGENCY, IF:

1. THE CHILD IS SUBJECT TO THE EDUCATIONAL STABLILITY PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008;

2. THE CHILD IS NOT IN ANY OF THE FOLLOWING

PLACEMENTS:

- A. A DETENTION FACILITY;
- **B.** A FORESTRY CAMP;
- C. A TRAINING SCHOOL;

D. ANY STATE OWNED AND OPERATED FACILITY ACCOMMODATING MORE THAN 25 YOUTH; OR E. ANY OTHER FACILITY OPERATED PRIMARILY FOR THE PURPOSE OF DETAINING YOUTH WHO ARE DETERMINED TO BE DELINQUENT AND REQUIRE SECURE CUSTODY IN A PHYSICALLY RESTRICTIVE SETTING;

3. The local department of social services, with input from the local school system, has determined that it is in the best interests of the child to continue at that school; and

4. THE LOCAL DEPARTMENT OF SOCIAL SERVICES PAYS THE COST OF TRANSPORTATION OF THE CHILD TO THE SCHOOL.

(III) THE SECRETARY OF HUMAN RESOURCES SHALL, IN COORDINATION WITH THE SUPERINTENDENT OF SCHOOLS, ADOPT REGULATIONS ESTABLISHING FACTORS THAT SHALL BE CONSIDERED IN DETERMINING THE BEST INTEREST OF A CHILD IN ACCORDANCE WITH ITEM (2)(II)3 OF THIS SUBSECTION.

(II) <u>REGARDLESS OF WHERE THE CHILD IS CURRENTLY</u> DOMICILED, A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD TO REMAIN AT THE SCHOOL THAT THE CHILD IS ATTENDING, IF:

<u>1.</u> The child is a child who is:

<u>A.</u> <u>IN THE CUSTODY OF, COMMITTED TO, OR</u> <u>OTHERWISE PLACED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE</u> <u>DEPARTMENT OF JUVENILE SERVICES; AND</u>

<u>B.</u> SUBJECT TO THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008;

2. <u>The child is not subject to the</u> <u>Educational stability provisions of the federal McKinney–Vento</u> <u>Homeless Assistance Act, as amended,</u> as a child awaiting foster <u>care placement as defined by the Department in regulation; and</u>

3. THE CHILD IS NOT IN ANY OF THE FOLLOWING

PLACEMENTS:

- A. <u>A DETENTION FACILITY;</u>
- **B. A FORESTRY CAMP;**

C. <u>A TRAINING SCHOOL;</u>

D. <u>A STATE-OWNED AND STATE-OPERATED</u> FACILITY THAT ACCOMMODATES MORE THAN 25 CHILDREN; OR

E. ANY OTHER FACILITY OPERATED PRIMARILY FOR THE DETENTION OF CHILDREN WHO ARE DETERMINED TO BE DELINQUENT;

<u>4.</u> <u>The local department of social services</u> <u>or the Department of Juvenile Services determines, in consultation</u> <u>with the local school system, that it is in the best interests of the</u> <u>child to continue at that school; and</u>

5. <u>The local department of social services</u> or the Department of Juvenile Services pays for the cost of transporting the child to and from school.

(III) 1. THE DEPARTMENT OF HUMAN RESOURCES AND THE DEPARTMENT OF JUVENILE SERVICES EACH SHALL ADOPT REGULATIONS ESTABLISHING FACTORS THAT SHALL BE CONSIDERED IN DETERMINING THE BEST INTERESTS OF A CHILD UNDER THIS SECTION.

2. <u>THE DEPARTMENT SHALL ADOPT REGULATIONS</u> TO IMPLEMENT THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008.

(3) If a child fraudulently attends a public school in a county where the child is not domiciled with the child's parent or guardian, the child's parent or guardian shall be subject to a penalty payable to the county for the pro rata share of tuition for the time the child fraudulently attends a public school in the county.

(4) Nothing in this section alters the requirements for out-of-county placements contained in § 4-122 and Title 8, Subtitles 3 and 4 of this article or in any other State or federal law.

8-501.

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

(b) (1) "Child in State-supervised care" means a child who is in the custody of, committed to, or otherwise placed by a placement agency.

(2) "Child in State-supervised care" does not mean a child at the Charles H. Hickey, Jr. School in Baltimore County who receives an educational program under § 22–308 of this article.

(C) "ENROLL" OR "ENROLLMENT" MEANS ATTENDING CLASSES AND PARTICIPATING FULLY IN SCHOOL ACTIVITIES.

[(c)] (D) "Noncollegiate educational institution" has the meaning stated in $\frac{2-206}{2-206}$ of this article.

[(d)] (E) <u>"Notice" means that written, verbal, or other communication</u> regarding the identification of a child in State-supervised care has been effectuated.

(a) (E)	"Diacomont o	coner" moone:
[(8)] (1)	- F lacement a	igency means.

- (1) A local department of social services;
- (2) The Department of Health and Mental Hygiene;
- (3) The Department of Juvenile Services; or
- (4) A private agency that:

(i) Engages in the placement of children in homes or with individuals; and

(ii) Is licensed by the Social Services Administration under § 5–507 of the Family Law Article.

[(f)] (G) <u>"Receiving school" means a public school or a noncollegiate</u> educational institution affiliated with a residential child care program or treatment facility that has an educational program approved by the Department in which a child in State-supervised care is newly enrolled or seeks to enroll.

[(g)] (H) "Sending school" means a public school or a noncollegiate educational institution affiliated with a residential child care program or treatment facility that has an educational program approved by the Department in which a child in State-supervised care was enrolled prior to enrolling, or seeking to enroll, in a receiving school.

8-503.1.

(A) NOTWITHSTANDING ANY OTHER ENROLLMENT DOCUMENTATION REQUIREMENTS OF A RECEIVING SCHOOL, THE RECEIVING SCHOOL MAY NOT REQUIRE A PERSON ENROLLING A CHILD TO PRODUCE ANY MORE DOCUMENTATION THAN THE FOLLOWING: (1) **PROOF THAT THE CHILD IS IN STATE-SUPERVISED CARE;**

(2) PROOF OF RESIDENCY; AND

(3) **DOCUMENTATION THAT SUBSTANTIATES THE AUTHORITY OF** THE PERSON TO ENROLL THE CHILD.

(B) (1) IMMEDIATELY AFTER A CHILD PLACEMENT AGENCY ENROLLS A CHILD IN STATE-SUPERVISED CARE, IF THE CHILD PLACEMENT AGENCY HAS BEEN UNABLE TO PRODUCE RECORDS THAT ARE NORMALLY REQUIRED, THE CHILD PLACEMENT AGENCY SHALL ASSIST THE RECEIVING SCHOOL IN OBTAINING ANY RECORDS THAT THE RECEIVING SCHOOL HAS BEEN UNABLE TO OBTAINING THE PROCEDURES PROVIDED IN § 8–504 OF THIS SUBTITLE.

(2) THROUGHOUT THE PERIOD DURING WHICH ANY MISSING RECORDS ARE OBTAINED, THE CHILD SHALL REMAIN ENROLLED IN THE RECEIVING SCHOOL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 551

(House Bill 757)

AN ACT concerning

Education – Children in State–Supervised Care – Geographical Attendance Area Domicile Requirements for Attendance – Exception

FOR the purpose of authorizing a child to remain in a school in a certain geographical attendance area regardless of whether the child resides within the area under certain circumstances; requiring that certain determinations regarding the best interests of certain children in State-supervised care be made in accordance with certain factors; requiring a county superintendent to allow a child to remain at a certain school in the county regardless of where the child is currently domiciled under certain circumstances; requiring the Secretary of Human Resources and the Secretary of Juvenile Services each to adopt certain regulations establishing certain factors relating to the best interests of certain circumstances; and the State Department of Education to adopt certain regulations to implement certain provisions of a certain federal law; and

generally relating to authorizing a child in State supervised care to remain in a school regardless of whether the child resides in the geographical area of the school <u>the domicile requirements for attendance at that school</u>.

BY repealing and reenacting, with amendments, Article – Education Section 4–109 and 7–101(b) Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

<u>4–109.</u>

(a) Subject to approval by the State Superintendent and in accordance with the applicable bylaws, rules, and regulations of the State Board, a county board may establish a public school if, in its judgment, it is advisable.

(b) On approval by the State Superintendent, any school established under this section becomes a part of the State program of public education.

(c) (1) With the advice of the county superintendent, the county board shall determine the geographical attendance area for each school established under this section.

(2) **REGARDLESS OF WHETHER A CHILD RESIDES WITHIN A** SCHOOL'S GEOGRAPHIC ATTENDANCE AREA, THE CHILD MAY REMAIN AT THE SCHOOL THE CHILD HAS BEEN ATTENDING IF:

(1) THE CHILD IS A CHILD IN STATE SUPERVISED CARE, AS DEFINED IN § 8–501 OF THIS ARTICLE; AND

(II) THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE DEPARTMENT OF JUVENILE SERVICES DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO CONTINUE AT THAT SCHOOL.

(3) THE DETERMINATION OF THE BEST INTERESTS OF A CHILD IN STATE-SUPERVISED CARE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE FACTORS UNDER THE REGULATIONS ADOPTED IN ACCORDANCE WITH § 7–101(B)(2)(HI) OF THIS ARTICLE.

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(b) (1) Except as provided in § 7-301 of this title and in paragraph (2) of this subsection, each child shall attend a public school in the county where the child is domiciled with the child's parent, guardian, or relative providing informal kinship care, as defined in subsection (c) of this section.

(2) (I) Upon request and in accordance with a county board's policies concerning residency, a county superintendent may allow a child to attend school in the county even if the child is not domiciled in that county with the child's parent or guardian.

(II) REGARDLESS OF WHERE THE CHILD IS CURRENTLY DOMICILED, A COUNTY SUPERINTENDENT SHALL ALLOW A CHILD TO REMAIN AT ANY SCHOOL IN THE COUNTY THAT THE CHILD HAS BEEN THE SCHOOL THAT THE CHILD IS ATTENDING, IF:

1. THE CHILD IS A CHILD IN STATE-SUPERVISED CARE, AS DEFINED IN § 8–501 OF THIS ARTICLE; AND <u>WHO IS:</u>

<u>A.</u> <u>IN THE CUSTODY OF, COMMITTED TO, OR</u> OTHERWISE PLACED BY A LOCAL DEPARTMENT OF SOCIAL SERVICES OR THE DEPARTMENT OF JUVENILE SERVICES; AND

<u>B.</u> <u>SUBJECT TO THE EDUCATIONAL STABILITY</u> <u>PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND</u> <u>INCREASING ADOPTIONS ACT OF 2008;</u>

2. THE CHILD IS NOT SUBJECT TO THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL MCKINNEY–VENTO HOMELESS ASSISTANCE ACT AS A CHILD AWAITING FOSTER CARE PLACEMENT AS DEFINED BY THE DEPARTMENT IN REGULATION;

3. The child is not in any of the following

PLACEMENTS:

- A. <u>A DETENTION FACILITY;</u>
- **B. A FORESTRY CAMP;**
- C. A TRAINING SCHOOL;

D. <u>A STATE-OWNED AND STATE-OPERATED</u> FACILITY THAT ACCOMMODATES MORE THAN 25 CHILDREN; OR

E. ANY OTHER FACILITY OPERATED PRIMARILY FOR THE DETENTION OF CHILDREN WHO ARE DETERMINED TO BE DELINQUENT;

2. <u>4.</u> THE LOCAL DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF HEALTH AND MENTAL HYGHENE, OR THE DEPARTMENT OF JUVENILE SERVICES DETERMINES, IN CONSULTATION WITH THE LOCAL SCHOOL SYSTEM, THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO CONTINUE AT THAT SCHOOL; AND

5. <u>The local department of social services</u> <u>or the Department of Juvenile Services pays for the cost of</u> <u>transporting the child to and from school</u>.

(III) <u>1.</u> The <u>Secretary</u> <u>Department</u> of Human Resources <u>and the Department of Juvenile Services each</u> shall adopt regulations establishing factors that shall be considered in determining the best interests of a child in State supervised care in accordance with subparagraph (II) of this paragraph <u>under this</u> <u>section</u>.

2. <u>THE DEPARTMENT SHALL ADOPT REGULATIONS</u> TO IMPLEMENT THE EDUCATIONAL STABILITY PROVISIONS OF THE FEDERAL FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT OF 2008.

(3) If a child fraudulently attends a public school in a county where the child is not domiciled with the child's parent or guardian, the child's parent or guardian shall be subject to a penalty payable to the county for the pro rata share of tuition for the time the child fraudulently attends a public school in the county.

(4) Nothing in this section alters the requirements for out-of-county placements contained in § 4-122 and Title 8, Subtitles 3 and 4 of this article or in any other State or federal law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 552

(Senate Bill 621)

AN ACT concerning

Public Schools - Epinephrine Availability and Use - Policy Requirements

FOR the purpose of requiring each county board of education to establish a policy to authorize certain school personnel to administer auto-injectable epinephrine to certain students under certain circumstances; requiring a certain policy to include certain information; providing that a certain policy may authorize a school nurse to obtain and store at a public school auto-injectable epinephrine for certain purposes; requiring certain public schools to submit a certain report to the State Department of Education; requiring the Department to develop and disseminate a certain standard form; defining certain terms; and generally relating to an epinephrine availability and use policy in public schools.

BY adding to

Article – Education Section 7–426.2 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

7-426.2.

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

(2) "ANAPHYLAXIS" MEANS A SUDDEN, SEVERE, AND POTENTIALLY LIFE–THREATENING ALLERGIC REACTION THAT OCCURS WHEN AN INDIVIDUAL IS EXPOSED TO AN ALLERGEN.

(3) "AUTO-INJECTABLE EPINEPHRINE" MEANS A PORTABLE, DISPOSABLE DRUG DELIVERY DEVICE THAT CONTAINS A PREMEASURED SINGLE DOSE OF EPINEPHRINE THAT IS USED TO TREAT ANAPHYLAXIS IN AN EMERGENCY SITUATION.

(B) EACH COUNTY BOARD SHALL ESTABLISH A POLICY FOR PUBLIC SCHOOLS WITHIN ITS JURISDICTION TO AUTHORIZE THE SCHOOL NURSE AND OTHER SCHOOL PERSONNEL TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE, IF AVAILABLE, TO A STUDENT WHO IS DETERMINED TO BE OR PERCEIVED TO BE IN ANAPHYLAXIS, REGARDLESS OF WHETHER THE STUDENT: (1) HAS BEEN IDENTIFIED AS HAVING AN ANAPHYLACTIC ALLERGY, AS DEFINED IN § 7–426.1 OF THIS SUBTITLE; OR

(2) HAS A PRESCRIPTION FOR EPINEPHRINE AS PRESCRIBED BY AN AUTHORIZED LICENSED HEALTH CARE PRACTITIONER UNDER THE HEALTH OCCUPATIONS ARTICLE.

(C) (1) THE POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(+) (1) TRAINING FOR SCHOOL PERSONNEL ON HOW TO RECOGNIZE THE SYMPTOMS OF ANAPHYLAXIS;

(11) (2) PROCEDURES FOR THE EMERGENCY ADMINISTRATION OF AUTO–INJECTABLE EPINEPHRINE; AND

(III) (3) THE PROPER FOLLOW-UP EMERGENCY PROCEDURES -; AND

(2) (4) THE POLICY MAY INCLUDE A <u>A</u> PROVISION AUTHORIZING A SCHOOL NURSE TO OBTAIN AND STORE AT A PUBLIC SCHOOL AUTO-INJECTABLE EPINEPHRINE TO BE USED IN AN EMERGENCY SITUATION.

(D) (1) EACH PUBLIC SCHOOL SHALL SUBMIT, ON THE FORM THAT THE DEPARTMENT REQUIRES, A REPORT TO THE DEPARTMENT ON EACH INCIDENT AT THE SCHOOL OR AT A RELATED SCHOOL EVENT THAT REQUIRED THE USE OF AUTO-INJECTABLE EPINEPHRINE.

(2) THE DEPARTMENT SHALL DEVELOP AND DISSEMINATE A STANDARD FORM TO REPORT EACH INCIDENT REQUIRING THE USE OF AUTO–INJECTABLE EPINEPHRINE AT A PUBLIC SCHOOL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 553

(House Bill 497)

AN ACT concerning

Public Schools - Epinephrine Availability and Use - Policy Requirements

FOR the purpose of requiring each county board of education to establish a policy to authorize certain school personnel to administer auto-injectable epinephrine to certain students under certain circumstances; requiring a certain policy to include certain information; providing that a certain policy may authorize a school nurse to obtain and store at a public school auto-injectable epinephrine for certain purposes; requiring certain public schools to submit a certain report to the State Department of Education; requiring the Department to develop and disseminate a certain standard form; defining certain terms; and generally relating to an epinephrine availability and use policy in public schools.

BY adding to

Article – Education Section 7–426.2 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

7-426.2.

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

(2) "ANAPHYLAXIS" MEANS A SUDDEN, SEVERE, AND POTENTIALLY LIFE–THREATENING ALLERGIC REACTION THAT OCCURS WHEN AN INDIVIDUAL IS EXPOSED TO AN ALLERGEN.

(3) "AUTO-INJECTABLE EPINEPHRINE" MEANS A PORTABLE, DISPOSABLE DRUG DELIVERY DEVICE THAT CONTAINS A PREMEASURED SINGLE DOSE OF EPINEPHRINE THAT IS USED TO TREAT ANAPHYLAXIS IN AN EMERGENCY SITUATION.

(B) EACH COUNTY BOARD SHALL ESTABLISH A POLICY FOR PUBLIC SCHOOLS WITHIN ITS JURISDICTION TO AUTHORIZE THE SCHOOL NURSE AND OTHER SCHOOL PERSONNEL TO ADMINISTER AUTO–INJECTABLE EPINEPHRINE, IF AVAILABLE, TO A STUDENT WHO IS DETERMINED TO BE OR PERCEIVED TO BE IN ANAPHYLAXIS, REGARDLESS OF WHETHER THE STUDENT:

(1) HAS BEEN IDENTIFIED AS HAVING AN ANAPHYLACTIC ALLERGY, AS DEFINED IN § 7–426.1 OF THIS SUBTITLE; OR

(2) HAS A PRESCRIPTION FOR EPINEPHRINE AS PRESCRIBED BY AN AUTHORIZED LICENSED HEALTH CARE PRACTITIONER UNDER THE HEALTH OCCUPATIONS ARTICLE.

(C) (1) THE POLICY ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(+) (1) TRAINING FOR SCHOOL PERSONNEL ON HOW TO RECOGNIZE THE SYMPTOMS OF ANAPHYLAXIS;

(II) (2) PROCEDURES FOR THE EMERGENCY ADMINISTRATION OF AUTO–INJECTABLE EPINEPHRINE; AND

(HI) (3) THE PROPER FOLLOW-UP EMERGENCY PROCEDURES_∓: AND

(2) (4) THE POLICY MAY INCLUDE A <u>A</u> PROVISION AUTHORIZING A SCHOOL NURSE TO OBTAIN AND STORE AT A PUBLIC SCHOOL AUTO–INJECTABLE EPINEPHRINE TO BE USED IN AN EMERGENCY SITUATION.

(D) (1) EACH PUBLIC SCHOOL SHALL SUBMIT, ON THE FORM THAT THE DEPARTMENT REQUIRES, A REPORT TO THE DEPARTMENT ON EACH INCIDENT AT THE SCHOOL OR AT A RELATED SCHOOL EVENT THAT REQUIRED THE USE OF AUTO-INJECTABLE EPINEPHRINE.

(2) THE DEPARTMENT SHALL DEVELOP AND DISSEMINATE A STANDARD FORM TO REPORT EACH INCIDENT REQUIRING THE USE OF AUTO–INJECTABLE EPINEPHRINE AT A PUBLIC SCHOOL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 554

(Senate Bill 647)

AN ACT concerning

Domestically Related Crimes – Reporting

FOR the purpose of requiring the court, on request of the State's Attorney, to determine make a certain finding as to whether a crime for which a defendant is convicted or receives a probation before judgment disposition is a domestically related crime; establishing that the State has the burden of proving by a preponderance of the evidence that the crime is a domestically related crime; requiring a finding by the court that a crime is a domestically related crime to become part of the court record for certain purposes; expanding the list of events that are required to be reported to the Criminal Justice Information System Central Repository to include a finding by a court that a defendant has been convicted of or received a probation before judgment disposition for a domestically related crime; defining a certain term; and generally relating to the reporting of domestically related crimes.

BY adding to

Article – Criminal Procedure Section 6–233 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure Section 10–215 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Family Law Section 4–501(a) and (m) Annotated Code of Maryland (2006 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

6-233.

(A) IN THIS SECTION, "DOMESTICALLY RELATED CRIME" MEANS A CRIME COMMITTED BY A DEFENDANT AGAINST A VICTIM WHO IS A PERSON ELIGIBLE FOR RELIEF, AS DEFINED IN § 4–501 OF THE FAMILY LAW ARTICLE, OR WHO HAD A SEXUAL RELATIONSHIP WITH THE DEFENDANT WITHIN 12 MONTHS BEFORE THE COMMISSION OF THE CRIME, OR WHO HAD A SEXUAL RELATIONSHIP WITH THE DEFENDANT WITHIN 12 MONTHS BEFORE THE COMMISSION OF THE CRIME. (B) (1) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A PROBATION BEFORE JUDGMENT DISPOSITION FOR A CRIME, ON REQUEST OF THE STATE'S ATTORNEY, THE COURT SHALL DETERMINE MAKE A FINDING OF FACT, BASED ON EVIDENCE PRODUCED AT TRIAL, AS TO WHETHER THE CRIME IS A DOMESTICALLY RELATED CRIME.

(2) THE STATE HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE CRIME IS A DOMESTICALLY RELATED CRIME.

(C) IF THE COURT DETERMINES <u>FINDS</u> THAT THE CRIME IS A DOMESTICALLY RELATED CRIME UNDER SUBSECTION (B) OF THIS SECTION, THAT FINDING SHALL BECOME PART OF THE COURT RECORD FOR PURPOSES OF REPORTING TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY UNDER § 10–215 OF THIS ARTICLE.

10-215.

(a) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10–214 of this subtitle:

- (1) the issuance or withdrawal of an arrest warrant;
- (2) an arrest;
- (3) the filing of a charging document;
- (4) a release pending trial or an appeal;
- (5) a commitment to an institution of pretrial detention;
- (6) the dismissal of an indictment or criminal information;
- (7) a nolle prosequi;
- (8) the marking of a charge "stet" on the docket;

(9) an acquittal, conviction, verdict of not criminally responsible, or any other disposition of a case at or following trial, including a finding of probation before judgment;

(10) the imposition of a sentence;

(11) a commitment to a State correctional facility or local correctional facility;

(12) a commitment to the Department of Health and Mental Hygiene under § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally responsible;

(13) a release from detention or confinement;

(14) a conditional release, revocation of conditional release, or discharge of a person committed to the Department of Health and Mental Hygiene under § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally responsible;

(15) an escape from confinement or commitment;

(16) a pardon, reprieve, commutation of a sentence, or other change in a sentence, including a change in a sentence that a court orders;

(17) an entry of an appeal to an appellate court;

(18) a judgment of an appellate court;

(19) an order of a court in a collateral proceeding that affects a person's conviction, sentence, or confinement;

(20) an adjudication of a child as delinquent:

(i) if the child is at least 14 years old, for an act described in § 3-8A-03(d)(1) of the Courts Article; or

(ii) if the child is at least 16 years old, for an act described in § 3-8A-03(d)(4) or (5) of the Courts Article;

(21) the issuance or withdrawal of a writ of attachment by a juvenile court;

(22) the initial registration of a person under Title 11, Subtitle 7 of this article;

(23) the imposition of lifetime sexual offender supervision under Title 11, Subtitle 7 of this article; [and]

(24) A FINDING THAT A DEFENDANT HAS BEEN CONVICTED OF OR RECEIVED A PROBATION BEFORE JUDGMENT DISPOSITION FOR A DOMESTICALLY RELATED CRIME UNDER § 6–233 OF THIS ARTICLE; AND [(24)] (25) any other event arising out of or occurring during the course of a criminal proceeding that the Secretary by regulation or the Court of Appeals by rule makes a reportable event.

(b) To avoid duplication in the reporting of criminal history record information, the Secretary by regulation and the Court of Appeals by rule may determine those reportable events described under subsection (a) of this section to be reported by each criminal justice unit to the Central Repository.

Article – Family Law

4 - 501.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 555

(House Bill 1146)

AN ACT concerning

Domestically Related Crimes – Reporting

FOR the purpose of requiring the court, on request of the State's Attorney, to determine make a certain finding as to whether a crime for which a defendant is convicted or receives a probation before judgment disposition is a domestically related crime; establishing that the State has the burden of proving by a preponderance of the evidence that the crime is a domestically related crime; requiring a finding by the court that a crime is a domestically related crime to become part of the court record for certain purposes; expanding the list of events that are required to be reported to the Criminal Justice Information System Central Repository to include a finding by a court that a defendant has been convicted of or received a probation before judgment disposition for a domestically related crime; defining a certain term; and generally relating to the reporting of domestically related crimes.

BY adding to

Article – Criminal Procedure Section 6–233 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure Section 10–215 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments, Article – Family Law Section 4–501(a) and (m) Annotated Code of Maryland (2006 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

6-233.

(A) IN THIS SECTION, "DOMESTICALLY RELATED CRIME" MEANS A CRIME COMMITTED BY A DEFENDANT AGAINST A VICTIM WHO IS A PERSON ELIGIBLE FOR RELIEF, AS DEFINED IN § 4–501 OF THE FAMILY LAW ARTICLE, OR WHO HAD A SEXUAL RELATIONSHIP WITH THE DEFENDANT WITHIN 12 MONTHS BEFORE THE COMMISSION OF THE CRIME.

(B) (1) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A PROBATION BEFORE JUDGMENT DISPOSITION FOR A CRIME, ON REQUEST OF

THE STATE'S ATTORNEY, THE COURT SHALL DETERMINE <u>MAKE A FINDING OF</u> <u>FACT, BASED ON EVIDENCE PRODUCED AT TRIAL, AS TO</u> WHETHER THE CRIME IS A DOMESTICALLY RELATED CRIME.

(2) THE STATE HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE CRIME IS A DOMESTICALLY RELATED CRIME.

(C) IF THE COURT DETERMINES <u>FINDS</u> THAT THE CRIME IS A DOMESTICALLY RELATED CRIME UNDER SUBSECTION (B) OF THIS SECTION, THAT FINDING SHALL BECOME PART OF THE COURT RECORD FOR PURPOSES OF REPORTING TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY UNDER § 10–215 OF THIS ARTICLE.

10-215.

(a) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10–214 of this subtitle:

- (1) the issuance or withdrawal of an arrest warrant;
- (2) an arrest;
- (3) the filing of a charging document;
- (4) a release pending trial or an appeal;
- (5) a commitment to an institution of pretrial detention;
- (6) the dismissal of an indictment or criminal information;
- (7) a nolle prosequi;
- (8) the marking of a charge "stet" on the docket;

(9) an acquittal, conviction, verdict of not criminally responsible, or any other disposition of a case at or following trial, including a finding of probation before judgment;

(10) the imposition of a sentence;

(11) a commitment to a State correctional facility or local correctional facility;

(12) a commitment to the Department of Health and Mental Hygiene under § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally responsible;

(13) a release from detention or confinement;

(14) a conditional release, revocation of conditional release, or discharge of a person committed to the Department of Health and Mental Hygiene under § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally responsible;

(15) an escape from confinement or commitment;

(16) a pardon, reprieve, commutation of a sentence, or other change in a sentence, including a change in a sentence that a court orders;

(17) an entry of an appeal to an appellate court;

(18) a judgment of an appellate court;

(19) an order of a court in a collateral proceeding that affects a person's conviction, sentence, or confinement;

(20) an adjudication of a child as delinquent:

(i) if the child is at least 14 years old, for an act described in § 3–8A–03(d)(1) of the Courts Article; or

(ii) if the child is at least 16 years old, for an act described in § 3-8A-03(d)(4) or (5) of the Courts Article;

(21) the issuance or withdrawal of a writ of attachment by a juvenile court;

(22) the initial registration of a person under Title 11, Subtitle 7 of this article;

(23) the imposition of lifetime sexual offender supervision under Title 11, Subtitle 7 of this article; [and]

(24) A FINDING THAT A DEFENDANT HAS BEEN CONVICTED OF OR RECEIVED A PROBATION BEFORE JUDGMENT DISPOSITION FOR A DOMESTICALLY RELATED CRIME UNDER § 6–233 OF THIS ARTICLE; AND [(24)] (25) any other event arising out of or occurring during the course of a criminal proceeding that the Secretary by regulation or the Court of Appeals by rule makes a reportable event.

(b) To avoid duplication in the reporting of criminal history record information, the Secretary by regulation and the Court of Appeals by rule may determine those reportable events described under subsection (a) of this section to be reported by each criminal justice unit to the Central Repository.

Article – Family Law

4 - 501.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 556

(Senate Bill 652)

AN ACT concerning

Renewable Energy Portfolio Standard – Renewable Energy Credits – Geothermal Heating and Cooling

- FOR the purpose of specifying that energy generated from a geothermal heating and cooling system is eligible for inclusion in meeting the renewable energy portfolio standard; entitling a certain person or entity to receive a renewable energy credit under certain circumstances; specifying the method by which energy generation and consumption shall be measured specifying the methods by which the Commission shall determine the energy savings of geothermal heating and cooling systems; requiring geothermal heating and cooling system installation to comply with certain standards; providing that energy generated from a geothermal Tier 1 renewable source is eligible for inclusion in meeting a certain standard only if the source is connected with the distribution grid serving Maryland; defining a certain term; altering the definition of a certain term; providing for the application of this Act; and generally relating to geothermal heating and cooling systems.
- BY repealing and reenacting, without amendments,

Article – Public Utilities Section 7–701(a) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Public Utilities Section 7–701(c–1) and 7–704(h) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Public Utilities Section 7–701(l) <u>and 7–704(a)(2)(i)1.</u> Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

7-701.

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

(C-1) "GEOTHERMAL HEATING AND COOLING SYSTEM" MEANS A SYSTEM THAT:

(1) EXCHANGES THERMAL ENERGY FROM GROUNDWATER OR A SHALLOW GROUND SOURCE TO GENERATE THERMAL ENERGY THROUGH A

GEOTHERMAL HEAT PUMP OR A SYSTEM OF GEOTHERMAL HEAT PUMPS INTERCONNECTED WITH ANY GEOTHERMAL EXTRACTION FACILITY THAT IS:

(I) A CLOSED LOOP OR A SERIES OF CLOSED LOOP SYSTEMS IN WHICH FLUID IS PERMANENTLY CONFINED WITHIN A PIPE OR TUBING AND DOES NOT COME IN CONTACT WITH THE OUTSIDE ENVIRONMENT; OR

(II) AN OPEN LOOP SYSTEM IN WHICH GROUND OR SURFACE WATER IS CIRCULATED IN AN ENVIRONMENTALLY SAFE MANNER DIRECTLY INTO THE FACILITY AND RETURNED TO THE SAME AQUIFER OR SURFACE WATER SOURCE;

(2) MEETS OR EXCEEDS THE CURRENT FEDERAL ENERGY STAR PRODUCT SPECIFICATION STANDARDS;

(3) REPLACES OR DISPLACES INEFFICIENT SPACE OR WATER HEATING SYSTEMS WHOSE PRIMARY FUEL IS ELECTRICITY OR A NONNATURAL GAS FUEL SOURCE;

(4) REPLACES OR DISPLACES INEFFICIENT SPACE COOLING SYSTEMS THAT DO NOT MEET FEDERAL ENERGY STAR PRODUCT SPECIFICATION STANDARDS;

(5) IS MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS; AND

(6) DOES NOT FEED ELECTRICITY BACK TO THE GRID.

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

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

(2) wind;

(3) qualifying biomass;

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

(5) geothermal, INCLUDING ENERGY GENERATED THROUGH GEOTHERMAL EXCHANGE FROM OR THERMAL ENERGY AVOIDED BY, GROUNDWATER OR A SHALLOW GROUND SOURCE; (6) ocean, including energy from waves, tides, currents, and thermal differences;

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

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

- (9) poultry litter-to-energy;
- (10) waste-to-energy; and
- (11) refuse-derived fuel.

7-704.

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

(H) (1) ENERGY FROM A GEOTHERMAL HEATING AND COOLING SYSTEM IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD.

(2) A PERSON SHALL RECEIVE A RENEWABLE ENERGY CREDIT EQUAL TO THE AMOUNT OF ENERGY, CONVERTED FROM **BTU**S TO KILOWATT-HOURS, THAT IS GENERATED BY A GEOTHERMAL HEATING AND COOLING SYSTEM FOR SPACE HEATING AND COOLING OR WATER HEATING IF THE PERSON:

- (I) OWNS AND OPERATES THE SYSTEM;
- (II) LEASES AND OPERATES THE SYSTEM; OR

(III) CONTRACTS WITH A THIRD PARTY WHO OWNS AND OPERATES THE SYSTEM.

(3) THE TOTAL AMOUNT OF ENERGY GENERATED AND CONSUMED FOR A GEOTHERMAL HEATING AND COOLING SYSTEM SHALL BE MEASURED BY AN ONSITE METER FOR THE SYSTEM'S COEFFICIENT OF PERFORMANCE. (3) TO DETERMINE THE ENERGY SAVINGS OF A GEOTHERMAL HEATING AND COOLING SYSTEM FOR A RESIDENCE, THE COMMISSION SHALL:

(I) IDENTIFY AVAILABLE INTERNET-BASED ENERGY CONSUMPTION CALCULATORS DEVELOPED BY THE GEOTHERMAL HEATING AND COOLING INDUSTRY;

(II) COLLECT THE FOLLOWING DATA PROVIDED IN THE RENEWABLE ENERGY CREDIT APPLICATION THAT:

1. <u>DESCRIBES THE NAME OF THE APPLICANT AND</u> <u>THE ADDRESS AT WHICH THE GEOTHERMAL HEATING AND COOLING SYSTEM IS</u> <u>INSTALLED; AND</u>

2. <u>PROVIDES THE ANNUAL BTU ENERGY SAVINGS</u> <u>ATTRIBUTABLE TO HOME HEATING, COOLING, AND WATER HEATING; AND</u>

(III) IN DETERMINING THE ANNUAL AMOUNT OF RENEWABLE ENERGY CREDITS AWARDED FOR THE GEOTHERMAL HEATING AND COOLING SYSTEM, CONVERT THE ANNUAL BTUS INTO ANNUAL MEGAWATT HOURS.

(4) <u>TO DETERMINE THE ENERGY SAVINGS OF A NONRESIDENTIAL</u> <u>GEOTHERMAL HEATING AND COOLING SYSTEM, THE COMMISSION SHALL:</u>

(I) USE THE GEOTHERMAL HEATING AND COOLING ENGINEERING TECHNICAL SYSTEM DESIGNS PROVIDED WITH THE RENEWABLE ENERGY CREDIT APPLICATION; AND

(II) IN DETERMINING THE ANNUAL AMOUNT OF RENEWABLE ENERGY CREDITS AWARDED FOR THE GEOTHERMAL HEATING AND COOLING SYSTEM, CONVERT THE ANNUAL BTUS INTO ANNUAL MEGAWATT HOURS.

(4) (5) A GEOTHERMAL HEATING AND COOLING SYSTEM SHALL BE INSTALLED IN ACCORDANCE WITH APPLICABLE STATE WELL CONSTRUCTION AND LOCAL BUILDING CODE STANDARDS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to geothermal heating and cooling systems that are commissioned on or after July 1, 2012 <u>January 1, 2013</u>.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 557

(House Bill 1186)

AN ACT concerning

Renewable Energy Portfolio Standard – Renewable Energy Credits – Geothermal Heating and Cooling

FOR the purpose of specifying that energy generated from a geothermal heating and cooling system is eligible for inclusion in meeting the renewable energy portfolio standard; entitling a certain person or entity to receive a renewable energy credit under certain circumstances; specifying the method by which energy generation and consumption shall be measured specifying the methods by which the Commission shall determine the energy savings of geothermal heating and cooling systems; requiring geothermal heating and cooling system installation to comply with certain standards; providing that energy generated from a geothermal Tier 1 renewable source is eligible for inclusion in meeting a certain standard only if the source is connected with the distribution grid serving Maryland; defining a certain term; altering the definition of a certain term; providing for the application of this Act; and generally relating to geothermal heating and cooling systems.

BY repealing and reenacting, without amendments, Article – Public Utilities

Section 7–701(a) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY adding to

Article – Public Utilities Section 7–701(c–1) and 7–704(h) Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Public Utilities Section 7–701(l) <u>and 7–704(a)(2)(i)1.</u> Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

7-701.

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

(C-1) "GEOTHERMAL HEATING AND COOLING SYSTEM" MEANS A SYSTEM THAT:

(1) EXCHANGES THERMAL ENERGY FROM GROUNDWATER OR A SHALLOW GROUND SOURCE TO GENERATE THERMAL ENERGY THROUGH A GEOTHERMAL HEAT PUMP OR A SYSTEM OF GEOTHERMAL HEAT PUMPS INTERCONNECTED WITH ANY GEOTHERMAL EXTRACTION FACILITY THAT IS:

(I) A CLOSED LOOP OR A SERIES OF CLOSED LOOP SYSTEMS IN WHICH FLUID IS PERMANENTLY CONFINED WITHIN A PIPE OR TUBING AND DOES NOT COME IN CONTACT WITH THE OUTSIDE ENVIRONMENT; OR

(II) AN OPEN LOOP SYSTEM IN WHICH GROUND OR SURFACE WATER IS CIRCULATED IN AN ENVIRONMENTALLY SAFE MANNER DIRECTLY INTO THE FACILITY AND RETURNED TO THE SAME AQUIFER OR SURFACE WATER SOURCE;

(2) MEETS OR EXCEEDS THE CURRENT FEDERAL ENERGY STAR PRODUCT SPECIFICATION STANDARDS;

(3) REPLACES OR DISPLACES INEFFICIENT SPACE OR WATER HEATING SYSTEMS WHOSE PRIMARY FUEL IS ELECTRICITY OR A NONNATURAL GAS FUEL SOURCE;

(4) REPLACES OR DISPLACES INEFFICIENT SPACE COOLING SYSTEMS THAT DO NOT MEET FEDERAL ENERGY STAR PRODUCT SPECIFICATION STANDARDS;

(5) IS MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS; AND

(6) DOES NOT FEED ELECTRICITY BACK TO THE GRID.

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

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

(2) wind;

(3) qualifying biomass;

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

(5) geothermal, INCLUDING ENERGY GENERATED THROUGH GEOTHERMAL EXCHANGE FROM OR THERMAL ENERGY AVOIDED BY, GROUNDWATER OR A SHALLOW GROUND SOURCE;

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

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

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

- (9) poultry litter-to-energy;
- (10) waste-to-energy; and
- (11) refuse-derived fuel.

7-704.

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

(H) (1) ENERGY FROM A GEOTHERMAL HEATING AND COOLING SYSTEM IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD.

(2) A PERSON SHALL RECEIVE A RENEWABLE ENERGY CREDIT EQUAL TO THE AMOUNT OF ENERGY, CONVERTED FROM BTUS TO KILOWATT-HOURS, THAT IS GENERATED BY A GEOTHERMAL HEATING AND COOLING SYSTEM FOR SPACE HEATING AND COOLING OR WATER HEATING IF THE PERSON:

(I) OWNS AND OPERATES THE SYSTEM;

(II) LEASES AND OPERATES THE SYSTEM; OR

(III) CONTRACTS WITH A THIRD PARTY WHO OWNS AND OPERATES THE SYSTEM.

(3) THE TOTAL AMOUNT OF ENERGY GENERATED AND CONSUMED FOR A GEOTHERMAL HEATING AND COOLING SYSTEM SHALL BE MEASURED BY AN ONSITE METER FOR THE SYSTEM'S COEFFICIENT OF PERFORMANCE.

(3) TO DETERMINE THE ENERGY SAVINGS OF A GEOTHERMAL HEATING AND COOLING SYSTEM FOR A RESIDENCE, THE COMMISSION SHALL:

(I) IDENTIFY AVAILABLE INTERNET-BASED ENERGY CONSUMPTION CALCULATORS DEVELOPED BY THE GEOTHERMAL HEATING AND COOLING INDUSTRY;

(II) <u>COLLECT THE FOLLOWING DATA PROVIDED IN THE</u> <u>RENEWABLE ENERGY CREDIT APPLICATION THAT:</u>

<u>1.</u> <u>DESCRIBES THE NAME OF THE APPLICANT AND</u> <u>THE ADDRESS AT WHICH THE GEOTHERMAL HEATING AND COOLING SYSTEM IS</u> <u>INSTALLED; AND</u>

2. <u>PROVIDES THE ANNUAL BTU ENERGY SAVINGS</u> ATTRIBUTABLE TO HOME HEATING, COOLING, AND WATER HEATING; AND

(III) IN DETERMINING THE ANNUAL AMOUNT OF RENEWABLE ENERGY CREDITS AWARDED FOR THE GEOTHERMAL HEATING AND COOLING SYSTEM, CONVERT THE ANNUAL BTUS INTO ANNUAL MEGAWATT HOURS.

(4) <u>TO DETERMINE THE ENERGY SAVINGS OF A NONRESIDENTIAL</u> <u>GEOTHERMAL HEATING AND COOLING SYSTEM, THE COMMISSION SHALL:</u>

(I) <u>USE THE GEOTHERMAL HEATING AND COOLING</u> ENGINEERING TECHNICAL SYSTEM DESIGNS PROVIDED WITH THE RENEWABLE ENERGY CREDIT APPLICATION; AND

(II) IN DETERMINING THE ANNUAL AMOUNT OF RENEWABLE ENERGY CREDITS AWARDED FOR THE GEOTHERMAL HEATING AND COOLING SYSTEM, CONVERT THE ANNUAL BTUS INTO ANNUAL MEGAWATT HOURS. (4) (5) A GEOTHERMAL HEATING AND COOLING SYSTEM SHALL BE INSTALLED IN ACCORDANCE WITH APPLICABLE STATE WELL CONSTRUCTION AND LOCAL BUILDING CODE STANDARDS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to geothermal heating and cooling systems that are commissioned on or after $\frac{July 1}{2012}$ January 1, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 558

(Senate Bill 654)

AN ACT concerning

Baltimore County – Alcoholic Beverages Licenses

FOR the purpose of altering certain minimum percentages of average daily receipts from the sale of food that restaurants must maintain for a certain purpose; prohibiting the Baltimore County Board of Liquor License Commissioners from authorizing the transfer of more than a certain total of certain licenses in existence on a certain date out of a certain election district; authorizing the Baltimore County Board of License Commissioners Board to approve the transfer of certain alcoholic beverages licenses in existence in a certain election district on a certain date to certain election districts based on a certain rule; establishing a certain limit certain limits on the number of licenses that may be transferred into a single election district during a certain period certain periods; requiring the Board to create and issue a certain number of Class B Service Bar (SB) beer and wine licenses during certain time periods under certain circumstances; requiring a Class B Service Bar (SB) beer and wine license to comply with certain provisions of law relating to the operation of restaurants; establishing a certain fee; requiring the conversion of a Class D license to a Class B license that is transferred from a certain election district to any other election district and prohibiting its transfer or conversion to another class of license; prohibiting the transfer from a licensed premises or conversion to another class of license of any new license issued by the Board based on a certain increase in population; requiring the issuance of a license for a partnership to be issued to at least two general partners, at least one of whom is a registered voter of any county or Baltimore City and resides in the county or

Baltimore City at the time of application; requiring the Board to issue a license to only one partner of a partnership as an individual under certain circumstances; altering the maximum number of certain licenses an individual or a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company may obtain a certain interest in; repealing certain provisions of law relating to minimum seating capacity for dining and; altering the maximum seating capacity for a certain cocktail lounge or bar; altering a maximum percentage of sales in alcoholic beverages; altering a certain residency requirement for certain license applicants to require residency in the State for a certain period of time: repealing a certain provision of law requiring that a certain certificate be signed by a certain number of citizens regarding the length of time each has been acquainted with a certain applicant; requiring the Board to allow a certain reduction of certain square footage requirements applicable to certain buildings under a certain rule; requiring the County Executive for Baltimore County to appoint a certain task force to study certain issues relating to the distribution of alcoholic beverages licenses in Baltimore County: providing for the construction of certain provisions of this Act; providing for the application of certain provisions of this Act; making this Act an emergency measure; and generally relating to the transfer and issuance of alcoholic beverages licenses in Baltimore County.

BY adding to

Article 2B – Alcoholic Beverages Section 8–204.7 and, 8–204.8, and 8–204.9 Annotated Code of Maryland (2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages Section <u>8–204.3(d)(3)</u> and (e), <u>8–204.4(d)</u>, <u>8–204.5(d)</u>, <u>9–101(a)(1)</u>, <u>9–102(b–3B)(1)</u> and (2) and (b–3C)(1), and 10–103(b)(4) and (18) Annotated Code of Maryland (2011 Replacement Volume)

BY repealing and reenacting, without amendments,

<u>Article 2B – Alcoholic Beverages</u> <u>Section 8–204.3(d)(1) and (2)</u> <u>Annotated Code of Maryland</u> (2011 Replacement Volume)

BY repealing

Article 2B – Alcoholic Beverages Section 10–104(e) Annotated Code of Maryland (2011 Replacement Volume) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

<u>8–204.3.</u>

(d) (1) The Class B (B, W, L) (TCRD) licenses may be issued only for a location within the Towson Commercial Revitalization District, as defined by the Baltimore County Council.

(2) The license shall be used in conjunction with the operation of a restaurant, as defined in this article and in the regulations of the Board of Liquor License Commissioners.

(3) [Except as provided in subsection (e)(2)(ii) of this section, the] THE restaurant operation shall maintain average daily receipts from the sale of food at least [65%] 60% of the total daily receipts of the restaurant.

(e) Of the restaurants for which a Class B or Class D license may be transferred and a Class B (B, W, L) (TCRD) may be issued under subsection (b)(1) of this section, the Board of Liquor License Commissioners may require that:

(1) For not more than seven restaurants, applicants for license transfer and issuance demonstrate a minimum capital investment, excluding the costs of the land and building shell, of \$500,000; and

(2) For not more than three restaurants:

(i) <u>Applicants for license transfer and issuance demonstrate a</u> capital investment, excluding the costs of the land and building shell, of not less than \$50,000 or more than \$400,000; AND

(ii) [The restaurant operation maintain average daily receipts from the sale of food of at least 70% of the total daily receipts of the restaurant; and

(iii)] The area dedicated to the restaurant operation have:

<u>1.</u> <u>A maximum seating capacity of 100 persons, with the</u> seating capacity in the bar area not exceeding [15%] **25%** of the total seating capacity of the restaurant; and

<u>2.</u> <u>A minimum seating capacity of 40 persons.</u>

8-204.4.

(d) The following additional requirements apply to the Class B (HV) restaurant (on-sale) beer, wine and liquor retail license established by this section:

(1) The license may be issued only for a location within the "Hunt Valley Commercial/Mixed Use Focal Point" as designated in the Hunt Valley/Timonium Master Plan, adopted by the Baltimore County Council on October 19, 1998;

(2) <u>The license shall be used in conjunction with the operation of a</u> restaurant, as defined in this article and the regulations of the Board of License <u>Commissioners</u>;

(3) The restaurant operation shall maintain average daily receipts from the sale of the food of at least [70%] **60%** of the total daily receipts of the establishment;

(4) The total seating capacity for the area dedicated primarily for the purpose of the consumption of alcoholic beverages may not exceed 25% of the total seating capacity of the establishment; and

(5) Subject to the provisions of subsection (h) of this section, the hours during which the privileges conferred by the license may be exercised may not exceed the hours for which food is offered for sale.

<u>8–204.5.</u>

(d) The following additional requirements apply to a Class B (QG), (MCOM), or (PC) restaurant (on-sale) beer, wine and liquor retail license established by this section:

(1) The license may be issued only for a location within the geographic areas identified in subsection (b)(1) of this section;

(2) <u>The license shall be used in conjunction with the operation of a</u> restaurant, as defined in this article and the regulations of the Board of License <u>Commissioners</u>;

(3) The restaurant operation shall maintain average daily receipts from the sale of the food of at least [70%] **60%** of the total daily receipts of the establishment;

(4) The total seating capacity for the area dedicated primarily for the purpose of the consumption of alcoholic beverages may not exceed 25% of the total seating capacity of the establishment; and

(5) Subject to the provisions of subsection (h) of this section, the hours during which the privileges conferred by the license may be exercised may not exceed the hours for which food is offered for sale.

8-204.7.

(A) THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.

(B) THE BOARD OF LIQUOR LICENSE COMMISSIONERS MAY NOT AUTHORIZE THE TRANSFER OF MORE THAN A TOTAL OF 25 CLASS B OR CLASS D LICENSES IN EXISTENCE ON MAY 1, 2012, OUT OF ELECTION DISTRICT 15.

<u>8-204.8.</u>

(A) THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.

(B) (1) SUBJECT TO <u>§ 8–204.7 OF THIS SUBTITLE AND</u> PARAGRAPH (2) OF THIS SUBSECTION, FROM MAY 1, 2012, TO APRIL 30, 2017, BOTH INCLUSIVE, THE BOARD OF <u>LIQUOR</u> LICENSE COMMISSIONERS MAY AUTHORIZE THE TRANSFER OF A CLASS B OR CLASS D LICENSE IN EXISTENCE IN ELECTION DISTRICT 15 ON MAY 1, 2012, TO AN ELECTION DISTRICT IN WHICH THE NUMBER OF LICENSES IN EXISTENCE, ON THE DATE OF APPROVAL OF THE TRANSFER, IS NOT GREATER THAN 25% MORE THAN THE NUMBER OF LICENSES THAT WOULD OTHERWISE EXIST IN THAT ELECTION DISTRICT, BASED ON THE RULE OF THE BOARD OF <u>LIQUOR</u> LICENSE COMMISSIONERS THAT LIMITS THE TOTAL NUMBER OF LICENSES AVAILABLE IN AN ELECTION DISTRICT BY POPULATION.

(2) NOT MORE THAN TWO LICENSES MAY BE TRANSFERRED UNDER THIS SUBSECTION INTO ANY SINGLE ELECTION DISTRICT EACH YEAR FROM MAY 1, 2012, TO APRIL 30, 2017, BOTH INCLUSIVE.

(c) IF FEWER THAN FIVE CLASS B OR CLASS D LICENSES TRANSFER FROM ELECTION DISTRICT 15 TO ANOTHER ELECTION DISTRICT WITHIN ANY 1 YEAR FROM MAY 1 TO APRIL 30, BOTH INCLUSIVE, OF THE FOLLOWING YEAR, DURING THE PERIOD FROM MAY 1, 2012, THROUGH APRIL 30, 2017, UNDER ANY APPLICABLE SECTION OF LAW OR THE RULES OF THE BOARD OF LICENSE COMMISSIONERS, THE BOARD OF LICENSE COMMISSIONERS SHALL CREATE AND ISSUE A NEW CLASS B SERVICE BAR (SB) BEER AND WINE LICENSE TO ACHIEVE A REQUIREMENT OF NOT FEWER THAN FIVE NEW LICENSES EACH YEAR AS FOLLOWS:

(1) By April 30, 2013, 5 LICENSES SHALL HAVE TRANSFERRED OR BEEN CREATED; (2) By April 30, 2014, 10 licenses shall have transferred Or been created;

(3) By April 30, 2015, 15 Licenses shall have transferred Or been created;

(4) BY APRIL 30, 2016, 20 LICENSES SHALL HAVE TRANSFERRED OR BEEN CREATED; AND

(5) BY APRIL 30, 2017, 25 LICENSES SHALL HAVE TRANSFERRED OR BEEN CREATED WITH THE LAST CLASS B SERVICE BAR (SB) BEER AND WINE LICENSE REQUIRED TO HAVE BEEN CREATED ON OR BEFORE MAY 1, 2018.

(C) (1) IN ACCORDANCE WITH THIS SUBSECTION, THE BOARD OF LIQUOR LICENSE COMMISSIONERS SHALL:

(I) <u>APPROVE THE TRANSFER OF CLASS B OR CLASS D</u> <u>LICENSES FROM ELECTION DISTRICT 15 TO ANY OTHER ELECTION DISTRICT IN</u> <u>THE COUNTY; OR</u>

(II) ISSUE NEW CLASS B SERVICE BAR (SB) LICENSES UNDER SUBSECTION (D) OF THIS SECTION.

(2) ON OR BEFORE APRIL 30, 2013, THE BOARD SHALL:

(I) <u>APPROVE THE TRANSFER OF FIVE CLASS B OR CLASS D</u> LICENSES; OR

(II) IF FIVE LICENSES ARE NOT TRANSFERRED, ISSUE NEW CLASS B SERVICE BAR (SB) LICENSES SO THAT THE NUMBER OF LICENSES TRANSFERRED OR ISSUED SINCE MAY 1, 2012, TOTALS FIVE.

(3) ON OR BEFORE APRIL 30, 2014, THE BOARD SHALL:

(I) <u>APPROVE THE TRANSFER OF CLASS B OR CLASS D</u> <u>LICENSES SO THAT THE CUMULATIVE NUMBER OF LICENSES TRANSFERRED OR</u> <u>ISSUED UNDER THIS SUBSECTION SINCE MAY 1, 2012, TOTALS AT LEAST 10; OR</u>

(II) IF THE NUMBER OF LICENSES TRANSFERRED UNDER ITEM (I) OF THIS PARAGRAPH IS NOT SUFFICIENT, ISSUE NEW CLASS B SERVICE BAR (SB) LICENSES SO THAT THE CUMULATIVE NUMBER OF LICENSES TRANSFERRED OR ISSUED UNDER THIS SUBSECTION SINCE MAY 1, 2012, EQUALS 10.

(4) ON OR BEFORE APRIL 30, 2015, THE BOARD SHALL:

(I) <u>APPROVE THE TRANSFER OF CLASS B OR CLASS D</u> <u>LICENSES SO THAT THE CUMULATIVE NUMBER OF LICENSES TRANSFERRED OR</u> ISSUED UNDER THIS SUBSECTION SINCE MAY 1, 2012, TOTALS AT LEAST 15; OR

(II) IF THE NUMBER OF LICENSES TRANSFERRED UNDER ITEM (I) OF THIS PARAGRAPH IS NOT SUFFICIENT, ISSUE NEW CLASS B SERVICE BAR (SB) LICENSES SO THAT THE CUMULATIVE NUMBER OF LICENSES TRANSFERRED OR ISSUED UNDER THIS SUBSECTION SINCE MAY 1, 2012, EQUALS 15.

(5) ON OR BEFORE APRIL 30, 2016, THE BOARD SHALL:

(I) <u>APPROVE THE TRANSFER OF CLASS B OR CLASS D</u> <u>LICENSES SO THAT THE CUMULATIVE NUMBER OF LICENSES TRANSFERRED OR</u> <u>ISSUED UNDER THIS SUBSECTION SINCE MAY 1, 2012, TOTALS AT LEAST 20; OR</u>

(II) IF THE NUMBER OF LICENSES TRANSFERRED UNDER ITEM (I) OF THIS PARAGRAPH IS NOT SUFFICIENT, ISSUE NEW CLASS B SERVICE BAR (SB) LICENSES SO THAT THE CUMULATIVE NUMBER OF LICENSES TRANSFERRED OR ISSUED UNDER THIS SUBSECTION SINCE MAY 1, 2012, EQUALS 20.

(6) ON OR BEFORE APRIL 30, 2017, THE BOARD SHALL:

(I) <u>APPROVE THE TRANSFER OF CLASS B OR CLASS D</u> <u>LICENSES SO THAT THE CUMULATIVE NUMBER OF LICENSES ISSUED OR</u> <u>TRANSFERRED UNDER THIS SUBSECTION SINCE MAY 1, 2012, TOTALS AT LEAST</u> <u>25; OR</u>

(II) IF THE NUMBER OF LICENSES TRANSFERRED UNDER ITEM (I) OF THIS PARAGRAPH IS NOT SUFFICIENT, ISSUE NEW CLASS B SERVICE BAR (SB) LICENSES SO THAT THE CUMULATIVE NUMBER OF LICENSES ISSUED OR TRANSFERRED UNDER THIS SUBSECTION SINCE MAY 1, 2012, EQUALS 25.

(7) IN ANY YEAR, IF THE BOARD APPROVES THE TRANSFER OF MORE CLASS B OR CLASS D LICENSES THAN ARE NEEDED TO MEET THE MINIMUM TOTAL REQUIRED FOR THAT YEAR, THE EXCESS WILL BE COUNTED AGAINST THE MINIMUM TOTAL REQUIRED FOR THE NEXT YEAR. (8) THE DATE A LICENSE IS TRANSFERRED UNDER THIS SUBSECTION IS THE DATE OF FINAL, NONAPPEALABLE APPROVAL OF THE APPLICATION FOR A NEW LICENSE OR FOR LICENSE TRANSFER BY THE BOARD.

(D) (1) A CLASS B SERVICE BAR (SB) BEER AND WINE LICENSE <u>MAY</u> <u>BE</u> ISSUED UNDER THIS SECTION SHALL COMPLY WITH PARAGRAPHS (2) THROUGH (6) OF <u>ONLY IN COMPLIANCE WITH</u> THIS SUBSECTION.

(2) THE <u>A CLASS B SERVICE BAR (SB)</u> LICENSE MAY BE USED ONLY WITH IN THE OPERATION OF A RESTAURANT, AS DEFINED BY THE BOARD OF <u>LIQUOR</u> LICENSE COMMISSIONERS AND THIS ARTICLE, THAT MAINTAINS AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD OF AT LEAST 60% OF THE TOTAL DAILY RECEIPTS OF THE ESTABLISHMENT.

(3) THE A CLASS B SERVICE BAR (SB) LICENSE SHALL ALLOW ON-PREMISES SALES OF BEER AND WINE ONLY.

(4) <u>A CLASS B SERVICE BAR (SB) LICENSE ALLOWS ALCOHOLIC</u> BEVERAGES TO BE SERVED TO PATRONS ONLY AS PART OF A MEAL.

(4) (5) (1) THE <u>A CLASS B SERVICE BAR (SB</u>) LICENSE SHALL BE RESTRICTED TO RESTAURANTS THAT HAVE TABLE SERVICE, <u>EXCLUDING ANY TYPE OF SERVICE PROVIDED TO A CUSTOMER WHO IS</u> <u>STANDING OR ACCEPTING DELIVERY OF THE PURCHASED FOOD ITEMS OTHER</u> <u>THAN WHILE SEATED AT A TABLE.</u>

(II) <u>A CLASS B SERVICE BAR (SB) LICENSE DOES NOT</u> <u>ALLOW SERVICE TO A CUSTOMER WHO IS STANDING OR ACCEPTING DELIVERY</u> <u>OF PURCHASED FOOD OR BEVERAGE ITEMS OTHER THAN WHILE SEATED AT A</u> <u>TABLE</u>.

(5) (6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE PROPOSED LOCATION <u>OF THE RESTAURANT FOR WHICH</u> <u>A CLASS B SERVICE BAR (SB) LICENSE IS SOUGHT</u> SHALL COMPLY WITH THE ZONING ORDINANCES OF BALTIMORE COUNTY, INCLUDING ALLOWING SEATING FOR NOT FEWER THAN 30 CUSTOMERS AND NOT MORE THAN 100 CUSTOMERS.

(II) THE LICENSE MAY NOT BE USED IN CONJUNCTION WITH <u>THE VIEWING OF TELEVISED SPORTING EVENTS OR</u> THE USE OF LIVE BANDS, DISC JOCKEYS, KARAOKE, OR ANY OTHER FORM OF LIVE ENTERTAINMENT.

(6) (7) A <u>CLASS B OR D</u> LICENSE TRANSFERRED UNDER SUBSECTION (B) OF HIS <u>THIS</u> SECTION OR ISSUED UNDER SUBSECTION (C) OF THIS SECTION AND A CLASS B SERVICE BAR (SB) LICENSE ISSUED UNDER THIS SUBSECTION MAY NOT THEREAFTER BE TRANSFERRED FROM THE LICENSED PREMISES OR CONVERTED TO ANOTHER CLASS OF LICENSE.

(8) <u>NOT MORE THAN ONE CLASS B SERVICE BAR (SB) LICENSE</u> MAY BE ISSUED IN ANY ONE ELECTION DISTRICT PER YEAR.

(9) A CLASS B SERVICE BAR (SB) LICENSE MAY NOT BE ISSUED FOR USE ON PREMISES OR A LOCATION FOR WHICH ANY ON-SALE LICENSE HAS BEEN ISSUED WITHIN 2 YEARS BEFORE THE APPLICATION FOR THE CLASS B SERVICE BAR (SB) LICENSE IS FILED.

(10) ANY PERSON, INCLUDING AN INDIVIDUAL OR SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION, UNINCORPORATED ASSOCIATION, AND LIMITED LIABILITY COMPANY, MAY NOT HAVE A DIRECT OR INDIRECT INTEREST AS DEFINED IN § 9–102(B–3B) OF THIS ARTICLE IN MORE THAN ONE CLASS B SERVICE BAR (SB) LICENSE.

(E) THE ANNUAL FEE FOR A CLASS B SERVICE BAR (SB) BEER AND WINE LICENSE ISSUED UNDER THIS SECTION IS \$5,000.

(F) (1) WHEN A LICENSE IS TRANSFERRED FROM ELECTION DISTRICT 15 TO ANOTHER ELECTION DISTRICT UNDER THIS SECTION, THE LICENSE MAY NOT BE CONSTRUED TO EXIST IN ELECTION DISTRICT 15.

(2) SUBJECT TO THE 25% ALLOWANCE AUTHORIZED IN SUBSECTION (B) OF THIS SECTION, A LICENSE TRANSFERRED UNDER THIS SECTION SHALL BE CONSIDERED BY THE BOARD OF <u>LIQUOR</u> LICENSE COMMISSIONERS AS A REGULAR LICENSE AND NOT AN EXCEPTION LICENSE FOR DETERMINING THE TOTAL NUMBER OF LICENSES AVAILABLE IN ANY ELECTION DISTRICT BASED ON THE RULE OF THE BOARD OF <u>LIQUOR</u> LICENSE COMMISSIONERS THAT LIMITS THE TOTAL NUMBER OF LICENSES AVAILABLE BY POPULATION.

8-204.8. <u>8-204.9.</u>

- (A) THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.
- (B) THE BOARD OF <u>LIQUOR</u> LICENSE COMMISSIONERS:

(1) SHALL CONVERT A CLASS D LICENSE THAT IS TRANSFERRED FROM ELECTION DISTRICT 15 TO ANY OTHER ELECTION DISTRICT TO A CLASS B LICENSE; AND (2) MAY NOT THEREAFTER TRANSFER THE CLASS B LICENSE FROM THE LICENSED PREMISES OR CONVERT THE LICENSE TO ANOTHER CLASS OF LICENSE.

(C) THE BOARD OF <u>LIQUOR</u> LICENSE COMMISSIONERS MAY NOT TRANSFER FROM A LICENSED PREMISES OR CONVERT A LICENSE TO ANOTHER CLASS OF LICENSE:

(1) A NEW LICENSE ISSUED BY THE BOARD BASED ON AN INCREASE IN POPULATION UNDER THE RULE OF THE BOARD LIMITING THE TOTAL NUMBER OF LICENSES AVAILABLE BY POPULATION; AND

(2) A LICENSE THAT HAS BEEN REVOKED AND REISSUED BY THE BOARD.

9–101.

(a) A license may not be issued to a partnership, to a corporation, or to a limited liability company, but only to individuals authorized to act for a partnership, corporation, or limited liability company who shall assume all responsibilities as individuals, and be subject to all of the penalties, conditions and restrictions imposed upon licensees under the provisions of the Tax – General Article that relate to the alcoholic beverage tax and the provisions of this article. If the application is made for a partnership, the license shall be applied for and be issued to all the partners as individuals, all of whom shall have resided in the city or county in which the place of business is located for at least 2 years prior to the application.

(1) (i) [Subject to subparagraph (ii) of this paragraph, in Baltimore and] IN Montgomery [counties] COUNTY, if the application is made for a partnership, the license shall be applied for and issued to at least 2 general partners as individuals, at least one of whom is a registered voter of the county where the application is made and resides there at the time of the application. If there is only one general partner, the license shall be issued to that partner as an individual, if that partner is a registered voter of the county where the application is made and resides there at the time of application.

(ii) 1. In Baltimore County, IF THE APPLICATION IS MADE FOR A PARTNERSHIP, THE LICENSE SHALL BE APPLIED FOR AND ISSUED TO AT LEAST TWO GENERAL PARTNERS AS INDIVIDUALS, AT LEAST ONE OF WHOM IS A REGISTERED VOTER OF ANY COUNTY OF THE STATE OR OF THE CITY OF BALTIMORE AND RESIDES THERE AT THE TIME OF APPLICATION.

2. IF THERE IS ONLY ONE GENERAL PARTNER, THE BOARD OF LICENSE COMMISSIONERS SHALL ISSUE THE LICENSE TO THAT PARTNER AS AN INDIVIDUAL, IF THE PARTNER IS A REGISTERED VOTER OF ANY

COUNTY OR OF THE CITY OF BALTIMORE AND RESIDES THERE AT THE TIME OF THE APPLICATION.

3. [the] **THE** provisions of this [paragraph] **SUBPARAGRAPH** may not be construed to waive any of the requirements under §§ 9–102, 9–102.2, and 9–301 of this article.

9–102.

(b-3B) (1) Notwithstanding any other provision of this section or § 8–204(l) of this article, in Baltimore County, an individual or a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the county, may obtain a direct or indirect interest in:

(i) Not more than [six] **12** Class B (on-sale — hotels and restaurants) beer, wine and liquor licenses under this article; or

(ii) If one of the restaurants for which a license is issued is located in the Liberty Road Commercial Revitalization District in accordance with subsection (b-3C) of this section, not more than [seven] **13** Class B (on-sale — hotels and restaurants) beer, wine and liquor licenses under this article.

(2) For an applicant to obtain a license under this subsection:

<u>usual fee; and</u>

(i)

(ii) <u>The restaurants for which the licenses are sought shall:</u>

The applicant shall apply in the regular manner and pay the

<u>1. Meet the requirements of the rules and regulations of</u> <u>the Board of License Commissioners regarding the availability and issuance of</u> <u>licenses:</u>

2. <u>Meet the definition requirements of "restaurant"</u> established under the regulations of the Board of License Commissioners;

<u>3.</u> <u>Have a minimum seating capacity of 190 persons for</u> <u>dining;</u>

<u>4.</u> <u>Have a cocktail lounge or bar area seating capacity</u> that does not exceed [10%] **25%** of the seating capacity for dining; and

5. <u>Have no more than [20%]</u> 40% of sales in alcoholic beverages in connection with the business.

(b-3C) (1) Notwithstanding any other provision of this section or § 8–204(l) of this article, in Baltimore County, an individual or a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the county, may obtain a direct or indirect interest in not more than [seven] 13 Class B (on-sale — hotels and restaurants) beer, wine and liquor licenses under this article, by making application in the regular manner and paying the usual fee if the restaurant for which the additional license is sought:

(i) Meets the requirements of the rules and regulations of the Board of License Commissioners regarding the availability and issuance of licenses;

(ii) Meets the definition requirements of "restaurant" established under the regulations of the Board of License Commissioners;

(iii) [Has a minimum seating capacity of 190 persons for dining;

(iv)] Has a cocktail lounge or bar area seating capacity that does not exceed $\frac{10\%}{25\%}$ of the seating capacity for dining;

 $\frac{\mathbf{f}(\mathbf{v})}{(\mathbf{IV})}$ Has no more than $\frac{20\%}{20\%}$ of sales in alcoholic beverages in connection with the business; **j** and

[(vi)] (IV) (V) Is located in the Liberty Road Commercial Revitalization District as defined by the County Council on October 18, 1999.

10-103.

(b) (4) (i) Except as provided in [subparagraph] SUBPARAGRAPHS (ii) AND (IV) of this paragraph, a statement that the applicant has been for two years next preceding the filing of the application a resident of the county or of the City of Baltimore in which the applicant proposes to operate under the license applied for. The Board of License Commissioners of Prince George's County shall apply the residency requirements as specified in § 9–101 of this article;

(ii) In Dorchester County the residency requirement is 1 year;

(iii) In Carroll County, in addition to the applicant's residential statement required under this section, the license shall remain valid only for as long as the resident applicant remains a resident of the county;

(IV) IN BALTIMORE COUNTY, A STATEMENT THAT THE APPLICANT HAS BEEN FOR 2 YEARS NEXT PRECEDING THE FILING OF THE APPLICATION A RESIDENT OF THE STATE.

(18) (i) A certificate signed by at least ten citizens who are owners of real estate and registered voters of the precinct in which the business is to be

conducted, stating the length of time each has been acquainted with the applicant, or in the case of a corporation with the individuals making the application; that they have examined the application of the applicant and that they have good reason to believe that all the statements contained in this application are true, and that they are of the opinion that the applicant is a suitable person to obtain the license. The certificate must have a statement that the signers of it are familiar with the premises upon which the proposed business is to be conducted, and that they believe the premises are suitable for the conduct of the business of a retail dealer in alcoholic beverages.

(ii) [In Baltimore County, persons who are owners of real estate and registered voters of Baltimore County and who reside within 1 mile of the premises for which a license is sought shall be those persons signing the certificate.

(iii)] In St. Mary's County, persons who are owners of real estate within 5 miles of the premises for which a license is sought and registered voters of St. Mary's County shall be those persons signing the certificate.

[(iv)] (III) [This] THE certificate REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH is not necessary for applications filed in Dorchester County, Prince George's County, Montgomery County [and], Anne Arundel County, AND BALTIMORE COUNTY.

10–104.

[(e) In Baltimore County, the certificate shall be signed by at least 10 citizens who shall be owners of real estate within 1 mile of the location of the proposed business and registered voters of Baltimore County.]

SECTION 2. AND BE IT FURTHER ENACTED, That on and after the effective date of this Act, the Baltimore County Board of <u>Liquor</u> License Commissioners shall allow a reduction of 20% of the required square footage applicable to office buildings and shopping centers in the rule of the Board of License Commissioners that limits the total number of licenses available by population and other issues related to the distribution of liquor licenses in the county.

SECTION 3. AND BE IT FURTHER ENACTED, That not later than June 15, 2016, the County Executive for Baltimore County shall appoint a task force to examine further reductions in the rule of the Board of <u>Liquor</u> License Commissioners that limits the total number of licenses available by population and other issues related to the distribution of alcoholic beverages licenses in Baltimore County.

<u>SECTION 4. AND BE IT FURTHER ENACTED</u>, That §§ 8–204.3(d)(3) and (e), 8–204.4(d), 8–204.5(d), and 9–102(b–3B)(2)(ii) and (b–3C)(1), as enacted by Section 1 of this Act, shall be construed to apply retroactively and shall be applied to and interpreted to affect restaurants for which alcoholic beverages licenses have been issued or are sought.

SECTION <u>4.</u> <u>5.</u> 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 22, 2012.

Chapter 559

(Senate Bill 659)

AN ACT concerning

State Procurement – <u>Preference and</u> Disclosure of the Relocation of Jobs to a Foreign Country – Location of the Performance of Services

FOR the purpose of requiring a prospective bidder or offeror to disclose certain information to the Department of General Services concerning plans to relocate jobs to a foreign country when submitting a bid or an offer to a unit of State government: requiring a contractor to notify the Department of certain job relocations within a certain time period; prohibiting a certain contractor from receiving certain benefits or incentives from the State under certain circumstances; requiring a cortain contractor to repay certain incentives and benefits within a certain time period; requiring, under certain circumstances, a bidder to disclose certain information regarding whether services required under a procurement contract will be performed outside the State or the United States; prohibiting a public employer from knowingly contracting for certain services unless the services are to be provided in the United States, except under certain circumstances; requiring the Board of Public Works to adopt certain regulations; providing for the application of this Act; providing that this Act may not impair any existing obligation or contract right; defining a certain term certain terms; and generally relating to State procurement and the disclosure of certain information concerning the relocation of jobs to foreign countries preferences and disclosures regarding the location of the performance of services required under procurement contracts.

BY adding to

Article – State Finance and Procurement

Section <u>11–401 through 11–403 to be under the new subtitle "Subtitle 4.</u> Disclosure of the Relocation of Jobs to a Foreign Country" <u>14–413</u> <u>12–110</u> Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, The State of Maryland spends significant taxpayer dollars to provide goods and services to maintain and operate the State; and

WHEREAS, Over 14,000,000 workers in the United States remain unemployed, including over 200,000 Maryland residents; and

WHEREAS, When the State of Maryland spends taxpayer dollars, it should collect relevant employment information from its contractors and vendors so as to aid industries with the potential to employ more Maryland residents; and

WHEREAS, The State of Maryland must determine if its taxpayer dollars for goods and services result in contractors and vendors exporting jobs outside the United States; and

WHEREAS, Location disclosure legislation is necessary to ensure that taxpayer dollars are invested in a way that helps struggling Maryland families and, in turn, spurs economic recovery in the State of Maryland and the United States; 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

<u>14-413</u> <u>12-110.</u>

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

- (2) "PUBLIC EMPLOYER" MEANS:
- (1) <u>A UNIT;</u>
- <u>(11)</u> <u>A COUNTY;</u>
- (3) (III) <u>A MUNICIPALITY;</u>
- (4) (IV) A COUNTY BOARD OF EDUCATION; OR
- (5) (V) <u>A SPECIAL TAXING DISTRICT.</u>

(3) (1) EXCEPT AS PROVIDED IN SUBPARAGRAPH (11) OF THIS PARAGRAPH, "SERVICES" HAS THE MEANING STATED IN § 11–101(T) OF THIS ARTICLE.

- (II) <u>"SERVICES" INCLUDES:</u>
 - <u>1.</u> <u>CONSTRUCTION-RELATED SERVICES;</u>
 - 2. ARCHITECTURAL SERVICES;
 - <u>3.</u> <u>ENGINEERING SERVICES; OR</u>
 - <u>4.</u> <u>ENERGY PERFORMANCE CONTRACT SERVICES.</u>

(B) THIS SECTION APPLIES TO A PROCUREMENT CONTRACT WITH AN ESTIMATED VALUE OF \$2,000,000 OR MORE.

(C) IN RESPONSE TO A SOLICITATION FOR A PROCUREMENT CONTRACT ISSUED BY A PUBLIC EMPLOYER, A BIDDER SHALL DISCLOSE TO THE PUBLIC EMPLOYER THE FOLLOWING:

(1) WHETHER THE BIDDER ANTICIPATES THAT THE BIDDER OR ANY CONTRACTOR THAT THE BIDDER WILL SUBCONTRACT WITH TO PERFORM THE CONTRACT WILL HAS PLANS, AT THE TIME THE BID IS SUBMITTED, TO PERFORM ANY SERVICES REQUIRED UNDER THE CONTRACT OUTSIDE THE STATE OR THE UNITED STATES; AND

(2) IF SERVICES REQUIRED UNDER THE CONTRACT ARE ANTICIPATED TO BE PERFORMED OUTSIDE THE STATE OR THE UNITED STATES:

(I) WHERE THE SERVICES WILL BE PERFORMED; AND

(II) THE REASONS WHY IT IS NECESSARY OR ADVANTAGEOUS TO PERFORM THE SERVICES OUTSIDE THE STATE OR THE UNITED STATES.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC EMPLOYER MAY NOT KNOWINGLY CONTRACT FOR THE FOLLOWING SERVICES UNLESS THE SERVICES ARE TO BE PROVIDED IN THE UNITED STATES:

- (I) <u>ARCHITECTURAL SERVICES;</u>
- (II) <u>CONSTRUCTION SERVICES;</u>

(III) ENGINEERING SERVICES; OR

(IV) ENERGY PERFORMANCE CONTRACT SERVICES.

(2) <u>A PUBLIC EMPLOYER MAY CONTRACT FOR SERVICES LISTED</u> IN PARAGRAPH (1) OF THIS SUBSECTION THAT ARE PROVIDED OUTSIDE THE UNITED STATES, IF:

(I) THE SERVICES ARE NOT AVAILABLE IN THE UNITED STATES;

(II) THE PRICE OF THE SERVICES IN THE UNITED STATES EXCEEDS BY AN UNREASONABLE AMOUNT THE PRICE OF SERVICES PROVIDED OUTSIDE THE UNITED STATES: OR

(III) THE QUALITY OF THE SERVICES IN THE UNITED STATES IS SUBSTANTIALLY LESS THAN THE QUALITY OF COMPARABLY PRICED SERVICES PROVIDED OUTSIDE THE UNITED STATES.

(3) THE BOARD SHALL ADOPT REGULATIONS DEFINING THE FOLLOWING TERMS FOR THE PURPOSES OF THIS SUBSECTION:

- (I) <u>"UNREASONABLE AMOUNT"; AND</u>
- (II) <u>"SUBSTANTIALLY LESS".</u>

SUBTITLE 4. DISCLOSURE OF THE RELOCATION OF JOBS TO A FOREIGN COUNTRY.

11-401.

THIS SUBTITLE APPLIES TO A PROCUREMENT CONTRACT WITH AN ESTIMATED VALUE OF \$2,000,000 OR MORE.

11_402.

WHEN A PROSPECTIVE BIDDER OR OFFEROR SUBMITS A BID OR AN OFFER TO A UNIT, THE BIDDER OR OFFEROR SHALL NOTIFY THE DEPARTMENT OF GENERAL SERVICES WHETHER THE BIDDER OR OFFEROR:

(1) HAS PLANS, AT THE TIME THE BID OR OFFER IS SUBMITTED, TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR (2) WILL BE SUBCONTRACTING WITH A CONTRACTOR THAT HAS PLANS, AT THE TIME THE BID OR OFFER IS SUBMITTED, TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY.

11-403.

(A) THIS SECTION APPLIES TO A PROSPECTIVE BIDDER OR OFFEROR THAT DISCLOSED UNDER § 11–402 OF THIS SUBTITLE THAT THE BIDDER OR OFFEROR:

(1) HAD PLANS, AT THE TIME THE BID OR OFFER WAS SUBMITTED, TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR

(2) WOULD BE SUBCONTRACTING WITH A CONTRACTOR THAT HAD PLANS, AT THE TIME THE BID OR OFFER WAS SUBMITTED, TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY.

(B) A PROSPECTIVE BIDDER OR OFFEROR THAT IS AWARDED A CONTRACT SHALL NOTIFY THE DEPARTMENT OF GENERAL SERVICES WITHIN 60 DAYS AFTER THE BIDDER OR OFFEROR RELOCATES JOBS:

- (1) FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR
- (2) TO THE UNITED STATES FROM A FOREIGN COUNTRY.

(C) (1) A PROSPECTIVE BIDDER OR OFFEROR THAT IS AWARDED A CONTRACT:

(I) MAY NOT RECEIVE A STATE GRANT, A STATE GUARANTEED LOAN, A TAX BENEFIT, OR ANY OTHER BENEFIT OR INCENTIVE FROM THE STATE; AND

(II) SHALL REPAY ANY BENEFIT OR INCENTIVE RECEIVED FROM THE STATE WITHIN 5 YEARS BEFORE THE DISCLOSURE UNDER § 11–402 OF THIS SUBTITLE WAS MADE.

(2) The repayment of a benefit or an incentive required under paragraph (1) of this subsection shall be made within 3 years after the disclosure under § 11–402 of this subtitle was made.

SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 560

(House Bill 865)

AN ACT concerning

State Procurement – Disclosure of the Relocation of Jobs to a Foreign Country <u>– Location of the Performance of Services</u>

FOR the purpose of requiring a prospective bidder or offeror to disclose certain information to the Department of General Services concerning plans to relocate jobs to a foreign country when submitting a bid or an offer to a unit of State government; requiring a contractor to notify the Department of certain job relocations within a certain time period; prohibiting a certain contractor from receiving certain benefits or incentives from the State under certain circumstances; requiring a certain contractor to repay certain incentives and benefits within a certain time period; requiring, under certain circumstances, a bidder to disclose certain information regarding whether services required under a procurement contract will be performed outside the United States; prohibiting a public employer from knowingly contracting for certain services unless the services are to be provided in the United States, except under certain circumstances: requiring the Board of Public Works to adopt certain regulations: providing for the application of this Act; providing that this Act may not impair any existing obligation or contract right; defining certain terms; providing for the termination of this Act; and generally relating to State procurement and the disclosure of certain information concerning the relocation of jobs to foreign countries disclosures regarding the location of the performance of services required under procurement contracts.

BY adding to

Article – State Finance and Procurement

Section 11-401 through 11-403 to be under the new subtitle "Subtitle 4. Disclosure of the Relocation of Jobs to a Foreign Country" 12-110

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, The State of Maryland spends significant taxpayer dollars to provide goods and services to maintain and operate the State; and

WHEREAS, Over 14,000,000 workers in the United States remain unemployed, including over 200,000 Maryland residents; and

WHEREAS, When the State of Maryland spends taxpayer dollars, it should collect relevant employment information from its contractors and vendors so as to aid industries with the potential to employ more Maryland residents; and

WHEREAS, The State of Maryland must determine if its taxpayer dollars for goods and services result in contractors and vendors exporting jobs outside the United States; and

WHEREAS, Location disclosure legislation is necessary to ensure that taxpayer dollars are invested in a way that helps struggling Maryland families and, in turn, spurs economic recovery in the State of Maryland and the United States; 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

<u>12–110.</u>

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

- (2) <u>"PUBLIC EMPLOYER" MEANS:</u>
 - <u>(I)</u> <u>A UNIT;</u>
 - (II) <u>A COUNTY;</u>
 - (III) <u>A MUNICIPALITY;</u>
 - (IV) A COUNTY BOARD OF EDUCATION; OR
 - (V) <u>A SPECIAL TAXING DISTRICT.</u>

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, "SERVICES" HAS THE MEANING STATED IN § 11–101(T) OF THIS ARTICLE.

- (II) <u>"SERVICES" INCLUDES:</u>
 - <u>1.</u> <u>CONSTRUCTION-RELATED SERVICES;</u>

2. ARCHITECTURAL SERVICES;

3. ENGINEERING SERVICES; OR

4. ENERGY PERFORMANCE CONTRACT SERVICES.

(B) THIS SECTION APPLIES TO A PROCUREMENT CONTRACT WITH AN ESTIMATED VALUE OF \$2,000,000 OR MORE.

(C) IN RESPONSE TO A SOLICITATION FOR A PROCUREMENT CONTRACT ISSUED BY A PUBLIC EMPLOYER, A BIDDER SHALL DISCLOSE TO THE PUBLIC EMPLOYER THE FOLLOWING:

(1) WHETHER THE BIDDER OR ANY CONTRACTOR THAT THE BIDDER WILL SUBCONTRACT WITH TO PERFORM THE CONTRACT HAS PLANS, AT THE TIME THE BID IS SUBMITTED, TO PERFORM ANY SERVICES REQUIRED UNDER THE CONTRACT OUTSIDE THE UNITED STATES; AND

(2) IF SERVICES REQUIRED UNDER THE CONTRACT ARE ANTICIPATED TO BE PERFORMED OUTSIDE THE UNITED STATES:

(I) WHERE THE SERVICES WILL BE PERFORMED; AND

(II) THE REASONS WHY IT IS NECESSARY OR ADVANTAGEOUS TO PERFORM THE SERVICES OUTSIDE THE UNITED STATES.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC EMPLOYER MAY NOT KNOWINGLY CONTRACT FOR THE FOLLOWING SERVICES UNLESS THE SERVICES ARE TO BE PROVIDED IN THE UNITED STATES:

- (I) ARCHITECTURAL SERVICES;
- (II) <u>CONSTRUCTION SERVICES;</u>
- (III) ENGINEERING SERVICES; OR
- (IV) ENERGY PERFORMANCE CONTRACT SERVICES.

(2) <u>A PUBLIC EMPLOYER MAY CONTRACT FOR SERVICES LISTED IN</u> <u>PARAGRAPH (1) OF THIS SUBSECTION THAT ARE PROVIDED OUTSIDE THE</u> <u>UNITED STATES, IF:</u>

STATES;

(II) THE PRICE OF THE SERVICES IN THE UNITED STATES EXCEEDS BY AN UNREASONABLE AMOUNT THE PRICE OF SERVICES PROVIDED OUTSIDE THE UNITED STATES; OR

(I) THE SERVICES ARE NOT AVAILABLE IN THE UNITED

(III) THE QUALITY OF THE SERVICES IN THE UNITED STATES IS SUBSTANTIALLY LESS THAN THE QUALITY OF COMPARABLY PRICED SERVICES PROVIDED OUTSIDE THE UNITED STATES.

(3) THE BOARD SHALL ADOPT REGULATIONS DEFINING THE FOLLOWING TERMS FOR THE PURPOSES OF THIS SUBSECTION:

- (I) <u>"UNREASONABLE AMOUNT"; AND</u>
- (II) <u>"SUBSTANTIALLY LESS".</u>

SUBTITLE 4. DISCLOSURE OF THE RELOCATION OF JOBS TO A FOREIGN COUNTRY.

11-401.

THIS SUBTITLE APPLIES TO A PROCUREMENT CONTRACT WITH AN ESTIMATED VALUE OF \$2,000,000 OR MORE.

11-402.

WHEN A PROSPECTIVE BIDDER OR OFFEROR SUBMITS A BID OR AN OFFER TO A UNIT, THE BIDDER OR OFFEROR SHALL NOTIFY THE DEPARTMENT OF GENERAL SERVICES WHETHER THE BIDDER OR OFFEROR:

(1) HAS PLANS, AT THE TIME THE BID OR OFFER IS SUBMITTED, TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR

(2) WILL BE SUBCONTRACTING WITH A CONTRACTOR THAT HAS PLANS, AT THE TIME THE BID OR OFFER IS SUBMITTED, TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY.

11-403.

(A) THIS SECTION APPLIES TO A PROSPECTIVE BIDDER OR OFFEROR THAT DISCLOSED UNDER § 11–402 OF THIS SUBTITLE THAT THE BIDDER OR OFFEROR: (1) HAD PLANS, AT THE TIME THE BID OR OFFER WAS SUBMITTED, TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR

(2) WOULD BE SUBCONTRACTING WITH A CONTRACTOR THAT HAD PLANS, AT THE TIME THE BID OR OFFER WAS SUBMITTED, TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY.

(B) A prospective bidder or offeror that is awarded a contract shall notify the Department of General Services within 60 days after the bidder or offeror relocates jobs:

(1) FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR

(2) TO THE UNITED STATES FROM A FOREIGN COUNTRY.

(C) (1) A PROSPECTIVE BIDDER OR OFFEROR THAT IS AWARDED A CONTRACT:

(I) MAY NOT RECEIVE A STATE GRANT, A STATE-GUARANTEED LOAN, A TAX BENEFIT, OR ANY OTHER BENEFIT OR INCENTIVE FROM THE STATE; AND

(II) SHALL REPAY ANY BENEFIT OR INCENTIVE RECEIVED FROM THE STATE WITHIN 5 YEARS BEFORE THE DISCLOSURE UNDER § 11–402 OF THIS SUBTITLE WAS MADE.

(2) THE REPAYMENT OF A BENEFIT OR AN INCENTIVE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE WITHIN 3 YEARS AFTER THE DISCLOSURE UNDER § 11–402 OF THIS SUBTITLE WAS MADE.

SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. <u>It shall remain effective for a period of 3 years and, at the end of</u> <u>September 30, 2015, with no further action required by the General Assembly, this Act</u> <u>shall be abrogated and of no further force and effect.</u>

Approved by the Governor, May 22, 2012.

Chapter 561

(Senate Bill 672)

AN ACT concerning

State Retirement and Pension System – Investment Division – Salary Setting

FOR the purpose of authorizing the Board of Trustees of the State Retirement and System to determine the qualifications, Pension appointment, and compensation for certain employees in the Investment Division of the State Retirement Agency; specifying the positions to which the authority applies; prohibiting the Board of Trustees from setting the salary of an employee above a certain amount; prohibiting the Board of Trustees from granting bonuses under certain authority; prohibiting the Board of Trustees from increasing the salary of certain employees by more than a certain amount in a fiscal year; requiring the State Retirement Agency to submit a certain report concerning salaries of certain professional staff in the Investment Division and certain professional staff who terminated employment in the Investment Division during a certain fiscal year; providing for the termination of this Act; and generally relating to the State Retirement Agency.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions Section 21–122(a) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – State Personnel and Pensions

21 - 122.

(a) (1) There is an Investment Division in the State Retirement Agency.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL DETERMINE THE QUALIFICATIONS AND COMPENSATION FOR THE FOLLOWING POSITIONS WITHIN THE INVESTMENT DIVISION:

- (I) DEPUTY CHIEF INVESTMENT OFFICER; AND
- (II) MANAGING DIRECTOR.

(3) THE BOARD OF TRUSTEES MAY NOT:

(I) SET OR INCREASE THE SALARY FOR THE DEPUTY CHIEF INVESTMENT OFFICER AT AN AMOUNT GREATER THAN THE MAXIMUM SALARY UNDER THE <u>ES10</u> <u>ES11</u> SCALE OF THE MARYLAND EXECUTIVE PAY PLAN;

(II) SET OR INCREASE THE SALARY FOR A MANAGING DIRECTOR AT AN AMOUNT GREATER THAN THE MAXIMUM SALARY UNDER THE <u>ESS ES9</u> SCALE OF THE MARYLAND EXECUTIVE PAY PLAN;

(III) PROVIDE BONUSES FOR AN EMPLOYEE; OR

(IV) SUBJECT TO THE LIMITATIONS UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH, SET OR INCREASE THE SALARY FOR A POSITION THAT PROVIDES MORE THAN A 10% INCREASE OVER THE LOWEST SALARY FOR THE POSITION IN THE PRIOR FISCAL YEAR.

(4) ON OR BEFORE OCTOBER 1, 2012, AND EACH OCTOBER 1 THEREAFTER, THE BOARD OF TRUSTEES SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE ON:

(I) THE CURRENT SALARIES OF THE DEPUTY CHIEF INVESTMENT OFFICER AND THE MANAGING DIRECTORS OF THE INVESTMENT DIVISION;

(II) ANY SALARY INCREASES THE DEPUTY CHIEF INVESTMENT OFFICER OR MANAGING DIRECTORS OF THE INVESTMENT DIVISION HAVE RECEIVED IN THE FISCAL YEAR IMMEDIATELY PRECEDING THAT OCTOBER 1; AND

(III) 1. THE NUMBER OF INDIVIDUALS IN THE INVESTMENT DIVISION OF THE STATE RETIREMENT AGENCY WHO WERE EMPLOYED AS PROFESSIONAL INVESTMENT STAFF AND TERMINATED EMPLOYMENT WITH THE STATE RETIREMENT AGENCY IN THE FISCAL YEAR IMMEDIATELY PRECEDING THAT OCTOBER 1;

2. <u>THE NUMBER OF YEARS OF EMPLOYMENT AN</u> INDIVIDUAL DESCRIBED IN ITEM 1 OF THIS ITEM HAD ACCRUED WITH THE STATE RETIREMENT AGENCY AT THE TIME THE INDIVIDUAL TERMINATED EMPLOYMENT WITH THE STATE RETIREMENT AGENCY; AND

<u>3.</u> <u>TO THE EXTENT POSSIBLE, THE NEW EMPLOYER,</u> <u>POSITION, AND SALARY THE INDIVIDUAL DESCRIBED IN ITEM 1 OF THIS ITEM</u> <u>ACCEPTED UPON TERMINATING EMPLOYMENT WITH THE STATE RETIREMENT</u> <u>AGENCY.</u>

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, and each October 1 thereafter, the Maryland State Retirement Agency shall report to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, on the salaries and any increases to salaries in the Investment Division of the State Retirement Agency.

SECTION 3. <u>2.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period of 3 years and, at the end of June 30, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.

Chapter 562

(House Bill 806)

AN ACT concerning

State Retirement and Pension System – Investment Division – Salary Setting

FOR the purpose of authorizing the Board of Trustees of the State Retirement and Pension System to determine the qualifications. appointment. and compensation for certain employees in the Investment Division of the State Retirement Agency; specifying the positions to which the authority applies; prohibiting the Board of Trustees from setting the salary of an employee above a certain amount; prohibiting the Board of Trustees from granting bonuses under certain authority; prohibiting the Board of Trustees from increasing the salary of certain employees by more than a certain amount in a fiscal year; requiring the State Retirement Agency to submit a certain report concerning salaries of certain professional staff in the Investment Division and certain professional staff who terminated employment in the Investment Division during a certain fiscal year: providing for the termination of this Act; and generally relating to the State Retirement Agency.

BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 21–122(a) Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

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

Article – State Personnel and Pensions

21 - 122.

(a) (1) There is an Investment Division in the State Retirement Agency.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL DETERMINE THE QUALIFICATIONS AND COMPENSATION FOR THE FOLLOWING POSITIONS WITHIN THE INVESTMENT DIVISION:

- (I) DEPUTY CHIEF INVESTMENT OFFICER; AND
- (II) MANAGING DIRECTOR.
- (3) THE BOARD OF TRUSTEES MAY NOT:

(I) SET OR INCREASE THE SALARY FOR THE DEPUTY CHIEF INVESTMENT OFFICER AT AN AMOUNT GREATER THAN THE MAXIMUM SALARY UNDER THE <u>ES10</u> <u>ES11</u> SCALE OF THE MARYLAND EXECUTIVE PAY PLAN;

(II) SET OR INCREASE THE SALARY FOR A MANAGING DIRECTOR AT AN AMOUNT GREATER THAN THE MAXIMUM SALARY UNDER THE **ESS** <u>ES9</u> SCALE OF THE MARYLAND EXECUTIVE PAY PLAN;

(III) PROVIDE BONUSES FOR AN EMPLOYEE; OR

(IV) SUBJECT TO THE LIMITATIONS UNDER ITEMS (I) AND (II) OF THIS PARAGRAPH, SET OR INCREASE THE SALARY FOR A POSITION THAT PROVIDES MORE THAN A 10% INCREASE OVER THE LOWEST SALARY FOR THE POSITION IN THE PRIOR FISCAL YEAR.

(4) ON OR BEFORE OCTOBER 1, 2012, AND EACH OCTOBER 1 THEREAFTER, THE BOARD OF TRUSTEES SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE ON: (I) <u>THE CURRENT SALARIES OF THE DEPUTY CHIEF</u> <u>INVESTMENT OFFICER AND THE MANAGING DIRECTORS OF THE INVESTMENT</u> <u>DIVISION;</u>

(II) ANY SALARY INCREASES THE DEPUTY CHIEF INVESTMENT OFFICER OR MANAGING DIRECTORS OF THE INVESTMENT DIVISION HAVE RECEIVED IN THE FISCAL YEAR IMMEDIATELY PRECEDING THAT OCTOBER 1; AND

(III) 1. THE NUMBER OF INDIVIDUALS IN THE INVESTMENT DIVISION OF THE STATE RETIREMENT AGENCY WHO WERE EMPLOYED AS PROFESSIONAL INVESTMENT STAFF AND TERMINATED EMPLOYMENT WITH THE STATE RETIREMENT AGENCY IN THE FISCAL YEAR IMMEDIATELY PRECEDING THAT OCTOBER 1;

2. <u>THE NUMBER OF YEARS OF EMPLOYMENT AN</u> <u>INDIVIDUAL DESCRIBED IN ITEM 1 OF THIS ITEM HAD ACCRUED WITH THE</u> <u>STATE RETIREMENT AGENCY AT THE TIME THE INDIVIDUAL TERMINATED</u> <u>EMPLOYMENT WITH THE STATE RETIREMENT AGENCY; AND</u>

3. <u>TO THE EXTENT POSSIBLE, THE NEW EMPLOYER,</u> <u>POSITION, AND SALARY THE INDIVIDUAL DESCRIBED IN ITEM 1 OF THIS ITEM</u> <u>ACCEPTED UPON TERMINATING EMPLOYMENT WITH THE STATE RETIREMENT</u> <u>AGENCY.</u>

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2012, and each October 1 thereafter, the Maryland State Retirement Agency shall report to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, on the salaries and any increases to salaries in the Investment Division of the State Retirement Agency.

SECTION 3. <u>2.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period of 3 years and, at the end of June 30, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.

Chapter 563

(Senate Bill 678)

AN ACT concerning

Criminal Procedure – Expungement of Criminal Charge Transferred to Juvenile Court

FOR the purpose of altering provisions relating to the expungement of certain criminal records by authorizing a person to file, and requiring a court to grant, a petition for expungement of a criminal charge transferred to the juvenile court under a certain provision of law; repealing a certain obsolete definition; and generally relating to the expungement of certain criminal charges transferred to the juvenile court.

BY repealing and reenacting, without amendments, Article – Criminal Procedure Section 4–202 and 4–202.2 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – Criminal Procedure Section 10–106 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Criminal Procedure

4 - 202.

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

(2) "Victim" has the meaning stated in § 11–104 of this article.

(3) "Victim's representative" has the meaning stated in § 11–104 of this article.

(b) Except as provided in subsection (c) of this section, a court exercising criminal jurisdiction in a case involving a child may transfer the case to the juvenile court before trial or before a plea is entered under Maryland Rule 4–242 if:

(1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;

(2) the alleged crime is excluded from the jurisdiction of the juvenile court under 3-8A-03(d)(1), (4), or (5) of the Courts Article; and

(3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.

(c) The court may not transfer a case to the juvenile court under subsection (b) of this section if:

(1) the child previously has been transferred to juvenile court and adjudicated delinquent;

(2) the child was convicted in an unrelated case excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article; or

(3) the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed.

(d) In determining whether to transfer jurisdiction under subsection (b) of this section, the court shall consider:

- (1) the age of the child;
- (2) the mental and physical condition of the child;

(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;

- (4) the nature of the alleged crime; and
- (5) the public safety.

(e) In making a determination under this section, the court may order that a study be made concerning the child, the family of the child, the environment of the child, and other matters concerning the disposition of the case.

(f) The court shall make a transfer determination within 10 days after the date of a transfer hearing.

(g) If the court transfers its jurisdiction under this section, the court may order the child held for an adjudicatory hearing under the regular procedure of the juvenile court.

(h) (1) Pending a determination under this section to transfer its jurisdiction, the court may order a child to be held in a secure juvenile facility.

(2) A hearing on a motion requesting that a child be held in a juvenile facility pending a transfer determination shall be held not later than the next court day, unless extended by the court for good cause shown.

(i) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under 11-104 of this article.

(2) (i) A victim or a victim's representative may submit a victim impact statement to the court as provided in 11–402 of this article.

(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11–104 of this article from submitting a victim impact statement to the court.

(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.

(j) At a bail review or preliminary hearing before the District Court involving a child whose case is eligible for transfer under subsection (b) of this section, the District Court may order that a study be made under the provisions of subsection (e) of this section, or that the child be held in a secure juvenile facility under the provisions of subsection (h) of this section, regardless of whether the District Court has criminal jurisdiction over the case.

4 - 202.2.

(a) At sentencing, a court exercising criminal jurisdiction in a case involving a child shall determine whether to transfer jurisdiction to the juvenile court if:

(1) as a result of trial or a plea entered under Maryland Rule 4-242, all charges that excluded jurisdiction from the juvenile court under § 3-8A-03(d)(1) or (4) of the Courts Article do not result in a finding of guilty; and

(2) (i) pretrial transfer was prohibited under § 4-202(c)(3) of this subtitle; or

(ii) the court did not transfer jurisdiction after a hearing under $4-202(b) \ of \ this \ subtitle.$

(b) In determining whether to transfer jurisdiction under subsection (a) of this section, the court shall consider:

(1) the age of the child;

(2) the mental and physical condition of the child;

(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;

(4) the nature of the child's acts as proven in the trial or admitted to in a plea entered under Maryland Rule 4–242; and

(5) public safety.

(c) The court may not consider transferring jurisdiction to the juvenile court under this section if:

(1) under the terms of a plea agreement entered under Maryland Rule 4–243, the child agrees that jurisdiction is not to be transferred; or

(2) pretrial transfer was prohibited under § 4-202(c)(1) or (2) of this subtitle.

(d) (1) A victim or victim's representative shall be given notice of the transfer hearing as provided under 11-104 of this article.

(2) (i) A victim or victim's representative may submit a victim impact statement to the court as provided in 11–402 of this article.

(ii) This paragraph does not preclude a victim or victim's representative who has not filed a notification request form under § 11–104 of this article from submitting a victim impact statement to the court.

(iii) The court shall consider a victim impact statement in determining whether to transfer jurisdiction under this section.

(e) (1) If the court transfers its jurisdiction to the juvenile court, the court shall conduct a disposition under the regular procedures of the juvenile court.

(2) The record of the hearing and of the disposition shall be transferred to the juvenile court, subject to § 3-8A-27 of the Courts Article.

10-106.

[(a) In this section, "delinquency petition" means a petition filed under § 3-8A-10 of the Courts Article alleging that a child is a delinquent child.

(b)] A person may file, and a court shall grant, a petition for expungement of a criminal charge transferred to the juvenile court under § 4-202 OR § 4-202.2 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 564

(Senate Bill 691)

AN ACT concerning

Earned Compliance Credit and Reinvestment Act of 2012

FOR the purpose of requiring the Department of Public Safety and Correctional Services to establish a program to implement certain earned compliance credits, which create a certain reduction in a certain period of active supervision for certain individuals and develop policies and procedures for the implementation of the program: requiring authorizing the Maryland Parole Commission or the court to adjust a period of supervision for an individual placed on probation by the court or serving a period of parole or mandatory release supervision from a correctional facility under certain circumstances; requiring a supervised individual whose period of active supervision has been completely reduced by earned compliance credits to be placed on abatement for a certain amount of time, with certain exceptions; authorizing a court to place a supervised individual on active supervision if the supervised individual commits a violation of probation while on abatement; requiring that a certain percentage of the savings realized by the Department as a result of the application of earned compliance credits revert to the Department; providing for the construction of this Act; defining certain terms; providing for the application of this Act; providing for a delayed effective date; and generally relating to parole and probation and earned compliance credits.

BY adding to

Article – Correctional Services Section 6–117 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Correctional Services

6-117.

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

(2) "ABATEMENT" MEANS AN END TO ACTIVE SUPERVISION OF A SUPERVISED INDIVIDUAL, WITHOUT EFFECT ON THE LEGAL EXPIRATION DATE OF THE CASE OR THE SUPERVISED INDIVIDUAL'S OBLIGATION TO:

- (I) OBEY ALL LAWS;
- (II) REPORT AS INSTRUCTED; AND

(III) OBTAIN WRITTEN PERMISSION FROM THE DIVISION OF PAROLE AND PROBATION BEFORE RELOCATING THE SUPERVISED INDIVIDUAL'S RESIDENCE OUTSIDE THE STATE.

(3) "EARNED COMPLIANCE CREDIT" MEANS A 20-DAY REDUCTION FROM THE PERIOD OF ACTIVE SUPERVISION OF THE SUPERVISED INDIVIDUAL FOR EVERY MONTH THAT A SUPERVISED INDIVIDUAL:

(I) EXHIBITS FULL OR SUBSTANTIAL COMPLIANCE WITH THE CONDITIONS, GOALS, AND TREATMENT AS PART OF THE SUPERVISED INDIVIDUAL'S PROBATION, PAROLE, OR MANDATORY RELEASE SUPERVISION, AS DETERMINED BY THE DEPARTMENT;

(II) HAS NO NEW ARRESTS;

(III) HAS NOT VIOLATED ANY CONDITIONS OF NO CONTACT IMPOSED ON THE SUPERVISED INDIVIDUAL;

(IV) IS CURRENT ON COURT ORDERED PAYMENTS FOR RESTITUTION, FINES, AND FEES RELATING TO THE OFFENSE FOR WHICH EARNED COMPLIANCE CREDITS ARE BEING ACCRUED; AND

(V) IS CURRENT IN COMPLETING ANY COMMUNITY SERVICE SUPERVISION REQUIREMENTS INCLUDED IN THE CONDITIONS OF THE SUPERVISED INDIVIDUAL'S PROBATION, PAROLE, OR MANDATORY RELEASE SUPERVISION.

(4) (I) "SUPERVISED INDIVIDUAL" MEANS AN INDIVIDUAL PLACED ON PROBATION BY A COURT OR SERVING A PERIOD OF PAROLE OR MANDATORY RELEASE SUPERVISION AFTER RELEASE FROM A CORRECTIONAL FACILITY.

(II) "SUPERVISED INDIVIDUAL" DOES NOT INCLUDE:

1. A PERSON INCARCERATED, ON PROBATION, OR <u>CURRENTLY BEING SUPERVISED</u> <u>CONVICTED</u> IN THIS STATE FOR A CRIME OF VIOLENCE;

2. A PERSON INCARCERATED, <u>ON PROBATION</u>, OR <u>CURRENTLY BEING SUPERVISED</u> <u>CONVICTED</u> IN THIS STATE FOR A CRIME UNDER TITLE 3, SUBTITLE 3, OF THE CRIMINAL LAW ARTICLE;

3. A PERSON INCARCERATED, <u>ON PROBATION</u>, OR CURRENTLY BEING-SUPERVISED <u>CONVICTED</u> IN THIS STATE FOR A VIOLATION OF § <u>2-503</u>, § 5-602 THROUGH § 5-617, § 5-627, OR § 5-628 OF THE CRIMINAL LAW ARTICLE;

4. A PERSON REGISTERED OR ELIGIBLE FOR REGISTRATION UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL LAW <u>PROCEDURE</u> ARTICLE;

5. A PERSON WHO WAS CONVICTED IN ANY OTHER JURISDICTION OF A CRIME AND THE PERSON'S SUPERVISION WAS TRANSFERRED TO THIS STATE; OR

6. A PERSON WHO WAS CONVICTED IN THIS STATE OF A CRIME AND THE PERSON'S SUPERVISION WAS TRANSFERRED TO ANOTHER STATE.

(B) THE DEPARTMENT SHALL:

(1) ESTABLISH A PROGRAM TO IMPLEMENT EARNED COMPLIANCE CREDITS; AND

(2) ADOPT POLICIES AND PROCEDURES TO IMPLEMENT THE PROGRAM.

(C) NOTWITHSTANDING ANY OTHER LAW, THE MARYLAND PAROLE COMMISSION OR THE COURT SHALL MAY ADJUST THE PERIOD OF A SUPERVISED INDIVIDUAL'S SUPERVISION ON THE RECOMMENDATION OF THE DIVISION OF PAROLE AND PROBATION FOR EARNED COMPLIANCE CREDITS ACCRUED UNDER A PROGRAM CREATED UNDER THIS SECTION.

(D) A SUPERVISED INDIVIDUAL WHOSE PERIOD OF ACTIVE SUPERVISION HAS BEEN COMPLETELY REDUCED AS A RESULT OF EARNED COMPLIANCE CREDITS SHALL REMAIN ON ABATEMENT UNTIL THE EXPIRATION OF THE SUPERVISED INDIVIDUAL'S INITIAL PERIOD OF ACTIVE SUPERVISION <u>SENTENCE</u>, UNLESS: (1) THE SUPERVISED INDIVIDUAL CONSENTS TO CONTINUED ACTIVE SUPERVISION; OR

(2) THE SUPERVISED INDIVIDUAL VIOLATES A CONDITION OF PROBATION, PAROLE, OR MANDATORY RELEASE SUPERVISION INCLUDING FAILURE TO PAY A REQUIRED PAYMENT OF RESTITUTION.

(E) IF A SUPERVISED INDIVIDUAL VIOLATES A CONDITION OF PROBATION WHILE ON ABATEMENT, A COURT MAY ORDER THE SUPERVISED INDIVIDUAL TO BE RETURNED TO ACTIVE SUPERVISION.

(F) (1) TWENTY-FIVE PERCENT OF THE SAVINGS REALIZED BY THE DEPARTMENT AS A RESULT OF THE APPLICATION OF EARNED COMPLIANCE CREDITS SHALL REVERT TO THE DEPARTMENT.

(2) AFTER THE SAVINGS FROM SUBSECTION (G)(1) REVERT TO THE DEPARTMENT <u>IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION</u>, ANY REMAINING SAVINGS SHALL REVERT TO THE GENERAL FUND.

(G) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE AUTHORITY OF A COURT OR THE PAROLE COMMISSION TO EXTEND PROBATION, PAROLE, OR MANDATORY RELEASE SUPERVISION UNDER § 6–222 OF THE CRIMINAL PROCEDURE ARTICLE.

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 the conviction or supervision of any individual <u>a</u> <u>sentence of an individual commencing</u> before the effective date of this Act.

SECTION $\frac{2}{2}$, 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014 January 1, 2013.

Approved by the Governor, May 22, 2012.

Chapter 565

(House Bill 670)

AN ACT concerning

Earned Compliance Credit and Reinvestment Act of 2012

FOR the purpose of requiring the Department of Public Safety and Correctional Services to establish a program to implement certain earned compliance credits, which create a certain reduction in a certain period of active supervision for certain individuals and develop policies and procedures for the implementation of the program; requiring authorizing the Maryland Parole Commission or the court to adjust a period of supervision for an individual placed on probation by the court or serving a period of parole or mandatory release supervision from a correctional facility under certain circumstances; requiring a supervised individual whose period of active supervision has been completely reduced by earned compliance credits to be placed on abatement for a certain amount of time, with certain exceptions; authorizing a court to place a supervised individual on active supervision if the supervised individual commits a violation of probation while on abatement; requiring that a certain percentage of the savings realized by the Department as a result of the application of earned compliance credits revert to the Department; providing for the construction of this Act; defining certain terms; providing for the application of this Act; providing for a delayed effective date; and generally relating to parole and probation and earned compliance credits.

BY adding to

Article – Correctional Services Section 6–117 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Correctional Services

6-117.

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

(2) "ABATEMENT" MEANS AN END TO ACTIVE SUPERVISION OF A SUPERVISED INDIVIDUAL, WITHOUT EFFECT ON THE LEGAL EXPIRATION DATE OF THE CASE OR THE SUPERVISED INDIVIDUAL'S OBLIGATION TO:

- (I) OBEY ALL LAWS;
- (II) REPORT AS INSTRUCTED; AND

(III) OBTAIN WRITTEN PERMISSION FROM THE DIVISION OF PAROLE AND PROBATION BEFORE RELOCATING THE SUPERVISED INDIVIDUAL'S RESIDENCE OUTSIDE THE STATE. (3) "EARNED COMPLIANCE CREDIT" MEANS A 20-DAY REDUCTION FROM THE PERIOD OF ACTIVE SUPERVISION OF THE SUPERVISED INDIVIDUAL FOR EVERY MONTH THAT A SUPERVISED INDIVIDUAL:

(I) EXHIBITS FULL OR SUBSTANTIAL COMPLIANCE WITH THE CONDITIONS, GOALS, AND TREATMENT AS PART OF THE SUPERVISED INDIVIDUAL'S PROBATION, PAROLE, OR MANDATORY RELEASE SUPERVISION, AS DETERMINED BY THE DEPARTMENT;

(II) HAS NO NEW ARRESTS;

(III) HAS NOT VIOLATED ANY CONDITIONS OF NO CONTACT IMPOSED ON THE SUPERVISED INDIVIDUAL;

(IV) IS CURRENT ON COURT ORDERED PAYMENTS FOR RESTITUTION, FINES, AND FEES RELATING TO THE OFFENSE FOR WHICH EARNED COMPLIANCE CREDITS ARE BEING ACCRUED; AND

(V) IS CURRENT IN COMPLETING ANY COMMUNITY SERVICE SUPERVISION REQUIREMENTS INCLUDED IN THE CONDITIONS OF THE SUPERVISED INDIVIDUAL'S PROBATION, PAROLE, OR MANDATORY RELEASE SUPERVISION.

(4) (I) "SUPERVISED INDIVIDUAL" MEANS AN INDIVIDUAL PLACED ON PROBATION BY A COURT OR SERVING A PERIOD OF PAROLE OR MANDATORY RELEASE SUPERVISION AFTER RELEASE FROM A CORRECTIONAL FACILITY.

(II) "SUPERVISED INDIVIDUAL" DOES NOT INCLUDE:

1. A PERSON INCARCERATED, ON PROBATION, OR CURRENTLY BEING SUPERVISED <u>CONVICTED</u> IN THIS STATE FOR A CRIME OF VIOLENCE;

2. A PERSON INCARCERATED OR CURRENTLY BEING SUPERVISED, ON PROBATION, OR CONVICTED IN THIS STATE FOR A CRIME UNDER TITLE 3, SUBTITLE 3, OF THE CRIMINAL LAW ARTICLE;

3. A PERSON INCARCERATED OR CURRENTLY BEING SUPERVISED, ON PROBATION, OR CONVICTED IN THIS STATE FOR A VIOLATION OF § 2–503, § 5–602 THROUGH § 5–617, § 5–627, OR § 5–628 OF THE CRIMINAL LAW ARTICLE; 4. A PERSON REGISTERED OR ELIGIBLE FOR REGISTRATION UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL LAW <u>PROCEDURE</u> ARTICLE;

5. A PERSON WHO WAS CONVICTED IN ANY OTHER JURISDICTION OF A CRIME AND THE PERSON'S SUPERVISION WAS TRANSFERRED TO THIS STATE; OR

6. A PERSON WHO WAS CONVICTED IN THIS STATE OF A CRIME AND THE PERSON'S SUPERVISION WAS TRANSFERRED TO ANOTHER STATE.

(B) THE DEPARTMENT SHALL:

(1) ESTABLISH A PROGRAM TO IMPLEMENT EARNED COMPLIANCE CREDITS; AND

(2) ADOPT POLICIES AND PROCEDURES TO IMPLEMENT THE PROGRAM.

(C) NOTWITHSTANDING ANY OTHER LAW, THE MARYLAND PAROLE COMMISSION OR THE COURT SHALL <u>MAY</u> ADJUST THE PERIOD OF A SUPERVISED INDIVIDUAL'S SUPERVISION ON THE RECOMMENDATION OF THE DIVISION OF PAROLE AND PROBATION FOR EARNED COMPLIANCE CREDITS ACCRUED UNDER A PROGRAM CREATED UNDER THIS SECTION.

(D) A SUPERVISED INDIVIDUAL WHOSE PERIOD OF ACTIVE SUPERVISION HAS BEEN COMPLETELY REDUCED AS A RESULT OF EARNED COMPLIANCE CREDITS SHALL REMAIN ON ABATEMENT UNTIL THE EXPIRATION OF THE SUPERVISED INDIVIDUAL'S INITIAL PERIOD OF ACTIVE SUPERVISION <u>SENTENCE</u>, UNLESS:

(1) THE SUPERVISED INDIVIDUAL CONSENTS TO CONTINUED ACTIVE SUPERVISION; OR

(2) THE SUPERVISED INDIVIDUAL VIOLATES A CONDITION OF PROBATION, PAROLE, OR MANDATORY RELEASE SUPERVISION INCLUDING FAILURE TO PAY A REQUIRED PAYMENT OF RESTITUTION.

(E) IF A SUPERVISED INDIVIDUAL VIOLATES A CONDITION OF PROBATION WHILE ON ABATEMENT, A COURT MAY ORDER THE SUPERVISED INDIVIDUAL TO BE RETURNED TO ACTIVE SUPERVISION.

(F) (1) TWENTY-FIVE PERCENT OF THE SAVINGS REALIZED BY THE DEPARTMENT AS A RESULT OF THE APPLICATION OF EARNED COMPLIANCE CREDITS SHALL REVERT TO THE DEPARTMENT.

(2) AFTER THE SAVINGS FROM SUBSECTION (G)(1) REVERT TO THE DEPARTMENT <u>IN ACCORDANCE WITH PARAGRAPH (1) OF THIS</u> <u>SUBSECTION</u>, ANY REMAINING SAVINGS SHALL REVERT TO THE GENERAL FUND.

(G) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE AUTHORITY OF A COURT OR THE PAROLE COMMISSION TO EXTEND PROBATION, PAROLE, OR MANDATORY RELEASE SUPERVISION UNDER § 6–222 OF THE CRIMINAL PROCEDURE ARTICLE.

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 a sentence of an individual commencing before the effective date of this Act.

SECTION $\frac{2}{2}$, 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014 January 1, 2013.

Approved by the Governor, May 22, 2012.

Chapter 566

(Senate Bill 708)

AN ACT concerning

County Boards of Education – Green Product Cleaning Supplies – Written Policies

FOR the purpose of requiring a county board of education<u>, on or before a certain date</u>, to adopt certain written policies relating to the procurement of green product cleaning supplies subject to certain exceptions; requiring certain county boards<u>, on or before a certain date</u>, to provide certain notice to the State Department of Education under certain circumstances; and generally relating to the establishment of written policies relating to the procurement of green product cleaning supplies by county boards of education.

BY repealing and reenacting, with amendments, Article – Education Section 5–112 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

5 - 112.

(a) This section does not apply to:

(1) Contracts for the purchase of books and other materials of instruction as defined in the State Department of Education Financial Reporting Manual;

(2) Emergency repairs; and

(3) Except as provided in subsection (e) of this section, a county board's participation in contracts for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organizations if the lead agency for the contract follows public bidding procedures.

(b) (1) Except as provided in paragraph (2) of this subsection, if the cost of any school building, improvement, supplies, or equipment is more than \$25,000, the county board, at least 2 weeks before bids are to be filed, shall advertise for bids in a medium accessible to the general public, which includes:

(i) A newspaper of general circulation in the region;

(ii) The Maryland Contract Weekly or comparable State publication; or

(iii) An electronic posting on a bid board and physical posting on the local school system bid board.

(2) If the amount specified in paragraph (1) of this subsection differs from the amount in § 13–109(a) of the State Finance and Procurement Article, the amount in § 13–109(a) of the State Finance and Procurement Article shall apply under paragraph (1) of this subsection.

(3) (i) The county board shall draft specifications that provide a clear and accurate description of the functional characteristics or the nature of an item to be procured, without modifying the county board's requirements.

(ii) The specifications may:

1.

requirements; and

2.Provide for the submission of samples, inspection, or testing of the item before procurement.

(4)Except as provided in subparagraph (ii) of this paragraph, (i) specifications that use one or more manufacturer's product to describe the standard of quality, performance, or other characteristics needed to meet the county board's requirements, must allow for the submission of equivalent products.

Subparagraph (i) of this paragraph does not apply if the (ii) county board determines in the written specification that:

A particular manufacturer's product is required to 1. maintain compatibility of service or equipment;

A particular manufacturer's product is required to 2. meet the health needs of students;

- consideration; or
- 3. Replacement parts or maintenance are a paramount

Include a statement of any of the county board's

4. A product is purchased for resale.

A contract for the school building, improvements, supplies, or other (c) (1)equipment shall be awarded to the lowest responsible bidder who conforms to specifications with consideration given to:

- (i) The quantities involved;
- (ii) The time required for delivery;
- (iii) The purpose for which required;
- The competency and responsibility of the bidder; (iv)
- The ability of the bidder to perform satisfactory service; and (v)
- (vi) The plan for utilization of minority contractors.

(2)The county board may reject any and all bids and readvertise for other bids.

(d) (1)In this subsection, the term "minority business enterprise" has the meaning stated in § 14–301 of the State Finance and Procurement Article.

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(2) In Montgomery County, by resolution and by implementing regulations, the Montgomery County Board of Education shall establish a minority business utilization program to facilitate the participation of responsible certified minority business enterprises in contracts awarded by the Montgomery County Board of Education in accordance with competitive bidding procedures.

(e) (1) (I) In this subsection, "green product cleaning supplies" means [cleaning and sanitizing supplies] ENVIRONMENTALLY PREFERABLE CLEANING AND CLEANING MAINTENANCE PRODUCTS <u>AND SUPPLIES</u> INTENDED FOR ROUTINE CLEANING AND CLEANING MAINTENANCE that perform well and that have positive <u>HEALTH AND</u> environmental attributes, including:

- [(i)] **1.** Biodegradability;
- [(ii)] **2.** Low toxicity;
- [(iii)] **3.** Low volatile organic compound content;
- [(iv)] **4.** Reduced packaging; and
- [(v)] **5.** Low life cycle energy use<u>; AND</u>

<u>6.</u> LESSER OR REDUCED EFFECTS ON HUMAN HEALTH AND THE ENVIRONMENT WHEN COMPARED TO COMPETING PRODUCTS THAT SERVE THE SAME PURPOSE.

- (II) "GREEN PRODUCT CLEANING SUPPLIES" INCLUDES:
 - 1. GENERAL PURPOSE CLEANERS;
 - 2. BATHROOM CLEANERS;
 - **3.** CARPET CLEANERS;
 - 4. GLASS CLEANERS;
 - 5. FLOOR CLEANERS, FLOOR FINISHES, AND FLOOR

STRIPPERS;

- 6. HAND CLEANERS; AND
- **7. SOAP.**
- 6. WALL CLEANERS;

- 7. DESK CLEANERS;
- 8. SURFACE CLEANERS;
- 9. WINDOW CLEANERS;
- **10.** WHITEBOARD CLEANERS; AND
- <u>11.</u> <u>SOAP.</u>

(III) <u>"GREEN PRODUCT CLEANING SUPPLIES" DO NOT</u> INCLUDE:

- **1. ROOM DEODORIZERS;**
- 2. AIR FRESHENERS;
- **<u>3.</u>** TOILET DEODORIZERS; OR
- 4. HAND CLEANERS.

(2) (i) **[**To**] SUBJECT TO SUBSECTION (F) OF THIS SECTION, TO** the extent practicable, and economically feasible, a county board shall procure green product cleaning supplies for use in its schools.

(ii) In accordance with subsection (b)(3) of this section, a county board shall draft specifications that provide a clear and accurate description of the functional characteristics or nature of the green product cleaning supplies that are to be procured.

(iii) The specifications drafted by a county board under subparagraph (ii) of this paragraph:

1. May not preclude the use when necessary of a disinfectant, disinfecting cleaner, sanitizer, or other antimicrobial product regulated by the Federal Insecticide, Fungicide, and Rodenticide Act under 7 U.S.C. § 136 et seq.; and

2. Shall allow for multiple avenues to obtain green product cleaning supplies certification, including:

A. [The United States Environmental Protection Agency's Design for the Environment Program (DfE);

B.] Green Seal, Green Label, Environmental Choice, [or U.S. Green Building Council] **TERRACHOICE, OR ECOLOGO**; and

[C.] B. Any other [accreditation] <u>NATIONALLY</u> <u>RECOGNIZED</u> INDEPENDENT THIRD–PARTY <u>CERTIFIER</u> <u>ENTITY THAT CERTIFIES</u> <u>ENVIRONMENTALLY PREFERABLE PRODUCTS THAT</u> the county board determines to be appropriate.

(3) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, <u>ON OR BEFORE JULY 1, 2013</u>, A COUNTY BOARD SHALL ADOPT WRITTEN POLICIES FOR THE PROCUREMENT OF GREEN PRODUCT CLEANING SUPPLIES FOR USE IN ITS SCHOOLS.

(II) THE WRITTEN POLICIES SHALL:

1. REQUIRE THE USE OF GREEN PRODUCT CLEANING SUPPLIES;

2. ESTABLISH ON OR BEFORE JULY 1, 2014, ESTABLISH GUIDELINES FOR PURCHASING GREEN PRODUCT CLEANING SUPPLIES THAT MEET THE CERTIFICATION REQUIREMENTS OF GREEN SEAL, GREEN LABEL, ENVIRONMENTAL CHOICE, OR ANY ESTABLISHED AND NATIONALLY RECOGNIZED INDEPENDENT THIRD-PARTY CERTIFIER ENTITY THAT CERTIFIES ENVIRONMENTALLY PREFERABLE PRODUCTS AND ADHERES TO CONSENSUS STANDARDS FOR LESSER OR REDUCED EFFECTS ON HUMAN HEALTH AND THE ENVIRONMENT WHEN COMPARED TO COMPETING PRODUCTS THAT SERVE THE SAME PURPOSE;

3. ESTABLISH GREEN CLEANING PRACTICES, INCLUDING STORAGE, APPLICATION, FREQUENCY OF USE, AND DISPOSAL OF THE SUPPLIES TO ENSURE THAT THE OCCUPANTS OF A SCHOOL BUILDING DO NOT SUFFER ANY ADVERSE HEALTH EFFECTS AS THE RESULT OF THESE PRACTICES; AND

4. **REQUIRE STAFF TRAINING ON IMPLEMENTING** THE POLICY.

(F) \triangle ON OR BEFORE JUNE 30 EACH YEAR, A COUNTY BOARD THAT DOES NOT PROCURE GREEN PRODUCT CLEANING SUPPLIES FOR USE IN ITS SCHOOLS BECAUSE DOING SO IS NOT PRACTICABLE OR ECONOMICALLY FEASIBLE SHALL PROVIDE ANNUAL WRITTEN NOTICE OF THIS FACT TO THE DEPARTMENT.

[(f)] (G) Nonpublic schools may participate under any contracts for goods or commodities that are awarded by county boards, other public agencies, or

intergovernmental purchasing organizations, if the lead agency for the contract award follows public bidding procedures.

[(g)] (H) A contract entered into or purchase made in violation of this section is void.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 567

(House Bill 1019)

AN ACT concerning

County Boards of Education – Green Product Cleaning Supplies – Written Policies

FOR the purpose of requiring a county board of education<u>, on or before a certain date</u>, to adopt certain written policies relating to the procurement of green product cleaning supplies subject to certain exceptions; requiring certain county boards, <u>on or before a certain date</u>, to provide certain notice to the State Department of Education under certain circumstances; and generally relating to the establishment of written policies relating to the procurement of green product cleaning supplies by county boards of education.

BY repealing and reenacting, with amendments,

Article – Education Section 5–112 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

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

Article – Education

5 - 112.

(a) This section does not apply to:

(1) Contracts for the purchase of books and other materials of instruction as defined in the State Department of Education Financial Reporting Manual;

(2) Emergency repairs; and

(3) Except as provided in subsection (e) of this section, a county board's participation in contracts for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organizations if the lead agency for the contract follows public bidding procedures.

(b) (1) Except as provided in paragraph (2) of this subsection, if the cost of any school building, improvement, supplies, or equipment is more than \$25,000, the county board, at least 2 weeks before bids are to be filed, shall advertise for bids in a medium accessible to the general public, which includes:

(i) A newspaper of general circulation in the region;

(ii) The Maryland Contract Weekly or comparable State publication; or

(iii) An electronic posting on a bid board and physical posting on the local school system bid board.

(2) If the amount specified in paragraph (1) of this subsection differs from the amount in § 13–109(a) of the State Finance and Procurement Article, the amount in § 13–109(a) of the State Finance and Procurement Article shall apply under paragraph (1) of this subsection.

(3) (i) The county board shall draft specifications that provide a clear and accurate description of the functional characteristics or the nature of an item to be procured, without modifying the county board's requirements.

(ii) The specifications may:

1. Include a statement of any of the county board's requirements; and

2. Provide for the submission of samples, inspection, or testing of the item before procurement.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, specifications that use one or more manufacturer's product to describe the standard of quality, performance, or other characteristics needed to meet the county board's requirements, must allow for the submission of equivalent products.

(ii) Subparagraph (i) of this paragraph does not apply if the county board determines in the written specification that:

1. A particular manufacturer's product is required to maintain compatibility of service or equipment;

2. A particular manufacturer's product is required to meet the health needs of students;

3. Replacement parts or maintenance are a paramount consideration; or

4. A product is purchased for resale.

(c) (1) A contract for the school building, improvements, supplies, or other equipment shall be awarded to the lowest responsible bidder who conforms to specifications with consideration given to:

- (i) The quantities involved;
- (ii) The time required for delivery;
- (iii) The purpose for which required;
- (iv) The competency and responsibility of the bidder;
- (v) The ability of the bidder to perform satisfactory service; and
- (vi) The plan for utilization of minority contractors.

(2) The county board may reject any and all bids and readvertise for other bids.

(d) (1) In this subsection, the term "minority business enterprise" has the meaning stated in § 14–301 of the State Finance and Procurement Article.

(2) In Montgomery County, by resolution and by implementing regulations, the Montgomery County Board of Education shall establish a minority business utilization program to facilitate the participation of responsible certified minority business enterprises in contracts awarded by the Montgomery County Board of Education in accordance with competitive bidding procedures.

(e) (1) (I) In this subsection, "green product cleaning supplies" means [cleaning and sanitizing supplies] ENVIRONMENTALLY PREFERABLE CLEANING AND CLEANING MAINTENANCE PRODUCTS <u>AND SUPPLIES</u> INTENDED FOR **ROUTINE CLEANING AND CLEANING MAINTENANCE** that perform well and that have positive <u>**HEALTH AND**</u> environmental attributes, including:

[(i)]	1.	Biodegradability;
[(ii)]	2.	Low toxicity;
[(iii)]	3.	Low volatile organic compound content;
[(iv)]	4.	Reduced packaging; and
[(v)]	5.	Low life cycle energy use <u>; AND</u>

<u>6.</u> <u>Lesser or reduced effects on human</u> <u>HEALTH AND THE ENVIRONMENT WHEN COMPARED TO COMPETING PRODUCTS</u> <u>THAT SERVE THE SAME PURPOSE</u>.

- (II) "GREEN PRODUCT CLEANING SUPPLIES" INCLUDES:
 - 1. GENERAL PURPOSE CLEANERS;
 - 2. BATHROOM CLEANERS;
 - **3.** CARPET CLEANERS;
 - 4. GLASS CLEANERS;
 - 5. FLOOR CLEANERS, FLOOR FINISHES, AND FLOOR

STRIPPERS;

- 6. HAND CLEANERS; AND
- **7. SOAP.**
- 6. WALL CLEANERS;
- 7. DESK CLEANERS;
- 8. SURFACE CLEANERS;
- 9. WINDOW CLEANERS;
- **<u>10.</u>** WHITEBOARD CLEANERS; AND
- <u>11.</u> <u>SOAP.</u>

(III) "GREEN PRODUCT CLEANING SUPPLIES" DO NOT

INCLUDE:

- <u>1.</u> <u>ROOM DEODORIZERS;</u>
- 2. <u>AIR FRESHENERS;</u>
- <u>3.</u> <u>TOILET DEODORIZERS; OR</u>
- 4. HAND CLEANERS.

(2) (i) **[**To**] SUBJECT TO SUBSECTION (F) OF THIS SECTION, TO** the extent practicable, and economically feasible, a county board shall procure green product cleaning supplies for use in its schools.

(ii) In accordance with subsection (b)(3) of this section, a county board shall draft specifications that provide a clear and accurate description of the functional characteristics or nature of the green product cleaning supplies that are to be procured.

(iii) The specifications drafted by a county board under subparagraph (ii) of this paragraph:

1. May not preclude the use when necessary of a disinfectant, disinfecting cleaner, sanitizer, or other antimicrobial product regulated by the Federal Insecticide, Fungicide, and Rodenticide Act under 7 U.S.C. § 136 et seq.; and

2. Shall allow for multiple avenues to obtain green product cleaning supplies certification, including:

A. [The United States Environmental Protection Agency's Design for the Environment Program (DfE);

B.] Green Seal, Green Label, Environmental Choice, [or U.S. Green Building Council] **TERRA CHOICE, OR ECOLOGO**; and

[C.] B. Any other [accreditation] <u>NATIONALLY</u> <u>RECOGNIZED</u> INDEPENDENT THIRD–PARTY <u>CERTIFIER</u> <u>ENTITY THAT CERTIFIES</u> <u>ENVIRONMENTALLY PREFERABLE PRODUCTS THAT</u> the county board determines to be appropriate.

(3) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, ON OR BEFORE JULY 1, 2013, A COUNTY BOARD SHALL ADOPT

WRITTEN POLICIES FOR THE PROCUREMENT OF GREEN PRODUCT CLEANING SUPPLIES FOR USE IN ITS SCHOOLS.

(II) THE WRITTEN POLICIES SHALL:

1. REQUIRE THE USE OF GREEN PRODUCT CLEANING SUPPLIES;

2. ESTABLISH ON OR BEFORE JULY 1, 2014, ESTABLISH GUIDELINES FOR PURCHASING GREEN PRODUCT CLEANING SUPPLIES THAT MEET THE CERTIFICATION REQUIREMENTS OF GREEN SEAL, GREEN LABEL, ENVIRONMENTAL CHOICE, OR ANY ESTABLISHED AND NATIONALLY RECOGNIZED INDEPENDENT THIRD-PARTY CERTIFIER ENTITY THAT CERTIFIES ENVIRONMENTALLY PREFERABLE PRODUCTS AND ADHERES TO CONSENSUS STANDARDS FOR LESSER OR REDUCED EFFECTS ON HUMAN HEALTH AND THE ENVIRONMENT WHEN COMPARED TO COMPETING PRODUCTS THAT SERVE THE SAME PURPOSE;

3. ESTABLISH GREEN CLEANING PRACTICES, INCLUDING STORAGE, APPLICATION, FREQUENCY OF USE, AND DISPOSAL OF THE SUPPLIES <u>TO ENSURE THAT THE OCCUPANTS OF A SCHOOL BUILDING DO</u> <u>NOT SUFFER ANY ADVERSE HEALTH EFFECTS AS THE RESULT OF THESE</u> <u>PRACTICES</u>; AND

4. **Require staff training on implementing** the policy.

(F) A ON OR BEFORE JUNE 30 EACH YEAR, A COUNTY BOARD THAT DOES NOT PROCURE GREEN PRODUCT CLEANING SUPPLIES FOR USE IN ITS SCHOOLS BECAUSE DOING SO IS NOT PRACTICABLE OR ECONOMICALLY FEASIBLE SHALL PROVIDE ANNUAL WRITTEN NOTICE OF THIS FACT TO THE DEPARTMENT.

[(f)] (G) Nonpublic schools may participate under any contracts for goods or commodities that are awarded by county boards, other public agencies, or intergovernmental purchasing organizations, if the lead agency for the contract award follows public bidding procedures.

[(g)] (H) A contract entered into or purchase made in violation of this section is void.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 568

(Senate Bill 739)

AN ACT concerning

Tax Credit Evaluation Act

FOR the purpose of establishing a legislative review and evaluation process for certain credits allowed against certain taxes; establishing dates for review and other legislative action with regard to certain tax credits; providing for termination of certain tax credits under certain circumstances; repealing certain obsolete tax credits; providing for the construction of certain provisions of this Act; and generally relating to a legislative review and evaluation process for certain credits allowed against certain taxes.

BY adding to

Article – Tax – General

Section 1–301 through 1–311 to be under the new subtitle "Subtitle 3. Tax Credit Evaluation Act" Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

BY repealing

Article – Labor and Employment
Section <u>11–704</u>; and 11–1101 through 11–1107 and the subtitle "Subtitle 11. Job Creation and Recovery Tax Credit"
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY repealing

Article – Tax – General Section 10–704.9, <u>10–704.10</u>, 10–713, 10–719, and 10–728 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

SUBTITLE 3. TAX CREDIT EVALUATION ACT.

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

(B) "EVALUATION" MEANS THE PROCESS OF LEGISLATIVE REVIEW OF A TAX CREDIT FOR WHICH THIS SUBTITLE PROVIDES.

(C) "EVALUATION COMMITTEE" MEANS A COMMITTEE THAT IS APPOINTED TO CARRY OUT AN EVALUATION.

"EVALUATION DATE" MEANS THE DATE ON WHICH AN EVALUATION (D) OF A TAX CREDIT IS TO BE COMPLETED.

(E) "TAX CREDIT" MEANS:

(1) A CREDIT ALLOWED AGAINST THE PUBLIC SERVICE COMPANY FRANCHISE TAX UNDER § 8 406(B), § 8 411, § 8 412, § 8 413, OR § 8 415 OF THIS ARTICLE:

(2) A CREDIT ALLOWED AGAINST THE INCOME TAX UNDER TITLE **10. SUBTITLE 7 OF THIS ARTICLE, NOT INCLUDING A CREDIT ALLOWED UNDER §** 10-701 OR § 10-701.1 OF THIS ARTICLE;

(3) A CREDIT ALLOWED AGAINST THE INSURANCE PREMIUM TAX **UNDER TITLE 6. SUBTITLE 1 OF THE INSURANCE ARTICLE:**

(4) A CREDIT ALLOWED UNDER TITLE 6, SUBTITLE 3 OR SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE:

(5) A CREDIT ALLOWED UNDER § 21-309 OR § 21-501 OF THE **EDUCATION ARTICLE;**

(6) THE CREDIT ALLOWED UNDER § 2-901 OF THE ENVIRONMENT **ARTICLE:**

(7) THE CREDIT ALLOWED UNDER § 6-404 OF THE HOUSING AND **COMMUNITY DEVELOPMENT ARTICLE:**

(8) THE CREDIT ALLOWED UNDER § 11-404 OF THE LABOR AND **EMPLOYMENT ARTICLE:**

(9) THE CREDIT ALLOWED UNDER § 5A-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE: AND

(10) A CREDIT ALLOWED UNDER § 9–103, § 9–230, § 9–317(E), § 9–318(D), OR § 9–326 OF THE TAX – PROPERTY ARTICLE.

1-302.

THE PURPOSES OF THIS SUBTITLE ARE TO:

(1) ESTABLISH A SYSTEM OF LEGISLATIVE REVIEW THAT WILL DETERMINE WHETHER A TAX CREDIT IS NECESSARY FOR THE PUBLIC INTEREST; AND

(2) ENSURE THAT THE LEGISLATIVE REVIEW TAKES PLACE BY ESTABLISHING, BY STATUTE, DATES FOR REVIEW AND OTHER LEGISLATIVE ACTION.

1-303.

(A) (1) IF A TAX CREDIT HAS A TERMINATION DATE PROVIDED FOR BY LAW, AN EVALUATION SHALL BE MADE OF THAT CREDIT ON OR BEFORE JULY 1 OF THE YEAR PRECEDING THE CALENDAR YEAR OF THE TERMINATION DATE.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS ON OR BEFORE THE DATES SPECIFIED IN SUBSECTIONS (B) THROUGH (E) OF THIS SECTION.

(B) ON OR BEFORE JULY 1, $\frac{2013}{2014}$, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

(1) § 10–702 OF THIS ARTICLE (WAGES PAID IN AN ENTERPRISE ZONE) AND § 9–103 OF THE TAX – PROPERTY ARTICLE (QUALIFIED PROPERTY IN AN ENTERPRISE ZONE); <u>AND</u>

(2) <u>TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT</u> <u>ARTICLE, § 6–119 OF THE INSURANCE ARTICLE, AND § 10–714 OF THIS ARTICLE</u> (ONE MARYLAND ECONOMIC DEVELOPMENT).

(2) § 10–703 OF THIS ARTICLE (TAX PAID BY INDIVIDUAL TO ANOTHER STATE);

(3) § 10–703.2 OF THIS ARTICLE (TAX PAID BY INDIVIDUAL TO ANOTHER STATE ON INSTALLMENT SALE);

(4) § 10–704 OF THIS ARTICLE (EARNED INCOME);

(5) §§ 8-406(B) AND 10-704.1 OF THIS ARTICLE (PURCHASE OF MARYLAND-MINED COAL);

(6) TITLE 6, SUBTITLE 3 OF THE ECONOMIC DEVELOPMENT ARTICLE, § 6-114 OF THE INSURANCE ARTICLE, AND §§ 8-411 AND 10-704.4 OF THIS ARTICLE (JOB CREATION):

(7) § 5A-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, § 6-105.2 OF THE INSURANCE ARTICLE, AND § 10-704.5 OF THIS **ARTICLE (SUSTAINABLE COMMUNITIES); AND**

(8) § 6–404 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE, § 6-105 OF THE INSURANCE ARTICLE, AND §§ 8-412 AND 10-704.6 OF THIS ARTICLE (NEIGHBORHOOD AND COMMUNITY ASSISTANCE **CONTRIBUTIONS).**

(B) (C) ON OR BEFORE JULY 1, 2014 2015, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

- (1) \$10-704 OF THIS ARTICLE (EARNED INCOME); AND
- (2) § 10-730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY).

(1) § 21-309 OF THE EDUCATION ARTICLE, § 6-115 OF THE INSURANCE ARTICLE, AND §§ 8-413 AND 10-704.7 OF THIS ARTICLE (QUALIFIED EMPLOYEES WITH DISABILITIES);

(2) § 11–704 OF THE LABOR AND EMPLOYMENT ARTICLE AND § **10-704.10 OF THIS ARTICLE (QUALIFIED EX-FELON EMPLOYEES);**

§ 9-230 OF THE TAX - PROPERTY ARTICLE, § 6-116 OF THE (3) **INSURANCE ARTICLE, AND § 10-704.8 OF THIS ARTICLE (NEW JOB CREATING BUSINESSES)**:

(4) <u>§§ 9-317(E), 9-318(D), AND 9-326 OF THE TAX – PROPERTY</u> ARTICLE AND § 10-707 OF THIS ARTICLE (RESIDENTIAL REAL ESTATE **PROPERTY**:

(5) § 10-708 OF THIS ARTICLE (TELECOMMUNICATION **BUSINESS)**:

> **§ 10–709 OF THIS ARTICLE (LOW INCOME); AND** (6)

(7) § 6–117 OF THE INSURANCE ARTICLE AND §§ 8–415 AND 10–710 OF THIS ARTICLE (EMPLOYER-PROVIDED LONG-TERM CARE INSURANCE).

(C) (D) ON OR BEFORE JULY 1, 2015 <u>2016</u>, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

(1) § 5A-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, § 6-105.2 OF THE INSURANCE ARTICLE, AND § 10-704.5 OF THIS ARTICLE (SUSTAINABLE COMMUNITIES); AND

(2) § 10–721 OF THIS ARTICLE (QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES).

(1) § 21-501 OF THE EDUCATION ARTICLE, § 6-118 OF THE INSURANCE ARTICLE, AND § 10-711 OF THIS ARTICLE (WORK-BASED LEARNING);

(2) TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE, § 6–119 OF THE INSURANCE ARTICLE, AND § 10–714 OF THIS ARTICLE (ONE MARYLAND ECONOMIC DEVELOPMENT);

(3) § 2–901 OF THE ENVIRONMENT ARTICLE, § 6–120 OF THE INSURANCE ARTICLE, AND § 10–715 OF THIS ARTICLE (EMPLOYEE COMMUTER BENEFITS);

(4) § 10–716 OF THIS ARTICLE (CHILD CARE OR DEPENDENT CARE);

(5) § 10–717 OF THIS ARTICLE (CLASSROOM TEACHER ADVANCED EDUCATION):

(6) § 10–718 OF THIS ARTICLE (LONG-TERM CARE PREMIUMS);

AND

(7) § 10–720 OF THIS ARTICLE (ELECTRICITY PRODUCED FROM QUALIFIED ENERGY RESOURCES).

(d) (<u>e</u>) On or before July 1, $\frac{2016}{2017}$, an evaluation shall be made of the tax credits under:

(1) § 9–230 OF THE TAX – PROPERTY ARTICLE, § 6–116 OF THE INSURANCE ARTICLE, AND § 10–704.8 OF THIS ARTICLE (NEW JOB CREATING BUSINESSES); AND

(2) § 10–726 OF THIS ARTICLE (BIOTECHNOLOGY INVESTMENT **INCENTIVE).**

(1) § 10-721 OF THIS ARTICLE (QUALIFIED RESEARCH AND **DEVELOPMENT EXPENSES**):

(2) § 10–722 OF THIS ARTICLE (GREEN BUILDINGS);

§ 10-723 OF THIS ARTICLE (PRESERVATION AND (3) **CONSERVATION EASEMENTS):**

(4) § 10–724 OF THIS ARTICLE (AQUACULTURE OYSTER FLOATS);

§ 10-725 OF THIS ARTICLE (BIOTECHNOLOGY INVESTMENT (5) INCENTIVE);

(6) § 10-726 OF THIS ARTICLE (CELLULOSIC ETHANOL TECHNOLOGY):

> **<u>§ 10–727 OF THIS ARTICLE (BIO-HEATING OIL);</u>** (7)

(8) § 10–729 OF THIS ARTICLE (ELECTRIC VEHICLE RECHARGING EQUIPMENT); AND

(9) § 10–730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY).

1 - 304.

(A) EVALUATION OF A TAX CREDIT SHALL BE COMPLETED BY AN EVALUATION COMMITTEE APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE.

EACH EVALUATION COMMITTEE FOR A TAX CREDIT SHALL BE **(B)** APPOINTED ON OR BEFORE MAY 31 OF THE YEAR BEFORE THE EVALUATION DATE OF THAT TAX MODIFICATION OR TAX EXEMPTION.

AN EVALUATION COMMITTEE SHALL INCLUDE AT LEAST ONE (C) MEMBER OF THE SENATE BUDGET AND TAXATION COMMITTEE AND AT LEAST ONE MEMBER OF THE HOUSE COMMITTEE ON WAYS AND MEANS.

1 - 305.

ON OR BEFORE JUNE 30 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, EACH EVALUATION COMMITTEE FOR THAT TAX CREDIT SHALL:

- (1) CONSULT WITH:
 - (I) THE DEPARTMENT OF BUDGET AND MANAGEMENT;
 - (II) THE DEPARTMENT OF LEGISLATIVE SERVICES; AND
 - (III) THE COMPTROLLER; AND

(IV) THE SECRETARY, OR THE SECRETARY'S DESIGNEE, OF THE DEPARTMENT THAT ADMINISTERS THE TAX CREDIT UNDER EVALUATION; AND

(2) PREPARE A PLAN FOR THE EVALUATION.

1-306.

DURING AN EVALUATION, THE COMPTROLLER AND THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL:

(1) PROVIDE PROMPTLY ANY INFORMATION THAT THE DEPARTMENT OF LEGISLATIVE SERVICES OR AN EVALUATION COMMITTEE REQUESTS; AND

(2) OTHERWISE COOPERATE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES AND THE EVALUATION COMMITTEE.

1-307.

(A) (1) SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE OCTOBER 31 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL SUBMIT TO THE GENERAL ASSEMBLY AN EVALUATION REPORT ON THE TAX CREDIT.

(2) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL MAKE COPIES OF THE REPORT AVAILABLE TO THE PUBLIC.

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

(1) THE PURPOSE FOR WHICH THE TAX CREDIT WAS ESTABLISHED;

(2) WHETHER THE ORIGINAL INTENT OF THE TAX CREDIT IS STILL APPROPRIATE;

(3) WHETHER THE TAX CREDIT IS MEETING ITS OBJECTIVES;

(4) WHETHER THE PURPOSES OF THE TAX CREDIT COULD BE MORE EFFICIENTLY AND EFFECTIVELY CARRIED OUT THROUGH ALTERNATIVE METHODS; AND

(5) THE COSTS OF PROVIDING THE TAX CREDIT, INCLUDING THE ADMINISTRATIVE COST TO THE STATE AND LOST REVENUES TO THE STATE AND LOCAL GOVERNMENTS.

1-308.

ON OR BEFORE DECEMBER 14 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, THE EVALUATION COMMITTEE SHALL HOLD A PUBLIC HEARING TO RECEIVE, FROM THE COMPTROLLER AND THE PUBLIC, TESTIMONY REGARDING THE EVALUATION REPORT.

1-309.

(A) SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE THE 20TH DAY OF THE REGULAR SESSION OF THE GENERAL ASSEMBLY IN THE YEAR OF THE EVALUATION DATE OF A TAX CREDIT, THE EVALUATION COMMITTEE FOR THE TAX CREDIT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY.

(B) (1) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL RECOMMEND WHETHER THE TAX CREDIT SHOULD BE REESTABLISHED, WITH OR WITHOUT CHANGES, OR ALLOWED TO TERMINATE CONTINUED, WITH OR WITHOUT CHANGES, OR TERMINATED.

(2) THE REPORT SHALL BE ACCOMPANIED BY <u>EACH BILL</u> <u>ANY</u> <u>LEGISLATION</u> THAT IS NEEDED TO ACCOMPLISH THE RECOMMENDATIONS IN THE REPORT.

1-310.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A TAX CREDIT IS NOT REESTABLISHED BY LAW ON OR BEFORE THE DATE FOR ITS EVALUATION UNDER § 1–303 OF THIS SUBTITLE, IT SHALL TERMINATE. (B) THE REESTABLISHMENT <u>CONTINUATION</u> OF A TAX CREDIT DESIGNATED FOR EVALUATION UNDER THIS SUBTITLE IS FOR A 5–YEAR PERIOD AND IS SUBJECT TO REEVALUATION 5 YEARS AFTER THE PREVIOUS EVALUATION, UNLESS THE LAW THAT PROVIDES FOR REESTABLISHMENT SETS ANOTHER PERIOD IS SET BY LAW.

(C) AFTER THE PERIOD OF REESTABLISHMENT EXPIRES, THE TAX CREDIT TERMINATES AS PROVIDED BY LAW UNLESS THE TAX CREDIT IS REESTABLISHED.

1-311.

THIS SUBTITLE MAY BE CITED AS THE "TAX CREDIT EVALUATION ACT".

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) <u>11–704</u>; and 11–1101 through 11–1107 and the subtitle "Subtitle 11. Job Creation and Recovery Tax Credit" of Article – Labor and Employment of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 10-704.9, 10-704.10, 10-713, 10-719, and 10-728 of Article – Tax – General of the Annotated Code of Maryland be repealed.

SECTION 4. AND BE IT FURTHER ENACTED, That the termination of a credit in accordance with the provisions of Title 1, Subtitle 3 of the Tax – General Article, as enacted by Section 1 of this Act, or the repeal of an obsolete tax credit under Section 2 or Section 3 of this Act may not be construed to prevent the filing, after the date of the repeal of the credit, of a tax return that is filed to claim or carry forward a credit earned before the date of the termination or repeal of the credit as in effect immediately before the date of the termination or repeal of the credit.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 569

(House Bill 764)

AN ACT concerning

Tax Credit Evaluation Act

FOR the purpose of establishing a legislative review and evaluation process for certain credits allowed against certain taxes; establishing dates for review and other legislative action with regard to certain tax credits; providing for termination of certain tax credits under certain circumstances; repealing certain obsolete tax credits; providing for the construction of certain provisions of this Act; and generally relating to a legislative review and evaluation process for certain credits allowed against certain taxes.

BY adding to

Article – Tax – General
Section 1–301 through 1–311 to be under the new subtitle "Subtitle 3. Tax Credit Evaluation Act"
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing

Article – Labor and Employment
Section <u>11–704</u>; and 11–1101 through 11–1107 and the subtitle "Subtitle 11. Job Creation and Recovery Tax Credit"
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY repealing

Article – Tax – General Section 10–704.9, <u>10–704.10</u>, 10–713, 10–719, and 10–728 Annotated Code of Maryland (2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

SUBTITLE 3. TAX CREDIT EVALUATION ACT.

1-301.

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

(B) "EVALUATION" MEANS THE PROCESS OF LEGISLATIVE REVIEW OF A TAX CREDIT FOR WHICH THIS SUBTITLE PROVIDES.

(C) "EVALUATION COMMITTEE" MEANS A COMMITTEE THAT IS APPOINTED TO CARRY OUT AN EVALUATION.

(D) "EVALUATION DATE" MEANS THE DATE ON WHICH AN EVALUATION OF A TAX CREDIT IS TO BE COMPLETED.

(E) "TAX CREDIT" MEANS:

(1) A CREDIT ALLOWED AGAINST THE PUBLIC SERVICE COMPANY FRANCHISE TAX UNDER § 8–406(B), § 8–411, § 8–412, § 8–413, OR § 8–415 OF THIS ARTICLE;

(2) A CREDIT ALLOWED AGAINST THE INCOME TAX UNDER TITLE 10, SUBTITLE 7 OF THIS ARTICLE, NOT INCLUDING A CREDIT ALLOWED UNDER § 10–701 OR § 10–701.1 OF THIS ARTICLE;

(3) A CREDIT ALLOWED AGAINST THE INSURANCE PREMIUM TAX UNDER TITLE 6, SUBTITLE 1 OF THE INSURANCE ARTICLE;

(4) A CREDIT ALLOWED UNDER TITLE 6, SUBTITLE 3 OR SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE;

(5) A CREDIT ALLOWED UNDER § 21–309 OR § 21–501 OF THE EDUCATION ARTICLE;

(6) THE CREDIT ALLOWED UNDER § 2–901 OF THE ENVIRONMENT ARTICLE;

(7) THE CREDIT ALLOWED UNDER § 6–404 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;

(8) THE CREDIT ALLOWED UNDER § 11-404 OF THE LABOR AND EMPLOYMENT ARTICLE;

(9) THE CREDIT ALLOWED UNDER § 5A-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(10) A CREDIT ALLOWED UNDER § 9–103, § 9–230, § 9–317(E), § 9–318(D), OR § 9–326 OF THE TAX – PROPERTY ARTICLE.

1-302.

THE PURPOSES OF THIS SUBTITLE ARE TO:

(1) ESTABLISH A SYSTEM OF LEGISLATIVE REVIEW THAT WILL DETERMINE WHETHER A TAX CREDIT IS NECESSARY FOR THE PUBLIC INTEREST; AND

(2) ENSURE THAT THE LEGISLATIVE REVIEW TAKES PLACE BY ESTABLISHING, BY STATUTE, DATES FOR REVIEW AND OTHER LEGISLATIVE ACTION.

1 - 303.

(A) (1) IF A TAX CREDIT HAS A TERMINATION DATE PROVIDED FOR BY LAW, AN EVALUATION SHALL BE MADE OF THAT CREDIT ON OR BEFORE JULY 1 OF THE YEAR PRECEDING THE CALENDAR YEAR OF THE TERMINATION DATE.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS ON OR BEFORE THE DATES SPECIFIED IN SUBSECTIONS (B) THROUGH (E) OF THIS SECTION.

ON OR BEFORE JULY 1, 2013 2014, AN EVALUATION SHALL BE **(B)** MADE OF THE TAX CREDITS UNDER:

§ 10–702 OF THIS ARTICLE (WAGES PAID IN AN ENTERPRISE (1) ZONE) AND § 9–103 OF THE TAX – PROPERTY ARTICLE (QUALIFIED PROPERTY IN AN ENTERPRISE ZONE); AND

(2) TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE, § 6–119 OF THE INSURANCE ARTICLE, AND § 10–714 OF THIS ARTICLE (ONE MARYLAND ECONOMIC DEVELOPMENT).

(2) § 10-703 OF THIS ARTICLE (TAX PAID BY INDIVIDUAL TO ANOTHER STATE);

(3) § 10-703.2 OF THIS ARTICLE (TAX PAID BY INDIVIDUAL TO ANOTHER STATE ON INSTALLMENT SALE);

(4) § 10–704 OF THIS ARTICLE (EARNED INCOME);

(5) §§ 8-406(B) AND 10-704.1 OF THIS ARTICLE (PURCHASE OF MARYLAND-MINED COAL): § 10-730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY);

(6) TITLE 6, SUBTITLE 3 OF THE ECONOMIC DEVELOPMENT ARTICLE, § 6–114 OF THE INSURANCE ARTICLE, AND §§ 8–411 AND 10–704.4 OF THIS ARTICLE (JOB CREATION);

(7) § 5A-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, § 6-105.2 OF THE INSURANCE ARTICLE, AND § 10-704.5 OF THIS ARTICLE (SUSTAINABLE COMMUNITIES); AND

(8) § 6–404 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE, § 6–105 OF THE INSURANCE ARTICLE, AND §§ 8–412 AND 10–704.6 OF THIS ARTICLE (NEIGHBORHOOD AND COMMUNITY ASSISTANCE CONTRIBUTIONS).

(B) (C) ON OR BEFORE JULY 1, 2014 2015, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

- (1) § 10–704 OF THIS ARTICLE (EARNED INCOME); AND
- (2) § 10–730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY).

(1) § 21–309 OF THE EDUCATION ARTICLE, § 6–115 OF THE INSURANCE ARTICLE, AND §§ 8–413 AND 10–704.7 OF THIS ARTICLE (QUALIFIED EMPLOYEES WITH DISABILITIES);

(2) § 11–704 of the Labor and Employment Article and § 10–704.10 of this article (qualified ex-felon employees) §§ 8–406(b) AND 10–704.1 of this article (purchase of Maryland-mined coal);

(3) § 9-230 OF THE TAX – PROPERTY ARTICLE, § 6-116 OF THE INSURANCE ARTICLE, AND § 10-704.8 OF THIS ARTICLE (NEW JOB CREATING BUSINESSES);

(4) §§ 9-317(E), 9-318(D), AND 9-326 OF THE TAX – PROPERTY ARTICLE AND § 10-707 OF THIS ARTICLE (RESIDENTIAL REAL ESTATE PROPERTY);

(5) § 10-708 OF THIS ARTICLE (TELECOMMUNICATION BUSINESS);

(6) § 10–709 OF THIS ARTICLE (LOW INCOME); AND

(7) § 6-117 OF THE INSURANCE ARTICLE AND §§ 8-415 AND 10-710 OF THIS ARTICLE (EMPLOYER-PROVIDED LONG TERM CARE INSURANCE). (C) (D) ON OR BEFORE JULY 1, 2015 2016, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

(1) § 5A-303 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, § 6-105.2 OF THE INSURANCE ARTICLE, AND § 10-704.5 OF THIS ARTICLE (SUSTAINABLE COMMUNITIES); AND

(2) § 10–721 OF THIS ARTICLE (QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES).

(1) § 21-501 OF THE EDUCATION ARTICLE, § 6-118 OF THE INSURANCE ARTICLE, AND § 10-711 OF THIS ARTICLE (WORK-BASED LEARNING);

(2) TITLE 6, SUBTITLE 4 OF THE ECONOMIC DEVELOPMENT ARTICLE, § 6–119 OF THE INSURANCE ARTICLE, AND § 10–714 OF THIS ARTICLE (ONE MARYLAND ECONOMIC DEVELOPMENT);

(3) § 2–901 OF THE ENVIRONMENT ARTICLE, § 6–120 OF THE INSURANCE ARTICLE, AND § 10–715 OF THIS ARTICLE (EMPLOYEE COMMUTER BENEFITS);

(4) § 10-716 OF THIS ARTICLE (CHILD CARE OR DEPENDENT

CARE);

(5) § 10–717 OF THIS ARTICLE (CLASSROOM TEACHER ADVANCED EDUCATION);

(6) § 10–718 OF THIS ARTICLE (LONG TERM CARE PREMIUMS);

AND

(7) § 10–720 OF THIS ARTICLE (ELECTRICITY PRODUCED FROM QUALIFIED ENERGY RESOURCES).

(D) (E) ON OR BEFORE JULY 1, 2016 2017, AN EVALUATION SHALL BE MADE OF THE TAX CREDITS UNDER:

(1) § 9–230 of the Tax – Property Article, § 6–116 of the Insurance Article, and § 10–704.8 of this article (new Job creating BUSINESSES); and

(2) § 10–726 OF THIS ARTICLE (BIOTECHNOLOGY INVESTMENT INCENTIVE) (1) § 10–721 OF THIS ARTICLE (QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES);

(2) § 10–722 OF THIS ARTICLE (GREEN BUILDINGS);

(3) § 10-723 OF THIS ARTICLE (PRESERVATION AND CONSERVATION EASEMENTS);

(4) § 10–724 OF THIS ARTICLE (AQUACULTURE OYSTER FLOATS);

(5) § 10-725 OF THIS ARTICLE (BIOTECHNOLOGY INVESTMENT INCENTIVE);

(6) § 10–726 OF THIS ARTICLE (CELLULOSIC ETHANOL TECHNOLOGY);

(7) § 10–727 OF THIS ARTICLE (BIO-HEATING OIL); AND

(8) § 10–729 OF THIS ARTICLE (ELECTRIC VEHICLE RECHARGING EQUIPMENT); AND

(9) § 10–730 OF THIS ARTICLE (FILM PRODUCTION ACTIVITY).

1-304.

(A) EVALUATION OF A TAX CREDIT SHALL BE COMPLETED BY AN EVALUATION COMMITTEE APPOINTED JOINTLY BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE.

(B) EACH EVALUATION COMMITTEE FOR A TAX CREDIT SHALL BE APPOINTED ON OR BEFORE MAY 31 OF THE YEAR BEFORE THE EVALUATION DATE OF THAT TAX MODIFICATION OR TAX EXEMPTION.

(C) AN EVALUATION COMMITTEE SHALL INCLUDE AT LEAST ONE MEMBER OF THE SENATE BUDGET AND TAXATION COMMITTEE AND AT LEAST ONE MEMBER OF THE HOUSE COMMITTEE ON WAYS AND MEANS.

1-305.

ON OR BEFORE JUNE 30 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, EACH EVALUATION COMMITTEE FOR THAT TAX CREDIT SHALL:

(1) CONSULT WITH:

- (I) THE DEPARTMENT OF BUDGET AND MANAGEMENT;
- (II) THE DEPARTMENT OF LEGISLATIVE SERVICES; AND
- (III) THE COMPTROLLER; AND

(IV) THE SECRETARY, OR THE SECRETARY'S DESIGNEE, OF THE DEPARTMENT THAT ADMINISTERS THE TAX CREDIT UNDER EVALUATION; AND

(2) PREPARE A PLAN FOR THE EVALUATION.

1-306.

DURING AN EVALUATION, THE COMPTROLLER AND THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL:

(1) PROVIDE PROMPTLY ANY INFORMATION THAT THE DEPARTMENT OF LEGISLATIVE SERVICES OR AN EVALUATION COMMITTEE REQUESTS; AND

(2) OTHERWISE COOPERATE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES AND THE EVALUATION COMMITTEE.

1-307.

(A) (1) SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE OCTOBER 31 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL SUBMIT TO THE GENERAL ASSEMBLY AN EVALUATION REPORT ON THE TAX CREDIT.

(2) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL MAKE COPIES OF THE REPORT AVAILABLE TO THE PUBLIC.

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

(1) THE PURPOSE FOR WHICH THE TAX CREDIT WAS ESTABLISHED;

(2) WHETHER THE ORIGINAL INTENT OF THE TAX CREDIT IS STILL APPROPRIATE;

(3) WHETHER THE TAX CREDIT IS MEETING ITS OBJECTIVES;

(4) WHETHER THE PURPOSES OF THE TAX CREDIT COULD BE MORE EFFICIENTLY AND EFFECTIVELY CARRIED OUT THROUGH ALTERNATIVE METHODS; AND

(5) THE COSTS OF PROVIDING THE TAX CREDIT, INCLUDING THE ADMINISTRATIVE COST TO THE STATE AND LOST REVENUES TO THE STATE AND LOCAL GOVERNMENTS.

1-308.

ON OR BEFORE DECEMBER 14 OF THE YEAR BEFORE THE EVALUATION DATE OF A TAX CREDIT, THE EVALUATION COMMITTEE SHALL HOLD A PUBLIC HEARING TO RECEIVE, FROM THE COMPTROLLER AND THE PUBLIC, TESTIMONY REGARDING THE EVALUATION REPORT.

1-309.

(A) SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE THE 20TH DAY OF THE REGULAR SESSION OF THE GENERAL ASSEMBLY IN THE YEAR OF THE EVALUATION DATE OF A TAX CREDIT, THE EVALUATION COMMITTEE FOR THE TAX CREDIT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY.

(B) (1) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL RECOMMEND WHETHER THE TAX CREDIT SHOULD BE REESTABLISHED, WITH OR WITHOUT CHANGES, OR ALLOWED TO TERMINATE CONTINUED, WITH OR WITHOUT CHANGES, OR TERMINATED.

(2) THE REPORT SHALL BE ACCOMPANIED BY <u>EACH BILL</u> <u>ANY</u> <u>LEGISLATION</u> THAT IS NEEDED TO ACCOMPLISH THE RECOMMENDATIONS IN THE REPORT.

1-310.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A TAX CREDIT IS NOT REESTABLISHED BY LAW ON OR BEFORE THE DATE FOR ITS EVALUATION UNDER § 1–303 OF THIS SUBTITLE, IT SHALL TERMINATE.

(B) THE REESTABLISHMENT CONTINUATION OF A TAX CREDIT DESIGNATED FOR EVALUATION UNDER THIS SUBTITLE IS FOR A 5–YEAR PERIOD AND IS SUBJECT TO REEVALUATION 5 YEARS AFTER THE PREVIOUS EVALUATION, UNLESS THE-LAW THAT PROVIDES FOR REESTABLISHMENT SETS ANOTHER PERIOD IS SET BY LAW.

(C) AFTER THE PERIOD OF REESTABLISHMENT EXPIRES, THE TAX CREDIT TERMINATES AS PROVIDED BY LAW UNLESS THE TAX CREDIT IS REESTABLISHED.

1–311.

THIS SUBTITLE MAY BE CITED AS THE "TAX CREDIT EVALUATION ACT".

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) <u>11–704</u>; and 11–1101 through 11–1107 and the subtitle "Subtitle 11. Job Creation and Recovery Tax Credit" of Article – Labor and Employment of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 10-704.9, 10-704.10, 10-713, 10-719, and 10-728 of Article – Tax – General of the Annotated Code of Maryland be repealed.

SECTION 4. AND BE IT FURTHER ENACTED, That the termination of a credit in accordance with the provisions of Title 1, Subtitle 3 of the Tax – General Article, as enacted by Section 1 of this Act, or the repeal of an obsolete tax credit under Section 2 or Section 3 of this Act may not be construed to prevent the filing, after the date of the repeal of the credit, of a tax return that is filed to claim or carry forward a credit earned before the date of the termination or repeal of the credit in accordance with the provisions of law governing the credit as in effect immediately before the date of the termination or repeal of the credit.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 570

(Senate Bill 745)

AN ACT concerning

Injured Workers' Insurance Fund – Conversion to Chesapeake Employers' Insurance Company

FOR the purpose of converting the Injured Workers' Insurance Fund into a statutorily created, private, nonprofit, and nonstock workers' compensation insurer to be named the Chesapeake Employers' Insurance Company; requiring the Company

to file certain documents and take certain actions before a certain transfer date; providing that the Company has certain powers, privileges, and immunities granted by and is subject to certain provisions imposed on certain insurers; requiring the Company to be authorized, examined, and regulated by the Maryland Insurance Commissioner in a certain matter and to a certain extent and to be subject to certain provisions of law; providing that the Company is a member of the Property and Casualty Insurance Guaranty Corporation; requiring the Company to be an authorized insurer and, on and after a certain date, a certain insurer of last resort; requiring the Fund, before a certain date, to serve as the workers' compensation insurer of last resort and as a competitive workers' compensation insurer under certain terms and conditions; specifying the circumstances under which the Company may cancel or refuse to renew or issue a policy; authorizing the Company to engage only in a certain business; establishing the Board for the Chesapeake Employers' Insurance Company; requiring the Board to adopt a certain schedule of premium rates; requiring the Commissioner to review certain rates for a certain purpose; requiring the Board to manage the business and affairs of the Company as a private, nonprofit corporation; specifying the qualifications and terms of members of the Board; requiring the Board to adopt rules, bylaws, and procedures; authorizing the Board to declare a policyholder dividend in a certain form under certain circumstances; providing that the Company is independent of State government and that the employees of the Company are not State employees and not members of the State Retirement and Pension System; providing that the money of the Company is not part of the General Fund of the State; providing that the State may not budget for or provide General Fund appropriations to the Company; providing that the debts, claims, obligations, and liabilities of the Company are not a debt of the State or a pledge of the credit of the State; requiring the Board to attempt to use minority business enterprises under certain circumstances for certain brokerage and investment management services; requiring the Board to submit a certain report on or before a certain date each year; requiring, on a certain date, that certain functions, powers, duties, assets, property, accounts, liabilities, contracts, and obligations be irrevocably transferred to the Company; prohibiting a certain contract or agreement with the State from being transferred or assigned to the Company until a certain time; requiring the Fund to retain certain assets; prohibiting the Company from being converted to a mutual or stock company, being sold, or being dissolved; providing that the Fund is an instrumentality of the State; requiring, on and after a certain date, the Company, and not the Fund, to serve as a certain insurer of last resort in a certain manner before a certain date; providing that the Fund shall continue to exist on and after a certain date; prohibiting the Fund from issuing certain policies or engaging in a certain business except through the Company on and after a certain date; authorizing the Fund to continue to be a certain third party administrator on and after a certain date; requiring the Company to utilize certain employees; authorizing requiring the Fund to utilize certain employees; requiring the Fund to maintain a certain payroll and human resources system and be responsible for paying certain taxes and contributions and paying for certain benefits; providing that

employees of the Fund may be assigned to perform certain functions of the Company; requiring the Company and the Fund to execute a certain agreement; prohibiting the Fund from hiring certain employees on and after a certain date; authorizing certain employees to remain employees of the Fund and continue to be State employees on and after a certain date; providing that certain employees of the Fund may not be required to be employees of the Company; authorizing certain employees to make a certain election; requiring the Board for the Fund to manage the business and affairs of the Fund in a certain manner; providing that members of the Board for the Fund continue to serve a certain term and serve on the Board for the Company under certain terms and conditions; requiring the Board for the Fund to be subject to certain rules, bylaws, and procedures; authorizing requiring the President of the Fund to be the President of the Company; requiring the Fund to remain in existence under certain circumstances; providing for the termination of the Fund; repealing certain provisions relating to the Fund that are obsolete upon the conversion of the Fund to the Company; requiring the Fund to pay, on and after a certain date, certain amounts to the Employees' Retirement System or the Employees' Pension System on behalf of certain employees; requiring the Fund to pay a certain withdrawal liability contribution beginning on or before a certain date and each year thereafter; defining certain terms; stating certain findings of the General Assembly; providing that the Company is the successor of the Fund, the Board for the Company is the successor of the Board for the Fund, and the President of the Company is the successor of the President of the Fund; requiring that certain names and titles of certain agencies and officials mean the names and titles of the successor agency or official; providing that certain forms and documents may be used by the Company; providing that certain functions, powers, duties, equipment, assets, and liabilities be transferred to the Company on a certain date; providing that compliance with certain provisions of law is not required until a certain time requiring the Maryland Insurance Administration to study, in consultation with certain persons and entities, whether the Company should be subject to a certain rating law; requiring the Administration to report on or before a certain date on certain findings and recommendations; defining certain terms; stating a certain intent of the General Assembly; requiring the publisher of the Annotated Code, in consultation with the Department of Legislative Services, to make certain corrections in the Code; requiring the Administration to contract with a certain firm to conduct a certain study; requiring the study to consider the fair value of certain financial contributions and benefits; specifying the items that the study is required to consider in determining a certain fair value; requiring a certain firm, in conducting a certain study, to consult with certain persons; requiring the Administration to require a certain firm to report certain findings and conclusions to the Administration before a certain date; requiring the Administration to report the firm's findings and conclusions to certain legislative committees on or before a certain date; requiring the Administration to contract with certain consultants to conduct a certain assessment under certain circumstances; providing that the Company shall owe a certain debt to the General Fund under certain circumstances; specifying the manner in which the Company must pay the debt; requiring the Fund to be responsible for the payment of the costs of a certain study and a certain assessment; requiring the Fund and the Board of Trustees for the State Retirement and Pension System to enter into a certain agreement on or before a certain date; requiring the Fund to be responsible for the payment of certain costs incurred in calculating a certain <u>Hability</u> liabilities; requiring the Fund to begin paying a certain amount to the State Employee and Retiree Health and Welfare Benefits Fund on or before a certain date; requiring the Injured Workers' Insurance Fund and the Department of Budget and Management, on or before a certain date, to enter into a memorandum of agreement establishing the terms, conditions, and schedule for certain payments by the Fund; making this Act an emergency measure; providing for the effective dates of certain provisions of this Act; and generally relating to the conversion of the Injured Workers' Insurance Fund to the Chesapeake Employers' Insurance Company.

BY adding to

Article – Insurance

Section 24–301 through <u>24–311</u> <u>24–312</u> to be under the new subtitle "Subtitle 3. Chesapeake Employers' Insurance Company" and the amended title "Title 24. State Created Mutual Societies and Other Entities" Annotated Code of Maryland

(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 10–101, 10–104, 10–107, 10–109, and 10–113 Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

BY repealing

Article - Labor and Employment

The part designation "Part I. Definitions" immediately preceding Section 10–101; and Section 10–105, 10–106, and 10–108 and the part "Part II. Fund"; 10–110, 10–111, 10–112, and 10–114 and the part "Part III. Board"; 10–117, 10–118, 10–120, 10–121, 10–122, 10–125, 10–126, and 10–127 and the part "Part IV. Purposes and Administration of Fund"; 10–130, 10–131, 10–132, 10–133, 10–134, 10–135, 10–136, 10–137, and 10–138 and the part "Part V. Insurance Program"; and 10–141 and the part "Part VI. Prohibited Acts; Penalty"

Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Labor and Employment Section 10–103 and 10–107 Annotated Code of Maryland (2008 Replacement Volume and 2011 Supplement) BY adding to

<u>Article – State Personnel and Pensions</u> <u>Section 21–307(p)</u> <u>Annotated Code of Maryland</u> (2009 Replacement Volume and 2011 Supplement)

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

Article – Insurance

Title 24. State Created Mutual Societies AND OTHER ENTITIES.

SUBTITLE 3. CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.

24-301.

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

(B) "BOARD" MEANS THE BOARD FOR THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.

(C) "COMPANY" MEANS THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.

(D) "FUND" MEANS THE INJURED WORKERS' INSURANCE FUND ESTABLISHED UNDER TITLE 10 OF THE LABOR AND EMPLOYMENT ARTICLE.

24-302.

THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

(1) EMPLOYERS' ACCESS TO AFFORDABLE WORKERS' COMPENSATION INSURANCE IS OF UTMOST IMPORTANCE TO THE ECONOMY OF THE STATE;

(2) THE FUND HAS BEEN THE STATE'S INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE SINCE 1914;

(3) SINCE ITS CREATION, THE FUND WAS PERMITTED TO COMPETE WITH THE PRIVATE INSURANCE MARKET; HOWEVER, THE FUND DID NOT BECOME AN EFFECTIVE COMPETITIVE INSURER UNTIL THE GENERAL ASSEMBLY EXEMPTED THE FUND FROM MOST LAWS THAT APPLY TO STATE GOVERNMENT AGENCIES AND REQUIRED THE FUND TO BE A REGULATED INSURER;

(4) THE MOST EFFECTIVE WAY TO ENSURE THAT MARYLAND'S WORKERS' COMPENSATION SYSTEM REMAINS STABLE AND AFFORDABLE IS TO ENCOURAGE AND CREATE AS MUCH COMPETITION IN THE MARKETPLACE AS POSSIBLE;

(5) THE LONG-TERM COMPETITIVE SUCCESS OF THE FUND WOULD BE ENHANCED IF THE FINAL BARRIERS TO FULL COMPETITION WERE ELIMINATED BY CONVERTING THE FUND INTO A FULLY COMPETITIVE, FULLY REGULATED, PRIVATE INSURER;

(6) CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT INSURER WOULD LEVEL THE COMPETITIVE PLAYING FIELD FOR ALL WORKERS' COMPENSATION INSURERS OPERATING IN THE STATE;

(7) CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT INSURER WOULD PROVIDE ASSURANCE TO MARYLAND EMPLOYERS THAT THE FINANCIAL SUCCESS OF THE FUND WOULD INURE TO THEIR BENEFIT AS POLICYHOLDERS THROUGH DIVIDENDS AND LOWER RATES AND THAT SURPLUS FUNDS COULD NOT BE TRANSFERRED TO THE STATE'S GENERAL FUND;

(8) THE INTERESTS OF THE STATE WOULD BE PROTECTED IF THE FUND'S STATUTORY PURPOSE OF INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE IS PRESERVED AND THE GOVERNOR RETAINS THE RIGHT TO APPOINT THE MEMBERS OF THE BOARD OF THE NEW COMPANY;

(9) (I) THE INTERESTS OF THE EMPLOYEES OF THE FUND WOULD BE SATISFIED BY ENSURING THAT CURRENT EMPLOYEES HAVE THE OPTION TO REMAIN STATE EMPLOYEES OF THE FUND AFTER THE CONVERSION OF THE FUND TO A PRIVATE, NONSTOCK, NONPROFIT INSURER; AND

(II) THE INTERESTS OF EMPLOYEES OF THE FUND WOULD FURTHER BE SATISFIED BY ENSURING THAT CURRENT LONG-TERM STATE EMPLOYEES WHO REMAIN STATE EMPLOYEES OF THE FUND AFTER THE CONVERSION OF THE FUND TO A PRIVATE, NONSTOCK, NONPROFIT INSURER SHALL REMAIN IN THE STATE RETIREMENT SYSTEM AND, THEREFORE, WOULD NOT BE UNFAIRLY PENALIZED BY BEING PREMATURELY FORCED OUT OF THE STATE RETIREMENT SYSTEM DUE TO THE CONVERSION; AND

(10) THE INTERESTS OF THE RESIDENTS OF THE STATE, BOTH EMPLOYERS AND EMPLOYEES, WILL BE BEST MET BY CONVERTING THE FUND INTO A PRIVATE, NONSTOCK, NONPROFIT, FULLY REGULATED, COMPETITIVE INSURER.

24-303.

(A) THERE IS A CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.

(B) THE COMPANY SHALL BE:

(1) A PRIVATE, NONPROFIT, NONSTOCK COMPANY CORPORATION ORGANIZED UNDER STATE LAW; AND

(2) SUBJECT TO THE APPLICABLE PROVISIONS OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE AS A NONSTOCK COMPANY CORPORATION.

(C) BEFORE MARCH OCTOBER 1, 2013, THE COMPANY SHALL:

(1) FILE ARTICLES OF INCORPORATION UNDER THE CORPORATIONS AND ASSOCIATIONS ARTICLE; AND

(2) TAKE ALL STEPS NECESSARY TO BE A PRIVATE, NONPROFIT, NONSTOCK <u>COMPANY</u> <u>CORPORATION</u> ORGANIZED UNDER STATE LAW.

24-304.

(A) BEFORE MARCH OCTOBER 1, 2013, THE COMPANY SHALL:

(1) FILE AN APPLICATION FOR A CERTIFICATE OF AUTHORITY UNDER THIS ARTICLE <u>AND A STATEMENT OF THE RISK-BASED CAPITAL LEVELS</u> <u>OF THE COMPANY AS OF THE DATE OF THE APPLICATION PREPARED IN</u> <u>ACCORDANCE WITH § 4–303 OF THIS ARTICLE; AND</u>

(2) TAKE ALL STEPS NECESSARY TO BE AN AUTHORIZED DOMESTIC INSURER UNDER STATE LAW.

(B) ON APPROVAL OF THE APPLICATION FOR A CERTIFICATE OF AUTHORITY, THE COMMISSIONER SHALL ISSUE TO THE COMPANY A CERTIFICATE OF AUTHORITY THAT AUTHORIZES THE COMPANY TO ISSUE POLICIES UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE COMPANY HAS THE POWERS, PRIVILEGES, AND IMMUNITIES GRANTED BY AND

IS SUBJECT TO THE PROVISIONS APPLICABLE TO INSURERS AUTHORIZED TO WRITE WORKERS' COMPENSATION INSURANCE UNDER THIS ARTICLE.

(D) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE COMPANY SHALL BE:

(1) AUTHORIZED, EXAMINED, AND REGULATED BY THE COMMISSIONER IN THE SAME MANNER AND TO THE SAME EXTENT AS OTHER AUTHORIZED PROPERTY AND CASUALTY INSURERS; AND

(2) <u>SUBJECT TO EACH PROVISION OF THIS ARTICLE THAT IS</u> <u>APPLICABLE TO OTHER AUTHORIZED PROPERTY AND CASUALTY INSURERS.</u>

(D) (E) THE COMPANY IS A MEMBER OF THE PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION.

24-305.

(A) <u>THE COMPANY IS NOT SUBJECT TO TITLE 11 OF THIS ARTICLE.</u>

(B) <u>THE BOARD SHALL:</u>

(1) ADOPT A SCHEDULE OF PREMIUM RATES IN ACCORDANCE WITH SOUND ACTUARIAL PRACTICES; AND

(2) ENSURE THAT THE RATES ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

(C) (1) THE BOARD SHALL DETERMINE THE SCHEDULE OF PREMIUM RATES BY:

(I) <u>CLASSIFYING ALL OF THE POLICYHOLDERS OF THE</u> <u>COMPANY ON THE BASIS OF THE RESPECTIVE LEVEL OF HAZARD OF THEIR</u> <u>ENTERPRISES; AND</u>

(II) SETTING A PREMIUM RATE FOR EACH CLASS ON THE

BASIS OF:

- 1. ITS LEVEL OF HAZARD; AND
- 2. INCENTIVES TO PREVENT INJURIES TO

EMPLOYEES.

(2) TO DETERMINE THE SCHEDULE OF PREMIUM RATES, THE BOARD SHALL USE THE RATING SYSTEM THAT, IN THE OPINION OF THE BOARD:

(I) MOST ACCURATELY MEASURES THE LEVEL OF HAZARD FOR EACH POLICYHOLDER ON THE BASIS OF THE NUMBER OF INJURIES THAT OCCUR IN THE ENTERPRISES OF THE POLICYHOLDER;

(II) ENCOURAGES THE PREVENTION OF INJURIES; AND

(III) ENSURES THE SOLVENCY OF THE COMPANY FROM YEAR TO YEAR.

(3) THE BOARD MAY SET MINIMUM PREMIUM RATES FOR POLICIES ISSUED BY THE COMPANY.

THE COMMISSIONER SHALL REVIEW THE COMPANY'S RATES AS **(D)** PART OF AN EXAMINATION UNDER § 2–205 OF THIS ARTICLE TO DETERMINE WHETHER THE COMPANY'S RATE MAKING PRACTICES PRODUCE ACTUARIALLY SOUND RATES.

24-306.

(A) THE COMPANY SHALL BE:

> (1) SHALL BE AN AUTHORIZED INSURER; AND

(2) ON AND AFTER OCTOBER 1, 2013, SHALL BE THE WORKERS' COMPENSATION INSURER OF LAST RESORT FOR EMPLOYERS COVERED UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE.

BEFORE OCTOBER 1, 2013, THE FUND SHALL SERVE AS THE **(B)** WORKERS' COMPENSATION INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE AND AS A COMPETITIVE WORKERS' COMPENSATION INSURER UNDER THE SAME TERMS AND CONDITIONS AS THE FUND SERVED BEFORE OCTOBER 1, 2012.

(B) (C) THE COMPANY MAY NOT CANCEL OR REFUSE TO RENEW OR **ISSUE A POLICY EXCEPT FOR:**

NONPAYMENT OF A PREMIUM FOR CURRENT OR PRIOR (1) POLICIES ISSUED BY THE FUND OR THE COMPANY;

(2) FAILURE TO PROVIDE PAYROLL INFORMATION TO THE FUND OR THE COMPANY; OR

(3) FAILURE TO COOPERATE IN ANY PAYROLL AUDIT CONDUCTED BY THE FUND OR THE COMPANY.

(C) (D) THE COMPANY MAY ENGAGE ONLY IN THE BUSINESS OF WORKERS' COMPENSATION INSURANCE IN ACCORDANCE WITH STATE LAW.

24-306. <u>24-307.</u>

(A) (1) THERE IS A BOARD FOR THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY.

(2) <u>The Board shall manage the business and affairs of</u> <u>The Company as a private, nonprofit corporation in accordance with</u> <u>State law.</u>

(B) THE BOARD SHALL CONSIST OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(C) EACH MEMBER SHALL BE A CHTIZEN <u>RESIDENT</u> OF THE STATE.

(D) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(E) (1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD FOR THE FUND ON OCTOBER 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:
 - (I) TWO FULL TERMS; OR
 - (II) A TOTAL OF 10 YEARS.

THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR **(F) MISCONDUCT.**

(G) THE BOARD SHALL ADOPT RULES, BYLAWS, AND PROCEDURES.

24-307. 24-308.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD MAY (A) DECLARE A POLICYHOLDER DIVIDEND IN THE FORM OF A CASH REFUND OR **CREDIT TO:**

(1) A POLICYHOLDER BASED ON THE ACTUAL LOSS RATIO THAT IS BETTER THAN THE LOSS RATIO USED TO CALCULATE THE POLICYHOLDER'S PREMIUM; OR

(2) ALL POLICYHOLDERS WHOSE LOSS RATIO CONTRIBUTED TO THE COMPANY'S SURPLUS FOR THAT YEAR.

(1) **(B)** THE BOARD MAY NOT ISSUE A POLICYHOLDER DIVIDEND UNDER SUBSECTION (A) (A)(2) OF THIS SECTION UNLESS THE COMMISSIONER HAS APPROVED THE POLICYHOLDER DIVIDEND.

(2) IN DETERMINING WHETHER TO APPROVE THE POLICYHOLDER DIVIDEND UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL CONSIDER:

(I) THE COMPANY'S SURPLUS;

(II) MATERIAL CHANGES IN PREMIUM RATES, CLAIMS, MARKET SHARE, OR TYPES OF INSURED RISKS;

(III) THE METHODOLOGY THE BOARD USED TO DETERMINE THAT POLICYHOLDERS ARE ELIGIBLE FOR THE POLICYHOLDER DIVIDEND; AND

(IV) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS **RELEVANT.**

24-308. 24-309.

THE COMPANY IS NOT AND MAY NOT BE DEEMED TO BE A (A) DEPARTMENT, UNIT, AGENCY, OR INSTRUMENTALITY OF THE STATE FOR ANY PURPOSE.

(B) EMPLOYEES OF THE COMPANY ARE NOT: (1) EMPLOYEES OF THE STATE; OR

(2) MEMBERS OF THE STATE RETIREMENT AND PENSION SYSTEM.

(C) ALL DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY, WHENEVER INCURRED, SHALL BE THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY ONLY AND NOT OF THE STATE OR THE STATE'S DEPARTMENTS, UNITS, AGENCIES, INSTRUMENTALITIES, OFFICERS, OR EMPLOYEES.

(D) (1) MONEY OF THE COMPANY IS NOT PART OF THE GENERAL FUND OF THE STATE.

(2) THE STATE MAY NOT BUDGET FOR OR PROVIDE GENERAL FUND APPROPRIATIONS TO THE COMPANY.

(3) THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE COMPANY ARE NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

24-309. <u>24-310.</u>

(A) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD, THE BOARD SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE BOARD.

(B) FOR PURPOSES OF THIS SECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.

(C) (1) TO ASSIST THE BOARD IN ACHIEVING THE GOAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION, THE BOARD SHALL UNDERTAKE MEASURES TO REMOVE ANY BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMPANY.

(2) THE MEASURES UNDERTAKEN BY THE BOARD SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE BOARD'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE COMPANY.

(D) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE BOARD SHALL DEVELOP GUIDELINES TO ASSIST IT IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE COMPANY ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.

(E) ON OR BEFORE SEPTEMBER 1 EACH YEAR, THE BOARD SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE BOARD IN THE IMMEDIATELY PRECEDING FISCAL YEAR;

(2) THE PERCENTAGE AND DOLLAR VALUE OF THE COMPANY ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS; AND

(3) THE MEASURES THE BOARD UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

24-310. <u>24-311.</u>

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) SUBSECTIONS (B) AND (C) OF THIS SECTION, ON MARCH OCTOBER 1, 2013, ALL THE FUNCTIONS, POWERS, DUTIES, ASSETS, REAL AND PERSONAL PROPERTY, ACCOUNTS, LIABILITIES, CONTRACTS, AND OBLIGATIONS OF THE FUND SHALL BE IRREVOCABLY TRANSFERRED TO THE COMPANY, INCLUDING LIABILITY FOR ALL CLAIMS, WHETHER KNOWN OR UNKNOWN, ARISING OUT OF ANY INSURANCE POLICY PREVIOUSLY ISSUED BY THE FUND.

(B) ANY CONTRACT OR AGREEMENT WITH THE STATE FOR THE THIRD PARTY ADMINISTRATION OF THE STATE'S SELF-INSURED WORKERS' COMPENSATION PROGRAM FOR STATE EMPLOYEES MAY NOT BE TRANSFERRED OR ASSIGNED TO THE COMPANY UNTIL THE FUND NO LONGER HAS EMPLOYEES.

(C) THE FUND SHALL RETAIN THOSE ASSETS NECESSARY TO PERFORM ITS DUTIES UNDER TITLE 10 OF THE LABOR AND EMPLOYMENT ARTICLE.

24-311. <u>24-312.</u>

THE COMPANY MAY NOT:

- (1) BE CONVERTED TO A MUTUAL OR STOCK COMPANY; OR
- (2) <u>BE SOLD; OR</u>
- (2) (3) BE DISSOLVED.

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

Article - Labor and Employment

[Part I. Definitions.]

10–101.

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Administration" means the Maryland Insurance Administration.
- (c) "Board" means the Board for the Injured Workers' Insurance Fund.
- (d) "Commissioner" means the Maryland Insurance Commissioner.

(E) "COMPANY" MEANS THE CHESAPEAKE EMPLOYERS' INSURANCE COMPANY ESTABLISHED UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.

[(e)] (F) "Fund" means the Injured Workers' Insurance Fund.

[(f) "Policyholder" means an employer who holds a policy of insurance under this subtitle.

(g) (1) "Wage" means all earnings that are due to an employee for employment.

- (2) "Wage" includes:
 - (i) a bonus;

- (ii) overtime pay;
- (iii) a share of profits; and

(iv) if, at the time of hiring, an employer and employee set a dollar value for board or a similar advantage, the advantage.]

[Part II. Fund.]

[10–104.] **10–102.**

(A) (1) There is an Injured Workers' Insurance Fund.

(2) THE FUND IS AN INSTRUMENTALITY OF THE STATE.

(B) **BEFORE MARCH 1, 2013** ON AND AFTER OCTOBER 1, 2013, THE COMPANY, AND NOT THE FUND, SHALL SERVE AS THE WORKERS' COMPENSATION INSURER OF LAST RESORT FOR WORKERS' COMPENSATION INSURANCE AND AS A COMPETITIVE WORKERS' COMPENSATION INSURER UNDER THE SAME TERMS AND CONDITIONS AS THE FUND SERVED BEFORE OCTOBER 1, 2012.

(C) ON AND AFTER MARCH OCTOBER 1, 2013, THE FUND:

(1) SHALL CONTINUE TO EXIST; BUT

(2) MAY NOT ISSUE NEW POLICIES OR OTHERWISE ENGAGE IN THE BUSINESS OF INSURANCE EXCEPT THROUGH THE COMPANY.

(D) ON AND AFTER <u>March</u> <u>October</u> 1, 2013, the Fund may continue to be the third party administrator for the State's Self–Insured Workers' Compensation Program for State Employees under a contract with the State.

(E) (1) IN <u>Subject to subsection (f) of this section, in</u> the operation of the Company, the Company shall utilize employees of the Fund and the Company.

(2) IN THE OPERATION OF THE FUND, THE FUND <u>MAY</u> <u>SHALL</u> UTILIZE EMPLOYEES OF THE FUND OR THE COMPANY.

- (3) THE FUND SHALL:
 - (I) MAINTAIN A PAYROLL AND HUMAN RESOURCES SYSTEM;

AND

(II) BE RESPONSIBLE FOR PAYING:

1. THE EMPLOYER PORTION OF ANY PAYROLL OR OTHER TAXES AND RETIREMENT OR PENSION CONTRIBUTIONS FOR EMPLOYEES OF THE FUND; AND

2. FOR ANY HEALTH OR OTHER EMPLOYEE BENEFITS THAT ARE AVAILABLE TO EMPLOYEES OF THE FUND.

(F) (1) <u>Employees of the Fund may be assigned to perform</u> <u>functions of the Company under a contract between the Fund and</u> <u>the Company.</u>

(2) THE COMPANY AND THE FUND SHALL ANNUALLY EXECUTE AN AGREEMENT THAT LISTS THE EMPLOYEES OF THE FUND AND THE EMPLOYEES OF THE COMPANY WHO HAVE BEEN ASSIGNED TO PERFORM DUTIES ON BEHALF OF THE COMPANY.

(2) (3) The AGREEMENT SHALL:

(I) SPECIFY THE EMPLOYEES $\frac{1}{1}$ WHO WILL BE UTILIZED BY THE COMPANY AND THE FUND;

(II) STATE THE RELATIONSHIP BETWEEN THE COMPANY AND THE FUND;

(HI) PROVIDE THAT, EXCEPT WITH RESPECT TO ASSETS NECESSARY FOR THE FUND TO PERFORM ITS DUTIES UNDER THIS SUBTITLE, ALL ASSETS AND LIABILITIES OF THE FUND ARE THE ASSETS AND LIABILITIES OF THE COMPANY; AND

(IV) (III) BE FILED WITH THE ADMINISTRATION.

10-103.

- (A) ON AND AFTER MARCH OCTOBER 1, 2013:
 - (1) THE FUND MAY NOT HIRE NEW EMPLOYEES; AND
 - (2) EMPLOYEES OF THE FUND:
 - (I) MAY REMAIN EMPLOYEES OF THE FUND;

SHALL CONTINUE TO BE STATE EMPLOYEES ONLY IF **(II)** THEY REMAIN EMPLOYEES OF THE FUND;

(III) MAY NOT BE REQUIRED TO BE EMPLOYEES OF THE **COMPANY;**

(IV) SHALL BE SUBJECT TO EACH LAW THAT APPLIED TO EMPLOYEES OF THE FUND IMMEDIATELY BEFORE MARCH OCTOBER 1, 2013;

(V**)** SHALL BE SUBJECT TO THE SAME TERMS AND CONDITIONS OF EMPLOYMENT AS EXISTED IMMEDIATELY BEFORE MARCH OCTOBER 1, 2013, INCLUDING BENEFITS, LEAVE, AND PAY GRADE;

(VI) SHALL REMAIN IN THE STATE RETIREMENT SYSTEM ONLY IF THEY REMAIN EMPLOYEES OF THE FUND:

(VII) EXCEPT FOR CHANGES IN BENEFITS OR COMPENSATION APPLICABLE TO STATE EMPLOYEES GENERALLY, MAY NOT BE DENIED ANY COMPENSATION OR BENEFIT PROVIDED TO EMPLOYEES OF THE FUND AS OF MARCH OCTOBER 1, 2013;

(VIII) MAY NOT BE DENIED A PROMOTION, BASED ON THE EMPLOYEE'S STATUS AS AN EMPLOYEE OF THE FUND; AND

(IX) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MAY ELECT TO BE AN EMPLOYEE OF THE COMPANY.

IF AN EMPLOYEE OF THE FUND INTENDS TO ELECT TO BE AN **(B)** EMPLOYEE OF THE COMPANY UNDER SUBSECTION (A)(2)(IX) OF THIS SECTION, THE COMPANY SHALL:

REQUIRE THE EMPLOYEE TO MAKE THE ELECTION IN (1) WRITING; AND

> (2) **PROVIDE THE EMPLOYEE WITH INFORMATION THAT:**

(I) STATES THAT THE ELECTION OF THE EMPLOYEE TO BECOME AN EMPLOYEE OF THE COMPANY IS VOLUNTARY AND IRREVOCABLE; AND

(II) FULLY **DISCLOSURES** DISCLOSES THE TERMS OF EMPLOYMENT WITH THE COMPANY.

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(C) AN EMPLOYEE OF THE COMPANY MAY NOT ELECT TO BE AN EMPLOYEE OF THE FUND.

[10-105.

(a) Except for Title 3, Subtitle 1, Title 8, Subtitle 3, and Title 11 of the Insurance Article and as otherwise provided by law, the Fund is subject to the Insurance Article to the same extent as an authorized domestic workers' compensation insurer.

(b) Notwithstanding subsection (a) of this section, the Fund shall register with the Commissioner and be subject to the provisions of Title 8, Subtitle 3 of the Insurance Article if the Fund operates as an administrator, as defined in § 8–301 of the Insurance Article.]

[10-106.

(a) Subject to subsection (b) of this section, the Fund shall operate in a manner similar to an authorized domestic workers' compensation insurer.

- (b) The Fund shall:
 - (1) serve as a competitive insurer in the marketplace;

(2) guarantee the availability of workers' compensation insurance in the State;

(3) serve as the workers' compensation insurer of last resort; and

(4) engage only in the business of workers' compensation insurance in accordance with State law.]

[10–107.] **10–104.**

(a) The Fund is independent of all State units.

(b) (1) Except as provided in paragraph (2) of this subsection and elsewhere in this subtitle, the Fund is not subject to any law, including § 6-106 of the State Government Article, that affects governmental units.

- (2) The Fund is subject to:
 - (i) Title 10, Subtitle 6, Part III of the State Government Article;
 - (ii) Title 12 of the State Government Article;

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(iii) the Maryland Public Ethics Law; and

(iv) Title 5, Subtitle 3 of the State Personnel and Pensions

(3) Paragraph (1) of this subsection does not affect the exemption from property tax under § 7–210 of the Tax – Property Article.

[(c) The Fund is a member of the Property and Casualty Insurance Guaranty Corporation.]

[10–108.

Article.

Beginning with calendar year 1994, the calendar year is the fiscal year of the Fund.]

[Part III. Board.]

[10–109.] **10–105.**

(A) (1) There is a Board for the Injured Workers' Insurance Fund.

(2) <u>The Board shall manage the business and affairs of</u> <u>The Fund as an instrumentality of the State in accordance with</u> <u>State law.</u>

(B) THE BOARD IS THE BOARD FOR THE COMPANY ESTABLISHED UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.

(C) MEMBERS OF THE BOARD THAT WERE APPOINTED TO THE BOARD AS OF OCTOBER 1, 2012, SHALL:

(1) CONTINUE TO SERVE THE CURRENT TERM THEIR CURRENT TERMS ON THE BOARD; AND

(2) SERVE ON THE BOARD FOR THE COMPANY UNDER THE SAME TERMS AND CONDITIONS AS IF THEY WERE APPOINTED TO THE BOARD FOR THE COMPANY UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE.

(D) THE BOARD:

(1) SHALL BE SUBJECT TO THE RULES, BYLAWS, AND PROCEDURES THAT THE BOARD FOR THE COMPANY ADOPTS UNDER TITLE 24, SUBTITLE 3 OF THE INSURANCE ARTICLE; AND

(2) MAY ADOPT ANY POLICY TO CARRY OUT THIS SUBTITLE.

[10–110.

(a) The Board consists of 9 members appointed by the Governor with the advice and consent of the Senate.

(b) Each member shall be a citizen of the State.

(c) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) (1) The term of a member is 5 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 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:

- (i) two full terms; or
- (ii) a total of 10 years.
- (e) The Governor may remove a member for incompetence or misconduct.]

[10–111.

(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) The manner of election of officers shall be as the Board determines.]

[10-112.

(a) The Board may not act on any matter unless at least 5 members concur.

(b) Each member of the Board shall devote the time needed to carry out the duties of office.

(c) The Board shall determine the times and places of its meetings.

(d) (1) Each member of the Board is entitled to:

- (i) the salary provided in the budget of the Board; and
- (ii) reimbursement for reasonable expenses:

1. incurred in the performance of the Board member's

duties; and

- 2. as provided in the budget of the Board.
- (2) Each member of the Board shall be paid biweekly.]

[10–113.] **10–106.**

- (a) **(1)** 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].

(2) THE PRESIDENT OF THE FUND <u>MAY</u> <u>SHALL</u> BE THE PRESIDENT OF THE COMPANY.

(b) (1) Except as provided in paragraph (2) of this subsection, employees of the Fund are special appointments.

(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) The Board shall set compensation for its employees.

(2) 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) 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.

10-107.

THE NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, THE FUND SHALL REMAIN IN EXISTENCE UNTIL IT:

(1) SHALL REMAIN IN EXISTENCE SO LONG AS THE FUND CONTINUES TO HAVE NO LONGER HAS ANY EMPLOYEES; AND

(2) <u>MAY BE IS</u> TERMINATED ONLY BY THE REPEAL OF THIS SUBTITLE.

[10-114.

(a) The Board may adopt any policy to carry out this subtitle.

(b) (1) The Board shall have a plan to promote the services of the Fund to employers in the State.

(2) As part of the plan, the Board may prepare a pamphlet about the Fund and provide copies to each county for distribution to businesses with personal property tax bills.]

[Part IV. Purposes and Administration of Fund.]

[10-117.

The Board:

(1) shall use the Fund to insure employers against liability under Title 9 of this article; and

- (2) may use the Fund:
 - (i) to provide employer's liability insurance; and

(ii) on behalf of a policyholder, to pay benefits equal to benefits allowed under:

- 1. a compensation law of another state; or
- 2. a federal compensation law.]

[10–118.

(a) The Fund shall consist of:

(1) premiums for insurance that the Fund issues;

(2) income from investments under § 10–122 of this subtitle;

(3) interests on deposits or investments of money from the Fund; and

(4) the money that the Attorney General collects under § 10–133(c) of this subtitle on debts.

(b) The Fund shall include each security or other property that is acquired with money of the Fund.

(c) The Board shall use the Fund to pay all of the expenses under this subtitle, including losses on insurance that the Fund issues.]

[10-120.

(a) The Board shall administer the Fund.

(b) (1) The Board shall prepare capital and operating budgets for the Fund. $\ensuremath{\mathsf{Fund}}$

(2) For information only, the Board shall submit the budgets to the Senate Budget and Taxation Committee and the House Appropriations Committee.

(c) The Board shall issue receipts for money that the Fund receives.]

[10–121.

The Board shall keep reserves and surplus in accordance with the Insurance Article.]

[10–122.

(a) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board, the Board shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

(b) For purposes of this section, brokerage and investment management services shall include services relating to all allocated asset classes.

(c) (1) To assist it in achieving the goal described under subsection (a) of this section, the Board shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded by the Fund.

(2) The measures undertaken by the Board shall include the use of a wide variety of media, including the Board's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Fund.

(d) In conjunction with the Governor's Office of Minority Affairs, the Board shall develop guidelines to assist it in identifying and evaluating qualified minority business enterprises in order to help the Fund achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(e) On or before September 1 each year, the Board shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(1) the identity of the minority business enterprise brokerage and investment management services firms used by the Board in the immediately preceding fiscal year;

(2) the percentage and dollar value of the Fund assets that are under the investment control of minority business enterprise brokerage and investment management services firms; and

(3) the measures the Board undertook in the immediately preceding fiscal year in accordance with subsection (c)(2) of this section.]

[10-125.

(a) The Fund shall be examined by the Commissioner in accordance with Title 2, Subtitle 2 (Enforcement) of the Insurance Article.

(b) As part of an examination under § 2–205 of the Insurance Article, the Commissioner shall, at least once every 5 years, determine whether the Fund's rate making practices produce actuarially sound rates.]

[10-126.

(a) Within 90 days after the close of each fiscal year, the Board shall submit to the Governor an annual report that includes a detailed statement of:

- (1) the condition and expenses of the Fund in detail;
- (2) growth of the Fund;
- (3) changes in earned premiums of the Fund;
- (4) changes in the number of policyholders of the Fund;
- (5) the degree of the Fund's personnel flexibility;
- (6) trends in the overall market share; and
- (7) trends in the premium to expense ratio.

(b) (1) On or before October 1 of each year, the Fund shall submit to the Governor:

(i) a copy of each policy form that the Fund will use during the next calendar year;

(ii) the schedule of premium rates that the Fund will charge for the next calendar year;

(iii) information about provision for claim payment, as defined in § 11–330(a) of the Insurance Article, for each class for which the Fund writes coverage; and

(iv) other information that the Governor requests about premium rates, including classes, financial information, and losses.

(2) (i) Information required under paragraph (1)(ii) through (iv) of this subsection shall be submitted on the form that the Governor requires.

(ii) The form shall conform as closely as possible to the form that a rating organization uses to comply with §§ 11–307, 11–329, and 11–330 of the Insurance Article.]

[10-127.

If the General Assembly repeals this subtitle, money in the Fund at the time of repeal shall be distributed:

(1) as the General Assembly provides; or

(2) if the General Assembly does not provide for distribution, as justice requires, with due regard for existing obligations for compensation.]

[Part V. Insurance Program.]

[10-130.

(a) The Board shall adopt a schedule of premium rates in accordance with sound actuarial practices and shall ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(b) The Commissioner shall review the Fund's rates as part of an examination under § 2–205 of the Insurance Article to determine whether the Fund's rate making practices produce actuarially sound rates.

(c) (1) The Board shall determine the schedule by:

(i) classifying all of the policyholders on the basis of the respective level of hazard of their enterprises; and

- (ii) setting a premium rate for each class on the basis of:
 - 1. its level of hazard; and
 - 2. incentives to prevent injuries to employees.

(2) To determine the schedule, the Board shall use the rating system that, in the opinion of the Board:

(i) most accurately measures the level of hazard for each policyholder on the basis of the number of injuries that occur in the enterprises of the policyholder;

- (ii) encourages the prevention of injuries; and
- (iii) ensures the solvency of the Fund from year to year.
- (3) The Board may set minimum premium rates.

(d) (1) The Board shall state premium rates as a percentage of the gross annual wages of employees to whom Title 9 of this article applies.

(2) For employees who work partly in and partly outside the State, the premium shall be based on wages for employment in the State.

(e) (1) Except as provided in paragraph (2) of this subsection, the schedule of premium rates in effect at the beginning of a calendar year remains in effect for the year.

(2) The Board shall adjust classes and rates as often as the Board determines to be just and advantageous to meet the criteria under subsection (c)(2) of this section and to reflect changes in levels of hazards.]

[10-131.

An employer shall apply for insurance under this subtitle in accordance with the policies of the Board.]

[10-132.

Each employer who applies and is eligible for insurance under this subtitle shall be assigned, after consideration of the number of employees and the relative hazards of the various types of work performed in the enterprise of the employer:

- (1) to the class that includes the work; or
- (2) if more than 1 class clearly applies to the work, to each applicable

class.]

[10–133.

(a) The Board shall adopt policies that provide procedures and standards for the payment of premiums.

(b) (1) Subject to paragraph (2) of this subsection, the Board, the President of the Fund, or the Executive Vice President of the Fund may:

(i) cancel the insurance of a policyholder who fails to pay a premium due to the Fund; and

(ii) refer to the Attorney General, for collection, the debt of any policyholder whose insurance is being canceled under this paragraph.

(2) At least 10 days before the date set for cancellation of insurance under this subsection, the Board shall:

(i) serve on the policyholder, by personal service or by certified or registered mail sent to the last known resident address of the policyholder, a notice of intention to cancel insurance; and (ii) submit a copy of the notice to the Workers' Compensation Commission's designee.

(3) Notice under this subsection may be given:

(i) for a policyholder that is a corporation, to an official or other agent of the corporation on whom legal process may be served; and

(ii) for a policyholder that is a partnership, to any partner.

(4) Notice under this subsection shall state the date on which the cancellation is to become effective.

(5) Whenever a debt is referred under this subsection for collection, the insurance may not be reinstated until the debt is paid in full.

(c) (1) Whenever a debt is referred under this section for collection, the Board, the President of the Fund, or the Executive Vice President of the Fund shall provide the Attorney General with:

- (i) the name of the policyholder;
- (ii) each known business or resident address of the policyholder;

and

(iii) a statement of the amount that the policyholder owes to the

Fund.

(2) The Attorney General may sue, in the name of the Fund, to collect the debt.

(d) If the President of the Fund considers settlement to be in the best interest of the Fund, a debt that is referred under this section for collection may be settled.]

[10–134.

The Board shall issue a certificate of insurance.]

[10-135.

(a) The Board may:

- (1) adopt requirements for uniform payroll; and
- (2) require each policyholder to conform to the requirements.

(b) In accordance with the requirements that the Board adopts, each policyholder shall submit a report on wages or other documentation to the Board at intervals that the Board sets.

(c) The Board or its authorized employee may inspect at any time the payroll of a policyholder.

(d) (1) Subject to paragraph (2) of this subsection, the Board, the President of the Fund, or the Executive Vice President of the Fund may cancel the insurance of a policyholder who:

(i) fails to comply with subsection (b) of this section; or

(ii) refuses to allow an inspection authorized under subsection (c) of this section.

(2) At least 30 days before the date set for cancellation of insurance under this subsection, the Board shall:

(i) serve on the policyholder, by personal service or by certified or registered mail sent to the last known resident address of the policyholder, a notice of intention to cancel insurance; and

(ii) submit a copy of the notice to the Workers' Compensation Commission's designee.

(3) Notice under this subsection may be given:

(i) for a policyholder that is a corporation, to an official or other agent of the corporation on whom legal process may be served; and

(ii) for a policyholder that is a partnership, to any partner.

(4) Notice under this subsection shall state the date on which the cancellation is to become effective.]

[10–136.

A policyholder may cancel a policy under this subtitle, if the policyholder:

(1) gives the Fund written notice; and

(2) promptly pays all premiums owed to the Fund.]

[10-137.

If the Board considers an account to be uncollectible, the account may be charged from the books of the Fund.]

[10–138.

(a) Subject to subsection (b) of this section, the President of the Fund may settle a claim that the Fund has against a governmental unit or person who is alleged to be liable for an accident for which the Fund pays compensation.

(b) The President may settle a claim under this section only if:

(1) the Workers' Compensation Commission consents; and

(2) for a settlement that will prejudice any right of an injured employee, the employee consents.]

[Part VI. Prohibited Act; Penalty.]

[10-141.

(a) An employer may not with fraudulent intent misrepresent to the Board the wages on which a premium under this subtitle is based.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both.]

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

Article – State Personnel and Pensions

<u>21–307.</u>

(P) (1) ON AND AFTER OCTOBER 1, 2013, ON BEHALF OF ITS EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE EMPLOYEES' PENSION SYSTEM, THE INJURED WORKERS' INSURANCE FUND SHALL:

(I) PAY AN AMOUNT EQUAL TO THE PRODUCT OF MULTIPLYING:

<u>**1.**</u> <u>THE AGGREGATE ANNUAL EARNABLE</u> <u>COMPENSATION OF THOSE MEMBERS; AND</u> 2. <u>THE NORMAL CONTRIBUTION RATE OTHERWISE</u> PAID BY THE STATE FOR MEMBERS OF THE EMPLOYEES' RETIREMENT SYSTEM AND THE EMPLOYEES' PENSION SYSTEM;

(II) PAY AN ADDITIONAL AMOUNT EQUAL TO 5% OF THE AGGREGATE ANNUAL EARNABLE COMPENSATION OF ITS EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEES' RETIREMENT SYSTEM; AND

(III) <u>REMIT TO THE EMPLOYEES' RETIREMENT SYSTEM OR</u> <u>THE EMPLOYEES' PENSION SYSTEM THE CONTRIBUTIONS REQUIRED TO BE</u> <u>PAID BY ITS EMPLOYEES.</u>

(2) BEGINNING ON OR BEFORE DECEMBER 31, 2013, AND EACH YEAR THEREAFTER, IN ADDITION TO THE AMOUNTS REQUIRED TO BE PAID UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INJURED WORKERS' INSURANCE FUND SHALL PAY A WITHDRAWAL LIABILITY CONTRIBUTION:

(I) AS CALCULATED BY THE ACTUARY OF THE STATE RETIREMENT AND PENSION SYSTEM; AND

(II) IN ACCORDANCE WITH PARAGRAPHS (3) AND (4) OF THIS SUBSECTION.

(3) THE PARTICIPANT FUNDING RATIO FOR THE INJURED WORKERS' INSURANCE FUND SHALL BE A FRACTION THAT HAS:

(I) AS ITS NUMERATOR, THE MARKET VALUE OF ASSETS FOR THE EMPLOYEES' RETIREMENT SYSTEM AND THE EMPLOYEES' PENSION SYSTEM REPORTED IN THE JUNE 30, 2013, ANNUAL ACTUARIAL VALUATION FOR THE STATE; AND

(II) AS ITS DENOMINATOR, THE ENTRY AGE ACTUARIAL ACCRUED LIABILITY FOR THE EMPLOYEES' RETIREMENT SYSTEM AND THE EMPLOYEES' PENSION SYSTEM REPORTED IN THE JUNE 30, 2013, ANNUAL ACTUARIAL VALUATION FOR THE STATE.

(4) THE WITHDRAWAL LIABILITY CONTRIBUTION OF THE INJURED WORKERS' INSURANCE FUND SHALL BE THE COMPLEMENT OF THE PARTICIPANT FUNDING RATIO FOR THE FUND MULTIPLIED BY THE ENTRY AGE ACTUARIAL ACCRUED LIABILITY FOR THE FUND BASED ON DATA SUBMITTED AS OF OCTOBER 1, 2013, FOR THE FUND.

SECTION $\frac{2}{2}$. AND BE IT FURTHER ENACTED, That, as provided in this Act:

(1) The Chesapeake Employers' Insurance Company is the successor of the Injured Workers' Insurance Fund, the Board for the Chesapeake Employers' Insurance Company is the successor of the Board for the Injured Workers' Insurance Fund, and the President of the Chesapeake Employers' Insurance Company is the successor of the President of the Injured Workers' Insurance Fund.

(2) In every law, executive order, rule, regulation, policy, or document created by an official, employee, or unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official, as provided in this Act.

(3) Policy forms and other documents that were approved prior to <u>March October</u> 1, 2013, by the Maryland Insurance Administration or the Workers' Compensation Commission in the name of the Injured Workers' Insurance Fund may be used by the Chesapeake Employers' Insurance Company to the same extent as if the policy forms and other documents had been approved in the name of the Chesapeake Employers' Insurance Company.

SECTION 3. AND BE IT FURTHER ENACTED, That, on March 1, 2013, all the functions, powers, duties, equipment, assets, and liabilities of the Injured Workers' Insurance Fund shall be transferred to the Chesapeake Employers' Insurance Company.

SECTION 4. 5. AND BE IT FURTHER ENACTED, That:

(a) <u>The Maryland Insurance Administration shall study, in consultation with</u> <u>the Injured Workers' Insurance Fund and the National Council on Compensation</u> <u>Insurance, Inc., whether the Chesapeake Employers' Insurance Company should be</u> <u>subject to Title 11 of the Insurance Article, including whether the Company should be</u> <u>a member of the rating organization.</u>

(b) In conducting the study, the Administration:

(1) may consult with any other person or entity that the Administration considers appropriate;

(2) shall consider the impact on the Company and its policyholders if the Company is made subject to Title 11 of the Insurance Article, including the impact of the membership and transaction fees payable to the rating organization and additional administrative and system costs associated with complying with Title 11 of the Insurance Article; and

(3) if the Administration determines that the Company should be subject to Title 11 of the Insurance Article, shall consider:

(i) the extent to which the Company should be in compliance with the rating plan requirements under Title 11 of the Insurance Article; and

(ii) an appropriate timeline for the Company to phase in participation in the rating plan requirements to avoid disruption to its policyholders.

(c) <u>On or before October 1, 2012, the Administration shall report, in accordance with § 2–1246 of the State Government Article, its findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee.</u>

(1) Notwithstanding any other provision of law, full compliance by the Chesapeake Employers' Insurance Company with Title 11 of the Insurance Article is not required until 5 years after the effective date of this Act; and

(2) It is the intent of the General Assembly that the Chesapeake Employers' Insurance Company and the rating organization phase in the rating plan to avoid disruption to policyholders.

SECTION 5. 6. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2012 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 7. AND BE IT FURTHER ENACTED, That:

(a) <u>The Maryland Insurance Administration shall contract with an</u> <u>independent financial, accounting, or valuation consulting firm to conduct a study to</u> <u>determine, since the enactment of Chapter 800 of 1914, the fair value of:</u>

(1) any financial contribution made by the State to the Injured Workers' Insurance Fund; and

(2) any financial benefit the Fund received from the State.

(b) (1) The study shall consider the fair value of:

(i) <u>funds, including start-up funding, provided by the State to</u> <u>the Fund at any time;</u>

(ii) <u>real estate or other assets transferred or otherwise provided</u> to the Fund, net of any amounts paid for the real estate or other asset by the Fund out of Fund revenues; (iii) property taxes or transfer taxes on Fund–owned real property that would have been paid if the Fund had not been a State agency;

(iv) sales and excise taxes that would have been paid to the State if the Fund had not been a State agency;

(v) premium taxes not paid to the State by the Fund due to its tax exempt status prior to June 1, 2011, but only to the extent that the benefit of the tax exemption was not passed on to policyholders of the Fund through the rate making process; and

(vi) any other direct financial contribution made by the State to the Fund and any other financial benefit the Fund received from the State.

(2) In determining the fair value of the items listed in paragraph (1) of this subsection, the study shall consider:

(i) additional costs the Fund incurred from the Fund's status as the insurer of last resort which required the Fund to provide workers' compensation insurance to businesses regardless of the degree of risk;

(*ii*) that the Fund is a nonprofit entity with profits passed on to its policyholders;

(iii) whether the benefit of the taxes not paid was passed on to policyholders since the Fund was not subject to the taxes;

(iv) that since the Fund only began advertising and paying commissions to licensed insurance producers beginning in 1996, the Fund's entire book of business was considered the residual market through 1995;

(v) that effective October 1, 2009, the Fund was statutorily required to serve as a competitive insurer in the marketplace, in addition to guaranteeing the availability of workers' compensation insurance in the State, serving as the workers' compensation insurer of last resort, and engaging only in the business of workers' compensation insurance in accordance with State law; and

(vi) that effective October 1, 2003, the Fund was required to be subject to risk-based capital standards.

(2) (3) The study also shall consider:

(i) <u>additional costs the Fund incurred from the Fund's status as</u> <u>the insurer of last resort which required the Fund to provide workers' compensation</u> <u>insurance to businesses regardless of the degree of risk;</u> (ii) <u>that while the Fund was part of the former State</u> <u>Department of Personnel, the State purchased four parcels of land with Fund</u> <u>revenues, but the State held the title to the land until it was transferred to the Fund;</u>

(i) any subsidy that the Fund provided to the State in connection with the State self-insured workers' compensation program; and

 $\underbrace{\text{(iii)}}_{(iii)} \underbrace{\text{that the Fund is required to transfer $6,000,000 to the}}_{\text{General Fund on or before June 30, 2012, as provided in Section 20 of Chapter 397 of}_{\text{the Acts of the General Assembly of 2011, less the amount received by the State on or}_{\text{before June 30, 2012, as a result of the imposition of a premium tax on the Fund under}_{\underline{\S} 6-101 \text{ of the Insurance Article}}$

(iv) that the Fund is a nonprofit entity with profits passed on to its policyholders; and

(v) <u>the estimated cost of any subsidy provided by the State to</u> <u>cover the future costs of retiree health benefits for retired Fund employees and their</u> <u>dependents.</u>

(c) In conducting the study, the firm:

(1) <u>shall consult with the Fund, the Maryland Insurance</u> <u>Commissioner, and the Secretary of Budget and Management;</u>

(2) <u>may consult with any other person or entity that the firm considers</u> <u>appropriate; and</u>

(3) <u>shall consider any studies conducted by the Administration or the</u> <u>Department of Budget and Management on the Fund, including the study on the</u> <u>Fund's role as the third party administrator for the State.</u>

(d) (1) The Administration shall require the firm to report the findings and conclusions of its study of the fair value to the Administration before October 1, 2012.

(2) On or before October 1, 2012, the Administration shall report, in accordance with § 2–1246 of the State Government Article, the firm's findings and conclusions of its study of the fair value to the Legislative Policy Committee, the Fund, the Governor, the Senate Budget and Taxation Committee, the Senate Finance Committee, the House Appropriations Committee, and the House Economic Matters Committee.

(e) If the study concludes that the fair value is \$50,000,000 or more:

(1) the Administration shall contract with consultants to conduct a comprehensive assessment of the long-term effect of transferring the fair value to the State on the adequacy of the Fund's surplus;

(2) the Chesapeake Employers' Insurance Company shall owe a debt to the General Fund in an amount equal to:

(i) the fair value; less

(ii) <u>1.</u> the \$50,000,000 which is required to be transferred from the Fund to the General Fund under Chapter (S.B. 152/H.B. 87) of the Acts of the General Assembly of 2012; and

2. <u>the cost of the study and the assessment paid by the</u> Fund, as provided under subsection (g) of this section.

(f) (1) Subject to paragraph (2) of this subsection, the Company shall pay the debt calculated under subsection (e) of this section, without interest, to the State in 10 equal annual installments beginning in fiscal year 2014 or, as agreed by the Fund and the Secretary of Budget and Management, in payments over an alternative period of time.

(2) (i) <u>1</u>. <u>An installment or other payment shall be suspended</u> or delayed, and may not be paid, in any year in which the <u>Company's risk-based</u> capital ratio is less than 700% of its authorized control level.

2. If the Company's risk-based capital ratio is 700% or higher than its authorized control level, an installment or other payment shall be suspended or delayed, and may not be paid, in any year in which the Maryland Insurance Commissioner determines that the Company's surplus is not adequate to make a payment or that the Company's ability to meet its financial obligations would be impaired if a payment is made.

(ii) The Company shall pay any suspended or delayed installment or other payment in a subsequent year until the debt is fully satisfied.

(g) The Fund shall be responsible for the payment of the costs of the study required under subsection (a) of this section and the assessment required under subsection (e) of this section, including any costs incurred by the Administration in contracting with consultants to perform the study and the assessment.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(a) On or before July 1, 2013, the Injured Workers' Insurance Fund and the Board of Trustees for the State Retirement and Pension System shall enter into an agreement specifying the terms and conditions of payment for the withdrawal of the Fund from the State Retirement and Pension System in accordance with § 21–307(p) of the State Personnel and Pensions Article, as enacted by Section 3 of this Act.

(b) The Fund shall be responsible for the payment of any costs incurred in calculating the Fund's liability for withdrawing from the State Retirement and Pension System.

SECTION 9. AND BE IT FURTHER ENACTED, That:

(a) (1) On or before December 1, 2012, the Injured Workers' Insurance Fund and the Department of Budget and Management shall enter into a memorandum of agreement establishing the terms, conditions, and schedule for payment by the Injured Workers' Insurance Fund of the projected costs for the State retiree health benefits of current and former Injured Workers' Insurance Fund employees.

(2) <u>The Injured Workers' Insurance Fund shall be responsible for the</u> payment of any costs incurred in calculating the Injured Workers' Insurance Fund's <u>liability for retiree health benefits.</u>

(b) On or before July 1, 2013, the Injured Workers' Insurance Fund, in accordance with the schedule established in the memorandum of agreement required under subsection (a) of this section, shall begin to pay to the State Employee and Retiree Health and Welfare Benefits Fund established under § 2–516 of the State Personnel and Pensions Article an amount sufficient to satisfy the projected costs for the State retiree health benefits of current and former Injured Workers' Insurance Fund employees, as determined by the actuary for the State Employee and Retiree Health Benefits Program.

SECTION 6. 9. 10. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act shall take effect October 1, 2012.

SECTION 10. 11. AND BE IT FURTHER ENACTED, That Sections 2 and 4 of this Act shall take effect October 1, 2013.

SECTION 11. 12. 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, except as provided in Sections 9 and 10 10 and 11 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, May 22, 2012.

Chapter 571

(Senate Bill 746)

AN ACT concerning

Telecommunications <u>Communications</u> Companies – Universal Service Trust Fund – Surcharge

FOR the purpose of expanding the services that are subject to the Universal Service Trust Fund surcharge; requiring that a certain surcharge be applied to certain bills and be payable at a certain time; altering the maximum amount of a certain surcharge; providing that a certain surcharge is payable by account; requiring the Public Service Commission Secretary of Information Technology to direct certain companies to add the surcharge to certain bills for certain services under certain circumstances; providing that the money in the Fund may only be used for certain purposes; requiring the Public Service Commission to determine a certain surcharge annually for the following fiscal year; requiring the Commission to set and adjust a certain surcharge in a certain manner and under certain circumstances; requiring that certain funds be carried forward in the Fund for a certain purpose; requiring certain companies to act as collection agents for the Fund and to remit certain proceeds to the Comptroller for deposit in the Fund; providing certain companies a certain credit against certain proceeds; providing that this Act may not be construed to expand the jurisdiction of the Commission in any manner over certain services; defining certain terms; making certain technical changes; and generally relating to the Universal Service Trust Fund surcharge on certain telecommunications communications services.

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement Section 3A–501(a) and (c), 3A–504(a), 3A–601(a) and (c), 3A–602(a), and 3A–606 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Finance and Procurement Section $\frac{3A-501(g)}{3A-501(c)}$ and $\frac{(i)}{(h)}$ $\frac{(d)}{(d)}$ Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 3A–501(g) <u>3A–501(c) through (g)</u> and 3A–506 Annotated Code of Maryland (2009 Replacement Volume and 2011 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

3A–501.

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

(C) <u>"Communications company" means a public service</u> <u>COMPANY, AS DEFINED IN § 1–101 OF THE PUBLIC UTILITIES ARTICLE, OR ANY</u> <u>OTHER COMPANY, THAT PROVIDES A COMMUNICATIONS SERVICE.</u>

(D) <u>"COMMUNICATIONS SERVICE" MEANS:</u>

(1) LANDLINE TELEPHONE SERVICE;

(2) WIRELESS OR CELLULAR TELEPHONE SERVICE; OR

(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS DEFINED IN § 8–601 OF THE PUBLIC UTILITIES ARTICLE.

(c) (E) "Dual party telephone relay program" means a service that provides full and simultaneous communication between a person or persons with a disability that prevents them from using a standard telephone and a person or persons without that disability using conventional telephone equipment or other technology or equipment, whereby the disabled person or persons have their message relayed through an intermediary party using specialized telecommunications equipment.

[(d)] (F) "Program" means the dual party telephone relay program.

[(e)] (G) <u>"Program participant" means a resident of the State who uses the</u> <u>dual party telephone relay program.</u>

[(f)] (H) (1) "Specialized customer telephone equipment" means any communications device that enables or assists a person with a disability to communicate with others by means of the public switched telephone network or Internet protocol-enabled voice communications service.

- (2) "Specialized customer telephone equipment" includes:
 - $(i) \quad \underline{TDD}/\underline{TT}/\underline{TTY};$
 - (ii) amplifiers;
 - (*iii*) captioned telephones;

- (iv) VRS equipment;
- (v) <u>cell phones;</u>
- (vi) pagers;
- (vii) puff blow devices;
- (viii) Braille-TTY devices; and
- (ix) equipment for the mobility disabled.

(G) "TELECOMMUNICATIONS COMPANY" MEANS A COMPANY THAT:

- (G) <u>"Communications company" means</u>:
 - (1) IS:

(I) A PUBLIC SERVICE COMPANY, AS DEFINED IN § 1–101 OF THE PUBLIC UTILITIES ARTICLE; <u>OR</u>

- (II) A WIRELESS COMMUNICATIONS COMPANY; OR
- (III) AN INTERNET PROTOCOL TELEPHONY COMPANY; AND

(2) (1) PROVIDES FOR THE RECEPTION, TRANSMISSION, OR COMMUNICATION OF MESSAGES BY TELEPHONE OR OTHER DEVICE; OR

(II) LEASES, SELLS, OR RESELLS TELEPHONE OR TELECOMMUNICATIONS SERVICE.

- (2) <u>ANY COMPANY THAT PROVIDES A COMMUNICATIONS SERVICE.</u>
- (H) <u>"Communications service" means</u>:
 - (1) LANDLINE TELEPHONE SERVICE;
 - (2) <u>WIRELESS OR CELLULAR TELEPHONE SERVICE; OR</u>

(3) <u>VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS</u> DEFINED IN § 8–601 OF THE PUBLIC UTILITIES ARTICLE.

[(g)] (II) (II) "Telecommunications device for the deaf" or "TDD/TT/TTY" means all types of mechanical devices that enable disabled individuals to communicate through messages sent and received through a telephone or wireless network.

(I) <u>"TELECOMMUNICATIONS SERVICE" MEANS</u>;

- (1) LANDLINE TELEPHONE SERVICE;
- (2) WIRELESS TELEPHONE SERVICE; OR

(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS DEFINED IN § 8–601 OF THE PUBLIC UTILITIES ARTICLE.

3A-504.

(a) The Department in consultation with the Board shall:

(1) establish and administer a program to provide cost-efficient, 24-hour, dual party relay service to program participants at a comparable level of access and quality that a standard telecommunication service provides to a person without a hearing or speech disability;

(2) develop the program in collaboration with State programs currently serving disabled individuals and with community agencies or other organizations that have established relay programs; and

(3) maintain an information and referral service to provide information about the availability of the relay service.

3A-506.

(a) The programs under 3A-504(a) of this subtitle and 3A-602(a) of this title shall be funded as provided in the State budget.

(b) (1) There is a Universal Service Trust Fund created for the purpose of paying the costs of maintaining and operating the program under § 3A-504(a) of this subtitle subject to the limitations and controls provided in this subtitle, and the program under § 3A-602(a) of this title subject to the limitations and controls provided in Subtitle 6 of this title.

(2) Moneys in the Universal Service Trust Fund shall be held in the State Treasury.

(3) MONEY IN THE UNIVERSAL SERVICE TRUST FUND MAY ONLY BE USED:

(I) TO FUND THE COSTS OF THE PROGRAMS SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) TO PAY FOR THE ADMINISTRATION OF THE UNIVERSAL SERVICE TRUST FUND.

(c) (1) The costs of the programs under 3A-504(a) of this subtitle and 3A-602(a) of this title shall be funded by revenues generated by:

(I) a surcharge to be paid by the subscribers to [switched local exchange access] A **TELECOMMUNICATIONS** <u>COMMUNICATIONS</u> service; and [by]

(II) other funds as [the] **PROVIDED IN THE STATE** budget [may

provide].

(2) (I) The surcharge may not exceed 45 35 18 cents per month FOR EACH ACCOUNT and shall be applied to all current bills rendered for [switched local exchange access] TELECOMMUNICATIONS A COMMUNICATIONS service in the State.

(II) The surcharge is payable at the time the bills for [telephone] **TELECOMMUNICATIONS** A COMMUNICATIONS service are due.

(3) THE SURCHARGE TO BE COLLECTED UNDER THIS SECTION ONLY APPLIES TO A COMMUNICATIONS SERVICE FOR WHICH CHARGES ARE BILLED BY, OR ON BEHALF OF, A COMMUNICATIONS COMPANY TO A SUBSCRIBER OF THE COMMUNICATIONS SERVICE.

(d) (1) The Secretary shall annually certify to the Public Service Commission the costs of the programs under § 3A-504(a) of this subtitle and § 3A-602(a) of this title to be paid by the Universal Service Trust Fund <u>FOR THE</u> FOLLOWING FISCAL YEAR.

(2) (1) The Public Service Commission shall determine the surcharge <u>FOR THE FOLLOWING FISCAL YEAR</u> necessary to fund the programs under 3A-504(a) of this subtitle and 3A-602(a) of this title [and].

(II) 1. IN ACCORDANCE WITH SUBSECTION (C)(2) AND SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE COMMISSION SHALL SET THE SURCHARGE FOR THE FOLLOWING FISCAL YEAR AT AN AMOUNT THAT IS NO HIGHER THAN NECESSARY TO GENERATE SUFFICIENT REVENUES TO FUND THE COSTS OF THE PROGRAMS FOR THE FOLLOWING FISCAL YEAR, AS CERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

2. IN SETTING THE SURCHARGE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE COMMISSION SHALL TAKE INTO ACCOUNT WHETHER THE SURCHARGE MAY BE ADJUSTED AS A RESULT OF ANY UNCOMMITTED FUNDS IN THE UNIVERSAL SERVICE TRUST FUND AT THE END OF THE FISCAL YEAR THAT MAY BE USED TO FUND THE COSTS OF THE PROGRAMS FOR THE FOLLOWING FISCAL YEAR.

(3) (1) THE PUBLIC SERVICE COMMISSION SECRETARY shall, on 60 days' notice, direct the affected [telephone] TELECOMMUNICATIONS <u>COMMUNICATIONS</u> companies THAT ARE PUBLIC SERVICE COMPANIES to add the surcharge DETERMINED BY THE <u>PUBLIC SERVICE</u> COMMISSION UNDER PARAGRAPH (2) OF THIS SUBSECTION to all current bills rendered for [switched local exchange access] TELECOMMUNICATIONS <u>COMMUNICATIONS</u> service in the State.

(II) 1. In Accordance with Subsubparagraph 2 of this subparagraph, the Secretary shall, on 60 days' notice, direct the affected telecommunications companies that are not public service companies to add the surcharge to all current bills rendered for telecommunications service in the State.

2. THE AMOUNT OF THE SURCHARGE ADDED TO CURRENT BILLS BY AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE NOT PUBLIC SERVICE COMPANIES SHALL BE THE SAME AMOUNT AS THE AMOUNT OF THE SURCHARGE ADDED TO CURRENT BILLS BY AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE PUBLIC SERVICE COMPANIES.

(e) (1) The affected [telephone] TELECOMMUNICATIONS COMMUNICATIONS companies shall act as collection agents for the Universal Service Trust Fund and shall remit all proceeds monthly to the Comptroller for deposit to the Universal Service Trust Fund.

(2) The [telephone] **TELECOMMUNICATIONS** <u>COMMUNICATIONS</u> companies shall be entitled to credit against these proceeds in an amount equal to 1 1/2 percent of these proceeds to cover the expenses of billing, collecting, and remitting the surcharge and any additional charges.

(f) (1) The Secretary shall administer the Universal Service Trust Fund.

(2) The income derived from investment of money in the <u>UNIVERSAL</u> <u>SERVICE TRUST</u> Fund shall accrue to the <u>UNIVERSAL SERVICE TRUST</u> Fund.

(3) ANY FUNDS REMAINING AT THE END OF A FISCAL YEAR IN THE UNIVERSAL SERVICE TRUST FUND SHALL BE CARRIED FORWARD WITHIN THE UNIVERSAL SERVICE TRUST FUND FOR THE MAINTENANCE AND OPERATION OF THE PROGRAMS SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION IN THE FOLLOWING FISCAL YEAR.

(g) (1) The Legislative Auditor shall conduct postaudits of a fiscal and compliance nature of the Universal Service Trust Fund and the expenditures made for purposes of § 3A-504(a) of this subtitle and § 3A-602(a) of this title.

(2) The cost of the fiscal portion of the postaudit examination shall be paid from the Universal Service Trust Fund as an administrative cost.

3A-601.

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

(c) "Program" means the program developed and administered by the Department in consultation with the Board and the Department of Disabilities to provide financial assistance for the purchase of specialized customer telephone equipment by eligible program participants.

3A-602.

(a) In accordance with the State budget and § 3A–506 of this title, the Department, in consultation with the Board and the Department of Disabilities, shall establish and administer a program:

(1) to provide specialized customer telephone equipment to eligible program participants; and

(2) to provide reimbursement of costs under § 3A–606 of this subtitle.

3A-606.

(a) The Department in consultation with the Board and the Department of Disabilities shall enter into an agreement with the State Department of Education, Division of Library Development and Services, providing for an annual payment to be made to the Division in an amount equal to the cost incurred for the distribution of newspapers in a computerized audio format.

(b) Under the agreement, the Division of Library Development and Services shall provide eligible blind and disabled individuals with access to newspapers in a computerized audio format by a qualified entity.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be construed to expand the jurisdiction of the Public Service Commission in any manner over wireless or cellular telephone service or Voice over Internet Protocol (VoIP) service.

SECTION $\frac{2}{2}$, 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 572

(House Bill 1087)

AN ACT concerning

Telecommunications <u>Communications</u> Companies – Universal Service Trust Fund – Surcharge

FOR the purpose of expanding the services that are subject to the Universal Service Trust Fund surcharge; requiring that a certain surcharge be applied to certain bills and be payable at a certain time; altering the maximum amount of a certain surcharge; providing that a certain surcharge is payable by account; requiring the Public Service Commission Secretary of Information Technology to direct certain companies to add the surcharge to certain bills for certain services under certain circumstances; providing that the money in the Fund may only be used for certain purposes; requiring the Public Service Commission to determine a certain surcharge annually for the following fiscal year; requiring the Commission to set and adjust a certain surcharge in a certain manner and under certain circumstances; requiring that certain funds be carried forward in the Fund for a certain purpose; requiring certain companies to act as collection agents for the Fund and to remit certain proceeds to the Comptroller for deposit in the Fund; providing certain companies a certain credit against certain proceeds; providing that this Act may not be construed to expand the jurisdiction of the Commission in any manner over certain services; defining certain terms; making certain technical changes; and generally relating to the Universal Services Trust Fund surcharge on certain telecommunications communications services.

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement Section 3A–501(a) and (c), 3A–504(a), 3A–601(a) and (c), 3A–602(a), and 3A–606 Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement) BY adding to

Article – State Finance and Procurement Section 3A–501(g) <u>3A–501(c)</u> and (i) <u>(d)</u> Annotated Code of Maryland (2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments, Article – State Finance and Procurement Section 3A–501(g) <u>3A–501(c) through (g)</u> and 3A–506 Annotated Code of Maryland (2009 Replacement Volume and 2011 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

3A-501.

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

(C) <u>"Communications company" means a public service</u> <u>company, as defined in § 1–101 of the Public Utilities Article, or any</u> <u>other company, that provides a communications service.</u>

(D) <u>"COMMUNICATIONS SERVICE" MEANS:</u>

(1) LANDLINE TELEPHONE SERVICE;

(2) WIRELESS OR CELLULAR TELEPHONE SERVICE; OR

(3) <u>VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS</u> DEFINED IN § 8–601 OF THE PUBLIC UTILITIES ARTICLE.

(e) (E) "Dual party telephone relay program" means a service that provides full and simultaneous communication between a person or persons with a disability that prevents them from using a standard telephone and a person or persons without that disability using conventional telephone equipment or other technology or equipment, whereby the disabled person or persons have their message relayed through an intermediary party using specialized telecommunications equipment.

[(d)] (F) "Program" means the dual party telephone relay program.

[(e)] (G) <u>"Program participant" means a resident of the State who uses the</u> <u>dual party telephone relay program.</u> [(f)] (H) (1) "Specialized customer telephone equipment" means any communications device that enables or assists a person with a disability to communicate with others by means of the public switched telephone network or Internet protocol—enabled voice communications service.

- (2) <u>"Specialized customer telephone equipment" includes:</u>
 - (i) $\underline{TDD}/\underline{TT}/\underline{TTY};$
 - (ii) <u>amplifiers;</u>
 - (iii) captioned telephones;
 - (iv) VRS equipment;
 - (v) <u>cell phones;</u>
 - (vi) pagers;
 - (vii) puff blow devices;
 - (viii) Braille-TTY devices; and
 - (ix) equipment for the mobility disabled.

(G) "TELECOMMUNICATIONS COMPANY" MEANS A COMPANY THAT:

(1) IS:

(I) A PUBLIC SERVICE COMPANY, AS DEFINED IN § 1–101 OF THE PUBLIC UTILITIES ARTICLE;

- (II) A WIRELESS COMMUNICATIONS COMPANY; OR
- (III) AN INTERNET PROTOCOL TELEPHONY COMPANY; AND

(2) (1) PROVIDES FOR THE RECEPTION, TRANSMISSION, OR COMMUNICATION OF MESSAGES BY TELEPHONE OR OTHER DEVICE; OR

(II) LEASES, SELLS, OR RESELLS TELEPHONE OR TELECOMMUNICATIONS SERVICE.

[(g)] (II) "Telecommunications device for the deaf" or "TDD/TT/TTY" means all types of mechanical devices that enable disabled individuals to communicate through messages sent and received through a telephone or wireless network.

(I) **"TELECOMMUNICATIONS SERVICE" MEANS:**

- (1) LANDLINE TELEPHONE SERVICE;
- (2) WIRELESS TELEPHONE SERVICE; OR

(3) VOICE OVER INTERNET PROTOCOL (VOIP) SERVICE, AS DEFINED IN § 8–601 OF THE PUBLIC UTILITIES ARTICLE.

3A–504.

(a) The Department in consultation with the Board shall:

(1) establish and administer a program to provide cost-efficient, 24-hour, dual party relay service to program participants at a comparable level of access and quality that a standard telecommunication service provides to a person without a hearing or speech disability;

(2) develop the program in collaboration with State programs currently serving disabled individuals and with community agencies or other organizations that have established relay programs; and

(3) maintain an information and referral service to provide information about the availability of the relay service.

3A-506.

(a) The programs under § 3A-504(a) of this subtitle and § 3A-602(a) of this title shall be funded as provided in the State budget.

(b) (1) There is a Universal Service Trust Fund created for the purpose of paying the costs of maintaining and operating the program under § 3A-504(a) of this subtitle subject to the limitations and controls provided in this subtitle, and the program under § 3A-602(a) of this title subject to the limitations and controls provided in Subtitle 6 of this title.

(2) Moneys in the Universal Service Trust Fund shall be held in the State Treasury.

(3) MONEY IN THE UNIVERSAL SERVICE TRUST FUND MAY ONLY BE USED:

(I) TO FUND THE COSTS OF THE PROGRAMS SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) TO PAY FOR THE ADMINISTRATION OF THE UNIVERSAL SERVICE TRUST FUND.

(c) (1) The costs of the programs under 3A-504(a) of this subtitle and 3A-602(a) of this title shall be funded by revenues generated by:

(I) a surcharge to be paid by the subscribers to [switched local exchange access] A TELECOMMUNICATIONS COMMUNICATIONS service; and [by]

(II) other funds as [the] **PROVIDED IN THE STATE** budget [may

provide].

(2) **(I)** The surcharge may not exceed <u>45</u> <u>18</u> cents per month <u>FOR</u> <u>EACH ACCOUNT</u> and shall be applied to all current bills rendered for [switched local exchange access] <u>TELECOMMUNICATIONS</u> <u>A COMMUNICATIONS</u> service in the State.

(II) The surcharge is payable at the time the bills for [telephone] **TELECOMMUNICATIONS** A COMMUNICATIONS service are due.

(3) THE SURCHARGE TO BE COLLECTED UNDER THIS SECTION ONLY APPLIES TO A COMMUNICATIONS SERVICE FOR WHICH CHARGES ARE BILLED BY, OR ON BEHALF OF, A COMMUNICATIONS COMPANY TO A SUBSCRIBER OF THE COMMUNICATIONS SERVICE.

(d) (1) The Secretary shall annually certify to the Public Service Commission the costs of the programs under § 3A-504(a) of this subtitle and § 3A-602(a) of this title to be paid by the Universal Service Trust Fund <u>FOR THE</u> <u>FOLLOWING FISCAL YEAR</u>.

(2) (1) The Public Service Commission shall determine the surcharge <u>FOR THE FOLLOWING FISCAL YEAR</u> necessary to fund the programs under 3A-504(a) of this subtitle and 3A-602(a) of this title [and].

(II) 1. IN ACCORDANCE WITH SUBSECTION (C)(2) AND SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE COMMISSION SHALL SET THE SURCHARGE FOR THE FOLLOWING FISCAL YEAR AT AN AMOUNT THAT IS NO HIGHER THAN NECESSARY TO GENERATE SUFFICIENT REVENUES TO FUND THE COSTS OF THE PROGRAMS FOR THE FOLLOWING FISCAL YEAR, AS CERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

2. IN SETTING THE SURCHARGE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE PUBLIC SERVICE COMMISSION SHALL TAKE INTO ACCOUNT WHETHER THE SURCHARGE MAY BE

ADJUSTED AS A RESULT OF ANY UNCOMMITTED FUNDS IN THE UNIVERSAL SERVICE TRUST FUND AT THE END OF THE FISCAL YEAR THAT MAY BE USED TO FUND THE COSTS OF THE PROGRAMS FOR THE FOLLOWING FISCAL YEAR.

(3) (1) THE PUBLIC SERVICE COMMISSION SECRETARY shall, on 60 days' notice, direct the affected [telephone] TELECOMMUNICATIONS <u>COMMUNICATIONS</u> companies THAT ARE PUBLIC SERVICE COMPANIES to add the surcharge DETERMINED BY THE <u>PUBLIC SERVICE</u> COMMISSION UNDER PARAGRAPH (2) OF THIS SUBSECTION to all current bills rendered for [switched local exchange access] TELECOMMUNICATIONS <u>COMMUNICATIONS</u> service in the State.

(II) 1. IN ACCORDANCE WITH SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE SECRETARY SHALL, ON 60 DAYS' NOTICE, DIRECT THE AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE NOT PUBLIC SERVICE COMPANIES TO ADD THE SURCHARGE TO ALL CURRENT BILLS RENDERED FOR TELECOMMUNICATIONS SERVICE IN THE STATE.

2. THE AMOUNT OF THE SURCHARGE ADDED TO CURRENT BILLS BY AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE NOT PUBLIC SERVICE COMPANIES SHALL BE THE SAME AMOUNT AS THE AMOUNT OF THE SURCHARGE ADDED TO CURRENT BILLS BY AFFECTED TELECOMMUNICATIONS COMPANIES THAT ARE PUBLIC SERVICE COMPANIES.

(e) (1) The affected [telephone] **TELECOMMUNICATIONS** <u>COMMUNICATIONS</u> companies shall act as collection agents for the Universal Service Trust Fund and shall remit all proceeds monthly to the Comptroller for deposit to the Universal Service Trust Fund.

(2) The [telephone] **TELECOMMUNICATIONS** <u>COMMUNICATIONS</u> companies shall be entitled to credit against these proceeds in an amount equal to 1 1/2 percent of these proceeds to cover the expenses of billing, collecting, and remitting the surcharge and any additional charges.

(f) (1) The Secretary shall administer the Universal Service Trust Fund.

(2) The income derived from investment of money in the <u>UNIVERSAL</u> <u>SERVICE TRUST</u> Fund shall accrue to the <u>UNIVERSAL SERVICE TRUST</u> Fund.

(3) ANY FUNDS REMAINING AT THE END OF A FISCAL YEAR IN THE UNIVERSAL SERVICE TRUST FUND SHALL BE CARRIED FORWARD WITHIN THE UNIVERSAL SERVICE TRUST FUND FOR THE MAINTENANCE AND OPERATION OF THE PROGRAMS SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION IN THE FOLLOWING FISCAL YEAR. (g) (1) The Legislative Auditor shall conduct postaudits of a fiscal and compliance nature of the Universal Service Trust Fund and the expenditures made for purposes of § 3A-504(a) of this subtitle and § 3A-602(a) of this title.

(2) The cost of the fiscal portion of the postaudit examination shall be paid from the Universal Service Trust Fund as an administrative cost.

3A-601.

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

(c) "Program" means the program developed and administered by the Department in consultation with the Board and the Department of Disabilities to provide financial assistance for the purchase of specialized customer telephone equipment by eligible program participants.

3A-602.

(a) In accordance with the State budget and § 3A–506 of this title, the Department, in consultation with the Board and the Department of Disabilities, shall establish and administer a program:

(1) to provide specialized customer telephone equipment to eligible program participants; and

(2) to provide reimbursement of costs under § 3A–606 of this subtitle.

3A-606.

(a) The Department in consultation with the Board and the Department of Disabilities shall enter into an agreement with the State Department of Education, Division of Library Development and Services, providing for an annual payment to be made to the Division in an amount equal to the cost incurred for the distribution of newspapers in a computerized audio format.

(b) Under the agreement, the Division of Library Development and Services shall provide eligible blind and disabled individuals with access to newspapers in a computerized audio format by a qualified entity.

<u>SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be</u> construed to expand the jurisdiction of the Public Service Commission in any manner over wireless or cellular telephone service or Voice over Internet Protocol (VoIP) <u>service.</u>

SECTION $\stackrel{2}{\Rightarrow}$ <u>3.</u> AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.