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OF THE
STATE OF MARYLAND
ENACTED

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VOLUME II

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Chapter 171**(House Bill 315)**

AN ACT concerning

Greenhouse Gas Emissions Reduction Act of 2009

FOR the purpose of setting forth certain findings of the General Assembly; requiring the Department of the Environment to publish and update certain inventories based on certain measures on or before certain dates; requiring the State to reduce greenhouse gas emissions by a certain amount by a certain date and to develop a certain plan, adopt certain regulations, and implement certain programs that reduce greenhouse gas emissions; requiring the Department to submit a proposed plan to the Governor and the General Assembly on or before a certain date; requiring the Department to make the plan available to the public; requiring the Department to convene a series of public workshops for comment on the plan; requiring the Department to adopt a final plan in accordance with certain requirements on or before a certain date; requiring the Department to consult with State and local agencies under certain circumstances; prohibiting State agencies from adopting certain regulations; requiring the Department to take certain actions as it develops and implements the plan in a certain manner; requiring an institution of higher education in the State to conduct a certain study and submit it to the Governor and the General Assembly on or before a certain date; requiring the Governor to appoint a certain task force consisting of certain representatives to oversee the study; requiring that, to the extent practicable, the members appointed to the task force reflect the geographic, racial, and gender diversity of the State; authorizing certain greenhouse gas emissions sources to receive certain credits under certain circumstances; requiring the Department to submit a certain report to the Governor and the General Assembly in accordance with certain requirements on or before a certain date; authorizing the General Assembly to maintain, revise, or eliminate certain greenhouse gas emissions reduction requirements under certain circumstances; requiring the Department to monitor the implementation of a certain plan and to submit certain reports to the Governor and the General Assembly on or before certain dates; requiring the Department to include certain agencies and entities in certain discussions regarding certain matters; defining certain terms; making the provisions of this Act severable; providing for the correction of certain errors and obsolete provisions by the publishers of the Annotated Code; providing for the termination of a certain provision of this Act; and generally relating to the reduction of greenhouse gas emissions.

BY adding to

Article – Environment

Section 2–1201 through 2–1211 to be under the new subtitle “Subtitle 12. Greenhouse Gas Emissions Reductions”
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

SUBTITLE 12. GREENHOUSE GAS EMISSIONS REDUCTIONS.

2–1201.

THE GENERAL ASSEMBLY FINDS THAT:

(1) **GREENHOUSE GASES ARE AIR POLLUTANTS THAT THREATEN TO ENDANGER THE PUBLIC HEALTH AND WELFARE OF THE PEOPLE OF MARYLAND;**

(2) **GLOBAL WARMING POSES A SERIOUS THREAT TO THE STATE’S FUTURE HEALTH, WELL-BEING, AND PROSPERITY;**

(3) **WITH 3,100 MILES OF TIDALLY INFLUENCED SHORELINE, MARYLAND IS VULNERABLE TO THE THREAT POSED BY GLOBAL WARMING AND SUSCEPTIBLE TO RISING SEA LEVELS AND FLOODING, WHICH WOULD HAVE DETRIMENTAL AND COSTLY EFFECTS;**

(4) **THE STATE HAS THE INGENUITY TO REDUCE THE THREAT OF GLOBAL WARMING AND MAKE GREENHOUSE GAS REDUCTIONS A PART OF THE STATE’S FUTURE BY ACHIEVING A 25% REDUCTION IN GREENHOUSE GAS EMISSIONS FROM 2006 LEVELS BY 2020 AND BY PREPARING A PLAN TO MEET A LONGER-TERM GOAL OF REDUCING GREENHOUSE GAS EMISSIONS BY UP TO 90% FROM 2006 LEVELS BY 2050 IN A MANNER THAT PROMOTES NEW “GREEN” JOBS, AND PROTECTS EXISTING JOBS AND THE STATE’S ECONOMIC WELL-BEING;**

(5) **STUDIES HAVE SHOWN THAT ENERGY EFFICIENCY PROGRAMS AND TECHNOLOGICAL INITIATIVES CONSISTENT WITH THE GOAL OF REDUCING GREENHOUSE GAS EMISSIONS CAN RESULT IN A NET ECONOMIC BENEFIT TO THE STATE;**

(6) **IN ADDITION TO ACHIEVING THE REDUCTION ESTABLISHED UNDER THIS SUBTITLE, IT IS IN THE BEST INTEREST OF THE STATE TO ACT EARLY AND AGGRESSIVELY TO ACHIEVE THE MARYLAND COMMISSION ON**

CLIMATE CHANGE'S RECOMMENDED GOALS OF REDUCING GREENHOUSE GAS EMISSIONS BY 10% FROM 2006 LEVELS BY 2012 AND BY 15% FROM 2006 LEVELS BY 2015;

(7) WHILE REDUCTIONS OF HARMFUL GREENHOUSE GAS EMISSIONS ARE ONE PART OF THE SOLUTION, THE STATE SHOULD FOCUS ON DEVELOPING AND UTILIZING CLEAN ENERGIES THAT PROVIDE GREATER ENERGY EFFICIENCY AND CONSERVATION, SUCH AS RENEWABLE ENERGY FROM WIND, SOLAR, GEOTHERMAL, AND BIOENERGY SOURCES;

(8) IT IS NECESSARY TO PROTECT THE PUBLIC HEALTH, ECONOMIC WELL-BEING, AND NATURAL TREASURES OF THE STATE BY REDUCING HARMFUL AIR POLLUTANTS SUCH AS GREENHOUSE GAS EMISSIONS BY USING PRACTICAL SOLUTIONS THAT ARE ALREADY AT THE STATE'S DISPOSAL;

(9) CAP AND TRADE REGULATION OF GREENHOUSE GAS EMISSIONS IS MOST EFFECTIVE WHEN IMPLEMENTED ON A FEDERAL LEVEL;

(10) BECAUSE OF THE NEED TO REMAIN COMPETITIVE WITH MANUFACTURERS LOCATED IN OTHER STATES OR COUNTRIES AND TO PRESERVE EXISTING MANUFACTURING JOBS IN THE STATE, GREENHOUSE GAS EMISSIONS FROM THE MANUFACTURING SECTOR ARE MOST EFFECTIVELY REGULATED ON A NATIONAL AND INTERNATIONAL LEVEL; AND

(11) BECAUSE OF THE NEED TO REMAIN COMPETITIVE WITH OTHER STATES, GREENHOUSE GAS EMISSIONS FROM CERTAIN OTHER COMMERCIAL AND SERVICE SECTORS, INCLUDING FREIGHT CARRIERS AND GENERATORS OF ELECTRICITY, ARE MOST EFFECTIVELY REGULATED ON A NATIONAL LEVEL.

2-1202.

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

(B) "ALTERNATIVE COMPLIANCE MECHANISM" MEANS AN ACTION AUTHORIZED BY REGULATIONS ADOPTED BY THE DEPARTMENT THAT ACHIEVES THE EQUIVALENT REDUCTION OF GREENHOUSE GAS EMISSIONS OVER THE SAME PERIOD AS A DIRECT EMISSIONS REDUCTION.

(C) "CARBON DIOXIDE EQUIVALENT" MEANS THE MEASUREMENT OF A GIVEN WEIGHT OF A GREENHOUSE GAS THAT HAS THE SAME GLOBAL WARMING

POTENTIAL, MEASURED OVER A SPECIFIED PERIOD OF TIME, AS ONE METRIC TON OF CARBON DIOXIDE.

(D) **“DIRECT EMISSIONS REDUCTION”** MEANS A REDUCTION OF GREENHOUSE GAS EMISSIONS FROM A GREENHOUSE GAS EMISSIONS SOURCE.

(E) **“GREENHOUSE GAS”** INCLUDES CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, AND SULFUR HEXAFLUORIDE.

(F) **“GREENHOUSE GAS EMISSIONS SOURCE”** MEANS A SOURCE OR CATEGORY OF SOURCES OF GREENHOUSE GAS EMISSIONS THAT HAVE EMISSIONS OF GREENHOUSE GASES THAT ARE SUBJECT TO REPORTING REQUIREMENTS OR OTHER PROVISIONS OF THIS SUBTITLE, AS DETERMINED BY THE DEPARTMENT.

(G) **“LEAKAGE”** MEANS A REDUCTION IN GREENHOUSE GAS EMISSIONS WITHIN THE STATE THAT IS OFFSET BY A CORRESPONDING INCREASE IN GREENHOUSE GAS EMISSIONS FROM A GREENHOUSE GAS EMISSIONS SOURCE LOCATED OUTSIDE THE STATE THAT IS NOT SUBJECT TO A SIMILAR STATE, INTERSTATE, OR REGIONAL GREENHOUSE GAS EMISSIONS CAP OR LIMITATION.

(H) (1) **“MANUFACTURING”** MEANS THE PROCESS OF SUBSTANTIALLY TRANSFORMING, OR A SUBSTANTIAL STEP IN THE PROCESS OF SUBSTANTIALLY TRANSFORMING, TANGIBLE PERSONAL PROPERTY INTO A NEW AND DIFFERENT ARTICLE OF TANGIBLE PERSONAL PROPERTY BY THE USE OF LABOR OR MACHINERY.

(2) **“MANUFACTURING”**, WHEN PERFORMED BY COMPANIES PRIMARILY ENGAGED IN THE ACTIVITIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, INCLUDES:

(I) THE OPERATION OF SAW MILLS, GRAIN MILLS, OR FEED MILLS;

(II) THE OPERATION OF MACHINERY AND EQUIPMENT USED TO EXTRACT AND PROCESS MINERALS, METALS, OR EARTHEN MATERIALS OR BY-PRODUCTS THAT RESULT FROM THE EXTRACTING OR PROCESSING; AND

(III) RESEARCH AND DEVELOPMENT ACTIVITIES.

(3) **“MANUFACTURING”** DOES NOT INCLUDE:

(I) ACTIVITIES THAT ARE PRIMARILY A SERVICE;

(II) **ACTIVITIES THAT ARE INTELLECTUAL, ARTISTIC, OR CLERICAL IN NATURE;**

(III) **PUBLIC UTILITY SERVICES, INCLUDING GAS, ELECTRIC, WATER, AND STEAM PRODUCTION SERVICES; OR**

(IV) **ANY OTHER ACTIVITY THAT WOULD NOT COMMONLY BE CONSIDERED AS MANUFACTURING.**

(I) **“STATEWIDE GREENHOUSE GAS EMISSIONS” MEANS THE TOTAL ANNUAL EMISSIONS OF GREENHOUSE GASES IN THE STATE, MEASURED IN METRIC TONS OF CARBON DIOXIDE EQUIVALENTS, INCLUDING ALL EMISSIONS OF GREENHOUSE GASES FROM THE GENERATION OF ELECTRICITY DELIVERED TO AND CONSUMED IN THE STATE, AND LINE LOSSES FROM THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY, WHETHER THE ELECTRICITY IS GENERATED IN-STATE OR IMPORTED.**

2-1203.

(A) **ON OR BEFORE JUNE 1, 2011, THE DEPARTMENT SHALL PUBLISH:**

(1) **AN INVENTORY OF STATEWIDE GREENHOUSE GAS EMISSIONS FOR CALENDAR YEAR 2006; AND**

(2) **BASED ON EXISTING GREENHOUSE GAS EMISSIONS CONTROL MEASURES, A PROJECTED “BUSINESS AS USUAL” INVENTORY FOR CALENDAR YEAR 2020.**

(B) **THE DEPARTMENT SHALL REVIEW AND PUBLISH AN UPDATED STATEWIDE GREENHOUSE GAS EMISSIONS INVENTORY FOR CALENDAR YEAR 2011 AND FOR EVERY THIRD CALENDAR YEAR THEREAFTER.**

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

Article – Environment

2-1204.

THE STATE SHALL REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS BY 25% FROM 2006 LEVELS BY 2020.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment**2-1205.**

(A) THE STATE SHALL DEVELOP A PLAN, ADOPT REGULATIONS, AND IMPLEMENT PROGRAMS THAT REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS IN ACCORDANCE WITH THIS SUBTITLE.

(B) ON OR BEFORE DECEMBER 31, 2011, THE DEPARTMENT SHALL:

(1) SUBMIT A PROPOSED PLAN TO THE GOVERNOR AND GENERAL ASSEMBLY;

(2) MAKE THE PROPOSED PLAN AVAILABLE TO THE PUBLIC; AND

(3) CONVENE A SERIES OF PUBLIC WORKSHOPS TO PROVIDE INTERESTED PARTIES WITH AN OPPORTUNITY TO COMMENT ON THE PROPOSED PLAN.

(C) (1) THE DEPARTMENT SHALL, ON OR BEFORE DECEMBER 31, 2012, ADOPT A FINAL PLAN THAT REDUCES STATEWIDE GREENHOUSE GAS EMISSIONS BY 25% FROM 2006 LEVELS BY 2020.

(2) THE PLAN SHALL BE DEVELOPED AS THE INITIAL STATE ACTION IN RECOGNITION OF THE FINDING BY THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE THAT DEVELOPED COUNTRIES WILL NEED TO REDUCE GREENHOUSE GAS EMISSIONS BY BETWEEN 80% AND 95% FROM 1990 LEVELS BY 2050.

(D) THE FINAL PLAN REQUIRED UNDER SUBSECTION (C) OF THIS SECTION SHALL INCLUDE:

(1) ADOPTED REGULATIONS THAT IMPLEMENT ALL PLAN MEASURES FOR WHICH STATE AGENCIES HAVE EXISTING STATUTORY AUTHORITY; AND

(2) A SUMMARY OF ANY NEW LEGISLATIVE AUTHORITY NEEDED TO FULLY IMPLEMENT THE PLAN AND A TIMELINE FOR SEEKING LEGISLATIVE AUTHORITY.

(E) IN DEVELOPING AND ADOPTING A FINAL PLAN TO REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS, THE DEPARTMENT SHALL CONSULT WITH STATE AND LOCAL AGENCIES AS APPROPRIATE.

(F) (1) UNLESS REQUIRED BY FEDERAL LAW OR REGULATIONS OR EXISTING STATE LAW, REGULATIONS ADOPTED BY STATE AGENCIES TO IMPLEMENT THE FINAL PLAN MAY NOT:

(I) REQUIRE GREENHOUSE GAS EMISSIONS REDUCTIONS FROM THE STATE'S MANUFACTURING SECTOR; OR

(II) CAUSE A SIGNIFICANT INCREASE IN COSTS TO THE STATE'S MANUFACTURING SECTOR.

(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO EXEMPT GREENHOUSE GAS EMISSIONS SOURCES IN THE STATE'S MANUFACTURING SECTOR FROM THE OBLIGATION TO COMPLY WITH:

(I) GREENHOUSE GAS EMISSIONS MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS FOR WHICH THE DEPARTMENT HAD EXISTING AUTHORITY UNDER § 2-301(A) OF THIS TITLE ON OR BEFORE OCTOBER 1, 2009; OR

(II) GREENHOUSE GAS EMISSIONS REDUCTIONS REQUIRED OF THE MANUFACTURING SECTOR AS A RESULT OF THE STATE'S IMPLEMENTATION OF THE REGIONAL GREENHOUSE GAS INITIATIVE.

(G) A REGULATION ADOPTED BY A STATE AGENCY FOR THE PURPOSE OF REDUCING GREENHOUSE GAS EMISSIONS IN ACCORDANCE WITH THIS SECTION MAY NOT BE CONSTRUED TO RESULT IN A SIGNIFICANT INCREASE IN COSTS TO THE STATE'S MANUFACTURING SECTOR UNLESS THE SOURCE WOULD NOT INCUR THE COST INCREASE BUT FOR THE NEW REGULATION.

2-1206.

IN DEVELOPING AND IMPLEMENTING THE PLAN REQUIRED BY § 2-1205 OF THIS SUBTITLE, THE DEPARTMENT SHALL:

(1) ANALYZE THE FEASIBILITY OF MEASURES TO COMPLY WITH THE GREENHOUSE GAS EMISSIONS REDUCTIONS REQUIRED BY THIS SUBTITLE;

(2) CONSIDER THE IMPACT ON RURAL COMMUNITIES OF ANY TRANSPORTATION RELATED MEASURES PROPOSED IN THE PLAN;

~~(2)~~ (3) PROVIDE THAT A GREENHOUSE GAS EMISSIONS SOURCE THAT VOLUNTARILY REDUCES ITS GREENHOUSE GAS EMISSIONS BEFORE THE

IMPLEMENTATION OF THIS SUBTITLE SHALL RECEIVE APPROPRIATE CREDIT FOR ITS EARLY VOLUNTARY ACTIONS;

~~(3)~~ (4) PROVIDE FOR THE USE OF OFFSET CREDITS GENERATED BY ALTERNATIVE COMPLIANCE MECHANISMS EXECUTED WITHIN THE STATE, INCLUDING CARBON SEQUESTRATION PROJECTS, TO ACHIEVE COMPLIANCE WITH GREENHOUSE GAS EMISSIONS REDUCTIONS REQUIRED BY THIS SUBTITLE;

~~(4)~~ (5) ENSURE THAT THE PLAN DOES NOT DECREASE THE LIKELIHOOD OF RELIABLE AND AFFORDABLE ELECTRICAL SERVICE AND STATEWIDE FUEL SUPPLIES; ~~AND~~

(6) CONSIDER WHETHER THE MEASURES WOULD RESULT IN AN INCREASE IN ELECTRICITY COSTS TO CONSUMERS IN THE STATE;

(7) CONSIDER THE IMPACT OF THE PLAN ON THE ABILITY OF THE STATE TO:

(I) ATTRACT, EXPAND, AND RETAIN COMMERCIAL AVIATION SERVICES; AND

(II) CONSERVE, PROTECT, AND RETAIN AGRICULTURE; AND

~~(5)~~ ~~(7)~~ (8) ENSURE THAT THE GREENHOUSE GAS EMISSIONS REDUCTION MEASURES IMPLEMENTED IN ACCORDANCE WITH THE PLAN:

(I) ARE IMPLEMENTED IN AN EFFICIENT AND COST-EFFECTIVE MANNER;

(II) DO NOT DISPROPORTIONATELY IMPACT RURAL OR LOW-INCOME, LOW- TO MODERATE-INCOME, OR MINORITY COMMUNITIES OR ANY OTHER PARTICULAR CLASS OF ELECTRICITY RATEPAYERS;

(III) MINIMIZE LEAKAGE;

(IV) ARE QUANTIFIABLE, VERIFIABLE, AND ENFORCEABLE;

(V) DIRECTLY CAUSE NO LOSS OF EXISTING JOBS IN THE MANUFACTURING SECTOR;

(VI) PRODUCE A NET ECONOMIC BENEFIT TO THE STATE'S ECONOMY AND A NET INCREASE IN JOBS IN THE STATE; AND

(VII) ENCOURAGE NEW EMPLOYMENT OPPORTUNITIES IN THE STATE RELATED TO ENERGY CONSERVATION, ALTERNATIVE ENERGY SUPPLY, AND GREENHOUSE GAS EMISSIONS REDUCTION TECHNOLOGIES.

2-1207.

(A) (1) AN INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL CONDUCT AN INDEPENDENT STUDY OF THE ECONOMIC IMPACT OF REQUIRING GREENHOUSE GAS EMISSIONS REDUCTIONS FROM THE STATE'S MANUFACTURING SECTOR.

(2) THE GOVERNOR SHALL APPOINT A TASK FORCE TO OVERSEE THE INDEPENDENT STUDY REQUIRED BY THIS SECTION.

(3) THE TASK FORCE SHALL INCLUDE REPRESENTATIVES OF:

(I) LABOR UNIONS;

(II) AFFECTED INDUSTRIES AND BUSINESSES;

(III) ENVIRONMENTAL ORGANIZATIONS; AND

(IV) LOW-INCOME AND MINORITY COMMUNITIES.

(4) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE TASK FORCE SHALL REPRESENT THE GEOGRAPHIC, RACIAL, AND GENDER DIVERSITY OF THE STATE.

(B) ON OR BEFORE OCTOBER 1, 2015, THE INSTITUTION OF HIGHER EDUCATION RESPONSIBLE FOR THE INDEPENDENT STUDY SHALL COMPLETE AND SUBMIT THE STUDY TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

2-1208.

(A) A GREENHOUSE GAS EMISSIONS SOURCE IN THE STATE'S MANUFACTURING SECTOR THAT IMPLEMENTS A VOLUNTARY GREENHOUSE GAS EMISSIONS REDUCTION PLAN THAT IS APPROVED BY THE DEPARTMENT ON OR BEFORE JANUARY 1, 2012, MAY BE ELIGIBLE TO RECEIVE VOLUNTARY EARLY ACTION CREDITS UNDER ANY FUTURE STATE LAW REQUIRING GREENHOUSE GAS EMISSIONS REDUCTIONS FROM THE MANUFACTURING SECTOR.

(B) A VOLUNTARY GREENHOUSE GAS EMISSIONS REDUCTION PLAN MAY INCLUDE MEASURES TO:

**(1) REDUCE ENERGY USE AND INCREASE PROCESS EFFICIENCY;
AND**

(2) FACILITATE INDUSTRY-WIDE RESEARCH AND DEVELOPMENT DIRECTED TOWARD FUTURE MEASURES TO REDUCE GREENHOUSE GAS EMISSIONS.

2-1209.

(A) ON OR BEFORE OCTOBER 1, 2015, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THAT INCLUDES:

(1) A SUMMARY OF THE STATE'S PROGRESS TOWARD ACHIEVING THE 2020 EMISSIONS REDUCTION REQUIRED BY THE PLAN UNDER § 2-1205 OF THIS SUBTITLE;

(2) AN UPDATE ON EMERGING TECHNOLOGIES TO REDUCE GREENHOUSE GAS EMISSIONS;

(3) A REVIEW OF THE BEST AVAILABLE SCIENCE, INCLUDING UPDATES BY THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, REGARDING THE LEVEL AND PACE OF GREENHOUSE GAS EMISSIONS REDUCTIONS AND SEQUESTRATION NEEDED TO AVOID DANGEROUS ANTHROPOGENIC CHANGES TO THE EARTH'S CLIMATE SYSTEM;

(4) RECOMMENDATIONS ON THE NEED FOR SCIENCE-BASED ADJUSTMENTS TO THE REQUIREMENT TO REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS BY 25% BY 2020;

(5) A SUMMARY OF ADDITIONAL OR REVISED REGULATIONS, CONTROL PROGRAMS, OR INCENTIVES THAT ARE NECESSARY TO ACHIEVE THE 25% REDUCTION IN STATEWIDE GREENHOUSE GAS EMISSIONS REQUIRED UNDER THIS SUBTITLE, OR A REVISED REDUCTION RECOMMENDED IN ACCORDANCE WITH ITEM (4) OF THIS SUBSECTION;

(6) THE STATUS OF ANY FEDERAL PROGRAM TO REDUCE GREENHOUSE GAS EMISSIONS AND ANY TRANSITION BY THE STATE FROM ITS PARTICIPATION IN THE REGIONAL GREENHOUSE GAS INITIATIVE TO A COMPARABLE FEDERAL CAP AND TRADE PROGRAM; AND

(7) AN ANALYSIS OF THE OVERALL ECONOMIC COSTS AND BENEFITS TO THE STATE'S ECONOMY, ENVIRONMENT, AND PUBLIC HEALTH OF

A CONTINUATION OR MODIFICATION OF THE REQUIREMENT TO ACHIEVE A REDUCTION OF 25% IN STATEWIDE GREENHOUSE GAS EMISSIONS BY 2020, INCLUDING REDUCTIONS IN OTHER AIR POLLUTANTS, DIVERSIFICATION OF ENERGY SOURCES, THE IMPACT ON EXISTING JOBS, THE CREATION OF NEW JOBS, AND EXPANSION OF THE STATE'S LOW CARBON ECONOMY.

(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE SUBJECT TO A PUBLIC COMMENT AND HEARING PROCESS CONDUCTED BY THE DEPARTMENT.

2-1210.

ON REVIEW OF THE STUDY REQUIRED UNDER § 2-1207 OF THIS SUBTITLE, AND THE REPORT REQUIRED UNDER § 2-1209 OF THIS SUBTITLE, THE GENERAL ASSEMBLY MAY ACT TO MAINTAIN, REVISE, OR ELIMINATE THE 25% GREENHOUSE GAS EMISSIONS REDUCTION REQUIRED UNDER THIS SUBTITLE.

2-1211.

THE DEPARTMENT SHALL MONITOR IMPLEMENTATION OF THE PLAN REQUIRED UNDER § 2-1205 OF THIS SUBTITLE AND SHALL SUBMIT A REPORT, ON OR BEFORE OCTOBER 1, 2020, AND EVERY 5 YEARS THEREAFTER, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THAT DESCRIBES THE STATE'S PROGRESS TOWARD ACHIEVING:

(1) THE REDUCTION IN GREENHOUSE GAS EMISSIONS REQUIRED UNDER THIS SUBTITLE, OR ANY REVISIONS CONDUCTED IN ACCORDANCE WITH § 2-1210 OF THIS SUBTITLE; AND

(2) THE GREENHOUSE GAS EMISSIONS REDUCTIONS NEEDED BY 2050 IN ORDER TO AVOID DANGEROUS ANTHROPOGENIC CHANGES TO THE EARTH'S CLIMATE SYSTEM, BASED ON THE PREDOMINANT VIEW OF THE SCIENTIFIC COMMUNITY AT THE TIME OF THE LATEST REPORT.

SECTION 4. AND BE IT FURTHER ENACTED, That during the process outlined in § 2-1205(a) of the Environment Article, as enacted by Section 3 of this Act, the Department of the Environment shall include the Department of Agriculture, the Maryland Farm Bureau, the Maryland Association of Soil Conservation Districts, the Delmarva Poultry Industry, the Maryland Dairy Industry Association, and the Maryland Agricultural Commission in discussions on the role to be played by agriculture to reduce greenhouse gas emissions.

SECTION 4. 5. 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~~ 6. AND BE IT FURTHER ENACTED, That any reference in the Annotated Code of Maryland rendered incorrect or obsolete by the provisions of Section 6 of this Act shall be corrected by the publishers of the Annotated Code, in consultation with and subject to the approval of the Department of Legislative Services, with no further action required by the General Assembly.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2009. It shall remain effective for a period of 7 years and 3 months, and at the end of December 31, 2016, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION ~~7~~ 8. AND BE IT FURTHER ENACTED, That, except as provided in Section ~~6~~ 7 of this Act, this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 172

(Senate Bill 278)

AN ACT concerning

Greenhouse Gas Emissions Reduction Act of 2009

FOR the purpose of setting forth certain findings of the General Assembly; requiring the Department of the Environment to publish and update certain inventories based on certain measures on or before certain dates; requiring the State to reduce greenhouse gas emissions by a certain amount by a certain date and to develop a certain plan, adopt certain regulations, and implement certain programs that reduce greenhouse gas emissions; requiring the Department to submit a proposed plan to the Governor and the General Assembly on or before a certain date; requiring the Department to make the plan available to the public; requiring the Department to convene a series of public workshops for comment on the plan; requiring the Department to adopt a final plan in accordance with certain requirements on or before a certain date; requiring the Department to consult with State and local agencies under certain circumstances; prohibiting State agencies from adopting certain regulations; requiring the Department to take certain actions as it develops and implements the plan in a certain manner; requiring an institution of higher education in the

State to conduct a certain study and submit it to the Governor and the General Assembly on or before a certain date; requiring the Governor to appoint a certain task force consisting of certain representatives to oversee the study; requiring that, to the extent practicable, the members appointed to the task force reflect the geographic, racial, and gender diversity of the State; authorizing certain greenhouse gas emissions sources to receive certain credits under certain circumstances; requiring the Department to submit a certain report to the Governor and the General Assembly in accordance with certain requirements on or before a certain date; authorizing the General Assembly to maintain, revise, or eliminate certain greenhouse gas emissions reduction requirements under certain circumstances; requiring the Department to monitor the implementation of a certain plan and to submit certain reports to the Governor and the General Assembly on or before certain dates; requiring the Department to include certain agencies and entities in certain discussions regarding certain matters; defining certain terms; making the provisions of this Act severable; providing for the correction of certain errors and obsolete provisions by the publishers of the Annotated Code; providing for the termination of a certain provision of this Act; and generally relating to the reduction of greenhouse gas emissions.

BY adding to

Article – Environment

Section 2–1201 through 2–1211 to be under the new subtitle “Subtitle 12. Greenhouse Gas Emissions Reductions”

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

SUBTITLE 12. GREENHOUSE GAS EMISSIONS REDUCTIONS.

2–1201.

THE GENERAL ASSEMBLY FINDS THAT:

(1) **GREENHOUSE GASES ARE AIR POLLUTANTS THAT THREATEN TO ENDANGER THE PUBLIC HEALTH AND WELFARE OF THE PEOPLE OF MARYLAND;**

(2) **GLOBAL WARMING POSES A SERIOUS THREAT TO THE STATE’S FUTURE HEALTH, WELL-BEING, AND PROSPERITY;**

(3) WITH 3,100 MILES OF TIDALLY INFLUENCED SHORELINE, MARYLAND IS VULNERABLE TO THE THREAT POSED BY GLOBAL WARMING AND SUSCEPTIBLE TO RISING SEA LEVELS AND FLOODING, WHICH WOULD HAVE DETRIMENTAL AND COSTLY EFFECTS;

(4) THE STATE HAS THE INGENUITY TO REDUCE THE THREAT OF GLOBAL WARMING AND MAKE GREENHOUSE GAS REDUCTIONS A PART OF THE STATE'S FUTURE BY ACHIEVING A 25% REDUCTION IN GREENHOUSE GAS EMISSIONS FROM 2006 LEVELS BY 2020 AND BY PREPARING A PLAN TO MEET A LONGER-TERM GOAL OF REDUCING GREENHOUSE GAS EMISSIONS BY UP TO 90% FROM 2006 LEVELS BY 2050 IN A MANNER THAT PROMOTES NEW "GREEN" JOBS, AND PROTECTS EXISTING JOBS AND THE STATE'S ECONOMIC WELL-BEING;

(5) STUDIES HAVE SHOWN THAT ENERGY EFFICIENCY PROGRAMS AND TECHNOLOGICAL INITIATIVES CONSISTENT WITH THE GOAL OF REDUCING GREENHOUSE GAS EMISSIONS CAN RESULT IN A NET ECONOMIC BENEFIT TO THE STATE;

(6) IN ADDITION TO ACHIEVING THE REDUCTION ESTABLISHED UNDER THIS SUBTITLE, IT IS IN THE BEST INTEREST OF THE STATE TO ACT EARLY AND AGGRESSIVELY TO ACHIEVE THE MARYLAND COMMISSION ON CLIMATE CHANGE'S RECOMMENDED GOALS OF REDUCING GREENHOUSE GAS EMISSIONS BY 10% FROM 2006 LEVELS BY 2012 AND BY 15% FROM 2006 LEVELS BY 2015;

(7) WHILE REDUCTIONS OF HARMFUL GREENHOUSE GAS EMISSIONS ARE ONE PART OF THE SOLUTION, THE STATE SHOULD FOCUS ON DEVELOPING AND UTILIZING CLEAN ENERGIES THAT PROVIDE GREATER ENERGY EFFICIENCY AND CONSERVATION, SUCH AS RENEWABLE ENERGY FROM WIND, SOLAR, GEOTHERMAL, AND BIOENERGY SOURCES;

(8) IT IS NECESSARY TO PROTECT THE PUBLIC HEALTH, ECONOMIC WELL-BEING, AND NATURAL TREASURES OF THE STATE BY REDUCING HARMFUL AIR POLLUTANTS SUCH AS GREENHOUSE GAS EMISSIONS BY USING PRACTICAL SOLUTIONS THAT ARE ALREADY AT THE STATE'S DISPOSAL;

(9) CAP AND TRADE REGULATION OF GREENHOUSE GAS EMISSIONS IS MOST EFFECTIVE WHEN IMPLEMENTED ON A FEDERAL LEVEL;

(10) BECAUSE OF THE NEED TO REMAIN COMPETITIVE WITH MANUFACTURERS LOCATED IN OTHER STATES OR COUNTRIES AND TO PRESERVE EXISTING MANUFACTURING JOBS IN THE STATE, GREENHOUSE GAS

EMISSIONS FROM THE MANUFACTURING SECTOR ARE MOST EFFECTIVELY REGULATED ON A NATIONAL AND INTERNATIONAL LEVEL; AND

(11) BECAUSE OF THE NEED TO REMAIN COMPETITIVE WITH OTHER STATES, GREENHOUSE GAS EMISSIONS FROM CERTAIN OTHER COMMERCIAL AND SERVICE SECTORS, INCLUDING FREIGHT CARRIERS AND GENERATORS OF ELECTRICITY, ARE MOST EFFECTIVELY REGULATED ON A NATIONAL LEVEL.

2-1202.

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

(B) "ALTERNATIVE COMPLIANCE MECHANISM" MEANS AN ACTION AUTHORIZED BY REGULATIONS ADOPTED BY THE DEPARTMENT THAT ACHIEVES THE EQUIVALENT REDUCTION OF GREENHOUSE GAS EMISSIONS OVER THE SAME PERIOD AS A DIRECT EMISSIONS REDUCTION.

(C) "CARBON DIOXIDE EQUIVALENT" MEANS THE MEASUREMENT OF A GIVEN WEIGHT OF A GREENHOUSE GAS THAT HAS THE SAME GLOBAL WARMING POTENTIAL, MEASURED OVER A SPECIFIED PERIOD OF TIME, AS ONE METRIC TON OF CARBON DIOXIDE.

(D) "DIRECT EMISSIONS REDUCTION" MEANS A REDUCTION OF GREENHOUSE GAS EMISSIONS FROM A GREENHOUSE GAS EMISSIONS SOURCE.

(E) "GREENHOUSE GAS" INCLUDES CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, AND SULFUR HEXAFLUORIDE.

(F) "GREENHOUSE GAS EMISSIONS SOURCE" MEANS A SOURCE OR CATEGORY OF SOURCES OF GREENHOUSE GAS EMISSIONS THAT HAVE EMISSIONS OF GREENHOUSE GASES THAT ARE SUBJECT TO REPORTING REQUIREMENTS OR OTHER PROVISIONS OF THIS SUBTITLE, AS DETERMINED BY THE DEPARTMENT.

(G) "LEAKAGE" MEANS A REDUCTION IN GREENHOUSE GAS EMISSIONS WITHIN THE STATE THAT IS OFFSET BY A CORRESPONDING INCREASE IN GREENHOUSE GAS EMISSIONS FROM A GREENHOUSE GAS EMISSIONS SOURCE LOCATED OUTSIDE THE STATE THAT IS NOT SUBJECT TO A SIMILAR STATE, INTERSTATE, OR REGIONAL GREENHOUSE GAS EMISSIONS CAP OR LIMITATION.

(H) (1) **“MANUFACTURING” MEANS THE PROCESS OF SUBSTANTIALLY TRANSFORMING, OR A SUBSTANTIAL STEP IN THE PROCESS OF SUBSTANTIALLY TRANSFORMING, TANGIBLE PERSONAL PROPERTY INTO A NEW AND DIFFERENT ARTICLE OF TANGIBLE PERSONAL PROPERTY BY THE USE OF LABOR OR MACHINERY.**

(2) **“MANUFACTURING”, WHEN PERFORMED BY COMPANIES PRIMARILY ENGAGED IN THE ACTIVITIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, INCLUDES:**

(I) **THE OPERATION OF SAW MILLS, GRAIN MILLS, OR FEED MILLS;**

(II) **THE OPERATION OF MACHINERY AND EQUIPMENT USED TO EXTRACT AND PROCESS MINERALS, METALS, OR EARTHEN MATERIALS OR BY-PRODUCTS THAT RESULT FROM THE EXTRACTING OR PROCESSING; AND**

(III) **RESEARCH AND DEVELOPMENT ACTIVITIES.**

(3) **“MANUFACTURING” DOES NOT INCLUDE:**

(I) **ACTIVITIES THAT ARE PRIMARILY A SERVICE;**

(II) **ACTIVITIES THAT ARE INTELLECTUAL, ARTISTIC, OR CLERICAL IN NATURE;**

(III) **PUBLIC UTILITY SERVICES, INCLUDING GAS, ELECTRIC, WATER, AND STEAM PRODUCTION SERVICES; OR**

(IV) **ANY OTHER ACTIVITY THAT WOULD NOT COMMONLY BE CONSIDERED AS MANUFACTURING.**

(I) **“STATEWIDE GREENHOUSE GAS EMISSIONS” MEANS THE TOTAL ANNUAL EMISSIONS OF GREENHOUSE GASES IN THE STATE, MEASURED IN METRIC TONS OF CARBON DIOXIDE EQUIVALENTS, INCLUDING ALL EMISSIONS OF GREENHOUSE GASES FROM THE GENERATION OF ELECTRICITY DELIVERED TO AND CONSUMED IN THE STATE, AND LINE LOSSES FROM THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY, WHETHER THE ELECTRICITY IS GENERATED IN-STATE OR IMPORTED.**

2-1203.

(A) **ON OR BEFORE JUNE 1, 2011, THE DEPARTMENT SHALL PUBLISH:**

(1) AN INVENTORY OF STATEWIDE GREENHOUSE GAS EMISSIONS FOR CALENDAR YEAR 2006; AND

(2) BASED ON EXISTING GREENHOUSE GAS EMISSIONS CONTROL MEASURES, A PROJECTED "BUSINESS AS USUAL" INVENTORY FOR CALENDAR YEAR 2020.

(B) THE DEPARTMENT SHALL REVIEW AND PUBLISH AN UPDATED STATEWIDE GREENHOUSE GAS EMISSIONS INVENTORY FOR CALENDAR YEAR 2011 AND FOR EVERY THIRD CALENDAR YEAR THEREAFTER.

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

Article - Environment

2-1204.

THE STATE SHALL REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS BY 25% FROM 2006 LEVELS BY 2020.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Environment

2-1205.

(A) THE STATE SHALL DEVELOP A PLAN, ADOPT REGULATIONS, AND IMPLEMENT PROGRAMS THAT REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS IN ACCORDANCE WITH THIS SUBTITLE.

(B) ON OR BEFORE DECEMBER 31, 2011, THE DEPARTMENT SHALL:

(1) SUBMIT A PROPOSED PLAN TO THE GOVERNOR AND GENERAL ASSEMBLY;

(2) MAKE THE PROPOSED PLAN AVAILABLE TO THE PUBLIC; AND

(3) CONVENE A SERIES OF PUBLIC WORKSHOPS TO PROVIDE INTERESTED PARTIES WITH AN OPPORTUNITY TO COMMENT ON THE PROPOSED PLAN.

(C) (1) THE DEPARTMENT SHALL, ON OR BEFORE DECEMBER 31, 2012, ADOPT A FINAL PLAN THAT REDUCES STATEWIDE GREENHOUSE GAS EMISSIONS BY 25% FROM 2006 LEVELS BY 2020.

(2) THE PLAN SHALL BE DEVELOPED AS THE INITIAL STATE ACTION IN RECOGNITION OF THE FINDING BY THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE THAT DEVELOPED COUNTRIES WILL NEED TO REDUCE GREENHOUSE GAS EMISSIONS BY BETWEEN 80% AND 95% FROM 1990 LEVELS BY 2050.

(D) THE FINAL PLAN REQUIRED UNDER SUBSECTION (C) OF THIS SECTION SHALL INCLUDE:

(1) ADOPTED REGULATIONS THAT IMPLEMENT ALL PLAN MEASURES FOR WHICH STATE AGENCIES HAVE EXISTING STATUTORY AUTHORITY; AND

(2) A SUMMARY OF ANY NEW LEGISLATIVE AUTHORITY NEEDED TO FULLY IMPLEMENT THE PLAN AND A TIMELINE FOR SEEKING LEGISLATIVE AUTHORITY.

(E) IN DEVELOPING AND ADOPTING A FINAL PLAN TO REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS, THE DEPARTMENT SHALL CONSULT WITH STATE AND LOCAL AGENCIES AS APPROPRIATE.

(F) (1) UNLESS REQUIRED BY FEDERAL LAW OR REGULATIONS OR EXISTING STATE LAW, REGULATIONS ADOPTED BY STATE AGENCIES TO IMPLEMENT THE FINAL PLAN MAY NOT:

(I) REQUIRE GREENHOUSE GAS EMISSIONS REDUCTIONS FROM THE STATE'S MANUFACTURING SECTOR; OR

(II) CAUSE A SIGNIFICANT INCREASE IN COSTS TO THE STATE'S MANUFACTURING SECTOR.

(2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO EXEMPT GREENHOUSE GAS EMISSIONS SOURCES IN THE STATE'S MANUFACTURING SECTOR FROM THE OBLIGATION TO COMPLY WITH:

(I) GREENHOUSE GAS EMISSIONS MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS FOR WHICH THE DEPARTMENT HAD EXISTING AUTHORITY UNDER § 2-301(A) OF THIS TITLE ON OR BEFORE OCTOBER 1, 2009; OR

(II) GREENHOUSE GAS EMISSIONS REDUCTIONS REQUIRED OF THE MANUFACTURING SECTOR AS A RESULT OF THE STATE'S IMPLEMENTATION OF THE REGIONAL GREENHOUSE GAS INITIATIVE.

(G) A REGULATION ADOPTED BY A STATE AGENCY FOR THE PURPOSE OF REDUCING GREENHOUSE GAS EMISSIONS IN ACCORDANCE WITH THIS SECTION MAY NOT BE CONSTRUED TO RESULT IN A SIGNIFICANT INCREASE IN COSTS TO THE STATE'S MANUFACTURING SECTOR UNLESS THE SOURCE WOULD NOT INCUR THE COST INCREASE BUT FOR THE NEW REGULATION.

2-1206.

IN DEVELOPING AND IMPLEMENTING THE PLAN REQUIRED BY § 2-1205 OF THIS SUBTITLE, THE DEPARTMENT SHALL:

(1) ANALYZE THE FEASIBILITY OF MEASURES TO COMPLY WITH THE GREENHOUSE GAS EMISSIONS REDUCTIONS REQUIRED BY THIS SUBTITLE;

(2) CONSIDER THE IMPACT ON RURAL COMMUNITIES OF ANY TRANSPORTATION RELATED MEASURES PROPOSED IN THE PLAN;

~~(2)~~ (3) PROVIDE THAT A GREENHOUSE GAS EMISSIONS SOURCE THAT VOLUNTARILY REDUCES ITS GREENHOUSE GAS EMISSIONS BEFORE THE IMPLEMENTATION OF THIS SUBTITLE SHALL RECEIVE APPROPRIATE CREDIT FOR ITS EARLY VOLUNTARY ACTIONS;

~~(3)~~ (4) PROVIDE FOR THE USE OF OFFSET CREDITS GENERATED BY ALTERNATIVE COMPLIANCE MECHANISMS EXECUTED WITHIN THE STATE, INCLUDING CARBON SEQUESTRATION PROJECTS, TO ACHIEVE COMPLIANCE WITH GREENHOUSE GAS EMISSIONS REDUCTIONS REQUIRED BY THIS SUBTITLE;

~~(4)~~ (5) ENSURE THAT THE PLAN DOES NOT DECREASE THE LIKELIHOOD OF RELIABLE AND AFFORDABLE ELECTRICAL SERVICE AND STATEWIDE FUEL SUPPLIES; ~~AND~~

(6) CONSIDER WHETHER THE MEASURES WOULD RESULT IN AN INCREASE IN ELECTRICITY COSTS TO CONSUMERS IN THE STATE;

(7) CONSIDER THE IMPACT OF THE PLAN ON THE ABILITY OF THE STATE TO:

(1) ATTRACT, EXPAND, AND RETAIN COMMERCIAL AVIATION SERVICES; AND

(II) CONSERVE, PROTECT, AND RETAIN AGRICULTURE; AND

~~(5)~~ ~~(6)~~ (8) ENSURE THAT THE GREENHOUSE GAS EMISSIONS REDUCTION MEASURES IMPLEMENTED IN ACCORDANCE WITH THE PLAN:

(I) ARE IMPLEMENTED IN AN EFFICIENT AND COST-EFFECTIVE MANNER;

(II) DO NOT DISPROPORTIONATELY IMPACT RURAL OR LOW-INCOME, LOW- TO MODERATE-INCOME, OR MINORITY COMMUNITIES OR ANY OTHER PARTICULAR CLASS OF ELECTRICITY RATEPAYERS;

(III) MINIMIZE LEAKAGE;

(IV) ARE QUANTIFIABLE, VERIFIABLE, AND ENFORCEABLE;

(V) DIRECTLY CAUSE NO LOSS OF EXISTING JOBS IN THE MANUFACTURING SECTOR;

(VI) PRODUCE A NET ECONOMIC BENEFIT TO THE STATE'S ECONOMY AND A NET INCREASE IN JOBS IN THE STATE; AND

(VII) ENCOURAGE NEW EMPLOYMENT OPPORTUNITIES IN THE STATE RELATED TO ENERGY CONSERVATION, ALTERNATIVE ENERGY SUPPLY, AND GREENHOUSE GAS EMISSIONS REDUCTION TECHNOLOGIES.

2-1207.

(A) (1) AN INSTITUTION OF HIGHER EDUCATION IN THE STATE SHALL CONDUCT AN INDEPENDENT STUDY OF THE ECONOMIC IMPACT OF REQUIRING GREENHOUSE GAS EMISSIONS REDUCTIONS FROM THE STATE'S MANUFACTURING SECTOR.

(2) THE GOVERNOR SHALL APPOINT A TASK FORCE TO OVERSEE THE INDEPENDENT STUDY REQUIRED BY THIS SECTION.

(3) THE TASK FORCE SHALL INCLUDE REPRESENTATIVES OF:

(I) LABOR UNIONS;

(II) AFFECTED INDUSTRIES AND BUSINESSES;

(III) ENVIRONMENTAL ORGANIZATIONS; AND

(IV) **LOW-INCOME AND MINORITY COMMUNITIES.**

(4) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE TASK FORCE SHALL REFLECT THE GEOGRAPHIC, RACIAL, AND GENDER DIVERSITY OF THE STATE.

(B) ON OR BEFORE OCTOBER 1, 2015, THE INSTITUTION OF HIGHER EDUCATION RESPONSIBLE FOR THE INDEPENDENT STUDY SHALL COMPLETE AND SUBMIT THE STUDY TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

2-1208.

(A) A GREENHOUSE GAS EMISSIONS SOURCE IN THE STATE'S MANUFACTURING SECTOR THAT IMPLEMENTS A VOLUNTARY GREENHOUSE GAS EMISSIONS REDUCTION PLAN THAT IS APPROVED BY THE DEPARTMENT ON OR BEFORE JANUARY 1, 2012, MAY BE ELIGIBLE TO RECEIVE VOLUNTARY EARLY ACTION CREDITS UNDER ANY FUTURE STATE LAW REQUIRING GREENHOUSE GAS EMISSIONS REDUCTIONS FROM THE MANUFACTURING SECTOR.

(B) A VOLUNTARY GREENHOUSE GAS EMISSIONS REDUCTION PLAN MAY INCLUDE MEASURES TO:

**(1) REDUCE ENERGY USE AND INCREASE PROCESS EFFICIENCY;
AND**

(2) FACILITATE INDUSTRY-WIDE RESEARCH AND DEVELOPMENT DIRECTED TOWARD FUTURE MEASURES TO REDUCE GREENHOUSE GAS EMISSIONS.

2-1209.

(A) ON OR BEFORE OCTOBER 1, 2015, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THAT INCLUDES:

(1) A SUMMARY OF THE STATE'S PROGRESS TOWARD ACHIEVING THE 2020 EMISSIONS REDUCTION REQUIRED BY THE PLAN UNDER § 2-1205 OF THIS SUBTITLE;

(2) AN UPDATE ON EMERGING TECHNOLOGIES TO REDUCE GREENHOUSE GAS EMISSIONS;

(3) A REVIEW OF THE BEST AVAILABLE SCIENCE, INCLUDING UPDATES BY THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, REGARDING THE LEVEL AND PACE OF GREENHOUSE GAS EMISSIONS REDUCTIONS AND SEQUESTRATION NEEDED TO AVOID DANGEROUS ANTHROPOGENIC CHANGES TO THE EARTH'S CLIMATE SYSTEM;

(4) RECOMMENDATIONS ON THE NEED FOR SCIENCE-BASED ADJUSTMENTS TO THE REQUIREMENT TO REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS BY 25% BY 2020;

(5) A SUMMARY OF ADDITIONAL OR REVISED REGULATIONS, CONTROL PROGRAMS, OR INCENTIVES THAT ARE NECESSARY TO ACHIEVE THE 25% REDUCTION IN STATEWIDE GREENHOUSE GAS EMISSIONS REQUIRED UNDER THIS SUBTITLE, OR A REVISED REDUCTION RECOMMENDED IN ACCORDANCE WITH ITEM (4) OF THIS SUBSECTION;

(6) THE STATUS OF ANY FEDERAL PROGRAM TO REDUCE GREENHOUSE GAS EMISSIONS AND ANY TRANSITION BY THE STATE FROM ITS PARTICIPATION IN THE REGIONAL GREENHOUSE GAS INITIATIVE TO A COMPARABLE FEDERAL CAP AND TRADE PROGRAM; AND

(7) AN ANALYSIS OF THE OVERALL ECONOMIC COSTS AND BENEFITS TO THE STATE'S ECONOMY, ENVIRONMENT, AND PUBLIC HEALTH OF A CONTINUATION OR MODIFICATION OF THE REQUIREMENT TO ACHIEVE A REDUCTION OF 25% IN STATEWIDE GREENHOUSE GAS EMISSIONS BY 2020, INCLUDING REDUCTIONS IN OTHER AIR POLLUTANTS, DIVERSIFICATION OF ENERGY SOURCES, THE IMPACT ON EXISTING JOBS, THE CREATION OF NEW JOBS, AND EXPANSION OF THE STATE'S LOW CARBON ECONOMY.

(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE SUBJECT TO A PUBLIC COMMENT AND HEARING PROCESS CONDUCTED BY THE DEPARTMENT.

2-1210.

ON REVIEW OF THE STUDY REQUIRED UNDER § 2-1207 OF THIS SUBTITLE, AND THE REPORT REQUIRED UNDER § 2-1209 OF THIS SUBTITLE, THE GENERAL ASSEMBLY MAY ACT TO MAINTAIN, REVISE, OR ELIMINATE THE 25% GREENHOUSE GAS EMISSIONS REDUCTION REQUIRED UNDER THIS SUBTITLE.

2-1211.

THE DEPARTMENT SHALL MONITOR IMPLEMENTATION OF THE PLAN REQUIRED UNDER § 2-1205 OF THIS SUBTITLE AND SHALL SUBMIT A REPORT,

ON OR BEFORE OCTOBER 1, 2020, AND EVERY 5 YEARS THEREAFTER, TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THAT DESCRIBES THE STATE'S PROGRESS TOWARD ACHIEVING:

(1) THE REDUCTION IN GREENHOUSE GAS EMISSIONS REQUIRED UNDER THIS SUBTITLE, OR ANY REVISIONS CONDUCTED IN ACCORDANCE WITH § 2-1210 OF THIS SUBTITLE; AND

(2) THE GREENHOUSE GAS EMISSIONS REDUCTIONS NEEDED BY 2050 IN ORDER TO AVOID DANGEROUS ANTHROPOGENIC CHANGES TO THE EARTH'S CLIMATE SYSTEM, BASED ON THE PREDOMINANT VIEW OF THE SCIENTIFIC COMMUNITY AT THE TIME OF THE LATEST REPORT.

SECTION 4. AND BE IT FURTHER ENACTED, That during the process outlined in § 2-1205(a) of the Environment Article, as enacted by Section 3 of this Act, the Department of the Environment shall include the Department of Agriculture, the Maryland Farm Bureau, the Maryland Association of Soil Conservation Districts, the Delmarva Poultry Industry, the Maryland Dairy Industry Association, and the Maryland Agricultural Commission in discussions on the role to be played by agriculture to reduce greenhouse gas emissions.

SECTION ~~4~~ 5. 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~~ 6. AND BE IT FURTHER ENACTED, That any reference in the Annotated Code of Maryland rendered incorrect or obsolete by the provisions of Section 6 of this Act shall be corrected by the publishers of the Annotated Code, in consultation with and subject to the approval of the Department of Legislative Services, with no further action required by the General Assembly.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2009. It shall remain effective for a period of 7 years and 3 months, and at the end of December 31, 2016, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION ~~7~~ 8. AND BE IT FURTHER ENACTED, That, except as provided in Section ~~6~~ 7 of this Act, this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 173

(Senate Bill 271)

AN ACT concerning

Aquaculture – Shellfish – Leasing

FOR the purpose of repealing certain restrictions, eligibility requirements, authorizations, and procedures relating to leasing certain areas in certain waters of the State for the purpose of protecting, sowing, bedding, or cultivating certain shellfish; repealing certain provisions relating to revenue derived from private oyster culture; repealing a certain recording fee; requiring the Department of Natural Resources to designate a public shellfish area in the Chesapeake Bay and prohibiting its leasing for shellfish aquaculture; requiring the Department to establish certain zones for growing shellfish for commercial purposes in the Chesapeake Bay; limiting the location of the zones; requiring the Department to hold a public hearing before establishing the zones and authorizing the Department to issue certain types of leases in the zones for certain purposes under certain circumstances; establishing a set-aside for certain leases to active tidal fish holders; designating the uses of leased areas; authorizing the issuance of submerged land leases in certain waters of the Chesapeake Bay; limiting the locations of submerged land leases and designating their uses in the Chesapeake Bay; authorizing the issuance of submerged land leases in the Atlantic Coastal Bays; limiting the locations of submerged land leases and designating their uses in the Atlantic Coastal Bays; establishing a process for designating in the Atlantic Coastal Bays areas preapproved for submerged land leasing, not approved for submerged land leases, and approved for leasing only on certain application; ~~providing for a setback from the Assateague Island National Seashore~~; establishing an application process for aquaculture and submerged land leases; requiring surveys of leased areas; defining and requiring active use of a leased area; establishing a lease term; requiring payment of rent and an aquaculture development surcharge; requiring the Department to transfer funds derived from the surcharge to the State Department of Agriculture to be used for certain purposes; establishing a process for advertising submerged land lease applications and considering protests of such applications; identifying leaseholder responsibilities for leased areas; providing for a waiver of the active use requirement under certain circumstances; prohibiting a leaseholder from engaging in certain activities; authorizing inspection of shellfish planted or harvested under aquaculture or submerged land leases; providing for renewal and termination of a lease; establishing a demonstration lease and defining its purposes, requirements, and limitations; prohibiting the harvest of shellfish for commercial or consumption purposes in areas subject to a demonstration lease; providing for a setback from the Assateague Island National Seashore for

certain submerged land and demonstration leases; requiring a record of each lease; designating a fund for payments of fees and revenues from aquaculture and submerged land leases; authorizing closure of areas to the catching or harvesting of shellfish in certain areas; prohibiting importation of shellfish without approval; requiring reports of lease activities; repealing certain restrictions relating to nonresident leasing in Somerset County; prohibiting interference with a lease under certain circumstances and increasing an administrative penalty for such interference; eliminating the prohibition on leasing on natural oyster bars; repealing certain provisions relating to the classification of submerged bottom for the purpose of shellfish harvest; repealing certain provisions governing the authority of the Department to open and close submerged bottom for shellfish harvest; ~~providing for certain provisions relating to the sale of~~ altering certain restrictions and requirements governing seed oysters; ~~repealing provisions related to aquaculture seed areas in certain counties;~~ exempting certain leasing activities from a certain licensing requirement; requiring the Department of the Environment to revise certain regulations by a certain date; establishing certain requirements for existing shellfish leases; specifying a certain legislative intent; defining certain terms; making certain technical corrections; requiring the Department to monitor the abundance and health of submerged aquatic vegetation in the Atlantic Coastal Bays with a certain intent; making the provisions of this Act severable; and generally relating to shellfish aquaculture leasing in the Chesapeake Bay and the Atlantic Coastal Bays.

BY repealing and reenacting, without amendments,
Article – Environment
Section 16–202(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 16–202(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing
Article – Natural Resources
Section 4–1102 and 4–11A–04 through 4–11A–11
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section ~~4–1102~~, 4–1103, 4–11A–01, 4–11A–12, 4–11A–13, and 4–11A–15
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

~~BY repealing~~

~~Article – Natural Resources
Section 4-11A-04 through 4-11A-11
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

BY adding to

Article – Natural Resources
Section 4-11A-04 through 4-11A-11
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Environment

16-202.

- (a) A person may not dredge or fill on State wetlands without a license.
- (d) The provisions of this section do not apply to any operation for:
 - (1) Dredging and filling being conducted as of July 1, 1970, as authorized under the terms of an appropriate permit or license granted under the provisions of existing State and federal law;
 - (2) Dredging of seafood products by any licensed operator, harvesting of seaweed, or mosquito control and abatement as approved by the Department of Agriculture;
 - (3) Improvement of wildlife habitat or agricultural drainage ditches as approved by an appropriate unit; [or]
 - (4) Routine maintenance or repair of existing bulkheads, provided that there is no addition or channelward encroachment; **OR**
 - (5) **AQUACULTURE ACTIVITIES OCCURRING IN AQUACULTURE ENTERPRISE ZONES ESTABLISHED UNDER TITLE 4, SUBTITLE 11A OF THE NATURAL RESOURCES ARTICLE UNDER AN AQUACULTURE LEASE ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES.**

Article – Natural Resources

~~4-1102.~~

~~(a) (1) The Department may resurvey any submerged area of the State to determine the position and extent of any natural oyster or clam bar and barren bottom. If the Department finds, upon resurvey, that any natural oyster or clam bar is located incorrectly on existing charts, or that the existing charts do not reflect the actual condition of submerged lands, the Department shall amend the existing charts or prepare new charts. In addition, the Department shall mark as accurately as possible the correct location and bounds of each natural oyster or clam bar, then existing in the area being surveyed, on any amended or new chart.~~

~~(2) A reclassification of submerged areas of the State to clam bars may not be made unless an environmental impact study indicates that a hydraulic clam dredge will not impair the bottom or adversely affect other marine life. The Department shall perform the environmental impact study based on survey data, public hearings, and other available information. An initial environmental impact study shall be carried out by the Department, in cooperation with qualified scientific organizations, for reclassification actions at sites in the waters of Anne Arundel, Calvert, Kent, Queen Anne's, and St. Mary's counties to evaluate the environmental impact of hydraulic clam dredging.~~

~~(b) Within 90 days after the resurvey, a copy of the amended or new charts shall be deposited with the Department and another copy sent to the clerk of the circuit court where the resurveyed area is located or the county nearest this area. This resurvey shall supersede the Oyster Survey of 1906 to 1912, and its amendments, and any decision of any circuit court rendered prior to the completed resurvey.~~

~~A resurvey may not be effective until 30 days have lapsed after the filing date. During this 30 day period, public notice of the filing of the amended chart shall be given once a week for three successive weeks in a newspaper of general circulation in every county.~~

~~(c) Before the Department reclassifies any submerged area of the State from natural oyster bar[, excluded from leasing,] to barren bottom [permitted to be leased under the provisions of this subtitle], it shall advertise the time, place, and purpose for reexamination, once a week for three successive weeks, in a newspaper of general circulation in every county. The public may be present at the reexamination. If any person present then offers to make further tests in the presence of employees designated by the Department, the employees shall witness and make note of the findings. If upon reexamination the Department proposes to reclassify the area from natural bar to barren bottom, it first shall hold a public hearing, and the time, place, and purpose shall be advertised pursuant to the provisions of this subsection. The Department shall show any reclassification it determines to make on the amended or new chart which the Department shall file in accordance with subsection (b) of this section.~~

~~(d) (1) Within 30 days of the filing of the amended or new chart under subsection (b) of this section, any person adversely affected by the decision of the~~

~~Department to reclassify any submerged area of the State from natural oyster bar to barren bottom may file a petition with the Department protesting the reclassification.~~

~~(2) Proceedings on appeal shall be pursuant to those procedures set forth in § [4-11A-06(e)] 4-11A-08 of this title with the same rights of appeal from the decision of the Department.~~

~~[(3) A lease of the reclassified area, in whole or part, may not be granted until the new or amended chart has been filed pursuant to subsection (b) of this section and until 30 days have expired from date of filing.]~~

~~(e) Notwithstanding any provisions of this section, a lease may not be invalidated in any way by facts determined in any resurvey unless the lessee forfeits his lease voluntarily or fails to pay rental or other fees.]~~

4-1103.

(a) The Department shall take measures which in its judgment seem best calculated to increase the productivity or utility of ~~any part of the natural oyster bars~~ of OYSTER RESOURCES IN the State, including:

- (1) Identifying and using effective methods of cleaning diseased oyster bars;
- (2) Providing clean shell for the bars;
- (3) Using hatchery produced oysters to replant sites; and
- (4) Applying for a permit to dredge buried oyster shells.

~~(b) The Department may close in any year no more than 30 percent of the natural oyster bars in the waters of the State. The Department may prohibit or restrict the catching of oysters on natural oyster bars whenever in its judgment these measures will increase the productivity or utility of these areas. The Department may plant oysters, shells, or other cultch or take any other restorative measures, which it deems advisable, on natural oyster bars. The Department shall, before publication, deliver to the Joint Committee on Administrative, Executive, and Legislative Review a notice of intent to close an area of a natural oyster bar, including all applicable reasons for the Department's act, and publish the notice not less than 30 days prior to the proposed closing date in one or more newspapers of general circulation in the State, in one or more newspapers of general circulation in each county in which the affected waters are located, and on the website of the Department. The Department shall schedule a public hearing on the proposal not less than 15 days before the proposed closing date. The hearing shall be held at the county seat of the county in which the affected waters are located. If the affected waters are located in more than one county then the hearing shall be held in that county seat closest to the affected~~

~~waters. If the area affected is totally within State waters, then the hearing shall be held in Annapolis.~~

~~(e) The Department may reopen an area if it determines reopening is advisable. An area shall be reopened by notice of reopening published in the same newspapers that published any closing notices. However, an area may not be reopened until a lapse of 48 hours from the publication of the notice of reopening.~~

~~(d)~~ The Department may select and reserve for its own use areas, to be known as seed areas, within the waters of the State for the propagation of seed oysters. The number, size, and location of these areas shall be determined from time to time by the Department. ~~However, no more than 5 percent of the natural oyster bars of the State shall be designated as seed areas.~~ [The first million bushels of seed oysters produced in seed areas shall be planted on the natural oyster bars of the State.] The Department shall, before publication, deliver a notice of reservation, including all applicable reasons for the Department's act, to the Joint Committee on Administrative, Executive, and Legislative Review and publish the notice not less than 30 days before the closing date of any seed area in one newspaper of general circulation in the State and at least one newspaper of general circulation in each county in which the affected waters are located, and on the website of the Department. The Department shall schedule a public hearing on the proposal not less than 15 days before the proposed closing date. The hearing shall be held at the county seat of the county in which the affected waters are located. If the affected waters are located in more than one county, the hearing shall be held in that county seat closest to the affected waters, but if the area affected is totally within State waters, the hearing shall be held in Annapolis.

~~(e)~~ (C) [Except as provided in subsection (f) of this section, the] **THE** State may sell [no more than 50 percent of] seed oysters [in excess of one million bushels produced annually in seed areas to citizens] **TO PERSONS** who hold A valid [leases under the provisions of this subtitle] **AQUACULTURE OR SUBMERGED LAND LEASE** for no less than the prevailing price of seed oysters of similar quality in nearby states. Conditions of sale may be prescribed by rule or regulation of the Department. The proceeds from these sales shall be credited by the Comptroller to the Fisheries Research and Development Fund.

~~(f)~~ (D) (1) In addition to the provisions of subsections ~~(d) and (e)~~ (B) AND (C) of this section concerning the establishment of oyster seed areas and the sale of seed oysters to a leaseholder, the Department may:

(i) ~~Establish aquaculture seed areas [not exceeding a total aggregate of 90 acres] in the State;~~ **SELL OR REMOVE SEED OYSTERS FROM OYSTER SEED AREAS IF THE SALE OR REMOVAL IS MADE UNDER DISEASE PROTOCOLS; AND**

~~(ii) Designate the seed oysters produced in these aquaculture seed areas for sale to a [resident of the State] PERSON who holds a valid AQUACULTURE OR SUBMERGED LAND lease or an aquaculture permit to cultivate shellfish; and~~

~~(iii)~~ Adopt regulations necessary to implement the provisions of this subsection.

(2) The Department shall credit the proceeds of any sale of seed oysters under this subsection to the Fisheries Research and Development Fund in the Department [for the benefit of the public oyster fishery].

(3) The Department shall:

(i) Sell, at prevailing market prices, seed oysters produced in an aquaculture oyster seed area to a [resident of the State] PERSON who holds a valid **AQUACULTURE OR SUBMERGED LAND** lease or an aquaculture permit to cultivate shellfish; **AND**

(ii) Use any revenue derived from the sale of seed oysters to reimburse the Fisheries Research and Development Fund for any expenditure needed to create the aquaculture oyster seed areas under this subsection[;]

(iii) Credit any net proceeds from the sale of seed oysters remaining, after reimbursement is made under subparagraph (ii) of this paragraph, to the exclusive use of the public oyster fishery;

(iv) Maintain for each aquaculture seed area a record detailing all expenditures required to create and maintain the seed area and all proceeds of the sale of seed oysters produced in the seed area;

(v) In establishing and maintaining the aquaculture seed areas, limit expenditures to \$200,000 annually, and after the first year, any expenditure required to maintain the seed areas shall be funded only from revenues derived from the sale of seed oysters produced in the seed areas; and

(vi) Consult with the County Oyster Propagation Committee in establishing an aquaculture seed area in that county].

[(4) The Department may not create aquaculture seed areas within the jurisdictional boundaries of Dorchester, Kent, Queen Anne's, Somerset, or Talbot counties, or in the tidewater tributaries of Charles County, except the Patuxent River.]

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

(b) "Aquaculture" means the commercial rearing of fish or aquatic plants for sale, trade, barter, or shipment.

(c) **"AQUACULTURE ENTERPRISE ZONE" OR "~~AEZ~~" MEANS AN AREA OF ~~THE~~ MEANS AN AREA OF THE CHESAPEAKE BAY APPROVED FOR THE LEASING OF SUBMERGED LAND ~~AND~~ OR THE WATER COLUMN BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT AND THE WETLANDS ADMINISTRATOR OF THE STATE BOARD OF PUBLIC WORKS.**

(d) **"AQUACULTURE LEASE" MEANS A LEASE OF ANY SUBMERGED LAND ~~AND~~ OR THE WATER COLUMN LOCATED IN AN AQUACULTURE ENTERPRISE ZONE FOR CULTIVATING OYSTERS ~~AND~~ OR OTHER SHELLFISH FOR COMMERCIAL PURPOSES.**

(e) **"ATLANTIC COASTAL BAYS" MEANS THE WATERS OF THE ASSAWOMAN, ISLE OF WIGHT, SINEPUXENT, NEWPORT, AND CHINCOTEAGUE BAYS AND THEIR TRIBUTARIES.**

[(c)] (f) "Chesapeake Bay" means the waters commonly known as the Chesapeake Bay[, as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments].

(g) **"DEMONSTRATION LEASE" MEANS A LEASE OF SUBMERGED LAND FOR THE PURPOSE OF DEMONSTRATING THE ECOLOGICAL BENEFITS OF GROWING SHELLFISH OR FOR RESEARCH OR EDUCATION.**

[(d)] (h) "Dredge" includes any dredge, scoop, handscrape, or similar device used in catching oysters and clams by dragging.

[(e)] "Leased oyster bottom" means any land lying beneath the waters of the State leased by the State to any person for the purpose of protecting, sowing, bedding, or cultivating oysters and other shellfish.]

[(f)] (i) "Natural clam bar" means any area of submerged tidal bottom not classified as a natural oyster bar which has a population of clams of any species judged by the Secretary to have significant commercial value.

[(g)] (j) "Natural oyster bar" means any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912, and its amendments, or any area declared by any circuit court to be a natural oyster bar, or any area on which the Department plants oysters or shells. [A natural oyster bar also means any bar beneath the waters of the State where the natural growth of oysters abounds to the extent that the public has resorted to the bar for a

livelihood, whether continuously or at intervals, during any oyster season within 5 years prior to the filing of any application for a lease of the area in question, or within 5 years prior to making of a resurvey under § 4-1102 of this title. The actual condition of the area in question at any time within the 5-year period shall be considered in determining whether or not the area is a natural oyster bar.]

(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.

(L) "PUBLIC SHELLFISH FISHERY AREA" MEANS AN AREA IN WHICH SHELLFISH IS HARVESTED FOR COMMERCIAL PURPOSES.

(M) "SAV PROTECTION ZONE" MEANS AN AREA OF SUBMERGED AQUATIC VEGETATION WITH A DENSITY GREATER THAN 10% AS MAPPED IN AERIAL SURVEYS BY THE VIRGINIA INSTITUTE OF MARINE SCIENCES IN 1 OR MORE OF THE 3 YEARS PRECEDING THE DESIGNATION OF AN ~~AETZ~~ AQUACULTURE ENTERPRISE ZONE OR AN APPLICATION FOR AN AQUACULTURE, SUBMERGED LAND, OR DEMONSTRATION LEASE.

(N) "SUBMERGED LAND LEASE" MEANS ANY LAND LYING BENEATH THE WATERS OF THE STATE LEASED BY THE STATE TO ANY PERSON FOR CULTIVATING OYSTERS AND OTHER SHELLFISH FOR COMMERCIAL PURPOSES.

[(h)] (O) "Tong" means any pincers, nippers, tongs, or similar device operated entirely by hand and consisting of 2 shafts or handles and a metal body composed of 2 opposable and complementary baskets used in catching oysters and clams.

[(i)] (P) "Transgenic" means an organism into which genetic material from another organism has been experimentally transferred, so that the host acquires the genetic traits of the transferred genes.

(Q) "WATER COLUMN LEASE" MEANS A LEASE OF THE COLUMN OF WATER ON OR UNDER THE SURFACE OF THE WATER AND ABOVE THE SURFACE OF THE SUBMERGED LAND.

[4-11A-04.

The Department may set aside for each tidewater public high school no more than 5 acres of submerged barren tidewater lands to be used for the sole purpose of experimental oyster farming or for the cultivation of other shellfish in conjunction with regular scholastic conservation studies. These areas shall be set aside pursuant to the procedures established in § 4-1103 of this title and marked in the manner provided in § 4-11A-10 of this subtitle. These high schools may introduce and use

modern methods of planting, harvesting, or marketing fishery products without regard to the restrictive provisions of this subtitle. If a subject school does not use a barren bottom for its studies for three years or if studies are discontinued, the submerged lands shall revert to the State.]

[4-11A-05.

(a) (1) The Department may lease, in the name of the State, tracts or parcels of land beneath the waters of the State to residents of the State for protecting, sowing, bedding, or cultivating oysters or other shellfish, subject to the provisions of this section. These submerged lands when leased shall be known as leased oyster bottoms.

(2) (i) Except as provided in this paragraph, a corporation or joint stock company may not lease or acquire by assignment or otherwise any submerged land of the State for the purposes of this section.

(ii) A 4-H club in the State may lease or acquire not more than 10 acres of submerged land for the purposes of this section.

(iii) 1. An incorporated college or university within the State having an enrollment of at least 700 undergraduate, degree-seeking students may acquire, by assignment, gift, or bequest, submerged land for education and research purposes only.

2. An incorporated college or university may not transfer or attempt to transfer any interest in submerged land acquired under the provision of item 1 of this subparagraph to any person, corporation, or joint stock company.

3. Any transfer or attempt to transfer an interest in submerged land acquired under the provisions of item 1 of this subparagraph shall be void, and the interest in submerged land shall revert to the State without the necessity of any action by the State.

(iv) 1. A. A nonstock, nonprofit corporation organized under the laws of this State exclusively for educational purposes may lease or acquire not more than two leases consisting of not more than 30 acres each of submerged land in the Severn River for educational or ecological purposes.

B. A nonstock, nonprofit corporation may renew a lease acquired under this subparagraph.

2. A. Except as provided in sub-sub-subparagraph B of this sub-subparagraph, a nonstock, nonprofit corporation organized exclusively for educational purposes may not transfer or attempt to transfer any interest in submerged land acquired under the provisions of sub-subparagraph 1 of this subparagraph to any person, corporation, or joint stock company.

B. The nonprofit, nonstock corporation may harvest oysters in accordance with a harvesting program approved by the Department provided that any revenues from harvesting are maintained by the nonstock, nonprofit corporation exclusively for educational or ecological purposes and for the maintenance and preservation of submerged lands leased by the nonprofit, nonstock corporation.

(v) 1. A. A nonstock, nonprofit corporation organized under the laws of this State exclusively for conservation or ecological purposes may lease or acquire by lease not more than 30 acres of submerged land in Anne Arundel County for the purpose of oyster restoration.

B. A nonstock, nonprofit corporation may renew a lease acquired under this subparagraph.

2. The nonstock, nonprofit corporation shall adhere to a management plan approved by the Department for the leased submerged land.

3. The nonstock, nonprofit corporation shall plant a minimum of 250,000 oysters at a density of 1,000,000 oysters per acre.

4. A. A nonstock, nonprofit corporation may not transfer or attempt to transfer any interest in submerged land acquired under item 1 of this subparagraph to any person, corporation, or joint stock company.

B. Any transfer or attempt to transfer an interest in submerged land acquired under item 1 of this subparagraph shall be void, and the interest in submerged land shall revert to the State without the necessity of any action by the State.

(3) Under regulations that the Department adopts, and in conjunction with the 4-H advisory board in a county, the Department may make equal and matching grants of up to \$1,000 a county for any number of 4-H clubs in a county that:

- (i) Are actively involved in oyster cultivation research;
- (ii) Are leasing or acquiring any submerged land under paragraph (2) of this subsection; and
- (iii) Have received or have a guarantee to receive a research grant from the county for oyster cultivation research.

(b) The Department may not lease any of the submerged areas of the State within the jurisdictional boundaries of Dorchester, Kent, Queen Anne's, Somerset and Talbot counties for oyster cultivation. The Department also may not lease any of the submerged areas of the State in the tidewater tributaries of Charles County, except

the Patuxent River, for oyster cultivation. This subsection does not affect any existing lease in Somerset County made prior to and effective on June 1, 1952; any lease in Dorchester County made prior to and effective on June 1, 1957; in Charles County made prior to and effective on July 1, 1968 and in Kent, Queen Anne's and Talbot counties made prior to July 1, 1973. This subsection also does not prevent any lessee from renewing, assigning, devising by will or prohibit the descendents of any lessee, his heirs, or next of kin, from inheriting rights by the operation of the laws of descent and distribution. If an existing lease does not provide for renewal, the Department may grant renewal when the lease terminates unless good cause to the contrary is shown. However, a person may not lease more acreage than now authorized by law regardless of the manner in which the lease or the rights under the lease are obtained.

(c) A lease may not be granted for any of the following submerged areas of the State, and a person may not acquire by lease, assignment, appropriation, or otherwise any of the enumerated areas: any area beneath any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; any natural oyster or natural clam bar as defined in this subtitle; any area within 150 feet of any natural oyster or natural clam bar in any county; any area within 600 feet of any natural oyster or clam bar in the Chesapeake Bay; any clam bed as defined by the charts of the Oyster Survey of 1906 to 1912 and its amendments. Any lease granted in violation of the provisions of this subsection is null and void and the land described in the lease shall revert to the State as though a lease had not been made.

(d) (1) A leased oyster bottom shall be as rectangularly shaped as possible. A tract or parcel of land may not be leased in any of the following waters if it falls short of the minimum area or exceeds the maximum area specified below:

Waters of the Chesapeake Bay	
lying outside county	
waters.....	5 acres to 500 acres
Tangier Sound	1 acre to 100 acres
All other counties.....	1 acre to 30 acres

(2) (i) 1. In Worcester County, a leased oyster bottom shall be as rectangularly shaped as possible, and shall be between 1 acre and 50 acres in size. Except as provided in item 2 of this subparagraph, the Department may not lease to one person a total amount of leased oyster bottom in Worcester County exceeding 50 acres.

2. In Worcester County, 2 or more individuals may work in concert and have operative control over a total amount of leased oyster bottom not exceeding 200 acres. If a lessee works in concert with other individuals so that the lessee exercises operative control over more than 200 acres of leased oyster bottom, the interest of the lessee shall revert to the State as if a lease had not been made.

(ii) Notwithstanding the provisions of item 2 of subparagraph (i), an individual who works in concert with other individuals and has operative

control over more than 200 acres of leased oyster bottom in Worcester County on June 1, 1986, may continue to work and have operative control over those acres of leased oyster bottom.

(e) (1) Notwithstanding any provision of subsection (b) of this section, the Department may issue or renew a lease for any leased oyster bottom that previously was leased for purposes of oyster cultivation under this subtitle if:

(i) Application for the new, renewed, or transferred lease was made before December 31, 1984; and

(ii) The proposed site of the leased oyster bottom:

1. Has not become a natural oyster bar or clam bar; and
2. Is otherwise suitable for oyster cultivation.

(2) Any lease issued or renewed under this subsection is considered legitimate for all purposes.

(f) (1) If a person applies to the Department for a lease of submerged land for oyster cultivation, the Department shall determine if the submerged land is a productive natural clam bar.

(2) Notwithstanding any other provision of this subtitle, if the Department determines that the submerged land is a productive natural clam bar, the Department may not lease the submerged land for purposes of oyster cultivation.

(3) For purposes of this subtitle, the Department may adopt regulations establishing criteria to denote natural clam bars as having significant commercial value.

(4) Before the Department proposes any regulation under paragraph (3) of this section, the Department shall hold a public hearing on the proposed regulation.]

[4-11A-06.

(a) Any person wishing to lease submerged lands of the State shall apply to the Department for a blank application form. The applicant shall indicate on the application his place of residence, the estimated area of the submerged land for which a lease is sought, and a detailed description of the location of the land. The applicant prior to filing the application with the Department shall mark the area applied for with at least one stake bearing his name.

(b) (1) There is an application fee of \$300. The fee is not refundable and shall be used to pay for the Department's costs associated with processing applications and recording leases.

(2) Upon receiving the application and a \$300 fee, the Department shall conduct a resource survey of the proposed lease site. The Department shall deny a lease application without further action on the application if the survey results indicate that the site is a natural clam or oyster bar as specified by the criteria in the Department's regulations or this subtitle.

(3) If the results of the survey conducted under paragraph (2) of this subsection do not indicate that the site is a natural clam or oyster bar, the Department shall proceed with advertising the application once a week for 4 successive weeks in a newspaper published in the county or counties where the proposed lease is to be located. The advertisement shall describe the location of the area applied for, the location of the stake marker, and give the name and residence of the applicant.

(c) (1) Within 30 days of publication of the last advertisement under subsection (b) of this section, any person whose rights, statutory entitlements, or privileges may be affected adversely by the issuance of a proposed lease may file a petition with the Department protesting the issuance of the lease.

(2) The protest shall be heard in accordance with the contested case provisions of the Administrative Procedure Act under §§ 10-201 through 10-217 of the State Government Article.

(d) Immediately after the termination of the respective periods prescribed for the filing of petitions or appeals, or immediately after the final decision upon any protest or appeal the Department shall notify the applicant by letter that it is ready to issue the lease. The Department shall conduct a survey and mark the location of the leased area, execute a lease, enter the lease upon a book to be known as the "Register of Titles to Oyster Lands," and mail the lease to the applicant for his signature.

(e) If the applicant accepts the lease, he shall sign and return it together with the first annual rental. If the applicant fails to accept the lease and pay within 60 days all required fees, the application and the lease are null and void, and all payments previously made by the applicant to the Department are forfeited. The Department may extend the time for acceptance of the lease for an additional period of 60 days for good cause.]

[4-11A-07.

(a) Except as provided in subsection (c)(2) of this section the term of leases for submerged lands shall be 20 years at an annual rent the Department deems proper and commensurate with the value of the leased land.

(b) If the Department ascertains that any leased area is affected by environmental factors which destroy or seriously impede the culture and growth of oysters and threaten the potential of the area for continued oyster production, it may reduce or abate the annual rent by an amount and for a period the Department deems equitable and reasonable in view of the degree of damage.

(c) (1) In this subsection, "utilize" includes the planting or harvesting of not less than 25 bushels of oysters or 25 bags of clams per lease during 1 year of each 3-year period.

(2) If any part of the rent required by a lease remains unpaid for more than 60 days after it becomes due, the Department may declare the lease null and void in accordance with subsection (e) of this section and the land shall revert to the State and may be leased again. The Department may cancel any lease, either in whole or in part, and may diminish or cancel the annual rental to an extent commensurate with the area remaining under lease on the written request of the lessee.

(3) The Department shall adopt regulations and condition each lease to require a leaseholder to actively utilize the leased area within any 3-year period commencing July 1, 1990, or the effective date of a lease after July 1, 1990. The Department may allow a longer period than 3 years upon a showing that natural conditions, including unavailability of oyster shell or seed, prevented utilization.

(4) If a leaseholder fails to actively utilize leased bottom in accordance with regulations promulgated under paragraph (2) of this subsection, the leasehold shall revert to the State and may be leased again. A leaseholder shall maintain records documenting activities which show that the lease is being used for shellfish production as required by the Department.

(d) A lease may not be invalidated in any way by facts determined in any resurvey under § 4-1102 of this title unless the lessee forfeits his lease voluntarily, fails to pay rental or other fees, or fails to actively utilize the lease areas within a period of 3 years.

(e) (1) The provisions of Title 8 of the Real Property Article do not apply to leases under this subtitle.

(2) Upon a determination under subsection (c) of this section, the Department shall notify a lessee of the lessee's opportunity to contest the Department's action in a hearing under Title 10, Subtitle 2 of the State Government Article.]

[4-11A-08.

Every fee, fund, and revenue derived from the administration of the provisions of this subtitle relating to private oyster culture shall be paid to the Comptroller of the Treasury to be credited to the Fisheries Research and Development Fund.]

[4-11A-09.

(a) A recording fee of \$5 shall accompany every application for assignment or transfer of any interest acquired under this subtitle.

(b) A person may not assign or transfer any interest acquired by this subtitle to a nonresident of the State. An assignment to a nonresident is not valid for any purpose and, if attempted, any interest of the grantor or assignor reverts to the State as if a lease had not been made.

(c) If a person attempts to assign any interest created by this subtitle to any corporation or joint-stock company, the interest of the grantor or assignor shall revert to the State as if a lease had not been made. If a person attempts to assign any interest created by this subtitle to any person so that the assignee holds acreage exceeding the maximum limits permitted by § 4-11A-05 of this subtitle, the interest of the grantor or assignor shall revert to the State as if a lease had not been made.]

[4-11A-10.

(a) Immediately upon entering into a lease, every lessee shall designate leased oyster bottoms by plainly marking them as specified by regulations issued by the Department in consultation with the Tidal Fisheries Advisory Committee and Aquaculture Coordinating Council. The initials of the lessee shall be marked on at least four markers. The lessee shall exercise reasonable diligence in maintaining markers but the temporary loss or destruction of any markers shall not operate to permit any unauthorized person to trespass on or remove, destroy, or disturb oysters on any areas.

(b) If any leased oyster bed does not have markers at the 4 corners of the bed, a person, including the lessee, may not catch oysters from the bed. If the markers are not in order on any leased oyster bed, the Natural Resources Police have a duty not to allow a person to operate or catch oysters in the bed until the corner markers are replaced.]

[4-11A-11.

(a) The lessee of any leased oyster bottom shall have exclusive ownership of and title to all the oysters planted by him or existing on the leasehold. Lessees shall have the rights to use their lease subject to the following conditions:

(1) Land leased under this subtitle shall be used only for the purpose of planting and cultivating oysters;

(2) Persons may fish on all leased oyster bottoms, if they do not remove or destroy oysters on the areas; and

(3) A person may not redeem or purchase any leased oyster bottom.

(b) A lessee may catch oysters at any time from his leased oyster bottom for private use, planting or cultivating, or for sale for planting by other lessees.

(c) (1) In Wicomico and Somerset counties, any State resident holding a current tonging license may catch oysters on any leased oyster bottom if the State resident first obtains the written permission of the lessee of the leased oyster bottom.

(2) A lessee or a bona fide representative of a lessee who has written permission from the lessee is not required to have a tonging license in the Manokin River.

(d) The season for catching oysters from leased oyster bottoms of the State for sale shall be between sunrise and sunset of any day, except Sunday, throughout the year, if the leased oyster bottoms are marked as prescribed in this subtitle.]

4-11A-04.

(A) IN CONSULTATION WITH THE OYSTER ADVISORY COMMISSION, THE DEPARTMENT SHALL IDENTIFY BY REGULATION THE PUBLIC SHELLFISH FISHERY AREA IN THE CHESAPEAKE BAY BASED ON COMMERCIAL HARVESTING ACTIVITY DURING THE 3 YEARS PRECEDING JUNE 1, 2009, ANY SURVEYS CONDUCTED BY THE DEPARTMENT, AND OTHER QUANTITATIVE DATA KNOWN OR MADE AVAILABLE TO THE DEPARTMENT.

(B) THE PUBLIC SHELLFISH FISHERY AREA MAY NOT BE LEASED FOR SHELLFISH AQUACULTURE.

4-11A-05.

(A) THIS SECTION APPLIES TO LEASING IN AN AQUACULTURE ENTERPRISE ZONE IN THE CHESAPEAKE BAY.

(B) (1) IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT AND THE WETLANDS ADMINISTRATOR OF THE BOARD OF PUBLIC WORKS, THE DEPARTMENT SHALL ESTABLISH AQUACULTURE ENTERPRISE ZONES IN THE CHESAPEAKE BAY.

(2) AN AQUACULTURE ENTERPRISE ZONE MAY NOT BE LOCATED:

(I) WITHIN A MINIMUM OF 50 FEET OF SHORELINE OR ANY PIER WITHOUT THE WRITTEN PERMISSION OF THE RIPARIAN OWNER AT THE TIME OF DESIGNATION OF THE AQUACULTURE ENTERPRISE ZONE;

(II) WITHIN 150 FEET OF THE PUBLIC SHELLFISH FISHERY OR A REGISTERED POUND NET SITE;

(III) WITHIN 150 FEET OF AN OYSTER SANCTUARY OR OYSTER RESERVE;

(IV) WITHIN 150 FEET OF A FEDERAL NAVIGATIONAL CHANNEL;

(V) IN ANY CREEK, COVE, BAY, OR INLET LESS THAN 300 FEET WIDE AT ITS MOUTH AT MEAN LOW TIDE; OR

(VI) IN AN SAV PROTECTION ZONE.

(3) IN DETERMINING THE LOCATION OF AN AQUACULTURE ENTERPRISE ZONE, THE DEPARTMENT SHALL CONSIDER POTENTIAL CONFLICTS PRESENTED BY OTHER USES OF THE PROPOSED AREA, TO INCLUDE NAVIGATION, RECREATION, AND COMMERCIAL FISHING.

(4) BEFORE ADOPTING REGULATIONS ESTABLISHING AN AQUACULTURE ENTERPRISE ZONE, THE DEPARTMENT SHALL HOLD A PUBLIC HEARING IN THE COUNTY OR COUNTIES IMMEDIATELY ADJACENT TO THE PROPOSED LOCATION OF THE AQUACULTURE ENTERPRISE ZONE.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT MAY ISSUE TO ANY PERSON AN AQUACULTURE LEASE IN AN AQUACULTURE ENTERPRISE ZONE.

(2) (I) THE DEPARTMENT SHALL SET ASIDE 25% OF EACH AQUACULTURE ENTERPRISE ZONE FOR LEASING TO PERSONS WHO HOLD TIDAL FISH LICENSES UNDER SUBTITLE 7 OF THIS TITLE AND WHO HAVE ACTIVELY USED THOSE LICENSES DURING THE 3 YEARS PRECEDING JUNE 1, 2009.

(II) AN APPLICANT FOR A LEASE UNDER THIS PARAGRAPH SHALL COMPLY WITH THE PROVISIONS FOR LEASING SET FORTH IN THIS SUBTITLE.

(III) THE SET-ASIDE PROVIDED FOR IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL EXPIRE JUNE 1, 2011.

(3) THE DEPARTMENT MAY ESTABLISH A BUFFER BETWEEN LEASED AREAS WITHIN AN AQUACULTURE ENTERPRISE ZONE.

(D) A PERSON WHO LEASES AN AREA IN AN AQUACULTURE ENTERPRISE ZONE MAY CULTIVATE SHELLFISH:

(1) ON THE SUBMERGED LAND;

(2) IN ~~MESH OR NYLON BAGS~~ TEMPORARY PROTECTIVE ENCLOSURES APPROVED BY THE DEPARTMENT ON THE SURFACE OF THE SUBMERGED LAND;

(3) SUBJECT TO APPROVAL BY THE UNITED STATES ARMY CORPS OF ENGINEERS, ON OR UNDER THE SURFACE OF THE WATER IN A FLOATING STRUCTURE OR IN A STRUCTURE ON THE SUBMERGED BOTTOM, EXCEPT THAT THE HEIGHT OF THE STRUCTURE MAY NOT EXCEED 18 INCHES; OR

(4) IN ANY OTHER MANNER AUTHORIZED BY THE DEPARTMENT.

4-11A-06.

(A) THIS SECTION APPLIES TO A SUBMERGED LAND LEASE IN THE CHESAPEAKE BAY THAT IS NOT IN AN AQUACULTURE ENTERPRISE ZONE.

(B) (1) THE DEPARTMENT MAY ISSUE TO A PERSON A SUBMERGED LAND LEASE IN WATERS OF THE CHESAPEAKE BAY THAT MEET APPLICABLE WATER QUALITY REQUIREMENTS FOR SHELLFISH CULTIVATION AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT.

(2) A SUBMERGED LAND LEASE MAY NOT BE LOCATED:

(I) WITHIN A MINIMUM OF 50 FEET OF SHORELINE OR ANY PIER WITHOUT THE WRITTEN PERMISSION OF THE RIPARIAN OWNER AT THE TIME OF INITIAL APPLICATION FOR THE LEASE;

(II) WITHIN 150 FEET OF THE PUBLIC SHELLFISH FISHERY OR A REGISTERED POUND NET SITE;

(III) WITHIN 150 FEET OF AN OYSTER SANCTUARY OR OYSTER RESERVE;

(IV) WITHIN 150 FEET OF A FEDERAL NAVIGATIONAL CHANNEL;

(V) IN ANY CREEK, COVE, BAY, OR INLET LESS THAN 300 FEET WIDE AT ITS MOUTH AT MEAN LOW TIDE; OR

(VI) IN AN SAV PROTECTION ZONE.

(C) A PERSON WITH A SUBMERGED LAND LEASE IN THE CHESAPEAKE BAY MAY CULTIVATE SHELLFISH ON THE SUBMERGED LAND, IN ~~MESH OR NYLON BAGS~~ TEMPORARY PROTECTIVE ENCLOSURES APPROVED BY THE DEPARTMENT ON THE SURFACE OF THE SUBMERGED LAND, OR IN ANY OTHER MANNER AUTHORIZED BY THE DEPARTMENT.

4-11A-07.

(A) THIS SECTION APPLIES TO A SUBMERGED LAND LEASE IN THE WATERS OF THE ATLANTIC COASTAL BAYS.

(B) THE DEPARTMENT MAY ISSUE TO A PERSON A SUBMERGED LAND LEASE IN WATERS OF THE ATLANTIC COASTAL BAYS THAT MEET APPLICABLE WATER QUALITY REQUIREMENTS FOR SHELLFISH CULTIVATION AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT.

(C) A SUBMERGED LAND LEASE MAY NOT BE LOCATED:

(1) WITHIN A MINIMUM OF 50 FEET OF SHORELINE OR ANY PIER WITHOUT THE WRITTEN PERMISSION OF THE RIPARIAN OWNER AT THE TIME OF INITIAL APPLICATION FOR THE LEASE;

(2) WITHIN 150 FEET OF THE PUBLIC SHELLFISH FISHERY OR A REGISTERED POUND NET SITE;

(3) WITHIN 150 FEET OF ANY OYSTER SANCTUARY OR OYSTER RESERVE;

(4) WITHIN 150 FEET OF A FEDERAL NAVIGATIONAL CHANNEL;

(5) IN ANY CREEK, COVE, BAY, OR INLET LESS THAN 300 FEET WIDE AT ITS MOUTH AT MEAN LOW TIDE; ~~OR~~

(6) IN AN SAV PROTECTION ZONE; OR

(7) IN A SETBACK OR BUFFER FROM THE ASSATEAGUE ISLAND NATIONAL SEASHORE ESTABLISHED BY THE DEPARTMENT.

(D) A PERSON WITH A SUBMERGED LAND LEASE IN THE ATLANTIC COASTAL BAYS MAY CULTIVATE SHELLFISH ON THE SUBMERGED LAND, IN ~~MESH OR NYLON BAGS~~ TEMPORARY PROTECTIVE ENCLOSURES APPROVED BY

THE DEPARTMENT ON THE SURFACE OF THE SUBMERGED LAND, OR IN ANY OTHER MANNER AUTHORIZED BY THE DEPARTMENT.

(E) (1) THE DEPARTMENT MAY ESTABLISH SUBMERGED LAND AREAS IN THE ATLANTIC COASTAL BAYS THAT:

(I) ARE PREAPPROVED FOR LEASING;

(II) MAY NOT BE LEASED;

(III) MAY BE APPROVED FOR LEASING ONLY ON SPECIFIC APPLICATION AND REVIEW BY THE DEPARTMENT.

(2) IN ESTABLISHING AREAS THAT ARE PREAPPROVED FOR LEASING OR THAT MAY NOT BE LEASED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

~~(I) CONSIDER~~ CONSIDER POTENTIAL CONFLICTS PRESENTED BY OTHER USES OF THE PROPOSED AREA, INCLUDING NAVIGATION, RECREATION, AND COMMERCIAL FISHING; ~~AND~~

~~(II) PROVIDE FOR A SETBACK OR BUFFER FROM THE ASSATEAGUE ISLAND NATIONAL SEASHORE.~~

4-11A-08.

(A) (1) A PERSON WHO WISHES TO OBTAIN AN AQUACULTURE OR SUBMERGED LAND LEASE SHALL PAY A NONREFUNDABLE APPLICATION FEE ESTABLISHED BY THE DEPARTMENT AND COMPLETE AND SUBMIT AN APPLICATION TO THE DEPARTMENT.

(2) A PERSON WHO WISHES TO OBTAIN A WATER COLUMN LEASE THAT DOES NOT APPLY IN AN AQUACULTURE ENTERPRISE ZONE SHALL APPLY FOR A TIDAL WETLANDS LICENSE FROM THE DEPARTMENT OF THE ENVIRONMENT.

(B) AN APPLICATION FOR AN AQUACULTURE OR SUBMERGED LAND LEASE SHALL INCLUDE:

(1) A DECLARATION THAT THE APPLICANT INTENDS TO ACTIVELY USE THE LEASED AREA FOR COMMERCIAL PURPOSES; AND

(2) A PROPOSED PLAN FOR ACTIVE USE OF THE LEASE THAT SHALL INCLUDE:

(I) THE LESSEE'S SOURCE AND QUANTITY OF SHELLFISH SEED;

(II) THE METHODS AND MEANS THE APPLICANT WILL USE TO GROW SHELLFISH;

(III) THE QUANTITY OF SHELLFISH THAT THE LESSEE EXPECTS TO PLANT AND HARVEST, AND THE TIME FOR PLANTING AND HARVESTING, DURING THE INITIAL 3 YEARS OF THE LEASE; AND

(IV) A DESCRIPTION OF THE LABOR, MATERIALS, AND EQUIPMENT TO BE USED BY THE LESSEE.

(C) THE REQUIREMENTS FOR ACTIVE USE OF A LEASE SHALL INCLUDE:

(1) ANNUALLY PLANTING AT LEAST ONE-FOURTH OF THE LEASED AREA AT A MINIMUM DENSITY OF 1,000,000 SHELLFISH SEED PER ACRE; ~~AND OR~~

(2) COMPLYING WITH ANY OTHER REQUIREMENTS ESTABLISHED BY THE DEPARTMENT.

(D) (1) THE TERM OF A LEASE IS 20 YEARS.

(2) ~~A~~ EXCEPT FOR A DEMONSTRATION LEASE UNDER § 4-11A-10 OF THIS SUBTITLE, A LEASE MAY BE OF ANY SIZE PROVIDED THAT THE LEASEHOLDER ACTIVELY USES THE AREA.

(3) THE DEPARTMENT SHALL ESTABLISH AN ANNUAL AMOUNT OF RENT AND AN AQUACULTURE DEVELOPMENT SURCHARGE FOR AN AQUACULTURE OR SUBMERGED LAND LEASE.

(4) THE DEPARTMENT ~~MAY INCLUDE,~~ AS IT CONSIDERS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, MAY:

(I) DENY A LEASE APPLICATION FOR REASONABLE CAUSE;
OR

(II) INCLUDE ANY CONDITIONS IN AN ~~AQUACULTURE~~ A LEASE THAT IT ~~DEEMS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE.~~

(E) IF AN APPLICATION FOR AN AQUACULTURE LEASE MEETS THE REQUIREMENTS OF THIS SUBTITLE, THE DEPARTMENT SHALL SURVEY THE LEASED AREA AND ISSUE A LEASE TO THE APPLICANT.

(F) IF AN APPLICATION FOR A SUBMERGED LAND LEASE IN AN AREA PREAPPROVED FOR LEASING IN THE ATLANTIC COASTAL BAYS MEETS THE REQUIREMENTS OF THIS SUBTITLE, THE DEPARTMENT SHALL SURVEY THE LEASED AREA AND ISSUE A SUBMERGED LAND LEASE TO THE APPLICANT.

(G) (1) IF AN APPLICATION FOR A SUBMERGED LAND LEASE IN THE CHESAPEAKE BAY OR IN THE ATLANTIC COASTAL BAYS MEETS THE REQUIREMENTS OF THIS SUBTITLE:

(I) THE APPLICANT FOR THE LEASE SHALL MARK THE PROPOSED AREA WITH A STAKE; AND

(II) ~~THE DEPARTMENT SHALL ADVERTISE:~~

1. ADVERTISE THE APPLICATION ON THE WEBSITE OF THE DEPARTMENT AND ONCE A WEEK FOR 4 SUCCESSIVE WEEKS IN A NEWSPAPER PUBLISHED IN THE COUNTY OR COUNTIES WHERE THE PROPOSED LEASE IS TO BE LOCATED;

2. NOTIFY THE OWNERS OF PROPERTY DIRECTLY IN FRONT OF THE PROPOSED ACTIVITY; AND

3. NOTIFY THE CHAIR OF THE OYSTER COMMITTEE IN THE COUNTY IN WHICH THE PROPOSED ACTIVITY IS LOCATED.

(2) (I) WITHIN 30 DAYS OF PUBLICATION OF THE LAST ADVERTISEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY PERSON WHO HAS A SPECIFIC RIGHT, DUTY, PRIVILEGE, OR INTEREST THAT IS DIFFERENT FROM THAT HELD BY THE GENERAL PUBLIC AND MAY BE ADVERSELY AFFECTED BY THE PROPOSED LEASE MAY FILE A PETITION WITH THE DEPARTMENT PROTESTING THE ISSUANCE OF THE LEASE.

(II) THE PROTEST SHALL BE HEARD IN ACCORDANCE WITH THE REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(III) THE DEPARTMENT SHALL HOLD A PUBLIC INFORMATIONAL MEETING ON THE ISSUANCE OF A LEASE ON THE REQUEST OF ANY PERSON.

(IV) IMMEDIATELY AFTER TERMINATION OF THE PERIOD PRESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR FILING A PETITION OR AFTER A FINAL DECISION DISMISSING A PROTEST, THE DEPARTMENT SHALL SURVEY THE PROPOSED LEASED AREA AND ISSUE A SUBMERGED LAND LEASE TO THE APPLICANT.

4-11A-09.

(A) A LEASEHOLDER SHALL:

(1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ACTIVELY USE THE LEASE AND COMPLY WITH ANY STANDARDS FOR PLANTING, HARVESTING, AND USE OF THE LEASED AREA ESTABLISHED BY THE DEPARTMENT;

(2) MARK EACH LEASE AREA WITH AN 8-INCH BY 12-INCH MARKER DISPLAYING THE INITIALS OF THE ~~LESSEE~~ LEASEHOLDER AND POSTED ON A MINIMUM OF FOUR POLES;

(3) COMPLY WITH ANY OTHER MARKING REQUIREMENTS ESTABLISHED BY THE DEPARTMENT FOR THE PROTECTION OF NAVIGATION;

(4) COMPLY WITH THE REGULATIONS ESTABLISHED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT TO CARRY OUT THE MANDATE OF THE NATIONAL SHELLFISH SANITATION PROGRAM; AND

(5) PAY THE RENT AND THE AQUACULTURE DEVELOPMENT SURCHARGE FOR THE LEASE ~~IN AN AMOUNT AND~~ AT THE TIME ESTABLISHED BY THE DEPARTMENT.

(B) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS FOR ACTIVE USE OF A LEASE ON A SHOWING THAT CONDITIONS NOT PRESENT AT THE TIME OF EXECUTION OF THE LEASE, INCLUDING THE UNAVAILABILITY OF SHELLFISH SEED, PREVENT ACTIVE USE OF THE LEASED AREA.

(C) A LEASEHOLDER MAY NOT:

(1) PLACE SHELLFISH, BAGS, NETS, OR STRUCTURES ON SUBMERGED AQUATIC VEGETATION;

(2) PLANT OR HARVEST SHELLFISH WITHIN 500 YARDS OF ANY STATIONARY BLIND OR BLIND SITE THAT IS OCCUPIED AND BEING USED FOR HUNTING MIGRATORY WATERFOWL;

(3) ~~ASSIGN SUBLEASE A SUBMERGED LAND LEASE;~~

(4) ~~TRANSFER A SUBMERGED LAND LEASE WITHOUT THE APPROVAL OF THE DEPARTMENT; OR~~

(5) ~~HARVEST SHELLFISH BETWEEN THE HOURS OF SUNSET AND SUNRISE.~~

(D) ~~SHELLFISH PLANTED OR HARVESTED IN ACCORDANCE WITH AN AQUACULTURE A LEASE ISSUED UNDER THIS SUBTITLE ARE SUBJECT TO INSPECTION BY THE DEPARTMENT.~~

(E) (1) A PERSON WHO WISHES TO RENEW AN AQUACULTURE LEASE, A SUBMERGED LAND LEASE, OR AN EXISTING SHELLFISH LEASE OR OYSTER LEASE SHALL SUBMIT AN APPLICATION THAT MEETS THE REQUIREMENTS FOR AN INITIAL APPLICATION IN § 4-11A-08 OF THIS SUBTITLE.

(2) BEFORE THE TERMINATION OR EXPIRATION OF A LEASE ISSUED UNDER THIS SUBTITLE, THE LEASEHOLDER SHALL HAVE THE RIGHT OF FIRST REFUSAL WITH RESPECT TO FUTURE LEASES OF THE LEASED AREA.

(F) (1) THE DEPARTMENT MAY TERMINATE A LEASE ISSUED UNDER THIS SUBTITLE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE.

(2) THE DEPARTMENT SHALL NOTIFY A LEASEHOLDER BY REGISTERED MAIL OF ITS INTENTION AND PROPOSED DECISION TO TERMINATE A LEASE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE.

(3) A LEASEHOLDER WHO WISHES TO CONTEST THE DEPARTMENT'S PROPOSED DECISION MAY REQUEST A REVIEW OF THE DECISION BY THE SECRETARY, WHICH SHALL BE FILED NOT LATER THAN 30 DAYS AFTER RECEIPT OF THE DEPARTMENT'S DECISION.

(4) FAILURE OF A LEASEHOLDER TO RESPOND TO THE DEPARTMENT'S PROPOSED DECISION WITHIN 30 DAYS OF THE DATE OF THE DECISION SHALL CAUSE THE LEASEHOLD TO REVERT TO THE STATE.

4-11A-10.

(A) THIS SECTION APPLIES TO DEMONSTRATION LEASES.

(B) (1) THE DEPARTMENT MAY ISSUE A DEMONSTRATION LEASE TO A PUBLIC HIGH SCHOOL, AN INCORPORATED COLLEGE OR UNIVERSITY WITHIN THE STATE, A 4-H CLUB, OR A NONSTOCK, NONPROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE EXCLUSIVELY FOR EDUCATIONAL, CONSERVATION, OR ECOLOGICAL PURPOSES.

(2) AN APPLICATION FOR A DEMONSTRATION LEASE SHALL INCLUDE A DECLARATION THAT THE APPLICANT INTENDS TO ACTIVELY USE THE LEASED AREA FOR DEMONSTRATION PURPOSES AND A PROPOSED PLAN FOR ACTIVE USE OF THE LEASE.

(C) THE SIZE OF THE LEASE MAY NOT EXCEED 5 ACRES.

(D) THE PROPOSED LEASE AREA MAY NOT BE LOCATED:

(1) WITHIN A MINIMUM OF 50 FEET OF SHORELINE OR ANY PIER WITHOUT THE WRITTEN PERMISSION OF THE RIPARIAN OWNER AT THE TIME OF APPLICATION FOR THE LEASE;

(2) WITHIN 150 FEET OF THE PUBLIC SHELLFISH FISHERY OR A REGISTERED POUND NET SITE;

(3) WITHIN 150 FEET OF AN OYSTER SANCTUARY OR OYSTER RESERVE;

(4) WITHIN 150 FEET OF A FEDERAL NAVIGATIONAL CHANNEL;

(5) IN ANY CREEK, COVE, BAY, OR INLET LESS THAN 300 FEET WIDE AT ITS MOUTH AT MEAN LOW TIDE; ~~OR~~

(6) IN AN SAV PROTECTION ZONE; OR

(7) IN A SETBACK OR BUFFER FROM THE ASSATEAGUE ISLAND NATIONAL SEASHORE ESTABLISHED BY THE DEPARTMENT.

(E) (1) A DEMONSTRATION LEASE MAY NOT BE ASSIGNED OR TRANSFERRED.

(2) ANY TRANSFER OR ASSIGNMENT OR ATTEMPT TO TRANSFER OR ASSIGN A LEASE SHALL BE VOID AND THE INTEREST IN SUBMERGED LAND SHALL REVERT TO THE STATE WITHOUT THE NECESSITY OF ANY ACTION BY THE STATE.

(F) (1) (I) A LESSEE OF A DEMONSTRATION LEASE DEMONSTRATION LEASEHOLDER SHALL ACTIVELY USE THE LEASE FOR THE PURPOSE OF DEMONSTRATING THE ECOLOGICAL BENEFITS OF GROWING SHELLFISH OR FOR RESEARCH OR EDUCATION.

~~(2)~~ (II) FAILURE TO ACTIVELY USE THE LEASE MAY RESULT IN TERMINATION OF THE LEASE.

(2) A PERSON MAY NOT HARVEST SHELLFISH FOR COMMERCIAL OR CONSUMPTION PURPOSES FROM AN AREA THAT IS SUBJECT TO A DEMONSTRATION LEASE.

4-11A-11.

(A) THE DEPARTMENT SHALL MAINTAIN A RECORD OF LEASES ISSUED UNDER THIS SUBTITLE.

(B) ~~ALL~~ (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL FEES, FUNDS, AND REVENUES DERIVED FROM THE ADMINISTRATION OF THE PROVISIONS OF THIS SUBTITLE SHALL BE PAID TO THE COMPTROLLER OF THE TREASURY AND CREDITED TO THE FISHERIES RESEARCH AND DEVELOPMENT FUND.

(2) THE DEPARTMENT SHALL TRANSFER ANY FUNDS DERIVED FROM THE AQUACULTURE DEVELOPMENT SURCHARGE TO THE STATE DEPARTMENT OF AGRICULTURE TO BE USED FOR DEVELOPMENT OF, AND TRAINING AND GRANTS FOR, SHELLFISH AQUACULTURE.

(C) IN ACCORDANCE WITH ~~THE PROVISIONS OF~~ § 4-742 OF THIS TITLE, THE DEPARTMENT OF THE ENVIRONMENT MAY CLOSE TO THE CATCHING, PLANTING, OR HARVESTING OF SHELLFISH WATERS IN:

- (1) THE SHELLFISH PUBLIC FISHERY AREA;
- (2) AN AQUACULTURE ENTERPRISE ZONE;
- (3) AN AREA PREAPPROVED FOR LEASING IN THE ATLANTIC COASTAL BAYS; OR
- (4) AN AREA ~~OF~~ SUBJECT TO AN AQUACULTURE LEASE, SUBMERGED LAND LEASE, OR DEMONSTRATION LEASE.

(D) IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT AND THE WETLANDS ADMINISTRATOR OF THE BOARD OF PUBLIC WORKS, THE

DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT ~~THE PROVISIONS OF THIS SUBTITLE.~~

4-11A-12.

(a) **[A] EXCEPT AS PROVIDED IN § 4-1008 OF THIS TITLE, A ~~lessee~~ LEASEHOLDER** may plant, cultivate, sow, or protect oysters only of the species known as *Crassostrea virginica* in the waters of the State.

(b) **(1) [A person may not import from the waters of Northampton or Accomack counties, Virginia, oysters or seed oysters infected with oyster drills, screw borers, or their eggs for planting in the waters of the State. During the period between May 1 and September 30, the Department shall inspect all imported oysters intended for planting in the waters of the State and shall issue a certificate attesting that the oysters are free of drills or their eggs. The Department may seize, condemn, and destroy any oyster infected with oyster drills or its eggs.] IN THIS SUBSECTION, THE WORD “SHELLFISH” INCLUDES LIVE OYSTERS, SEED OYSTERS, OYSTER SHELLS, LIVE HARD-SHELL CLAMS, LIVE SOFT-SHELL CLAMS, AND CLAM SHELLS.**

(2) A PERSON MAY NOT IMPORT OR POSSESS WITHIN THE STATE SHELLFISH TAKEN FROM WATERS OUTSIDE THE WATERS OF THE STATE FOR PLANTING IN THE WATERS OF THE STATE WITHOUT THE APPROVAL OF THE DEPARTMENT.

4-11A-13.

(a) **~~A (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A~~ ~~lessee~~ LEASEHOLDER** may cultivate or remove ~~oysters~~ **SHELLFISH** planted on his [leased oyster bottom] **AQUACULTURE OR SUBMERGED LAND LEASE AREA** in any manner he deems proper[, if he complies with the provisions of this subtitle relating to dredging and tonging when transplanting oysters or catching them for commercial purposes].

(2) A PERSON MAY NOT USE A HYDRAULIC ESCALATOR DREDGE TO HARVEST SHELLFISH IN THE ATLANTIC COASTAL BAYS.

(b) Each ~~lessee~~ **LEASEHOLDER** shall keep accurate records concerning the seeding and planting of cultch and oysters on, and the harvesting, and selling of oysters from his [leased oyster bottom] **AQUACULTURE ~~OR SUBMERGED LAND,~~ SUBMERGED LAND, OR DEMONSTRATION LEASE AREA**. Each ~~lessee~~ **LEASEHOLDER** shall report this information to the Department on forms the Department prescribes.

[(c) (1) In that water area in Somerset County of Pocomoke Sound and Pocomoke River, east of Tull's Point, and Marumsco natural oyster bar eastward to

William's Point, a lessee may authorize a nonresident to take oysters by tong as provided by this section.

(2) The nonresident shall:

(i) Exhibit the written authorization of the lessee to the Department on demand;

(ii) Obtain a special permit to take oysters from the leased grounds from the Department; and

(iii) Comply with the appropriate provisions of this article.

(3) The license fee shall be \$25 a year, and these fees shall be credited to the Fisheries Research and Development Fund of the Department.

(4) The license shall be restricted to the leased oyster ground under the written authorization of the lessee.

(5) The Department may cancel the license at any time if cancellation is for the benefit of:

(i) Conservation;

(ii) The proper cultivation of oysters; and

(iii) Residents of the State.]

(C) (1) ON OR BEFORE JANUARY 1 OF EACH YEAR, A LEASEHOLDER SHALL PROVIDE TO THE DEPARTMENT A REPORT DOCUMENTING THE USE OF THE LEASE DURING THE PRIOR YEAR.

(2) A LEASEHOLDER SHALL PROVIDE TO THE DEPARTMENT ANY OTHER REPORT THAT THE DEPARTMENT MAY REQUIRE.

(3) FAILURE TO FILE A REPORT MAY RESULT IN TERMINATION OF THE LEASE.

(4) FAILURE TO ACTIVELY USE A LEASE MAY RESULT IN TERMINATION OF THE LEASE.

4-11A-15.

(a) (1) A person, other than the ~~lessee~~ **LEASEHOLDER**, may not willfully and without authority catch oysters on any [leased oyster bottom] **AQUACULTURE OR**

SUBMERGED LAND LEASE AREA, or willfully destroy or transfer oysters on this land in any manner.

(2) The Department shall request the office of the local State's Attorney **OR THE ATTORNEY GENERAL** to bring a criminal action under § 7-104 of the Criminal Law Article against a person found to be in violation of this subsection **PROVIDED THAT THE LEASED AREA IS DESIGNATED AND MARKED WITH BUOYS AND OTHER SIGNAGE OR THE PERSON KNEW OR SHOULD HAVE KNOWN THAT THE HARVEST OF OYSTERS FROM THE AREA WAS UNLAWFUL.**

(3) (i) On conviction of a person for a violation of this subsection, the Department may suspend all existing **TIDAL FISH** licenses [to take or catch oysters] issued to that person for a period not to exceed:

1. 1 year for a first conviction; or
2. 2 years for a second or subsequent conviction.

(ii) Before suspending any license [to take or catch oysters] under this section, the Department shall give the licensee written notice of the right to request a hearing.

(iii) A licensee may request a hearing within 15 days from the date that the notice required by this section is mailed.

(iv) The Department shall hold a hearing within 30 days of the date of the request and render a decision within 30 days of the hearing.

(b) A person, other than a ~~lessee~~ **LEASEHOLDER**, may not remove, alter, transfer, or destroy any marker, **SHELLFISH, EQUIPMENT, OR STRUCTURES** on any [leased oyster bottom] **AQUACULTURE OR SUBMERGED LAND LEASE AREA.**

(c) A person, other than [a lessee of leased oyster bottoms, or a] **AN AQUACULTURE OR SUBMERGED LAND** ~~lessee~~ **LEASEHOLDER**, while he is in default in payment of any rent or fee, may not use for any purpose any submerged land of the State. [However, any person may use any submerged land subject to lease and not already leased for the temporary bedding of oysters for a period not exceeding three months.]

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2009, the Department of Natural Resources, in consultation with the Department of the Environment and the Wetlands Administrator of the Board of Public Works, shall adopt regulations to:

- (a) Establish initial Aquaculture Enterprise Zones; and

- (b) Implement the provisions of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1, 2009, the Department of the Environment, in consultation with the Wetlands Administrator of the Board of Public Works, shall adopt regulations to streamline the processing of water column leases that do not apply in an Aquaculture Enterprise Zone.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Except as provided in subsection (b) of this section, this Act may not be construed to apply to submerged bottom leases formerly known as shellfish leases or oyster leases existing on the effective date of this Act.

(b) An existing leaseholder shall:

(1) Actively use the lease and comply with any standards for planting, harvesting, and use of the leased area established by the Department of Natural Resources. The Department may at the request of the leaseholder:

(i) Reduce the size of the leased area to enable the leaseholder to comply with the active use requirement; or

(ii) Allow a leaseholder to continue other reasonable uses of a leased area;

(2) Comply with the National Shellfish Sanitation Program requirements established by the Department of Health and Mental Hygiene; and

(3) On or before January 1 of each year, provide a report to the Department documenting the use of the lease during the previous year, and provide any other report that the Department may require during the year.

(c) (1) Failure to use a lease actively as required under subsection (b)(1) of this section may result in its termination.

(2) Failure to file a report as required under subsection (b)(3) of this section may result in termination of the lease.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) This Act be the first step in a continuing effort to establish Maryland as a leading producer of aquaculturally grown, high quality shellfish for commercial purposes; and

(2) Through legislative, regulatory, and administrative action, the State continue to develop, promote, and implement any additional measures necessary to facilitate the growth of the aquaculture industry in Maryland.

SECTION 6. AND BE IT FURTHER ENACTED, That the Department shall continue to monitor the abundance and health of submerged aquatic vegetation in the Atlantic Coastal Bays with the intent of reevaluating the appropriate baseline level of submerged aquatic vegetation for establishing the SAV Protection Zone in the Atlantic Coastal Bays.

SECTION 7. 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 ~~7~~ 8. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 174

(House Bill 312)

AN ACT concerning

Aquaculture - Shellfish - Leasing

FOR the purpose of repealing certain restrictions, eligibility requirements, authorizations, and procedures relating to leasing certain areas in certain waters of the State for the purpose of protecting, sowing, bedding, or cultivating certain shellfish; repealing certain provisions relating to revenue derived from private oyster culture; repealing a certain recording fee; requiring the Department of Natural Resources to designate a public shellfish area in the Chesapeake Bay and prohibiting its leasing for shellfish aquaculture; requiring the Department to establish certain zones for growing shellfish for commercial purposes in the Chesapeake Bay; limiting the location of the zones; requiring the Department to hold a public hearing before establishing the zones and authorizing the Department to issue certain types of leases in the zones for certain purposes under certain circumstances; establishing a set-aside for certain leases to active tidal fish holders; designating the uses of leased areas; authorizing the issuance of submerged land leases in certain waters of the Chesapeake Bay; limiting the locations of submerged land leases and

designating their uses in the Chesapeake Bay; authorizing the issuance of submerged land leases in the Atlantic Coastal Bays; limiting the locations of submerged land leases and designating their uses in the Atlantic Coastal Bays; establishing a process for designating in the Atlantic Coastal Bays areas preapproved for submerged land leasing, not approved for submerged land leases, and approved for leasing only on certain application; ~~providing for a setback from the Assateague Island National Seashore;~~ establishing an application process for aquaculture and submerged land leases; requiring surveys of leased areas; defining and requiring active use of a leased area; establishing a lease term; requiring payment of rent and an aquaculture development surcharge; requiring the Department to transfer funds derived from the surcharge to the State Department of Agriculture to be used for certain purposes; establishing a process for advertising submerged land lease applications and considering protests of such applications; identifying leaseholder responsibilities for leased areas; providing for a waiver of the active use requirement under certain circumstances; prohibiting a leaseholder from engaging in certain activities; authorizing inspection of shellfish planted or harvested under aquaculture or submerged land leases; providing for renewal and termination of a lease; establishing a demonstration lease and defining its purposes, requirements, and limitations; prohibiting the harvest of shellfish for commercial or consumption purposes in areas subject to a demonstration lease; providing for a setback from the Assateague Island National Seashore for certain submerged land and demonstration leases; requiring a record of each lease; designating a fund for payments of fees and revenues from aquaculture and submerged land leases; authorizing closure of areas to the catching or harvesting of shellfish in certain areas; prohibiting importation of shellfish without approval; requiring reports of lease activities; repealing certain restrictions relating to nonresident leasing in Somerset County; prohibiting interference with a lease under certain circumstances and increasing an administrative penalty for such interference; eliminating the prohibition on leasing on natural oyster bars; repealing certain provisions relating to the classification of submerged bottom for the purpose of shellfish harvest; repealing certain provisions governing the authority of the Department to open and close submerged bottom for shellfish harvest; ~~providing for certain provisions relating to the sale of~~ altering certain restrictions and requirements governing seed oysters; ~~repealing provisions related to aquaculture seed areas in certain counties;~~ exempting certain leasing activities from a certain licensing requirement; requiring the Department of the Environment to revise certain regulations by a certain date; establishing certain requirements for existing shellfish leases; specifying a certain legislative intent; defining certain terms; making certain technical corrections; requiring the Department to monitor the abundance and health of submerged aquatic vegetation in the Atlantic Coastal Bays with a certain intent; making the provisions of this Act severable; and generally relating to shellfish aquaculture leasing in the Chesapeake Bay and the Atlantic Coastal Bays.

BY repealing and reenacting, without amendments,

Article – Environment
Section 16–202(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 16–202(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing
Article – Natural Resources
Section 4–1102 and 4–11A–04 through 4–11A–11
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section ~~4–1102~~, 4–1103, 4–11A–01, 4–11A–12, 4–11A–13, and 4–11A–15
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

~~BY repealing~~
~~Article – Natural Resources~~
~~Section 4–11A–04 through 4–11A–11~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2008 Supplement)~~

BY adding to
Article – Natural Resources
Section 4–11A–04 through 4–11A–11
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Environment

16–202.

- (a) A person may not dredge or fill on State wetlands without a license.
- (d) The provisions of this section do not apply to any operation for:

(1) Dredging and filling being conducted as of July 1, 1970, as authorized under the terms of an appropriate permit or license granted under the provisions of existing State and federal law;

(2) Dredging of seafood products by any licensed operator, harvesting of seaweed, or mosquito control and abatement as approved by the Department of Agriculture;

(3) Improvement of wildlife habitat or agricultural drainage ditches as approved by an appropriate unit; [or]

(4) Routine maintenance or repair of existing bulkheads, provided that there is no addition or channelward encroachment; **OR**

(5) AQUACULTURE ACTIVITIES OCCURRING IN AQUACULTURE ENTERPRISE ZONES ESTABLISHED UNDER TITLE 4, SUBTITLE 11A OF THE NATURAL RESOURCES ARTICLE UNDER AN AQUACULTURE LEASE ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES.

Article - Natural Resources

~~4-1102.~~

~~(a) (1) The Department may resurvey any submerged area of the State to determine the position and extent of any natural oyster or clam bar and barren bottom. If the Department finds, upon resurvey, that any natural oyster or clam bar is located incorrectly on existing charts, or that the existing charts do not reflect the actual condition of submerged lands, the Department shall amend the existing charts or prepare new charts. In addition, the Department shall mark as accurately as possible the correct location and bounds of each natural oyster or clam bar, then existing in the area being surveyed, on any amended or new chart.~~

~~(2) A reclassification of submerged areas of the State to clam bars may not be made unless an environmental impact study indicates that a hydraulic clam dredge will not impair the bottom or adversely affect other marine life. The Department shall perform the environmental impact study based on survey data, public hearings, and other available information. An initial environmental impact study shall be carried out by the Department, in cooperation with qualified scientific organizations, for reclassification actions at sites in the waters of Anne Arundel, Calvert, Kent, Queen Anne's, and St. Mary's counties to evaluate the environmental impact of hydraulic clam dredging.~~

~~(b) Within 90 days after the resurvey, a copy of the amended or new charts shall be deposited with the Department and another copy sent to the clerk of the circuit court where the resurveyed area is located or the county nearest this area. This~~

~~resurvey shall supersede the Oyster Survey of 1906 to 1912, and its amendments, and any decision of any circuit court rendered prior to the completed resurvey.~~

~~A resurvey may not be effective until 30 days have lapsed after the filing date. During this 30 day period, public notice of the filing of the amended chart shall be given once a week for three successive weeks in a newspaper of general circulation in every county.~~

~~(e) Before the Department reclassifies any submerged area of the State from natural oyster bar[, excluded from leasing,] to barren bottom [permitted to be leased under the provisions of this subtitle], it shall advertise the time, place, and purpose for reexamination, once a week for three successive weeks, in a newspaper of general circulation in every county. The public may be present at the reexamination. If any person present then offers to make further tests in the presence of employees designated by the Department, the employees shall witness and make note of the findings. If upon reexamination the Department proposes to reclassify the area from natural bar to barren bottom, it first shall hold a public hearing, and the time, place, and purpose shall be advertised pursuant to the provisions of this subsection. The Department shall show any reclassification it determines to make on the amended or new chart which the Department shall file in accordance with subsection (b) of this section.~~

~~(d) (1) Within 30 days of the filing of the amended or new chart under subsection (b) of this section, any person adversely affected by the decision of the Department to reclassify any submerged area of the State from natural oyster bar to barren bottom may file a petition with the Department protesting the reclassification.~~

~~(2) Proceedings on appeal shall be pursuant to those procedures set forth in § [4-11A-06(c)] 4-11A-08 of this title with the same rights of appeal from the decision of the Department.~~

~~[(3) A lease of the reclassified area, in whole or part, may not be granted until the new or amended chart has been filed pursuant to subsection (b) of this section and until 30 days have expired from date of filing.]~~

~~(e) Notwithstanding any provisions of this section, a lease may not be invalidated in any way by facts determined in any resurvey unless the lessee forfeits his lease voluntarily or fails to pay rental or other fees.]~~

4-1103.

(a) The Department shall take measures which in its judgment seem best calculated to increase the productivity or utility of any part of the natural oyster bars of OYSTER RESOURCES IN the State, including:

- (1) Identifying and using effective methods of cleaning diseased oyster bars;
- (2) Providing clean shell for the bars;
- (3) Using hatchery produced oysters to replant sites; and
- (4) Applying for a permit to dredge buried oyster shells.

~~(b) The Department may close in any year no more than 30 percent of the natural oyster bars in the waters of the State. The Department may prohibit or restrict the catching of oysters on natural oyster bars whenever in its judgment these measures will increase the productivity or utility of these areas. The Department may plant oysters, shells, or other cultch or take any other restorative measures, which it deems advisable, on natural oyster bars. The Department shall, before publication, deliver to the Joint Committee on Administrative, Executive, and Legislative Review a notice of intent to close an area of a natural oyster bar, including all applicable reasons for the Department's act, and publish the notice not less than 30 days prior to the proposed closing date in one or more newspapers of general circulation in the State, in one or more newspapers of general circulation in each county in which the affected waters are located, and on the website of the Department. The Department shall schedule a public hearing on the proposal not less than 15 days before the proposed closing date. The hearing shall be held at the county seat of the county in which the affected waters are located. If the affected waters are located in more than one county then the hearing shall be held in that county seat closest to the affected waters. If the area affected is totally within State waters, then the hearing shall be held in Annapolis.~~

~~(c) The Department may reopen an area if it determines reopening is advisable. An area shall be reopened by notice of reopening published in the same newspapers that published any closing notices. However, an area may not be reopened until a lapse of 48 hours from the publication of the notice of reopening.~~

~~(d) The Department may select and reserve for its own use areas, to be known as seed areas, within the waters of the State for the propagation of seed oysters. The number, size, and location of these areas shall be determined from time to time by the Department. However, no more than 5 percent of the natural oyster bars of the State shall be designated as seed areas. [The first million bushels of seed oysters produced in seed areas shall be planted on the natural oyster bars of the State.] The Department shall, before publication, deliver a notice of reservation, including all applicable reasons for the Department's act, to the Joint Committee on Administrative, Executive, and Legislative Review and publish the notice not less than 30 days before the closing date of any seed area in one newspaper of general circulation in the State and at least one newspaper of general circulation in each county in which the affected waters are located, and on the website of the Department. The Department shall schedule a public hearing on the proposal not less than 15 days before the proposed closing date. The hearing shall be held at the county seat of the~~

county in which the affected waters are located. If the affected waters are located in more than one county, the hearing shall be held in that county seat closest to the affected waters, but if the area affected is totally within State waters, the hearing shall be held in Annapolis.

~~(e)~~ **(C)** [Except as provided in subsection (f) of this section, the] **THE** State may sell [no more than 50 percent of] seed oysters [in excess of one million bushels produced annually in seed areas to citizens] **TO PERSONS** who hold A valid [leases under the provisions of this subtitle] **AQUACULTURE OR SUBMERGED LAND LEASE** for no less than the prevailing price of seed oysters of similar quality in nearby states. Conditions of sale may be prescribed by rule or regulation of the Department. The proceeds from these sales shall be credited by the Comptroller to the Fisheries Research and Development Fund.

~~(d)~~ **(D)** (1) In addition to the provisions of subsections ~~(d) and (e)~~ **(B) AND (C)** of this section concerning the establishment of oyster seed areas and the sale of seed oysters to a leaseholder, the Department may:

(i) ~~Establish aquaculture seed areas [not exceeding a total aggregate of 90 acres] in the State;~~ **SELL OR REMOVE SEED OYSTERS FROM OYSTER SEED AREAS IF THE SALE OR REMOVAL IS MADE UNDER DISEASE PROTOCOLS; AND**

(ii) ~~Designate the seed oysters produced in those aquaculture seed areas for sale to a [resident of the State] PERSON who holds a valid AQUACULTURE OR SUBMERGED LAND lease or an aquaculture permit to cultivate shellfish; and~~

~~(iii)~~ Adopt regulations necessary to implement the provisions of this subsection.

(2) The Department shall credit the proceeds of any sale of seed oysters under this subsection to the Fisheries Research and Development Fund in the Department [for the benefit of the public oyster fishery].

(3) The Department shall:

(i) Sell, at prevailing market prices, seed oysters produced in an aquaculture oyster seed area to a [resident of the State] **PERSON** who holds a valid **AQUACULTURE OR SUBMERGED LAND** lease or an aquaculture permit to cultivate shellfish; **AND**

(ii) Use any revenue derived from the sale of seed oysters to reimburse the Fisheries Research and Development Fund for any expenditure needed to create the aquaculture oyster seed areas under this subsection[;]

(iii) Credit any net proceeds from the sale of seed oysters remaining, after reimbursement is made under subparagraph (ii) of this paragraph, to the exclusive use of the public oyster fishery;

(iv) Maintain for each aquaculture seed area a record detailing all expenditures required to create and maintain the seed area and all proceeds of the sale of seed oysters produced in the seed area;

(v) In establishing and maintaining the aquaculture seed areas, limit expenditures to \$200,000 annually, and after the first year, any expenditure required to maintain the seed areas shall be funded only from revenues derived from the sale of seed oysters produced in the seed areas; and

(vi) Consult with the County Oyster Propagation Committee in establishing an aquaculture seed area in that county].

[(4) The Department may not create aquaculture seed areas within the jurisdictional boundaries of Dorchester, Kent, Queen Anne's, Somerset, or Talbot counties, or in the tidewater tributaries of Charles County, except the Patuxent River.]

4-11A-01.

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

(b) "Aquaculture" means the commercial rearing of fish or aquatic plants for sale, trade, barter, or shipment.

(c) **"AQUACULTURE ENTERPRISE ZONE" OR "~~AEZ~~" MEANS AN AREA OF ~~THE~~ MEANS AN AREA OF THE CHESAPEAKE BAY APPROVED FOR THE LEASING OF SUBMERGED LAND ~~AND~~ OR THE WATER COLUMN BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT AND THE WETLANDS ADMINISTRATOR OF THE STATE BOARD OF PUBLIC WORKS.**

(d) **"AQUACULTURE LEASE" MEANS A LEASE OF ANY SUBMERGED LAND ~~AND~~ OR THE WATER COLUMN LOCATED IN AN AQUACULTURE ENTERPRISE ZONE FOR CULTIVATING OYSTERS ~~AND~~ OR OTHER SHELLFISH FOR COMMERCIAL PURPOSES.**

(e) **"ATLANTIC COASTAL BAYS" MEANS THE WATERS OF THE ASSAWOMAN, ISLE OF WIGHT, SINEPUXENT, NEWPORT, AND CHINCOTEAGUE BAYS AND THEIR TRIBUTARIES.**

[(c)] (F) “Chesapeake Bay” means the waters commonly known as the Chesapeake Bay[, as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments].

(G) **“DEMONSTRATION LEASE” MEANS A LEASE OF SUBMERGED LAND FOR THE PURPOSE OF DEMONSTRATING THE ECOLOGICAL BENEFITS OF GROWING SHELLFISH OR FOR RESEARCH OR EDUCATION.**

[(d)] (H) “Dredge” includes any dredge, scoop, handscrape, or similar device used in catching oysters and clams by dragging.

[(e)] “Leased oyster bottom” means any land lying beneath the waters of the State leased by the State to any person for the purpose of protecting, sowing, bedding, or cultivating oysters and other shellfish.]

[(f)] (I) “Natural clam bar” means any area of submerged tidal bottom not classified as a natural oyster bar which has a population of clams of any species judged by the Secretary to have significant commercial value.

[(g)] (J) “Natural oyster bar” means any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912, and its amendments, or any area declared by any circuit court to be a natural oyster bar, or any area on which the Department plants oysters or shells. [A natural oyster bar also means any bar beneath the waters of the State where the natural growth of oysters abounds to the extent that the public has resorted to the bar for a livelihood, whether continuously or at intervals, during any oyster season within 5 years prior to the filing of any application for a lease of the area in question, or within 5 years prior to making of a resurvey under § 4-1102 of this title. The actual condition of the area in question at any time within the 5-year period shall be considered in determining whether or not the area is a natural oyster bar.]

(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.**

(L) **“PUBLIC SHELLFISH FISHERY AREA” MEANS AN AREA IN WHICH SHELLFISH IS HARVESTED FOR COMMERCIAL PURPOSES.**

(M) **“SAV PROTECTION ZONE” MEANS AN AREA OF SUBMERGED AQUATIC VEGETATION WITH A DENSITY GREATER THAN 10% AS MAPPED IN AERIAL SURVEYS BY THE VIRGINIA INSTITUTE OF MARINE SCIENCES IN 1 OR MORE OF THE 3 YEARS PRECEDING THE DESIGNATION OF AN ~~AEZ~~ AQUACULTURE ENTERPRISE ZONE OR AN APPLICATION FOR AN AQUACULTURE, SUBMERGED LAND, OR DEMONSTRATION LEASE.**

(N) “SUBMERGED LAND LEASE” MEANS ANY LAND LYING BENEATH THE WATERS OF THE STATE LEASED BY THE STATE TO ANY PERSON FOR CULTIVATING OYSTERS AND OTHER SHELLFISH FOR COMMERCIAL PURPOSES.

[(h)] (O) “Tong” means any pincers, nippers, tongs, or similar device operated entirely by hand and consisting of 2 shafts or handles and a metal body composed of 2 opposable and complementary baskets used in catching oysters and clams.

[(i)] (P) “Transgenic” means an organism into which genetic material from another organism has been experimentally transferred, so that the host acquires the genetic traits of the transferred genes.

(Q) “WATER COLUMN LEASE” MEANS A LEASE OF THE COLUMN OF WATER ON OR UNDER THE SURFACE OF THE WATER AND ABOVE THE SURFACE OF THE SUBMERGED LAND.

[4-11A-04.

The Department may set aside for each tidewater public high school no more than 5 acres of submerged barren tidewater lands to be used for the sole purpose of experimental oyster farming or for the cultivation of other shellfish in conjunction with regular scholastic conservation studies. These areas shall be set aside pursuant to the procedures established in § 4-1103 of this title and marked in the manner provided in § 4-11A-10 of this subtitle. These high schools may introduce and use modern methods of planting, harvesting, or marketing fishery products without regard to the restrictive provisions of this subtitle. If a subject school does not use a barren bottom for its studies for three years or if studies are discontinued, the submerged lands shall revert to the State.]

[4-11A-05.

(a) (1) The Department may lease, in the name of the State, tracts or parcels of land beneath the waters of the State to residents of the State for protecting, sowing, bedding, or cultivating oysters or other shellfish, subject to the provisions of this section. These submerged lands when leased shall be known as leased oyster bottoms.

(2) (i) Except as provided in this paragraph, a corporation or joint stock company may not lease or acquire by assignment or otherwise any submerged land of the State for the purposes of this section.

(ii) A 4-H club in the State may lease or acquire not more than 10 acres of submerged land for the purposes of this section.

(iii) 1. An incorporated college or university within the State having an enrollment of at least 700 undergraduate, degree-seeking students may acquire, by assignment, gift, or bequest, submerged land for education and research purposes only.

2. An incorporated college or university may not transfer or attempt to transfer any interest in submerged land acquired under the provision of item 1 of this subparagraph to any person, corporation, or joint stock company.

3. Any transfer or attempt to transfer an interest in submerged land acquired under the provisions of item 1 of this subparagraph shall be void, and the interest in submerged land shall revert to the State without the necessity of any action by the State.

(iv) 1. A. A nonstock, nonprofit corporation organized under the laws of this State exclusively for educational purposes may lease or acquire not more than two leases consisting of not more than 30 acres each of submerged land in the Severn River for educational or ecological purposes.

B. A nonstock, nonprofit corporation may renew a lease acquired under this subparagraph.

2. A. Except as provided in sub-sub-subparagraph B of this sub-subparagraph, a nonstock, nonprofit corporation organized exclusively for educational purposes may not transfer or attempt to transfer any interest in submerged land acquired under the provisions of sub-subparagraph 1 of this subparagraph to any person, corporation, or joint stock company.

B. The nonprofit, nonstock corporation may harvest oysters in accordance with a harvesting program approved by the Department provided that any revenues from harvesting are maintained by the nonstock, nonprofit corporation exclusively for educational or ecological purposes and for the maintenance and preservation of submerged lands leased by the nonprofit, nonstock corporation.

(v) 1. A. A nonstock, nonprofit corporation organized under the laws of this State exclusively for conservation or ecological purposes may lease or acquire by lease not more than 30 acres of submerged land in Anne Arundel County for the purpose of oyster restoration.

B. A nonstock, nonprofit corporation may renew a lease acquired under this subparagraph.

2. The nonstock, nonprofit corporation shall adhere to a management plan approved by the Department for the leased submerged land.

3. The nonstock, nonprofit corporation shall plant a minimum of 250,000 oysters at a density of 1,000,000 oysters per acre.

4. A. A nonstock, nonprofit corporation may not transfer or attempt to transfer any interest in submerged land acquired under item 1 of this subparagraph to any person, corporation, or joint stock company.

B. Any transfer or attempt to transfer an interest in submerged land acquired under item 1 of this subparagraph shall be void, and the interest in submerged land shall revert to the State without the necessity of any action by the State.

(3) Under regulations that the Department adopts, and in conjunction with the 4-H advisory board in a county, the Department may make equal and matching grants of up to \$1,000 a county for any number of 4-H clubs in a county that:

- (i) Are actively involved in oyster cultivation research;
- (ii) Are leasing or acquiring any submerged land under paragraph (2) of this subsection; and
- (iii) Have received or have a guarantee to receive a research grant from the county for oyster cultivation research.

(b) The Department may not lease any of the submerged areas of the State within the jurisdictional boundaries of Dorchester, Kent, Queen Anne's, Somerset and Talbot counties for oyster cultivation. The Department also may not lease any of the submerged areas of the State in the tidewater tributaries of Charles County, except the Patuxent River, for oyster cultivation. This subsection does not affect any existing lease in Somerset County made prior to and effective on June 1, 1952; any lease in Dorchester County made prior to and effective on June 1, 1957; in Charles County made prior to and effective on July 1, 1968 and in Kent, Queen Anne's and Talbot counties made prior to July 1, 1973. This subsection also does not prevent any lessee from renewing, assigning, devising by will or prohibit the descendents of any lessee, his heirs, or next of kin, from inheriting rights by the operation of the laws of descent and distribution. If an existing lease does not provide for renewal, the Department may grant renewal when the lease terminates unless good cause to the contrary is shown. However, a person may not lease more acreage than now authorized by law regardless of the manner in which the lease or the rights under the lease are obtained.

(c) A lease may not be granted for any of the following submerged areas of the State, and a person may not acquire by lease, assignment, appropriation, or otherwise any of the enumerated areas: any area beneath any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; any natural oyster or natural clam bar as defined in this subtitle; any area within 150 feet of any natural oyster or natural clam bar in any county; any area within 600 feet of any natural oyster or clam bar in the Chesapeake Bay; any clam bed as defined by the charts of the Oyster Survey of 1906 to 1912 and its amendments. Any lease granted in violation of the

provisions of this subsection is null and void and the land described in the lease shall revert to the State as though a lease had not been made.

(d) (1) A leased oyster bottom shall be as rectangularly shaped as possible. A tract or parcel of land may not be leased in any of the following waters if it falls short of the minimum area or exceeds the maximum area specified below:

Waters of the Chesapeake Bay	
lying outside county	
waters.....	5 acres to 500 acres
Tangier Sound	1 acre to 100 acres
All other counties.....	1 acre to 30 acres

(2) (i) 1. In Worcester County, a leased oyster bottom shall be as rectangularly shaped as possible, and shall be between 1 acre and 50 acres in size. Except as provided in item 2 of this subparagraph, the Department may not lease to one person a total amount of leased oyster bottom in Worcester County exceeding 50 acres.

2. In Worcester County, 2 or more individuals may work in concert and have operative control over a total amount of leased oyster bottom not exceeding 200 acres. If a lessee works in concert with other individuals so that the lessee exercises operative control over more than 200 acres of leased oyster bottom, the interest of the lessee shall revert to the State as if a lease had not been made.

(ii) Notwithstanding the provisions of item 2 of subparagraph (i), an individual who works in concert with other individuals and has operative control over more than 200 acres of leased oyster bottom in Worcester County on June 1, 1986, may continue to work and have operative control over those acres of leased oyster bottom.

(e) (1) Notwithstanding any provision of subsection (b) of this section, the Department may issue or renew a lease for any leased oyster bottom that previously was leased for purposes of oyster cultivation under this subtitle if:

(i) Application for the new, renewed, or transferred lease was made before December 31, 1984; and

(ii) The proposed site of the leased oyster bottom:

1. Has not become a natural oyster bar or clam bar; and
2. Is otherwise suitable for oyster cultivation.

(2) Any lease issued or renewed under this subsection is considered legitimate for all purposes.

(f) (1) If a person applies to the Department for a lease of submerged land for oyster cultivation, the Department shall determine if the submerged land is a productive natural clam bar.

(2) Notwithstanding any other provision of this subtitle, if the Department determines that the submerged land is a productive natural clam bar, the Department may not lease the submerged land for purposes of oyster cultivation.

(3) For purposes of this subtitle, the Department may adopt regulations establishing criteria to denote natural clam bars as having significant commercial value.

(4) Before the Department proposes any regulation under paragraph (3) of this section, the Department shall hold a public hearing on the proposed regulation.]

[4-11A-06.

(a) Any person wishing to lease submerged lands of the State shall apply to the Department for a blank application form. The applicant shall indicate on the application his place of residence, the estimated area of the submerged land for which a lease is sought, and a detailed description of the location of the land. The applicant prior to filing the application with the Department shall mark the area applied for with at least one stake bearing his name.

(b) (1) There is an application fee of \$300. The fee is not refundable and shall be used to pay for the Department's costs associated with processing applications and recording leases.

(2) Upon receiving the application and a \$300 fee, the Department shall conduct a resource survey of the proposed lease site. The Department shall deny a lease application without further action on the application if the survey results indicate that the site is a natural clam or oyster bar as specified by the criteria in the Department's regulations or this subtitle.

(3) If the results of the survey conducted under paragraph (2) of this subsection do not indicate that the site is a natural clam or oyster bar, the Department shall proceed with advertising the application once a week for 4 successive weeks in a newspaper published in the county or counties where the proposed lease is to be located. The advertisement shall describe the location of the area applied for, the location of the stake marker, and give the name and residence of the applicant.

(c) (1) Within 30 days of publication of the last advertisement under subsection (b) of this section, any person whose rights, statutory entitlements, or privileges may be affected adversely by the issuance of a proposed lease may file a petition with the Department protesting the issuance of the lease.

(2) The protest shall be heard in accordance with the contested case provisions of the Administrative Procedure Act under §§ 10–201 through 10–217 of the State Government Article.

(d) Immediately after the termination of the respective periods prescribed for the filing of petitions or appeals, or immediately after the final decision upon any protest or appeal the Department shall notify the applicant by letter that it is ready to issue the lease. The Department shall conduct a survey and mark the location of the leased area, execute a lease, enter the lease upon a book to be known as the “Register of Titles to Oyster Lands,” and mail the lease to the applicant for his signature.

(e) If the applicant accepts the lease, he shall sign and return it together with the first annual rental. If the applicant fails to accept the lease and pay within 60 days all required fees, the application and the lease are null and void, and all payments previously made by the applicant to the Department are forfeited. The Department may extend the time for acceptance of the lease for an additional period of 60 days for good cause.]

[4–11A–07.

(a) Except as provided in subsection (c)(2) of this section the term of leases for submerged lands shall be 20 years at an annual rent the Department deems proper and commensurate with the value of the leased land.

(b) If the Department ascertains that any leased area is affected by environmental factors which destroy or seriously impede the culture and growth of oysters and threaten the potential of the area for continued oyster production, it may reduce or abate the annual rent by an amount and for a period the Department deems equitable and reasonable in view of the degree of damage.

(c) (1) In this subsection, “utilize” includes the planting or harvesting of not less than 25 bushels of oysters or 25 bags of clams per lease during 1 year of each 3–year period.

(2) If any part of the rent required by a lease remains unpaid for more than 60 days after it becomes due, the Department may declare the lease null and void in accordance with subsection (e) of this section and the land shall revert to the State and may be leased again. The Department may cancel any lease, either in whole or in part, and may diminish or cancel the annual rental to an extent commensurate with the area remaining under lease on the written request of the lessee.

(3) The Department shall adopt regulations and condition each lease to require a leaseholder to actively utilize the leased area within any 3–year period commencing July 1, 1990, or the effective date of a lease after July 1, 1990. The Department may allow a longer period than 3 years upon a showing that natural conditions, including unavailability of oyster shell or seed, prevented utilization.

(4) If a leaseholder fails to actively utilize leased bottom in accordance with regulations promulgated under paragraph (2) of this subsection, the leasehold shall revert to the State and may be leased again. A leaseholder shall maintain records documenting activities which show that the lease is being used for shellfish production as required by the Department.

(d) A lease may not be invalidated in any way by facts determined in any resurvey under § 4-1102 of this title unless the lessee forfeits his lease voluntarily, fails to pay rental or other fees, or fails to actively utilize the lease areas within a period of 3 years.

(e) (1) The provisions of Title 8 of the Real Property Article do not apply to leases under this subtitle.

(2) Upon a determination under subsection (c) of this section, the Department shall notify a lessee of the lessee's opportunity to contest the Department's action in a hearing under Title 10, Subtitle 2 of the State Government Article.]

[4-11A-08.

Every fee, fund, and revenue derived from the administration of the provisions of this subtitle relating to private oyster culture shall be paid to the Comptroller of the Treasury to be credited to the Fisheries Research and Development Fund.]

[4-11A-09.

(a) A recording fee of \$5 shall accompany every application for assignment or transfer of any interest acquired under this subtitle.

(b) A person may not assign or transfer any interest acquired by this subtitle to a nonresident of the State. An assignment to a nonresident is not valid for any purpose and, if attempted, any interest of the grantor or assignor reverts to the State as if a lease had not been made.

(c) If a person attempts to assign any interest created by this subtitle to any corporation or joint-stock company, the interest of the grantor or assignor shall revert to the State as if a lease had not been made. If a person attempts to assign any interest created by this subtitle to any person so that the assignee holds acreage exceeding the maximum limits permitted by § 4-11A-05 of this subtitle, the interest of the grantor or assignor shall revert to the State as if a lease had not been made.]

[4-11A-10.

(a) Immediately upon entering into a lease, every lessee shall designate leased oyster bottoms by plainly marking them as specified by regulations issued by

the Department in consultation with the Tidal Fisheries Advisory Committee and Aquaculture Coordinating Council. The initials of the lessee shall be marked on at least four markers. The lessee shall exercise reasonable diligence in maintaining markers but the temporary loss or destruction of any markers shall not operate to permit any unauthorized person to trespass on or remove, destroy, or disturb oysters on any areas.

(b) If any leased oyster bed does not have markers at the 4 corners of the bed, a person, including the lessee, may not catch oysters from the bed. If the markers are not in order on any leased oyster bed, the Natural Resources Police have a duty not to allow a person to operate or catch oysters in the bed until the corner markers are replaced.]

[4-11A-11.

(a) The lessee of any leased oyster bottom shall have exclusive ownership of and title to all the oysters planted by him or existing on the leasehold. Lessees shall have the rights to use their lease subject to the following conditions:

(1) Land leased under this subtitle shall be used only for the purpose of planting and cultivating oysters;

(2) Persons may fish on all leased oyster bottoms, if they do not remove or destroy oysters on the areas; and

(3) A person may not redeem or purchase any leased oyster bottom.

(b) A lessee may catch oysters at any time from his leased oyster bottom for private use, planting or cultivating, or for sale for planting by other lessees.

(c) (1) In Wicomico and Somerset counties, any State resident holding a current tonging license may catch oysters on any leased oyster bottom if the State resident first obtains the written permission of the lessee of the leased oyster bottom.

(2) A lessee or a bona fide representative of a lessee who has written permission from the lessee is not required to have a tonging license in the Manokin River.

(d) The season for catching oysters from leased oyster bottoms of the State for sale shall be between sunrise and sunset of any day, except Sunday, throughout the year, if the leased oyster bottoms are marked as prescribed in this subtitle.]

4-11A-04.

(A) IN CONSULTATION WITH THE OYSTER ADVISORY COMMISSION, THE DEPARTMENT SHALL IDENTIFY BY REGULATION THE PUBLIC SHELLFISH

FISHERY AREA IN THE CHESAPEAKE BAY BASED ON COMMERCIAL HARVESTING ACTIVITY DURING THE 3 YEARS PRECEDING JUNE 1, 2009, ANY SURVEYS CONDUCTED BY THE DEPARTMENT, AND OTHER QUANTITATIVE DATA KNOWN OR MADE AVAILABLE TO THE DEPARTMENT.

(B) THE PUBLIC SHELLFISH FISHERY AREA MAY NOT BE LEASED FOR SHELLFISH AQUACULTURE.

4-11A-05.

(A) THIS SECTION APPLIES TO LEASING IN AN AQUACULTURE ENTERPRISE ZONE IN THE CHESAPEAKE BAY.

(B) (1) IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT AND THE WETLANDS ADMINISTRATOR OF THE BOARD OF PUBLIC WORKS, THE DEPARTMENT SHALL ESTABLISH AQUACULTURE ENTERPRISE ZONES IN THE CHESAPEAKE BAY.

(2) AN AQUACULTURE ENTERPRISE ZONE MAY NOT BE LOCATED:

(I) WITHIN A MINIMUM OF 50 FEET OF SHORELINE OR ANY PIER WITHOUT THE WRITTEN PERMISSION OF THE RIPARIAN OWNER AT THE TIME OF DESIGNATION OF THE AQUACULTURE ENTERPRISE ZONE;

(II) WITHIN 150 FEET OF THE PUBLIC SHELLFISH FISHERY OR A REGISTERED POUND NET SITE;

(III) WITHIN 150 FEET OF AN OYSTER SANCTUARY OR OYSTER RESERVE;

(IV) WITHIN 150 FEET OF A FEDERAL NAVIGATIONAL CHANNEL;

(V) IN ANY CREEK, COVE, BAY, OR INLET LESS THAN 300 FEET WIDE AT ITS MOUTH AT MEAN LOW TIDE; OR

(VI) IN AN SAV PROTECTION ZONE.

(3) IN DETERMINING THE LOCATION OF AN AQUACULTURE ENTERPRISE ZONE, THE DEPARTMENT SHALL CONSIDER POTENTIAL CONFLICTS PRESENTED BY OTHER USES OF THE PROPOSED AREA, TO INCLUDE NAVIGATION, RECREATION, AND COMMERCIAL FISHING.

(4) BEFORE ADOPTING REGULATIONS ESTABLISHING AN AQUACULTURE ENTERPRISE ZONE, THE DEPARTMENT SHALL HOLD A PUBLIC HEARING IN THE COUNTY OR COUNTIES IMMEDIATELY ADJACENT TO THE PROPOSED LOCATION OF THE AQUACULTURE ENTERPRISE ZONE.

(c) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT MAY ISSUE TO ANY PERSON AN AQUACULTURE LEASE IN AN AQUACULTURE ENTERPRISE ZONE.

(2) (i) THE DEPARTMENT SHALL SET ASIDE 25% OF EACH AQUACULTURE ENTERPRISE ZONE FOR LEASING TO PERSONS WHO HOLD TIDAL FISH LICENSES UNDER SUBTITLE 7 OF THIS TITLE AND WHO HAVE ACTIVELY USED THOSE LICENSES DURING THE 3 YEARS PRECEDING JUNE 1, 2009.

(ii) AN APPLICANT FOR A LEASE UNDER THIS PARAGRAPH SHALL COMPLY WITH THE PROVISIONS FOR LEASING SET FORTH IN THIS SUBTITLE.

(iii) THE SET-ASIDE PROVIDED FOR IN SUBPARAGRAPH (i) OF THIS PARAGRAPH SHALL EXPIRE JUNE 1, 2011.

(3) THE DEPARTMENT MAY ESTABLISH A BUFFER BETWEEN LEASED AREAS WITHIN AN AQUACULTURE ENTERPRISE ZONE.

(d) A PERSON WHO LEASES AN AREA IN AN AQUACULTURE ENTERPRISE ZONE MAY CULTIVATE SHELLFISH:

(1) ON THE SUBMERGED LAND;

(2) IN ~~MESH OR NYLON BAGS~~ TEMPORARY PROTECTIVE ENCLOSURES APPROVED BY THE DEPARTMENT ON THE SURFACE OF THE SUBMERGED LAND;

(3) SUBJECT TO APPROVAL BY THE UNITED STATES ARMY CORPS OF ENGINEERS, ON OR UNDER THE SURFACE OF THE WATER IN A FLOATING STRUCTURE OR IN A STRUCTURE ON THE SUBMERGED BOTTOM, EXCEPT THAT THE HEIGHT OF THE STRUCTURE MAY NOT EXCEED 18 INCHES; OR

(4) IN ANY OTHER MANNER AUTHORIZED BY THE DEPARTMENT.

4-11A-06.

(A) THIS SECTION APPLIES TO A SUBMERGED LAND LEASE IN THE CHESAPEAKE BAY THAT IS NOT IN AN AQUACULTURE ENTERPRISE ZONE.

(B) (1) THE DEPARTMENT MAY ISSUE TO A PERSON A SUBMERGED LAND LEASE IN WATERS OF THE CHESAPEAKE BAY THAT MEET APPLICABLE WATER QUALITY REQUIREMENTS FOR SHELLFISH CULTIVATION AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT.

(2) A SUBMERGED LAND LEASE MAY NOT BE LOCATED:

(I) WITHIN A MINIMUM OF 50 FEET OF SHORELINE OR ANY PIER WITHOUT THE WRITTEN PERMISSION OF THE RIPARIAN OWNER AT THE TIME OF INITIAL APPLICATION FOR THE LEASE;

(II) WITHIN 150 FEET OF THE PUBLIC SHELLFISH FISHERY OR A REGISTERED POUND NET SITE;

(III) WITHIN 150 FEET OF AN OYSTER SANCTUARY OR OYSTER RESERVE;

(IV) WITHIN 150 FEET OF A FEDERAL NAVIGATIONAL CHANNEL;

(V) IN ANY CREEK, COVE, BAY, OR INLET LESS THAN 300 FEET WIDE AT ITS MOUTH AT MEAN LOW TIDE; OR

(VI) IN AN SAV PROTECTION ZONE.

(C) A PERSON WITH A SUBMERGED LAND LEASE IN THE CHESAPEAKE BAY MAY CULTIVATE SHELLFISH ON THE SUBMERGED LAND, IN ~~MESH OR NYLON BAGS~~ TEMPORARY PROTECTIVE ENCLOSURES APPROVED BY THE DEPARTMENT ON THE SURFACE OF THE SUBMERGED LAND, OR IN ANY OTHER MANNER AUTHORIZED BY THE DEPARTMENT.

4-11A-07.

(A) THIS SECTION APPLIES TO A SUBMERGED LAND LEASE IN THE WATERS OF THE ATLANTIC COASTAL BAYS.

(B) THE DEPARTMENT MAY ISSUE TO A PERSON A SUBMERGED LAND LEASE IN WATERS OF THE ATLANTIC COASTAL BAYS THAT MEET APPLICABLE WATER QUALITY REQUIREMENTS FOR SHELLFISH CULTIVATION AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT.

(C) A SUBMERGED LAND LEASE MAY NOT BE LOCATED:

(1) WITHIN A MINIMUM OF 50 FEET OF SHORELINE OR ANY PIER WITHOUT THE WRITTEN PERMISSION OF THE RIPARIAN OWNER AT THE TIME OF INITIAL APPLICATION FOR THE LEASE;

(2) WITHIN 150 FEET OF THE PUBLIC SHELLFISH FISHERY OR A REGISTERED POUND NET SITE;

(3) WITHIN 150 FEET OF ANY OYSTER SANCTUARY OR OYSTER RESERVE;

(4) WITHIN 150 FEET OF A FEDERAL NAVIGATIONAL CHANNEL;

(5) IN ANY CREEK, COVE, BAY, OR INLET LESS THAN 300 FEET WIDE AT ITS MOUTH AT MEAN LOW TIDE; ~~OR~~

(6) IN AN SAV PROTECTION ZONE ; OR

(7) IN A SETBACK OR BUFFER FROM THE ASSATEAGUE ISLAND NATIONAL SEASHORE ESTABLISHED BY THE DEPARTMENT.

(D) A PERSON WITH A SUBMERGED LAND LEASE IN THE ATLANTIC COASTAL BAYS MAY CULTIVATE SHELLFISH ON THE SUBMERGED LAND, IN ~~MESH OR NYLON BAGS~~ TEMPORARY PROTECTIVE ENCLOSURES APPROVED BY THE DEPARTMENT ON THE SURFACE OF THE SUBMERGED LAND, OR IN ANY OTHER MANNER AUTHORIZED BY THE DEPARTMENT.

(E) (1) THE DEPARTMENT MAY ESTABLISH SUBMERGED LAND AREAS IN THE ATLANTIC COASTAL BAYS THAT:

(I) ARE PREAPPROVED FOR LEASING;

(II) MAY NOT BE LEASED;

(III) MAY BE APPROVED FOR LEASING ONLY ON SPECIFIC APPLICATION AND REVIEW BY THE DEPARTMENT.

(2) IN ESTABLISHING AREAS THAT ARE PREAPPROVED FOR LEASING OR THAT MAY NOT BE LEASED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

(1) ~~CONSIDER~~ CONSIDER POTENTIAL CONFLICTS PRESENTED BY OTHER USES OF THE PROPOSED AREA, INCLUDING NAVIGATION, RECREATION, AND COMMERCIAL FISHING; ~~AND~~

~~(H) PROVIDE FOR A SETBACK OR BUFFER FROM THE ASSATEAGUE ISLAND NATIONAL SEASHORE.~~

4-11A-08.

(A) (1) A PERSON WHO WISHES TO OBTAIN AN AQUACULTURE OR SUBMERGED LAND LEASE SHALL PAY A NONREFUNDABLE APPLICATION FEE ESTABLISHED BY THE DEPARTMENT AND COMPLETE AND SUBMIT AN APPLICATION TO THE DEPARTMENT.

(2) A PERSON WHO WISHES TO OBTAIN A WATER COLUMN LEASE THAT DOES NOT APPLY IN AN AQUACULTURE ENTERPRISE ZONE SHALL APPLY FOR A TIDAL WETLANDS LICENSE FROM THE DEPARTMENT OF THE ENVIRONMENT.

(B) AN APPLICATION FOR AN AQUACULTURE OR SUBMERGED LAND LEASE SHALL INCLUDE:

(1) A DECLARATION THAT THE APPLICANT INTENDS TO ACTIVELY USE THE LEASED AREA FOR COMMERCIAL PURPOSES; AND

(2) A PROPOSED PLAN FOR ACTIVE USE OF THE LEASE THAT SHALL INCLUDE:

(I) THE LESSEE'S SOURCE AND QUANTITY OF SHELLFISH SEED;

(II) THE METHODS AND MEANS THE APPLICANT WILL USE TO GROW SHELLFISH;

(III) THE QUANTITY OF SHELLFISH THAT THE LESSEE EXPECTS TO PLANT AND HARVEST, AND THE TIME FOR PLANTING AND HARVESTING, DURING THE INITIAL 3 YEARS OF THE LEASE; AND

(IV) A DESCRIPTION OF THE LABOR, MATERIALS, AND EQUIPMENT TO BE USED BY THE LESSEE.

(C) THE REQUIREMENTS FOR ACTIVE USE OF A LEASE SHALL INCLUDE:

(1) ANNUALLY PLANTING AT LEAST ONE-FOURTH OF THE LEASED AREA AT A MINIMUM DENSITY OF 1,000,000 SHELLFISH SEED PER ACRE; ~~AND OR~~

(2) COMPLYING WITH ANY OTHER REQUIREMENTS ESTABLISHED BY THE DEPARTMENT.

(D) (1) THE TERM OF A LEASE IS 20 YEARS.

(2) ~~A EXCEPT FOR A DEMONSTRATION LEASE UNDER § 4-11A-10 OF THIS SUBTITLE, A LEASE MAY BE OF ANY SIZE PROVIDED THAT THE LEASEHOLDER ACTIVELY USES THE AREA.~~

(3) THE DEPARTMENT SHALL ESTABLISH AN ANNUAL AMOUNT OF RENT AND AN AQUACULTURE DEVELOPMENT SURCHARGE FOR AN AQUACULTURE OR SUBMERGED LAND LEASE.

(4) THE DEPARTMENT ~~MAY INCLUDE~~ , AS IT CONSIDERS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, MAY:

(I) DENY A LEASE APPLICATION FOR REASONABLE CAUSE;
OR

(II) INCLUDE ANY CONDITIONS IN AN AQUACULTURE A LEASE THAT IT DEEMS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE.

(E) IF AN APPLICATION FOR AN AQUACULTURE LEASE MEETS THE REQUIREMENTS OF THIS SUBTITLE, THE DEPARTMENT SHALL SURVEY THE LEASED AREA AND ISSUE A LEASE TO THE APPLICANT.

(F) IF AN APPLICATION FOR A SUBMERGED LAND LEASE IN AN AREA PREAPPROVED FOR LEASING IN THE ATLANTIC COASTAL BAYS MEETS THE REQUIREMENTS OF THIS SUBTITLE, THE DEPARTMENT SHALL SURVEY THE LEASED AREA AND ISSUE A SUBMERGED LAND LEASE TO THE APPLICANT.

(G) (1) IF AN APPLICATION FOR A SUBMERGED LAND LEASE IN THE CHESAPEAKE BAY OR IN THE ATLANTIC COASTAL BAYS MEETS THE REQUIREMENTS OF THIS SUBTITLE:

(I) THE APPLICANT FOR THE LEASE SHALL MARK THE PROPOSED AREA WITH A STAKE; AND

(II) THE DEPARTMENT SHALL ~~ADVERTISE~~ :

1. ADVERTISE THE APPLICATION ON THE WEBSITE OF THE DEPARTMENT AND ONCE A WEEK FOR 4 SUCCESSIVE WEEKS IN A NEWSPAPER PUBLISHED IN THE COUNTY OR COUNTIES WHERE THE PROPOSED LEASE IS TO BE LOCATED;

2. NOTIFY THE OWNERS OF PROPERTY DIRECTLY IN FRONT OF THE PROPOSED ACTIVITY; AND

3. NOTIFY THE CHAIR OF THE OYSTER COMMITTEE IN THE COUNTY IN WHICH THE PROPOSED ACTIVITY IS LOCATED.

(2) (I) WITHIN 30 DAYS OF PUBLICATION OF THE LAST ADVERTISEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY PERSON WHO HAS A SPECIFIC RIGHT, DUTY, PRIVILEGE, OR INTEREST THAT IS DIFFERENT FROM THAT HELD BY THE GENERAL PUBLIC AND MAY BE ADVERSELY AFFECTED BY THE PROPOSED LEASE MAY FILE A PETITION WITH THE DEPARTMENT PROTESTING THE ISSUANCE OF THE LEASE.

(II) THE PROTEST SHALL BE HEARD IN ACCORDANCE WITH THE REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(III) THE DEPARTMENT SHALL HOLD A PUBLIC INFORMATIONAL MEETING ON THE ISSUANCE OF A LEASE ON THE REQUEST OF ANY PERSON.

(IV) IMMEDIATELY AFTER TERMINATION OF THE PERIOD PRESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR FILING A PETITION OR AFTER A FINAL DECISION DISMISSING A PROTEST, THE DEPARTMENT SHALL SURVEY THE PROPOSED LEASED AREA AND ISSUE A SUBMERGED LAND LEASE TO THE APPLICANT.

4-11A-09.

(A) A LEASEHOLDER SHALL:

(1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, ACTIVELY USE THE LEASE AND COMPLY WITH ANY STANDARDS FOR PLANTING, HARVESTING, AND USE OF THE LEASED AREA ESTABLISHED BY THE DEPARTMENT;

(2) MARK EACH LEASE AREA WITH AN 8-INCH BY 12-INCH MARKER DISPLAYING THE INITIALS OF THE ~~LESSEE~~ LEASEHOLDER AND POSTED ON A MINIMUM OF FOUR POLES;

(3) COMPLY WITH ANY OTHER MARKING REQUIREMENTS ESTABLISHED BY THE DEPARTMENT FOR THE PROTECTION OF NAVIGATION;

(4) COMPLY WITH THE REGULATIONS ESTABLISHED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT TO CARRY OUT THE MANDATE OF THE NATIONAL SHELLFISH SANITATION PROGRAM; AND

(5) PAY THE RENT AND THE AQUACULTURE DEVELOPMENT SURCHARGE FOR THE LEASE ~~IN AN AMOUNT AND~~ AT THE TIME ESTABLISHED BY THE DEPARTMENT.

(B) THE DEPARTMENT MAY WAIVE THE REQUIREMENTS FOR ACTIVE USE OF A LEASE ON A SHOWING THAT CONDITIONS NOT PRESENT AT THE TIME OF EXECUTION OF THE LEASE, INCLUDING THE UNAVAILABILITY OF SHELLFISH SEED, PREVENT ACTIVE USE OF THE LEASED AREA.

(C) A LEASEHOLDER MAY NOT:

(1) PLACE SHELLFISH, BAGS, NETS, OR STRUCTURES ON SUBMERGED AQUATIC VEGETATION;

(2) PLANT OR HARVEST SHELLFISH WITHIN 500 YARDS OF ANY STATIONARY BLIND OR BLIND SITE THAT IS OCCUPIED AND BEING USED FOR HUNTING MIGRATORY WATERFOWL;

(3) ~~ASSIGN~~ SUBLEASE A SUBMERGED LAND LEASE;

(4) TRANSFER A ~~SUBMERGED LAND~~ LEASE WITHOUT THE APPROVAL OF THE DEPARTMENT; OR

(5) HARVEST SHELLFISH BETWEEN THE HOURS OF SUNSET AND SUNRISE.

(D) SHELLFISH PLANTED OR HARVESTED IN ACCORDANCE WITH ~~AN AQUACULTURE~~ A LEASE ISSUED UNDER THIS SUBTITLE ARE SUBJECT TO INSPECTION BY THE DEPARTMENT.

(E) (1) A PERSON WHO WISHES TO RENEW AN AQUACULTURE LEASE, A SUBMERGED LAND LEASE, OR AN EXISTING SHELLFISH LEASE OR OYSTER LEASE SHALL SUBMIT AN APPLICATION THAT MEETS THE REQUIREMENTS FOR AN INITIAL APPLICATION IN § 4-11A-08 OF THIS SUBTITLE.

(2) BEFORE THE TERMINATION OR EXPIRATION OF A LEASE ISSUED UNDER THIS SUBTITLE, THE LEASEHOLDER SHALL HAVE THE RIGHT OF FIRST REFUSAL WITH RESPECT TO FUTURE LEASES OF THE LEASED AREA.

(F) (1) THE DEPARTMENT MAY TERMINATE A LEASE ISSUED UNDER THIS SUBTITLE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE.

(2) THE DEPARTMENT SHALL NOTIFY A LEASEHOLDER BY REGISTERED MAIL OF ITS INTENTION AND PROPOSED DECISION TO TERMINATE A LEASE FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE.

(3) A LEASEHOLDER WHO WISHES TO CONTEST THE DEPARTMENT'S PROPOSED DECISION MAY REQUEST A REVIEW OF THE DECISION BY THE SECRETARY, WHICH SHALL BE FILED NOT LATER THAN 30 DAYS AFTER RECEIPT OF THE DEPARTMENT'S DECISION.

(4) FAILURE OF A LEASEHOLDER TO RESPOND TO THE DEPARTMENT'S PROPOSED DECISION WITHIN 30 DAYS OF THE DATE OF THE DECISION SHALL CAUSE THE LEASEHOLD TO REVERT TO THE STATE.

4-11A-10.

(A) THIS SECTION APPLIES TO DEMONSTRATION LEASES.

(B) (1) THE DEPARTMENT MAY ISSUE A DEMONSTRATION LEASE TO A PUBLIC HIGH SCHOOL, AN INCORPORATED COLLEGE OR UNIVERSITY WITHIN THE STATE, A 4-H CLUB, OR A NONSTOCK, NONPROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE EXCLUSIVELY FOR EDUCATIONAL, CONSERVATION, OR ECOLOGICAL PURPOSES.

(2) AN APPLICATION FOR A DEMONSTRATION LEASE SHALL INCLUDE A DECLARATION THAT THE APPLICANT INTENDS TO ACTIVELY USE THE LEASED AREA FOR DEMONSTRATION PURPOSES AND A PROPOSED PLAN FOR ACTIVE USE OF THE LEASE.

(C) THE SIZE OF THE LEASE MAY NOT EXCEED 5 ACRES.

(D) THE PROPOSED LEASE AREA MAY NOT BE LOCATED:

(1) WITHIN A MINIMUM OF 50 FEET OF SHORELINE OR ANY PIER WITHOUT THE WRITTEN PERMISSION OF THE RIPARIAN OWNER AT THE TIME OF APPLICATION FOR THE LEASE;

(2) WITHIN 150 FEET OF THE PUBLIC SHELLFISH FISHERY OR A REGISTERED POUND NET SITE;

- (3) WITHIN 150 FEET OF AN OYSTER SANCTUARY OR OYSTER RESERVE;
- (4) WITHIN 150 FEET OF A FEDERAL NAVIGATIONAL CHANNEL;
- (5) IN ANY CREEK, COVE, BAY, OR INLET LESS THAN 300 FEET WIDE AT ITS MOUTH AT MEAN LOW TIDE; ~~OR~~
- (6) IN AN SAV PROTECTION ZONE; OR
- (7) IN A SETBACK OR BUFFER FROM THE ASSATEAGUE ISLAND NATIONAL SEASHORE ESTABLISHED BY THE DEPARTMENT.

(E) (1) A DEMONSTRATION LEASE MAY NOT BE ASSIGNED OR TRANSFERRED.

(2) ANY TRANSFER OR ASSIGNMENT OR ATTEMPT TO TRANSFER OR ASSIGN A LEASE SHALL BE VOID AND THE INTEREST IN SUBMERGED LAND SHALL REVERT TO THE STATE WITHOUT THE NECESSITY OF ANY ACTION BY THE STATE.

(F) (1) ~~(I) A LESSEE OF A DEMONSTRATION LEASE~~ DEMONSTRATION LEASEHOLDER SHALL ACTIVELY USE THE LEASE FOR THE PURPOSE OF DEMONSTRATING THE ECOLOGICAL BENEFITS OF GROWING SHELLFISH OR FOR RESEARCH OR EDUCATION.

~~(2)~~ (II) FAILURE TO ACTIVELY USE THE LEASE MAY RESULT IN TERMINATION OF THE LEASE.

(2) A PERSON MAY NOT HARVEST SHELLFISH FOR COMMERCIAL OR CONSUMPTION PURPOSES FROM AN AREA THAT IS SUBJECT TO A DEMONSTRATION LEASE.

4-11A-11.

(A) THE DEPARTMENT SHALL MAINTAIN A RECORD OF LEASES ISSUED UNDER THIS SUBTITLE.

(B) ~~ALL~~ (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL FEES, FUNDS, AND REVENUES DERIVED FROM THE ADMINISTRATION OF THE PROVISIONS OF THIS SUBTITLE SHALL BE PAID TO THE COMPTROLLER OF THE TREASURY AND CREDITED TO THE FISHERIES RESEARCH AND DEVELOPMENT FUND.

(2) THE DEPARTMENT SHALL TRANSFER ANY FUNDS DERIVED FROM THE AQUACULTURE DEVELOPMENT SURCHARGE TO THE STATE DEPARTMENT OF AGRICULTURE TO BE USED FOR DEVELOPMENT OF, AND TRAINING AND GRANTS FOR, SHELLFISH AQUACULTURE.

(C) IN ACCORDANCE WITH ~~THE PROVISIONS OF~~ § 4-742 OF THIS TITLE, THE DEPARTMENT OF THE ENVIRONMENT MAY CLOSE TO THE CATCHING, PLANTING, OR HARVESTING OF SHELLFISH WATERS IN:

(1) THE SHELLFISH PUBLIC FISHERY AREA;

(2) AN AQUACULTURE ENTERPRISE ZONE;

(3) AN AREA PREAPPROVED FOR LEASING IN THE ATLANTIC COASTAL BAYS; OR

(4) AN AREA ~~OF~~ SUBJECT TO AN AQUACULTURE LEASE, SUBMERGED LAND LEASE, OR DEMONSTRATION LEASE.

(D) IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT AND THE WETLANDS ADMINISTRATOR OF THE BOARD OF PUBLIC WORKS, THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT ~~THE PROVISIONS OF~~ THIS SUBTITLE.

4-11A-12.

(a) [A] EXCEPT AS PROVIDED IN § 4-1008 OF THIS TITLE, A ~~lessee~~ LEASEHOLDER may plant, cultivate, sow, or protect oysters only of the species known as *Crassostrea virginica* in the waters of the State.

(b) (1) [A person may not import from the waters of Northampton or Accomack counties, Virginia, oysters or seed oysters infected with oyster drills, screw borers, or their eggs for planting in the waters of the State. During the period between May 1 and September 30, the Department shall inspect all imported oysters intended for planting in the waters of the State and shall issue a certificate attesting that the oysters are free of drills or their eggs. The Department may seize, condemn, and destroy any oyster infected with oyster drills or its eggs.] IN THIS SUBSECTION, THE WORD "SHELLFISH" INCLUDES LIVE OYSTERS, SEED OYSTERS, OYSTER SHELLS, LIVE HARD-SHELL CLAMS, LIVE SOFT-SHELL CLAMS, AND CLAM SHELLS.

(2) A PERSON MAY NOT IMPORT OR POSSESS WITHIN THE STATE SHELLFISH TAKEN FROM WATERS OUTSIDE THE WATERS OF THE STATE FOR PLANTING IN THE WATERS OF THE STATE WITHOUT THE APPROVAL OF THE DEPARTMENT.

4-11A-13.

(a) ~~A (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A lessee~~ **LEASEHOLDER** may cultivate or remove ~~oysters~~ **SHELLFISH** planted on his [leased oyster bottom] **AQUACULTURE OR SUBMERGED LAND LEASE AREA** in any manner he deems proper[, if he complies with the provisions of this subtitle relating to dredging and tonging when transplanting oysters or catching them for commercial purposes].

(2) A PERSON MAY NOT USE A HYDRAULIC ESCALATOR DREDGE TO HARVEST SHELLFISH IN THE ATLANTIC COASTAL BAYS.

(b) Each ~~lessee~~ **LEASEHOLDER** shall keep accurate records concerning the seeding and planting of cultch and oysters on, and the harvesting, and selling of oysters from his [leased oyster bottom] **AQUACULTURE OR SUBMERGED LAND, SUBMERGED LAND, OR DEMONSTRATION LEASE AREA**. Each ~~lessee~~ **LEASEHOLDER** shall report this information to the Department on forms the Department prescribes.

[(c) (1) In that water area in Somerset County of Pocomoke Sound and Pocomoke River, east of Tull's Point, and Marumsco natural oyster bar eastward to William's Point, a lessee may authorize a nonresident to take oysters by tong as provided by this section.

(2) The nonresident shall:

(i) Exhibit the written authorization of the lessee to the Department on demand;

(ii) Obtain a special permit to take oysters from the leased grounds from the Department; and

(iii) Comply with the appropriate provisions of this article.

(3) The license fee shall be \$25 a year, and these fees shall be credited to the Fisheries Research and Development Fund of the Department.

(4) The license shall be restricted to the leased oyster ground under the written authorization of the lessee.

(5) The Department may cancel the license at any time if cancellation is for the benefit of:

(i) Conservation;

(ii) The proper cultivation of oysters; and

(iii) Residents of the State.]

(C) (1) **ON OR BEFORE JANUARY 1 OF EACH YEAR, A LEASEHOLDER SHALL PROVIDE TO THE DEPARTMENT A REPORT DOCUMENTING THE USE OF THE LEASE DURING THE PRIOR YEAR.**

(2) **A LEASEHOLDER SHALL PROVIDE TO THE DEPARTMENT ANY OTHER REPORT THAT THE DEPARTMENT MAY REQUIRE.**

(3) **FAILURE TO FILE A REPORT MAY RESULT IN TERMINATION OF THE LEASE.**

(4) **FAILURE TO ACTIVELY USE A LEASE MAY RESULT IN TERMINATION OF THE LEASE.**

4-11A-15.

(a) (1) A person, other than the ~~lessee~~ **LEASEHOLDER**, may not willfully and without authority catch oysters on any [leased oyster bottom] **AQUACULTURE OR SUBMERGED LAND LEASE AREA**, or willfully destroy or transfer oysters on this land in any manner.

(2) The Department shall request the office of the local State's Attorney **OR THE ATTORNEY GENERAL** to bring a criminal action under § 7-104 of the Criminal Law Article against a person found to be in violation of this subsection **PROVIDED THAT THE LEASED AREA IS DESIGNATED AND MARKED WITH BUOYS AND OTHER SIGNAGE OR THE PERSON KNEW OR SHOULD HAVE KNOWN THAT THE HARVEST OF OYSTERS FROM THE AREA WAS UNLAWFUL.**

(3) (i) On conviction of a person for a violation of this subsection, the Department may suspend all existing **TIDAL FISH** licenses [to take or catch oysters] issued to that person for a period not to exceed:

1. 1 year for a first conviction; or
2. 2 years for a second or subsequent conviction.

(ii) Before suspending any license [to take or catch oysters] under this section, the Department shall give the licensee written notice of the right to request a hearing.

(iii) A licensee may request a hearing within 15 days from the date that the notice required by this section is mailed.

(iv) The Department shall hold a hearing within 30 days of the date of the request and render a decision within 30 days of the hearing.

(b) A person, other than a ~~lessee~~ **LEASEHOLDER**, may not remove, alter, transfer, or destroy any marker, **SHELLFISH, EQUIPMENT, OR STRUCTURES** on any [leased oyster bottom] **AQUACULTURE OR SUBMERGED LAND LEASE AREA**.

(c) A person, other than [a lessee of leased oyster bottoms, or a] **AN AQUACULTURE OR SUBMERGED LAND** ~~lessee~~ **LEASEHOLDER**, while he is in default in payment of any rent or fee, may not use for any purpose any submerged land of the State. [However, any person may use any submerged land subject to lease and not already leased for the temporary bedding of oysters for a period not exceeding three months.]

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2009, the Department of Natural Resources, in consultation with the Department of the Environment and the Wetlands Administrator of the Board of Public Works, shall adopt regulations to:

- (a) Establish initial Aquaculture Enterprise Zones; and
- (b) Implement the provisions of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1, 2009, the Department of the Environment, in consultation with the Wetlands Administrator of the Board of Public Works, shall adopt regulations to streamline the processing of water column leases that do not apply in an Aquaculture Enterprise Zone.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Except as provided in subsection (b) of this section, this Act may not be construed to apply to submerged bottom leases formerly known as shellfish leases or oyster leases existing on the effective date of this Act.

(b) An existing leaseholder shall:

(1) Actively use the lease and comply with any standards for planting, harvesting, and use of the leased area established by the Department of Natural Resources. The Department may at the request of the leaseholder:

(i) Reduce the size of the leased area to enable the leaseholder to comply with the active use requirement; or

(ii) Allow a leaseholder to continue other reasonable uses of a leased area;

(2) Comply with the National Shellfish Sanitation Program requirements established by the Department of Health and Mental Hygiene; and

(3) On or before January 1 of each year, provide a report to the Department documenting the use of the lease during the previous year, and provide any other report that the Department may require during the year.

(c) (1) Failure to use a lease actively as required under subsection (b)(1) of this section may result in its termination.

(2) Failure to file a report as required under subsection (b)(3) of this section may result in termination of the lease.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) This Act be the first step in a continuing effort to establish Maryland as a leading producer of aquaculturally grown, high quality shellfish for commercial purposes; and

(2) Through legislative, regulatory, and administrative action, the State continue to develop, promote, and implement any additional measures necessary to facilitate the growth of the aquaculture industry in Maryland.

SECTION 6. AND BE IT FURTHER ENACTED, That the Department shall continue to monitor the abundance and health of submerged aquatic vegetation in the Atlantic Coastal Bays with the intent of reevaluating the appropriate baseline level of submerged aquatic vegetation for establishing the SAV Protection Zone in the Atlantic Coastal Bays.

SECTION 7. 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 ~~7~~ 8. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 175**(Senate Bill 549)**

AN ACT concerning

Sustainable Forestry Act of 2009

FOR the purpose of authorizing a local government to include certain information in a certain plan; declaring certain policy statements and findings relating to forests; ~~altering the name of the Maryland Agricultural Land Preservation Foundation;~~ revising provisions of the law relating to the protection of certain forestry practices from certain private actions under certain circumstances; exempting certain forestry practices from nuisance lawsuits; repealing the Forest Advisory Commission in the Department of Natural Resources; establishing a Sustainable Forestry Council in the Department; establishing the purpose of the Council; establishing the membership of the Council; ~~altering the uses of the Forest or Park Reserve Fund; altering the amounts of certain payments made to counties from the Forest or Park Reserve Fund;~~ authorizing certain revenues derived from certain forestry practices to be deposited in the Woodland Incentives Fund, subject to approval by the Secretary of Natural Resources and the Board of Public Works; adding to the list of uses of the Woodland Incentives Fund; ~~prohibiting certain investment funds from being transferred or reverting to the General Fund;~~ requiring the Department to report certain information annually on or before a certain date to certain legislative committees; repealing a provision authorizing a certain forestry board to enter on certain woodland for a certain purpose; authorizing certain forestry boards to impose certain fees under certain circumstances; requiring the Secretary of the Department to consider certain priorities when allocating the State's share of Program Open Space funds; requiring the Department to develop certain strategies related to the retention and management of forests; encouraging the Department to develop certain plans; requiring the Department to monitor forests in a certain manner using certain funds under certain circumstances; requiring the Department to develop a certain strategy and report the strategy to the Governor on or before a certain date; ~~authorizing certain responsibilities to be transferred from the Department of the Environment to the Department under certain circumstances;~~ requiring the Department to work with certain representatives to determine certain procedures and time lines; authorizing the Department, in cooperation with the Maryland Higher Education Commission, to develop a certain program; requiring a certain goal to be met in a certain manner; encouraging certain forestry boards to work with the University of Maryland Cooperative Extension to formulate a certain strategy and report certain findings and recommendations to certain committees in the General Assembly on or before a certain date; requiring agricultural preservation advisory boards to meet a certain amount with forest conservation district boards for a certain purpose; providing for the correction of certain errors and obsolete provisions by the publishers of the Annotated Code; defining certain

terms; making technical changes; and generally relating to the conservation of forest lands in the State.

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 3.05(a)(4)(ii)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
~~Section 2-501 and 2-502 to be under the amended subtitle “Subtitle 5,
Maryland Agricultural and Forestry Land Preservation Foundation”
Section 2-501 and 2-504.1(d)~~
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 7-101(c)(1)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5-403(a), (b), (c), and (d)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5-101, 5-102, 5-102.1, 5-204(a), (c), and (e), ~~5-212(e)~~ 5-212(f) and (g),
5-307, and 5-427, and 5-606(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 5-212(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Natural Resources
Section 5-606(c) and 5-903(h)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5–7A–01
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, Realization of Maryland's compliance with the nutrient and sediment reduction goals of the Chesapeake 2000 Agreement and the forestry conservation goals of the 2007 Forestry Conservation Initiative will require immediate implementation of innovative, high-impact Chesapeake Bay restoration strategies like the Sustainable Forestry Act of 2009, which is intended to promote forest land retention within the Bay watershed; and

WHEREAS, The Bay watershed consists of 24 million acres or 58% of forest land and study after study has found that retaining and expanding forests is critical to the success of restoring the Bay because forests are the most beneficial land use for protecting water quality, due to their ability to capture, filter, and retain water, as well as absorb pollution from the air, as noted by the 2006 report published by The Conservation Fund entitled "The State of Chesapeake Forests"; and

WHEREAS, Chesapeake forests are excellent assimilators of air pollution, retaining up to 85% of the nitrogen they receive from air emission sources such as motor vehicles and electric utilities and are essential to filtering drinking water for 75% of the Bay's more than 11 million watershed residents, while simultaneously providing valuable ecological services and economic benefits ranging from carbon sequestration and flood control to wildlife habitats and forest products; and

WHEREAS, Chesapeake forests annually contribute an estimated \$24 billion to the Bay watershed in ecological services such as wildlife habitat, recreation, air and water filtration, and flood control, including the contribution of an estimated \$22 billion to the regional economy and \$2.2 billion to Maryland's economy from the forest products industry; and

WHEREAS, A sustainably managed forest system also helps to promote domestic renewable energy production and clean green energy produced in-State from biomass, including forestry residues, which are vital, not only to securing energy independence, smaller trade deficits, economic growth, and clean air and water, but also to facilitating compliance with the 2010 goals of the Chesapeake 2000 Agreement, the nutrient reduction goals of the Water Quality Improvement Act of 1998, and the land conservation goals of the 2007 Forestry Conservation Initiative; and

WHEREAS, The importance of, and urgency for, Maryland's leadership by the enactment of this Act is attributable to threatened forest land conversion equivalent to 100 acres per day within the Bay watershed, that is directly linked to an expanding

population, which absent remedial strategies like this Act, could result in the detrimental impacts noted in “The State of Chesapeake Forests” report and other studies that include: (1) the loss of 9.5 million acres by 2030 resulting in the amount of increased nitrogen reaching streams by 200%; (2) the increase in the cost of drinking water and the decline in air quality adversely affecting public health; (3) the largest intergenerational transfer of family-owned forest land in the region’s history with increased risk of loss of forest land to development; and (4) the increase in invasive pests that dramatically alter forest habitat, diminish available food sources, and shelter and compete with native species; and

WHEREAS, This Act will help Maryland to meet its commitment under the 2010 goals of the Chesapeake 2000 Agreement and the 2007 Forestry Conservation Initiative by improving and sustaining the health and ecological diversity of Chesapeake forests; encouraging retention of privately owned forest lands; protecting and expanding forests in urban areas; increasing public appreciation for the value of Chesapeake forests; measuring Chesapeake forest conditions in the future; and promoting new markets in the field of renewable energy emanating from the use of woody biomass; and

WHEREAS, By enacting this Act, Maryland will continue its leadership by demonstrating its commitment of ensuring that Chesapeake forests, including the 2.6 million acres of forests within the State, are conserved and managed through a sustainable forestry policy worthy of emulation by the other signatories to the Chesapeake 2000 Agreement and the 2007 Forestry Conservation Initiative; now, therefore,

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

Article 66B – Land Use

3.05.

(a) (4) The plan shall contain at a minimum the following elements:

(ii) A land use plan element, which:

1. Shall propose the most appropriate and desirable patterns for the general location, character, extent, and interrelationship of the uses of public and private land, on a schedule that extends as far into the future as is reasonable; and

2. May include public and private, residential, commercial, industrial, agricultural, **FORESTRY, IN ACCORDANCE WITH § 5–101 OF THE NATURAL RESOURCES ARTICLE**, and recreational land uses;

Article – Agriculture

Subtitle 5. Maryland Agricultural ~~AND FORESTRY~~ Land Preservation Foundation.

2-501.

(A) It is the intent of the Maryland General Assembly to preserve agricultural land and woodland in order to:

(1) [provide] **PROVIDE** sources of agricultural products within the State for the citizens of the State;

(2) [control] **CONTROL** the urban expansion which is consuming the agricultural land and woodland of the State;

(3) [curb] **CURB** the spread of urban blight and deterioration; and

(4) [protect] **PROTECT** agricultural land and woodland as open-space land.

(B) **WITH RESPECT TO WOODLAND ~~CONSERVATION~~ PRESERVATION UNDER THIS SUBTITLE, THE GENERAL ASSEMBLY ENCOURAGES ~~THAT;~~ THAT FAIR**

(1) **~~EQUITABLE~~ CONSIDERATION BE GIVEN TO THE RETENTION OF FOREST LANDS THAT ARE WORKING LANDSCAPES AS DEFINED UNDER § 5-101 OF THE NATURAL RESOURCES ARTICLE; AND**

(2) **~~AGRICULTURAL PRESERVATION ADVISORY BOARDS MEET REGULARLY WITH FOREST CONSERVANCY DISTRICT BOARDS IN ORDER TO ENCOURAGE THE PROMOTION AND RETENTION OF AGRICULTURAL LAND AND FOREST LAND IN THEIR RESPECTIVE JURISDICTIONS.~~**

~~2-502.~~

~~There is a Maryland Agricultural ~~AND FORESTRY~~ Land Preservation Foundation in the Department. The Foundation has the powers and duties provided in this subtitle~~

2-504.1.

(d) Duties of each agricultural preservation advisory board shall be:

(1) To advise the county governing body with respect to the establishment of agricultural districts and the approval of purchases of easements by the Foundation within the county;

(2) To assist the county governing body in reviewing the status of agricultural districts and land under easement;

(3) To advise the Foundation concerning county priorities for agricultural preservation;

(4) To approve or disapprove an application by the county for certification under § 5–408 of the State Finance and Procurement Article;

(5) To promote preservation of agriculture within the county by offering information and assistance to farmers with respect to establishment of districts and purchase of easements; [and]

(6) TO MEET AT LEAST ANNUALLY WITH FOREST CONSERVATION DISTRICT BOARDS IN ORDER TO WORK COOPERATIVELY TO ENCOURAGE THE PROMOTION AND RETENTION OF FARMLAND AND WOODLAND IN THEIR RESPECTIVE JURISDICTIONS; AND

(7) To perform any other duties as assigned by the county governing body.

Article – Business Occupations and Professions

7–101.

(c) (1) [“Forestry”] **NOTWITHSTANDING § 5–101 OF THE NATURAL RESOURCES ARTICLE, “FORESTRY”** means the application, for compensation, of scientific techniques to the planting, conservation, protection, and management of trees and related resources for their continuing use, whether found in large numbers and areas commonly known as forests, woodlands, and woodlots or in small groupings and individual trees in suburban and urban settings.

Article – Courts and Judicial Proceedings

5–403.

(a) (1) In this section, “agricultural operation” means an operation for the processing of agricultural crops or on–farm production, harvesting, or marketing of any agricultural, horticultural, silvicultural, aquacultural, or apicultural product that has been grown, raised, or cultivated by the farmer.

(2) NOTWITHSTANDING § 5–101 OF THE NATURAL RESOURCES ARTICLE, “SILVICULTURAL OPERATION” MEANS IMPLEMENTATION OF FORESTRY PRACTICES, INCLUDING THE ESTABLISHMENT, COMPOSITION, GROWTH, AND HARVESTING OF TREES.

- (b) (1) This section does not:
- (i) Prohibit a federal, State, or local government from enforcing health, environmental, zoning, or any other applicable law;
 - (ii) Relieve any agricultural **OR SILVICULTURAL** operation from the responsibility of complying with the terms of any applicable federal, State, and local permit required for the operation;
 - (iii) Relieve any agricultural **OR SILVICULTURAL** operator from the responsibility to comply with any federal, State, or local health, environmental, and zoning requirement; or
 - (iv) Relieve any agricultural **OR SILVICULTURAL** operation from liability for conducting an agricultural operation in a negligent manner.
- (2) This section does not apply to any agricultural operation that is operating without a fully and demonstrably implemented nutrient management plan for nitrogen and phosphorus if otherwise required by law.
- (c) If an agricultural operation **OR SILVICULTURAL OPERATION** has been under way for a period of 1 year or more and if the operation is in compliance with applicable federal, State, and local health, environmental, zoning, and permit requirements relating to any nuisance claim and is not conducted in a negligent manner:
- (1) The operation, including any **SIGHT**, noise, odors, dust, or insects **RESULTING** from the operation, may not be deemed to be a public or private nuisance; and
 - (2) A private action may not be sustained on the grounds that the operation interferes or has interfered with the use or enjoyment of other property, whether public or private.
- (d) (1) This section does not create, and may not be construed as creating, a new cause of action or substantive legal right against a person who is engaged in an agricultural **OR SILVICULTURAL** operation.
- (2) This section does not affect, and may not be construed as affecting, any defenses available at common law to a defendant who is engaged in an agricultural **OR SILVICULTURAL** operation and subject to an action for nuisance.

Article – Natural Resources

- (a) In this title the following words have the meanings indicated.
- (b) "County" includes Baltimore City unless otherwise indicated.
- (c) "Department" means Department of Natural Resources.

(D) "ENVIRONMENTAL SERVICES" MEANS THE BENEFITS GENERATED FOR SOCIETY BY THE EXISTENCE AND DYNAMIC DEVELOPMENT OF FORESTS, INCLUDING:

- (1) PRODUCING OXYGEN AND REMOVING CARBON DIOXIDE FROM THE ATMOSPHERE;**
- (2) REGULATING THE SURFACE AND UNDERGROUND FLOW OF WATER;**
- (3) PROVIDING EFFECTIVE FILTRATION SYSTEMS FOR HIGHER WATER QUALITY;**
- (4) SUPPORTING A MYRIAD OF NATIVE FLORA AND FAUNA; AND**
- (5) PROVIDING GOODS AND SERVICES RANGING FROM FOREST PRODUCTS TO AESTHETICS.**

(E) (1) "FOREST LAND" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS THAT ARE CAPABLE OF PRODUCING TIMBER OR OTHER WOOD PRODUCTS WITH A STOCKING OF AT LEAST 100 TREES PER ACRE WITH AT LEAST 50% OF THOSE TREES HAVING A 2-INCH OR GREATER DIAMETER AT 4.5 FEET ABOVE THE GROUND.

(2) "FOREST LAND" INCLUDES FORESTED AREAS THAT HAVE BEEN CUT BUT NOT CONVERTED TO OTHER LAND USES.

(F) "FORESTRY" OR "SILVICULTURE" MEANS THE SCIENCE, ART, AND PRACTICE OF CREATING, MANAGING, USING, AND CONSERVING FORESTS AND ASSOCIATED RESOURCES FOR HUMAN BENEFIT AND IN A SUSTAINABLE MANNER TO MEET DESIRED GOALS, INCLUDING GOALS FOR:

- (1) CLEAN AIR AND WATER;**
- (2) BIODIVERSITY;**
- (3) WILDLIFE HABITAT;**

(4) **FIBER PRODUCTION; AND**

(5) **RECREATION.**

(G) (1) **“FORESTRY PRACTICES” MEANS ACTIVITIES CONDUCTED TO ACHIEVE LAND MANAGEMENT OBJECTIVES.**

(2) **“FORESTRY PRACTICES” INCLUDES:**

(I) **PLANTING;**

(II) **PRESCRIBED BURNING;**

(III) **THINNING;**

(IV) **PRUNING;**

(V) **HARVESTING;**

(VI) **FERTILIZING; AND**

(VII) **PESTICIDE AND HERBICIDE APPLICATION.**

(H) **“FOREST STEWARDSHIP PLAN” MEANS A DOCUMENT WRITTEN BY A PROFESSIONAL FORESTER WHO IS LICENSED UNDER TITLE 7, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, REGARDING A PARCEL OF LAND COMPRISED OF NOT LESS THAN 5 CONTIGUOUS FORESTED ACRES THAT LISTS ACTIVITIES THAT ENHANCE OR IMPROVE FOREST RESOURCES, INCLUDING SOIL, WATER, TIMBER, RECREATION, AND AESTHETICS OVER A 15-YEAR PERIOD.**

[(d)] (I) “Person” includes the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

[(e)] (J) “Secretary” means Secretary of Natural Resources.

(K) **“SILVICULTURAL PRODUCT” OR “FOREST PRODUCT” MEANS ANY RAW MATERIAL YIELDED BY A FOREST, INCLUDING:**

(1) **TIMBER;**

(2) **TIMBER PRODUCTS; AND**

(3) ANY OTHER FOREST MATERIALS, SUCH AS LUMBER, POLES, PULPWOOD, FIREWOOD, AND PINE STRAW.

(L) "SUSTAINABLE FORESTRY" OR "SUSTAINABLE FORESTRY MANAGEMENT" MEANS AN INTERNATIONALLY ACCEPTED AND APPLIED STEWARDSHIP CONCEPT FOR THE USE OF FORESTS AND FOREST LANDS IN A MANNER AND AT A RATE THAT MAINTAINS A FOREST'S:

(1) BIODIVERSITY;

(2) PRODUCTIVITY;

(3) REGENERATION CAPACITY;

(4) NUTRIENT REDUCTION BENEFITS;

~~(4)~~ (5) VITALITY; AND

~~(5)~~ (6) ECOLOGICAL, ECONOMIC, AND SOCIAL PURPOSES AT LOCAL AND NATIONAL LEVELS THAT DO NOT CAUSE DAMAGE TO OTHER ECOSYSTEMS.

(M) "WORKING LANDSCAPES" MEANS:

(1) FOREST LANDS THAT ARE MANAGED CONSISTENTLY WITH THE REQUIREMENTS OF A FOREST STEWARDSHIP PLAN OR A FOREST CONSERVATION PLAN, APPROVED BY THE DEPARTMENT OR A PROFESSIONAL FORESTER WHO IS LICENSED UNDER TITLE 7, SUBTITLE 3 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, THAT ADVANCES SUSTAINABLE FORESTRY MANAGEMENT AS DEFINED IN SUBSECTION (L) OF THIS SECTION; AND

(2) AGRICULTURAL LANDS THAT ARE MANAGED CONSISTENTLY WITH CRITERIA SET FORTH BY THE DEPARTMENT OF AGRICULTURE.

5-102.

(A) THE GENERAL ASSEMBLY FINDS THAT:

(1) Forests, streams, valleys, wetlands, parks, scenic, historic and recreation areas of the State are basic assets[. Their] AND THEIR proper use, development, and preservation are necessary to protect and promote the health, safety, economy, and general welfare of the people of the State[. It is the policy of the State to encourage the economic development and use of its natural resources for the

improvement of local economy, preservation of the natural beauty, and promotion of the recreational and leisure interest throughout the State.];

(2) ENHANCING THE EXTENT AND CONDITION OF TREE AND FOREST COVER IN THE CHESAPEAKE BAY WATERSHED IS CRITICAL TO THE SUCCESS IN RESTORING THE CHESAPEAKE BAY BECAUSE FORESTS ARE THE MOST BENEFICIAL USE OF PROTECTING WATER QUALITY DUE TO THEIR ABILITY TO CAPTURE, FILTER, AND RETAIN WATER, AS WELL AS ABSORB POLLUTION FROM THE AIR;

(3) FORESTS AND TREES ARE KEY INDICATORS OF CLIMATE CHANGE AND CAN MITIGATE GREENHOUSE GAS EMISSIONS BY CARBON SEQUESTRATION;

(4) FORESTS PROVIDE HABITAT FOR HUNDREDS OF WILDLIFE SPECIES, INCLUDING HABITAT NEEDED FOR RARE, THREATENED, AND ENDANGERED SPECIES;

(5) FORESTS ARE SUSCEPTIBLE TO ENVIRONMENTAL DEGRADATION CAUSED BY NATURAL THREATS;

(6) FORESTS, LIKE OTHER OPEN SPACE AREAS, ARE UNDER INTENSE DEVELOPMENT-RELATED PRESSURES FOR RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL CONVERSION DUE TO THE DEMANDS OF A GROWING POPULATION;

(7) TREES AND FORESTS IN URBAN AREAS PROVIDE MULTIPLE BENEFITS, INCLUDING:

(I) MITIGATION OF URBAN STORMWATER RUNOFF INTO THE CHESAPEAKE BAY;

(II) SEQUESTRATION OF CARBON;

(III) AVOIDANCE OF ENERGY-RELATED EMISSIONS;

(IV) MITIGATION OF AIR POLLUTANTS, SUCH AS OZONE AND PARTICULATE MATTER;

(V) REDUCTION OF THE URBAN HEAT ISLAND EFFECT; AND

(VI) CONTRIBUTIONS TO COMMUNITY LIVABILITY;

(8) FOREST LAND OWNERS, INCLUDING LOCAL GOVERNMENT OFFICIALS RESPONSIBLE FOR OVERSEEING THE MANAGEMENT OF PUBLICLY OWNED FOREST LANDS, COULD BENEFIT FROM RESEARCH-BASED EDUCATION OUTREACH PROGRAMS IN ORDER TO HELP FACILITATE AN UNDERSTANDING OF SUSTAINABLE FORESTRY MANAGEMENT THAT IS CONSISTENT WITH FOREST STEWARDSHIP PRINCIPLES;

(9) FORESTS ARE A RENEWABLE RESOURCE THAT HELP THE STATE MEET ITS RENEWABLE ENERGY GOALS THAT ARE CONSISTENT WITH THE STATE'S:

- (I) GREEN POWER GOAL FOR STATE FACILITIES;**
- (II) RENEWABLE ENERGY PORTFOLIO STANDARD;**
- (III) HEALTHY AIR ACT; AND**
- (IV) MARYLAND CLEAN ENERGY INCENTIVE ACT OF 2006;**

AND

(10) THIS TITLE SETS FORTH MARYLAND'S VISION FOR SUSTAINING MARYLAND'S COVETED FOREST LANDS INTO THE 21ST CENTURY THAT IS CONSISTENT WITH THE CHESAPEAKE 2000 AGREEMENT AND THE 2007 FORESTRY CONSERVATION INITIATIVE.

(B) IT IS THE POLICY OF THE STATE TO ENCOURAGE THE RETENTION AND SUSTAINABLE MANAGEMENT OF THE STATE'S PRIVATELY OWNED FOREST LANDS BY:

(1) AFFORDING DUE CONSIDERATION TO THE PROTECTION AND RETENTION OF FORESTS IN THE STATE THROUGH EXISTING LAND CONSERVATION PROGRAMS WHERE THEY HAVE THE HIGHEST VALUE IN TERMS OF PROMOTING THE STATE'S COMPLIANCE WITH ITS CLEAN WATER GOALS UNDER THE CHESAPEAKE 2000 AGREEMENT AND THE 2007 FOREST CONSERVATION INITIATIVE;

(2) ENHANCING THE RETENTION OF PRIVATELY OWNED FOREST LANDS THROUGH RESEARCH-BASED EDUCATIONAL OUTREACH EFFORTS TO LANDOWNERS BY THE STATE'S FOREST CONSERVANCY DISTRICT BOARDS;

(3) DEVELOPING FINANCIAL INCENTIVES TO ENCOURAGE LANDOWNERS TO RETAIN AND MANAGE THEIR FORESTS SUSTAINABLY AND IN A MANNER THAT IS CONSISTENT WITH A FOREST STEWARDSHIP PLAN;

(4) PROMOTING RENEWABLE ENERGY POLICIES AND MARKETS WITH INCREASED EMPHASIS ON THE USE OF IN-STATE PRODUCED WOODY BIOMASS;

(5) RECOGNIZING THE IMPORTANCE OF:

(I) A VIABLE FOREST PRODUCTS INDUSTRY TO THE ECONOMIES OF RURAL MARYLAND;

(II) CONTINUED DEVELOPMENT OF FIBER PRODUCTS; AND

(III) MARYLAND'S GREEN INFRASTRUCTURE; AND

(6) DEVELOPING AND ENHANCING PROGRAMS WITH A SUSTAINABLE FORESTRY COMPONENT, INCLUDING A FOREST MITIGATION BANKING SYSTEM, A CARBON CREDIT OR CARBON SEQUESTRATION PROGRAM, A CLEAN WATER CREDIT TRADING SYSTEM, AN ENVIRONMENTAL SERVICES CREDIT TRADING PROGRAM, AND A RENEWABLE ENERGY CREDIT TRADING SYSTEM.

5-102.1.

(a) (1) In this section, the term "forestry" includes activities prescribed by a licensed professional forester in accordance with § 7-101 of the Business Occupations and Professions Article.

(2) "Forestry" does not include the clearing of land as a prelude to a change in the use of land.

(b) Forestry, as prescribed by a person licensed as a forester under Title 7 of the Business Occupations and Professions Article and in accordance with accepted silvicultural principles, as defined by the Society of American Foresters, constitutes a traditional, fundamental, beneficial, and desirable use of the State's forest resource. Forestry is an important land management tool that contributes significantly to the economy of the State by the support of a vital forest products industry, as well as to the health of forests and their wildlife, water quality, and recreational benefits by the sustainment of forest productivity and wildlife habitats.

(c) In Maryland, forestry, including the harvest and transport of forest products, is often carried out in close proximity to populated areas. Other than development for more intensive uses, this harvest of timber may represent a major source of income for the profitable use of private property.

(D) (1) RETENTION, MANAGEMENT, AND EXPANSION OF THE STATE'S FORESTED RESOURCES ARE CRITICAL TO THE HEALTH AND VITALITY OF THE

CHESAPEAKE BAY WATERSHED, RURAL MARYLAND, AND FOREST RESOURCE-BASED INDUSTRIES.

(2) IT IS THE INTENT OF THIS SUBSECTION TO:

(I) ENCOURAGE FORESTRY PRACTICES IN LOCAL COMPREHENSIVE PLANS DEVELOPED IN ACCORDANCE WITH ARTICLE 66B, § 3.05 OF THE CODE; AND

(II) TO EXPRESS THE GENERAL ASSEMBLY'S INTENT THAT LOCAL PLANNING AND ZONING RESTRICTIONS THAT IMPACT SILVICULTURAL PRACTICES MAY NOT BE MORE STRINGENT THAN RESTRICTIONS IMPOSED BY STATE LAW AND REGULATION.

[(d)] (E) Since it is in the State and public interests to preserve the forest land base and other natural resources, a local government with planning and zoning powers shall support forestry by a reasonable exercise of these powers, including the consideration, development, and interpretation of planning and zoning requirements that beneficially impact the efficient and economic practice of forestry in a manner consistent with the local government's implementation of the visions listed in Article 66B, § 1.01 of the Code.

5-204.

(a) (1) There is a [Forest Advisory Commission] **SUSTAINABLE FORESTRY COUNCIL** in the Department.

(2) THE PURPOSE OF THE COUNCIL IS TO ADVISE THE DEPARTMENT ON ALL MATTERS RELATED TO:

(I) SUSTAINABLE FORESTRY MANAGEMENT IN THE STATE;

(II) THE EXPENDITURE OF FUNDS FROM THE WOODLAND INCENTIVES FUND UNDER § 5-307 OF THIS TITLE;

(III) EXISTING REGULATORY AND STATUTORY POLICIES THAT ARE PERCEIVED AS ECONOMIC BARRIERS TO A VIABLE FOREST PRODUCTS INDUSTRY;

(IV) NEW MARKETS TO ENHANCE FOREST HEALTH, INCLUDING RENEWABLE ENERGY DEVELOPMENT THROUGH BIOMASS ENERGY, TO OFFSET FOSSIL FUEL CONSUMPTION AND REDUCE GREENHOUSE GAS EMISSIONS;

(V) **CREATIVE STRATEGIES TO HELP PRIVATELY OWNED FOREST LANDS BETTER COMPETE WITH REAL ESTATE MARKET VALUES THAT ARE DRIVING FOREST CONVERSION AND FRAGMENTATION; ~~AND~~**

(VI) **THE MEANS TO PROMOTE FOREST-BASED ECONOMIES AND PROCESSING CAPABILITY THAT CONTRIBUTE TO ECONOMIC AND EMPLOYMENT GROWTH; AND**

(VII) ASSIGNING A NUTRIENT EFFICIENCY BENEFIT TO FOREST STEWARDSHIP PLANS AND OTHER FOREST CONSERVATION MANAGEMENT PLANS THAT CAN BE MEASURABLY TRACKED AND REPORTED BY THE NUMBER OF FORESTED ACRES COVERED BY THE PLANS.

(c) (1) [From and after July 1, 1988, the Forest Advisory Commission] **THE SUSTAINABLE FORESTRY COUNCIL** shall have 9 members.

(2) Members of the [Forest Advisory Commission] **COUNCIL** shall be appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

~~(3) IF A REGULATED LOBBYIST IS APPOINTED TO SERVE AS A MEMBER OF THE COUNCIL, THE LOBBYIST:~~

~~(I) IS NOT SUBJECT TO § 15-504(D) OF THE STATE GOVERNMENT ARTICLE WITH RESPECT TO THAT SERVICE; AND~~

~~(II) IS NOT SUBJECT TO § 15-703(F)(3) OF THE STATE GOVERNMENT ARTICLE AS A RESULT OF THAT SERVICE.~~

(e) Notwithstanding any other provisions of this section, a member of the [Forest and] Park Advisory Commission as of June 30, 1988, may serve the unexpired remainder of his term as a member of an advisory commission created by law.

5-212.

(a) In this section, "Fund" means the Forest or Park Reserve Fund.

(f) The Fund consists of:

(1) [Any] EXCEPT AS PROVIDED IN § 5-307(F)(3) OF THIS TITLE, ANY money obtained from the State forest reserves, State parks, scenic reserves, parkways, historic monuments, and recreation areas;

(2) Revenue distributed to the Fund from fines collected under § 5-1302 of this title; and

(3) Revenue received by the Fund under § 5-207(b) of this subtitle.

(g) The Fund may be used only for:

(1) (I) Purchasing and managing in the name of the State lands suitable for forest culture, reserves, watershed protection, State parks, scenic preserves, historic monuments, parkways, and State recreational reserves; **AND**

(II) **HELPING TO OFFSET THE COSTS TO THE FOREST AND PARK SERVICE FOR DEVELOPING AND IMPLEMENTING A FOREST HEALTH EMERGENCY CONTINGENCY PROGRAM UNDER § 5-307 OF THIS TITLE;**

(2) Annual payments to counties in the amount of:

(i) If the State forest or park reserve comprises less than 10% of the total land area of the county, a sum equal to ~~15%~~ **12.5%** of the revenue derived from the State forest or park reserve located in that county; and

(ii) If the State forest or park reserve comprises 10% or more of the total land area of the county, a sum equal to ~~25%~~ **22.5%** of the revenue derived from the State forest or park reserve located in that county; and

(3) Administrative costs calculated in accordance with § 1-103(b)(2) of this article.

5-307.

(a) In this section, "Fund" means the Woodland Incentives Fund.

(b) There is a Woodland Incentives Fund in the Department.

(c) The purpose of the Fund is to finance the Woodland Incentives Program and the cost-share assistance established under this subtitle.

(d) The Department shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) As provided in § 13–306 of the Tax – Property Article, ~~up to~~ \$200,000 annually of the proceeds of the tax imposed by § 13–302 of the Tax – Property Article that are attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland; [and]

(2) Revenues collected by the Department from the payment of charges imposed for Department assistance in implementation of an approved practice; AND

(3) ~~REVENUES~~ SUBJECT TO APPROVAL BY THE SECRETARY AND THE BOARD OF PUBLIC WORKS, A PORTION OF THE REVENUES DERIVED FROM THE FORESTRY PRACTICES ON DESIGNATED LANDS OWNED AND MANAGED BY THE DEPARTMENT, THAT ARE CONDUCTED IN ACCORDANCE WITH APPLICABLE STATE LAW AND REGULATION.

(g) The Department shall use the Fund:

(1) To help fund the Woodland Incentives Program and the cost–share assistance established under this subtitle; [and]

(2) For administrative costs calculated in accordance with § 1–103(b)(2) of this article;

(3) TO OFFSET THE COSTS OF THE FOREST [AND PARK] SERVICE FOR DEVELOPING AND APPROVING FOREST STEWARDSHIP PLANS ON PRIVATELY OWNED FOREST LANDS;

(4) TO PROVIDE ANNUAL GRANTS TO THE FOREST CONSERVANCY DISTRICT BOARDS UNDER § 5–605 OF THIS TITLE, TO HELP FACILITATE THEIR RESPECTIVE OUTREACH EFFORTS TO ENCOURAGE FOREST LAND OWNERS TO DEVELOP FOREST STEWARDSHIP AND OTHER FOREST CONSERVATION MANAGEMENT PLANS;

(5) TO ESTABLISH A FOREST HEALTH EMERGENCY CONTINGENCY PROGRAM TO HELP:

(I) MAINTAIN THE HEALTH AND VITALITY OF PUBLICLY OWNED AND PRIVATELY OWNED FOREST LANDS; AND

(II) PREVENT OR CONTROL LARGE DEGRADATION CAUSED BY NATURAL THREATS;

(6) TO PROVIDE FINANCIAL ASSISTANCE, AS PROVIDED IN THE STATE BUDGET, FOR THE ADMINISTRATION OF AN URBAN AND COMMUNITY FORESTRY PROGRAM ESTABLISHED UNDER § 5–426 OF THIS TITLE, INCLUDING:

(I) INCREASING THE NUMBER OF COMMUNITIES WITH TREE CANOPY GOALS;

(II) FACILITATING COMPLIANCE WITH THE CHESAPEAKE BAY PROGRAM'S FORESTRY TARGETS;

(III) SUPPORTING THE USE OF URBAN TREE CANOPY EXPANSION FOR AIR QUALITY IMPROVEMENT PURPOSES; AND

(IV) HELPING ACHIEVE IMPLEMENTATION OF REGIONAL GREENHOUSE GAS INITIATIVE OFFSET OPPORTUNITIES IN URBAN AREAS;

(7) TO HELP FUND A FOREST MARKETING AND UTILIZATION PROGRAM IN THE DEPARTMENT TO PROVIDE FINANCIAL ASSISTANCE TO HELP SUPPORT, STIMULATE, AND MARKET INNOVATIVE AND CREATIVE WAYS TO ENHANCE THE PRODUCTION OF VALUE-ADDED WOOD PRODUCTS;

(8) TO HELP THE DEPARTMENT, IN COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE SECTOR ENTITIES, DEVELOP AND EXPAND:

(I) A FOREST MITIGATION BANKING SYSTEM;

(II) A CARBON CREDIT OR CARBON SEQUESTRATION PROGRAM;

(III) A CLEAN WATER CREDIT TRADING SYSTEM;

(IV) AN ENVIRONMENTAL SERVICES CREDIT TRADING PROGRAM; AND

(V) A RENEWABLE ENERGY CREDIT TRADING SYSTEM; AND

(9) TO HELP OFFSET ADMINISTRATIVE COSTS FOR PROVIDING STAFF ASSISTANCE TO THE SUSTAINABLE FORESTRY COUNCIL ESTABLISHED UNDER § 5-204 OF THIS ARTICLE.

(H) THE AMOUNT OF REVENUES COLLECTED UNDER SUBSECTION (F)(1) OF THIS SECTION SHALL BE INCLUDED IN THE REPORT REQUIRED UNDER ARTICLE 24, § 2-101 OF THE CODE.

(I) THE AMOUNT OF THE GRANTS UNDER SUBSECTION (G)(4) OF THIS SECTION SHALL BE DETERMINED BY THE DEPARTMENT AND ELIGIBILITY FOR

THE GRANTS SHALL BE CONTINGENT ON EACH BOARD PROVIDING AN IN-KIND MATCH AS CERTIFIED BY THE SECRETARY.

(J) ON OR BEFORE JUNE 30 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE ON THE USE OF FUNDS CREDITED TO THE WOODLAND INCENTIVES FUND, INCLUDING AN IDENTIFICATION OF AND THE REASONS FOR THOSE REVENUES DERIVED FROM FORESTRY PRACTICES ON DESIGNATED LANDS OWNED AND MANAGED BY THE DEPARTMENT THAT WERE NOT CREDITED TO THE WOODLAND INCENTIVES FUND.

[(h)] ~~(J)~~ **(K)** (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund ~~shall be credited to the General Fund of the State~~ ~~MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE.~~

[(i)] ~~(K)~~ **(L)** Expenditures from the Fund may be made only in accordance with the State budget.

5-427.

(a) The governing body of a county or municipal corporation, by appropriate resolution or ordinance, may implement a local urban and community forestry program within its jurisdiction or enter into a cooperative agreement with the Department.

(b) The Department may accept federal funds and provide funds, on a matching basis, to:

(1) Cooperating counties and municipal corporations for the purpose of administering an urban and community forestry program; and

(2) Nonprofit corporations that participate in the implementation and administration of an urban and community forestry program.

(c) Any urban and community forestry program within the Department shall be:

(1) [funded] **FUNDED** as provided in the budget; **AND**

(2) **CONSISTENT WITH § 5-307 OF THIS TITLE.**

5-606.

(b) Any board or its agent may:

~~(1) Enter upon any woodland in the county or district in performance of its duty;~~

~~(2) Hold meetings and demonstrations in regard to conservation of natural resources;~~

~~(3) (2) Enter into agreements with landowners within its county or district for a specified period of years;~~

~~(4) (3) Cooperate with other government agencies to achieve better forest growth and promulgate conservation measures, INCLUDING MEETING AT LEAST ANNUALLY WITH AGRICULTURAL ADVISORY BOARDS AS PROVIDED UNDER § 2-504.1 OF THE AGRICULTURE ARTICLE IN ORDER TO ENCOURAGE THE PROMOTION AND RETENTION OF AGRICULTURAL LAND AND FOREST LAND IN THEIR RESPECTIVE JURISDICTIONS;~~

~~(5) (4) Develop comprehensive forest management plans for conservation of soil resources and for control and prevention of soil erosion within the county or district;~~

~~(6) (5) Enforce rules and regulations made by the Department. Each local board may suggest tentative rules and regulations of forest practice to accomplish objectives set forth in this subtitle and to carry out policies established by the Department. The board shall publish the tentative rules and regulations in one or more newspapers having a wide circulation in the area they cover, together with a notice of a public hearing which the board shall hold on them. The final draft of these rules and regulations shall be presented to the Department for approval. The board may summon witnesses for hearings on infraction of its rules and regulations and initiate a prosecution for violation of its rules. It shall forward copies of any proceedings and rulings to the Department and make an annual report of its proceedings and actions to the Department; and~~

~~(7) (6) Promulgate safeguards for proper forest land use, such as those intended to:~~

~~(i) Provide for adequate restocking, after cutting, of trees of desirable species and condition;~~

~~(ii) Provide for reserving for growth and subsequent cutting, a sufficient growing stock of thrifty trees of desirable species to keep the land reasonably productive; and~~

(iii) Prevent clear-cutting, or limit the size of a tract to be clear-cut in areas where clear-cutting will seriously interfere with protection of a watershed, or in order to maintain a suitable growing stock to insure natural reproduction. However, any rule dealing with clear-cutting shall establish a procedure by which any operator of forest land may secure a permit to clear-cut particular lands upon proof that he has a bona fide intention of devoting the land to other than forest use; that the lands are appropriate for the proposed use; and that devoting the lands to the new use will not seriously interfere with the protection of the watershed.

(C) SUBJECT TO THE APPROVAL OF THE SECRETARY, EACH BOARD MAY IMPOSE FEES FOR THE PURPOSE OF OFFSETTING ITS COSTS INCURRED IN CARRYING OUT THE REQUIREMENTS OF THIS SECTION, UNLESS AN EQUIVALENT AMOUNT OF FUNDS IS PROVIDED TO EACH BOARD UNDER § 5-307 OF THIS TITLE.

5-903.

(H) IN ALLOCATING THE STATE'S SHARE OF FUNDS UNDER THIS SECTION, THE SECRETARY SHALL CONSIDER THE FOLLOWING LAND CONSERVATION PRIORITIES, NOTWITHSTANDING OTHER PRIORITIES SPECIFIED IN THIS TITLE:

(1) CONSERVING WORKING LANDSCAPES, AS DEFINED IN § 5-101 OF THIS TITLE; AND

(2) PROTECTING AND RESTORING FORESTS FROM THREATS, INCLUDING CATASTROPHIC WILDFIRES, HURRICANES, WINDSTORMS, SNOW OR ICE STORMS, FLOODING, DROUGHT, INVASIVE SPECIES, INSECT OR DISEASE OUTBREAK, AND DEVELOPMENT.

Article - State Finance and Procurement

5-7A-01.

The State Economic Growth, Resource Protection, and Planning Policy is that:

- (1) development shall be concentrated in suitable areas;
- (2) sensitive areas shall be protected;
- (3) in rural areas, growth shall be directed to existing population centers and resource areas shall be protected;
- (4) stewardship of the Chesapeake Bay and the land shall be a universal ethic;

(5) conservation of resources, including a reduction in resource consumption **AND THE PROMOTION OF SUSTAINABLE FORESTRY MANAGEMENT THAT IS CONSISTENT WITH § 5-102.1 OF THE NATURAL RESOURCES ARTICLE**, shall be practiced;

(6) to encourage the achievement of paragraphs (1) through (5) of this subsection, economic growth shall be encouraged and regulatory mechanisms shall be streamlined;

(7) adequate public facilities and infrastructure are available or planned in areas where growth is to occur; and

(8) funding mechanisms shall be addressed to achieve this policy.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Natural Resources, in consultation with other appropriate units of State government and representatives from the Partnership for Sustainable Forestry, shall develop for General Assembly consideration in the 2010 and 2011 legislative sessions, respectively, creative, tax-related strategies intended to help promote the retention and improved management of the State's privately owned forest lands.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Natural Resources is encouraged, to the extent that financial resources are available, to develop a Forest Stewardship Plan on all appropriate State-owned forest lands consistent with § 5-603 of the Natural Resources Article. On the completion of the plan or plans, the Department of Natural Resources is encouraged to share the findings and recommendations with other units of State government and local governments that own forest lands for possible emulation of the plans by other government entities.

SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall monitor forest retention and restoration by encouraging local jurisdictions to report data to the State with the geospatial location of forest retained or restored through the implementation of the Forest Conservation Act, the Chesapeake and Atlantic Coastal Bays Critical Areas Protection Program, local comprehensive plans, and any programs that impact urban and community forestry. If State funding is necessary to acquire the data from local governments, the Department may use money in the Woodland Incentives Fund under § 5-307 of the Natural Resources Article.

SECTION 5. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall work with the Chesapeake Bay Trust and other appropriate entities to develop a strategy that better coordinates the State's urban tree canopy efforts. The Department shall report to the Governor on or before December 1, 2009, on its proposed strategy, including any proposed statutory, regulatory, or budgetary actions.

~~SECTION 6. AND BE IT FURTHER ENACTED, That the responsibility and resources necessary for sediment and erosion control planning and enforcement under Title 4 of the Environment Article, with respect to silvicultural practices, as defined under § 5-102.1 of the Natural Resources Article, may be transferred from the Department of the Environment to the Department of Natural Resources subject to approval by the Governor and General Assembly.~~

SECTION ~~7.~~ 6. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall work with representatives of Maryland's forest products industry to determine procedures and time lines for advising the industry regarding individual timber harvests that require approval by the Department of Natural Resources, and applicable statutory and regulatory restrictions related to planned silvicultural activities prior to the implementation of such activities.

SECTION ~~8.~~ 7. AND BE IT FURTHER ENACTED, That the Department of Natural Resources, in cooperation with the Maryland Higher Education Commission and any interested institution of higher education, may develop a program that creates a wood technology institute specializing in 21st-century workforce training in the fields of wood technology, manufacturing, construction, and renewable energy generation.

SECTION ~~9.~~ 8. AND BE IT FURTHER ENACTED, That Maryland's green power goal for procurement of renewable energy by State government be met, to the extent practicable, through the provision of financial and other incentives intended to promote in-State production of renewable energy, with due consideration afforded to biomass-fueled facilities.

SECTION ~~10.~~ 9. AND BE IT FURTHER ENACTED, That the General Assembly encourages the forest conservancy district boards and the University of Maryland Cooperative Extension to work together in formulating a strategy to help facilitate the State's compliance, from a private forest land owner outreach perspective, with the 2007 Forestry Conservation Initiative. The boards and the Cooperative Extension shall submit written findings and recommendations to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2-1246 of the State Government Article, on or before December 1, 2009.

SECTION ~~11.~~ 10. AND BE IT FURTHER ENACTED, That any reference in the Annotated Code of Maryland rendered incorrect or obsolete by the provisions of Section 1 of this Act shall be corrected by the publishers of the Annotated Code, in consultation with and subject to the approval of the Department of Legislative Services, with no further action required by the General Assembly.

SECTION ~~12.~~ 11. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 176

(Senate Bill 273)

AN ACT concerning

Smart, Green, and Growing – Local Government Planning – Planning Visions

FOR the purpose of revising the planning visions for the State's Economic Growth, Resource Protection, and Planning Policy and for local comprehensive planning; requiring local jurisdictions to report on certain restrictions that are the result of an adequate public facilities ordinance; specifying the contents of the local jurisdiction's report; requiring the Department of Planning to prepare a report on the statewide impacts of adequate public facilities ordinances; specifying the contents of the Department's report; authorizing a certain local legislative body to establish a transfer of development rights program within a priority funding area to assist in the purchase of land for public facilities; requiring the proceeds of the sale of ~~the development right~~ certain development rights to be used to assist in the purchase of the site or the construction of the facility; requiring that, for schools and educational facilities, the proceeds of the sale of development rights be used to assist in the purchase of the land on which the school or educational facility will be located; limiting the transfer of development rights to a priority funding area; prohibiting the sale or transfer of development rights associated with certain public land owned by a local jurisdiction on a certain date under certain circumstances; providing for the timing of certain reports; defining certain terms; and generally relating to local government planning.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5-7A-01
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 1.01, 10.01, and 11.01
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, The “Eight Visions” that form the basis of planning in Maryland were first adopted by Maryland in the 1992 Economic Growth, Resource Protection, and Planning Act; and

WHEREAS, Local jurisdictions are required to implement the visions through the Plan and § 4.09 of Article 66B of the Code requires that jurisdictions “shall ensure that the implementation of the provisions of the plan that comply with §§ 1.01 (visions) and 3.05(a)(4)(vi) and (viii) (the land use and sensitive areas elements) are achieved through the adoption of applicable zoning ordinances ... subdivision ordinances ... and other land use ordinances ... that are consistent with the plan”; and

WHEREAS, The visions are a now-familiar touchstone of Maryland land use law and policy and have been in place without significant amendment for 16 years; and

WHEREAS, The visions have never been modernized to reflect and keep pace with current growth and development patterns and trends or Maryland’s commitment to Smart Growth; and

WHEREAS, The Task Force on the Future of Growth and Development in Maryland recommended that a new set of visions to guide growth and development in Maryland be adopted to help achieve Smart and Sustainable Growth; 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

5–7A–01.

The State Economic Growth, Resource Protection, and Planning Policy is [that] **THE FOLLOWING:**

- [(1) development shall be concentrated in suitable areas;
- (2) sensitive areas shall be protected;
- (3) in rural areas, growth shall be directed to existing population centers and resource areas shall be protected;
- (4) stewardship of the Chesapeake Bay and the land shall be a universal ethic;
- (5) conservation of resources, including a reduction in resource consumption, shall be practiced;

(6) to encourage the achievement of paragraphs (1) through (5) of this subsection, economic growth shall be encouraged and regulatory mechanisms shall be streamlined;

(7) adequate public facilities and infrastructure are available or planned in areas where growth is to occur; and

(8) funding mechanisms shall be addressed to achieve this policy.]

(1) QUALITY OF LIFE AND SUSTAINABILITY: A HIGH QUALITY OF LIFE IS ACHIEVED THROUGH UNIVERSAL STEWARDSHIP OF THE LAND, WATER, AND AIR RESULTING IN SUSTAINABLE COMMUNITIES AND PROTECTION OF THE ENVIRONMENT;

(2) PUBLIC PARTICIPATION: CITIZENS ARE ACTIVE PARTNERS IN THE PLANNING AND IMPLEMENTATION OF COMMUNITY INITIATIVES AND ARE SENSITIVE TO THEIR RESPONSIBILITIES IN ACHIEVING COMMUNITY GOALS;

(3) GROWTH AREAS: GROWTH IS CONCENTRATED IN EXISTING POPULATION AND BUSINESS CENTERS, GROWTH AREAS ADJACENT TO THESE CENTERS, OR STRATEGICALLY SELECTED NEW CENTERS;

(4) COMMUNITY DESIGN: COMPACT, MIXED-USE, WALKABLE DESIGN CONSISTENT WITH EXISTING COMMUNITY CHARACTER AND LOCATED NEAR AVAILABLE OR PLANNED TRANSIT OPTIONS IS ENCOURAGED TO ENSURE EFFICIENT USE OF LAND AND TRANSPORTATION RESOURCES AND PRESERVATION AND ENHANCEMENT OF NATURAL SYSTEMS, OPEN SPACES, RECREATIONAL AREAS, AND HISTORICAL, CULTURAL, AND ARCHEOLOGICAL RESOURCES;

(5) INFRASTRUCTURE: GROWTH AREAS HAVE THE WATER RESOURCES AND INFRASTRUCTURE TO ACCOMMODATE POPULATION AND BUSINESS EXPANSION IN AN ORDERLY, EFFICIENT, AND ENVIRONMENTALLY SUSTAINABLE MANNER;

(6) TRANSPORTATION: A WELL-MAINTAINED, MULTIMODAL TRANSPORTATION SYSTEM FACILITATES THE SAFE, CONVENIENT, AFFORDABLE, AND EFFICIENT MOVEMENT OF PEOPLE, GOODS, AND SERVICES WITHIN AND BETWEEN POPULATION AND BUSINESS CENTERS;

(7) HOUSING: A RANGE OF HOUSING DENSITIES, TYPES, AND SIZES PROVIDES RESIDENTIAL OPTIONS FOR CITIZENS OF ALL AGES AND INCOMES;

(8) ECONOMIC DEVELOPMENT: ECONOMIC DEVELOPMENT AND NATURAL RESOURCE-BASED BUSINESSES THAT PROMOTE EMPLOYMENT OPPORTUNITIES FOR ALL INCOME LEVELS WITHIN THE CAPACITY OF THE STATE'S NATURAL RESOURCES, PUBLIC SERVICES, AND PUBLIC FACILITIES ARE ENCOURAGED;

(9) ENVIRONMENTAL PROTECTION: LAND AND WATER RESOURCES, INCLUDING THE CHESAPEAKE AND COASTAL BAYS, ARE CAREFULLY MANAGED TO RESTORE AND MAINTAIN HEALTHY AIR AND WATER, NATURAL SYSTEMS, AND LIVING RESOURCES;

(10) RESOURCE CONSERVATION: WATERWAYS, FORESTS, AGRICULTURAL AREAS, OPEN SPACE, NATURAL SYSTEMS, AND SCENIC AREAS ARE CONSERVED;

(11) STEWARDSHIP: GOVERNMENT, BUSINESS ENTITIES, AND RESIDENTS ARE RESPONSIBLE FOR THE CREATION OF SUSTAINABLE COMMUNITIES BY COLLABORATING TO BALANCE EFFICIENT GROWTH WITH RESOURCE PROTECTION; AND

(12) IMPLEMENTATION: STRATEGIES, POLICIES, PROGRAMS, AND FUNDING FOR GROWTH AND DEVELOPMENT, RESOURCE CONSERVATION, INFRASTRUCTURE, AND TRANSPORTATION ARE INTEGRATED ACROSS THE LOCAL, REGIONAL, STATE, AND INTERSTATE LEVELS TO ACHIEVE THESE VISIONS.

Article 66B – Land Use

1.01.

In addition to the requirements of § 3.05(c) of this article, a commission shall implement the following visions through the plan described in § 3.05 of this article:

- [(1) Development is concentrated in suitable areas.
- (2) Sensitive areas are protected.
- (3) In rural areas, growth is directed to existing population centers and resource areas are protected.
- (4) Stewardship of the Chesapeake Bay and the land is a universal ethic.
- (5) Conservation of resources, including a reduction in resource consumption, is practiced.

(6) To assure the achievement of items (1) through (5) of this section, economic growth is encouraged and regulatory mechanisms are streamlined.

(7) Adequate public facilities and infrastructure under the control of the county or municipal corporation are available or planned in areas where growth is to occur.

(8) Funding mechanisms are addressed to achieve these visions.]

(1) QUALITY OF LIFE AND SUSTAINABILITY: A HIGH QUALITY OF LIFE IS ACHIEVED THROUGH UNIVERSAL STEWARDSHIP OF THE LAND, WATER, AND AIR RESULTING IN SUSTAINABLE COMMUNITIES AND PROTECTION OF THE ENVIRONMENT;

(2) PUBLIC PARTICIPATION: CITIZENS ARE ACTIVE PARTNERS IN THE PLANNING AND IMPLEMENTATION OF COMMUNITY INITIATIVES AND ARE SENSITIVE TO THEIR RESPONSIBILITIES IN ACHIEVING COMMUNITY GOALS;

(3) GROWTH AREAS: GROWTH IS CONCENTRATED IN EXISTING POPULATION AND BUSINESS CENTERS, GROWTH AREAS ADJACENT TO THESE CENTERS, OR STRATEGICALLY SELECTED NEW CENTERS;

(4) COMMUNITY DESIGN: COMPACT, MIXED-USE, WALKABLE DESIGN CONSISTENT WITH EXISTING COMMUNITY CHARACTER AND LOCATED NEAR AVAILABLE OR PLANNED TRANSIT OPTIONS IS ENCOURAGED TO ENSURE EFFICIENT USE OF LAND AND TRANSPORTATION RESOURCES AND PRESERVATION AND ENHANCEMENT OF NATURAL SYSTEMS, OPEN SPACES, RECREATIONAL AREAS, AND HISTORICAL, CULTURAL, AND ARCHEOLOGICAL RESOURCES;

(5) INFRASTRUCTURE: GROWTH AREAS HAVE THE WATER RESOURCES AND INFRASTRUCTURE TO ACCOMMODATE POPULATION AND BUSINESS EXPANSION IN AN ORDERLY, EFFICIENT, AND ENVIRONMENTALLY SUSTAINABLE MANNER;

(6) TRANSPORTATION: A WELL-MAINTAINED, MULTIMODAL TRANSPORTATION SYSTEM FACILITATES THE SAFE, CONVENIENT, AFFORDABLE, AND EFFICIENT MOVEMENT OF PEOPLE, GOODS, AND SERVICES WITHIN AND BETWEEN POPULATION AND BUSINESS CENTERS;

(7) HOUSING: A RANGE OF HOUSING DENSITIES, TYPES, AND SIZES PROVIDES RESIDENTIAL OPTIONS FOR CITIZENS OF ALL AGES AND INCOMES;

(8) ECONOMIC DEVELOPMENT: ECONOMIC DEVELOPMENT AND NATURAL RESOURCE-BASED BUSINESSES THAT PROMOTE EMPLOYMENT OPPORTUNITIES FOR ALL INCOME LEVELS WITHIN THE CAPACITY OF THE STATE'S NATURAL RESOURCES, PUBLIC SERVICES, AND PUBLIC FACILITIES ARE ENCOURAGED;

(9) ENVIRONMENTAL PROTECTION: LAND AND WATER RESOURCES, INCLUDING THE CHESAPEAKE AND COASTAL BAYS, ARE CAREFULLY MANAGED TO RESTORE AND MAINTAIN HEALTHY AIR AND WATER, NATURAL SYSTEMS, AND LIVING RESOURCES;

(10) RESOURCE CONSERVATION: WATERWAYS, FORESTS, AGRICULTURAL AREAS, OPEN SPACE, NATURAL SYSTEMS, AND SCENIC AREAS ARE CONSERVED;

(11) STEWARDSHIP: GOVERNMENT, BUSINESS ENTITIES, AND RESIDENTS ARE RESPONSIBLE FOR THE CREATION OF SUSTAINABLE COMMUNITIES BY COLLABORATING TO BALANCE EFFICIENT GROWTH WITH RESOURCE PROTECTION; AND

(12) IMPLEMENTATION: STRATEGIES, POLICIES, PROGRAMS, AND FUNDING FOR GROWTH AND DEVELOPMENT, RESOURCE CONSERVATION, INFRASTRUCTURE, AND TRANSPORTATION ARE INTEGRATED ACROSS THE LOCAL, REGIONAL, STATE, AND INTERSTATE LEVELS TO ACHIEVE THESE VISIONS.

10.01.

(a) To encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth, a local jurisdiction that exercises authority granted by this article may enact, and is encouraged to enact, ordinances or laws providing for or requiring:

(1) The planning, staging, or provision of adequate public facilities and affordable housing;

(2) Off-site improvements or the dedication of land for public facilities essential for a development;

(3) Moderately priced dwelling unit programs;

(4) Mixed use developments;

(5) Cluster developments;

- (6) Planned unit developments;
- (7) Alternative subdivision requirements that:
 - (i) Meet minimum performance standards set by the local jurisdiction; and
 - (ii) Reduce infrastructure costs;
- (8) Floating zones;
- (9) Incentive zoning; and
- (10) Performance zoning.

(b) Notwithstanding any other provision of law, a local legislative body that exercises authority granted by this article may enact ordinances or laws providing for the transfer, with or without consideration, of real property belonging to the local jurisdiction to a public or private entity, to use in developing or preserving affordable housing.

(c) The authority provided under this section is not intended to limit a local jurisdiction's authority to:

- (1) Exercise any planning and zoning powers not expressly authorized under this section; or
- (2) Adopt other methods to:
 - (i) Facilitate orderly development and growth;
 - (ii) Encourage the preservation of natural resources; or
 - (iii) Provide affordable housing.

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

(II) "PRIORITY FUNDING AREA" HAS THE MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(III) "RESTRICTION" MEANS A RESTRICTION, MORATORIUM, OR CAPACITY LIMITATION IMPOSED ON DEVELOPMENT AS A RESULT OF AN ORDINANCE OR LAW ADOPTED UNDER THIS SECTION.

(2) (I) IF AN ADEQUATE PUBLIC FACILITY ORDINANCE HAS RESULTED IN A RESTRICTION WITHIN A PRIORITY FUNDING AREA, A LOCAL JURISDICTION SHALL REPORT ON THE RESTRICTION ON OR BEFORE JULY 1 EVERY 2 YEARS TO THE DEPARTMENT OF PLANNING.

(II) THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:

1. THE LOCATION OF THE RESTRICTION;

2. THE TYPE OF INFRASTRUCTURE AFFECTED BY THE RESTRICTION;

3. THE PROPOSED RESOLUTION OF THE RESTRICTION, IF AVAILABLE;

~~3~~ 4. THE ESTIMATED DATE FOR THE RESOLUTION OF THE RESTRICTION, IF AVAILABLE;

~~4~~ 5. IF A RESTRICTION WAS LIFTED, THE DATE THE RESTRICTION WAS LIFTED; AND

~~5~~ 6. THE RESOLUTION THAT LIFTED THE RESTRICTION.

(3) (I) THE DEPARTMENT OF PLANNING SHALL PREPARE AND PUBLISH A REPORT ON THE STATEWIDE IMPACTS OF ADEQUATE PUBLIC FACILITIES ORDINANCES ON OR BEFORE JANUARY 1 EVERY 2 YEARS.

(II) THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE THE IDENTIFICATION OF:

1. GEOGRAPHIC AREAS AND FACILITIES WITHIN PRIORITY FUNDING AREAS THAT FAIL TO MEET LOCAL ADEQUATE PUBLIC FACILITY STANDARDS; AND

2. IMPROVEMENTS TO FACILITIES SCHEDULED OR PROPOSED IN THE LOCAL JURISDICTION'S CAPITAL IMPROVEMENT PROGRAM.

11.01.

(A) A local legislative body that exercises authority granted by this article may establish a program for the transfer of development rights to:

(1) Encourage the preservation of natural resources; and

(2) Facilitate orderly growth and development in the State.

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

(II) “~~PRIORITY~~ PRIORITY FUNDING AREA” HAS THE MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(III) “PUBLIC FACILITY” INCLUDES:

1. RECREATIONAL FACILITIES;
2. TRANSPORTATION FACILITIES AND TRANSIT ORIENTED DEVELOPMENT; AND
3. SCHOOLS AND EDUCATIONAL FACILITIES.

(2) A LOCAL LEGISLATIVE BODY THAT EXERCISES AUTHORITY GRANTED BY THIS ARTICLE MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF DEVELOPMENT RIGHTS WITHIN A PRIORITY FUNDING AREA TO ASSIST A LOCAL JURISDICTION IN THE PURCHASE OF LAND FOR ~~A SCHOOL OR THE~~ CONSTRUCTION OF A PUBLIC FACILITY WITHIN A PRIORITY FUNDING AREA.

(3) (I) ~~PROCEEDS~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS SHALL BE USED TO ASSIST IN:

- ~~(I)~~ 1. THE PURCHASE OF THE PUBLIC SITE; OR
- ~~(II)~~ 2. THE CONSTRUCTION OF THE FACILITY.

(II) FOR SCHOOLS AND EDUCATIONAL FACILITIES, PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS SHALL BE USED TO ASSIST IN THE PURCHASE OF THE LAND ON WHICH THE SCHOOL OR EDUCATIONAL FACILITY WILL BE LOCATED.

(4) ANY DEVELOPMENT RIGHTS SOLD UNDER THE AUTHORITY OF THIS SUBSECTION SHALL ONLY BE TRANSFERRED WITHIN A PRIORITY FUNDING AREA.

(5) DEVELOPMENT RIGHTS ASSOCIATED WITH EXISTING PUBLIC LAND THAT IS OWNED BY A LOCAL JURISDICTION ON OCTOBER 1, 2009, MAY NOT BE SOLD OR TRANSFERRED UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, as required by Article 66B, § 10.01, as enacted by Section 1 of this Act, a local jurisdiction's initial report shall be submitted on or before July 1, 2010, and the Department of Planning's initial report shall be prepared and published on or before January 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 177

(House Bill 294)

AN ACT concerning

Smart, Green, and Growing – Local Government Planning – Planning Visions

FOR the purpose of revising the planning visions for the State's Economic Growth, Resource Protection, and Planning Policy and for local comprehensive planning; requiring local jurisdictions to report on certain restrictions that are the result of an adequate public facilities ordinance; specifying the contents of the local jurisdiction's report; requiring the Department of Planning to prepare a report on the statewide impacts of adequate public facilities ordinances; specifying the contents of the Department's report; authorizing a certain local legislative body to establish a transfer of development rights program within a priority funding area to assist in the purchase of land for public facilities; requiring the proceeds of the sale of ~~the development right~~ certain development rights to be used to assist in the purchase of the ~~site land on which the public facility will be located~~ site or the construction of the facility; requiring that, for schools and educational facilities, the proceeds of the sale of development rights be used to assist in the purchase of the land on which the school or educational facility will be located; limiting the transfer of development rights to a priority funding area; prohibiting the sale or transfer of development rights associated with certain public land owned by a local jurisdiction on a certain date under certain circumstances; providing for the timing of certain reports; defining certain terms; and generally relating to local government planning.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 5–7A–01
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 1.01, 10.01, and 11.01
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, The “Eight Visions” that form the basis of planning in Maryland were first adopted by Maryland in the 1992 Economic Growth, Resource Protection, and Planning Act; and

WHEREAS, Local jurisdictions are required to implement the visions through the Plan and § 4.09 of Article 66B of the Code requires that jurisdictions “shall ensure that the implementation of the provisions of the plan that comply with §§ 1.01 (visions) and 3.05(a)(4)(vi) and (viii) (the land use and sensitive areas elements) are achieved through the adoption of applicable zoning ordinances ... subdivision ordinances ? and other land use ordinances ? that are consistent with the plan”; and

WHEREAS, The visions are a now–familiar touchstone of Maryland land use law and policy and have been in place without significant amendment for 16 years; and

WHEREAS, The visions have never been modernized to reflect and keep pace with current growth and development patterns and trends or Maryland’s commitment to Smart Growth; and

WHEREAS, The Task Force on the Future of Growth and Development in Maryland recommended that a new set of visions to guide growth and development in Maryland be adopted to help achieve Smart and Sustainable Growth; 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

5–7A–01.

The State Economic Growth, Resource Protection, and Planning Policy is [that]
THE FOLLOWING:

- [(1) development shall be concentrated in suitable areas;
- (2) sensitive areas shall be protected;
- (3) in rural areas, growth shall be directed to existing population centers and resource areas shall be protected;

(4) stewardship of the Chesapeake Bay and the land shall be a universal ethic;

(5) conservation of resources, including a reduction in resource consumption, shall be practiced;

(6) to encourage the achievement of paragraphs (1) through (5) of this subsection, economic growth shall be encouraged and regulatory mechanisms shall be streamlined;

(7) adequate public facilities and infrastructure are available or planned in areas where growth is to occur; and

(8) funding mechanisms shall be addressed to achieve this policy.]

(1) QUALITY OF LIFE AND SUSTAINABILITY: A HIGH QUALITY OF LIFE IS ACHIEVED THROUGH UNIVERSAL STEWARDSHIP OF THE LAND, WATER, AND AIR RESULTING IN SUSTAINABLE COMMUNITIES AND PROTECTION OF THE ENVIRONMENT;

(2) PUBLIC PARTICIPATION: CITIZENS ARE ACTIVE PARTNERS IN THE PLANNING AND IMPLEMENTATION OF COMMUNITY INITIATIVES AND ARE SENSITIVE TO THEIR RESPONSIBILITIES IN ACHIEVING COMMUNITY GOALS;

(3) GROWTH AREAS: GROWTH IS CONCENTRATED IN EXISTING POPULATION AND BUSINESS CENTERS, GROWTH AREAS ADJACENT TO THESE CENTERS, OR STRATEGICALLY SELECTED NEW CENTERS;

(4) COMMUNITY DESIGN: COMPACT, MIXED-USE, WALKABLE DESIGN CONSISTENT WITH EXISTING COMMUNITY CHARACTER AND LOCATED NEAR AVAILABLE OR PLANNED TRANSIT OPTIONS IS ENCOURAGED TO ENSURE EFFICIENT USE OF LAND AND TRANSPORTATION RESOURCES AND PRESERVATION AND ENHANCEMENT OF NATURAL SYSTEMS, OPEN SPACES, RECREATIONAL AREAS, AND HISTORICAL, CULTURAL, AND ARCHEOLOGICAL RESOURCES;

(5) INFRASTRUCTURE: GROWTH AREAS HAVE THE WATER RESOURCES AND INFRASTRUCTURE TO ACCOMMODATE POPULATION AND BUSINESS EXPANSION IN AN ORDERLY, EFFICIENT, AND ENVIRONMENTALLY SUSTAINABLE MANNER;

(6) TRANSPORTATION: A WELL-MAINTAINED, MULTIMODAL TRANSPORTATION SYSTEM FACILITATES THE SAFE, CONVENIENT, AFFORDABLE,

AND EFFICIENT MOVEMENT OF PEOPLE, GOODS, AND SERVICES WITHIN AND BETWEEN POPULATION AND BUSINESS CENTERS;

(7) HOUSING: A RANGE OF HOUSING DENSITIES, TYPES, AND SIZES PROVIDES RESIDENTIAL OPTIONS FOR CITIZENS OF ALL AGES AND INCOMES;

(8) ECONOMIC DEVELOPMENT: ECONOMIC DEVELOPMENT AND NATURAL RESOURCE-BASED BUSINESSES THAT PROMOTE EMPLOYMENT OPPORTUNITIES FOR ALL INCOME LEVELS WITHIN THE CAPACITY OF THE STATE'S NATURAL RESOURCES, PUBLIC SERVICES, AND PUBLIC FACILITIES ARE ENCOURAGED;

(9) ENVIRONMENTAL PROTECTION: LAND AND WATER RESOURCES, INCLUDING THE CHESAPEAKE AND COASTAL BAYS, ARE CAREFULLY MANAGED TO RESTORE AND MAINTAIN HEALTHY AIR AND WATER, NATURAL SYSTEMS, AND LIVING RESOURCES;

(10) RESOURCE CONSERVATION: WATERWAYS, FORESTS, AGRICULTURAL AREAS, OPEN SPACE, NATURAL SYSTEMS, AND SCENIC AREAS ARE CONSERVED;

(11) STEWARDSHIP: GOVERNMENT, BUSINESS ENTITIES, AND RESIDENTS ARE RESPONSIBLE FOR THE CREATION OF SUSTAINABLE COMMUNITIES BY COLLABORATING TO BALANCE EFFICIENT GROWTH WITH RESOURCE PROTECTION; AND

(12) IMPLEMENTATION: STRATEGIES, POLICIES, PROGRAMS, AND FUNDING FOR GROWTH AND DEVELOPMENT, RESOURCE CONSERVATION, INFRASTRUCTURE, AND TRANSPORTATION ARE INTEGRATED ACROSS THE LOCAL, REGIONAL, STATE, AND INTERSTATE LEVELS TO ACHIEVE THESE VISIONS.

Article 66B – Land Use

1.01.

In addition to the requirements of § 3.05(c) of this article, a commission shall implement the following visions through the plan described in § 3.05 of this article:

[(1) Development is concentrated in suitable areas.

(2) Sensitive areas are protected.

(3) In rural areas, growth is directed to existing population centers and resource areas are protected.

(4) Stewardship of the Chesapeake Bay and the land is a universal ethic.

(5) Conservation of resources, including a reduction in resource consumption, is practiced.

(6) To assure the achievement of items (1) through (5) of this section, economic growth is encouraged and regulatory mechanisms are streamlined.

(7) Adequate public facilities and infrastructure under the control of the county or municipal corporation are available or planned in areas where growth is to occur.

(8) Funding mechanisms are addressed to achieve these visions.]

(1) QUALITY OF LIFE AND SUSTAINABILITY: A HIGH QUALITY OF LIFE IS ACHIEVED THROUGH UNIVERSAL STEWARDSHIP OF THE LAND, WATER, AND AIR RESULTING IN SUSTAINABLE COMMUNITIES AND PROTECTION OF THE ENVIRONMENT;

(2) PUBLIC PARTICIPATION: CITIZENS ARE ACTIVE PARTNERS IN THE PLANNING AND IMPLEMENTATION OF COMMUNITY INITIATIVES AND ARE SENSITIVE TO THEIR RESPONSIBILITIES IN ACHIEVING COMMUNITY GOALS;

(3) GROWTH AREAS: GROWTH IS CONCENTRATED IN EXISTING POPULATION AND BUSINESS CENTERS, GROWTH AREAS ADJACENT TO THESE CENTERS, OR STRATEGICALLY SELECTED NEW CENTERS;

(4) COMMUNITY DESIGN: COMPACT, MIXED-USE, WALKABLE DESIGN CONSISTENT WITH EXISTING COMMUNITY CHARACTER AND LOCATED NEAR AVAILABLE OR PLANNED TRANSIT OPTIONS IS ENCOURAGED TO ENSURE EFFICIENT USE OF LAND AND TRANSPORTATION RESOURCES AND PRESERVATION AND ENHANCEMENT OF NATURAL SYSTEMS, OPEN SPACES, RECREATIONAL AREAS, AND HISTORICAL, CULTURAL, AND ARCHEOLOGICAL RESOURCES;

(5) INFRASTRUCTURE: GROWTH AREAS HAVE THE WATER RESOURCES AND INFRASTRUCTURE TO ACCOMMODATE POPULATION AND BUSINESS EXPANSION IN AN ORDERLY, EFFICIENT, AND ENVIRONMENTALLY SUSTAINABLE MANNER;

(6) TRANSPORTATION: A WELL-MAINTAINED, MULTIMODAL TRANSPORTATION SYSTEM FACILITATES THE SAFE, CONVENIENT, AFFORDABLE,

AND EFFICIENT MOVEMENT OF PEOPLE, GOODS, AND SERVICES WITHIN AND BETWEEN POPULATION AND BUSINESS CENTERS;

(7) HOUSING: A RANGE OF HOUSING DENSITIES, TYPES, AND SIZES PROVIDES RESIDENTIAL OPTIONS FOR CITIZENS OF ALL AGES AND INCOMES;

(8) ECONOMIC DEVELOPMENT: ECONOMIC DEVELOPMENT AND NATURAL RESOURCE-BASED BUSINESSES THAT PROMOTE EMPLOYMENT OPPORTUNITIES FOR ALL INCOME LEVELS WITHIN THE CAPACITY OF THE STATE'S NATURAL RESOURCES, PUBLIC SERVICES, AND PUBLIC FACILITIES ARE ENCOURAGED;

(9) ENVIRONMENTAL PROTECTION: LAND AND WATER RESOURCES, INCLUDING THE CHESAPEAKE AND COASTAL BAYS, ARE CAREFULLY MANAGED TO RESTORE AND MAINTAIN HEALTHY AIR AND WATER, NATURAL SYSTEMS, AND LIVING RESOURCES;

(10) RESOURCE CONSERVATION: WATERWAYS, FORESTS, AGRICULTURAL AREAS, OPEN SPACE, NATURAL SYSTEMS, AND SCENIC AREAS ARE CONSERVED;

(11) STEWARDSHIP: GOVERNMENT, BUSINESS ENTITIES, AND RESIDENTS ARE RESPONSIBLE FOR THE CREATION OF SUSTAINABLE COMMUNITIES BY COLLABORATING TO BALANCE EFFICIENT GROWTH WITH RESOURCE PROTECTION; AND

(12) IMPLEMENTATION: STRATEGIES, POLICIES, PROGRAMS, AND FUNDING FOR GROWTH AND DEVELOPMENT, RESOURCE CONSERVATION, INFRASTRUCTURE, AND TRANSPORTATION ARE INTEGRATED ACROSS THE LOCAL, REGIONAL, STATE, AND INTERSTATE LEVELS TO ACHIEVE THESE VISIONS.

10.01.

(a) To encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth, a local jurisdiction that exercises authority granted by this article may enact, and is encouraged to enact, ordinances or laws providing for or requiring:

(1) The planning, staging, or provision of adequate public facilities and affordable housing;

(2) Off-site improvements or the dedication of land for public facilities essential for a development;

- (3) Moderately priced dwelling unit programs;
- (4) Mixed use developments;
- (5) Cluster developments;
- (6) Planned unit developments;
- (7) Alternative subdivision requirements that:
 - (i) Meet minimum performance standards set by the local jurisdiction; and
 - (ii) Reduce infrastructure costs;
- (8) Floating zones;
- (9) Incentive zoning; and
- (10) Performance zoning.

(b) Notwithstanding any other provision of law, a local legislative body that exercises authority granted by this article may enact ordinances or laws providing for the transfer, with or without consideration, of real property belonging to the local jurisdiction to a public or private entity, to use in developing or preserving affordable housing.

(c) The authority provided under this section is not intended to limit a local jurisdiction's authority to:

- (1) Exercise any planning and zoning powers not expressly authorized under this section; or
- (2) Adopt other methods to:
 - (i) Facilitate orderly development and growth;
 - (ii) Encourage the preservation of natural resources; or
 - (iii) Provide affordable housing.

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

(II) "PRIORITY FUNDING AREA" HAS THE MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(III) "RESTRICTION" MEANS A RESTRICTION, MORATORIUM, OR CAPACITY LIMITATION IMPOSED ON DEVELOPMENT AS A RESULT OF AN ORDINANCE OR LAW ADOPTED UNDER THIS SECTION.

(2) (I) IF AN ADEQUATE PUBLIC FACILITY ORDINANCE HAS RESULTED IN A RESTRICTION WITHIN A PRIORITY FUNDING AREA, A LOCAL JURISDICTION SHALL REPORT ON THE RESTRICTION ON OR BEFORE JULY 1 EVERY 2 YEARS TO THE DEPARTMENT OF PLANNING.

(II) THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE:

1. THE LOCATION OF THE RESTRICTION;
2. THE TYPE OF INFRASTRUCTURE AFFECTED BY THE RESTRICTION;
3. THE PROPOSED RESOLUTION OF THE RESTRICTION, IF AVAILABLE;

~~3~~ 4. THE ESTIMATED DATE FOR THE RESOLUTION OF THE RESTRICTION, IF AVAILABLE;

~~4~~ 5. IF A RESTRICTION WAS LIFTED, THE DATE THE RESTRICTION WAS LIFTED; AND

~~5~~ 6. THE RESOLUTION THAT LIFTED THE RESTRICTION.

(3) (I) THE DEPARTMENT OF PLANNING SHALL PREPARE AND PUBLISH A REPORT ON THE STATEWIDE IMPACTS OF ADEQUATE PUBLIC FACILITIES ORDINANCES ON OR BEFORE JANUARY 1 EVERY 2 YEARS.

(II) THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE THE IDENTIFICATION OF:

1. GEOGRAPHIC AREAS AND FACILITIES WITHIN PRIORITY FUNDING AREAS THAT FAIL TO MEET LOCAL ADEQUATE PUBLIC FACILITY STANDARDS; AND

2. IMPROVEMENTS TO FACILITIES SCHEDULED OR PROPOSED IN THE LOCAL JURISDICTION'S CAPITAL IMPROVEMENT PROGRAM.

11.01.

(A) A local legislative body that exercises authority granted by this article may establish a program for the transfer of development rights to:

- (1) Encourage the preservation of natural resources; and
- (2) Facilitate orderly growth and development in the State.

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

(II) “~~PRIORITY~~ PRIORITY FUNDING AREA” HAS THE MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(III) “PUBLIC FACILITY” INCLUDES:

1. RECREATIONAL FACILITIES;
2. TRANSPORTATION FACILITIES AND TRANSIT ORIENTED DEVELOPMENT; AND
3. SCHOOLS AND EDUCATIONAL FACILITIES.

(2) A LOCAL LEGISLATIVE BODY THAT EXERCISES AUTHORITY GRANTED BY THIS ARTICLE MAY ESTABLISH A PROGRAM FOR THE TRANSFER OF DEVELOPMENT RIGHTS WITHIN A PRIORITY FUNDING AREA TO ASSIST A LOCAL JURISDICTION IN THE PURCHASE OF LAND FOR ~~A SCHOOL OR THE~~ CONSTRUCTION OF A PUBLIC FACILITY WITHIN A PRIORITY FUNDING AREA.

(3) (I) ~~PROCEEDS~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS SHALL BE USED TO ASSIST ~~A LOCAL JURISDICTION~~ IN:

- (H) 1. THE PURCHASE OF THE ~~PUBLIC SITE LAND ON WHICH THE PUBLIC FACILITY WILL BE LOCATED~~ PUBLIC SITE; OR
- (H) 2. THE CONSTRUCTION OF THE ~~PUBLIC~~ FACILITY.

(II) FOR SCHOOLS AND EDUCATIONAL FACILITIES, PROCEEDS OF THE SALE OF DEVELOPMENT RIGHTS SHALL BE USED TO ASSIST IN THE PURCHASE OF THE LAND ON WHICH THE SCHOOL OR EDUCATIONAL FACILITY WILL BE LOCATED.

(4) ANY DEVELOPMENT RIGHTS SOLD UNDER THE AUTHORITY OF THIS SUBSECTION SHALL ONLY BE TRANSFERRED WITHIN A PRIORITY FUNDING AREA.

(5) DEVELOPMENT RIGHTS ASSOCIATED WITH EXISTING PUBLIC LAND THAT IS OWNED BY A LOCAL JURISDICTION ON OCTOBER 1, 2009, MAY NOT BE SOLD OR TRANSFERRED UNDER THIS SUBSECTION.

SECTION 2. AND IT BE FURTHER ENACTED, That, as required by Article 66B, § 10.01, as enacted by Section 1 of this Act, a local jurisdiction's initial report shall be submitted on or before July 1, 2010, and the Department of Planning's initial report shall be prepared and published on or before January 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 178

(Senate Bill 276)

AN ACT concerning

Smart, Green, and Growing – Annual Report – Smart Growth Goals, Measures, and Indicators and Implementation of Planning Visions

FOR the purpose of ~~requiring making certain provisions concerning a certain annual report applicable to certain local jurisdictions to file an annual report; requiring a certain annual report to be filed on or before a certain date; requiring local jurisdictions a certain annual report to include certain information about smart growth measures and indicators and information about implementation of the certain planning visions in a certain annual report; making certain findings concerning land use goals; providing for a certain statewide land use goal; requiring certain local jurisdictions to develop a certain goal towards achieving a certain statewide land use goal; requiring a certain annual report to include certain measures and indicators; exempting certain municipal corporations from certain requirements to establish a certain local goal and to include certain information in a certain annual report; requiring authorizing the Department of Planning to adopt certain regulations before a certain date on the concerning the submission and transmission of measures and indicators in a certain annual report; requiring a planning commission to hold a hearing on the annual report; requiring the Department to consider certain factors when developing the measures and indicators~~ perform certain duties regarding the collection of

certain measures and indicators by certain persons; requiring the Department, in consultation with the National Center for Smart Growth, to prepare a certain annual report; requiring the Task Force on the Future for Growth and Development to make certain recommendations on or before a certain date; providing for the date of ~~the~~ a certain annual report; requiring the Department to provide technical assistance to local jurisdictions under certain circumstances; requiring the National Center, in consultation with the Department, to display certain information on a certain website; defining certain terms; and generally relating to annual reports and smart growth goals, measures, and indicators.

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 1.02, 2.13, and 3.09
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to
Article 66B – Land Use
Section 3.10
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, Advancement of public policy objectives like Smart and Sustainable Growth are helped by the application and analysis of broadly accepted and reliable information about land use goals, indicators, trends, forecasts, and metrics; and

WHEREAS, Despite its critical importance, limited comprehensive quantitative information exists to measure how Maryland is growing at the State, regional, and, at times, local levels. While some measures and indicators exist statewide, additional ones are needed; and

WHEREAS, BayStat is charged with tracking and assessing the progress of governmental programs to improve the health of the Chesapeake Bay, tracking and assessing the enforcement of laws and regulations to curb the pollution of the Chesapeake Bay, providing a forum for the exchange and continuous analysis of data that will generate new insights for cleaning up the Chesapeake Bay, and identifying and making recommendations for the establishment of measurable goals in the process of Chesapeake Bay restoration; and

WHEREAS, The National Center for Smart Growth Research and Education at the University of Maryland College Park was established to provide leadership and State assistance through research, education, and service on issues pertinent to Smart Growth and is a repository for State, local, and comparative national data on land use

issues and regularly collects data from the State, local governments, and other states, the federal government, and the private sector; and

WHEREAS, Better quantitative information about land use goals, indicators, trends, forecasts, and metrics will assist the State and local governments in their efforts to provide accurate and timely data to the public and policymakers for informational purposes and tracking efforts at BayStat about the efficacy and cost-effectiveness of governmental programs to restore the vitality of the Chesapeake Bay and growth and development patterns; and

WHEREAS, Some indicators or measures are more appropriately collected by the State and some indicators should be collected by local governments; and

WHEREAS, Since 1970, Article 66B, § 3.09 of the Code has required an annual report for all local governments with planning authority except for charter counties; and

WHEREAS, The Task Force on the Future for Growth and Development recommended that the Department of Planning work with local governments and other stakeholders, including the Task Force itself, to jointly develop a set of Smart and Sustainable Growth indicators that can be used at the local, regional, and State levels; now, therefore,

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

Article 66B – Land Use

1.02.

(a) Except as provided in this section, this article does not apply to charter counties.

(b) The following sections of this article apply to a charter county:

(1) § 1.00(j) (Definition of “sensitive areas”);

(2) § 1.01 (Visions);

(3) § 1.03 (Charter county – Comprehensive plans);

(4) **§ 3.09 (ANNUAL REPORT – PREPARATION AND FILING);**

(5) **§ 3.10 (ANNUAL REPORT – ~~MEASURES~~ SMART GROWTH GOALS, MEASURES, AND INDICATORS);**

[(4)] (6) § 4.01(b)(2) (Regulation of bicycle parking);

[(5)] (7) § 5.03(d) (Easements for burial sites);

[(6)] (8) § 7.02 (Civil penalty for zoning violation);

[(7)] (9) § 10.01 (Adequate Public Facilities Ordinances);

[(8)] (10) § 11.01 (Transfer of Development Rights);

[(9)] (11) § 12.01 (Inclusionary Zoning);

[(10)] (12) Except in Montgomery County or Prince George's County, § 13.01 (Development rights and responsibilities agreements);

[(11)] (13) For Baltimore County only, § 14.02; and

[(12)] (14) For Howard County only, § 14.06.1.

(c) This section supersedes any inconsistent provision of Article 28 of the Code.

2.13.

(a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of this article do not apply in Baltimore City.

(b) The following sections of this article apply to Baltimore City:

(1) § 1.00(j) (Definition of "sensitive areas");

(2) § 1.01 (Visions);

(3) § 1.03 (Charter county – Comprehensive plans);

(4) **§ 3.09 (ANNUAL REPORT – PREPARATION AND FILING);**

(5) § 3.10 (ANNUAL REPORT – ~~MEASURES~~ SMART GROWTH GOALS, MEASURES, AND INDICATORS);

[(4)] (6) § 4.01(b)(2) (Regulation of bicycle parking);

[(5)] (7) § 5.03(d) (Easements for burial sites);

[(6)] (8) § 7.02 (Civil penalty for zoning violation);

[(7)] (9) § 10.01 (Adequate Public Facilities Ordinances);

[(8)] (10) § 11.01 (Transfer of Development Rights);

[(9)] (11) § 12.01 (Inclusionary Zoning); and

[(10)] (12) § 13.01 (Development Rights and Responsibilities Agreements).

3.09.

(A) IN THIS SECTION, "PLANNING COMMISSION" INCLUDES A PLANNING COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF THE CODE.

[(a)] (B) A planning commission shall prepare, adopt, and file an annual report, **ON OR BEFORE ~~MARCH~~ JULY 1 OF EACH YEAR FOR THE PREVIOUS CALENDAR YEAR**, with the local legislative body.

[(b)] (C) The annual report shall:

(1) Index and locate on a map all changes in development patterns which occurred during the period covered by the report, including land use, transportation, community facilities patterns, zoning map amendments, and subdivision plats;

(2) State whether these changes are or are not consistent with:

(i) Each other;

(ii) The recommendations of the last annual report;

(iii) The adopted plans of the local jurisdiction;

(iv) The adopted plans of all adjoining local jurisdictions; and

(v) The adopted plans of State and local jurisdictions that have responsibility for financing or constructing public improvements necessary to implement the local jurisdiction's plan; [and]

(3) Contain statements and recommendations for improving the planning and development process within the local jurisdiction; **AND**

(4) STATE WHICH ORDINANCES OR REGULATIONS HAVE BEEN ADOPTED OR CHANGED TO IMPLEMENT THE VISIONS IN § 1.01 OF THIS ARTICLE AS REQUIRED UNDER § 1.03(E) OR § 4.09 OF THIS ARTICLE.

~~(D) (1) THE PLANNING COMMISSION SHALL HOLD A PUBLIC HEARING ON THE ANNUAL REPORT WITHIN 60 DAYS AFTER THE REPORT HAS BEEN SUBMITTED TO THE LOCAL LEGISLATIVE BODY.~~

~~(2) (I) THE PUBLIC HEARING SHALL INCLUDE AN OPPORTUNITY FOR CITIZENS TO COMMENT ON THE REPORT.~~

~~(II) THE PUBLIC HEARING REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE COMBINED WITH A REGULARLY SCHEDULED MEETING OF THE PLANNING COMMISSION.~~

~~(3) THE DEPARTMENT OF PLANNING MAY SUBMIT COMMENTS ON THE REPORT.~~

~~[(e)] (E)~~ The local legislative body shall review the annual report and direct that any appropriate and necessary studies and other actions be undertaken to insure the continuation of a viable planning and development process.

~~[(d)] (F)~~ (E) (1) The annual report shall be made available for public inspection.

(2) A copy of the report shall be mailed to the Secretary of the Department of Planning.

(3) THE DEPARTMENT OF PLANNING MAY SUBMIT COMMENTS ON THE REPORT.

3.10.

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

(2) “NATIONAL CENTER” MEANS THE NATIONAL CENTER FOR SMART GROWTH RESEARCH AND EDUCATION AT THE UNIVERSITY OF MARYLAND COLLEGE PARK.

(3) “~~PRIORITY~~ PRIORITY FUNDING AREA” HAS THE MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) (1) THE GENERAL ASSEMBLY FINDS THAT:

(I) IN ADDITION TO REPORTING ON PAST LAND USE INDICATORS AND MEASURES, LOCAL JURISDICTIONS SHOULD STRIVE TO ACHIEVE FUTURE LAND USE GOALS THAT IMPLEMENT AND ACHIEVE THE VISIONS IN § 1.01 OF THIS ARTICLE;

(II) A STATEWIDE LAND USE GOAL THAT EMBODIES THE VISIONS IN § 1.01 OF THIS ARTICLE AND SMART AND SUSTAINABLE GROWTH SHOULD BE ESTABLISHED;

(III) THE VISIONS IN § 1.01 OF THIS ARTICLE WILL NOT BE REALIZED UNLESS LOCAL JURISDICTIONS SET THEIR OWN GOAL TO MAKE INCREMENTAL PROGRESS TOWARDS ACHIEVING A STATEWIDE LAND USE GOAL; AND

(IV) RESOURCES ARE NECESSARY TO ACHIEVE A STATEWIDE GOAL, INCLUDING FUNDING NECESSARY FOR INFRASTRUCTURE INSIDE THE PRIORITY FUNDING AREAS AND LAND PRESERVATION OUTSIDE THE PRIORITY FUNDING AREAS.

(2) (I) THE STATEWIDE LAND USE GOAL IS TO INCREASE THE CURRENT PERCENTAGE OF GROWTH LOCATED WITHIN THE PRIORITY FUNDING AREAS AND TO DECREASE THE PERCENTAGE OF GROWTH LOCATED OUTSIDE THE PRIORITY FUNDING AREAS.

(II) LOCAL JURISDICTIONS SHALL DEVELOP A PERCENTAGE GOAL TOWARDS ACHIEVING THE STATEWIDE GOAL.

~~(B) (C)~~ (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE ANNUAL REPORT REQUIRED TO BE FILED UNDER § 3.09 OF THIS ARTICLE SHALL INCLUDE INFORMATION ON THE FOLLOWING MEASURES AND INDICATORS, IF APPLICABLE, ADOPTED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.:

(I) THE AMOUNT AND SHARE OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;

(II) THE NET DENSITY OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;

(III) THE CREATION OF NEW LOTS AND THE ISSUANCE OF RESIDENTIAL AND COMMERCIAL BUILDING PERMITS INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;

(IV) THE DEVELOPMENT CAPACITY ANALYSIS, UPDATED ONCE EVERY 3 YEARS OR WHEN THERE IS A SIGNIFICANT CHANGE IN ZONING OR LAND USE PATTERNS;

(V) THE NUMBER OF ACRES PRESERVED USING LOCAL AGRICULTURAL LAND PRESERVATION FUNDING, IF APPLICABLE; AND

(VI) THE FOLLOWING INFORMATION ON ACHIEVING THE STATEWIDE GOAL STATED UNDER SUBSECTION (B)(2) OF THIS SECTION:

1. THE LOCAL GOAL;
2. THE TIMEFRAME FOR ACHIEVING THE LOCAL GOAL;
3. THE RESOURCES NECESSARY FOR INFRASTRUCTURE INSIDE THE PRIORITY FUNDING AREAS AND LAND PRESERVATION OUTSIDE THE PRIORITY FUNDING AREAS; AND
4. ANY INCREMENTAL PROGRESS MADE TOWARDS ACHIEVING THE LOCAL GOAL.

(2) IF ALL LAND WITHIN THE BOUNDARIES OF A MUNICIPAL CORPORATION IS A PRIORITY FUNDING AREA, THE MUNICIPAL CORPORATION IS NOT REQUIRED TO:

(I) ESTABLISH A LOCAL GOAL FOR ACHIEVING THE STATEWIDE GOAL STATED UNDER SUBSECTION (B)(2) OF THIS SECTION; OR

(II) INCLUDE INFORMATION IN THE ANNUAL REPORT ON A LOCAL GOAL AS REQUIRED UNDER PARAGRAPH (1)~~(IX)~~(VI) OF THIS SUBSECTION.

~~(2)~~ (3) (I) A COUNTY OR MUNICIPAL CORPORATION THAT ISSUES FEWER THAN 50 BUILDING PERMITS FOR NEW RESIDENTIAL UNITS PER YEAR IS NOT REQUIRED TO INCLUDE INFORMATION IN THE ANNUAL REPORT ON MEASURES AND INDICATORS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(3)~~ (II) A COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE THE DEPARTMENT OF PLANNING DOCUMENTATION ANNUALLY THAT LESS THAN 50 BUILDING PERMITS FOR NEW RESIDENTIAL UNITS ARE ISSUED.

~~(c)~~ (D) (1) THE IN ACCORDANCE WITH TITLE 2, SUBTITLE 5 AND TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT OF PLANNING ~~SHALL~~ MAY ADOPT REGULATIONS THAT ~~IDENTIFY MEASURES AND INDICATORS THAT A LOCAL JURISDICTION IS REQUIRED TO COLLECT AND INCLUDE~~ DETAIL THE MANNER IN WHICH THE MEASURES AND

INDICATORS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ARE SUBMITTED AND TRANSMITTED IN THE ANNUAL REPORT.

~~(2) WHEN DEVELOPING THE MEASURES AND INDICATORS, THE DEPARTMENT OF PLANNING SHALL:~~

~~(I) TAKE INTO ACCOUNT DIFFERENCES IN LOCAL JURISDICTIONS;~~

~~(II) CONSIDER MEASURES AND INDICATORS THAT CAN BE USED AT THE LOCAL, REGIONAL, AND STATE LEVEL; AND~~

~~(III) CONSIDER WHICH MEASURES OR INDICATORS MAY BE COLLECTED BY THE STATE AND WHICH MEASURES OR INDICATORS MAY BE COLLECTED BY THE LOCAL JURISDICTION; AND~~

~~(IV) CONSIDER THE CAPACITY OF THE LOCAL JURISDICTION TO COLLECT THE MEASURES OR INDICATORS AND THE RELEVANCE OF THE INDICATOR OR MEASURE TO A PARTICULAR JURISDICTION~~ THE DEPARTMENT OF PLANNING SHALL:

(I) DEVELOP MEASURES AND INDICATORS THAT WILL BE COLLECTED BY THE DEPARTMENT; AND

(II) CONSIDER WHICH MEASURES OR INDICATORS CAN BE COLLECTED BY THE NATIONAL CENTER.

~~(D) THE MEASURES AND INDICATORS SHALL BE LIMITED TO THE FOLLOWING CATEGORIES OF INFORMATION:~~

~~(1) THE AMOUNT AND SHARE OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;~~

~~(2) THE DENSITY OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;~~

~~(3) THE CREATION OF NEW LOTS AND THE ISSUANCE OF BUILDING PERMITS INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;~~

~~(4) THE HOUSING CHOICES, INCLUDING AFFORDABILITY;~~

(E) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT OF PLANNING, IN CONSULTATION WITH THE NATIONAL CENTER, SHALL SUBMIT A REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY, IN ACCORDANCE WITH §

2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE MEASURES AND INDICATORS COLLECTED UNDER THIS SECTION.

~~(5) THE IMPACT OF GROWTH ON THE ENVIRONMENT, INCLUDING LAND, AIR, AND WATER;~~

~~(6) AGRICULTURAL PRESERVATION;~~

~~(7) DEVELOPMENT CAPACITY ANALYSIS;~~

~~(8) THE FISCAL COST OF GROWTH;~~

~~(9) THE JOB AND HOUSING BALANCE;~~

~~(10) THE IMPACT OF TRANSPORTATION ON GROWTH;~~

~~(11) THE IMPACT OF GROWTH ON BUSINESS, INCLUDING JOB CREATION, FISCAL IMPACT, AGRIBUSINESS, TOURISM, AND FORESTRY; AND~~

~~(12) THE IMPACT OF GROWTH ON CULTURAL AND HISTORIC RESOURCES.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) After consulting with local governments, the National Center for Smart Growth Research and Education at the University of Maryland College Park, and other stakeholders, the Task Force on the Future for Growth and Development, as established by Chapter 381 of the Acts of the General Assembly of 2006, as amended by Chapter 626 of the Acts of the General Assembly of 2007, shall make recommendations, on or before July 1, 2009, on ~~the identification of~~ additional measures and indicators that the State, the National Center, or a local jurisdiction should be required to collect in the following categories of information:

(1) Housing choices, including affordability;

(2) The impact of growth on the environment, including land, air, and water;

(3) The fiscal cost of growth;

(4) The job and housing balance;

(5) The impact of transportation on growth;

(6) The impact of growth on business, including job creation, fiscal impact, agribusiness, tourism, and forestry; and

(7) The impact of growth on cultural and historic resources.

(b) The Department of Planning shall:

~~(1) adopt regulations as required by Section 1 of this Act on or before July 1, 2010; and~~

~~(2) provide BayStat, the National Center, and other entities with the data provided in the annual reports required by Section 1 of this Act.~~

(c) The Department of Planning shall provide technical assistance to local jurisdictions concerning the collection of measures that a local jurisdiction is required to collect.

(d) The first annual report that includes measures and indicators, as required under Section 1 of this Act shall be filed on or before ~~March~~ July 1, 2011.

(e) The National Center, in consultation with the Department of Planning, shall display the information collected in accordance with this Act on the National Center's Maryland Smart Growth Measures and Indicators website.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 179

(House Bill 295)

AN ACT concerning

Smart, Green, and Growing – Annual Report – Smart Growth Goals, Measures, and Indicators and Implementation of Planning Visions

FOR the purpose of requiring making certain provisions concerning a certain annual report applicable to certain local jurisdictions to file an annual report; requiring a certain annual report to be filed on or before a certain date; requiring local jurisdictions a certain annual report to include certain information about smart growth measures and indicators and information about implementation of the certain planning visions in a certain annual report; making certain findings concerning land use goals; providing for a certain statewide land use goal; requiring certain local jurisdictions to develop a certain goal towards achieving a certain statewide land use goal; providing that a local jurisdiction that meets

~~a certain statewide land use goal shall be given priority in the disbursement of certain State funds under certain circumstances; requiring the Department of the Environment to deny or place conditions on certain permits or approvals under certain circumstances; requiring a certain annual report to include certain measures and indicators; exempting certain municipal corporations from certain requirements to establish a certain local goal and to include certain information in a certain annual report; exempting certain local jurisdictions from certain requirements to include certain information in a certain annual report; requiring authorizing the Department of Planning to adopt certain regulations before a certain date on the concerning the submission and transmission of measures and indicators in a certain annual report; requiring a planning commission to hold a hearing on the annual report; requiring the Department to consider certain factors when developing the measures and indicators perform certain duties regarding the collection of certain measures and indicators by certain persons; requiring the Department, in consultation with the National Center for Smart Growth, to prepare a certain annual report; making the issuance of certain permits or approvals subject to certain land use laws; requiring the Governor and each local jurisdiction to establish on or before a certain date procedures for the review of certain State and local public works, transportation, or major capital improvement projects; requiring review procedures for certain State and local public works, transportation, or major capital improvement projects to prioritize funding for the projects in a certain manner; requiring the Task Force on the Future for Growth and Development to make certain recommendations on or before a certain date; providing for the date of the a certain annual report; requiring the Department to provide technical assistance to local jurisdictions under certain circumstances; requiring the National Center, in consultation with the Department, to display certain information on a certain website; defining certain terms; and generally relating to annual reports and smart growth goals, measures, and indicators.~~

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 1.02, 2.13, and 3.09
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to
Article 66B – Land Use
Section 3.10
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, with amendments,
Article – Environment
Section 4-103(a), 4-204(a), and 9-324(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — State Finance and Procurement
Section 5-7A-02(c)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)~~

Preamble

WHEREAS, Advancement of public policy objectives like Smart and Sustainable Growth are helped by the application and analysis of broadly accepted and reliable information about land use goals, indicators, trends, forecasts, and metrics; and

WHEREAS, Despite its critical importance, limited comprehensive quantitative information exists to measure how Maryland is growing at the State, regional, and, at times, local levels. While some measures and indicators exist statewide, additional ones are needed; and

WHEREAS, BayStat is charged with tracking and assessing the progress of governmental programs to improve the health of the Chesapeake Bay, tracking and assessing the enforcement of laws and regulations to curb the pollution of the Chesapeake Bay, providing a forum for the exchange and continuous analysis of data that will generate new insights for cleaning up the Chesapeake Bay, and identifying and making recommendations for the establishment of measurable goals in the process of Chesapeake Bay restoration; and

WHEREAS, The National Center for Smart Growth Research and Education at the University of Maryland College Park was established to provide leadership and State assistance through research, education, and service on issues pertinent to Smart Growth and is a repository for State, local, and comparative national data on land use issues and regularly collects data from the State, local governments, other states, the federal government, and the private sector; and

WHEREAS, Better quantitative information about land use goals, indicators, trends, forecasts, and metrics will assist the State and local governments in their efforts to provide accurate and timely data to the public and policymakers for informational purposes and tracking efforts at BayStat about the efficacy and cost-effectiveness of governmental programs to restore the vitality of the Chesapeake Bay and growth and development patterns; and

WHEREAS, Some indicators or measures are more appropriately collected by the State and some indicators should be collected by local governments; and

WHEREAS, Since 1970, Article 66B, § 3.09 of the Code has required an annual report for all local governments with planning authority except for charter counties; and

WHEREAS, The Task Force on the Future for Growth and Development recommended that the Department of Planning work with local governments and other stakeholders, including the Task Force itself, to jointly develop a set of Smart and Sustainable Growth indicators that can be used at the local, regional, and State levels; now, therefore,

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

Article 66B – Land Use

1.02.

(a) Except as provided in this section, this article does not apply to charter counties.

(b) The following sections of this article apply to a charter county:

(1) § 1.00(j) (Definition of “sensitive areas”);

(2) § 1.01 (Visions);

(3) § 1.03 (Charter county – Comprehensive plans);

(4) § 3.09 (ANNUAL REPORT – PREPARATION AND FILING);

(5) § 3.10 (ANNUAL REPORT – ~~MEASURES~~ SMART GROWTH GOALS GOALS, MEASURES, AND INDICATORS);

[(4)] (6) § 4.01(b)(2) (Regulation of bicycle parking);

[(5)] (7) § 5.03(d) (Easements for burial sites);

[(6)] (8) § 7.02 (Civil penalty for zoning violation);

[(7)] (9) § 10.01 (Adequate Public Facilities Ordinances);

[(8)] (10) § 11.01 (Transfer of Development Rights);

[(9)] (11) § 12.01 (Inclusionary Zoning);

[(10)] (12) Except in Montgomery County or Prince George’s County, § 13.01 (Development rights and responsibilities agreements);

[(11)] (13) For Baltimore County only, § 14.02; and

[(12)] (14) For Howard County only, § 14.06.1.

(c) This section supersedes any inconsistent provision of Article 28 of the Code.

2.13.

(a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of this article do not apply in Baltimore City.

(b) The following sections of this article apply to Baltimore City:

(1) § 1.00(j) (Definition of “sensitive areas”);

(2) § 1.01 (Visions);

(3) § 1.03 (Charter county – Comprehensive plans);

(4) § 3.09 (ANNUAL REPORT – PREPARATION AND FILING);

(5) § 3.10 (ANNUAL REPORT – ~~MEASURES~~ SMART GROWTH GOALS GOALS, MEASURES, AND INDICATORS);

[(4)] (6) § 4.01(b)(2) (Regulation of bicycle parking);

[(5)] (7) § 5.03(d) (Easements for burial sites);

[(6)] (8) § 7.02 (Civil penalty for zoning violation);

[(7)] (9) § 10.01 (Adequate Public Facilities Ordinances);

[(8)] (10) § 11.01 (Transfer of Development Rights);

[(9)] (11) § 12.01 (Inclusionary Zoning); and

[(10)] (12) § 13.01 (Development Rights and Responsibilities Agreements).

3.09.

(A) IN THIS SECTION, “PLANNING COMMISSION” INCLUDES A PLANNING COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF THE CODE.

[(a)] (B) A planning commission shall prepare, adopt, and file an annual report, **ON OR BEFORE ~~MARCH~~ JULY 1 OF EACH YEAR FOR THE PREVIOUS CALENDAR YEAR**, with the local legislative body.

[(b)] (C) The annual report shall:

(1) Index and locate on a map all changes in development patterns which occurred during the period covered by the report, including land use, transportation, community facilities patterns, zoning map amendments, and subdivision plats;

(2) State whether these changes are or are not consistent with:

(i) Each other;

(ii) The recommendations of the last annual report;

(iii) The adopted plans of the local jurisdiction;

(iv) The adopted plans of all adjoining local jurisdictions; and

(v) The adopted plans of State and local jurisdictions that have responsibility for financing or constructing public improvements necessary to implement the local jurisdiction's plan; [and]

(3) Contain statements and recommendations for improving the planning and development process within the local jurisdiction; **AND**

(4) **STATE WHICH ORDINANCES OR REGULATIONS HAVE BEEN ADOPTED OR CHANGED TO IMPLEMENT THE VISIONS IN § 1.01 OF THIS ARTICLE AS REQUIRED UNDER § 1.03(E) OR § 4.09 OF THIS ARTICLE.**

~~(D) (1) THE PLANNING COMMISSION SHALL HOLD A PUBLIC HEARING ON THE ANNUAL REPORT WITHIN 60 DAYS AFTER THE REPORT HAS BEEN SUBMITTED TO THE LOCAL LEGISLATIVE BODY.~~

~~(2) (I) THE PUBLIC HEARING SHALL INCLUDE AN OPPORTUNITY FOR CITIZENS TO COMMENT ON THE REPORT.~~

~~(H) THE PUBLIC HEARING REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE COMBINED WITH A REGULARLY SCHEDULED MEETING OF THE PLANNING COMMISSION.~~

~~(3) THE DEPARTMENT OF PLANNING MAY SUBMIT COMMENTS ON THE REPORT.~~

[(c)] ~~(E)~~ (D) The local legislative body shall review the annual report and direct that any appropriate and necessary studies and other actions be undertaken to insure the continuation of a viable planning and development process.

[(d)] ~~(F)~~ (E) (1) The annual report shall be made available for public inspection.

(2) A copy of the report shall be mailed to the Secretary of the Department of Planning.

(3) THE DEPARTMENT OF PLANNING MAY SUBMIT COMMENTS ON THE REPORT.

3.10.

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

(2) "INCREMENTAL PROGRESS" MEANS AN INCREASE IN THE PERCENTAGE OF RESIDENTIAL GROWTH LOCATED WITHIN A PRIORITY FUNDING AREA AND A DECREASE IN THE PERCENTAGE OF NEW DEVELOPED ACRES LOCATED IN PRIORITY PRESERVATION AREAS AND GREEN INFRASTRUCTURE AREAS.

(3) "NATIONAL CENTER" MEANS THE NATIONAL CENTER FOR SMART GROWTH RESEARCH AND EDUCATION AT THE UNIVERSITY OF MARYLAND COLLEGE PARK.

~~(4)~~ (3) "PRIORITY PRIORITY FUNDING AREA" HAS THE MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) (1) THE GENERAL ASSEMBLY FINDS THAT:

(I) IN ADDITION TO REPORTING ON PAST LAND USE INDICATORS AND MEASURES, LOCAL JURISDICTIONS SHOULD STRIVE TO ACHIEVE FUTURE LAND USE GOALS THAT IMPLEMENT AND ACHIEVE THE VISIONS IN § 1.01 OF THIS ARTICLE;

(II) A STATEWIDE LAND USE GOAL THAT EMBODIES THE VISIONS IN § 1.01 OF THIS ARTICLE AND SMART AND SUSTAINABLE GROWTH SHOULD BE ESTABLISHED;

(III) THE VISIONS IN § 1.01 OF THIS ARTICLE WILL NOT BE REALIZED UNLESS LOCAL JURISDICTIONS SET THEIR OWN GOAL TO MAKE INCREMENTAL PROGRESS TOWARDS ACHIEVING A STATEWIDE LAND USE GOAL; AND

(IV) RESOURCES ARE NECESSARY TO ACHIEVE A STATEWIDE GOAL, INCLUDING FUNDING NECESSARY FOR INFRASTRUCTURE INSIDE THE PRIORITY FUNDING AREAS AND LAND PRESERVATION OUTSIDE THE PRIORITY FUNDING AREAS.

(2) THE STATEWIDE LAND USE GOAL IS THAT:

(I) 80% OF RESIDENTIAL GROWTH BE LOCATED WITHIN PRIORITY FUNDING AREAS; AND

(II) NOT MORE THAN 5% OF NEW DEVELOPED ACRES ARE LOCATED IN PRIORITY PRESERVATION AREAS AND GREEN INFRASTRUCTURE AREAS

(I) THE STATEWIDE LAND USE GOAL IS TO INCREASE THE CURRENT PERCENTAGE OF GROWTH LOCATED WITHIN THE PRIORITY FUNDING AREAS AND TO DECREASE THE PERCENTAGE OF GROWTH LOCATED OUTSIDE THE PRIORITY FUNDING AREAS.

(II) LOCAL JURISDICTIONS SHALL DEVELOP A PERCENTAGE GOAL TOWARDS ACHIEVING THE STATEWIDE GOAL.

(3) EXCEPT AS PROVIDED UNDER PARAGRAPH (7) OF THIS SUBSECTION, LOCAL JURISDICTIONS THAT DO NOT MEET THE STATEWIDE LAND USE GOAL IN PARAGRAPH (2) OF THIS SUBSECTION SHALL DEVELOP A PERCENTAGE GOAL FOR INCREMENTAL PROGRESS TOWARDS ACHIEVING THE STATEWIDE LAND USE GOAL BY 2012 AND EVERY 3 YEARS THEREAFTER.

(4) EXCEPT AS PROVIDED UNDER PARAGRAPHS (7) AND (8) OF THIS SUBSECTION, A LOCAL JURISDICTION THAT MEETS THE STATEWIDE LAND USE GOAL OR MAKES INCREMENTAL PROGRESS TOWARD THE STATEWIDE LAND USE GOAL AT THE RATE OF AT LEAST 5% EVERY 3 YEARS SHALL BE GIVEN PRIORITY IN THE DISBURSEMENT OF THE STATE FUNDS THAT ARE PROVIDED FOR GROWTH RELATED PROJECTS, AS DEFINED IN § 5-7B-01(C) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(5) EXCEPT AS PROVIDED UNDER PARAGRAPHS (7) AND (8) OF THIS SUBSECTION AND SUBJECT TO PARAGRAPH (6) OF THIS SUBSECTION, IF A LOCAL JURISDICTION FAILS TO DEMONSTRATE INCREMENTAL PROGRESS

~~TOWARD THE STATEWIDE LAND USE GOAL, THE DEPARTMENT OF THE ENVIRONMENT SHALL DENY OR PLACE CONDITIONS ON THE FOLLOWING PERMITS OR APPROVALS FOR PROPOSED PROJECTS OUTSIDE PRIORITY FUNDING AREAS:~~

~~(I) A GRADING PERMIT FOR DEVELOPMENT DISTURBING 40,000 SQUARE FEET OR MORE, AUTHORIZED UNDER § 4-103 OF THE ENVIRONMENT ARTICLE;~~

~~(II) APPROVAL OF A STORMWATER MANAGEMENT PLAN FOR DEVELOPMENT DISTURBING 40,000 SQUARE FEET OR MORE, AUTHORIZED UNDER § 4-204 OF THE ENVIRONMENT ARTICLE;~~

~~(III) A GENERAL DISCHARGE PERMIT FOR STORMWATER RELATED TO CONSTRUCTION ACTIVITIES DISTURBING ONE OR MORE ACRES OF LAND, AUTHORIZED UNDER § 9-324 OF THE ENVIRONMENT ARTICLE;~~

~~(IV) AN INDIVIDUAL DISCHARGE PERMIT FOR STORMWATER RELATED TO CONSTRUCTION ACTIVITIES DISTURBING ONE OR MORE ACRES OF LAND, AUTHORIZED UNDER § 9-324 OF THE ENVIRONMENT ARTICLE; AND~~

~~(V) APPROVAL OF AN AMENDMENT TO A COUNTY WATER AND SEWERAGE PLAN THAT WOULD FACILITATE THE EXPANSION OF PUBLIC OR COMMUNITY WATER OR SEWER SERVICE.~~

~~(6) A CONDITION PLACED ON A PERMIT OR APPROVAL LISTED IN PARAGRAPH (5) OF THIS SUBSECTION SHALL BE DESIGNED IN CONSULTATION WITH THE DEPARTMENT OF PLANNING TO ENSURE THAT THE ACTIVITY FOR WHICH THE PERMIT OR APPROVAL IS SOUGHT IS NOT INCOMPATIBLE WITH SATISFYING THE LOCAL GOAL DEVELOPED UNDER PARAGRAPH (3) OF THIS SUBSECTION.~~

~~(7) PARAGRAPHS (3), (4), AND (5) OF THIS SUBSECTION DO NOT APPLY;~~

~~(I) TO A LOCAL JURISDICTION THAT ISSUES FEWER THAN 50 BUILDING PERMITS FOR NEW RESIDENTIAL UNITS PER YEAR; OR~~

~~(II) TO A MUNICIPAL CORPORATION IF ALL LAND WITHIN THE BOUNDARIES OF THE MUNICIPAL CORPORATION IS WITHIN A PRIORITY FUNDING AREA.~~

~~(8) PARAGRAPHS (4) AND (5) OF THIS SUBSECTION DO NOT APPLY;~~

~~(I) BEFORE OCTOBER 1, 2012; OR~~

~~(H) IN THE EVENT OF AN URGENT THREAT TO PUBLIC HEALTH OR SAFETY;~~

~~(9) PARAGRAPHS (4) AND (5) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO AFFECT A DEVELOPMENT PROJECT, INCLUDING THE PLANS FOR THE PROJECT AND ANY SUBSEQUENT PERMITS RELATED TO THOSE PLANS, IF THE PROJECT IS GRANTED FINAL PLAN APPROVAL ON OR AFTER THE DATE ON WHICH THE MOST RECENT ANNUAL REPORT IS FILED BY A LOCAL JURISDICTION DEMONSTRATING INCREMENTAL PROGRESS TOWARD THE STATEWIDE LAND USE GOAL UNDER PARAGRAPH (2) OF THIS SUBSECTION.~~

~~(B) (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) PARAGRAPHS (2), (3), AND (4) (2) AND (3) OF THIS SUBSECTION, THE ANNUAL REPORT REQUIRED TO BE FILED UNDER § 3.09 OF THIS ARTICLE SHALL INCLUDE INFORMATION ON THE FOLLOWING MEASURES AND INDICATORS; IF APPLICABLE, ADOPTED IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION:~~

~~(I) THE AMOUNT AND SHARE OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;~~

~~(II) THE NET DENSITY OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;~~

~~(III) THE CREATION OF NEW LOTS AND THE ISSUANCE OF RESIDENTIAL AND COMMERCIAL BUILDING PERMITS INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;~~

~~(IV) THE DEVELOPMENT CAPACITY ANALYSIS, UPDATED ONCE EVERY 3 YEARS OR WHEN THERE IS A SIGNIFICANT CHANGE IN ZONING OR LAND USE PATTERNS;~~

~~(V) THE NUMBER OF ACRES PRESERVED USING LOCAL AGRICULTURAL LAND PRESERVATION FUNDING, IF APPLICABLE; AND~~

~~(VI) THE DECREASE IN VEHICLE MILES TRAVELED PER CAPITA;~~

~~(VII) THE INCREASE IN THE PERCENTAGE OF NEW HOUSING UNITS AFFORDABLE TO HOUSEHOLDS EARNING 80% OR LESS OF AREA MEDIAN INCOME AND HOUSEHOLDS EARNING 50% OR LESS OF AREA MEDIAN INCOME;~~

~~(VIII) THE PRACTICES FOR ENSURING THAT WASTEWATER AND STORMWATER DISCHARGES FROM NEW DEVELOPMENT DO NOT EXCEED THE ASSIMILATIVE CAPACITY OF LOCAL WATER BODIES; AND~~

~~(IX) THE FOLLOWING INFORMATION ON ACHIEVING THE STATEWIDE GOAL STATED UNDER SUBSECTION (B)(2) OF THIS SECTION:~~

1. THE LOCAL GOAL;
2. THE TIME FRAME FOR ACHIEVING THE LOCAL GOAL;
3. THE RESOURCES NECESSARY FOR INFRASTRUCTURE INSIDE THE PRIORITY FUNDING AREAS AND LAND PRESERVATION OUTSIDE THE PRIORITY FUNDING AREAS; AND
4. ANY INCREMENTAL PROGRESS MADE TOWARDS ACHIEVING THE LOCAL GOAL.

(2) IF ALL LAND WITHIN THE BOUNDARIES OF A MUNICIPAL CORPORATION IS A PRIORITY FUNDING AREA, THE MUNICIPAL CORPORATION IS NOT REQUIRED TO:

(I) ESTABLISH A LOCAL GOAL FOR ACHIEVING THE STATEWIDE GOAL STATED UNDER SUBSECTION (B)(2) OF THIS SECTION; OR

(II) INCLUDE INFORMATION IN THE ANNUAL REPORT ON A LOCAL GOAL AS REQUIRED UNDER PARAGRAPH(1)~~(IX)~~ (VI) OF THIS SUBSECTION.

~~(3) A MUNICIPAL CORPORATION IS NOT REQUIRED TO INCLUDE INFORMATION IN THE ANNUAL REPORT AS REQUIRED UNDER PARAGRAPH (1)(VI) OF THIS SUBSECTION.~~

~~(2)(4)~~ (I) A COUNTY OR MUNICIPAL CORPORATION THAT ISSUES FEWER THAN 50 BUILDING PERMITS FOR NEW RESIDENTIAL UNITS PER YEAR IS NOT REQUIRED TO INCLUDE INFORMATION IN THE ANNUAL REPORT ON MEASURES AND INDICATORS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(3)~~ (II) A COUNTY OR MUNICIPAL CORPORATION SHALL PROVIDE THE DEPARTMENT OF PLANNING DOCUMENTATION ANNUALLY THAT LESS THAN 50 BUILDING PERMITS FOR NEW RESIDENTIAL UNITS ARE ISSUED.

~~(C)~~ (D) (1) THE IN ACCORDANCE WITH TITLE 2, SUBTITLE 5 AND TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT OF PLANNING SHALL MAY ADOPT REGULATIONS THAT IDENTIFY MEASURES AND INDICATORS THAT A LOCAL JURISDICTION IS REQUIRED TO COLLECT AND INCLUDE DETAIL THE MANNER IN WHICH THE MEASURES AND INDICATORS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION ARE SUBMITTED AND TRANSMITTED IN THE ANNUAL REPORT.

~~(2)~~ WHEN DEVELOPING THE MEASURES AND INDICATORS, THE DEPARTMENT OF PLANNING SHALL:

~~(I)~~ TAKE INTO ACCOUNT DIFFERENCES IN LOCAL JURISDICTIONS;

~~(II)~~ CONSIDER MEASURES AND INDICATORS THAT CAN BE USED AT THE LOCAL, REGIONAL, AND STATE LEVEL; AND

~~(III)~~ CONSIDER WHICH MEASURES OR INDICATORS MAY BE COLLECTED BY THE STATE AND WHICH MEASURES OR INDICATORS MAY BE COLLECTED BY THE LOCAL JURISDICTION; AND

~~(IV)~~ CONSIDER THE CAPACITY OF THE LOCAL JURISDICTION TO COLLECT THE MEASURES OR INDICATORS AND THE RELEVANCE OF THE INDICATOR OR MEASURE TO A PARTICULAR JURISDICTION.

(2) THE DEPARTMENT OF PLANNING SHALL:

(I) DEVELOP MEASURES AND INDICATORS THAT WILL BE COLLECTED BY THE DEPARTMENT; AND

(II) CONSIDER WHICH MEASURES OR INDICATORS CAN BE COLLECTED BY THE NATIONAL CENTER.

~~(D)~~ THE MEASURES AND INDICATORS SHALL BE LIMITED TO THE FOLLOWING CATEGORIES OF INFORMATION:

~~(1)~~ THE AMOUNT AND SHARE OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;

~~(2)~~ THE DENSITY OF GROWTH THAT IS BEING LOCATED INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;

- ~~(3) THE CREATION OF NEW LOTS AND THE ISSUANCE OF BUILDING PERMITS INSIDE AND OUTSIDE THE PRIORITY FUNDING AREAS;~~
- ~~(4) THE HOUSING CHOICES, INCLUDING AFFORDABILITY;~~
- ~~(5) THE IMPACT OF GROWTH ON THE ENVIRONMENT, INCLUDING LAND, AIR, AND WATER;~~
- ~~(6) AGRICULTURAL PRESERVATION;~~
- ~~(7) DEVELOPMENT CAPACITY ANALYSIS;~~
- ~~(8) THE FISCAL COST OF GROWTH;~~
- ~~(9) THE JOB AND HOUSING BALANCE;~~
- ~~(10) THE IMPACT OF TRANSPORTATION ON GROWTH;~~
- ~~(11) THE IMPACT OF GROWTH ON BUSINESS, INCLUDING JOB CREATION, FISCAL IMPACT, AGRIBUSINESS, TOURISM, AND FORESTRY; AND~~
- ~~(12) THE IMPACT OF GROWTH ON CULTURAL AND HISTORIC RESOURCES.~~

(E) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT OF PLANNING, IN CONSULTATION WITH THE NATIONAL CENTER, SHALL SUBMIT A REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE MEASURES AND INDICATORS COLLECTED UNDER THIS SECTION.

~~Article Environment~~

~~4-103.~~

- ~~(a) (1) A county or municipality may issue grading and building permits as provided by law.~~
- ~~(2) A grading or building permit may not be issued until the developer:~~
- ~~(i) Submits a grading and sediment control plan approved by:~~
- ~~1. The appropriate soil conservation district; or~~
 - ~~2. A municipal corporation in Montgomery County that is designated under paragraph (4) of this subsection; and~~

~~(ii) Certifies that all land clearing, construction, and development will be done under the plan.~~

~~(3) Criteria for sediment control and the procedure for referring an applicant to the appropriate soil conservation district shall be acceptable to the soil conservation district and the Department of the Environment.~~

~~(4) A soil conservation district may delegate approval authority of a grading and sediment control plan to a municipal corporation in Montgomery County that:~~

~~(i) Has its own sediment control review provisions that are at least as stringent as the provisions of the grading and sediment control plan of the soil conservation district;~~

~~(ii) Issues sediment control permits; and~~

~~(iii) Meets the necessary performance standards established by written agreement between the district and the municipal corporation.~~

~~(5) A GRADING OR BUILDING PERMIT FOR A DISTURBANCE OF 40,000 SQUARE FEET OR MORE MAY NOT BE ISSUED IF PROHIBITED UNDER ARTICLE 66B, § 3.10 OF THE CODE.~~

~~4-204.~~

~~(a) (1) [After July 1, 1984, unless] UNLESS exempted, a person may not develop any land for residential, commercial, industrial, or institutional use without submitting a stormwater management plan to the county or municipality that has jurisdiction, and obtaining approval of the plan from the county or municipality.~~

~~(2) A grading or building permit may not be issued for a property unless:~~

~~(I) [a] A stormwater management plan has been approved that is consistent with this subtitle; AND~~

~~(II) ISSUANCE IS NOT PROHIBITED UNDER ARTICLE 66B, § 3.10 OF THE CODE.~~

~~9-324.~~

~~(a) (1) [Subject] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT to the provisions of this section, the Department may issue a discharge permit if the Department finds that the discharge meets:~~

~~[(1)] (I) All applicable State and federal water quality standards and effluent limitations; and~~

~~[(2)] (II) All other requirements of this subtitle.~~

~~(2) THE DEPARTMENT MAY NOT ISSUE A PERMIT UNDER THIS SECTION IF PROHIBITED UNDER ARTICLE 66B, § 3.10 OF THE CODE.~~

~~Article — State Finance and Procurement~~

~~5-7A-02.~~

~~(e) By December 1, [1992] 2009, the Governor shall establish procedures for review of State projects under subsection (a) of this section, and each local jurisdiction shall establish procedures for the review of local projects under subsection (b) of this section, to:~~

~~(1) ensure that the projects are consistent with their respective policy and plans; [AND]~~

~~(2) PRIORITIZE FUNDING FOR PROJECTS BASED ON THE DEGREE OF INCREMENTAL PROGRESS MADE TOWARD SATISFACTION OF THE STATEWIDE LAND USE GOAL SET FORTH IN ARTICLE 66B, § 3.10 OF THE CODE; AND~~

~~(3) evaluate extraordinary circumstances under subsections (a)(2) and (b)(2) of this section, respectively.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) After consulting with local governments, the National Center for Smart Growth Research and Education at the University of Maryland College Park, and other stakeholders, the Task Force on the Future for Growth and Development, as established by Chapter 381 of the Acts of the General Assembly of 2006, as amended by Chapter 626 of the Acts of the General Assembly of 2007, shall make recommendations, on or before July 1, 2009, on ~~the identification of~~ additional measures and indicators that the State, the National Center, or a local jurisdiction should be required to collect in the following categories of information:

(1) Housing choices, including affordability;

(2) The impact of growth on the environment, including land, air, and water;

(3) The fiscal cost of growth;

- (4) The job and housing balance;
- (5) The impact of transportation on growth;
- (6) The impact of growth on business, including job creation, fiscal impact, agribusiness, tourism, and forestry; and
- (7) The impact of growth on cultural and historic resources.
- (b) The Department of Planning shall:
- (1) ~~adopt regulations as required by Section 1 of this Act on or before July 1, 2010; and~~
- (2) provide BayStat, the National Center, and other entities with the data provided in the annual reports required by Section 1 of this Act.
- (c) The Department of Planning shall provide technical assistance to local jurisdictions concerning the collection of measures that a local jurisdiction is required to collect.
- (d) The first annual report that includes measures and indicators, as required under Section 1 of this Act, shall be filed on or before March July 1, 2011.
- (e) The National Center, in consultation with the Department of Planning, shall display the information collected in accordance with this Act on the National Center's Maryland Smart Growth Measures and Indicators website.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 180

(Senate Bill 280)

AN ACT concerning

Smart, Green, and Growing – Smart and Sustainable Growth Act of 2009

FOR the purpose of defining a certain term applicable to the adoption of certain ordinances or regulations by a local jurisdiction and the exercise by a local jurisdiction certain governmental entities of certain land use ordinances and regulations, water and sewer plan review, growth allocation, and annexation

powers to ~~require~~ clarify consistency with a local comprehensive plan is required under certain circumstances; altering the applicability of certain land use provisions to certain local jurisdictions; requiring a local jurisdiction to enact a certain land use plan; requiring a member of a local planning commission to complete a certain education course; requiring a member of a board of appeals to complete a certain education course; declaring the intent of the General Assembly; requiring a member of a local planning commission and a member of a board of appeals to complete a certain education course by a certain date; requiring the Task Force on the Future for Growth and Development to make certain recommendations; requiring the Department of Planning to develop a certain education course by a certain date; providing for the application of this Act; stating the General Assembly's intent to overturn the ruling in a certain court case; defining certain terms; and generally relating to land use.

BY renumbering

Article 66B – Land Use
Section 1.03(a) through (f)
to be Section 1.04(b) through (g)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article 66B – Land Use
Section 1.04(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, without amendments,

Article 66B – Land Use
Section 1.00(a), 1.01, and 4.09
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article 66B – Land Use
Section 1.00(h) and (k), 1.02, 2.13, 3.01, 3.02, and 4.07
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article 66B – Land Use
Section 1.02
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, ~~without~~ with amendments,
Article 66B – Land Use
Section ~~1.04(e)~~ 1.04(d), (e), and (f)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1808.1(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)
(As ~~enacting~~ enacted by Chapter 119 of the Acts of the General Assembly of
2008)

Preamble

WHEREAS, Land use planning in the State of Maryland has revolved around comprehensive plans enacted by local governments, following the eight visions established in the Economic Growth, Resource Protection, and Planning Act of 1992; and

WHEREAS, The decision of the Maryland Court of Appeals in David Trail, et al. v. Terrapin Run, LLC et al., 403 Md. 523 (2008) held that a special exception could be granted even if it did not strictly conform to the comprehensive plan; and

WHEREAS, While the holding of the Terrapin Run decision could be narrow and confined to the granting of special exceptions, the General Assembly is concerned that a broader interpretation of the decision could undermine the importance of making land use decisions that are consistent with the comprehensive plan; and

WHEREAS, Article 66B, § 4.09 of the Annotated Code of Maryland requires a local jurisdiction to implement the provisions of its local comprehensive plan through “the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations that are consistent with the plan;” and

WHEREAS, Citizens invest countless hours in determining the future direction of their jurisdiction through local comprehensive plans; and

WHEREAS, The people of Maryland are best served if land use decisions are consistent with locally adopted comprehensive plans; and

WHEREAS, It is the intent of the General Assembly to encourage the development of ordinances and regulations that apply to locally designated priority funding areas and allow for mixed uses and bonus densities beyond those specified in

the local comprehensive plan by excluding land uses and densities or intensities in the definition of "consistency" for priority funding areas; and

WHEREAS, It is the intent of the General Assembly, as evidenced in Article 66B, §§ 1.03(e) and 4.09, that comprehensive plans should be followed as closely as possible while not being elevated to the status of an ordinance and that deviations from the plan should be rare; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1.03(a) through (f) of Article 66B – Land Use of the Annotated Code of Maryland be renumbered to be Section(s) 1.04(b) through (g).

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

Article 66B – Land Use

1.00.

(a) In this article the following words have the meanings indicated, except where the context clearly indicates otherwise.

(h) (1) "Plan" means the policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the area's future development.

(2) "Plan" includes a general plan, master plan, comprehensive plan, or community plan adopted in accordance with §§ ~~1.03~~ **1.04** AND 3.01 through 3.09 of this article.

(k) "Special exception" means a grant of a specific use that would not be appropriate generally or without restriction and shall be based upon a finding that certain conditions governing special exceptions as detailed in the zoning ordinance exist, that the use [conforms to] **IS CONSISTENT WITH** the plan and is compatible with the existing neighborhood.

1.01.

In addition to the requirements of § 3.05(c) of this article, a commission shall implement the following visions through the plan described in § 3.05 of this article:

- (1) Development is concentrated in suitable areas.
- (2) Sensitive areas are protected.

(3) In rural areas, growth is directed to existing population centers and resource areas are protected.

(4) Stewardship of the Chesapeake Bay and the land is a universal ethic.

(5) Conservation of resources, including a reduction in resource consumption, is practiced.

(6) To assure the achievement of items (1) through (5) of this section, economic growth is encouraged and regulatory mechanisms are streamlined.

(7) Adequate public facilities and infrastructure under the control of the county or municipal corporation are available or planned in areas where growth is to occur.

(8) Funding mechanisms are addressed to achieve these visions.

1.02.

~~WHEN A PROVISION IN A STATUTE LISTED IN ITEMS (1) THROUGH (4) OF THIS SECTION REQUIRES THAT AN ACTION OF A LOCAL GOVERNMENT BE "CONSISTENT WITH" OR HAVE "CONSISTENCY WITH" A COMPREHENSIVE PLAN, THE TERM SHALL BE DEFINED TO MEAN AN ACTION TAKEN THAT WILL FURTHER, AND NOT BE CONTRARY TO, THE POLICIES, TIMING, DEVELOPMENT PATTERNS, LAND USES, AND DENSITIES OR INTENSITIES IN THE PLAN;~~

~~(1) §§ 1.00(K), 1.04(E), AND 4.09 OF THIS ARTICLE;~~

~~(2) §§ 9-505(A)(1), 9-506(A)(1), AND 9-507(B)(2) OF THE ENVIRONMENT ARTICLE (WATER AND SEWER PLAN REVIEW);~~

~~(3) § 8-1808.1(C)(2)(I) OF THE NATURAL RESOURCES ARTICLE (CRITICAL AREA COMMISSION REVIEW OF GROWTH ALLOCATION); AND~~

~~(4) ARTICLE 23A, § 19(O)(3)(III) (ANNEXATION PLAN) OF THE CODE.~~

(A) IN THIS SECTION, "ACTION" MEANS:

(1) THE ADOPTION OF AN ORDINANCE OR REGULATION UNDER:

(I) § 1.00(K) OF THIS ARTICLE;

(II) § 1.04(F) OF THIS ARTICLE; OR

(III) § 4.09 OF THIS ARTICLE;

(2) A REQUIREMENT UNDER § 9-505(A)(1) OF THE ENVIRONMENT ARTICLE AND § 19(O)(3)(III) OF ARTICLE 23A OF THE CODE; AND

(3) A REQUIRED FINDING UNDER §§ 9-506(A)(1) AND 9-507(B)(2) OF THE ENVIRONMENT ARTICLE.

(B) THIS SECTION APPLIES TO THE FOLLOWING:

(1) §§ 1.00(K), 1.04(F), AND 4.09 OF THIS ARTICLE;

(2) §§ 9-505(A)(1), 9-506(A)(1), AND 9-507(B)(2) OF THE ENVIRONMENT ARTICLE (WATER AND SEWER PLAN REVIEW); AND

(3) § 19(O)(3)(III) OF ARTICLE 23A OF THE CODE (ANNEXATION PLAN).

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, WHEN A PROVISION IN A STATUTE LISTED UNDER SUBSECTION (B) OF THIS SECTION REQUIRES THAT AN ACTION BE “CONSISTENT WITH” OR HAVE “CONSISTENCY WITH” A COMPREHENSIVE PLAN, THE TERM SHALL BE DEFINED TO MEAN AN ACTION TAKEN THAT WILL FURTHER, AND NOT BE CONTRARY TO, THE FOLLOWING ITEMS IN THE PLAN:

(1) POLICIES;

(2) TIMING OF THE IMPLEMENTATION OF THE PLAN;

(3) TIMING OF DEVELOPMENT;

(4) TIMING OF REZONING;

(5) DEVELOPMENT PATTERNS;

(6) LAND USES; AND

(7) DENSITIES OR INTENSITIES.

(D) (1) IN THIS SUBSECTION, “PRIORITY FUNDING AREA” HAS THE MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THIS SUBSECTION APPLIES TO AN ACTION UNDER SUBSECTION (A)(1)(II) AND (III) OF THIS SECTION.

(3) WITHIN A PRIORITY FUNDING AREA, WHEN THE PROVISIONS IN SUBSECTION (A)(1)(II) AND (III) OF THIS SECTION REQUIRE THAT AN ACTION BE “CONSISTENT WITH” OR HAVE “CONSISTENCY WITH” A COMPREHENSIVE PLAN, THE TERM SHALL BE DEFINED TO MEAN AN ACTION TAKEN THAT WILL FURTHER, AND NOT BE CONTRARY TO, THE FOLLOWING ITEMS IN THE PLAN:

- (I) POLICIES;**
- (II) TIMING OF THE IMPLEMENTATION OF THE PLAN;**
- (III) TIMING OF DEVELOPMENT;**
- (IV) TIMING OF REZONING; AND**
- (V) DEVELOPMENT PATTERNS.**

[1.02.] 1.03.

(a) Except as provided in this section, this article does not apply to charter counties.

(b) The following sections of this article apply to a charter county:

(1) § 1.00(j) (Definition of “sensitive areas”);

(2) § 1.01 (Visions);

(3) § 1.02 (CONSISTENCY WITH PLANS);

~~[(3)]~~ (4) § 1.03 (Charter county – Comprehensive plans);

(5) § 3.02(H) (PLANNING COMMISSION – EDUCATION);

~~[(4)]~~ (6) § 4.01(b)(2) (Regulation of bicycle parking);

(7) § ~~4.07(A)(10)~~ 4.07(I) (BOARD OF APPEALS – EDUCATION);

~~[(5)]~~ (8) § 5.03(d) (Easements for burial sites);

~~[(6)]~~ (9) § 7.02 (Civil penalty for zoning violation);

~~[(7)]~~ (10) § 10.01 (Adequate Public Facilities Ordinances);

~~[(8)]~~ **(11)** § 11.01 (Transfer of Development Rights);

~~[(9)]~~ **(12)** § 12.01 (Inclusionary Zoning);

~~[(10)]~~ **(13)** Except in Montgomery County or Prince George's County, § 13.01 (Development rights and responsibilities agreements);

~~[(11)]~~ **(14)** For Baltimore County only, § 14.02; and

~~[(12)]~~ **(15)** For Howard County only, § 14.06.1.

(c) This section supersedes any inconsistent provision of Article 28 of the Code.

1.04.

(A) A CHARTER COUNTY SHALL ENACT, ADOPT, AMEND, AND EXECUTE A PLAN AS PROVIDED IN THIS SECTION.

(d) (1) A planning commission shall include in its comprehensive plan:

(i) All elements required in subsection ~~[(a)]~~**(B)** of this section and the visions set forth in § 1.01 of this article; and

(ii) If the chosen under subsection ~~[(b)]~~**(C)** of this section, its priority preservation area element.

(2) At least once every 6 years, the planning commission shall review and if necessary, revise or amend a comprehensive plan to include:

(i) All elements required in subsection ~~[(a)]~~**(B)** of this section and the visions set forth in § 1.01 of this article; and

(ii) If chosen under subsection ~~[(b)]~~**(C)** of this section, its priority preservation area element.

(3) If the comprehensive plan for each geographic section or division is reviewed and, if necessary, revised or amended at least once every 6 years, the planning commission may prepare comprehensive plans for one or more major geographic sections or divisions of the local jurisdiction.

(e) (1) A planning commission shall implement the visions set forth in § 1.01 of this article through the comprehensive plan elements required under subsection ~~[(a)]~~**(B)** of this section.

(2) A local legislative body that has adopted a comprehensive plan may adopt regulations implementing the visions stated in § 1.01 of this article in a comprehensive plan.

~~(e)~~ (f) On or before July 1, 1997, and subsequently at intervals of not more than 6 years which correspond to the comprehensive plan revision under subsection ~~(e)~~ **(D)** of this section, a charter county shall ensure that the implementation of the provisions of the comprehensive plan that comply with § 1.01 of this article and subsection ~~(e)(1)(iii)~~ **(B)(1)(III)** and (iv) of this section are achieved through the adoption of:

- (1) Applicable zoning ordinances and regulations;
- (2) Planned development ordinances and regulations;
- (3) Subdivision ordinances and regulations; and
- (4) Other land use ordinances and regulations that are consistent with the comprehensive plan.

2.13.

(a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of this article do not apply in Baltimore City.

(b) The following sections of this article apply to Baltimore City:

- (1) § 1.00(j) (Definition of “sensitive areas”);
- (2) § 1.01 (Visions);
- (3) § 1.02 (CONSISTENCY WITH PLANS);**
- ~~[(3)]~~ **(4) § 1.03 (Charter county – Comprehensive plans);**
- (5) § 3.02(H) (PLANNING COMMISSION – EDUCATION);**
- ~~[(4)]~~ **(6) § 4.01(b)(2) (Regulation of bicycle parking);**
- (7) § ~~4.07(A)(10)~~ 4.07(I) (BOARD OF APPEALS – EDUCATION);**
- ~~[(5)]~~ **(8) § 5.03(d) (Easements for burial sites);**
- ~~[(6)]~~ **(9) § 7.02 (Civil penalty for zoning violation);**
- ~~[(7)]~~ **(10) § 10.01 (Adequate Public Facilities Ordinances);**

[(8)] (11) § 11.01 (Transfer of Development Rights);

[(9)] (12) § 12.01 (Inclusionary Zoning); and

[(10)] (13) § 13.01 (Development Rights and Responsibilities Agreements).

3.01.

(a) A local jurisdiction [may] **SHALL** enact, adopt, amend, and execute a plan as provided in this article and **MAY** create by ordinance a planning commission with the powers and duties set forth in this article.

(b) A municipal corporation may be included as part of a county plan under this article if:

(1) The legislative body of the municipal corporation, by a resolution directed to the legislative body of the county in which the municipal corporation is located, indicates the intention to participate in the county plan; and

(2) The legislative body of the county approves the resolution.

3.02.

(a) (1) Except as otherwise provided in this article, a planning commission created under this subtitle shall consist of three, five or seven members.

(2) One of the members may be a member of the local legislative body, serving in an ex officio capacity concurrent with the member's official term.

(b) (1) The members of a planning commission shall be appointed by the local legislative body or by the person designated as the appointing power in the ordinance creating the commission.

(2) Where there is a single local elected executive, the members of a planning commission shall be appointed by the local executive and confirmed by the local legislative body.

(c) Each member of a planning commission is entitled to the compensation that the local legislative body considers appropriate.

(d) (1) The term of each member is 5 years or until the member's successor takes office.

(2) The terms of the members of a planning commission shall be staggered.

(e) (1) After a public hearing, the local legislative body may remove the members of a planning commission for inefficiency, neglect of duty, or malfeasance in office.

(2) The local legislative body that removes a member of a planning commission shall file a written statement of reasons for the removal.

(f) Vacancies occurring other than through the expiration of a term shall be filled for the unexpired term by the local legislative body or by the person designated in the ordinance as the appointing power.

(g) In a municipal corporation, the local legislative body may designate one alternate member of the commission who may sit on the commission in the absence of any member of the commission. When the alternate is absent, the local legislative body may designate a temporary alternate to sit on the commission.

(H) (1) IN THIS SUBSECTION, "PLANNING COMMISSION" INCLUDES A PLANNING COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF THE CODE.

(2) WITHIN 6 MONTHS AFTER APPOINTMENT TO A PLANNING COMMISSION, A MEMBER SHALL COMPLETE AN EDUCATION COURSE THAT INCLUDES EDUCATION ON:

(I) THE ROLE OF THE COMPREHENSIVE PLAN;

(II) ~~PROPER~~ IF APPLICABLE, PROPER STANDARDS FOR SPECIAL EXCEPTIONS AND VARIANCES; AND

(III) THE JURISDICTION'S ZONING ORDINANCES AND REGULATIONS, PLANNED DEVELOPMENT ORDINANCES AND REGULATIONS, SUBDIVISION ORDINANCES AND REGULATIONS, AND OTHER LAND USE ORDINANCES AND REGULATIONS.

(3) THE FAILURE OF A MEMBER TO COMPLETE AN EDUCATION COURSE MAY NOT:

(I) INVALIDATE A DECISION OF THE COMMISSION; OR

(II) BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION BY ANY PERSON.

- (a) (1) Each local legislative body shall provide for the appointment of a board of appeals.
- (2) A board of appeals consists of at least three members.
- (3) The terms of office of the members of a board of appeals are 3 years.
- (4) A member of a board of appeals shall be appointed by the local executive and confirmed by the local legislative body.
- (5) A member of a board of appeals may be removed:
- (i) For cause;
 - (ii) On written charges; and
 - (iii) After a public hearing.
- (6) The appointing authority shall appoint a new member to fill the unexpired term of any member who leaves a board of appeals.
- (7) A member of a board of appeals may receive the compensation that the local legislative body considers appropriate.
- (8) A local legislative body may not serve as a board of appeals.
- (9) A member of the board of appeals shall recuse himself or herself from participating in a matter in which the member may have a conflict of interest or an appearance of a conflict of interest.
- (b) (1) Each local legislative body shall designate one alternate member for the board of appeals who may sit on the board when any other member of the board is absent.
- (2) When the alternate member is absent, the local legislative body may designate a temporary alternate.
- (c) (1) A board of appeals shall adopt rules in accordance with the provisions of any ordinance adopted under this article.
- (2) The meetings of a board of appeals shall be held at the call of the chairman and at other times determined by the board.
- (3) The chairman of a board of appeals or the acting chairman may administer oaths and compel the attendance of witnesses.

(4) All meetings of a board of appeals shall be open to the public.

(5) (i) A board of appeals shall make a transcript of all proceedings, showing the vote of each member on each question, or the member's absence or failure to vote.

(ii) 1. A board of appeals shall immediately file the transcript of its proceedings in the office of the board.

2. A transcript shall be a public record.

(6) If a recording or a transcript of a recording is not prepared in the normal course of the board's proceedings, the party who requests a copy of the recording or its transcript shall pay the cost of preparing the recording or transcript.

(d) A board of appeals shall have the following powers:

(1) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this article or of any ordinance adopted under this article;

(2) Hear and decide special exceptions to the terms of an ordinance on which the board is required to pass under the ordinance; and

(3) Authorize on appeal in specific cases a variance from the terms of an ordinance.

(e) (1) An appeal to the board of appeals may be filed by:

(i) Any person aggrieved by any decision of the administrative officer; or

(ii) Any officer, department, board, or bureau of the jurisdiction affected by any decision of the administrative officer.

(2) An appeal shall be taken within a reasonable time, as provided by the rules of the board of appeals, by filing with the administrative officer from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds of the appeal.

(3) The officer from whom the appeal is taken shall promptly transmit to the board all papers constituting the record on which the action appealed was based.

(f) (1) Except as provided in paragraph (2) of this subsection, an appeal to a board of appeals stays all proceedings in furtherance of the action appealed.

(2) If an administrative officer certifies to the board of appeals facts stated in the certificate that indicate to the administrative officer that a stay would cause imminent peril to life or property as provided in paragraph (1) of this subsection, the board of appeals or the court of record may stay the proceedings:

(i) Only for due cause shown; and

(ii) Through the issuance of a restraining order after notice is given to the administrative officer.

(g) (1) A board of appeals shall fix a reasonable time for the hearing of an appeal, give public notice of the hearing and due notice to the parties in interest, and decide the appeal within a reasonable time.

(2) At a hearing, a party may appear in person or be represented by an agent or attorney.

(h) (1) In exercising its powers, a board of appeals may, in conformity with the provisions of this article:

(i) Wholly or partly reverse the order, requirement, decision, or determination from which the appeal is taken;

(ii) Wholly or partly affirm the order, requirement, decision, or determination from which the appeal is taken;

(iii) Modify the order, requirement, decision, or determination from which the appeal is taken; or

(iv) Issue a new order, requirement, decision, or determination.

(2) The board shall have all the powers of the administrative officer from whom the appeal is taken.

(I) (1) IN THIS SUBSECTION, "BOARD OF APPEALS" INCLUDES A BOARD OF APPEALS ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF THE CODE OR § 2.08 OF THIS ARTICLE.

(2) WITHIN 6 MONTHS AFTER APPOINTMENT TO A BOARD OF APPEALS, A MEMBER SHALL COMPLETE AN EDUCATION COURSE THAT INCLUDES EDUCATION ON:

(I) THE ROLE OF THE COMPREHENSIVE PLAN;

(II) PROPER STANDARDS FOR SPECIAL EXCEPTIONS AND VARIANCES; AND

(III) THE JURISDICTION'S ZONING ORDINANCES AND REGULATIONS, PLANNED DEVELOPMENT ORDINANCES AND REGULATIONS, SUBDIVISION ORDINANCES AND REGULATIONS, AND OTHER LAND USE ORDINANCES AND REGULATIONS.

(3) THE FAILURE OF A MEMBER TO COMPLETE AN EDUCATION COURSE MAY NOT:

(I) INVALIDATE A DECISION OF THE BOARD; OR

(II) BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION BY ANY PERSON.

4.09.

On or before July 1, 1997, and subsequently at intervals of no more than 6 years which correspond to the plan revision under § 3.05(b) of this article, a local jurisdiction shall ensure that the implementation of the provisions of the plan that comply with §§ 1.01 and 3.05(a)(4)(vii) and (ix) of this article are achieved through the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations that are consistent with the plan.

Article – Natural Resources

8-1808.1.

(c) (1) IN PARAGRAPHS (3)(I) AND (4)(I) OF THIS SUBSECTION, “CONSISTENT WITH” OR “CONSISTENCY WITH” A JURISDICTION’S COMPREHENSIVE PLAN MEANS THAT A STANDARD OR FACTOR WILL FURTHER, AND NOT BE CONTRARY TO, THE FOLLOWING ITEMS IN THE PLAN:

(I) POLICIES;

(II) TIMING OF THE IMPLEMENTATION OF THE PLAN;

(III) TIMING OF DEVELOPMENT;

(IV) TIMING OF REZONING;

(V) DEVELOPMENT PATTERNS;

(VI) LAND USES; AND

(VII) DENSITIES OR INTENSITIES.

[(1)] (2) When locating new intensely developed or limited development areas, local jurisdictions shall use the following standards:

(i) Locate a new intensely developed area in a limited development area or adjacent to an existing intensely developed area;

(ii) Locate a new limited development area adjacent to an existing limited development area or an intensely developed area;

(iii) Locate a new limited development area or an intensely developed area in a manner that minimizes impacts to a habitat protection area as defined in COMAR 27.01.09, and in an area and manner that optimizes benefits to water quality;

(iv) Locate a new intensely developed area or a limited development area in a resource conservation area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters, unless the local jurisdiction proposes, and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources;

(v) Locate new intensely developed areas and limited development areas in a manner that minimizes their impacts to the defined land uses of the resource conservation area;

(vi) Except as provided in item (viii) of this paragraph, no more than one-half of the expansion allocated in the criteria of the Commission may be located in resource conservation areas;

(vii) New intensely developed or limited development areas involving the use of growth allocation shall conform to all criteria of the Commission and shall be designated on the comprehensive zoning map submitted by the local jurisdiction as part of its application to the Commission for program approval or at a later date in compliance with § 8-1809(g) of this subtitle; and

(viii) In Calvert, Caroline, Cecil, Charles, Dorchester, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, if the county is unable to utilize a portion of the growth allocated to the county in items (i) and (ii) of this paragraph within or adjacent to existing intensely developed or limited development areas as demonstrated in the local plan approved by the Commission, then that portion of the allocated expansion which cannot be so located may be located in the resource conservation area in addition to the expansion allocated in item (vi) of this paragraph. A developer shall be required to cluster any development in an area of expansion authorized under this paragraph.

[(2)] (3) A local jurisdiction may use a standard that varies from the standards required under paragraph [(1)(i)] (2)(I) and (ii) of this subsection if:

(i) The alternative standard is consistent with the jurisdiction's adopted comprehensive plan; and

(ii) The Commission has approved the alternative standard as part of the local program.

[(3)] (4) In reviewing map amendments or refinements involving the use of growth allocation, the Commission shall consider the following factors:

(i) Consistency with the jurisdiction's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan;

(ii) 1. For a map amendment or refinement involving a new intensely developed area, whether the development is:

A. To be served by a public wastewater system;

B. To have an allowed average density of at least 3.5 units per acre, as calculated under § 5-7B-03(h) of the State Finance and Procurement Article;

C. For a new intensely developed area that is greater than 20 acres, to be located in a priority funding area, as described under §§ 5-7B-02(1) and 5-7B-03 of the State Finance and Procurement Article; and

D. To have a demonstrable economic benefit to the area;
and

2. For a map amendment or refinement involving a new limited development area, whether the development is:

A. To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

B. A completion of an existing subdivision;

C. An expansion of an existing business; or

D. To be clustered;

(iii) The use of existing public infrastructure, where practical;

(iv) Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;

(v) Impacts on a priority preservation area, as defined under § 2-518 of the Agriculture Article;

(vi) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and

(vii) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

[(4)] (5) The Commission shall ensure that the standards and factors in paragraphs [(1), (2), and (3)] (2), (3), AND (4) of this subsection have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of this subtitle, and all criteria of the Commission.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act overturn the Court of Appeals ruling in David Trail, et al. v. Terrapin Run, LLC et al., 403 Md. 523 (2007).

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Members of a local jurisdiction's planning commission and board of appeals shall complete an education course in accordance with Article 66B, §§ 3.02(h)(10) and 4.07(i) of the Code, as enacted by Section 2 of this Act, on or before July 1, 2010;

(b) The Task Force on the Future for Growth and Development, as established by Chapter 381 of the Acts of 2006, as amended by Chapter 626 of the Acts of 2007, shall make recommendations on the education course for members of a local jurisdiction's planning commission and board of appeals by July 1, 2009;

(c) The Department of Planning, in consultation with the Task Force on the Future for Growth and Development, shall develop an online education course for members of planning commissions and boards of appeals. Completion of the Department's training program shall meet the requirements of Article 66B, §§ 3.02(h) and 4.07(b) of the Code, as enacted by Section 2 of this Act. The online education course shall be available by January 1, 2010; and

(d) A local jurisdiction may develop an education course for members of the local jurisdiction's planning commission and board of appeals in lieu of the Department's education course.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action covered under Article 66B, § 1.02(1) of the Code, as enacted by Section 2 of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That consistency with a local jurisdiction's comprehensive plan, as determined in accordance with § 8-1808.1(c)(3)(i) and (4)(i) of the Natural Resources Article of the Code, as enacted by Section 2 of this Act:

(1) Shall be a part of each determination made by the Critical Area Commission at a formal meeting of the Commission occurring on or after July 1, 2009, regarding a text amendment related to an alternative standard for the location of a new intensely developed or limited development area and an award of growth allocation; and

(2) May not be applied to an alternative standard text amendment or growth allocation approved by the Critical Area Commission before July 1, 2009.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 181

(House Bill 297)

AN ACT concerning

Smart, Green, and Growing – Smart and Sustainable Growth Act of 2009

FOR the purpose of defining a certain term applicable to the adoption of certain ordinances or regulations by a local jurisdiction and the exercise by ~~a local jurisdiction~~ certain governmental entities of certain land use ordinances and regulations, water and sewer plan review, growth allocation, and annexation powers to ~~require~~ clarify consistency with a local comprehensive plan is required under certain circumstances; altering the applicability of certain land use provisions to certain local jurisdictions; requiring a local jurisdiction to enact a certain land use plan; requiring a member of a local planning commission to complete a certain education course; requiring a member of a board of appeals to complete a certain education course; declaring the intent of the General Assembly; requiring a member of a local planning commission and a member of a board of appeals to complete a certain education course by a

certain date; requiring the Task Force on the Future for Growth and Development to make certain recommendations; requiring the Department of Planning to develop a certain education course by a certain date; providing for the application of this Act; stating the General Assembly's intent to overturn the ruling in a certain court case; defining certain terms; and generally relating to land use.

BY renumbering

Article 66B – Land Use
Section 1.03(a) through (f)
to be Section 1.04(b) through (g)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article 66B – Land Use
Section 1.04(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, without amendments,

Article 66B – Land Use
Section 1.00(a), 1.01, and 4.09
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article 66B – Land Use
Section 1.00(h) and (k), 1.02, 2.13, 3.01, 3.02, and 4.07
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article 66B – Land Use
Section 1.02
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, ~~without~~ with amendments,

Article 66B – Land Use
Section ~~1.04(e)~~ 1.04(d), (e), and (f)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article – Natural ResourcesSection 8–1808.1(c)Annotated Code of Maryland(2007 Replacement Volume and 2008 Supplement)(As enacted by Chapter 119 of the Acts of the General Assembly of 2008)

Preamble

WHEREAS, Land use planning in the State of Maryland has revolved around comprehensive plans enacted by local governments, following the eight visions established in the Economic Growth, Resource Protection, and Planning Act of 1992; and

WHEREAS, The decision of the Maryland Court of Appeals in David Trail, et al. v. Terrapin Run, LLC et al., 403 Md. 523 (2008) held that a special exception could be granted even if it did not strictly conform to the comprehensive plan; and

WHEREAS, While the holding of the Terrapin Run decision could be narrow and confined to the granting of special exceptions, the General Assembly is concerned that a broader interpretation of the decision could undermine the importance of making land use decisions that are consistent with the comprehensive plan; and

WHEREAS, Article 66B, § 4.09 of the Annotated Code of Maryland requires a local jurisdiction to implement the provisions of its local comprehensive plan through “the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations that are consistent with the plan;” and

WHEREAS, Citizens invest countless hours in determining the future direction of their jurisdiction through local comprehensive plans; and

WHEREAS, The people of Maryland are best served if land use decisions are consistent with locally adopted comprehensive plans; and

WHEREAS, It is the intent of the General Assembly to encourage the development of ordinances and regulations that apply to locally designated priority funding areas and allow for mixed uses and bonus densities beyond those specified in the local comprehensive plan by excluding land uses and densities or intensities in the definition of “consistency” for priority funding areas; and

WHEREAS, It is the intent of the General Assembly, as evidenced in Article 66B, §§ 1.03(e) and 4.09, that comprehensive plans should be followed as closely as possible while not being elevated to the status of an ordinance and that deviations from the plan should be rare; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1.03(a) through (f) of Article 66B – Land Use of the Annotated Code of Maryland be renumbered to be Section(s) 1.04(b) through (g).

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

Article 66B – Land Use

1.00.

(a) In this article the following words have the meanings indicated, except where the context clearly indicates otherwise.

(h) (1) “Plan” means the policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the area’s future development.

(2) “Plan” includes a general plan, master plan, comprehensive plan, or community plan adopted in accordance with §§ ~~1.03~~ **1.04** AND 3.01 through 3.09 of this article.

(k) “Special exception” means a grant of a specific use that would not be appropriate generally or without restriction and shall be based upon a finding that certain conditions governing special exceptions as detailed in the zoning ordinance exist, that the use [conforms to] **IS CONSISTENT WITH** the plan and is compatible with the existing neighborhood.

1.01.

In addition to the requirements of § 3.05(c) of this article, a commission shall implement the following visions through the plan described in § 3.05 of this article:

- (1) Development is concentrated in suitable areas.
- (2) Sensitive areas are protected.
- (3) In rural areas, growth is directed to existing population centers and resource areas are protected.
- (4) Stewardship of the Chesapeake Bay and the land is a universal ethic.
- (5) Conservation of resources, including a reduction in resource consumption, is practiced.

(6) To assure the achievement of items (1) through (5) of this section, economic growth is encouraged and regulatory mechanisms are streamlined.

(7) Adequate public facilities and infrastructure under the control of the county or municipal corporation are available or planned in areas where growth is to occur.

(8) Funding mechanisms are addressed to achieve these visions.

1.02.

~~WHEN A PROVISION IN A STATUTE LISTED IN ITEMS (1) THROUGH (4) OF THIS SECTION REQUIRES THAT AN ACTION OF A LOCAL GOVERNMENT BE "CONSISTENT WITH" OR HAVE "CONSISTENCY WITH" A COMPREHENSIVE PLAN, THE TERM SHALL BE DEFINED TO MEAN AN ACTION TAKEN THAT WILL FURTHER, AND NOT BE CONTRARY TO, THE POLICIES, TIMING, DEVELOPMENT PATTERNS, LAND USES, AND DENSITIES OR INTENSITIES IN THE PLAN;~~

~~(1) §§ 1.00(K), 1.04(E), AND 4.09 OF THIS ARTICLE;~~

~~(2) §§ 9-505(A)(1), 9-506(A)(1), AND 9-507(B)(2) OF THE ENVIRONMENT ARTICLE (WATER AND SEWER PLAN REVIEW);~~

~~(3) § 8-1808.1(C)(2)(I) OF THE NATURAL RESOURCES ARTICLE (CRITICAL AREA COMMISSION REVIEW OF GROWTH ALLOCATION); AND~~

~~(4) ARTICLE 23A, § 19(O)(3)(III) (ANNEXATION PLAN) OF THE CODE.~~

(A) IN THIS SECTION, "ACTION" MEANS:

(1) THE ADOPTION OF AN ORDINANCE OR REGULATION UNDER:

(I) § 1.00(K) OF THIS ARTICLE;

(II) § 1.04(F) OF THIS ARTICLE; OR

(III) § 4.09 OF THIS ARTICLE;

(2) A REQUIREMENT UNDER § 9-505(A)(1) OF THE ENVIRONMENT ARTICLE AND § 19(O)(3)(III) OF ARTICLE 23A OF THE CODE; AND

(3) A REQUIRED FINDING UNDER §§ 9-506(A)(1) AND 9-507(B)(2) OF THE ENVIRONMENT ARTICLE.

(B) THIS SECTION APPLIES TO THE FOLLOWING:

- (1) §§ 1.00(K), 1.04(F), AND 4.09 OF THIS ARTICLE;**
- (2) §§ 9-505(A)(1), 9-506(A)(1), AND 9-507(B)(2) OF THE ENVIRONMENT ARTICLE (WATER AND SEWER PLAN REVIEW); AND**
- (3) § 19(O)(3)(III) OF ARTICLE 23A OF THE CODE (ANNEXATION PLAN).**

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, WHEN A PROVISION IN A STATUTE LISTED UNDER SUBSECTION (B) OF THIS SECTION REQUIRES THAT AN ACTION BE “CONSISTENT WITH” OR HAVE “CONSISTENCY WITH” A COMPREHENSIVE PLAN, THE TERM SHALL BE DEFINED TO MEAN AN ACTION TAKEN THAT WILL FURTHER, AND NOT BE CONTRARY TO, THE FOLLOWING ITEMS IN THE PLAN:

- (1) POLICIES;**
- (2) TIMING OF THE IMPLEMENTATION OF THE PLAN;**
- (3) TIMING OF DEVELOPMENT;**
- (4) TIMING OF REZONING;**
- (5) DEVELOPMENT PATTERNS;**
- (6) LAND USES; AND**
- (7) DENSITIES OR INTENSITIES.**

(D) (1) IN THIS SUBSECTION, “PRIORITY FUNDING AREA” HAS THE MEANING STATED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THIS SUBSECTION APPLIES TO AN ACTION UNDER SUBSECTION (A)(1)(II) AND (III) OF THIS SECTION.

(3) WITHIN A PRIORITY FUNDING AREA, WHEN THE PROVISIONS IN SUBSECTION (A)(1)(II) AND (III) OF THIS SECTION REQUIRE THAT AN ACTION BE “CONSISTENT WITH” OR HAVE “CONSISTENCY WITH” A COMPREHENSIVE PLAN, THE TERM SHALL BE DEFINED TO MEAN AN ACTION TAKEN THAT WILL FURTHER, AND NOT BE CONTRARY TO, THE FOLLOWING ITEMS IN THE PLAN:

- (I) POLICIES;**
- (II) TIMING OF THE IMPLEMENTATION OF THE PLAN;**
- (III) TIMING OF DEVELOPMENT;**
- (IV) TIMING OF REZONING; AND**
- (V) DEVELOPMENT PATTERNS.**

[1.02.] 1.03.

- (a) Except as provided in this section, this article does not apply to charter counties.
- (b) The following sections of this article apply to a charter county:
 - (1) § 1.00(j) (Definition of “sensitive areas”);
 - (2) § 1.01 (Visions);
 - (3) § 1.02 (CONSISTENCY WITH PLANS);**
 - ~~[(3)] (4)~~ § 1.03 (Charter county – Comprehensive plans);
 - (5) § 3.02(H) (PLANNING COMMISSION – EDUCATION);**
 - ~~[(4)] (6)~~ § 4.01(b)(2) (Regulation of bicycle parking);
 - (7) § ~~4.07(A)-(10)~~ 4.07(I) (BOARD OF APPEALS – EDUCATION);**
 - ~~[(5)] (8)~~ § 5.03(d) (Easements for burial sites);
 - ~~[(6)] (9)~~ § 7.02 (Civil penalty for zoning violation);
 - ~~[(7)] (10)~~ § 10.01 (Adequate Public Facilities Ordinances);
 - ~~[(8)] (11)~~ § 11.01 (Transfer of Development Rights);
 - ~~[(9)] (12)~~ § 12.01 (Inclusionary Zoning);
 - ~~[(10)] (13)~~ Except in Montgomery County or Prince George’s County, § 13.01 (Development rights and responsibilities agreements);

~~[(11)]~~ (14) For Baltimore County only, § 14.02; and

~~[(12)]~~ (15) For Howard County only, § 14.06.1.

(c) This section supersedes any inconsistent provision of Article 28 of the Code.

1.04.

(A) A CHARTER COUNTY SHALL ENACT, ADOPT, AMEND, AND EXECUTE A PLAN AS PROVIDED IN THIS SECTION.

(d) (1) A planning commission shall include in its comprehensive plan:

(i) All elements required in subsection [(a)](B) of this section and the visions set forth in § 1.01 of this article; and

(ii) If the chosen under subsection [(b)](C) of this section, its priority preservation area element.

(2) At least once every 6 years, the planning commission shall review and if necessary, revise or amend a comprehensive plan to include:

(i) All elements required in subsection [(a)](B) of this section and the visions set forth in §1.01 of this article; and

(ii) If chosen under subsection [(b)](C) of this section, its priority preservation area element.

(3) If the comprehensive plan for each geographic section or division is reviewed and, if necessary, revised or amended at least once every 6 years, the planning commission may prepare comprehensive plans for one or more major geographic sections or divisions of the local jurisdiction.

(e) (1) A planning commission shall implement the visions set forth in § 1.01 of this article through the comprehensive plan elements required under subsection [(a)](B) of this section.

(2) A local legislative body that has adopted a comprehensive plan may adopt regulations implementing the visions stated in § 1.01 of this article in a comprehensive plan.

~~(e)~~ (f) On or before July 1, 1997, and subsequently at intervals of not more than 6 years which correspond to the comprehensive plan revision under subsection ~~(e)~~ (D) of this section, a charter county shall ensure that the implementation of the provisions

of the comprehensive plan that comply with § 1.01 of this article and subsection ~~(a)(1)(iii)~~ **(B)(1)(III)** and (iv) of this section are achieved through the adoption of:

- (1) Applicable zoning ordinances and regulations;
- (2) Planned development ordinances and regulations;
- (3) Subdivision ordinances and regulations; and
- (4) Other land use ordinances and regulations that are consistent with the comprehensive plan.

2.13.

(a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of this article do not apply in Baltimore City.

(b) The following sections of this article apply to Baltimore City:

- (1) § 1.00(j) (Definition of “sensitive areas”);
- (2) § 1.01 (Visions);
- (3) § 1.02 (CONSISTENCY WITH PLANS);**
- ~~[(3)]~~ **(4) § 1.03 (Charter county – Comprehensive plans);**
- (5) § 3.02(H) (PLANNING COMMISSION – EDUCATION);**
- ~~[(4)]~~ **(6) § 4.01(b)(2) (Regulation of bicycle parking);**
- (7) § ~~4.07(A)(10)~~ 4.07(I) (BOARD OF APPEALS – EDUCATION);**
- ~~[(5)]~~ **(8) § 5.03(d) (Easements for burial sites);**
- ~~[(6)]~~ **(9) § 7.02 (Civil penalty for zoning violation);**
- ~~[(7)]~~ **(10) § 10.01 (Adequate Public Facilities Ordinances);**
- ~~[(8)]~~ **(11) § 11.01 (Transfer of Development Rights);**
- ~~[(9)]~~ **(12) § 12.01 (Inclusionary Zoning); and**
- ~~[(10)]~~ **(13) § 13.01 (Development Rights and Responsibilities Agreements).**

3.01.

(a) A local jurisdiction [may] **SHALL** enact, adopt, amend, and execute a plan as provided in this article and **MAY** create by ordinance a planning commission with the powers and duties set forth in this article.

(b) A municipal corporation may be included as part of a county plan under this article if:

(1) The legislative body of the municipal corporation, by a resolution directed to the legislative body of the county in which the municipal corporation is located, indicates the intention to participate in the county plan; and

(2) The legislative body of the county approves the resolution.

3.02.

(a) (1) Except as otherwise provided in this article, a planning commission created under this subtitle shall consist of three, five or seven members.

(2) One of the members may be a member of the local legislative body, serving in an ex officio capacity concurrent with the member's official term.

(b) (1) The members of a planning commission shall be appointed by the local legislative body or by the person designated as the appointing power in the ordinance creating the commission.

(2) Where there is a single local elected executive, the members of a planning commission shall be appointed by the local executive and confirmed by the local legislative body.

(c) Each member of a planning commission is entitled to the compensation that the local legislative body considers appropriate.

(d) (1) The term of each member is 5 years or until the member's successor takes office.

(2) The terms of the members of a planning commission shall be staggered.

(e) (1) After a public hearing, the local legislative body may remove the members of a planning commission for inefficiency, neglect of duty, or malfeasance in office.

(2) The local legislative body that removes a member of a planning commission shall file a written statement of reasons for the removal.

(f) Vacancies occurring other than through the expiration of a term shall be filled for the unexpired term by the local legislative body or by the person designated in the ordinance as the appointing power.

(g) In a municipal corporation, the local legislative body may designate one alternate member of the commission who may sit on the commission in the absence of any member of the commission. When the alternate is absent, the local legislative body may designate a temporary alternate to sit on the commission.

(H) (1) IN THIS SUBSECTION, "PLANNING COMMISSION" INCLUDES A PLANNING COMMISSION OR BOARD ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF THE CODE.

(2) WITHIN 6 MONTHS AFTER APPOINTMENT TO A PLANNING COMMISSION, A MEMBER SHALL COMPLETE AN EDUCATION COURSE THAT INCLUDES EDUCATION ON:

(I) THE ROLE OF THE COMPREHENSIVE PLAN;

(II) ~~PROPER~~ IF APPLICABLE, PROPER STANDARDS FOR SPECIAL EXCEPTIONS AND VARIANCES; AND

(III) THE JURISDICTION'S ZONING ORDINANCES AND REGULATIONS, PLANNED DEVELOPMENT ORDINANCES AND REGULATIONS, SUBDIVISION ORDINANCES AND REGULATIONS, AND OTHER LAND USE ORDINANCES AND REGULATIONS.

(3) THE FAILURE OF A MEMBER TO COMPLETE AN EDUCATION COURSE MAY NOT:

(I) INVALIDATE A DECISION OF THE COMMISSION; OR

(II) BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION BY ANY PERSON.

4.07.

(a) (1) Each local legislative body shall provide for the appointment of a board of appeals.

(2) A board of appeals consists of at least three members.

(3) The terms of office of the members of a board of appeals are 3 years.

(4) A member of a board of appeals shall be appointed by the local executive and confirmed by the local legislative body.

(5) A member of a board of appeals may be removed:

- (i) For cause;
- (ii) On written charges; and
- (iii) After a public hearing.

(6) The appointing authority shall appoint a new member to fill the unexpired term of any member who leaves a board of appeals.

(7) A member of a board of appeals may receive the compensation that the local legislative body considers appropriate.

(8) A local legislative body may not serve as a board of appeals.

(9) A member of the board of appeals shall recuse himself or herself from participating in a matter in which the member may have a conflict of interest or an appearance of a conflict of interest.

(b) (1) Each local legislative body shall designate one alternate member for the board of appeals who may sit on the board when any other member of the board is absent.

(2) When the alternate member is absent, the local legislative body may designate a temporary alternate.

(c) (1) A board of appeals shall adopt rules in accordance with the provisions of any ordinance adopted under this article.

(2) The meetings of a board of appeals shall be held at the call of the chairman and at other times determined by the board.

(3) The chairman of a board of appeals or the acting chairman may administer oaths and compel the attendance of witnesses.

(4) All meetings of a board of appeals shall be open to the public.

(5) (i) A board of appeals shall make a transcript of all proceedings, showing the vote of each member on each question, or the member's absence or failure to vote.

(ii) 1. A board of appeals shall immediately file the transcript of its proceedings in the office of the board.

2. A transcript shall be a public record.

(6) If a recording or a transcript of a recording is not prepared in the normal course of the board's proceedings, the party who requests a copy of the recording or its transcript shall pay the cost of preparing the recording or transcript.

(d) A board of appeals shall have the following powers:

(1) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this article or of any ordinance adopted under this article;

(2) Hear and decide special exceptions to the terms of an ordinance on which the board is required to pass under the ordinance; and

(3) Authorize on appeal in specific cases a variance from the terms of an ordinance.

(e) (1) An appeal to the board of appeals may be filed by:

(i) Any person aggrieved by any decision of the administrative officer; or

(ii) Any officer, department, board, or bureau of the jurisdiction affected by any decision of the administrative officer.

(2) An appeal shall be taken within a reasonable time, as provided by the rules of the board of appeals, by filing with the administrative officer from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds of the appeal.

(3) The officer from whom the appeal is taken shall promptly transmit to the board all papers constituting the record on which the action appealed was based.

(f) (1) Except as provided in paragraph (2) of this subsection, an appeal to a board of appeals stays all proceedings in furtherance of the action appealed.

(2) If an administrative officer certifies to the board of appeals facts stated in the certificate that indicate to the administrative officer that a stay would cause imminent peril to life or property as provided in paragraph (1) of this subsection, the board of appeals or the court of record may stay the proceedings:

(i) Only for due cause shown; and

(ii) Through the issuance of a restraining order after notice is given to the administrative officer.

(g) (1) A board of appeals shall fix a reasonable time for the hearing of an appeal, give public notice of the hearing and due notice to the parties in interest, and decide the appeal within a reasonable time.

(2) At a hearing, a party may appear in person or be represented by an agent or attorney.

(h) (1) In exercising its powers, a board of appeals may, in conformity with the provisions of this article:

(i) Wholly or partly reverse the order, requirement, decision, or determination from which the appeal is taken;

(ii) Wholly or partly affirm the order, requirement, decision, or determination from which the appeal is taken;

(iii) Modify the order, requirement, decision, or determination from which the appeal is taken; or

(iv) Issue a new order, requirement, decision, or determination.

(2) The board shall have all the powers of the administrative officer from whom the appeal is taken.

(I) (1) IN THIS SUBSECTION, "BOARD OF APPEALS" INCLUDES A BOARD OF APPEALS ESTABLISHED UNDER ARTICLE 25A OR ARTICLE 28 OF THE CODE OR § 2.08 OF THIS ARTICLE.

(2) WITHIN 6 MONTHS AFTER APPOINTMENT TO A BOARD OF APPEALS, A MEMBER SHALL COMPLETE AN EDUCATION COURSE THAT INCLUDES EDUCATION ON:

(I) THE ROLE OF THE COMPREHENSIVE PLAN;

(II) PROPER STANDARDS FOR SPECIAL EXCEPTIONS AND VARIANCES; AND

(III) THE JURISDICTION'S ZONING ORDINANCES AND REGULATIONS, PLANNED DEVELOPMENT ORDINANCES AND REGULATIONS, SUBDIVISION ORDINANCES AND REGULATIONS, AND OTHER LAND USE ORDINANCES AND REGULATIONS.

(3) THE FAILURE OF A MEMBER TO COMPLETE AN EDUCATION COURSE MAY NOT:

(I) INVALIDATE A DECISION OF THE BOARD; OR

(II) BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION BY ANY PERSON.

4.09.

On or before July 1, 1997, and subsequently at intervals of no more than 6 years which correspond to the plan revision under § 3.05(b) of this article, a local jurisdiction shall ensure that the implementation of the provisions of the plan that comply with §§ 1.01 and 3.05(a)(4)(vii) and (ix) of this article are achieved through the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations that are consistent with the plan.

Article – Natural Resources

8–1808.1.

(c) (1) IN PARAGRAPHS (3)(I) AND (4)(I) OF THIS SUBSECTION, “CONSISTENT WITH” OR “CONSISTENCY WITH” A JURISDICTION’S COMPREHENSIVE PLAN MEANS THAT A STANDARD OR FACTOR WILL FURTHER, AND NOT BE CONTRARY TO, THE FOLLOWING ITEMS IN THE PLAN:

(I) POLICIES;

(II) TIMING OF THE IMPLEMENTATION OF THE PLAN;

(III) TIMING OF DEVELOPMENT;

(IV) TIMING OF REZONING;

(V) DEVELOPMENT PATTERNS;

(VI) LAND USES; AND

(VII) DENSITIES OR INTENSITIES.

[(1)] (2) When locating new intensely developed or limited development areas, local jurisdictions shall use the following standards:

(i) Locate a new intensely developed area in a limited development area or adjacent to an existing intensely developed area;

(ii) Locate a new limited development area adjacent to an existing limited development area or an intensely developed area;

(iii) Locate a new limited development area or an intensely developed area in a manner that minimizes impacts to a habitat protection area as defined in COMAR 27.01.09, and in an area and manner that optimizes benefits to water quality;

(iv) Locate a new intensely developed area or a limited development area in a resource conservation area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters, unless the local jurisdiction proposes, and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources;

(v) Locate new intensely developed areas and limited development areas in a manner that minimizes their impacts to the defined land uses of the resource conservation area;

(vi) Except as provided in item (viii) of this paragraph, no more than one-half of the expansion allocated in the criteria of the Commission may be located in resource conservation areas;

(vii) New intensely developed or limited development areas involving the use of growth allocation shall conform to all criteria of the Commission and shall be designated on the comprehensive zoning map submitted by the local jurisdiction as part of its application to the Commission for program approval or at a later date in compliance with § 8-1809(g) of this subtitle; and

(viii) In Calvert, Caroline, Cecil, Charles, Dorchester, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, if the county is unable to utilize a portion of the growth allocated to the county in items (i) and (ii) of this paragraph within or adjacent to existing intensely developed or limited development areas as demonstrated in the local plan approved by the Commission, then that portion of the allocated expansion which cannot be so located may be located in the resource conservation area in addition to the expansion allocated in item (vi) of this paragraph. A developer shall be required to cluster any development in an area of expansion authorized under this paragraph.

[(2)] (3) A local jurisdiction may use a standard that varies from the standards required under paragraph [(1)(i)] (2)(I) and (ii) of this subsection if:

(i) The alternative standard is consistent with the jurisdiction's adopted comprehensive plan; and

(ii) The Commission has approved the alternative standard as part of the local program.

[(3)] (4) In reviewing map amendments or refinements involving the use of growth allocation, the Commission shall consider the following factors:

(i) Consistency with the jurisdiction's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan;

(ii) 1. For a map amendment or refinement involving a new intensely developed area, whether the development is:

A. To be served by a public wastewater system;

B. To have an allowed average density of at least 3.5 units per acre, as calculated under § 5-7B-03(h) of the State Finance and Procurement Article;

C. For a new intensely developed area that is greater than 20 acres, to be located in a priority funding area, as described under §§ 5-7B-02(1) and 5-7B-03 of the State Finance and Procurement Article; and

D. To have a demonstrable economic benefit to the area;
and

2. For a map amendment or refinement involving a new limited development area, whether the development is:

A. To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

B. A completion of an existing subdivision;

C. An expansion of an existing business; or

D. To be clustered;

(iii) The use of existing public infrastructure, where practical;

(iv) Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;

(v) Impacts on a priority preservation area, as defined under § 2-518 of the Agriculture Article;

(vi) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and

(vii) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

[(4)] (5) The Commission shall ensure that the standards and factors in paragraphs [(1), (2), and (3)] (2), (3), AND (4) of this subsection have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of this subtitle, and all criteria of the Commission.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act overturn the Court of Appeals ruling in David Trail, et al. v. Terrapin Run, LLC et al., 403 Md. 523 (2007).

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Members of a local jurisdiction's planning commission and board of appeals shall complete an education course in accordance with Article 66B, §§ 3.02(h)(10) and 4.07(i) of the Code, as enacted by Section 2 of this Act, on or before July 1, 2010;

(b) The Task Force on the Future for Growth and Development, as established by Chapter 381 of the Acts of 2006, as amended by Chapter 626 of the Acts of 2007, shall make recommendations on the education course for members of a local jurisdiction's planning commission and board of appeals by July 1, 2009;

(c) The Department of Planning, in consultation with the Task Force on the Future for Growth and Development, shall develop an online education course for members of planning commissions and boards of appeals. Completion of the Department's training program shall meet the requirements of Article 66B, §§ 3.02(h) and 4.07(b) of the Code, as enacted by Section 2 of this Act. The online education course shall be available by January 1, 2010; and

(d) A local jurisdiction may develop an education course for members of the local jurisdiction's planning commission and board of appeals in lieu of the Department's education course.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action covered under Article 66B, § 1.02(1) of the Code, as enacted by Section 2 of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That consistency with a local jurisdiction's comprehensive plan, as determined in accordance with § 8-1808.1(c)(3)(i)

and (4)(i) of the Natural Resources Article of the Code, as enacted by Section 2 of this Act:

(1) Shall be a part of each determination made by the Critical Area Commission at a formal meeting of the Commission occurring on or after July 1, 2009, regarding a text amendment related to an alternative standard for the location of a new intensely developed or limited development area and an award of growth allocation; and

(2) May not be applied to an alternative standard text amendment or growth allocation approved by the Critical Area Commission before July 1, 2009.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 182

(House Bill 300)

AN ACT concerning

Tax Increment Financing and Special Taxing Districts – Transit-Oriented Development

FOR the purpose of authorizing certain counties and municipal corporations to finance the costs of public improvements located in or supporting a transit-oriented development and owned by the Maryland Economic Development Corporation, the State, or certain other governmental units; authorizing certain counties and municipal corporations to designate special taxing districts, create special funds and provide for the levy of certain taxes and to pledge tax increment revenue pertaining to a development district to secure payment of obligations issued by the Corporation for infrastructure improvements located in or supporting a transit-oriented development; authorizing certain counties and municipal corporations to pledge under an agreement that amounts deposited in any special fund be paid to secure bonds issued by the Corporation for certain purposes; authorizing certain counties and municipal corporations through the levy of certain tax revenues, to fund the costs of infrastructure improvements, or operation and maintenance of those infrastructure improvements, located in or supporting a transit-oriented development; authorizing certain counties and municipal corporations to use certain alternative local tax revenues for tax increment financing in connection with a certain transit-oriented development; adding a certain county to the list of counties authorized to exercise certain powers concerning the creation of special taxing districts; providing for the

construction of this Act; making the provisions of this Act severable; defining certain terms; and generally relating to the use of special, ad valorem, tax increment, and alternative local tax revenues by certain counties and municipal corporations.

BY renumbering

Article – Economic Development

Section 12–201(j), (k), (l), (m), (n), and (o), respectively

to be Section 12–201(k), (l), (m), (n), (o), and (p), respectively

Annotated Code of Maryland

(2008 Volume)

BY repealing and reenacting, with amendments,

Article 23A – Corporations – Municipal

Section 44A(a), (b), (e), and (f)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article 23A – Corporations – Municipal

Section 44A(d)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 9–1301(a), (b), (c)(2), (f), (g), and (l)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 9–1301(c)(1) and (e)(3)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Economic Development

Section 12–201(j) and (q)

Annotated Code of Maryland

(2008 Volume)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 12–209 and 12–210

Annotated Code of Maryland

(2008 Volume)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 7–101(m)
Annotated Code of Maryland
(2008 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 12–201(j), (k), (l), (m), (n), and (o), respectively, of Article – Economic Development of the Annotated Code of Maryland be renumbered to be Section(s) 12–201(k), (l), (m), (n), (o), and (p), respectively.

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

Article 23A – Corporations – Municipal

44A.

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

(2) “Bond” means a revenue bond, note, or other similar instrument issued by a municipal corporation in accordance with this section.

(3) “Cost” includes the cost of:

(i) Construction, reconstruction, and renovation, and acquisition of all lands, structures, property, real or personal, rights, rights-of-way, franchises, easements, and interests acquired or to be acquired by the [municipal corporation] **MARYLAND ECONOMIC DEVELOPMENT CORPORATION, THE STATE, ANY UNIT OR DEPARTMENT OR POLITICAL SUBDIVISION OF THE STATE**, or any other governmental unit having jurisdiction over the infrastructure improvement;

(ii) All machinery and equipment including machinery and equipment needed to expand or enhance municipal services to the special taxing district;

(iii) Financing charges and interest prior to and during construction, and, if deemed advisable by the municipal corporation, for a limited period after completion of the construction, interest and reserves for principal and interest, including costs of municipal bond insurance and any other type of financial guaranty and costs of issuance;

(iv) Extensions, enlargements, additions, and improvements;

(v) Architectural, engineering, financial, and legal services;

(vi) Plans, specifications, studies, surveys, and estimates of cost and of revenues;

(vii) Administrative expenses necessary or incident to determining to proceed with the infrastructure improvements; and

(viii) Other expenses as may be necessary or incident to the construction, acquisition, and financing of the infrastructure improvements.

(4) “MEDCO OBLIGATION” MEANS ANY BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION ISSUES UNDER AUTHORITY OTHER THAN THIS SECTION TO FINANCE THE PURPOSES SPECIFIED IN SUBSECTION (B)(2) OR (D)(3) OF THIS SECTION ONLY WITH RESPECT TO INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT.

(5) “TRANSIT-ORIENTED DEVELOPMENT” HAS THE MEANING STATED IN § 7-101 OF THE TRANSPORTATION ARTICLE.

(b) (1) Subject to the provisions of this section, and for the purpose stated in paragraph (2) of this subsection, each municipal corporation in the State may:

- (i) Create a special taxing district;
- (ii) Levy ad valorem or special taxes; and
- (iii) Issue bonds and other obligations.

(2) (I) The purpose of the authority granted under paragraph (1) of this subsection is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, and other infrastructure improvements as necessary, whether situated within the special taxing district or the municipal corporation or outside of the municipal corporation if notification is given to the governmental unit having jurisdiction over the infrastructure improvement and if the infrastructure improvement is reasonably related to other infrastructure improvements within the special taxing district, for the development and utilization of the land, each with respect to any defined geographic region within the municipal corporation.

(II) THE AUTHORITY GRANTED UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION ALSO MAKES AVAILABLE A SOURCE OF FUNDING FOR PAYMENT OF COSTS OF:

1. INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT; AND

2. OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT.

(d) (1) Bonds shall be payable from the special fund required under subsection (e) of this section.

(2) The governing body of a municipal corporation that issues bonds under this section may also:

- (i) Establish sinking funds;
- (ii) Establish debt service reserve funds;
- (iii) Pledge other assets and revenues towards the payments of the principal and interest; or

(iv) Provide for municipal bond insurance or any other type of financial guaranty of the bonds.

(3) All proceeds received from any bonds issued and sold shall be applied solely to pay the cost of infrastructure improvements, including:

(i) Costs of design, construction, establishment, extension, alteration, or acquisition of infrastructure improvements;

(ii) Costs of issuing bonds;

(iii) Payment of the principal and interest on loans, money advances, or indebtedness incurred by a municipal corporation for any of the purposes stated in subsection (b)(2) of this section, including the refunding of bonds previously issued under this section; and

(iv) Funding of a debt service reserve fund or payment of interest prior to, during, or for a limited period of time after construction.

(e) (1) **(I)** [Before issuing these bonds, the] **THE** governing body of the municipal corporation [shall] **MAY**:

[(i)] **1.** Designate by resolution an area or areas as a special taxing district;

[(ii)] **2.** Subject to paragraph (2) of this subsection, adopt a resolution creating a special fund with respect to the special taxing district; and

[(iii)] **3.** Provide for the levy of an ad valorem or special tax on all real and personal property within the special taxing district at a rate or amount designed to provide adequate revenues to pay the principal of, interest on, and redemption premium, if any, on the bonds, to replenish any debt service reserve fund, and for any other purpose related to the ongoing expenses of or security for the bonds, **AND, AS THE GOVERNING BODY OF THE MUNICIPAL CORPORATION DETERMINES AND UNDER AN AGREEMENT DESCRIBED IN SUBSECTION (G)(3) OF THIS SECTION, TO:**

A. PAY COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT;

B. PAY COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT; OR

C. SECURE PAYMENT BY THE MUNICIPAL CORPORATION OF ITS OBLIGATIONS UNDER ~~THE~~ AN AGREEMENT DESCRIBED IN SUBSECTION (F)(3) OF THIS SECTION.

(II) Ad valorem taxes shall be levied in the same manner, upon the same assessments, for the same period or periods, and as of the same date or dates of finality as are now or may hereafter be prescribed for general ad valorem tax purposes within the district[, and shall be discontinued when all of the bonds have been paid in full]. ~~Special taxes shall be levied pursuant to subsection (n) of this section.~~

(III) Special taxes shall be levied pursuant to subsection (n) of this section.

(2) The resolution creating a special fund under paragraph [(1)(ii)] **(1)(I)2** of this subsection shall:

(i) Pledge to the special fund the proceeds of the ad valorem or special tax to be levied as provided under paragraph [(1)(iii)] **(1)(I)3** of this subsection; and

(ii) Require that the proceeds from the tax be paid into the special fund.

(f) **(1) [When] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WHEN** no bonds authorized by this section **AND NO MEDCO**

OBLIGATIONS DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION are outstanding with respect to a special taxing district, and the governing body of the municipal corporation [so] determines[,] NOT TO USE MONEYS IN THE SPECIAL FUND FOR THE PAYMENT OF COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT OR THE PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT:

(I) THE SPECIAL TAXING DISTRICT SHALL BE TERMINATED;

AND

(II) ANY moneys REMAINING in the special fund ON THE DATE OF TERMINATION OF THE SPECIAL TAXING DISTRICT may be paid to the general fund of the municipal corporation.

(2) WHEN NO BONDS AUTHORIZED BY THIS SECTION ARE OUTSTANDING WITH RESPECT TO A SPECIAL TAXING DISTRICT, AND THE GOVERNING BODY OF THE MUNICIPAL CORPORATION SO DETERMINES, MONEYS IN THE SPECIAL FUND MAY BE:

(I) USED FOR ANY PURPOSES DESCRIBED IN THIS SECTION;

(II) ACCUMULATED FOR PAYMENT OF DEBT SERVICE ON BONDS SUBSEQUENTLY ISSUED UNDER THIS SECTION;

(III) USED TO PAY OR REIMBURSE THE MUNICIPAL CORPORATION FOR DEBT SERVICE THAT THE MUNICIPAL CORPORATION IS OBLIGATED TO PAY OR HAS PAID, EITHER AS A GENERAL OR A LIMITED OBLIGATION, ON MEDCO OBLIGATIONS, OR ANY BOND, NOTE, OR OTHER SIMILAR INSTRUMENT ISSUED BY THE STATE, OR ANY UNIT, DEPARTMENT, OR POLITICAL SUBDIVISION OF THE STATE, THE PROCEEDS OF WHICH HAVE BEEN USED FOR ANY OF THE PURPOSES SPECIFIED IN THIS SECTION; OR

(IV) PAID TO THE MUNICIPAL CORPORATION TO PROVIDE FUNDS TO BE USED FOR ANY LEGAL PURPOSES AS THE GOVERNING BODY OF THE MUNICIPAL CORPORATION MAY DETERMINE.

(3) (I) A MUNICIPAL CORPORATION THAT HAS CREATED A SPECIAL FUND FOR A SPECIAL TAXING DISTRICT MAY PLEDGE UNDER AN AGREEMENT THAT AMOUNTS DEPOSITED TO THE SPECIAL FUND SHALL, AS THE GOVERNING BODY OF THE MUNICIPAL CORPORATION MAY DETERMINE, BE PAID OVER TO:

1. **SECURE PAYMENT ON MEDCO OBLIGATIONS;**
2. **PROVIDE FOR THE PAYMENT OF COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT; AND**
3. **PROVIDE FOR THE PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT.**

(II) **THE AGREEMENT SHALL:**

1. **BE AUTHORIZED BY ORDINANCE OR RESOLUTION OF THE MUNICIPAL CORPORATION;**
2. **BE IN WRITING;**
3. **BE EXECUTED ON BEHALF OF THE MUNICIPAL CORPORATION MAKING THE PLEDGE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION, AND THE OTHER PERSONS OR ENTITIES THAT THE GOVERNING BODY OF THE MUNICIPAL CORPORATION DETERMINES; AND**
4. **RUN TO THE BENEFIT OF AND BE ENFORCEABLE ON BEHALF OF THE HOLDERS OF ANY MEDCO OBLIGATIONS SECURED BY THE AGREEMENT.**

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–1301.

- (a) (1) In this section the following words have the meanings indicated.
 - (2) (i) “Bond” means a special obligation bond, revenue bond, note, or other similar instrument issued by the county in accordance with this section.
 - (ii) “Bond” includes a special obligation bond, revenue bond, note, or similar instrument issued by the revenue authority of Prince George’s County.
- (3) “Cost” includes the cost of:
 - (i) Construction, reconstruction, and renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or to be acquired by the [county] **MARYLAND ECONOMIC DEVELOPMENT CORPORATION, OR THE STATE, ANY UNIT OR DEPARTMENT OR POLITICAL SUBDIVISION OF THE STATE, OR ANY**

OTHER GOVERNMENTAL UNIT HAVING JURISDICTION OF THE INFRASTRUCTURE IMPROVEMENT;

(ii) All machinery and equipment including machinery and equipment needed to expand or enhance county services to the special taxing district;

(iii) Financing charges and interest prior to and during construction, and, if deemed advisable by the county, for a limited period after completion of the construction, interest and reserves for principal and interest, including costs of municipal bond insurance and any other type of financial guaranty and costs of issuance;

(iv) Extensions, enlargements, additions, and improvements;

(v) Architectural, engineering, financial, and legal services;

(vi) Plans, specifications, studies, surveys, and estimates of cost and of revenues;

(vii) Administrative expenses necessary or incident to determining to proceed with the infrastructure improvements; and

(viii) Other expenses as may be necessary or incident to the construction, acquisition, and financing of the infrastructure improvements.

(4) In Prince George's County, "cost" includes the cost of renovation, rehabilitation, and repair of existing buildings, internal and external structural systems, elevators, facades, mechanical systems and components, and security systems.

(5) "MEDCO OBLIGATION" MEANS ANY BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION ISSUES UNDER AUTHORITY OTHER THAN THIS SECTION TO FINANCE THE PURPOSES SPECIFIED IN SUBSECTION (C)(2) OR (E)(3) OF THIS SECTION ONLY WITH RESPECT TO INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT.

(6) "TRANSIT-ORIENTED DEVELOPMENT" HAS THE MEANING STATED IN § 7-101 OF THE TRANSPORTATION ARTICLE.

(b) This section applies only to Anne Arundel County, **BALTIMORE COUNTY**, Calvert County, Cecil County, Charles County, Garrett County, Harford County, Howard County, Prince George's County, St. Mary's County, Washington County, and Wicomico County.

(c) (1) Subject to the provisions of this section, and for the purpose stated in paragraph (2) of this subsection, the county may:

- (i) Create a special taxing district;
- (ii) Levy ad valorem or special taxes; and
- (iii) Issue bonds and other obligations.

(2) (I) The purpose of the authority granted under paragraph (1) of this subsection is to provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, transit facilities, solid waste facilities, and other infrastructure improvements as necessary, whether situated within the special taxing district or outside the special taxing district if the infrastructure improvement is reasonably related to other infrastructure improvements within the special taxing district, for the development and utilization of the land, each with respect to any defined geographic region within the county.

(II) THE AUTHORITY GRANTED UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION ALSO MAKES AVAILABLE A SOURCE OF FUNDING FOR PAYMENT OF COSTS OF:

1. INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT; AND

2. OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT.

(e) (3) All proceeds received from any bonds issued and sold shall be applied solely to pay the cost of infrastructure improvements, including:

- (i) Costs of design, construction, establishment, extension, alteration, or acquisition of infrastructure improvements;
- (ii) Costs of issuing bonds;
- (iii) Payment of the principal and interest on loans, money advances, or indebtedness incurred by the county for any of the purposes stated in subsection (c)(2) of this section, including the refunding of bonds previously issued under this section; and

(iv) Funding of a debt service reserve fund or payment of interest prior to, during, or for a limited period of time after construction.

(f) (1) (I) [Before issuing these bonds, the] **THE** governing body of the county [shall] **MAY**:

[(i)] **1.** Designate by resolution an area or areas as a special taxing district;

[(ii)] **2.** Subject to paragraph (2) of this subsection, adopt a resolution creating a special fund with respect to the special taxing district; and

[(iii)] **3.** Provide for the levy of an ad valorem or special tax on all real and personal property within the special taxing district at a rate or amount designed to provide adequate revenues to pay the principal of, interest on, and redemption premium, if any, on the bonds, to replenish any debt service reserve fund, and for any other purpose related to the ongoing expenses of or security for the bonds, **AND, AS THE GOVERNING BODY OF THE COUNTY DETERMINES ~~AND UNDER AN AGREEMENT DESCRIBED IN SUBSECTION (G)(3) OF THIS SECTION,~~ TO:**

A. PAY COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT;

B. ~~COSTS~~ PAY COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT; OR

C. SECURE PAYMENT BY THE ~~MUNICIPAL CORPORATION~~ COUNTY OF ITS OBLIGATIONS UNDER ~~THE AN~~ AGREEMENT DESCRIBED IN SUBSECTION (G)(3) OF THIS SECTION.

(II) Ad valorem taxes shall be levied in the same manner, upon the same assessments, for the same period or periods, and as of the same date or dates of finality as are now or may hereafter be prescribed for general ad valorem tax purposes within the district[, and shall be discontinued when all of the bonds have been paid in full].

(III) Special taxes shall be levied pursuant to subsection (o) of this section.

(2) The resolution creating a special fund under paragraph [(1)(ii)] **(1)(I)2** of this subsection shall:

(i) Pledge to the special fund the proceeds of the ad valorem or special tax to be levied as provided under paragraph [(1)(iii)] **(1)(I)3** of this subsection; and

(ii) Require that the proceeds from the tax be paid into the special fund.

(g) (1) Except as provided in paragraph (2) of this subsection, when no bonds authorized by this section **AND NO MEDCO OBLIGATIONS DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION** are outstanding with respect to a special taxing district **AND THE GOVERNING BODY OF THE COUNTY DETERMINES NOT TO USE MONEYS IN THE SPECIAL FUND FOR PAYMENT OF COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT, OR THE PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURES IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT:**

(i) The special taxing district shall be terminated; and

(ii) Any moneys remaining in the special fund on the date of termination of the special taxing district shall be paid to the general fund of the county.

(2) When no bonds authorized by this section are outstanding with respect to a special taxing district ~~in Prince George's County~~ and the [Prince George's County Council] **GOVERNING BODY OF THE COUNTY** so determines, moneys in the special fund may be:

(i) Used for any of the purposes described in this section;

(ii) Accumulated for payment of debt service on bonds subsequently issued under this section;

(iii) Used to pay or reimburse the county for debt service [which] **THAT** the county is obligated to pay or has [paid (whether such obligation is)] **PAID, EITHER AS A general or [limited)] LIMITED OBLIGATION** on ~~bonds issued by the State of Maryland, any agency, department or political subdivision thereof, or the revenue authority of Prince George's County,~~ **MEDCO OBLIGATIONS, OR ANY BOND, NOTE, OR OTHER SIMILAR INSTRUMENT ISSUED BY THE STATE, OR BY ANY UNIT, DEPARTMENT, OR POLITICAL SUBDIVISION OF THE STATE, OR BY THE REVENUE AUTHORITY OF PRINCE GEORGE'S COUNTY,** the proceeds of which have been used for any of the purposes specified in this section; or

(iv) Paid to the county to provide funds to be used for any legal purpose as [may be determined by] the **GOVERNING BODY OF THE** county **MAY DETERMINE**.

(3) (I) A COUNTY THAT HAS CREATED A SPECIAL FUND FOR A SPECIAL TAXING DISTRICT MAY PLEDGE, UNDER AN AGREEMENT, THAT AMOUNTS DEPOSITED TO THE SPECIAL FUND SHALL, AS THE GOVERNING BODY OF THE COUNTY MAY DETERMINE, BE PAID OVER TO:

- 1. SECURE PAYMENT ON MEDCO OBLIGATIONS;**
- 2. PROVIDE FOR THE PAYMENT OF COSTS OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT; AND**
- 3. PROVIDE FOR THE PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT.**

(II) THE AGREEMENT SHALL:

- 1. BE AUTHORIZED BY ORDINANCE OR RESOLUTION OF THE COUNTY;**
- 2. BE IN WRITING;**
- 3. BE EXECUTED ON BEHALF OF THE COUNTY MAKING THE PLEDGE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION, AND THE OTHER PERSONS OR ENTITIES THAT THE GOVERNING BODY OF THE COUNTY DETERMINES; AND**
- 4. RUN TO THE BENEFIT OF AND BE ENFORCEABLE ON BEHALF OF THE HOLDERS OF ANY MEDCO OBLIGATIONS SECURED BY THE AGREEMENT.**

(l) The powers granted under this section shall be regarded as supplemental and additional to powers conferred by other laws, and may not be regarded as in derogation of any powers now existing, **INCLUDING POWERS PROVIDED IN ARTICLE 25, ARTICLE 25A, OR ARTICLE 25B OF THE CODE.**

Article – Economic Development

(J) **“MEDCO OBLIGATION” MEANS A BOND, NOTE, OR OTHER SIMILAR INSTRUMENT THAT THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION ISSUES UNDER AUTHORITY OTHER THAN THIS SUBTITLE TO FINANCE THE COST OF INFRASTRUCTURE IMPROVEMENTS LOCATED IN OR SUPPORTING A TRANSIT-ORIENTED DEVELOPMENT.**

(Q) **“TRANSIT-ORIENTED DEVELOPMENT” HAS THE MEANING STATED IN § 7-101 OF THE TRANSPORTATION ARTICLE.**

12-209.

(a) Subject to subsection [(b)] (C) of this section, the special fund for the development district may be used for any of the following purposes as determined by the governing body of the political subdivision:

- (1) a purpose specified in § 12-207 of this subtitle;
- (2) accumulated to pay debt service on bonds to be issued later;

(3) payment or reimbursement of debt service, **OR PAYMENTS UNDER AN AGREEMENT DESCRIBED IN SUBSECTION (B) OF THIS SECTION**, that the political subdivision is obliged under a general or limited obligation to pay, or has paid, on **OR RELATING TO** bonds issued by the State, a political subdivision, or the revenue authority of Prince George’s County if the proceeds were used for a purpose specified in § 12-207 of this subtitle; or

- (4) payment to the political subdivision for any other legal purpose.

(B) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE POLITICAL SUBDIVISION THAT HAS CREATED A SPECIAL FUND FOR A DEVELOPMENT DISTRICT MAY PLEDGE UNDER AN AGREEMENT THAT AMOUNTS DEPOSITED TO THE SPECIAL FUND SHALL BE PAID OVER TO SECURE PAYMENT ON MEDCO OBLIGATIONS.**

(2) **THE AGREEMENT SHALL:**

(I) **BE IN WRITING;**

(II) **BE EXECUTED BY THE POLITICAL SUBDIVISION MAKING THE PLEDGE, THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION, AND THE OTHER PERSONS THAT THE GOVERNING BODY OF THE POLITICAL SUBDIVISION DETERMINES; AND**

(III) RUN TO THE BENEFIT OF AND BE ENFORCEABLE ON BEHALF OF THE HOLDERS OF THE MEDCO OBLIGATIONS SECURED BY THE AGREEMENT.

[(b)] (C) If bonds are outstanding with respect to a development district, the special fund may be used as described in subsection (a) of this section in any fiscal year only if:

- (1) the balance of the special fund exceeds the unpaid debt service payable on the bonds in the fiscal year; and
- (2) the special fund is not restricted so as to prohibit the use.

[(c)] (D) The issuance of bonds pledging the full faith and credit of the political subdivision shall comply with appropriate county or municipal charter requirements.

12-210.

(a) (1) Subject to paragraph (2) of this subsection, the governing body of a political subdivision that is not the issuer may pledge under an agreement that its property taxes levied on the tax increment shall be paid into the special fund for the development district.

- (2) The agreement shall:
 - (i) be in writing;
 - (ii) be executed by the governing bodies of the issuer and the political subdivision making the pledge; and
 - (iii) run to the benefit of and be enforceable on behalf of any bondholder.

(b) The governing body of Prince George's County may also pledge hotel rental tax revenues to the special fund.

(C) THE GOVERNING BODY OF A POLITICAL SUBDIVISION, INCLUDING THE ISSUER, MAY PLEDGE BY OR UNDER A RESOLUTION, INCLUDING BY AN AGREEMENT WITH THE ISSUER, AS APPLICABLE, THAT ALTERNATIVE LOCAL TAX REVENUES GENERATED WITHIN, OR THAT ARE OTHERWISE DETERMINED TO BE ATTRIBUTABLE TO, A DEVELOPMENT DISTRICT THAT IS A TRANSIT-ORIENTED DEVELOPMENT BE PAID, AS PROVIDED IN THE RESOLUTION, INTO THE SPECIAL FUND TO:

(1) **SECURE THE PAYMENT OF DEBT SERVICE ON BONDS OR MEDCO OBLIGATIONS; OR**

(2) **BE APPLIED TO THE OTHER PURPOSES STATED IN § 12-209 OF THIS SUBTITLE.**

Article – Transportation

7-101.

(m) “Transit-oriented development” means a mix of private or public parking facilities, commercial and residential structures, and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that:

(1) Is part of a deliberate development plan or strategy involving:

(i) Property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station; or

(ii) Property, any part of which is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station;

(2) Is planned to maximize the use of transit, walking, and bicycling by residents and employees; and

(3) Is designated as a transit-oriented development by:

(i) The Secretary in consultation with the secretaries of Business and Economic Development, General Services, Housing and Community Development, the Environment, and Planning; and

(ii) The local government or multicounty agency with land use and planning responsibility for the relevant area.

SECTION 3. AND BE IT FURTHER ENACTED, That nothing contained in this Act may be construed to impair, in any way, the validity of any bonds, notes, or other obligations issued under Article 23A, § 44A of the Code, Article 24, § 9-1301 of the Code, or §§ 12-201 through 12-213, inclusive, of the Economic Development Article or the validity of any actions taken pursuant to any such authorities.

SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance, including any covenant, agreement or action provided for herein to be performed, is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid

provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 183

(Senate Bill 14)

AN ACT concerning

Maryland Environmental Service – Energy Generation Projects

FOR the purpose of authorizing the Maryland Environmental Service to engage in certain energy projects and services; clarifying the authority of the Service to provide recycling and certain other projects; altering certain exemptions for the Service from certain provisions relating to finance and procurement; authorizing counties and municipalities to enter into certain agreements with the Service without regard to certain limitations or other provisions regulating the procurement or awarding of public contracts; confirming the authority of the Service to establish and collect rates, fees, and charges for certain projects, products, and services; authorizing the Service to collect certain unpaid rates, fees, and charges by tax sale; altering the authority of the Service to issue certain bonds and notes; authorizing counties and municipalities to enter into certain agreements with the Service for energy projects; clarifying the jurisdiction of the Public Service Commission over disputes regarding certain rates, fees, and other charges exacted by the Service; altering certain notice requirements; altering certain reporting requirements of the Service; altering certain definitions; defining a certain term; and generally relating to the Maryland Environmental Service.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 3–101, 3–102, 3–103(g), 3–104, 3–105, 3–107, 3–108, 3–113, 3–116
through 3–118, 3–120, 3–122, 3–126, 3–127, and 3–128

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources

Section 3–129 and 3–130

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

3–101.

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

(b) “Board” means the Board of Directors of the Maryland Environmental Service.

(c) “Bonds” means all bonds or other evidences of indebtedness of the Service other than notes, whether general or limited obligations of the Service.

(d) “Cost” as applied to a water supply project, a solid waste disposal project, a wastewater purification project, **AN ENERGY PROJECT**, a service area, a service district, or to any activity undertaken by the Service, includes: (1) the cost of construction or acquisition, including the purchase price of any existing project or the cost of acquiring all or any portion of the right, title, or interest in the project and the amount to be paid to discharge all obligations necessary to vest title to the project or any part of it in the Service or other owner; (2) the cost of any reconstruction, extension, enlargement, alteration, repair, or improvement; (3) the cost of all lands, properties, rights, easements, interests, franchises, and permits acquired; (4) the cost of all labor, machinery and equipment, financing charges, interest prior to and during construction and for such period after completion of construction as the Service deems appropriate; (5) the cost of revenue estimates, engineering and legal services, plans, designs, specifications, surveys, investigations, demonstrations, studies, estimates of cost, other expenses necessary or incident to determining the feasibility or practicability of any such acquisition, improvement, or construction; (6) administrative and overhead expenses, and all expenses necessary or incidental to the financing herein authorized, and to the acquisition, operation, maintenance, improvement, construction of water supply, [liquid and] **LIQUID**, solid waste, **AND ENERGY** project facilities, and the placing of these project facilities in operation, including reasonable provision for working capital; (7) reserves for principal and interest and for extensions, enlargements, additions and improvements. Any obligation or expense incurred prior to the issuance of bonds or notes under the provisions of this title in connection with the foregoing items of cost may be regarded as a part of such costs.

(e) The word “county” includes Baltimore City unless otherwise indicated.

(f) “Director” means Director of the Maryland Environmental Service.

(G) **“ENERGY PROJECT” MEANS ANY SERVICE, FACILITY, SYSTEM, OR PROPERTY, REAL OR PERSONAL, USED, USEFUL, OR HAVING PRESENT CAPACITY FOR USE IN CONNECTION WITH:**

(1) **ENERGY CONSERVATION; OR**

(2) **THE PRODUCTION, GENERATION, OR DISTRIBUTION OF ENERGY FROM A RENEWABLE OR OTHER ENERGY ~~OR OTHER ENERGY~~ SOURCE.**

[(g)] (H) “Facility” means a physical structure or appurtenance built, constructed, acquired, installed, or established to perform a function or service in connection with a water supply, wastewater [purification or] **PURIFICATION**, solid waste disposal, **OR ENERGY** project whether publicly or privately owned and whether existing or proposed.

[(h)] (I) “Liquid waste” means:

(1) Stormwater runoff; and

(2) Any water-carried wastes or wastes which are liquid in nature created in and carried away, or to be carried away, from residences, institutions, industrial establishments, commercial establishments, or any other public or private building, structure, or facility.

[(i)] (J) “Municipality” means any county, municipal corporation, sanitary district, State or local unit, or other public body or unit created or established by or pursuant to State or local law, ordinance, or resolution.

[(j)] (K) “Notes” means bond anticipation notes, revenue anticipation notes, and grant anticipation notes of the Service, whether general or limited obligations of the Service.

[(k)] (L) “Person” means any natural person, individual, firm, partnership, association, cooperative, **LIMITED LIABILITY COMPANY**, corporation, or other entity.

[(l)] (M) (1) “Project” means a solid waste disposal project, a wastewater purification project, [or] a water supply project, **OR AN ENERGY PROJECT**, as the case may be.

(2) “Project” includes any service, facility, or property used or useful or having present capacity for future use in connection with:

(i) The transporting, transferring, compacting, burying, incinerating, reduction, composting, collection, storage, treatment, utilization, processing, or final disposal of liquid wastes, solid wastes or water, as the case may be;

(ii) The conversion of liquid wastes, solid wastes or water, as the case may be, to fuel, steam, electricity, energy, or other resources or the generation of steam, electricity, or other forms of energy from fuel which is derived from, or is otherwise related to, liquid wastes, solid wastes or water, as the case may be;

(iii) The reconstruction, converting or otherwise recycling of liquid wastes, solid wastes or water, as the case may be, into material which is not liquid waste, solid waste or water or which is useful or is marketable; or

(iv) Any combination of items (i) through (iii) of this paragraph, whether or not such facilities are located on a single site.

(3) "Project" also includes:

(i) Waste disposal facilities, pollution control facilities, and facilities for generating and furnishing electric energy or gas or other forms of energy which can be financed by bonds the interest on which is exempt from income tax under the Internal Revenue Code of 1986, as amended, whether such interest would have been tax exempt at the time of the enactment of this subtitle or of any amendment thereto; and

(ii) Any facilities and properties within the definition of "project", "solid waste disposal project", "wastewater purification project", [or] "water supply project", **OR "ENERGY PROJECT"** set forth in this subsection, whether or not such facilities or properties can be financed by bonds the interest on which is tax exempt under the Internal Revenue Code of 1986, as amended, it being the purpose and intent of this subtitle that the terms "project", "solid waste disposal project", "wastewater purification project", [and] "water supply project", **AND "ENERGY PROJECT"** be liberally construed so as to effectuate the purposes of this subtitle.

(4) "Project", "solid waste disposal project", "wastewater purification project", [and] "water supply project", **AND "ENERGY PROJECT"** include land, buildings, structures, machinery, equipment, rail or motor vehicles, barges, boats, and all properties and rights therein and appurtenances thereof, rights-of-way, franchises, easements, and other interests in land, all land and facilities that are functionally or administratively related and subordinate to the solid waste disposal project, wastewater purification project, [or] water supply project, **OR ENERGY PROJECT**, as the case may be, and all patents, licenses, and other rights necessary or useful in the **PLANNING, DEVELOPMENT, [construction] CONSTRUCTION**, or operation of a solid waste disposal project, wastewater purification project, [or] water supply project, **OR ENERGY PROJECT**.

[(m)] (N) "Service" means the Maryland Environmental Service.

[(n)] (O) "Service district" means a geographic area established by the Service, after consultation with the municipalities affected, for the purpose of

providing water supply projects, wastewater purification projects or solid waste disposal projects. Service districts may encompass areas containing projects of the Service as well as nonduplicating, noncompetitive projects owned and operated by municipalities or persons. Service districts shall be based upon approved State–county master water and sewerage plans or solid waste disposal plans, if any, adopted pursuant to the Environment Article, but they may also take account of other plans and studies.

[(o)] (P) “Service region” means a geographic area which the Maryland Environmental Service designates and within which the Director, after consultation with the municipalities affected, causes surveys, plans, studies, and estimates to be made for the purpose of determining the most dependable, effective, and efficient means of providing services through water supply projects, solid waste disposal projects, or wastewater purification projects. Service regions shall be based upon needs set forth in approved State–county master water and sewerage plans, or solid waste disposal plans, if any, adopted pursuant to the Environment Article, but they may also take account of other plans and studies.

[(p)] (Q) “Solid waste disposal project” means any service, facility, or real or personal property used or useful or having present capacity for future use in connection with the measurement, management, [collection or] **COLLECTION**, disposal, **PREVENTION, OR RECYCLING** of solid wastes by any means, including disposal [through the production of], **RECOVERY, OR REUSE TO PRODUCE** energy or products, or otherwise.

[(q)] (R) “Solid wastes” means all waste materials, whether solid, liquid, or gas, including liquid wastes. The term includes garbage, rubbish, ashes, incinerator residue, wastewater treatment residue, street cleanings, dredged materials, dead animals, demolition and construction debris, household appliances, **HAZARDOUS MATERIALS**, automobile bodies, offal, paunch manure, methane or any other gases, sewage sludge and solid or gaseous waste materials from [individual,] commercial, agricultural, **RESIDENTIAL**, industrial, or community activities.

[(r)] (S) “Wastewater purification project” means any service, facility, or property, real or personal, used or useful or having present capacity for future use in connection with the **MEASUREMENT, MANAGEMENT, PREVENTION, REDIRECTION**, [collection] **COLLECTION**, or treatment of liquid wastes.

[(s)] (T) “Water supply project” means any service, facility, or property, real or personal, used, useful, or having present capacity for future use in connection with water supply, **PROTECTION**, and distribution, including any water treatment facility or property and rights therein and appurtenances thereto.

(a) To assist with the preservation, improvement, and management of the quality of air, land, [and] water, **AND NATURAL** resources, and to promote the health and welfare of the citizens of the State, it is the intention of the General Assembly in enactment of this subtitle to provide for dependable, effective, and efficient water supply and purification and disposal of liquid and solid wastes, to encourage reductions in the amount of waste generated and discharged to the environment and the generation of energy and the recovery of useable resources from such waste to the extent practicable; **TO PROMOTE THE CONSERVATION OF ENERGY USAGE AND TO ENABLE AND PROVIDE FOR THE PRODUCTION OF ENERGY FROM SOLID WASTES AND RENEWABLE AND OTHER ~~AND OTHER~~ SOURCES**; to encourage private sector participation in environmental protection; and to serve its political subdivisions and economic interests. For these purposes, the General Assembly creates an instrumentality of the State constituted as a body politic and corporate to provide water supply [and waste] **WASTEWATER** purification and disposal, **SOLID AND HAZARDOUS WASTE DISPOSAL, AND ENERGY CONSERVATION, GENERATION, AND TRANSMISSION** services in compliance with State **AND FEDERAL** laws, regulations, and policies governing air, land, and water pollution to public and private instrumentalities, and with safeguards to protect the autonomy of the political subdivisions and the rights of the private entities it serves. It is also the intent of the General Assembly that the instrumentality may not participate in competitive bidding with the private sector to provide its services.

(b) This subtitle shall be liberally construed to effect its purposes. However, nothing contained in it shall restrict any control which the Departments of the Environment and Natural Resources, or of their units, are empowered to exercise over any water supply, wastewater [purification or] **PURIFICATION**, solid waste disposal, **OR ENERGY** project authorized by this subtitle, nor interfere with or affect the operation of existing wastewater purification, water supply, [or] solid waste disposal, **OR ENERGY** projects found by the Secretary of the Environment to be adequately and lawfully operated by municipalities having jurisdiction or responsibility for them, except by their express consent and agreement. **NOTHING IN THIS SUBTITLE SHALL RESTRICT ANY CONTROL WHICH THE PUBLIC SERVICE COMMISSION IS EMPOWERED TO EXERCISE OVER ANY ENERGY PROJECT AUTHORIZED BY THIS SUBTITLE.**

(c) Nothing in this subtitle shall be construed to alter, change, or modify the zoning or land use planning authority of any municipality or public instrumentality or cause a municipality or public instrumentality to take action inconsistent with the county solid waste management plan required under Title 9, Subtitle 5 of the Environment Article.

(g) (1) The Service is exempt from the provisions of [Part III of Subtitle 3 and] Subtitles [4, 5, 6, and 7] **3, 4, 5, AND 7** of Title 4 of the State Finance and Procurement Article.

(2) The Service is exempt from the provisions of Division II of the State Finance and Procurement Article, but is not exempt from Subtitle 3 of Title 14, Subtitle 4 of Title 12, Title 16, and Title 17 of the State Finance and Procurement Article.

(3) (i) Except as otherwise provided in this paragraph, all procurements by the Service for materials, equipment, services, or supplies performed or furnished in connection with the planning, development, design, equipping, construction, or operation of any project owned or controlled by the Service, shall be awarded in accordance with rules and regulations adopted pursuant to the Administrative Procedure Act.

(ii) The Service may procure materials, equipment, services, or supplies by utilizing:

1. Competitive sealed bids;
2. Competitive sealed proposals;
3. Sole source procurement;
4. Intergovernmental cooperative purchasing agreements;
5. A small procurement process, if the procurement is estimated by the Service to result in an expenditure of \$25,000 or less; or
6. An emergency procurement process, if the procurement is necessary to avoid or to mitigate serious damage to public health, safety, or welfare.

(4) The Service may adopt rules and regulations to provide a process to resolve disputes between the Service and its contractors, that may include alternative dispute resolution by the parties to the dispute.

3-104.

(a) The Service has all powers necessary for carrying out the purposes of this subtitle, including the following rights and powers set forth in this section.

(b) To have perpetual existence as a corporation.

(c) To adopt bylaws, rules, regulations, policies, and procedures for the regulation of its affairs and conduct of its business.

(d) To adopt an official seal and alter it.

(e) To maintain one or more offices at a place or places it chooses.

(f) To appoint agents and employees, to prescribe their duties, and fix their compensation as set forth in this subtitle.

(g) To sue and be sued.

(h) To acquire, construct, reconstruct, rehabilitate, improve, maintain, lease as lessor or as lessee, repair and operate projects within or without the State. The Service shall establish reasonable rules and regulations for the use of any project. It may acquire, purchase, hold, lease as lessee, and use any franchise and any property, real, personal or mixed, tangible or intangible, or any interest therein necessary to carry out the purposes of the Service. It may sell, lease as lessor, transfer, and dispose of any property or interest in it that it has acquired.

(i) To acquire by gift, purchase, or the exercise of the right of eminent domain in the manner prescribed by law lands, structures, real or personal property rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying underwater and riparian rights which are located within and without the State as it considers necessary or convenient for the construction or operation of a project, upon terms and at prices considered by the Service to be reasonable and can be agreed upon by the Service and the owner of the interest, and to take title to the interest in the name of the Service. At any time ten days after the return and recordation of the verdict or award in any condemnation proceeding, the Service may take possession of the property condemned, upon paying to the clerk of the court the amount of the award and all costs taxed to that date, notwithstanding any appeal or further proceeding by defendant. At the time of the payment, the Service shall give its corporate undertaking to abide by any judgment in any appeal or further proceedings.

(j) To borrow money and issue bonds or notes for the purpose of paying all or any part of the cost of any one or more projects or for any other purpose of the Service; to provide funds to be paid into any debt service reserve fund; to secure the payment of the bonds or notes or any part thereof by pledge or deed of trust of all or any part of its revenues or other available money or by pledge, mortgage, or deed of trust of any one or more facilities or properties; to combine projects for financing purposes and to make agreements with or for the benefit of the purchaser or holder of the bonds or notes, with the issue of the bonds or notes, whether issued or to be issued, as the Service may deem advisable; and in general to provide for the security of the bonds or notes and the rights of their holders.

(k) To combine, after consultation with the municipalities affected, one or more water supply, wastewater purification, [or] solid waste disposal, **OR ENERGY**

project with any other project as a single system for the purpose of operation or financing.

(l) To fix, alter, charge, and collect rates, fees, and charges for the use of or for the services, **PRODUCTS, OR ENERGY** furnished **OR PRODUCED** by [its projects] **THE SERVICE**.

(m) To enter into contracts with the federal or any state government, or any unit, instrumentality, or subdivision thereof, or with any municipality or person within or without the State, providing for or relating to the furnishing of services to or the facilities of any project of the Service, or in connection with the services or facilities provided by any water supply project, solid waste project, [or] wastewater purification project, **OR ENERGY PROJECT** owned or controlled by the other contracting party, including contracts for the construction and operation of any project in the State or in any other state. These contracts may make provision for:

(1) The payment by the other contracting party to the Service of a fixed amount for the collection, processing, treatment, storage, transporting, **USE**, or disposal of a stated amount of solid waste (whether or not the stated amount of solid waste is collected, processed, treated, stored, transported, or disposed of), or of all or any portion of the operating expenses of one or more projects;

(2) The utilization by the other contracting party of one or more projects for the processing, treatment, storage, transporting, **USE**, or disposal of all or any portion of solid waste over which such party has control;

(3) The collection by the other contracting party or its agents or by agents of the Service of fees, rates, or charges for the services and facilities rendered to a municipality or its inhabitants, and for the enforcement of delinquent charges for such services and facilities; or

(4) The abandonment, restriction, or prohibition of the construction or operation of competing facilities. The provisions of any contract with a municipality shall be deemed to be for the benefit of bondholders or noteholders as designated by the Service and may be made irrevocable so long as any bonds or notes of the Service secured by such contract are outstanding.

(n) (1) To make any contract or agreement the Service determines to be necessary or incidental to the performance of its duties and to the execution of the purpose of and the powers granted by this subtitle, including contracts with the federal or any state government, or any unit, instrumentality, or municipality thereof, or with any person, on terms and condition the Service approves.

(2) The Service may make contracts or agreements relating to:

(i) The use by the other contracting party or the inhabitants of any municipality of any project acquired, constructed, reconstructed, rehabilitated, improved, or extended by the Service under this subtitle or the services therefrom or the facilities thereof;

(ii) The use by the Service of the services or facilities of any water supply system or project, solid waste system or project, or liquid waste system or project, not owned or operated by the Service;

(iii) The sale of any fuel, steam, electricity, energy, **WASTE PRODUCT**, or other material or resource derived from the operation of any project;

(iv) The acceptance, processing, treatment, **USE**, and disposal of solid wastes by one or more projects; or

(v) The employment or retention of consulting and other engineers, superintendents, financial advisors, attorneys, accountants, and other employees, advisors, or agents as in the judgment of the Service are necessary or desirable.

(3) The contracts and agreements of the Service may provide for the collecting of fees, rates, or charges for the projects provided by the Service and for the enforcement of delinquent charges for the projects. The provisions of any contract or agreement of the Service, and of any ordinance or resolution of the governing body of a municipality enacted pursuant thereto, shall be deemed to be for the benefit of bondholders or noteholders.

(o) To enter upon and excavate any municipal street, road, alley, highway, or any other public way for the purpose of installing, maintaining, and operating a water supply, solid waste disposal, [or] wastewater purification, **OR ENERGY** project provided for under this subtitle. The Service may construct, reconstruct, rehabilitate, or extend in the street, road, alley, or highway, a water supply facility, sewer or storm drain, **ENERGY TRANSMISSION FACILITY**, or any appurtenance thereof, without a permit or the payment of a charge subject, however, to reasonable regulation established by the governing body of any municipality having jurisdiction in the particular respect. If any municipal street, road, alley, or highway is to be disturbed, the governing body shall be notified within a reasonable period of time, and the street, road, alley, or highway shall be repaired and left by the Service in the same condition as, or in a condition not inferior to, that existing before the street, road, alley, or highway was torn up. The Service shall bear every incidental cost.

(p) To enter upon lands, waters, or premises as is necessary or desirable for the purposes of making surveys, soundings, borings, and examinations to accomplish any purpose authorized by this subtitle. The Service is liable for actual damage done.

(q) To make application for, receive, and accept from any state or federal government, or any unit, instrumentality, or subdivision thereof, grants for or in aid of the planning, financing, construction, acquisition, maintenance, or operation of any project, and to receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purpose for which the grants and contributions are made in the furtherance of the purposes of this subtitle. In those cases involving federal and State grants, including, but not limited to, grants administered by the Department of the Environment for the collection and treatment of sewage and industrial wastes under the Sanitary Facilities Fund, in Title 9 of the Environment Article, the Service shall be eligible the same as a municipality.

(r) To make directly, or through the hiring of consultants, any plans, surveys, investigations, and studies relating to water supply, liquid and solid wastes transportation, purification, disposal techniques, recycling, **ENERGY PRODUCTION AND TRANSMISSION, CONSERVATION OF RESOURCES**, and management methods or the effects of these techniques, and methods, in order to improve or evaluate the effectiveness or economy of its services and operations. The Service may charge in whole or in part the costs of the investigations and studies against one or more projects or Service districts, or it may include them in whole or in part in its general operating expenses depending on the expected applicability of the studies and investigations. The Service may supplement grants or other aids received from the federal government or from other sources to assist in carrying out the purposes of this subtitle. Consultants hired under this subsection may not be deemed to be providing architectural or engineering services as those terms are defined in § 11-101 of the State Finance and Procurement Article.

(s) To conduct hearings and investigations for the furtherance of the purposes of this subtitle.

(t) To take and hold title to any project that may be transferred to the Service, and to assume jurisdiction over and provide for the maintenance and operation of the project, all on such terms as may be mutually agreed upon between the Service and the transferor. The Service may contract with any municipality to assume the payment of the principal of and interest on obligations or indebtedness of such municipality incurred in connection with any project and may undertake to operate any project in such a manner as to provide for the payment of all outstanding obligations or indebtedness applicable to the project and the interest thereon and to transfer to the appropriate municipality an amount equal to the debt service payments prior to the applicable payment date. Subject to the approval of the Board of Public Works, the State may lease, lend, grant, or otherwise convey to the Service any property that is necessary for the purposes of this subtitle.

(u) To do all things necessary to carry out its purposes and for the exercise of the powers granted in this subtitle.

(v) Except as provided in §§ 3–109 and 3–110 of this subtitle, the Service does not have any power to construct, establish, or operate any new solid waste disposal project within the boundaries of any county or municipal corporation without the express consent of the governing body of the county or municipal corporation.

(w) To permit a municipality to construct, operate, maintain, expand, relocate, replace, renovate, or repair facilities provided for in this subtitle when the Service certifies that it is not in a position to provide the necessary construction, operation, maintenance, expansion, relocation, replacement, renovation, or repair of facilities within the municipality. Notwithstanding other provisions in this subtitle and limited to the circumstances in this subsection, a municipality shall finance construction, operation, maintenance, expansion, relocation, replacement, renovation, or repair of facilities in accordance with its statutory authority, including the receiving of State and federal grants if available. The municipality may construct, operate, maintain, expand, relocate, replace, renovate, or repair these facilities.

(x) In making plans, surveys, studies, and investigations under this subtitle, the Service shall include in its findings its statement of the impact that a project may have on the site on which the project is to be located if that site has cultural, historic, or social significance.

(y) To create, with the approval of the Board, private corporations for purposes consistent with this subtitle.

(z) To exercise all the corporate powers granted Maryland corporations under the Maryland General Corporation Law.

3–105.

(a) The Service is responsible for carrying out the following general activities subject to the limitations stated in this section.

(b) Planning, integrating, and establishing geographic service regions and districts, in cooperation with affected municipalities and based upon approved State–county master plans for water and sewerage, and solid waste disposal as provided in the Environment Article, as well as other plans and studies permitted by this subtitle.

(c) Research and developmental studies and investigations into improved methods and techniques of water supply, liquid wastes, [and] solid wastes, **AND ENERGY GENERATION**, acquisition, transportation, processing, recycling, purification, disposal and management, and technical consultation and assistance to design, management, and operation personnel of the Service and, pursuant to an order or request, to appropriate municipalities or persons possessing similar responsibilities.

(d) To the extent appropriate in each instance, acquisition, design, construction, reconstruction, rehabilitation, improvement, operation, maintenance,

and repair of a water supply project, wastewater purification project, and solid waste disposal project, pursuant to an order of the Secretary of the Environment as further provided in §§ 3-109 and 3-110 of this subtitle; or pursuant to a mandatory agreement to provide requested services, as provided in § 3-107 of this subtitle; or pursuant to an approved five-year plan, as provided in § 3-106 of this subtitle.

(e) Except upon request of a municipality and pursuant to a contract between the Service and the municipality, the Service may not acquire, construct, operate, or establish a wastewater purification project or solid waste disposal project, as the case may be, for (1) any area or district which, in the determination of the Secretary of the Environment, is receiving adequate service from a project owned by a municipality and operated in compliance with applicable laws and regulations; (2) any area or district which, in the determination of that Secretary, will receive, within a reasonable time, adequate service from a project owned by a municipality and operated in compliance with applicable laws and regulations; or (3) dredging or dredged material disposal projects.

(f) Execute the powers and perform the duties set forth in Title 7, Subtitle 4 of the Environment Article, including the financing, acquisition, leasing, and operation of hazardous waste disposal facilities.

3-107.

(a) Any municipality or person may request the Service to provide the water supply, wastewater [purification or] **PURIFICATION**, solid waste disposal, **OR ENERGY** projects, **OR ANY OTHER SERVICES**, authorized by this subtitle. The request shall set forth the type of proposed project **OR SERVICES** to be furnished and the proposed boundaries of the area within which a project [is] **OR SERVICES ARE** requested.

(b) **NOTWITHSTANDING ANY LIMITATIONS OR OTHER PROVISIONS TO THE CONTRARY OF ARTICLE 23A, ARTICLE 25A, OR ARTICLE 25B OF THE CODE, OR OF ANY CHARTER OR LOCAL LAW REGULATING THE PROCUREMENT OR AWARDING OF PUBLIC CONTRACTS, A MUNICIPALITY MAY ENTER INTO CONTRACTS WITH THE SERVICE FOR THE PURPOSE OF THE SERVICE PROVIDING ANY OF THE PROJECTS OR SERVICES REQUESTED BY THE MUNICIPALITY.** As soon as possible after receipt of a duly authorized request from a municipality or person, the Service shall draft a proposed contract with the municipality or person in accordance with the provisions of this subtitle specifying the type of project **OR SERVICES** to be provided, whether or not a service district will be established, the boundaries and effective date of any service district, and the terms, conditions, and costs under which the project **OR SERVICES** will be provided. Upon execution of the contract, the Service as soon as possible shall establish any service district provided for in the contract and provide, maintain, and operate the necessary project. **FOR THE PURPOSES OF THIS SUBSECTION, THE EXPRESS POWERS CONTAINED AND ENUMERATED IN ARTICLES 23A, 25A, AND 25B OF THE CODE**

AND IN THE CHARTER OF THE CITY OF BALTIMORE ARE DEEMED TO INCORPORATE AND INCLUDE THE POWER AND AUTHORITY CONTAINED IN THIS SUBSECTION.

(c) The charges levied against a service district shall be reduced by the full amount of federal and State grants which the Service receives and is entitled to retain to defray the cost of any project within the service district.

(d) Existing facilities providing service of the type requested, including all rights, easements, laboratory facilities, vehicles, records, and all other property, equipment, and furnishings necessary and normally associated with the operation of the facility, shall be transferred to the sole ownership of the Service on the date a service district comes into existence unless the Service determines that it not be so transferred. Compensation for existing projects may be based on the original cost of the project minus an allowance for depreciation, or on other terms and conditions satisfactory to the municipality or person transferring the project. All costs and obligations assumed by the Service incidental to the transfer of ownership shall be included in the charge levied against the service district.

(e) At the request of any person or municipality having the responsibility for the collection of liquid waste or solid waste, the Service may enter into a contract to provide management and operation of waste collection services in any service district as an adjunct to the mandatory provision of projects as set forth in subsections (a) through (d) of this section, if (1) as a condition to the provision of management and operation of waste collection services, the municipality or person enters into a contract upon terms the Service determines reasonable; and (2) the Service and the municipality or person requesting collection services determines by agreement from time to time the charges including the amount and frequency of payments to the Service.

3-108.

(a) (1) In calculating charges for water supply, wastewater [purification and] **PURIFICATION**, solid waste disposal, **AND ENERGY** projects, **PRODUCTS**, or services or in determining the costs to be levied against a municipality, person, or property in a service district established pursuant to this subtitle, the Service shall require that the charges reflect the full costs of [projects] **PROVIDING THE PROJECTS, PRODUCTS, OR SERVICES**.

(2) The charges and costs to be levied against any particular municipality, person, or property located within a service district shall take account of:

(i) Whether the property is eligible for water or sewerage service in accordance with the approved State-county master plans for water and sewerage adopted under Title 9 of the Environment Article;

(ii) The value and capacity of any existing facility transferred by the municipality or person to the Service; and

(iii) The costs and obligations assumed by the Service incidental to the transfer of the facility.

(3) To the extent deemed reasonable and practicable by the Service, charges for **SOLID WASTE OR WASTEWATER PURIFICATION** projects or services also shall be based on but not necessarily limited to a formula reflecting the volume and characteristics of the wastes as they influence transportation, purification, final disposal, and time pattern of discharge.

(4) (i) Before establishing or adjusting charges in a service district, the Service shall publish notice of the proposed charges, at least once a week for 2 weeks, in at least one newspaper of general circulation in the municipality in which the service district is located and hold a public hearing on the proposed charges.

(ii) The published notice shall be at least 1/4 page in size, and use at least 18 point type. The notice may not be placed with legal notices or classified advertisements. The headline of the notice shall be in bold print, with all letters capitalized. The text of the notice, other than the headline, shall be in upper and lower case letters.

(iii) The charges shall become effective on the date set by the Service. The Service may, by resolution of the Board, provide that the charges are chargeable against all or part of the lots or parcels of land in the service district and constitute a first lien on such property. The resolution may establish reasonable times and methods of collection of the charges, which may be levied and collected by the Service and have the same priority and rights and bear the same interest and penalties and in every respect be treated the same as taxes of the State. The charges may be levied and collected notwithstanding the absence of a contract between the Service and the municipality, person, or property against whom the charge is imposed.

(b) If a municipality fails to pay the Service for projects or services provided pursuant to this subtitle within 60 days of the due date, as established by contract, all State funds, or that portion of them required, relating to the income tax, the tax on racing, the recordation tax, the tax on amusements and the license tax thereafter to be distributed to the municipality shall be paid by the Comptroller of Maryland directly to the Service until the amount paid to the Service is equal to the amount due the Service by the municipality.

(c) If a person fails to pay the Service for projects **OR SERVICES** provided [by] **IN ACCORDANCE WITH** this subtitle within 60 days of the due date, as established by the Service, the unpaid [bill becomes a] **AMOUNT CONSTITUTES A STATUTORY** lien against the **REAL** property served, [if it is recorded and indexed as

provided in this subtitle, and] shall be referred to the Attorney General for collection, **AND MAY BE COLLECTED THROUGH A TAX SALE.**

(d) The governing body of any county may charge the Service a fee for final disposal of solid waste at any solid waste disposal project located in that county provided that any fees charged the Service are not greater than those charged other users of any solid waste disposal project.

[(e) Unless otherwise agreed in a contract, contracts for projects shall be reviewed at least biennially by the Service and by the other contracting party, but a contract may be reviewed upon the request of either party at any time for the purpose of renegotiating rates, fees, or other charges exacted by the Service.]

3-113.

(a) If any officer whose signature or a facsimile of whose signature appears on any bonds [or coupons] or notes ceases to be the officer before the delivery of the bonds or notes, the signature or facsimile is nevertheless valid and sufficient for all purposes as if he had remained in office until delivery.

(b) Notwithstanding any other provision of this title or any recitals in any bonds and notes issued hereunder, all bonds and notes shall be deemed to be negotiable instruments under the laws of the State.

(c) The bonds may be issued [in coupon or] in registered form[, or both, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds] **OR IN SUCH OTHER FORM AS DETERMINED BY THE BOARD.** Provision may also be made for the replacement of bonds which become mutilated or are lost or destroyed.

(d) The bonds and notes are exempt from the provisions of §§ 8-206 and 8-208 of the State Finance and Procurement Article. The Service may sell its bonds and notes in the manner, either at public or at private sale, and for the price it determines.

(e) The bonds and notes may be issued by the Service without obtaining the consent of any unit of the State government, and without any other proceedings or the happening of any other conditions or things than those specifically required hereunder.

3-116.

The Service, by resolution adopted by a majority of the Board, may:

(1) Issue, prior to the preparation of definitive bonds, interim receipts or temporary bonds[, with or without coupons,] exchangeable for definitive bonds when these bonds have been executed and are available for delivery;

(2) Issue and sell its bond anticipation notes, revenue anticipation notes, or grant anticipation notes the principal of and interest on these notes to be made payable to the bearer or registered holder out of the first proceeds of the sale of any bonds, revenues or grants, as the case may be, issued under this subtitle, or from any other available money of the Service, but the authorizing resolution may make provision for the issuance of bond anticipation notes in series as funds are required and for the renewal of these notes at maturity, with or without resale. The issuance of [bond anticipation] notes and the details thereof, the rights of the holders, and the rights, duties, and obligations of the Service in respect thereto, are governed by the provisions of this title relating to bonds, insofar as these provisions may be applicable. A grant anticipation note may be issued or sold only after receipt of written commitment of the federal or State government or agency making the grant; and

(3) Issue and sell its revenue bonds or notes [in the nature of industrial development bonds, whether the bonds or notes be pollution control revenue bonds, solid waste disposal revenue bonds, or other types of industrial development revenue bonds,] for the purpose of borrowing money to lend to any person or municipality for the accomplishment by such person or municipality of a project or projects. The principal of and interest on the bonds or notes may be made payable out of:

(i) The revenues received by the Service from such person or municipality or otherwise received in connection with such project;

(ii) Any property pledged or mortgaged as security for such bonds or notes; or

(iii) Any other sources designated by the Service. The authorizing resolution may make provision for the issuance of such bonds or notes in series as funds are required. The issuance of bonds or notes and the details of the issuance, the rights of the holders of the bonds or notes, and the rights, duties, and obligations of the Service of the bonds and notes shall be governed by the provisions of this subtitle relating to bonds insofar as those provisions are applicable. The Service may make or approve such provisions in connection with the issuance of the bonds or notes authorized by this subsection, including the security for such bonds or notes, the priority of the bonds or notes with regard to such security (which priority may be senior, or subordinated to, or on a parity with, other obligations) as the Service may deem necessary or appropriate to effectuate the acquisition, construction, or provision of a project by any person or municipality. However, the Service does not have power to take any action in connection with the issuance of bonds or notes pursuant to this paragraph which would create any obligation on the part of any municipality without the consent of the municipality to the obligation.

3-117.

(a) Bonds and notes authorized to be issued under the provisions of this subtitle by resolution of the Board may be secured by a trust agreement by and between the Service and a corporate trustee, which may be any trust company, or bank having trust powers, within or without the State. The trust agreement, or the authorizing resolution, may pledge or assign all or any part of the revenues of the Service or of any project or other available funds of the Service or pledge, convey, or assign any one or more facilities or properties. Any trust agreement or resolution authorizing the issuance of bonds or notes may contain the provisions for the protection and enforcement of the rights and remedies of the bondholders **AND THE TRUSTEE** deemed reasonable and proper[, including covenants setting forth the duties of the Service in relation to the acquisition or construction of any project, the extension, enlargement, improvement, maintenance, operation, repair, and insurance of any project and the custody, safeguarding, and application of money and may contain provisions for the employment of consulting engineers in connection with the construction or operation of any project. It is lawful for any bank or trust company incorporated under the laws of the State which may act as a depository of the proceeds of the bonds or notes or of revenues to furnish indemnifying bonds or to pledge securities as may be required by the Board. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee] and may restrict the individual right of action by bondholders. In addition, the trust agreement may contain other provisions which the Board deems reasonable and proper for the security of the bondholders, including, without limitation, covenants to abandon, restrict, or prohibit the construction or operation of competing facilities and covenants pertaining to the issuance of additional parity bonds or notes upon conditions stated therein consistent with the requirements of this subtitle. All expenses incurred in carrying out the provisions of any trust agreement may be treated as a part of the cost of the operation of any project or projects in connection with which the bonds or notes have been issued.

(b) The proceeds of the sale of bonds or notes secured by a trust agreement shall be paid to the trustee under the trust agreement securing the bonds or notes and shall be disbursed in the manner and under the restrictions, if any, that may be provided in the trust agreement.

3-118.

(a) The Service may fix, revise, charge, and collect rentals, rates, fees or other charges for the use of or for the services **OR PRODUCTS** furnished by any project or projects, including projects within a service district, contract with any person or municipality desiring the use of the services **OR PRODUCTS**, or any part of any project or projects, and fix the terms, conditions, rentals, rates, fees, and charges therefor. The rentals and other rates, fees and charges designated as security for any bonds or notes issued under this subtitle shall be fixed and adjusted in respect of the aggregate thereof from the projects under the control of the Service as to provide funds sufficient

with other revenues, if any, (1) to pay the cost of maintaining, repairing, and operating any project or projects financed in whole or in part by outstanding bonds or notes, to the extent the cost is not otherwise provided, (2) to pay the principal of and the interest on the bonds or notes as they become due and payable, (3) to create reserves for those purposes, and (4) to provide funds for paying the cost of renewals or replacements, the cost of acquiring or installing equipment, and the cost of enlarging, extending, reconstructing, or improving any project or projects. The rentals, rates, fees, and charges are not subject to supervision or regulation by any unit of the State government or any political subdivision, except as provided in § 3–128 of this subtitle.

(b) The rentals, rates, fees, and other charges and revenues, or any part thereof, whether derived from the project or projects in connection with which the bonds or notes of any issue have been issued or from other projects, designated as security for the bonds or notes by the authorizing resolution or in the trust agreement securing the bonds or notes, shall be set aside at the regular intervals provided in the resolution or trust agreement in a sinking fund pledged to, and charged with, the payment of (1) the interest on the bonds or notes as it falls due, (2) the principal of the bonds or notes as it falls due, (3) the necessary charges of [paying agents for paying principal and interest] **THE TRUSTEE AND OTHER AGENTS APPOINTED BY THE TRUST AGREEMENT**, and (4) the redemption price or purchase price of bonds or notes retired by call or purchase as provided in the resolution or trust agreement. Any amounts set aside in the sinking fund which are not needed to provide for the payment of items (1), (2), (3), and (4) may be used for any other lawful purpose to the extent provided in the resolution or trust agreement. The pledge is valid and binding from the time it is made. The rentals, rates, fees, and other charges, revenues or other money pledged and thereafter received by the Service immediately shall be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge is valid and binding as against all parties having any claims of any kind in tort, contract, or otherwise against the Service, irrespective of whether the parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Service, any public general or public local law to the contrary notwithstanding. The use and disposition of money to the credit of the sinking fund are subject to the provisions of the resolution authorizing the issuance of the bonds or notes or of the trust agreement.

3–120.

Any holder of bonds or notes issued under this subtitle [or of any of the coupons thereto appertaining,] and the trustee, except to the extent the rights herein given may be restricted by the trust agreement, either at law or in equity, by suit, action, mandamus or other proceedings, may protect and enforce any and all rights under the laws of the State or granted hereunder, or in the resolution authorizing the issuance of the bonds or notes, or under the trust agreement, and may enforce and compel the performance of all duties required by this subtitle, or in the resolution authorizing the issuance of the bonds or notes, or by the trust agreement, to be performed by the

Service, or by any officer thereof, including the fixing, charging, and collecting of rentals and other rates, fees, and charges for the use of the projects.

3-122.

(a) Bonds or notes issued under the provisions of this subtitle shall not be deemed to constitute or create a debt or a pledge of the faith and credit of the State or of any political subdivision. Every bond or note shall contain on its face a statement to the effect that neither the Service, the State, nor any political subdivision thereof is obligated to pay it or the interest thereon except from revenues or other money of the Service available therefor and that neither the faith and credit nor the taxing power of the State or any political subdivision is pledged to the payment of the principal of or the interest on the bonds or notes. However, this subsection does not limit the ability of the State or a political subdivision to set, impose, or collect an assessment, rate, fee, or charge to pay to the Service the cost of a project, including the principal of and interest on a bond or note, under an agreement between the Service and the State or political subdivision.

(b) (1) Notwithstanding any limitations or other provisions to the contrary of Article 23A, Article 25A, or Article 25B of the Code, or of any charter or local law regulating the creation of public debts, a municipality may enter into contracts with the Service for the purpose of defraying the Service's costs of acquiring or providing a solid waste disposal project, wastewater purification project, [or] water supply project, **OR ENERGY PROJECT**, which costs may include debt service requirements of the Service relating to that project. These contracts shall not be deemed to constitute or create a debt of the municipality or a pledge of its faith or credit within the meaning of any of these limitations or other provisions. Such a solid waste disposal project, wastewater purification project, [or] water supply project, **OR ENERGY PROJECT** may not be deemed to be a capital project of the municipality within the meaning of any of these limitations or other provisions, and a resolution, ordinance, or other official action authorizing such contracts is not subject to referendum or other procedure not applicable to all ordinances or resolutions enacted by the municipality. For the purposes of this subsection, the express powers contained and enumerated in Articles 23A, 25A, and 25B of the Code and in the Charter of the City of Baltimore are deemed to incorporate and include the power and authority contained in this subsection.

(2) (i) A county or municipal corporation may limit its obligations under contracts with the Service to a specific source of funds including revenues of its publicly operated or publicly contracted solid waste collection or disposal system.

(ii) The governing body of a county or municipal corporation may, by ordinance or resolution, impose reasonable rates and charges for publicly operated or publicly contracted solid waste collection, treatment, or disposal sufficient to defray expenses of its publicly operated or publicly contracted solid waste collection, treatment, or disposal system, including amounts due under a contract with the Service and the funding of reserves.

(iii) The ordinance or resolution may establish a reasonable basis for setting the rates and charges, and a schedule of rates and charges, and may designate solid waste collection, treatment, or disposal service areas within the county or municipal corporation, provided the county or municipal corporation is operating its own collection, treatment, or disposal service or has contracted out those services.

(iv) The ordinance or resolution may provide that the rates and charges are chargeable against all or part of the occupied lots or parcels of land in the county or municipal corporation or in service areas established by the county or municipal corporation and constitute a first lien on such property and may establish reasonable times and methods for collection of the rates or charges, which may be levied and collected and have the same priority and rights and bear the same interest and penalties and in every respect be treated the same as taxes of the county or municipal corporation.

(v) The county or municipal corporation may modify the amount of the rates and charges by a resolution of its governing body or by other action authorized by the ordinance or resolution imposing the rates and charges.

(vi) Before setting or modifying the rates and charges, the county or municipal corporation shall give notice of the proposed rates or charges in at least one newspaper of general circulation in the county or municipal corporation and hold a public hearing on the necessity or advisability of the proposed rates or charges.

(vii) The county or municipal corporation may enter into a rate covenant with the Service specifying the level of these rates and charges, the covenants described in § 3-104(m) of this subtitle, and other covenants of the county or municipal corporation to provide solid waste collection, treatment, or disposal service and assure that sufficient revenues are available to provide for the payments due under the contract.

(viii) The powers granted by this section are in addition to other powers of a county or municipal corporation granted under law and may not be restricted by any debt or tax rate limitation in any general law, local law, or charter provision.

(ix) Rates and charges imposed under this section are not subject to the jurisdiction of any entity other than the Service or the contracting municipality.

(3) Any contract between the Service and a municipality shall be valid, binding, and enforceable against the municipality if it is approved by resolution of the governing body of the municipality.

(4) A county or municipal corporation may exercise the powers granted under this section notwithstanding any limitations or other provisions to the

contrary of Article 23A, Article 25A, or Article 25B of the Code or of any charter or local law.

3-126.

(a) The Service may provide for the creation, continuation, and administration of whatever funds may be required. Money in these funds and other money of the Service shall be deposited, as directed by the Service, in any State or national bank, or federally insured savings and loan associations having a total paid-in capital of at least \$1,000,000 or in any financial institution in which the State Treasurer is authorized to deposit State funds. The trust department of any State or national bank or savings and loan association may be designated as a depository to receive any securities acquired or owned by the Service. The restriction with respect to paid-in capital may be waived for any qualifying bank or savings and loan association which agrees to pledge securities of the State or of the United States to protect the funds and securities of the Service in amounts and under arrangements acceptable to the Service.

(b) Any money of the Service, in its discretion and unless otherwise provided in any [agreement] **TRUST AGREEMENT, OTHER AGREEMENT,** or covenant [between] **MADE BY** the Service [and] **FOR THE BENEFIT OF** the holders of any of its obligations [limiting or restricting classes of investments,] **WITH RESPECT TO FUNDS HELD UNDER THE TRUST OR OTHER AGREEMENT** may be invested in:

(1) Bonds or other obligations of, or guaranteed as to principal and interest by, the United States or the State or its political subdivisions or units; or

(2) Any other obligation or security in which the State Treasurer may invest under § 6-222 of the State Finance and Procurement Article.

(c) The Service shall make provision for a system of financial accounting, controls, audits, and reports. All accounting systems and records, auditing procedures and standards, and financial reporting shall conform to generally accepted principles of governmental accounting. The Service shall adopt the fiscal year of July 1 to June 30, designate the necessary funds for complete accountability, and specify the basis of accounting for each fund.

(d) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial books, records, and accounts of the Service. The audit shall be made by independent certified public accountants, selected by the Service and licensed to practice in the State. The accountants may not have a personal interest either directly or indirectly in the fiscal affairs of the Service. They shall be experienced and qualified in the accounting and auditing of public bodies. The report of audit shall be prepared in accordance with generally accepted auditing principles and point out any irregularities found to exist. The accountants shall report the results of their examination, including their unqualified opinion on the presentation of the financial position of the various funds and the results of the Service's financial operations. If

they are unable to express an unqualified opinion they shall state and explain in detail the reasons for their qualifications, disclaimer, or opinion including recommendations necessary to make possible future unqualified opinions.

(e) The books, records, and accounts of the Service are subject to audit by the State, including the Legislative Auditor.

(f) Any officer or employee who refuses to give the required assistance and information to the accountants selected by the Service or by the State, or who refuses to submit to them for examination the books, documents, records, files, accounts, papers, things, or property required for the audit, in the discretion of the Service, may be required to forfeit his office or employment.

(g) Any moneys received by the Service from State agencies for goods or services provided by the Service in accordance with agreements with those agencies shall be deposited and credited to the funds created under this subtitle.

(h) Within the first 90 days of each fiscal year, the Service shall make a report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly of its activities for the preceding fiscal year. Each such report shall set forth the complete operating and financial statement covering the Service's activities during such [year and] **YEAR**, the salaries for each position of the Service, **AND A SUMMARY OF ENERGY ACTIVITIES UNDERTAKEN BY THE SERVICE DURING SUCH YEAR.** ~~**EACH REPORT SHALL DESCRIBE ANY COMPLAINT THE SERVICE RECEIVES THAT INDICATES AN ENERGY ACTIVITY UNDERTAKEN BY THE SERVICE COMPETES WITH PRIVATE INVESTMENT IN A SIMILAR ENERGY ACTIVITY.**~~

3-127.

(a) Except as otherwise provided by this subtitle, the Service may adopt, formulate, revise, and enforce rules and regulations necessary for the regulation of its internal affairs and for the use and operation of its projects, and of any other laws the administration of which is vested in the Service. A rule or regulation concerning the use or operation of a project may not conflict with any rule, regulation, permit, or hauler certificate of the Department of the Environment. The Service may limit or regulate water supply or liquid waste service, refuse collection, disposal service, and storm and surface water drainage service, in any area or to any premises served by Service projects, as the exigencies of the occasion and the protection of its systems require. The Service may adopt lawful and reasonable regulations it considers necessary for the public's health and safety, comfort, and convenience in the construction, operation, maintenance, expansion, relocation, replacement, renovation, and repair of its water supply, wastewater [purification and] **PURIFICATION**, solid waste disposal, **AND ENERGY** projects.

(b) Rules and regulations shall be approved by the Board and adopted under the provisions of the Administrative Procedure Act, except when necessary for the immediate preservation of the public health and safety and except for emergency provisions required to protect Service projects.

(c) Any regulation adopted by the Service under this section has the effect of law.

3-128.

(a) If the Service and a municipality or person fail to reach agreement on rates, fees, or other charges to be exacted by the Service **FOR A WATER SUPPLY OR WASTEWATER PURIFICATION PROJECT**, the Public Service Commission, on the petition of either party to the disagreement, shall assume jurisdiction for the purpose of arbitrating the disagreement. Its determination shall be final and binding on all parties concerned, subject to the right of any party to appeal the determination to the circuit court of any county within which the municipality or person is located, resides, or carries on business. In any appeal the decision of the Commission is prima facie correct and shall be affirmed unless clearly shown to be (1) in violation of constitutional provisions, or (2) made on unlawful procedure, or (3) arbitrary or capricious, or (4) affected by other error of law. It is the intention of this subtitle that judicial review in all instances includes the right to appeal to the Court of Special Appeals from the decision of the lower court. The provisions of this section and the jurisdiction of the Public Service Commission shall not apply to any rates, fees, or charges agreed to by contract between the Service and a municipality or person **FOR A WATER SUPPLY OR WASTEWATER PURIFICATION PROJECT**.

(b) The Service may not be deemed to be a public service company within the meaning of the Public Utility Companies Article, and, except as provided in this section **AND IN § 3-102(B) OF THIS SUBTITLE**, the jurisdiction and powers of the Public Service Commission do not extend to the Service.

3-129.

Any person who violates any provision of this subtitle or of any rule or regulation adopted by the Service is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 for each violation. A separate offense exists for each day a violation occurs.

3-130.

This subtitle shall be known as the "Maryland Environmental Service Act".

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

Approved by the Governor, May 7, 2009.

Chapter 184

(Senate Bill 265)

AN ACT concerning

Vehicle Laws - ~~Young Drivers - Driving Privileges~~ Teen Driver Safety

FOR the purpose of increasing the minimum ages at which an individual may obtain a ~~learner's instructional permit, provisional license, and full~~ provisional driver's license or original driver's license; ~~increasing the maximum age under which an applicant for a learner's instructional permit must provide to the Motor Vehicle Administration a school attendance record; increasing the maximum age of an applicant for a learner's instructional permit for purposes of a prohibition against issuance of the permit if the applicant's school attendance record indicates more than a certain number of absences; requiring the Administration to fingerprint an applicant for a driving instructor's license and apply for certain criminal history records information about the applicant in a certain manner; providing that certain criminal history records are confidential and available only for a certain purpose; altering the period after which the holder of a learner's instructional permit may take certain examinations for a provisional license under certain circumstances; requiring the Administration to cancel the driver's license of a minor if the cosigner on the minor's application for the license makes a certain request; altering the period after which the holder of a provisional license may be issued a full~~ an original driver's license under certain circumstances; ~~altering the hours during which a holder of a provisional driver's license under a certain age may drive unsupervised; authorizing the Administration to conduct a driver improvement program for young drivers; requiring~~ authorizing the Administration to impose ~~certain restrictions~~ a certain restriction on a provisional driver's license and suspend or revoke the license under certain circumstances; ~~modifying a certain license restriction prohibiting a holder of a provisional driver's license from driving a vehicle carrying certain passengers under certain circumstances; defining a certain term; altering a certain definition;~~ providing for the application of a certain provision of this Act; clarifying language; making conforming and stylistic changes; and generally relating to ~~driving privileges for young drivers~~ teen driving driver safety.

BY repealing and reenacting, with amendments,

Article - Transportation

Section ~~15-804, 16-103, 16-105(a) and (d) 16-105(d), 16-108, 16-111(d), 16-113(d), 16-212, 16-213, and 21-1123~~ and 16-213

Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section ~~15–102, 15–802, and 16–111(a), (b), and (c) and 16–113(d–1) and (i)~~
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

~~BY adding to
Article – Transportation
Section 16–113(d–2)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)~~

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

Article – Transportation

16–103.

(a) Except as provided in subsection (b) of this section, the Administration may not issue a driver's license to any individual who is not at least 18 years old.

(b) (1) Except as provided under paragraph (2) of this subsection, the Administration may issue a noncommercial Class B, C, or M license to an individual under the age of 18 if the individual otherwise qualifies for a driver's license under this subtitle.

(2) The Administration may not issue a Class M license to an individual under the age of 18 years unless the individual has also completed satisfactorily a motorcycle safety course approved under Subtitle 6 of this title.

(c) The Administration may not issue:

(1) A learner's instructional permit to any individual who has not reached the age of ~~[15 years, 9 months]~~ **16 YEARS**;

(2) A provisional license to any individual who has not reached the age of 16 years, ~~[3]~~ **6** months; or

(3) A license to any individual who has not reached the age of ~~[17 years, 9 months]~~ **18 YEARS**.

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

Article – Transportation15–102.

(a) Each application for a license under this title shall be made on the form that the Administration requires.

(b) In addition to any other information required by this title, each application for a license under this title shall include:

(1) The name and address of the applicant;

(2) The address of the fixed location from which the licensed activity of the applicant will be conducted;

(3) A statement of the maximum amount charged as a dealer processing charge under § 15–311.1 of this title; and

(4) Any other information that the Administration requires.

(c) Each application for a license under this title shall:

(1) Contain a certification by the applicant that the information given in it is true; and

(2) Be signed by:

(i) The applicant, if the applicant is an individual;

(ii) A partner or other authorized representative, if the application is made for a partnership; or

(iii) An officer or other authorized representative, if the application is made for a corporation or any other business entity.

(d) Except for an application for a drivers' school license, each application for a license under this title shall be accompanied by the annual fee required for that license.

15–802.

A person may not act as a driving instructor unless the person is licensed by the Administration under this subtitle.

15–804.

(A) In addition to the information required under § 15–102 of this title, each application for a license shall include:

(1) The name and business address of the drivers' school by whom the applicant is or will be employed; or

(2) A statement that the applicant himself is licensed to conduct a drivers' school.

(B) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(2) THE ADMINISTRATION SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT.

(3) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE ADMINISTRATION SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(4) IN ACCORDANCE WITH §§ 10–201 THROUGH 10–234 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE APPLICANT AND THE ADMINISTRATION THE APPLICANT'S CRIMINAL HISTORY RECORDS INFORMATION.

(5) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION:

(I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED;

AND

(II) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS SUBSECTION.

(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.

16-105.

~~(a) (1) Any individual who desires to obtain an original driver's license under this subtitle or to be licensed in a class for which the individual is not already licensed under this subtitle shall apply to the Administration for the desired driver's license.~~

~~(2) (I) Except as provided in subsection (f) of this section, before issuing a driver's license, the Administration shall issue to each applicant a learner's instructional permit.~~

~~(II) The learner's instructional permit shall identify clearly the class of license for which the applicant has applied.~~

~~(3) (i) Each applicant for a learner's instructional permit who is under the age of 16 years, 3 MONTHS shall present to the Administration a certified copy of the applicant's school attendance record.~~

~~(ii) The Administration may not issue a learner's instructional permit to an applicant under the age of 16 years, 3 MONTHS if the applicant's school attendance record indicates more than 10 unexcused absences during the prior school semester.~~

(d) (1) This subsection applies to an individual who:

(i) Seeks to obtain an original driver's license under this subtitle; and

(ii) Does not qualify for a learner's instructional permit under subsection (e) of this section.

(2) An individual who holds a learner's instructional permit may not take a driver skills examination or driver road examination for a provisional license:

(i) Sooner than ~~6~~ **9** months **FOLLOWING THE LATER OF:**

1. [After the] **THE DATE THAT THE** individual first obtains the learner's instructional permit; or

2. [After the] **THE** date [on which the individual committed a moving violation for which] the individual was convicted **OF, OR GRANTED PROBATION BEFORE JUDGMENT UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE FOR, A MOVING VIOLATION;**

(ii) Until after successful completion of:

1. The driver education program approved under Subtitle 5 of this title, consisting of at least 30 hours of classroom instruction and at least 6 hours of highway driving instruction; and

2. At least 60 hours, 10 hours of which must occur during the period beginning 30 minutes before sunset and ending 30 minutes after sunrise, of behind-the-wheel driving practice supervised by an individual who:

A. Holds a valid driver's license;

B. Is at least 21 years old; and

C. Has been licensed to drive for at least 3 years; and

(iii) Unless the individual submits, in accordance with the Administration's regulations, a completed skills log book signed by:

1. Each supervising driver who certifies that the individual has satisfactorily demonstrated a required skill and has completed the driving practice requirements of item (ii)2 of this paragraph; and

2. If a signature of a parent, guardian, or other person is required under § 16-107 of this subtitle, the parent, guardian, or other person who signs the individual's application under that section.

(3) A learner's instructional permit issued to an individual described in paragraph (1) of this subsection expires 2 years after the date of issuance.

16-108.

If, while the licensee is still a minor, the Administration receives from the individual who cosigned the license application of the minor a written request that the license of the minor be [~~suspended~~] **CANCELED**, the Administration:

(1) Shall [~~suspend~~] **CANCEL** the license; and

(2) May not [~~reinstate~~] **REISSUE** the license until:

(i) Another qualified adult cosigns and certifies an application as required by § 16–107 of this subtitle; or

(ii) The minor becomes an adult.

16–111.

(a) This section applies to an applicant who:

(1) Holds a learner's instructional permit under § 16–105(d) of this subtitle; or

(2) Qualifies for a provisional license under subsection (e) of this section.

(b) An applicant is entitled to receive a provisional license if the applicant:

(1) Meets the minimum age required under § 16–103(c)(2) of this subtitle;

(2) Satisfies the learner's instructional permit requirements under § 16–105(d)(2) of this subtitle;

(3) Passes a driver skills or driver road examination administered under this subtitle;

(4) Surrenders any learner's instructional permit issued to the applicant; and

(5) Pays the fee established under this subtitle.

(c) A provisional license shall be clearly identifiable as a provisional license.

(d) (1) An individual who holds a provisional license may not receive a license sooner than 18 months following the later of:

(i) The date the individual first obtains the provisional license;

(ii) The date the individual [has been] **IS** convicted of [a], **OR GRANTED PROBATION BEFORE JUDGMENT UNDER § 6–220 OF THE CRIMINAL PROCEDURE ARTICLE FOR:**

1. A moving violation[, or of violating]; OR

2. A VIOLATION OF a provisional driver's license restriction under [§ 16–113(d) or (d–1)] **§ 16–113(I)** of this subtitle; or

(iii) The date of restoration of an individual's provisional driver's license or driving privilege that has been suspended ~~or revoked~~, **REVOKED, OR CANCELED** for any reason.

(2) Notwithstanding any other provision of this subtitle, the Administration may issue a license to an individual who was otherwise eligible to receive a license at the time a moving violation was committed.

~~16-113.~~

~~(d) (1) Notwithstanding the licensee's driving record, the Administration shall impose an hour restriction on a provisional driver's license issued to an applicant under the age of 18.~~

~~(2) The restriction under this subsection shall limit the holder of a provisional license to driving unsupervised only between the hours of 5 a.m. and [12 midnight] 11 P.M.~~

~~(3) This subsection does not preclude the holder of a provisional license from driving between the hours of [12 midnight] 11 P.M. and 5 a.m. the following day if the licensee is:~~

~~(i) Accompanied and supervised by a licensed driver who is at least 21 years old;~~

~~(ii) Driving to or from or in the course of the licensee's employment;~~

~~(iii) Driving to or from a school class or official school activity;~~

~~(iv) Driving to or from an organized volunteer program; or~~

~~(v) Driving to or from an opportunity to participate in an athletic event or related training session.~~

~~(4) The hour restriction and the supervision requirement under this subsection expire on the date the holder of the provisional license turns 18 years of age.~~

~~(d-1) (1) Notwithstanding the licensee's driving record, and subject to paragraph (2) of this subsection, the Administration shall impose a restriction on each provisional driver's license prohibiting the licensee from operating a motor vehicle if the driver and each passenger in the motor vehicle are not restrained by a seat belt or, in accordance with § 22-412.2 of this article, by a child safety seat.~~

~~(2) It is not a violation of the restriction under paragraph (1) of this subsection if an individual covered by a medical exception under § 22-412.2(f) or § 22-412.3(d) and (e) of this article is not restrained.~~

~~(3) The restrictions under paragraph (1) of this subsection expire on the date that the holder of a provisional license turns 18 years of age.~~

~~(D-2) (1) THE ADMINISTRATION SHALL IMPOSE AN "EDUCATION AND EMPLOYMENT ONLY" RESTRICTION ON A PROVISIONAL DRIVER'S LICENSE IF THE LICENSEE IS UNDER THE AGE OF 18 AND IS CONVICTED OF OR IS GRANTED PROBATION BEFORE JUDGMENT FOR A SECOND OR SUBSEQUENT MOVING VIOLATION.~~

~~(2) THE ADMINISTRATION MAY NOT REMOVE THE RESTRICTION IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNTIL THE LICENSEE OBTAINS A DRIVER'S LICENSE ISSUED UNDER § 16-111.1 OF THIS SUBTITLE.~~

~~(i) An individual may not drive a vehicle in any manner that violates any restriction imposed in a provisional license issued to the individual.~~

16-212.

(a) The Administration may conduct:

(1) A driver improvement program, **INCLUDING A DRIVER IMPROVEMENT PROGRAM DESIGNED SPECIFICALLY FOR YOUNG DRIVERS;**

(2) An alcohol education program; and

(3) Point system conferences.

(b) (1) The purpose of the programs and conferences authorized under this section is to provide driver rehabilitation.

(2) The Administration shall determine the content of the programs and conferences.

(c) If an individual is convicted of [1] **ONE** or more moving violations:

(1) After a conference or a hearing as provided in Title 12, Subtitle 2 of this article, as a condition of reinstatement of a driver's license, or if an individual fails to attend a conference as required by § 16-404(a)(2) of this title, the Administration may require an individual to attend a driver improvement program or alcohol education program; or

(2) A court may require an individual to attend a driver improvement program or alcohol education program.

(d) In carrying out an order of the court, a probation officer or health department officer may assign an individual to attend a driver improvement program or alcohol education program.

(e) (1) An individual who attends a program or conference under this section shall pay, in advance, a fee as provided in this subsection.

(2) The Administration shall set a reasonable fee based on the costs of operating the programs and conferences authorized by this section.

(3) The funds collected by the Administration under this subsection may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8-403 or § 8-404 of this article.

(f) (1) The Administration may waive attendance at an alcohol education program conducted by the Administration if an individual attends a private alcohol education program or an alcohol education program provided by a political subdivision of the State that is approved by the Alcohol and Drug Abuse Administration and the Administration.

(2) The Administration may waive attendance at a driver improvement program conducted by the Administration if an individual attends a private driver improvement program or a driver improvement program provided by a political subdivision of the State that is approved by the Administration.

(3) The Administration may waive attendance at a point system conference conducted by the Administration if an individual attends a point system conference conducted by a private provider that is approved by the Administration.

(4) The Administration shall establish criteria for approving private providers of point system conferences and alcohol education or driver improvement programs and alcohol education or driver improvement programs provided by a political subdivision of the State.

(5) Upon application for approval to provide the programs and conferences allowed under this section, a private provider shall pay an application fee established by the Administration.

16-213.

(a) **(1)** In this ~~section, "offense" means a moving violation committed by an individual~~ **SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) “EDUCATION AND EMPLOYMENT ONLY RESTRICTION” MEANS A RESTRICTION THAT ALLOWS A LICENSED DRIVER TO DRIVE ONLY:

(I) TO OR FROM A SCHOOL CLASS OR AN OFFICIAL SCHOOL ACTIVITY; OR

(II) TO OR FROM, OR IN THE COURSE OF, THE LICENSEE’S EMPLOYMENT.

(3) “OFFENSE” MEANS A MOVING VIOLATION COMMITTED BY AN INDIVIDUAL who:

~~(1)~~ **(I)** [Holds] **HELD** a provisional license under § 16–111 of this title **ON THE DATE THE VIOLATION WAS COMMITTED;**

~~(2)~~ **(II)** Was convicted of, or granted a probation before judgment under § 6–220 of the Criminal Procedure Article for, the violation; and

~~(3)~~ **(III)** Was not eligible for a license under § 16–111.1 of this title at the time of the violation.

(b) Except as provided in § 16–205(d–1) or § 16–206(b) of this subtitle, the sanctions under this section are in addition to any other penalty or sanctions that might apply as a result of a moving violation.

(c) The Administration:

(1) For a first offense, shall require the offender to attend a driver improvement program under § 16–212 of this subtitle;

(2) For a second offense:

(I) FOR AN ADULT, may suspend the offender’s ~~provisional~~ license for up to 30 days; and

(II) FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS,
~~SHALL:~~ **MAY:**

~~1. SUSPEND SUSPEND THE OFFENDER’S LICENSE FOR UP TO 30 DAYS;~~

~~2. RESTRICT THE OFFENDER’S LICENSE AS PROVIDED IN § 16–113(D–2) OF THIS TITLE;~~

1. SUSPEND THE OFFENDER'S LICENSE FOR 30 DAYS;
AND

2. IMPOSE, ON COMPLETION OF THE SUSPENSION, AN EDUCATION AND EMPLOYMENT ONLY RESTRICTION ON THE OFFENDER'S LICENSE EFFECTIVE FOR 90 DAYS;

(3) For a third [or subsequent] offense:

(I) **FOR AN ADULT**, may suspend [or revoke] the offender's [provisional] license for up to 180 days; **AND**

(II) **FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS, ~~SHALL~~ MAY:**

1. SUSPEND THE OFFENDER'S LICENSE FOR UP TO 180 DAYS;

2. REQUIRE THE OFFENDER TO ATTEND A DRIVER IMPROVEMENT PROGRAM DESIGNED FOR ~~YOUNGER~~ YOUNG DRIVERS UNDER § 16-212 OF THIS SUBTITLE; AND

~~3. RESTRICT THE OFFENDER FROM DRIVING WITH A PASSENGER UNDER THE AGE OF 18 YEARS UNTIL THE OFFENDER OBTAINS A DRIVER'S LICENSE ISSUED UNDER § 16-111.1 OF THIS TITLE~~ IMPOSE, ON COMPLETION OF THE SUSPENSION, AN EDUCATION AND EMPLOYMENT ONLY RESTRICTION ON THE OFFENDER'S LICENSE EFFECTIVE FOR 180 DAYS; AND

(4) **FOR A FOURTH OR SUBSEQUENT OFFENSE:**

(I) **FOR AN ADULT, MAY SUSPEND OR REVOKE THE OFFENDER'S LICENSE FOR UP TO 180 DAYS; AND**

(II) **FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS, ~~SHALL~~ MAY:**

1. REVOKE THE OFFENDER'S LICENSE FOR NOT LESS THAN 180 DAYS; AND

2. REQUIRE THE OFFENDER, IN ADDITION TO APPLYING FOR REINSTATEMENT AS REQUIRED UNDER § 16-208(B) OF THIS SUBTITLE, TO PASS THE EXAMINATIONS REQUIRED UNDER § 16-110 OF THIS TITLE.

~~21-1123.~~

~~(a) (1) The provisions of this subsection do not apply if the holder of the provisional driver's license is driving while accompanied by and under the immediate supervision of an individual who:~~

~~(i) Is at least 21 years old;~~

~~(ii) Has been licensed for at least 3 years in this State or in another state to drive vehicles of the class then being driven by the holder of the provisional driver's license; and~~

~~(iii) Is seated beside the holder of the provisional driver's license.~~

~~(2) Except as provided in paragraph (3) of this subsection, a holder of a provisional driver's license who is under the age of 18 years may not drive a motor vehicle with a passenger; a passenger~~

~~**(I) FOR THE FIRST 5 MONTHS AFTER THE PROVISIONAL LICENSE IS ISSUED, A PASSENGER WHO IS** under the age of 18 years; **AND**~~

~~**(II) AFTER THE EXPIRATION OF THE 5 MONTH PERIOD, MORE THAN ONE PASSENGER WHO IS UNDER THE AGE OF 18 YEARS.**~~

~~(3) [The] **EXCEPT AS PROVIDED IN § 16-213 OF THIS ARTICLE,** THE prohibition under paragraph (2) of this subsection:~~

~~(i) Shall be in effect from the date the provisional license is originally issued until [the 151st day] **1 YEAR** after the provisional license was issued, **OR THE HOLDER OF THE PROVISIONAL LICENSE REACHES THE AGE OF 18 YEARS, WHICHEVER OCCURS FIRST,** and~~

~~(ii) Does **DOES** not apply to a passenger who is:~~

~~1. **(I)** A spouse, daughter, son, stepdaughter, stepson, sister, brother, stepsister, or stepbrother, **OR COUSIN** of the licensee; or~~

~~2. **(II)** A relative of the licensee who resides at the same address as the licensee.~~

~~(b) A police officer may enforce this section only as a secondary action when the police officer detains a driver for a suspected violation of another provision of the Code.~~

~~(e) A violation of this section is a moving violation for the purposes of § 16-402 of this article.~~

~~(d) (1) If the Administration receives satisfactory evidence that an individual has violated this section, the Administration may suspend or revoke the individual's driver's license.~~

~~(2) An individual may request a hearing as provided for a suspension or revocation under Title [16] 12, Subtitle 2 of this article.~~

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any individual ~~under the age of 16 years~~ who obtained a provisional or an original driver's license before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 185

(House Bill 303)

AN ACT concerning

Vehicle Laws - ~~Young Drivers - Driving Privileges~~ Teen Driver Safety

FOR the purpose of increasing the minimum ages at which an individual may obtain a ~~learner's instructional permit, provisional license, and full~~ provisional driver's license or original driver's license; ~~increasing the maximum age under which an applicant for a learner's instructional permit must provide to the Motor Vehicle Administration a school attendance record; increasing the maximum age of an applicant for a learner's instructional permit for purposes of a prohibition against issuance of the permit if the applicant's school attendance record indicates more than a certain number of absences;~~ altering the period after which the holder of a learner's instructional permit may take certain examinations for a provisional license under certain circumstances; requiring the Administration to cancel the driver's license of a minor if the cosigner on the minor's application for the license makes a certain request; altering the period after which the holder of a provisional license may be issued ~~a full~~ an original driver's license under certain circumstances; ~~altering the hours during which a holder of a provisional driver's license under a certain age may drive unsupervised~~ requiring the Administration to fingerprint an applicant for a driving instructor's license and apply for certain criminal history records information about the applicant in a certain manner; providing that certain

criminal history records are confidential and available only for a certain purpose; authorizing the Administration to conduct a driver improvement program for young drivers; requiring authorizing the Administration to impose certain restrictions a certain restriction on a provisional driver's license and suspend or revoke the license under certain circumstances; modifying a certain license restriction prohibiting a holder of a provisional driver's license from driving a vehicle carrying certain passengers under certain circumstances; defining a certain term; altering a certain definition; providing for the application of a certain provision of this Act; clarifying language; making conforming and stylistic changes; and generally relating to driving privileges for young drivers teen driver safety.

BY repealing and reenacting, with amendments,

Article – Transportation

Section ~~15-804~~, 16-103, ~~16-105(a) and (d)~~ 16-105(d), 16-108, 16-111(d), ~~16-113(d)~~, 16-212, ~~16-213~~, and ~~21-1123~~ and 16-213

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section ~~15-102~~, ~~15-802~~, and 16-111(a), (b), and (c) ~~and 16-113(d-1) and (i)~~

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

~~BY adding to~~

~~Article – Transportation~~

~~Section 16-113(d-2)~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2008 Supplement)~~

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

Article – Transportation

16-103.

(a) Except as provided in subsection (b) of this section, the Administration may not issue a driver's license to any individual who is not at least 18 years old.

(b) (1) Except as provided under paragraph (2) of this subsection, the Administration may issue a noncommercial Class B, C, or M license to an individual under the age of 18 if the individual otherwise qualifies for a driver's license under this subtitle.

(2) The Administration may not issue a Class M license to an individual under the age of 18 years unless the individual has also completed satisfactorily a motorcycle safety course approved under Subtitle 6 of this title.

(c) The Administration may not issue:

(1) A learner's instructional permit to any individual who has not reached the age of ~~[15 years, 9 months]~~ **16 YEARS**;

(2) A provisional license to any individual who has not reached the age of 16 years, ~~[3]~~ **6** months; or

(3) A license to any individual who has not reached the age of [17 years, 9 months] **18 YEARS**.

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

Article - Transportation

15-102.

(a) Each application for a license under this title shall be made on the form that the Administration requires.

(b) In addition to any other information required by this title, each application for a license under this title shall include:

(1) The name and address of the applicant;

(2) The address of the fixed location from which the licensed activity of the applicant will be conducted;

(3) A statement of the maximum amount charged as a dealer processing charge under § 15-311.1 of this title; and

(4) Any other information that the Administration requires.

(c) Each application for a license under this title shall:

(1) Contain a certification by the applicant that the information given in it is true; and

(2) Be signed by:

(i) The applicant, if the applicant is an individual;

(ii) A partner or other authorized representative, if the application is made for a partnership; or

(iii) An officer or other authorized representative, if the application is made for a corporation or any other business entity.

(d) Except for an application for a drivers' school license, each application for a license under this title shall be accompanied by the annual fee required for that license.

15-802.

A person may not act as a driving instructor unless the person is licensed by the Administration under this subtitle.

15-804.

(A) In addition to the information required under § 15-102 of this title, each application for a license shall include:

(1) The name and business address of the drivers' school by whom the applicant is or will be employed; or

(2) A statement that the applicant himself is licensed to conduct a drivers' school.

(B) (1) IN THIS SUBSECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(2) THE ADMINISTRATION SHALL APPLY TO THE CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT.

(3) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE ADMINISTRATION SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL PROCEDURE ARTICLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(4) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-234 OF THE CRIMINAL PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE APPLICANT AND THE ADMINISTRATION THE APPLICANT'S CRIMINAL HISTORY RECORDS INFORMATION.

(5) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SUBSECTION:

(I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED;
AND

(II) SHALL BE USED ONLY FOR THE LICENSING PURPOSE AUTHORIZED BY THIS SUBSECTION.

(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.

16-105.

~~(a) (1) Any individual who desires to obtain an original driver's license under this subtitle or to be licensed in a class for which the individual is not already licensed under this subtitle shall apply to the Administration for the desired driver's license.~~

~~(2) (I) Except as provided in subsection (f) of this section, before issuing a driver's license, the Administration shall issue to each applicant a learner's instructional permit.~~

~~(H) The learner's instructional permit shall identify clearly the class of license for which the applicant has applied.~~

~~(3) (i) Each applicant for a learner's instructional permit who is under the age of 16 years, 3 MONTHS shall present to the Administration a certified copy of the applicant's school attendance record.~~

~~(ii) The Administration may not issue a learner's instructional permit to an applicant under the age of 16 years, **3 MONTHS** if the applicant's school attendance record indicates more than 10 unexcused absences during the prior school semester.~~

(d) (1) This subsection applies to an individual who:

(i) Seeks to obtain an original driver's license under this subtitle; and

(ii) Does not qualify for a learner's instructional permit under subsection (e) of this section.

(2) An individual who holds a learner's instructional permit may not take a driver skills examination or driver road examination for a provisional license:

(i) Sooner than ~~6~~ **9** months **FOLLOWING THE LATER OF:**

1. [After the] **THE DATE THAT THE** individual first obtains the learner's instructional permit; or

2. [After the] **THE** date [on which the individual committed a moving violation for which] the individual was convicted **OF, OR GRANTED PROBATION BEFORE JUDGMENT UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE FOR, A MOVING VIOLATION;**

(ii) Until after successful completion of:

1. The driver education program approved under Subtitle 5 of this title, consisting of at least 30 hours of classroom instruction and at least 6 hours of highway driving instruction; and

2. At least 60 hours, 10 hours of which must occur during the period beginning 30 minutes before sunset and ending 30 minutes after sunrise, of behind-the-wheel driving practice supervised by an individual who:

A. Holds a valid driver's license;

B. Is at least 21 years old; and

C. Has been licensed to drive for at least 3 years; and

(iii) Unless the individual submits, in accordance with the Administration's regulations, a completed skills log book signed by:

1. Each supervising driver who certifies that the individual has satisfactorily demonstrated a required skill and has completed the driving practice requirements of item (ii)2 of this paragraph; and

2. If a signature of a parent, guardian, or other person is required under § 16–107 of this subtitle, the parent, guardian, or other person who signs the individual's application under that section.

(3) A learner's instructional permit issued to an individual described in paragraph (1) of this subsection expires 2 years after the date of issuance.

16–108.

If, while the licensee is still a minor, the Administration receives from the individual who cosigned the license application of the minor a written request that the license of the minor be [~~suspended~~] **CANCELED**, the Administration:

(1) Shall [~~suspend~~] **CANCEL** the license; and

(2) May not [~~reinstate~~] **REISSUE** the license until:

(i) Another qualified adult cosigns and certifies an application as required by § 16–107 of this subtitle; or

(ii) The minor becomes an adult.

16–111.

(a) This section applies to an applicant who:

(1) Holds a learner's instructional permit under § 16–105(d) of this subtitle; or

(2) Qualifies for a provisional license under subsection (e) of this section.

(b) An applicant is entitled to receive a provisional license if the applicant:

(1) Meets the minimum age required under § 16–103(c)(2) of this subtitle;

(2) Satisfies the learner's instructional permit requirements under § 16–105(d)(2) of this subtitle;

(3) Passes a driver skills or driver road examination administered under this subtitle;

(4) Surrenders any learner's instructional permit issued to the applicant; and

(5) Pays the fee established under this subtitle.

(c) A provisional license shall be clearly identifiable as a provisional license.

(d) (1) An individual who holds a provisional license may not receive a license sooner than 18 months following the later of:

(i) The date the individual first obtains the provisional license;

(ii) The date the individual [has been] **IS** convicted of [a], **OR GRANTED PROBATION BEFORE JUDGMENT UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE FOR:**

1. **A** moving violation[, or of violating]; **OR**

2. **A VIOLATION OF** a provisional driver's license restriction under [§ 16-113(d) or (d-1)] **§ 16-113(I)** of this subtitle; or

(iii) The date of restoration of an individual's provisional driver's license or driving privilege that has been suspended ~~or revoked~~, **REVOKED, OR CANCELLED** for any reason.

(2) Notwithstanding any other provision of this subtitle, the Administration may issue a license to an individual who was otherwise eligible to receive a license at the time a moving violation was committed.

~~16-113.~~

~~(d) (1) Notwithstanding the licensee's driving record, the Administration shall impose an hour restriction on a provisional driver's license issued to an applicant under the age of 18.~~

~~(2) The restriction under this subsection shall limit the holder of a provisional license to driving unsupervised only between the hours of 5 a.m. and [12 midnight] 11 P.M.~~

~~(3) This subsection does not preclude the holder of a provisional license from driving between the hours of [12 midnight] 11 P.M. and 5 a.m. the following day if the licensee is:~~

~~(i) Accompanied and supervised by a licensed driver who is at least 21 years old;~~

~~(ii) Driving to or from or in the course of the licensee's employment;~~

~~(iii) Driving to or from a school class or official school activity;~~

~~(iv) Driving to or from an organized volunteer program; or~~

~~(v) Driving to or from an opportunity to participate in an athletic event or related training session.~~

~~(4) The hour restriction and the supervision requirement under this subsection expire on the date the holder of the provisional license turns 18 years of age.~~

~~(d-1) (1) Notwithstanding the licensee's driving record, and subject to paragraph (2) of this subsection, the Administration shall impose a restriction on each provisional driver's license prohibiting the licensee from operating a motor vehicle if the driver and each passenger in the motor vehicle are not restrained by a seat belt or, in accordance with § 22-412.2 of this article, by a child safety seat.~~

~~(2) It is not a violation of the restriction under paragraph (1) of this subsection if an individual covered by a medical exception under § 22-412.2(f) or § 22-412.3(d) and (e) of this article is not restrained.~~

~~(3) The restrictions under paragraph (1) of this subsection expire on the date that the holder of a provisional license turns 18 years of age.~~

~~**(D-2) (1) THE ADMINISTRATION SHALL IMPOSE AN "EDUCATION AND EMPLOYMENT ONLY" RESTRICTION ON A PROVISIONAL DRIVER'S LICENSE IF THE LICENSEE IS UNDER THE AGE OF 18 AND IS CONVICTED OF OR IS GRANTED PROBATION BEFORE JUDGMENT FOR A SECOND OR SUBSEQUENT MOVING VIOLATION.**~~

~~**(2) THE ADMINISTRATION MAY NOT REMOVE THE RESTRICTION IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNTIL THE LICENSEE OBTAINS A DRIVER'S LICENSE ISSUED UNDER § 16-111.1 OF THIS SUBTITLE.**~~

~~(i) An individual may not drive a vehicle in any manner that violates any restriction imposed in a provisional license issued to the individual.~~

16-212.

(a) The Administration may conduct:

(1) A driver improvement program, INCLUDING A DRIVER IMPROVEMENT PROGRAM DESIGNED SPECIFICALLY FOR YOUNG DRIVERS;

(2) An alcohol education program; and

(3) Point system conferences.

(b) (1) The purpose of the programs and conferences authorized under this section is to provide driver rehabilitation.

(2) The Administration shall determine the content of the programs and conferences.

(c) If an individual is convicted of [1] **ONE** or more moving violations:

(1) After a conference or a hearing as provided in Title 12, Subtitle 2 of this article, as a condition of reinstatement of a driver's license, or if an individual fails to attend a conference as required by § 16-404(a)(2) of this title, the Administration may require an individual to attend a driver improvement program or alcohol education program; or

(2) A court may require an individual to attend a driver improvement program or alcohol education program.

(d) In carrying out an order of the court, a probation officer or health department officer may assign an individual to attend a driver improvement program or alcohol education program.

(e) (1) An individual who attends a program or conference under this section shall pay, in advance, a fee as provided in this subsection.

(2) The Administration shall set a reasonable fee based on the costs of operating the programs and conferences authorized by this section.

(3) The funds collected by the Administration under this subsection may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8-403 or § 8-404 of this article.

(f) (1) The Administration may waive attendance at an alcohol education program conducted by the Administration if an individual attends a private alcohol education program or an alcohol education program provided by a political subdivision of the State that is approved by the Alcohol and Drug Abuse Administration and the Administration.

(2) The Administration may waive attendance at a driver improvement program conducted by the Administration if an individual attends a private driver improvement program or a driver improvement program provided by a political subdivision of the State that is approved by the Administration.

(3) The Administration may waive attendance at a point system conference conducted by the Administration if an individual attends a point system conference conducted by a private provider that is approved by the Administration.

(4) The Administration shall establish criteria for approving private providers of point system conferences and alcohol education or driver improvement programs and alcohol education or driver improvement programs provided by a political subdivision of the State.

(5) Upon application for approval to provide the programs and conferences allowed under this section, a private provider shall pay an application fee established by the Administration.

16-213.

(a) ~~(1)~~ In this ~~section, "offense" means a moving violation committed by an individual~~ **SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "EDUCATION AND EMPLOYMENT ONLY RESTRICTION" MEANS A RESTRICTION THAT ALLOWS A LICENSED DRIVER TO DRIVE ONLY:

(I) TO OR FROM A SCHOOL CLASS OR AN OFFICIAL SCHOOL ACTIVITY; OR

(II) TO OR FROM, OR IN THE COURSE OF, THE LICENSEE'S EMPLOYMENT.

(3) "OFFENSE" MEANS A MOVING VIOLATION COMMITTED BY AN INDIVIDUAL who:

~~(1)~~ **(I)** [Holds] **HELD** a provisional license under § 16-111 of this title **ON THE DATE THE VIOLATION WAS COMMITTED;**

~~(2)~~ **(II)** Was convicted of, or granted a probation before judgment under § 6-220 of the Criminal Procedure Article for, the violation; and

~~(3)~~ **(III)** Was not eligible for a license under § 16-111.1 of this title at the time of the violation.

(b) Except as provided in § 16-205(d-1) or § 16-206(b) of this subtitle, the sanctions under this section are in addition to any other penalty or sanctions that might apply as a result of a moving violation.

(c) The Administration:

(1) For a first offense, shall require the offender to attend a driver improvement program under § 16-212 of this subtitle;

(2) For a second offense:

(I) **FOR AN ADULT**, may suspend the offender's ~~provisional~~ license for up to 30 days; and

(II) **FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS, ~~SHALL~~ MAY:**

1. **SUSPEND THE OFFENDER'S LICENSE FOR UP TO 30 DAYS; AND**

2. **~~RESTRICT THE OFFENDER'S LICENSE AS PROVIDED IN § 16-113(D-2) OF THIS TITLE~~ IMPOSE, ON COMPLETION OF THE SUSPENSION, AN EDUCATION AND EMPLOYMENT ONLY RESTRICTION ON THE OFFENDER'S LICENSE EFFECTIVE FOR 90 DAYS;**

(3) For a third [or subsequent] offense:

(I) **FOR AN ADULT**, may suspend [or revoke] the offender's [provisional] license for up to 180 days; AND

(II) **FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS, ~~SHALL~~ MAY:**

1. **SUSPEND THE OFFENDER'S LICENSE FOR UP TO 180 DAYS;**

2. **REQUIRE THE OFFENDER TO ATTEND A DRIVER IMPROVEMENT PROGRAM DESIGNED FOR ~~YOUNGER~~ YOUNG DRIVERS UNDER § 16-212 OF THIS SUBTITLE; AND**

3. **~~RESTRICT THE OFFENDER FROM DRIVING WITH A PASSENGER UNDER THE AGE OF 18 YEARS UNTIL THE OFFENDER OBTAINS A DRIVER'S LICENSE ISSUED UNDER § 16-111.1 OF THIS TITLE~~ IMPOSE, ON COMPLETION OF THE SUSPENSION, AN EDUCATION AND EMPLOYMENT ONLY RESTRICTION ON THE OFFENDER'S LICENSE EFFECTIVE FOR 180 DAYS; AND**

(4) **FOR A FOURTH OR SUBSEQUENT OFFENSE:**

(I) **FOR AN ADULT, MAY SUSPEND OR REVOKE THE OFFENDER'S LICENSE FOR UP TO 180 DAYS; AND**

(II) **FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS, ~~SHALL~~ MAY:**

1. REVOKE THE OFFENDER'S LICENSE FOR NOT LESS THAN 180 DAYS; AND

2. REQUIRE THE OFFENDER, IN ADDITION TO APPLYING FOR REINSTATEMENT AS REQUIRED UNDER § 16-208(B) OF THIS SUBTITLE, TO PASS THE EXAMINATIONS REQUIRED UNDER § 16-110 OF THIS TITLE.

~~21-1123.~~

~~(a) (1) The provisions of this subsection do not apply if the holder of the provisional driver's license is driving while accompanied by and under the immediate supervision of an individual who:~~

~~(i) Is at least 21 years old;~~

~~(ii) Has been licensed for at least 3 years in this State or in another state to drive vehicles of the class then being driven by the holder of the provisional driver's license; and~~

~~(iii) Is seated beside the holder of the provisional driver's license.~~

~~(2) Except as provided in paragraph (3) of this subsection, a holder of a provisional driver's license who is under the age of 18 years may not drive a motor vehicle with a passenger;~~

~~(i) FOR THE FIRST 9 MONTHS AFTER THE PROVISIONAL LICENSE IS ISSUED, A PASSENGER WHO IS under the age of 18 years; AND~~

~~(ii) AFTER THE EXPIRATION OF THE 9 MONTH PERIOD, MORE THAN ONE PASSENGER WHO IS UNDER THE AGE OF 18 YEARS.~~

~~(3) [The] EXCEPT AS PROVIDED IN § 16-213 OF THIS ARTICLE, THE prohibition under paragraph (2) of this subsection:~~

~~(i) Shall be in effect from the date the provisional license is originally issued until [the 151st day] 1 YEAR after the provisional license was issued, OR THE HOLDER OF THE PROVISIONAL LICENSE REACHES THE AGE OF 18 YEARS, WHICHEVER OCCURS FIRST; and~~

~~(ii) Does DOES not apply to a passenger who is:~~

~~1. (I) A spouse, daughter, son, stepdaughter, stepson, sister, brother, stepsister, or stepbrother of the licensee; or~~

~~2. (II) A relative of the licensee who resides at the same address as the licensee.~~

~~(b) A police officer may enforce this section only as a secondary action when the police officer detains a driver for a suspected violation of another provision of the Code.~~

~~(c) A violation of this section is a moving violation for the purposes of § 16-402 of this article.~~

~~(d) (1) If the Administration receives satisfactory evidence that an individual has violated this section, the Administration may suspend or revoke the individual's driver's license.~~

~~(2) An individual may request a hearing as provided for a suspension or revocation under Title [16] 12, Subtitle 2 of this article.~~

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any individual ~~under the age of 16 years~~ who obtained a provisional or an original driver's license before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 186

(Senate Bill 279)

AN ACT concerning

Criminal Law – Death Penalty – ~~Repeal~~ Evidence

FOR the purpose of ~~repealing~~ restricting the death penalty; ~~repealing~~ to a case in which the State presents certain evidence to the court or the jury; prohibiting the death penalty in a case in which the State relies solely on evidence provided by eyewitnesses; ~~procedures and requirements related to the death penalty;~~ providing, with certain exceptions, that in certain cases in which the State has filed a notice to seek a sentence of death, the notice shall be considered withdrawn and it shall be considered a notice to seek a sentence of life

imprisonment without the possibility of parole under certain circumstances; ~~providing that certain persons serving life sentences are not eligible persons for Patuxent Institution under certain circumstances; altering the circumstance concerning parole for persons serving life sentences when the State sought a certain penalty;~~ providing that it is the intent of the General Assembly that certain services shall be funded by savings resulting from the ~~repeal~~ restriction of the death penalty to certain cases; requiring the Governor's Office of Crime Control and Prevention to submit a certain report to certain committees; requiring that certain funds be administered by the Governor's Office of Crime Control and Prevention; making conforming and clarifying changes; and generally relating to the ~~repeal~~ restriction of the death penalty to certain cases.

~~BY repealing~~

~~Article — Correctional Services~~

~~Section 3-901 through 3-909 and the subtitle “Subtitle 9. Death Penalty Procedures”~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2008 Supplement)~~

~~BY repealing~~

~~Article — Criminal Procedure~~

~~Section 7-201 through 7-204 and the subtitle “Subtitle 2. Proceedings After Death Sentences”; 8-108 and 11-404~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Correctional Services~~

~~Section 4-101(c)(2), 4-305(b)(2), 6-112(c), 7-301(d)(2), and 7-601(a)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Courts and Judicial Proceedings~~

~~Section 3-8A-03(d)(1), 3-8A-06(a), 8-404, 8-420, 9-204, and 12-307~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Criminal Procedure~~

~~Section 3-105(b), 3-106(a), 3-107(a), 4-204(b), 5-101(e), 7-101, 7-103(b), and 7-107(b)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume)~~

~~BY repealing and reenacting, without amendments,~~

~~Article — Criminal Law~~

~~Section 2-103(h), 2-202, 2-301, and 2-303; and 2-401 and the subtitle
"Subtitle 4. Review by Court of Appeals" 2-201(b)
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 2-201(b), 2-304(a), 2-305, and 14-101 2-202
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Health – General
Section 8-505(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Transportation
Section 16-812(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)~~

Preamble

~~WHEREAS, The Maryland Commission on Capital Punishment was created by
Chapter 431 of the Acts of 2008 for the purpose of studying all aspects of capital
punishment as currently and historically administered in the State; and~~

~~WHEREAS, The Commission comprised 23 appointees representing a broad
diversity of views on capital punishment, as well as the racial, ethnic, gender, and
geographic diversity of the State; and~~

~~WHEREAS, The Commission held five public hearings at which testimony from
experts and members of the public was presented and discussed, as well as five
additional meetings to discuss the evidence presented at the hearings and written
submissions; and~~

~~WHEREAS, The Commission issued its final report to the General Assembly on
December 12, 2008, which included the Commission's strong recommendation that, to
eliminate racial and jurisdictional bias, reduce unnecessary costs, lessen the misery
that capital cases force victims of family members to endure, and eliminate the risk
that an innocent person can be convicted, capital punishment be abolished in
Maryland; now, therefore,~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That Section(s) 3-901 through 3-909 and the subtitle "Subtitle 9. Death~~

~~Penalty Procedures” of Article — Correctional Services of the Annotated Code of Maryland be repealed.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 7-201 through 7-204 and the subtitle “Subtitle 2. Proceedings After Death Sentences”; 8-108 and 11-404 of Article — Criminal Procedure of the Annotated Code of Maryland be repealed.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article — Correctional Services~~

~~4-101.~~

~~(e) (2) “Eligible person” does not include an individual who:~~

~~(i) is serving two or more sentences of imprisonment for life under § 2-201, FORMER § 2-303, or § 2-304 of the Criminal Law Article;~~

~~(ii) is serving one or more sentences of imprisonment for life when a court or jury has found under FORMER § 2-303 of the Criminal Law Article, beyond a reasonable doubt, that one or more aggravating circumstances existed; or~~

~~(iii) has been convicted of murder in the first degree, rape in the first degree, or a sexual offense in the first degree, unless the sentencing judge, at the time of sentencing or in the exercise of the judge’s revisory power under the Maryland Rules, recommends that the individual be referred to the Institution for evaluation.~~

~~4-305.~~

~~(b) (2) An inmate sentenced to life imprisonment as a result of a proceeding under FORMER § 2-303 or § 2-304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years when considering allowances for diminution of the inmate’s period of confinement as provided under Title 3, Subtitle 7 of this article and § 6-218 of the Criminal Procedure Article.~~

~~6-112.~~

~~(e) (1) The Division shall complete a presentence investigation report in each case in which [the death penalty or] imprisonment for life without the possibility of parole is requested under [§ 2-202 or] § 2-203 of the Criminal Law Article.~~

~~(2) The report shall include a victim impact statement as provided under § 11-402 of the Criminal Procedure Article.~~

~~(3) The court or jury before which the separate sentencing proceeding is conducted under [§ 2-303 or] § 2-304 of the Criminal Law Article shall consider the report.~~

~~7-301.~~

~~(d) (2) An inmate who has been sentenced to life imprisonment as a result of a proceeding under ~~FORMER~~ § 2-303 or § 2-304 of the Criminal Law Article is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years considering the allowances for diminution of the inmate's term of confinement under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.~~

~~7-601.~~

~~(a) On giving the notice required by the Maryland Constitution, the Governor may:~~

~~(1) [commute or change a sentence of death into a period of confinement that the Governor considers expedient;~~

~~(2)] pardon an individual convicted of a crime subject to any conditions the Governor requires; or~~

~~[(3)] (2) remit any part of a sentence of imprisonment subject to any conditions the Governor requires, without the remission operating as a full pardon.~~

~~Article Courts and Judicial Proceedings~~

~~3-SA-03.~~

~~(d) The court does not have jurisdiction over:~~

~~(1) A child at least 14 years old alleged to have done an act which, if committed by an adult, would be a crime punishable by [death or] life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under § 4-202 of the Criminal Procedure Article;~~

~~3-SA-06.~~

~~(a) The court may waive the exclusive jurisdiction conferred by § 3-SA-03 of this subtitle with respect to a petition alleging delinquency by:~~

~~(1) A child who is 15 years old or older; or~~

~~(2) A child who has not reached his 15th birthday, but who is charged with committing an act which if committed by an adult, would be punishable by [death or] life imprisonment.~~

~~§ 404.~~

~~(a) Notwithstanding § 8-103(a) of this title, a trial judge may strike an individual who is party in a civil case while the individual is entitled to a jury trial in the county.~~

~~(b) (1) Whenever more individuals than are needed to impanel a jury have been summoned, an individual may be excused but only in accordance with rule or other law.~~

~~(2) An individual who is summoned for jury service may be struck from a particular jury only:~~

~~(i) In accordance with rule or other law, by a party on peremptory challenge;~~

~~(ii) For good cause shown, by a trial judge on a challenge by a party; or~~

~~(iii) Subject to paragraph (3) of this subsection, by a trial judge who finds that:~~

~~1. The individual may be unable to render impartial jury service;~~

~~2. The individual's service likely would disrupt the proceeding; or~~

~~3. The individual's service may threaten the secrecy of a proceeding or otherwise affect the integrity of the jury deliberations adversely.~~

~~(3) A trial judge may not strike an individual under paragraph (2)(iii) of this subsection, unless the judge states on the record:~~

~~(i) Each reason for the strike; and~~

~~(ii) A finding that the strike is warranted and not inconsistent with §§ 8-102(a) and (b) and 8-104 of this title.~~

~~(4) An individual struck under this subsection may serve on another jury for which the basis for the strike is irrelevant.~~

~~[(e) (1) A trial judge may strike an individual on the basis of the individual's belief for or against capital punishment only if the judge finds that the belief would prevent or substantially impair the individual from returning an impartial verdict according to law.~~

~~(2) An individual struck under this subsection may serve on another jury for which the basis for the strike is irrelevant.]~~

~~§ 420.~~

~~(a) (1) This subsection applies only in a criminal trial in which a defendant is subject, on any single count, to:~~

~~(i) A death sentence because the State has given notice of intention to seek a death sentence in accordance with § 2-202 of the Criminal Law Article; or~~

~~(ii) A] A sentence of life imprisonment, [including a case in which the State has not given notice of intention to seek a death sentence in accordance with § 2-202 of the Criminal Law Article but] excluding a common law offense for which no specific statutory penalty is provided.~~

~~(2) Each defendant is allowed 20 peremptory challenges.~~

~~(3) The State is allowed 10 peremptory challenges for each defendant.~~

~~(b) (1) This subsection applies only in a criminal trial in which a defendant is subject, on any single count, to a sentence of at least 20 years, excluding a case subject to subsection (a) of this section or a common law offense for which no specific statutory penalty is provided.~~

~~(2) Each defendant is allowed 10 peremptory challenges.~~

~~(3) The State is allowed five peremptory challenges for each defendant.~~

~~(e) In every other criminal trial, each party is allowed four peremptory challenges.~~

~~§ 204.~~

~~[(a)] The court which issued an execution on a forfeited recognizance for a witness who failed to appear may discharge the witness from execution upon motion showing good and sufficient cause for the failure.~~

~~[(b) This section does not apply in a case if capital punishment may be involved.]~~

~~12-307.~~

~~The Court of Appeals has:~~

~~(1) Jurisdiction to review a case or proceeding pending in or decided by the Court of Special Appeals in accordance with Subtitle 2 of this title;~~

~~(2) Jurisdiction to review a case or proceeding decided by a circuit court, in accordance with § 12-305 of this subtitle; AND~~

~~(3) Exclusive appellate jurisdiction with respect to a question of law certified to it under the Uniform Certification of Questions of Law Act[; and~~

~~(4) Exclusive appellate jurisdiction over a criminal case in which the death penalty is imposed and any appellate proceeding under § 3-904 of the Correctional Services Article].~~

~~Article—Criminal Procedure~~

~~3-105.~~

~~(b) [Except in a capital case, on] ON consideration of the nature of the charge, the court:~~

~~(1) may require or allow the examination to be done on an outpatient basis; and~~

~~(2) if an outpatient examination is authorized, shall set bail for the defendant or authorize release of the defendant on recognizance.~~

~~3-106.~~

~~(a) [Except in a capital case, if,] IF, after a hearing, the court finds that the defendant is incompetent to stand trial but is not dangerous, as a result of a mental disorder or mental retardation, to self or the person or property of others, the court may set bail for the defendant or authorize release of the defendant on recognizance.~~

~~3-107.~~

~~(a) Whether or not the defendant is confined and unless the State petitions the court for extraordinary cause to extend the time, the court shall dismiss the charge against a defendant found incompetent to stand trial under this subtitle.~~

~~(1) [when charged with a capital offense, after the expiration of 10 years;~~

~~(2) when charged with a felony or a crime of violence as defined under § 14-101 of the Criminal Law Article, after the lesser of the expiration of 5 years or the maximum sentence for the most serious offense charged; or~~

~~[(3)] (2) when charged with an offense not covered under paragraph (1) [or (2)] of this subsection, after the lesser of the expiration of 3 years or the maximum sentence for the most serious offense charged.~~

~~4-204.~~

~~(b) Except for a sentencing proceeding under [§ 2-303 or] § 2-304 of the Criminal Law Article:~~

~~(1) the distinction between an accessory before the fact and a principal is abrogated; and~~

~~(2) an accessory before the fact may be charged, tried, convicted, and sentenced as a principal.~~

~~5-101.~~

~~(e) A defendant may not be released on personal recognizance if the defendant is charged with:~~

~~(1) a crime listed in § 5-202(d) of this title after having been convicted of a crime listed in § 5-202(d) of this title; or~~

~~(2) a crime punishable by [death or] life imprisonment without parole.~~

~~7-101.~~

~~This title applies to a person convicted in any court in the State who is:~~

~~(1) confined under sentence of [death or] imprisonment; or~~

~~(2) on parole or probation.~~

~~7-103.~~

~~(b) [(1)] Unless extraordinary cause is shown, [in a case in which a sentence of death has not been imposed,] a petition under this subtitle may not be filed more than 10 years after the sentence was imposed.~~

~~[(2) In a case in which a sentence of death has been imposed, Subtitle 2 of this title governs the time of filing a petition.]~~

~~7-107.~~

~~(b) (1) In a case in which a person challenges the validity of confinement under a sentence of [death or] imprisonment by seeking the writ of habeas corpus or the writ of coram nobis or by invoking a common law or statutory remedy other than this title, a person may not appeal to the Court of Appeals or the Court of Special Appeals.~~

~~(2) This subtitle does not bar an appeal to the Court of Special Appeals:~~

~~(i) in a habeas corpus proceeding begun under § 9-110 of this article; or~~

~~(ii) in any other proceeding in which a writ of habeas corpus is sought for a purpose other than to challenge the legality of a conviction of a crime or sentence of [death or] imprisonment for the conviction of the crime, including confinement as a result of a proceeding under Title 4 of the Correctional Services Article.~~

Article - Criminal Law

~~2-103.~~

~~[(h) The commission of first degree murder of a viable fetus under this section, in conjunction with the commission of another first degree murder arising out of the same incident, does not constitute an aggravating circumstance subjecting a defendant to the death penalty under § 2-303(g)(ix) of this title.]~~

2-201.

(b) (1) A person who commits a murder in the first degree is guilty of a felony and on conviction shall be sentenced to:

(i) ~~death;~~

~~(ii)]~~ imprisonment for life without the possibility of parole; or

~~[(iii)] (ii)~~ imprisonment for life.

(2) Unless a ~~sentence of death is imposed in compliance with § 2-202 of this subtitle and Subtitle 3 of this title, or a]~~ sentence of imprisonment for life

without the possibility of parole is imposed in compliance with § 2–203 of this subtitle and § 2–304 of this title, the sentence shall be imprisonment for life.

~~§~~2–202.

(a) A defendant found guilty of murder in the first degree may be sentenced to death only if:

(1) at least 30 days before trial, the State gave written notice to the defendant of:

(i) the State's intention to seek a sentence of death; and

(ii) each aggravating circumstance on which the State intends to rely;

(2) (i) with respect to § 2–303(g) of this title, except for § 2–303(g)(1)(i) and (vii) of this title, the defendant was a principal in the first degree; or

(ii) with respect to § 2–303(g)(1)(i) of this title, a law enforcement officer, as defined in § 2–303(a) of this title, was murdered and the defendant was:

1. a principal in the first degree; or

2. a principal in the second degree who:

A. willfully, deliberately, and with premeditation intended the death of the law enforcement officer;

B. was a major participant in the murder; and

C. was actually present at the time and place of the murder; ~~and~~

(3) THE STATE PRESENTS THE COURT OR JURY WITH:

(I) BIOLOGICAL EVIDENCE OR DNA EVIDENCE THAT LINKS THE DEFENDANT TO THE ACT OF MURDER;

(II) A VIDEO TAPED, VOLUNTARY INTERROGATION AND CONFESSION OF THE DEFENDANT TO THE MURDER; OR

(III) A VIDEO RECORDING THAT CONCLUSIVELY LINKS THE DEFENDANT TO THE MURDER; AND

~~(3)~~ **(4)** the sentence of death is imposed in accordance with § 2-303 of this title.

(b) (1) In this subsection, a defendant is “mentally retarded” if:

(i) the defendant had significantly below average intellectual functioning, as shown by an intelligence quotient of 70 or below on an individually administered intelligence quotient test and an impairment in adaptive behavior; and

(ii) the mental retardation was manifested before the age of 22 years.

(2) A defendant may not be sentenced to death, but shall be sentenced to imprisonment for life without the possibility of parole subject to the requirements of § 2-203(1) of this subtitle or imprisonment for life, if the defendant:

(i) was under the age of 18 years at the time of the murder; or

(ii) proves by a preponderance of the evidence that at the time of the murder the defendant was mentally retarded.‡

(C) A DEFENDANT MAY NOT BE SENTENCED TO DEATH, BUT SHALL BE SENTENCED TO IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE SUBJECT TO THE REQUIREMENTS OF § 2-203(1) OF THIS SUBTITLE OR IMPRISONMENT FOR LIFE, IF THE STATE RELIES SOLELY ON EVIDENCE PROVIDED BY EYEWITNESSES.

~~[2-301.~~

~~(a) The State's Attorney shall file with the Clerk of the Court of Appeals a copy of each:~~

~~(1) notice of intent to seek a sentence of death; and~~

~~(2) withdrawal of notice of intent to seek a sentence of death.~~

~~(b) The failure of a State's Attorney to give timely notice to the Clerk of the Court of Appeals under subsection (a)(1) of this section does not affect the validity of a notice of intent to seek a sentence of death that is served on the defendant in a timely manner.‡~~

~~[2-303.~~

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

~~(2) (i) "Correctional facility" has the meaning stated in § 1-101 of this article.~~

~~(ii) "Correctional facility" includes:~~

~~1. an institution for the confinement or detention of juveniles charged with or adjudicated as being delinquent; and~~

~~2. a hospital in which a person is confined under an order of a court exercising criminal jurisdiction.~~

~~(3) (i) "Law enforcement officer" means a law enforcement officer as defined under the Law Enforcement Officers' Bill of Rights, § 3-101 of the Public Safety Article.~~

~~(ii) "Law enforcement officer" includes:~~

~~1. a law enforcement officer of a jurisdiction outside of the State;~~

~~2. an officer serving in a probationary status;~~

~~3. a parole and probation officer; and~~

~~4. a law enforcement officer while privately employed as a security officer or special police officer under Title 3, Subtitle 3 of the Public Safety Article if the law enforcement officer is wearing the uniform worn while acting in an official capacity or is displaying prominently the officer's official badge or other insignia of office.~~

~~(b) If the State gave notice under § 2-202(a)(1) of this title, a separate sentencing proceeding shall be held as soon as practicable after a defendant is found guilty of murder in the first degree to determine whether the defendant shall be sentenced to death.~~

~~(c) The sentencing proceeding under subsection (b) of this section shall be conducted:~~

~~(1) before the jury that determined the defendant's guilt;~~

~~(2) before a jury impaneled for purposes of the proceeding if:~~

~~(i) the defendant was convicted based on a guilty plea;~~

~~(ii) the defendant was convicted after a trial by a court sitting without a jury;~~

~~(iii) the court, for good cause, discharged the jury that convicted the defendant; or~~

~~(iv) a court of competent jurisdiction remanded the case for resentencing following a review of the original sentence of death; or~~

~~(3) before the court, if the defendant waives a jury sentencing proceeding.~~

~~(d) (1) A judge shall appoint at least two alternate jurors when impaneling a jury for any proceeding:~~

~~(i) in which the defendant is being tried for a crime for which the death penalty may be imposed; or~~

~~(ii) that is held under this section.~~

~~(2) The alternate jurors shall be retained throughout the proceedings under any restrictions that the judge imposes.~~

~~(3) Subject to paragraph (4) of this subsection, if a juror dies, is disqualified, becomes incapacitated, or is discharged for any other reason before the jury begins its deliberations on sentencing, an alternate juror becomes a juror in the order selected, and serves in all respects as a juror selected on the regular trial panel.~~

~~(4) An alternate juror may not replace a juror who is discharged during the actual deliberations of the jury on the guilt or innocence of the defendant or on sentencing.~~

~~(e) (1) The following type of evidence is admissible in a sentencing proceeding:~~

~~(i) evidence relating to a mitigating circumstance that is listed under subsection (h) of this section;~~

~~(ii) evidence relating to an aggravating circumstance:~~

~~1. that is listed under subsection (g) of this section; and~~

~~2. of which the State provided notice under § 2-202(a)(1)(ii) of this title;~~

~~(iii) evidence of a prior criminal conviction, guilty plea, plea of nolo contendere, or the absence of any prior convictions or pleas, to the same extent that the evidence would be admissible in other sentencing procedures;~~

~~(iv) subject to paragraph (2) of this subsection, any presentence investigation report; and~~

~~(v) any other evidence the court finds to have probative value and relevance to sentencing, if the defendant has a fair opportunity to rebut any statement.~~

~~(2) A recommendation in a presentence investigation report as to a sentence is not admissible in a sentencing proceeding.~~

~~(3) The State and the defendant or counsel for the defendant may present argument for or against the sentence of death.~~

~~(f) (1) After the evidence is presented to the jury in the sentencing proceeding, the court shall:~~

~~(i) give any appropriate instructions allowed by law; and~~

~~(ii) instruct the jury as to:~~

~~1. the findings that the jury must make to determine whether the defendant shall be sentenced to death, imprisonment for life without the possibility of parole, or imprisonment for life; and~~

~~2. the burden of proof applicable to the findings under subsection (g)(2) or (i)(1) and (2) of this section.~~

~~(2) The court may not instruct the jury that the jury is to assume that a sentence of life imprisonment is for the natural life of the defendant.~~

~~(g) (1) In determining a sentence under subsection (b) of this section, the court or jury first shall consider whether any of the following aggravating circumstances exists beyond a reasonable doubt:~~

~~(i) one or more persons committed the murder of a law enforcement officer while the officer was performing the officer's duties;~~

~~(ii) the defendant committed the murder while confined in a correctional facility;~~

~~(iii) the defendant committed the murder in furtherance of an escape from, an attempt to escape from, or an attempt to evade lawful arrest, custody, or detention by:~~

~~1. a guard or officer of a correctional facility; or~~

~~2. a law enforcement officer;~~

~~(iv) the victim was taken or attempted to be taken in the course of an abduction, kidnapping, or an attempt to abduct or kidnap;~~

~~(v) the victim was a child abducted in violation of § 3-503(a)(1) of this article;~~

~~(vi) the defendant committed the murder under an agreement or contract for remuneration or promise of remuneration to commit the murder;~~

~~(vii) the defendant employed or engaged another to commit the murder and the murder was committed under an agreement or contract for remuneration or promise of remuneration;~~

~~(viii) the defendant committed the murder while under a sentence of death or imprisonment for life;~~

~~(ix) the defendant committed more than one murder in the first degree arising out of the same incident; or~~

~~(x) the defendant committed the murder while committing, or attempting to commit:~~

~~1. arson in the first degree;~~

~~2. carjacking or armed carjacking;~~

~~3. rape in the first degree;~~

~~4. robbery under § 3-402 or § 3-403 of this article; or~~

~~5. sexual offense in the first degree.~~

~~(2) If the court or jury does not find that one or more of the aggravating circumstances exist beyond a reasonable doubt:~~

~~(i) it shall state that conclusion in writing; and~~

~~(ii) a death sentence may not be imposed.~~

~~(h) (1) In this subsection, "crime of violence" means:~~

~~(i) abduction;~~

~~(ii) arson in the first degree;~~

~~(iii) carjacking or armed carjacking;~~

- ~~(iv) escape in the first degree;~~
- ~~(v) kidnapping;~~
- ~~(vi) mayhem;~~
- ~~(vii) murder;~~
- ~~(viii) rape in the first or second degree;~~
- ~~(ix) robbery under § 3-402 or § 3-403 of this article;~~
- ~~(x) sexual offense in the first or second degree;~~
- ~~(xi) manslaughter other than involuntary manslaughter;~~
- ~~(xii) an attempt to commit any crime listed in items (i) through (xi) of this paragraph; or~~
- ~~(xiii) the use of a handgun in the commission of a felony or other crime of violence.~~

~~(2) If the court or jury finds beyond a reasonable doubt that one or more of the aggravating circumstances under subsection (g) of this section exist, it then shall consider whether any of the following mitigating circumstances exists based on a preponderance of the evidence:~~

- ~~(i) the defendant previously has not:
 - ~~1. been found guilty of a crime of violence;~~
 - ~~2. entered a guilty plea or a plea of nolo contendere to a charge of a crime of violence; or~~
 - ~~3. received probation before judgment for a crime of violence;~~~~
- ~~(ii) the victim was a participant in the conduct of the defendant or consented to the act that caused the victim's death;~~
- ~~(iii) the defendant acted under substantial duress, domination, or provocation of another, but not so substantial as to constitute a complete defense to the prosecution;~~
- ~~(iv) the murder was committed while the capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform that~~

~~conduct to the requirements of law was substantially impaired due to emotional disturbance, mental disorder, or mental incapacity;~~

~~(v) the defendant was of a youthful age at the time of the murder;~~

~~(vi) the act of the defendant was not the sole proximate cause of the victim's death;~~

~~(vii) it is unlikely that the defendant will engage in further criminal activity that would be a continuing threat to society; or~~

~~(viii) any other fact that the court or jury specifically sets forth in writing as a mitigating circumstance in the case.~~

~~(i) (1) If the court or jury finds that one or more of the mitigating circumstances under subsection (h) of this section exists, it shall determine by a preponderance of the evidence whether the aggravating circumstances under subsection (g) of this section outweigh the mitigating circumstances.~~

~~(2) If the court or jury finds that the aggravating circumstances:~~

~~(i) outweigh the mitigating circumstances, a death sentence shall be imposed; or~~

~~(ii) do not outweigh the mitigating circumstances, a death sentence may not be imposed.~~

~~(3) If the determination is by a jury, a decision to impose a death sentence must be unanimous and shall be signed by the jury foreperson.~~

~~(4) A court or jury shall put its determination in writing and shall state specifically:~~

~~(i) each aggravating circumstance found;~~

~~(ii) each mitigating circumstance found;~~

~~(iii) whether any aggravating circumstances found under subsection (g) of this section outweigh the mitigating circumstances found under subsection (h) of this section;~~

~~(iv) whether the aggravating circumstances found under subsection (g) of this section do not outweigh the mitigating circumstances found under subsection (h) of this section; and~~

~~(v) the sentence determined under subsection (g)(2) of this section or paragraphs (1) and (2) of this subsection.~~

~~(j) (1) If a jury determines that a death sentence shall be imposed under the provisions of this section, the court shall impose a death sentence.~~

~~(2) If, within a reasonable time, the jury is unable to agree as to whether a death sentence shall be imposed, the court may not impose a death sentence.~~

~~(3) If the sentencing proceeding is conducted before a court without a jury, the court shall determine whether a death sentence shall be imposed under the provisions of this section.~~

~~(4) If the court or jury determines that a death sentence may not be imposed and the State gave notice under § 2-203(1) of this title, a determination shall be made concerning imprisonment for life without the possibility of parole under § 2-304 of this subtitle.~~

~~(5) If the court or jury determines that a death sentence may not be imposed and if the State did not give notice under § 2-203(1) of this title, the court shall impose a sentence of imprisonment for life.~~

~~(k) (1) Immediately after the imposition of a death sentence:~~

~~(i) the clerk of the court in which sentence is imposed, if different from the court where the indictment or information was filed, shall certify the proceedings to the clerk of the court where the indictment or information was filed; and~~

~~(ii) the clerk of the court where the indictment or information was filed shall copy the docket entries in the inmate's case, sign the copies, and deliver them to the Governor.~~

~~(2) The docket entries shall show fully the sentence of the court and the date that the sentence was entered.~~

~~(l) If the defendant is sentenced to death, the court before which the defendant is tried and convicted shall sentence the defendant to death by intravenous administration of a lethal quantity of an ultrashort-acting barbiturate or other similar drug in combination with a chemical paralytic agent.}]~~

~~2-304.~~

~~(a) [(1)] If the State gave notice under § 2-203(1) of this title, [but did not give notice of intent to seek the death penalty under § 2-202(a)(1) of this title,] the court shall conduct a separate sentencing proceeding as soon as practicable after the~~

~~defendant is found guilty of murder in the first degree to determine whether the defendant shall be sentenced to imprisonment for life without the possibility of parole or to imprisonment for life.~~

~~[(2) If the State gave notice under both §§ 2-202(a)(1) and 2-203(1) of this title, but the court or jury determines that the death sentence may not be imposed, that court or jury shall determine whether the defendant shall be sentenced to imprisonment for life without the possibility of parole or to imprisonment for life.]~~

~~2-305.~~

~~The Court of Appeals may adopt:~~

~~(1) rules of procedure to govern the conduct of sentencing proceedings under [§§ 2-303 and 2-304] § 2-304 of this subtitle; and~~

~~(2) forms for a court or jury to use in making written findings and sentence determinations.~~

~~[Subtitle 4. Review by Court of Appeals.]~~

~~[2-401.~~

~~(a) (1) After a death sentence is imposed and the judgment becomes final, the Court of Appeals shall review the sentence on the record.~~

~~(2) The Court of Appeals shall consolidate an appeal from the verdict with the sentence review.~~

~~(b) The clerk of the trial court shall send to the Clerk of the Court of Appeals:~~

~~(1) the entire record and the transcript of the sentencing proceeding within 10 days after receiving the transcript;~~

~~(2) the determination and written findings of the court or jury; and~~

~~(3) a report of the trial court that:~~

~~(i) is in the form of a standard questionnaire supplied by the Court of Appeals; and~~

~~(ii) includes a recommendation by the trial court as to whether the death sentence is justified.~~

~~(e) The defendant and the State may submit briefs and present oral arguments to the Court of Appeals within the time allowed by the Court.~~

~~(d) (1) In addition to any error properly before the Court on appeal, the Court of Appeals shall consider the imposition of the death sentence.~~

~~(2) With regard to the death sentence, the Court of Appeals shall determine whether:~~

~~(i) the imposition of the death sentence was influenced by passion, prejudice, or any other arbitrary factor;~~

~~(ii) the evidence supports the finding by the court or jury of a statutory aggravating circumstance under § 2-303(g) of this title; and~~

~~(iii) the evidence supports a finding by the court or jury that the aggravating circumstances outweigh the mitigating circumstances under § 2-303(h) and (i)(1) of this title.~~

~~(3) In addition to its review under any direct appeal, with regard to the death sentence, the Court of Appeals shall:~~

~~(i) affirm the death sentence;~~

~~(ii) set the death sentence aside and remand the case for a new sentencing proceeding under § 2-303 of this title; or~~

~~(iii) set the death sentence aside and remand the case for modification of the sentence to imprisonment for life.~~

~~(e) The Court of Appeals may adopt rules of procedure for the expedited review of death sentences under this section.]~~

~~14-101.~~

~~(a) In this section, "crime of violence" means:~~

~~(1) abduction;~~

~~(2) arson in the first degree;~~

~~(3) kidnapping;~~

~~(4) manslaughter, except involuntary manslaughter;~~

~~(5) mayhem;~~

~~(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;~~

- ~~(7) murder;~~
- ~~(8) rape;~~
- ~~(9) robbery under § 3-402 or § 3-403 of this article;~~
- ~~(10) carjacking;~~
- ~~(11) armed carjacking;~~
- ~~(12) sexual offense in the first degree;~~
- ~~(13) sexual offense in the second degree;~~
- ~~(14) use of a handgun in the commission of a felony or other crime of violence;~~
- ~~(15) child abuse in the first degree under § 3-601 of this article;~~
- ~~(16) sexual abuse of a minor under § 3-602 of this article if:
 - ~~(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and~~
 - ~~(ii) the offense involved:
 - ~~1. vaginal intercourse, as defined in § 3-301 of this article;~~
 - ~~2. a sexual act, as defined in § 3-301 of this article;~~
 - ~~3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or~~
 - ~~4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;~~~~~~
- ~~(17) an attempt to commit any of the crimes described in items (1) through (16) of this subsection;~~
- ~~(18) continuing course of conduct with a child under § 3-315 of this article;~~
- ~~(19) assault in the first degree;~~

~~(20) assault with intent to murder;~~

~~(21) assault with intent to rape;~~

~~(22) assault with intent to rob;~~

~~(23) assault with intent to commit a sexual offense in the first degree;~~

and

~~(24) assault with intent to commit a sexual offense in the second degree.~~

~~(b) [This section does not apply if a person is sentenced to death.]~~

~~(c)] (1) Except as provided in subsection [(g)] (F) of this section, on conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence shall be sentenced to life imprisonment without the possibility of parole.~~

~~(2) Notwithstanding any other law, the provisions of this subsection are mandatory.~~

~~[(d)] (C) (1) Except as provided in subsection [(g)] (F) of this section, on conviction for a third time of a crime of violence, a person shall be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person:~~

~~(i) has been convicted of a crime of violence on two prior separate occasions:~~

~~1. in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion; and~~

~~2. for which the convictions do not arise from a single incident; and~~

~~(ii) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.~~

~~(2) The court may not suspend all or part of the mandatory 25-year sentence required under this subsection.~~

~~(3) A person sentenced under this subsection is not eligible for parole except in accordance with the provisions of § 4-305 of the Correctional Services Article.~~

~~[(c)](D)~~ (1) ~~On conviction for a second time of a crime of violence committed on or after October 1, 1994, a person shall be sentenced to imprisonment for the term allowed by law, but not less than 10 years, if the person:~~

~~(i) has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and~~

~~(ii) served a term of confinement in a correctional facility for that conviction.~~

~~(2) The court may not suspend all or part of the mandatory 10-year sentence required under this subsection.~~

~~[(f)](E)~~ If the State intends to proceed against a person as a subsequent offender under this section, it shall comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

~~[(g)](F)~~ (1) ~~A person sentenced under this section may petition for and be granted parole if the person:~~

~~(i) is at least 65 years old; and~~

~~(ii) has served at least 15 years of the sentence imposed under this section.~~

~~(2) The Maryland Parole Commission shall adopt regulations to implement this subsection.~~

~~Article Health General~~

~~§ 505.~~

~~(b) [Except in a capital case, on] ON consideration of the nature of the charge, the court:~~

~~(1) May require or permit an examination to be conducted on an outpatient basis; and~~

~~(2) If an outpatient examination is authorized, shall set bail for the defendant or authorize the release of the defendant on personal recognizance.~~

~~Article Transportation~~

~~16-812.~~

~~(a) The Administration shall disqualify any individual from driving a commercial motor vehicle for a period of 1 year if:~~

~~(1) The individual is convicted of committing any of the following offenses while driving a commercial motor vehicle:~~

- ~~(i) A violation of § 21-902 of this article;~~
- ~~(ii) A violation of a federal law or any other state's law which is substantially similar in nature to the provisions in § 21-902 of this article;~~
- ~~(iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation;~~
- ~~(iv) A crime, other than a crime described in subsection (c) of this section, that is punishable by [death or] imprisonment for a term exceeding 1 year;~~
- ~~(v) A violation of § 25-112 of this article; or~~
- ~~(vi) A violation of § 2-209, § 2-503, § 2-504, § 2-505, or § 2-506 of the Criminal Law Article[.];~~

~~(2) The individual holds a commercial driver's license and is convicted of committing any of the following offenses while driving a noncommercial motor vehicle:~~

- ~~(i) A violation of § 21-902(a), (e), or (d) of this article;~~
- ~~(ii) A violation of a federal law or any other state's law which is substantially similar in nature to the provisions in § 21-902(a), (e), or (d) of this article;~~
- ~~(iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation; OR~~
- ~~(iv) A crime, other than a crime described in subsection (c) of this section, that is punishable by [death or] imprisonment for a term exceeding 1 year;~~

~~(3) The individual, while driving a commercial motor vehicle or while holding a commercial driver's license, refuses to undergo testing as provided in § 16-205.1 of this title or as is required by any other state's law or by federal law in the enforcement of 49 C.F.R. § 383.51 Table 1, or 49 C.F.R. § 392.5(a)(2);~~

~~(4) The individual drives or attempts to drive a commercial motor vehicle while the alcohol concentration of the person's blood or breath is 0.04 or greater; or~~

~~(5) The individual drives a commercial motor vehicle when, as a result of prior violations committed while driving a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled or the driver is disqualified from driving a commercial motor vehicle.~~

SECTION ~~4~~ 2. AND BE IT FURTHER ENACTED, That in any case in which the State has relied solely on evidence provided by eyewitnesses or has failed to present evidence that meets the requirements of this Act and the State has properly filed notice that it intended to seek a sentence of death under § 2-202 of the Criminal Law Article in which a sentence has not been imposed, the notice of intention to seek a sentence of death shall be considered to have been withdrawn and it shall be deemed that the State properly filed notice under § 2-203 of the Criminal Law Article to seek a sentence of life imprisonment without the possibility of parole.

SECTION ~~5~~ 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that expanded victim services for survivors of homicide victims shall be funded by savings resulting from the ~~repeal~~ restriction of the death penalty to certain cases as provided under this Act.

SECTION ~~6~~ 4. AND BE IT FURTHER ENACTED, That, on or before November 1, 2009, the Governor's Office of Crime Control and Prevention shall submit a report, in accordance with § 2-1246 of the State Government Article, to the House Judiciary Committee and Senate Judicial Proceedings Committee on how victim services for survivors of homicide victims should be expanded.

SECTION ~~7~~ 5. AND BE IT FURTHER ENACTED, That funds received by the federal government under the Victims of Crime Act (42 U.S.C. § 10602) shall be administered by the Governor's Office of Crime Control and Prevention.

SECTION ~~8~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 187

(Senate Bill 264)

AN ACT concerning

**State Employees – Collective Bargaining – Negotiations –
“The Fair Share Act”**

FOR the purpose of authorizing collective bargaining negotiations pertaining to certain State employees to include negotiations relating to the right of an employee organization to receive service fees from nonmembers; exempting certain employees ~~who are members of certain religions~~ whose religious beliefs are opposed to joining or financially supporting a certain labor organization from the requirement to pay a service fee under certain circumstances; providing that an employee who is exempt from paying a service fee ~~may~~ shall be required to pay a certain amount to a certain organization and to furnish certain proof of payment under certain circumstances; ~~requiring a certain memorandum of understanding to include a list of certain organizations;~~ and generally relating to permissible matters of negotiation under the State employee collective bargaining process.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 3–502
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

3–502.

(a) Collective bargaining shall include all matters relating to wages, hours, and other terms and conditions of employment.

(b) (1) [Collective] **EXCEPT AS PROVIDED IN PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION, COLLECTIVE** bargaining may [not] include negotiations relating to the right of an employee organization to receive service fees from nonmembers.

~~(2) (i) AN EMPLOYEE WHO IS A MEMBER OF A BONA FIDE RELIGION THAT HISTORICALLY HAS HELD CONSCIENTIOUS OBJECTIONS TO JOINING OR FINANCIALLY SUPPORTING AN EMPLOYEE ORGANIZATION MAY NOT BE REQUIRED TO PAY A SERVICE FEE TO AN EMPLOYEE ORGANIZATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(ii) AN EMPLOYEE WHO IS EXEMPT FROM PAYING A SERVICE FEE UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH MAY BE REQUIRED TO PAY AN AMOUNT EQUAL TO THE SERVICE FEE TO A NONRELIGIOUS, NONLABOR CHARITABLE ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE.~~

~~(III) 1. A MEMORANDUM OF UNDERSTANDING THAT INCLUDES SERVICE FEES FOR NONMEMBERS OF AN EMPLOYEE ORGANIZATION AND REQUIRES AN ALTERNATIVE PAYMENT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL INCLUDE A LIST OF AT LEAST THREE ORGANIZATIONS TO WHICH AN EMPLOYEE MAY CHOOSE TO CONTRIBUTE.~~

~~2. IF A MEMORANDUM OF UNDERSTANDING DOES NOT INCLUDE THE LIST OF ORGANIZATIONS REQUIRED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, AN EMPLOYEE MAY CONTRIBUTE TO ANY OTHER ORGANIZATION THAT MEETS THE REQUIREMENTS UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

~~(IV) TO MAINTAIN AN EXEMPTION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN EMPLOYEE WHO IS REQUIRED TO MAKE AN ALTERNATIVE PAYMENT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL PROVIDE PROOF OF PAYMENT TO THE DEPARTMENT OF BUDGET AND MANAGEMENT EACH MONTH.~~

(2) AN EMPLOYEE WHOSE RELIGIOUS BELIEFS ARE OPPOSED TO JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE BARGAINING ORGANIZATION IS:

(I) NOT REQUIRED TO PAY A SERVICE FEE; AND

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

~~(2) (3) COLLECTIVE BARGAINING BETWEEN AN EMPLOYEE ORGANIZATION AND A SYSTEM INSTITUTION, MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE MAY NOT INCLUDE NEGOTIATIONS RELATING TO THE RIGHT OF AN EMPLOYEE ORGANIZATION TO RECEIVE SERVICE FEES FROM NONMEMBERS.~~

(c) Notwithstanding subsection (a) of this section, the representatives of the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(1) shall not be required to negotiate over any matter that is inconsistent with applicable law; and

(2) may negotiate and reach agreement with regard to any such matter only if it is understood that the agreement with respect to such matter cannot become effective unless the applicable law is amended by the General Assembly.

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

Approved by the Governor, May 7, 2009.

Chapter 188

(Senate Bill 909)

AN ACT concerning

Workplace Fraud Act of 2009

FOR the purpose of prohibiting certain employers from failing to properly classify individuals who perform work for remuneration paid by the employer; authorizing the Commissioner of Labor and Industry to initiate an investigation under certain circumstances to determine whether certain violations occurred; requiring the Commissioner to enforce certain provisions; establishing the method of determining whether an employer–employee relationship exists for purposes of proper classification under certain circumstances; establishing certain presumptions and evidentiary considerations; prohibiting certain employers from knowingly failing to properly classify individuals who perform work for remuneration paid by the employer; providing certain criteria to be used to determine whether a violation is knowing; requiring the Commissioner to make certain investigations; providing for the confidentiality of certain complaints or statements; authorizing the Commissioner to enter a place of business or work site under certain circumstances and to require certain employers to take certain actions; authorizing the Commissioner to issue a subpoena under certain circumstances and to file a complaint in circuit court under certain circumstances; requiring the Commissioner to issue a citation under certain circumstances; requiring the Commissioner to grant an employer's request for a hearing conducted by the Office of Administrative Hearings to contest a citation; requiring the Commissioner to disclose certain evidence and information under certain circumstances; providing that the Commissioner has the burden of proof under certain circumstances; authorizing certain judicial review and appeals under certain circumstances; providing for certain penalties for certain violations of this Act; requiring an employer to come into compliance with certain laws; providing that the requirement for compliance with certain laws after certain violations may include requiring an employer to enter into a certain agreement with a certain governmental unit

within a certain time period; limiting the time period for which certain payments may be required for compliance with certain laws after certain violations; requiring the court or an administrative unit to award restitution under certain circumstances; authorizing the court or an administrative unit to award other damages under certain circumstances; requiring the Commissioner to provide notice of potential violations of this Act to the Workers' Compensation Commission, the Office of Unemployment Insurance, the Insurance Administration, and the Comptroller's Office under certain circumstances; requiring cooperation under this Act by certain units of State government; authorizing certain individuals who have not been properly classified as employees to bring a civil action for damages against an employer under certain circumstances; requiring that a civil action be filed within a certain time period; requiring a court to award an individual or class of individuals certain costs and relief under certain circumstances; prohibiting an employer from discriminating against a person under certain circumstances; prohibiting a person from making certain complaints to the Commissioner; authorizing certain individuals to submit certain complaints alleging discrimination; authorizing the Commissioner to investigate certain complaints and file certain complaints in certain circuit courts; requiring the Commissioner to notify a public body of a citation issued for certain violations by an employer; requiring the public body, on notification, to withhold payment to an employer in a certain amount; ~~requiring the Commissioner to file with the Secretary of State, the Department of Budget and Management, and the Department of General Services a list of certain violators of this Act; authorizing an employer to request a review by the Secretary of Labor, Licensing, and Regulation of the decision to place the employer on the list; prohibiting certain employers from entering into a contract with a public body under certain circumstances;~~ requiring certain employers to retain certain records for a certain period of time; requiring certain employers to provide certain individuals notice of their status and classification; prohibiting a person from incorporating or assisting in the incorporation of certain entities for the purposes of facilitating or evading detection of a violation of this Act; prohibiting certain persons from conspiring with, aiding and abetting, assisting, advising, or facilitating another person with violating this Act; establishing certain civil and administrative penalties under this Act and other laws under the jurisdiction of the Commissioner; prohibiting a person from taking certain actions maliciously or in bad faith; authorizing recovery of attorneys' fees under certain circumstances; requiring certain penalties to be paid into the General Fund of the State; requiring the Commissioner to prepare certain reports; requiring the Commissioner to adopt regulations to carry out certain provisions of this Act; establishing certain unemployment insurance penalties for employers that ~~misclassify~~ fail to properly classify individuals as employees in violation of this Act; authorizing the Secretary of Labor, Licensing, and Regulation to adopt certain regulations; creating certain presumptions under the unemployment insurance law and workers' compensation law; requiring the Secretary of Labor, Licensing, and Regulation to consider certain evidence that an employer did not knowingly fail to properly classify an individual; requiring an employing unit that has

knowingly failed to properly classify an ~~employee as an independent contractor~~ individual as an employee to pay at a certain rate certain unemployment insurance contributions; prohibiting an employer from ~~misclassifying~~ failing to properly classify an individual as an employee as ~~an independent contractor~~ for purposes of workers' compensation; requiring the Workers' Compensation Commission to pay certain costs; authorizing the Workers' Compensation Commission to order certain remedies if an employer ~~misclassifies~~ fails to properly classify an individual as an employee; authorizing the Workers' Compensation Commission to adopt certain regulations; defining certain terms; providing for certain funding; making certain provisions of this Act severable; prohibiting the proposal of emergency regulations under this Act as emergency regulations; and generally relating to the failure to properly classify an individual as an employee.

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 2–107(g), 3–102(a), 3–103, 3–104, 8–201, 8–205, 8–628, 9–202, and 9–316(b)

Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Labor and Employment

Section 3–101

Annotated Code of Maryland
(2008 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article – Labor and Employment~~

~~Section 3–102(a), 3–103, 3–104, 8–201, 8–628, and 9–202~~

~~Annotated Code of Maryland
(2008 Replacement Volume)~~

BY adding to

Article – Labor and Employment

Section 3–901 through ~~3–919~~ 3–920 to be under the new subtitle “Subtitle 9. Workplace Fraud”; 8–201.1, 8–610.1, 9–315.1, and 9–402.1

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

2–107.

(g) [For] **NOTWITHSTANDING THE FUNDING PROVISIONS OF ~~§ 3-918~~ § 3-919 OF THIS ARTICLE, FOR** fiscal year 2007 and for each subsequent fiscal year, the Governor shall include in the annual budget bill submitted to the General Assembly an appropriation for the Division of Labor and Industry sufficient to implement the provisions of this section, including amounts not less than:

(1) \$315,000 for implementation of the Employment Standards Service Unit in the Division; and

(2) \$385,000 for implementation of the Prevailing Wage Unit in the Division.

3-101.

- (a) In this title the following words have the meanings indicated.
- (b) “Commissioner” means the Commissioner of Labor and Industry.
- (c) (1) “Employ” means to engage an individual to work.
- (2) “Employ” includes:
- (i) allowing an individual to work; and
- (ii) instructing an individual to be present at a work site.

3-102.

- (a) In addition to any duties set forth elsewhere, the Commissioner shall:
- (1) enforce Subtitle 2 of this title;
- (2) carry out Subtitle 3 of this title; [and]
- (3) enforce Subtitle 4 of this title; **AND**
- (4) **ENFORCE SUBTITLE 9 OF THIS TITLE.**

3-103.

(a) The Commissioner may conduct an investigation under Subtitle 2 of this title, on the Commissioner’s own initiative or may require a written complaint.

(b) The Commissioner may conduct an investigation under Subtitle 4 of this title, on the Commissioner’s own initiative or on receipt of a written complaint.

(c) The Commissioner may conduct an investigation to determine whether Subtitle 5 of this title has been violated on receipt of a written complaint of an employee.

(d) (1) The Commissioner may investigate whether § 3-701 of this title has been violated on receipt of a written complaint of an applicant for employment.

(2) The Commissioner may investigate whether § 3-702 of this title has been violated on receipt of a written complaint of an applicant for employment or an employee.

(E) THE COMMISSIONER MAY INVESTIGATE WHETHER SUBTITLE 9 OF THIS TITLE HAS BEEN VIOLATED:

(1) ON THE COMMISSIONER'S OWN INITIATIVE;

(2) ON RECEIPT OF A WRITTEN COMPLAINT SIGNED BY THE PERSON SUBMITTING THE COMPLAINT; OR

(3) ON REFERRAL FROM ANOTHER UNIT OF STATE GOVERNMENT.

3-104.

The Commissioner may delegate any power or duty of the Commissioner under Subtitles 2, 4, [and] 5, AND 9 of this title.

SUBTITLE 9. WORKPLACE FRAUD.

3-901.

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

(B) "CONSTRUCTION SERVICES" INCLUDES THE FOLLOWING SERVICES PROVIDED IN CONNECTION WITH REAL PROPERTY:

(1) BUILDING;

(2) RECONSTRUCTING;

(3) IMPROVING;

(4) ENLARGING;

(5) PAINTING ~~AND DECORATING~~;

- (6) ALTERING;
- (7) MAINTAINING; AND
- (8) REPAIRING.

(C) **“EMPLOYER” MEANS ANY PERSON THAT EMPLOYS AN INDIVIDUAL IN THE STATE.**

(D) **“EXEMPT PERSON” MEANS AN INDIVIDUAL WHO:**

(1) **PERFORMS SERVICES IN A PERSONAL CAPACITY AND EMPLOYS NO INDIVIDUALS OTHER THAN:**

- (I) **A SPOUSE OF THE EXEMPT PERSON;**
- (II) **CHILDREN OF THE EXEMPT PERSON; OR**
- (III) **PARENTS OF THE EXEMPT PERSON;**

(2) **PERFORMS SERVICES FREE FROM DIRECTION AND CONTROL OVER THE MEANS AND MANNER OF PROVIDING THE SERVICES, SUBJECT ONLY TO THE RIGHT OF THE PERSON OR ENTITY FOR WHOM SERVICES ARE PROVIDED TO SPECIFY THE DESIRED RESULT;**

(3) **FURNISHES THE TOOLS AND EQUIPMENT NECESSARY TO PROVIDE THE SERVICE;**

(4) **OPERATES A BUSINESS THAT IS CONSIDERED INSEPARABLE FROM THE INDIVIDUAL FOR PURPOSES OF TAXES, PROFITS, AND LIABILITIES:**

(I) **IN WHICH THE INDIVIDUAL:**

1. **OWNS ALL OF THE ASSETS AND PROFITS OF THE BUSINESS; AND**

2. **HAS SOLE, UNLIMITED, PERSONAL LIABILITY FOR ALL OF THE DEBTS AND LIABILITIES OF THE BUSINESS, UNLESS THE BUSINESS IS ORGANIZED AS A SINGLE-OWNED CORPORATE ENTITY, TO WHICH SOLE, UNLIMITED PERSONAL LIABILITY DOES NOT APPLY; AND**

(II) **FOR WHICH:**

1. THE INDIVIDUAL DOES NOT PAY TAXES FOR THE BUSINESS SEPARATELY BUT REPORTS BUSINESS INCOME AND LOSSES ON THE INDIVIDUAL'S PERSONAL TAX RETURN; AND

2. IF THE BUSINESS IS ORGANIZED AS A CORPORATE ENTITY AND THE INDIVIDUAL OTHERWISE QUALIFIES AS AN EXEMPT PERSON UNDER THIS SUBSECTION, THE INDIVIDUAL FILES A SEPARATE FEDERAL INFORMATIONAL TAX RETURN FOR THE ENTITY AS REQUIRED BY LAW;

(5) EXERCISES COMPLETE CONTROL OVER THE MANAGEMENT AND OPERATIONS OF THE BUSINESS; AND

(6) EXERCISES THE RIGHT AND OPPORTUNITY ON A CONTINUING BASIS TO PERFORM THE SERVICES OF THE BUSINESS FOR MULTIPLE ENTITIES AT THE INDIVIDUAL'S SOLE CHOICE AND DISCRETION.

~~(D)~~ **(E) "KNOWINGLY" MEANS HAVING ACTUAL KNOWLEDGE, DELIBERATE IGNORANCE, OR RECKLESS DISREGARD FOR THE TRUTH.**

~~(E)~~ **(F) "LANDSCAPING SERVICES" INCLUDES THE FOLLOWING SERVICES:**

(1) GARDEN MAINTENANCE AND PLANTING;

(2) LAWN CARE INCLUDING FERTILIZING, MOWING, MULCHING, SEEDING, AND SPRAYING;

(3) SEEDING AND MOWING OF HIGHWAY STRIPS;

(4) SOD LAYING;

(5) TURF INSTALLATION, EXCEPT ARTIFICIAL;

(6) ORNAMENTAL BUSH PLANTING, PRUNING, BRACING, SPRAYING, AND REMOVAL; AND

(7) ORNAMENTAL TREE PLANTING, PRUNING, BRACING, SPRAYING, AND REMOVAL.

~~(F) "PACKAGE DELIVERY SERVICES" MEANS PICKING UP INDIVIDUAL PACKAGES FROM A SENDER OR DELIVERING INDIVIDUAL PACKAGES TO A RECIPIENT, WHERE MORE THAN HALF OF THE PACKAGES TYPICALLY CARRIED WEIGH 150 POUNDS OR LESS.~~

(G) (1) "PLACE OF BUSINESS" MEANS THE OFFICE OR HEADQUARTERS OF THE EMPLOYER.

(2) "PLACE OF BUSINESS" DOES NOT INCLUDE A WORK SITE AT WHICH THE EMPLOYER HAS BEEN CONTRACTED TO PERFORM SERVICES.

~~(G)~~ (H) "PUBLIC BODY" MEANS:

(1) THE STATE;

(2) A UNIT OF STATE GOVERNMENT OR AN INSTRUMENTALITY OF THE STATE; OR

(3) ANY POLITICAL SUBDIVISION, AGENCY, PERSON, OR ENTITY THAT IS A PARTY TO A CONTRACT FOR WHICH 50% OR MORE OF THE MONEY USED IS STATE MONEY.

~~(H) "SOLE PROPRIETOR" MEANS AN INDIVIDUAL WHO:~~

~~(1) PERFORMS SERVICES IN A PERSONAL CAPACITY AND EMPLOYS NO OTHER INDIVIDUALS;~~

~~(2) PERFORMS SERVICES FREE FROM THE DIRECTION AND CONTROL OVER THE MEANS AND MANNER OF PROVIDING THE SERVICE, SUBJECT ONLY TO THE RIGHT OF THE PERSON OR ENTITY FOR WHOM SERVICES ARE PROVIDED TO SPECIFY THE DESIRED RESULT;~~

~~(3) FURNISHES THE TOOLS AND EQUIPMENT NECESSARY TO PROVIDE THE SERVICE;~~

~~(4) OPERATES A BUSINESS THAT IS CONSIDERED INSEPARABLE FROM THE INDIVIDUAL FOR PURPOSES OF TAXES, PROFITS, AND LIABILITIES IN WHICH THE INDIVIDUAL:~~

~~(I) HAS SOLE, UNLIMITED, PERSONAL LIABILITY FOR ALL OF THE DEBTS AND LIABILITIES OF THE BUSINESS;~~

~~(II) DOES NOT PAY TAXES FOR THE BUSINESS SEPARATELY, BUT REPORTS BUSINESS INCOME AND LOSSES ON THE INDIVIDUAL'S PERSONAL TAX RETURN; AND~~

~~(III) OWNS ALL OF THE ASSETS AND PROFITS OF THE BUSINESS;~~

~~(5) EXERCISES COMPLETE CONTROL OVER THE MANAGEMENT AND OPERATIONS OF THE BUSINESS; AND~~

~~(6) EXERCISES THE RIGHT AND OPPORTUNITY ON A CONTINUING BASIS TO PERFORM THE SERVICES OF THE BUSINESS FOR MULTIPLE ENTITIES AT THE INDIVIDUAL'S SOLE CHOICE AND DISCRETION.~~

3-902.

THIS SUBTITLE APPLIES ONLY TO THE FOLLOWING INDUSTRIES:

- (1) CONSTRUCTION SERVICES; AND
- (2) LANDSCAPING SERVICES; AND
- ~~(3) PACKAGE DELIVERY SERVICES.~~

3-903.

(A) AN EMPLOYER MAY NOT FAIL TO PROPERLY CLASSIFY AN INDIVIDUAL WHO PERFORMS WORK FOR REMUNERATION PAID BY THE EMPLOYER.

(B) AN EMPLOYER HAS FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL WHEN AN EMPLOYER-EMPLOYEE RELATIONSHIP EXISTS AS DETERMINED UNDER SUBSECTION (C) OF THIS SECTION BUT THE EMPLOYER HAS NOT CLASSIFIED THE INDIVIDUAL AS AN EMPLOYEE.

(C) (1) FOR PURPOSES OF ENFORCEMENT OF THIS SUBTITLE ONLY, WORK PERFORMED BY AN INDIVIDUAL FOR REMUNERATION PAID BY AN EMPLOYER SHALL BE PRESUMED TO CREATE AN EMPLOYER-EMPLOYEE RELATIONSHIP, UNLESS:

(I) THE INDIVIDUAL IS ~~A SOLE PROPRIETOR~~ AN EXEMPT PERSON; OR

(II) AN EMPLOYER DEMONSTRATES THAT:

1. THE INDIVIDUAL WHO PERFORMS THE WORK IS FREE FROM CONTROL AND DIRECTION OVER ITS PERFORMANCE BOTH IN FACT AND UNDER THE CONTRACT;

2. THE INDIVIDUAL CUSTOMARILY IS ENGAGED IN AN INDEPENDENT BUSINESS OR OCCUPATION OF THE SAME NATURE AS THAT INVOLVED IN THE WORK; AND

3. THE WORK IS:

A. OUTSIDE OF THE USUAL COURSE OF BUSINESS OF THE PERSON FOR WHOM THE WORK IS PERFORMED; OR

B. PERFORMED OUTSIDE OF ANY PLACE OF BUSINESS OF THE PERSON FOR WHOM THE WORK IS PERFORMED.

(2) WORK IS OUTSIDE OF THE USUAL COURSE OF BUSINESS OF THE PERSON FOR WHOM IT IS PERFORMED UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) THE INDIVIDUAL PERFORMS THE WORK OFF THE EMPLOYER'S PREMISES;

(II) THE INDIVIDUAL PERFORMS WORK THAT IS NOT INTEGRATED INTO THE EMPLOYER'S OPERATION; OR

(III) THE WORK PERFORMED IS UNRELATED TO THE EMPLOYER'S BUSINESS.

(3) BY CONTRACT, AN EMPLOYER MAY ENGAGE ANOTHER BUSINESS ENTITY, WHICH MAY HAVE ITS OWN EMPLOYEES, TO DO THE SAME TYPE OF WORK IN WHICH THE EMPLOYER ENGAGES, AT THE SAME LOCATION WHERE THE EMPLOYER IS WORKING, WITHOUT ESTABLISHING AN EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN THE TWO CONTRACTING ENTITIES.

(D) THE COMMISSIONER SHALL ADOPT REGULATIONS TO EXPLAIN FURTHER AND PROVIDE SPECIFIC EXAMPLES OF THE APPLICATION OF SUBSECTION (C) OF THIS SECTION.

3-904.

(A) AN EMPLOYER MAY NOT KNOWINGLY FAIL TO PROPERLY CLASSIFY AN INDIVIDUAL WHO PERFORMS WORK FOR REMUNERATION PAID BY THE EMPLOYER.

(B) AN EMPLOYER HAS KNOWINGLY FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL WHEN:

(1) AN EMPLOYER-EMPLOYEE RELATIONSHIP EXISTS AS DETERMINED UNDER § 3-903(C) OF THIS SUBTITLE; AND

(2) THE EMPLOYER HAS KNOWINGLY FAILED TO PROPERLY CLASSIFY THE INDIVIDUAL AS AN EMPLOYEE.

~~(C) IN DETERMINING WHETHER AN EMPLOYER KNOWINGLY FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL, THE COMMISSIONER SHALL CONSIDER WHETHER, PRIOR TO HAVING THE INDIVIDUAL PERFORM WORK, THE EMPLOYER:~~

~~(1) SOUGHT AND OBTAINED EVIDENCE THAT THE INDIVIDUAL:~~

~~(I) AS A SOLE PROPRIETOR, REPORTS BUSINESS INCOME AND LOSSES ON THE SOLE PROPRIETOR'S PERSONAL INCOME TAX RETURNS; OR~~

~~(II) AS AN INDEPENDENT CONTRACTOR:~~

~~1. WITHHOLDS, REPORTS, AND REMITS PAYROLL TAXES ON BEHALF OF ALL INDIVIDUALS WORKING FOR THE INDEPENDENT CONTRACTOR;~~

~~2. PAYS UNEMPLOYMENT INSURANCE TAXES FOR ALL INDIVIDUALS WORKING FOR THE INDEPENDENT CONTRACTOR; AND~~

~~3. MAINTAINS WORKERS' COMPENSATION INSURANCE; AND~~

~~(2) PROVIDED TO THE SOLE PROPRIETOR OR INDEPENDENT CONTRACTOR A WRITTEN NOTICE OF THE STATUS OR CLASSIFICATION OF THE SOLE PROPRIETOR OR INDEPENDENT CONTRACTOR AND ALL OF THE IMPLICATIONS OF THAT STATUS OR CLASSIFICATION AS REQUIRED BY § 3-914 OF THIS SUBTITLE.~~

(C) THE COMMISSIONER SHALL CONSIDER, AS STRONG EVIDENCE THAT THE EMPLOYER DID NOT KNOWINGLY FAIL TO PROPERLY CLASSIFY AN INDIVIDUAL, WHETHER:

(1) BEFORE A COMPLAINT WAS FILED AGAINST THE EMPLOYER OR THE COMMISSIONER BEGAN AN INVESTIGATION OF THE EMPLOYER, THE EMPLOYER:

(I) SOUGHT AND OBTAINED EVIDENCE THAT THE INDIVIDUAL:

1. IS AN EXEMPT PERSON; OR

2. AS AN INDEPENDENT CONTRACTOR:

A. WITHHOLDS, REPORTS, AND REMITS PAYROLL TAXES ON BEHALF OF ALL INDIVIDUALS WORKING FOR THE INDEPENDENT CONTRACTOR;

B. PAYS UNEMPLOYMENT INSURANCE TAXES FOR ALL INDIVIDUALS WORKING FOR THE INDEPENDENT CONTRACTOR; AND

C. MAINTAINS WORKERS' COMPENSATION INSURANCE; AND

(II) PROVIDED TO THE EXEMPT PERSON OR INDEPENDENT CONTRACTOR A WRITTEN NOTICE AS REQUIRED BY § 3-914 OF THIS SUBTITLE; OR

(2) THE EMPLOYER:

(I) 1. CLASSIFIES ALL WORKERS WHO PERFORM THE SAME OR SUBSTANTIALLY THE SAME TASKS FOR THE EMPLOYER AS INDEPENDENT CONTRACTORS; AND

2. REPORTS THE INCOME OF THE WORKERS TO THE INTERNAL REVENUE SERVICE AS REQUIRED BY FEDERAL LAW; AND

(II) HAS RECEIVED A DETERMINATION FROM THE INTERNAL REVENUE SERVICE THAT THE INDIVIDUAL OR A WORKER WHO PERFORMS THE SAME OR SUBSTANTIALLY THE SAME TASK AS THE INDIVIDUAL IS AN INDEPENDENT CONTRACTOR.

(D) THE COMMISSIONER SHALL ADOPT REGULATIONS TO PROVIDE GUIDANCE AS TO WHAT CONSTITUTES THE EVIDENCE RELEVANT TO THE DETERMINATION OF WHETHER AN ~~EMPLOYER'S FAILURE~~ EMPLOYER KNOWINGLY FAILED TO PROPERLY CLASSIFY ~~AS KNOWING~~ AN EMPLOYEE.

3-905.

(A) THE COMMISSIONER SHALL INVESTIGATE AS NECESSARY TO DETERMINE COMPLIANCE WITH THIS SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(B) (1) ANY WRITTEN OR ORAL COMPLAINT OR STATEMENT MADE BY AN INDIVIDUAL A PERSON AS PART OF AN INVESTIGATION UNDER THIS SECTION IS CONFIDENTIAL AND MAY NOT BE DISCLOSED WITHOUT THE CONSENT OF THE INDIVIDUAL PERSON UNTIL THE INVESTIGATION IS CONCLUDED AND A CITATION IS ISSUED.

(2) ANY WRITTEN OR ORAL STATEMENT MADE BY AN INDIVIDUAL ALLEGED TO BE EMPLOYED BY THE RESPONDENT AS PART OF AN INVESTIGATION UNDER THIS SECTION IS CONFIDENTIAL AND MAY NOT BE DISCLOSED WITHOUT THE CONSENT OF THE INDIVIDUAL.

(C) THE COMMISSIONER MAY ENTER A PLACE OF BUSINESS OR WORK SITE TO:

(1) OBSERVE WORK BEING PERFORMED;

(2) INTERVIEW INDIVIDUALS ON THE WORK SITE, INCLUDING THOSE IDENTIFIED AS EMPLOYEES AND INDEPENDENT CONTRACTORS; AND

(3) REVIEW AND COPY RECORDS.

(D) THE COMMISSIONER MAY REQUIRE EACH EMPLOYER TO:

(1) IDENTIFY AND PRODUCE ALL RECORDS RELEVANT TO THE CLASSIFICATION OF EACH INDIVIDUAL;

(2) ATTEST TO THE TRUTHFULNESS OF EACH RECORD THAT IS COPIED IN ACCORDANCE WITH SUBSECTION (C)(3) OF THIS SECTION AND TO SIGN THE COPY; OR

(3) AT THE OPTION OF THE EMPLOYER, SUBMIT A WRITTEN STATEMENT ABOUT THE CLASSIFICATION OF EACH EMPLOYEE ON THE FORM PROVIDED BY THE COMMISSIONER, WITH ANY RELEVANT RECORDS ATTACHED.

(E) AN EMPLOYER THAT FAILS TO PRODUCE RECORDS OR A WRITTEN STATEMENT UNDER SUBSECTION (D) OF THIS SECTION WITHIN ~~5~~ 15 BUSINESS DAYS ~~OF~~ AFTER THE COMMISSIONER'S REQUEST SHALL BE SUBJECT TO A FINE NOT EXCEEDING \$500 PER DAY FOR EACH DAY THE RECORDS ARE NOT PRODUCED.

(F) (1) THE COMMISSIONER MAY ISSUE A SUBPOENA FOR TESTIMONY AND THE PRODUCTION OF RECORDS.

(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, THE COMMISSIONER MAY FILE A COMPLAINT IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE PERSON RESIDES, IS EMPLOYED, OR HAS A PLACE OF BUSINESS, REQUESTING AN ORDER DIRECTING COMPLIANCE WITH THE SUBPOENA.

3-906.

(A) IF, AFTER INVESTIGATION, THE COMMISSIONER DETERMINES THAT AN EMPLOYER HAS VIOLATED THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE, THE COMMISSIONER SHALL PROMPTLY ISSUE A CITATION TO THE EMPLOYER.

(B) EACH CITATION SHALL:

(1) DESCRIBE IN DETAIL THE NATURE OF THE ALLEGED VIOLATION;

(2) CITE THE PROVISION OF THIS SUBTITLE OR ANY REGULATION THAT THE EMPLOYER IS ALLEGED TO HAVE VIOLATED; AND

(3) STATE THE CIVIL PENALTY, IF ANY, THAT THE COMMISSIONER PROPOSES TO ASSESS.

(C) WITHIN A REASONABLE TIME AFTER ISSUANCE OF A CITATION, THE COMMISSIONER SHALL SEND BY CERTIFIED MAIL TO THE EMPLOYER:

(1) A COPY OF THE CITATION; AND

(2) NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING.

(D) WITHIN 15 DAYS AFTER AN EMPLOYER RECEIVES A NOTICE UNDER SUBSECTION (C) OF THIS SECTION, THE EMPLOYER MAY SUBMIT A WRITTEN REQUEST FOR A HEARING ON THE CITATION AND PROPOSED PENALTY.

(E) IF A HEARING IS NOT REQUESTED WITHIN 15 DAYS, THE CITATION, INCLUDING ANY PENALTIES, SHALL BECOME A FINAL ORDER OF THE COMMISSIONER.

(F) IF THE EMPLOYER REQUESTS A HEARING, THE COMMISSIONER SHALL DELEGATE TO THE OFFICE OF ADMINISTRATIVE HEARINGS THE

AUTHORITY TO HOLD A HEARING AND ISSUE ~~PROPOSED~~ FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ~~A PROPOSED AN ORDER,~~ AND ASSESS A PENALTY UNDER § 3-909 OF THIS SUBTITLE IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(G) WITHIN 15 DAYS AFTER A REQUEST, IN ACCORDANCE WITH TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE AND THE APPLICABLE REGULATIONS OF THE DEPARTMENT AND THE OFFICE OF ADMINISTRATIVE HEARINGS, THE COMMISSIONER SHALL PROVIDE COPIES OF ALL RELEVANT EVIDENCE, INCLUDING A LIST OF POTENTIAL WITNESSES, ON WHICH THE COMMISSIONER INTENDS TO RELY AT ANY ADMINISTRATIVE HEARING UNDER THIS SUBTITLE.

(H) THE COMMISSIONER HAS THE BURDEN OF PROOF TO SHOW THAT AN EMPLOYER HAS KNOWINGLY FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL AS AN EMPLOYEE.

~~(G) (I) A PROPOSED DECISION OF AN ADMINISTRATIVE LAW JUDGE ISSUED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE SHALL BECOME A FINAL ORDER OF THE COMMISSIONER UNLESS, WITHIN 15 DAYS OF THE ISSUANCE OF THE PROPOSED DECISION:~~

~~(1) THE COMMISSIONER ORDERS REVIEW OF THE PROPOSED DECISION; OR~~

~~(2) AN EMPLOYER SUBMITS TO THE COMMISSIONER A WRITTEN REQUEST FOR REVIEW OF THE PROPOSED DECISION.~~

~~(H) AFTER REVIEW OF THE PROPOSED DECISION UNDER SUBSECTION (G) OF THIS SECTION, WITH OR WITHOUT A HEARING ON THE RECORD, THE COMMISSIONER SHALL ISSUE AN ORDER THAT, ON THE BASIS OF FINDINGS OF FACT AND CONCLUSIONS OF LAW, AFFIRMS, MODIFIES, OR VACATES THE PROPOSED DECISION.~~

(J) ANY PARTY AGGRIEVED BY A FINAL ORDER OF THE COMMISSIONER UNDER SUBSECTION (I) OF THIS SECTION MAY SEEK JUDICIAL REVIEW AND APPEAL UNDER §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

3-907.

(A) IF, AFTER INVESTIGATION, THE COMMISSIONER DETERMINES THAT AN EMPLOYER FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL AS AN EMPLOYEE IN VIOLATION OF § 3-903 OF THIS SUBTITLE, OR KNOWINGLY FAILED

TO PROPERLY CLASSIFY AS AN EMPLOYEE AN EMPLOYEE IN VIOLATION OF § 3-904 OF THIS SUBTITLE, AND ISSUES A CITATION, THE COMMISSIONER SHALL NOTIFY THE COMPTROLLER, THE OFFICE OF UNEMPLOYMENT INSURANCE, THE INSURANCE ADMINISTRATION, AND THE WORKERS' COMPENSATION COMMISSION TO ENABLE THESE AGENCIES TO ASSURE AN EMPLOYER'S COMPLIANCE WITH THEIR LAWS, UTILIZING THEIR OWN DEFINITIONS, STANDARDS, AND PROCEDURES.

(B) (1) AN EMPLOYER FOUND IN VIOLATION OF § 3-903 OR § 3-904 OF THIS SUBTITLE BY A FINAL ORDER OF A COURT OR THE COMMISSIONER AN ADMINISTRATIVE UNIT SHALL BE REQUIRED, WITHIN 30 45 DAYS OF AFTER THE FINAL ORDER:

~~(1)~~ (I) TO PAY RESTITUTION TO ANY INDIVIDUAL NOT PROPERLY CLASSIFIED; AND

~~(2)~~ (II) TO OTHERWISE COME INTO COMPLIANCE WITH ALL APPLICABLE LABOR LAWS, INCLUDING THOSE RELATED TO INCOME TAX WITHHOLDING, UNEMPLOYMENT INSURANCE, WAGE LAWS, AND WORKERS' COMPENSATION.

(2) THE REQUIREMENT FOR COMPLIANCE WITH APPLICABLE LABOR LAWS UNDER SUBSECTION (B)(1)(II) OF THIS SECTION MAY INCLUDE REQUIRING THE EMPLOYER TO ENTER INTO AN AGREEMENT, WITHIN 45 DAYS AFTER THE FINAL ORDER, WITH A GOVERNMENTAL UNIT FOR PAYMENT OF ANY AMOUNTS OWED BY THE EMPLOYER TO THE UNIT.

(3) THE REQUIREMENT FOR COMPLIANCE WITH APPLICABLE LABOR LAWS UNDER PARAGRAPH (B)(1)(II) OF THIS SECTION:

(I) MAY NOT REQUIRE PAYMENTS FOR MORE THAN A 12-MONTH PERIOD; AND

(II) MAY NOT REQUIRE PAYMENTS DUE FOR A PERIOD BEFORE THE 12-MONTH PERIOD BEFORE THE CITATION WAS ISSUED.

(C) AN EMPLOYER FOUND IN VIOLATION OF § 3-904 OF THIS SUBTITLE BY A FINAL ORDER OF A COURT OR AN ADMINISTRATIVE UNIT SHALL BE REQUIRED, WITHIN 45 DAYS AFTER THE FINAL ORDER:

(1) TO PAY RESTITUTION TO ANY INDIVIDUAL NOT PROPERLY CLASSIFIED; AND

(2) TO OTHERWISE COME INTO COMPLIANCE WITH ALL APPLICABLE LABOR LAWS, INCLUDING THOSE RELATED TO INCOME TAX WITHHOLDING, UNEMPLOYMENT INSURANCE, WAGE LAWS, AND WORKERS' COMPENSATION.

3-908.

(A) AN EMPLOYER IN VIOLATION OF § 3-903 OF THIS SUBTITLE WHO COMES INTO TIMELY COMPLIANCE WITH ALL APPLICABLE LABOR LAWS AS REQUIRED BY § 3-907(B) OF THIS SUBTITLE MAY NOT BE ASSESSED A CIVIL PENALTY.

(B) (1) AN EMPLOYER IN VIOLATION OF § 3-903 OF THIS SUBTITLE WHO FAILS TO COME INTO TIMELY COMPLIANCE WITH ALL APPLICABLE LABOR LAWS AS REQUIRED BY § 3-907(B) OF THIS SUBTITLE SHALL BE ASSESSED A CIVIL PENALTY OF UP TO ~~\$3,000~~ \$1,000 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER IS NOT IN COMPLIANCE.

(2) IN DETERMINING THE AMOUNT OF THE PENALTY, THE COMMISSIONER SHALL CONSIDER THE FACTORS SET FORTH IN § 3-909(B) OF THIS SUBTITLE.

(C) (1) AN EMPLOYER MAY BE ASSESSED CIVIL PENALTIES UNDER THIS SECTION BY ONLY ONE FINAL ORDER OF A COURT OR ADMINISTRATIVE UNIT FOR THE SAME ACTIONS CONSTITUTING NONCOMPLIANCE WITH APPLICABLE LABOR LAWS AS REQUIRED BY § 3-907(B) AND (C) OF THIS SUBTITLE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, AN EMPLOYER MAY BE ORDERED TO MAKE RESTITUTION, PAY ANY INTEREST DUE, AND OTHERWISE COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS BY MULTIPLE FINAL ORDERS OF A COURT AND ALL RELEVANT ADMINISTRATIVE UNITS, INCLUDING THE COMPTROLLER, THE OFFICE OF UNEMPLOYMENT INSURANCE, THE INSURANCE ADMINISTRATION, AND THE WORKERS' COMPENSATION COMMISSION.

(D) ANY PENALTY ISSUED UNDER THIS SECTION AGAINST AN EMPLOYER SHALL BE IN EFFECT AGAINST ANY SUCCESSOR CORPORATION OR BUSINESS ENTITY THAT:

(1) HAS ONE OR MORE OF THE SAME PRINCIPALS OR OFFICERS AS THE EMPLOYER AGAINST WHOM THE PENALTY WAS ASSESSED; AND

(2) IS ENGAGED IN THE SAME OR EQUIVALENT TRADE OR ACTIVITY.

3-909.

(A) AN EMPLOYER FOUND TO HAVE KNOWINGLY FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL IN VIOLATION OF § 3-904 OF THIS SUBTITLE SHALL BE ASSESSED A CIVIL PENALTY OF UP TO \$5,000 FOR EACH EMPLOYEE WHO WAS NOT PROPERLY CLASSIFIED.

(B) IN DETERMINING THE AMOUNT OF THE PENALTY, THE COMMISSIONER OR THE ADMINISTRATIVE LAW JUDGE SHALL CONSIDER:

- (1) THE GRAVITY OF THE VIOLATION;
- (2) THE SIZE OF THE EMPLOYER'S BUSINESS;
- (3) THE EMPLOYER'S GOOD FAITH;
- (4) THE EMPLOYER'S HISTORY OF VIOLATIONS UNDER THIS SUBTITLE; AND
- (5) WHETHER THE EMPLOYER:

(I) HAS BEEN FOUND, BY A COURT OR AN ADMINISTRATIVE UNIT, TO HAVE DEPRIVED THE EMPLOYEE OF ANY RIGHTS TO WHICH THE EMPLOYEE WOULD HAVE BEEN ENTITLED UNDER A STATE PROTECTIVE LABOR LAW, INCLUDING BUT NOT LIMITED TO:

1. ANY PROVISION OF ~~THE LABOR AND EMPLOYMENT~~ ARTICLE THIS ARTICLE;

2. THE STATE PREVAILING WAGE LAW, UNDER §§ 17-221 AND 17-222 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; OR

3. THE LIVING WAGE LAW, UNDER § 18-108 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(II) HAS MADE RESTITUTION AND COME INTO COMPLIANCE WITH ALL SUCH STATE PROTECTIVE LABOR LAWS WITH RESPECT TO THE EMPLOYEE.

(C) IF THE COURT OR AN ADMINISTRATIVE UNIT DETERMINES THAT AN INDIVIDUAL OR CLASS OF INDIVIDUALS IS ENTITLED TO RESTITUTION AS A

RESULT OF THE EMPLOYER'S VIOLATION OF § 3-904 OF THIS SUBTITLE, THE COURT OR ADMINISTRATIVE UNIT:

(1) SHALL AWARD EACH INDIVIDUAL ANY RESTITUTION TO WHICH THE INDIVIDUAL MAY BE ENTITLED; AND

(2) MAY AWARD EACH INDIVIDUAL AN ADDITIONAL AMOUNT UP TO THREE TIMES THE AMOUNT OF SUCH RESTITUTION.

(~~C~~) (D) AN EMPLOYER IN VIOLATION OF § 3-904 OF THIS SUBTITLE MAY BE ASSESSED DOUBLE THE ADMINISTRATIVE PENALTIES SET FORTH IN SUBSECTION (A) OF THIS SECTION IF THE EMPLOYER HAS BEEN FOUND PREVIOUSLY TO HAVE VIOLATED THIS SUBTITLE BY A FINAL ORDER OF A COURT OR AN ADMINISTRATIVE UNIT.

(~~D~~) (E) AN EMPLOYER WHO HAS BEEN FOUND BY A FINAL ORDER OF A COURT OR AN ADMINISTRATIVE UNIT TO HAVE VIOLATED § 3-904 OF THIS SUBTITLE THREE OR MORE TIMES MAY BE ASSESSED AN ADMINISTRATIVE PENALTY OF UP TO \$20,000 FOR EACH EMPLOYEE.

(~~D~~) (~~E~~) (F) (1) AN EMPLOYER MAY BE ASSESSED CIVIL PENALTIES UNDER THIS SECTION OR § 8-201.1 OR § 9-402.1 OF THIS ARTICLE BY ONLY ONE FINAL ORDER OF A COURT OR ADMINISTRATIVE UNIT FOR THE SAME ACTIONS CONSTITUTING A VIOLATION OF THIS SUBTITLE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, AN EMPLOYER MAY BE ORDERED TO MAKE RESTITUTION, PAY ANY INTEREST DUE, AND OTHERWISE COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS BY ORDERS OF A COURT AND ALL RELEVANT ADMINISTRATIVE UNITS, INCLUDING THE COMPTROLLER, THE OFFICE OF UNEMPLOYMENT INSURANCE, THE INSURANCE ADMINISTRATION, AND THE WORKERS' COMPENSATION COMMISSION.

(~~E~~) (~~F~~) (G) ANY PENALTY ISSUED UNDER THIS SECTION AGAINST AN EMPLOYER SHALL BE IN EFFECT AGAINST ANY SUCCESSOR CORPORATION OR BUSINESS ENTITY THAT:

(1) HAS ONE OR MORE OF THE SAME PRINCIPALS OR OFFICERS AS THE EMPLOYER AGAINST WHOM THE PENALTY WAS ASSESSED, ~~IF UNLESS THE PRINCIPAL OR OFFICER KNOWINGLY PARTICIPATED IN THE VIOLATION FOR WHICH THE PENALTY WAS IMPOSED~~ DID NOT OR WITH THE EXERCISE OF REASONABLE DILIGENCE COULD NOT KNOW OF THE VIOLATION FOR WHICH THE PENALTY WAS IMPOSED; AND

(2) IS ENGAGED IN THE SAME OR EQUIVALENT TRADE OR ACTIVITY.

3-910.

AS AUTHORIZED BY STATE AND FEDERAL LAW, UNITS WITHIN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND THE DEPARTMENT OF BUDGET AND MANAGEMENT, THE SECRETARY OF STATE, THE COMPTROLLER, THE MARYLAND INSURANCE ADMINISTRATION, AND OTHER STATE AGENCIES SHALL COOPERATE AND SHARE INFORMATION CONCERNING ANY SUSPECTED FAILURE TO PROPERLY CLASSIFY AN INDIVIDUAL AS AN EMPLOYEE.

3-911.

(A) ~~(1) NOTWITHSTANDING ANY REMEDY AVAILABLE UNDER THIS SUBTITLE,~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN INDIVIDUAL WHO HAS NOT BEEN PROPERLY CLASSIFIED AS AN EMPLOYEE MAY BRING A CIVIL ACTION FOR ECONOMIC DAMAGES AGAINST THE EMPLOYER FOR ANY VIOLATION OF THIS SUBTITLE.

~~(2) AN INDIVIDUAL MAY NOT BRING A CIVIL ACTION UNDER THIS SECTION IF THE INDIVIDUAL HAS RECEIVED RESTITUTION OR ANY OTHER COMPENSATION UNDER THIS SUBTITLE.~~

~~(2) AN INDIVIDUAL MAY NOT BRING A CIVIL ACTION UNDER THIS SECTION IF A FINAL ORDER OF AN ADMINISTRATIVE UNIT OR OF A COURT HAS BEEN ISSUED UNDER § 3-906 OF THIS SUBTITLE.~~

(B) AN ACTION FILED UNDER THIS SECTION SHALL BE FILED WITHIN 3 YEARS ~~OF~~ AFTER THE DATE THE CAUSE OF ACTION ACCRUES.

(C) IF THE COURT DETERMINES THAT AN INDIVIDUAL OR CLASS OF INDIVIDUALS IS ENTITLED TO JUDGMENT IN AN ACTION AGAINST AN EMPLOYER FILED IN ACCORDANCE WITH THIS SECTION, THE COURT MAY AWARD EACH INDIVIDUAL:

(1) ANY DAMAGES TO WHICH THE INDIVIDUAL MAY BE ENTITLED UNDER SUBSECTION (A) OF THIS SECTION;

(2) AN ADDITIONAL AMOUNT UP TO THREE TIMES THE AMOUNT OF ANY SUCH DAMAGES, IF THE EMPLOYER KNOWINGLY FAILED TO PROPERLY CLASSIFY THE INDIVIDUAL;

- (3) REASONABLE COUNSEL FEES AND OTHER COSTS OF THE ACTION; AND
- (4) ANY OTHER APPROPRIATE RELIEF.

3-912.

(A) AN EMPLOYER MAY NOT DISCRIMINATE IN ANY MANNER OR TAKE ADVERSE ACTION AGAINST AN INDIVIDUAL BECAUSE THE INDIVIDUAL:

(1) FILES A COMPLAINT WITH THE EMPLOYER OR THE COMMISSIONER ALLEGING THAT THE EMPLOYER VIOLATED ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE;

(2) BRINGS AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING INVOLVING A VIOLATION OF THIS SUBTITLE; OR

(3) TESTIFIES IN AN ACTION AUTHORIZED UNDER THIS SUBTITLE OR A PROCEEDING INVOLVING A VIOLATION OF THIS SUBTITLE.

~~(B) AN INDIVIDUAL MAY NOT:~~

~~(1) MAKE A GROUNDLESS OR MALICIOUS COMPLAINT TO THE COMMISSIONER; OR~~

~~(2) IN BAD FAITH, BRING AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE.~~

~~(B)~~ (1) AN INDIVIDUAL WHO BELIEVES THAT AN EMPLOYER HAS DISCRIMINATED IN ANY MANNER OR TAKEN ADVERSE ACTION AGAINST THE INDIVIDUAL IN VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY SUBMIT TO THE COMMISSIONER A WRITTEN COMPLAINT THAT ALLEGES THE DISCRIMINATION AND THAT INCLUDES THE SIGNATURE OF THE INDIVIDUAL.

(2) AN INDIVIDUAL SHALL FILE A COMPLAINT UNDER THIS SUBSECTION WITHIN 180 DAYS AFTER THE ALLEGED DISCRIMINATION OCCURS.

~~(C)~~ (1) ON RECEIPT OF A COMPLAINT UNDER SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER MAY INVESTIGATE.

(2) THE COMMISSIONER SHALL PROVIDE THE EMPLOYER WITH AN OPPORTUNITY TO RESPOND TO THE ALLEGATIONS IN THE COMPLAINT.

(3) IF, AFTER INVESTIGATION AND CONSIDERATION OF ANY RESPONSE FROM THE EMPLOYER, THE COMMISSIONER DETERMINES THAT AN EMPLOYER OR OTHER PERSON HAS VIOLATED SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL FILE A COMPLAINT TO ENJOIN THE VIOLATION, TO REINSTATE THE EMPLOYEE TO THE FORMER POSITION WITH BACK PAY, AND TO AWARD ANY OTHER APPROPRIATE DAMAGES OR OTHER RELIEF IN THE CIRCUIT COURT FOR:

(I) THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED;

(II) THE COUNTY IN WHICH THE EMPLOYER HAS ITS PRINCIPAL OFFICE; OR

(III) BALTIMORE CITY.

(4) WITHIN 120 DAYS AFTER THE COMMISSIONER RECEIVES A COMPLAINT, THE COMMISSIONER SHALL NOTIFY THE EMPLOYEE OF THE DETERMINATION UNDER THIS SUBSECTION.

3-913.

(A) WHERE, AFTER INVESTIGATION, THE COMMISSIONER ISSUES A CITATION FOR A VIOLATION OF THIS SUBTITLE OR REGULATIONS ADOPTED UNDER THIS SUBTITLE BY AN EMPLOYER ENGAGED IN WORK ON A CONTRACT WITH A PUBLIC BODY, THE COMMISSIONER SHALL PROMPTLY NOTIFY THE PUBLIC BODY.

(B) (1) ON NOTIFICATION, THE PUBLIC BODY SHALL WITHHOLD FROM PAYMENT DUE THE EMPLOYER AN AMOUNT THAT IS SUFFICIENT TO:

(I) PAY RESTITUTION TO EACH EMPLOYEE FOR THE FULL AMOUNT OF WAGES DUE; AND

(II) PAY ANY BENEFITS, TAXES, OR OTHER CONTRIBUTIONS THAT ARE REQUIRED BY LAW TO BE PAID ON BEHALF OF THE EMPLOYEE.

(2) THE PUBLIC BODY SHALL RELEASE:

(I) ON ISSUANCE OF A FAVORABLE FINAL ORDER OF A COURT OR AN ADMINISTRATIVE UNIT, THE FULL AMOUNT OF THE WITHHELD FUNDS; AND

(II) ON AN ADVERSE FINAL ORDER OF A COURT OR AN ADMINISTRATIVE UNIT, THE BALANCE OF THE WITHHELD FUNDS AFTER ALL OBLIGATIONS ARE SATISFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(c) (1) SUBJECT TO THE PROCESS SET FORTH IN THIS SUBSECTION, THE COMMISSIONER SHALL FILE WITH THE SECRETARY OF STATE, THE DEPARTMENT OF BUDGET AND MANAGEMENT, THE DEPARTMENT OF GENERAL SERVICES, AND THE BOARD OF PUBLIC WORKS A LIST OF THE EMPLOYERS WHO ARE SUBJECT TO DEBARMENT.~~

~~(2) AN EMPLOYER FOUND IN VIOLATION OF THIS SUBTITLE BY MORE THAN TWO FINAL ADMINISTRATIVE OR JUDICIAL ORDERS SHALL BE SUBJECT TO DEBARMENT.~~

~~(3) WITHIN 15 DAYS AFTER AN EMPLOYER RECEIVES A FINAL ADMINISTRATIVE OR JUDICIAL ORDER FINDING A VIOLATION OF THIS SUBTITLE, WHICH TRIGGERS DEBARMENT UNDER THIS SUBSECTION, AN EMPLOYER MAY REQUEST A REVIEW BY THE SECRETARY OF WHETHER DEBARMENT IS WARRANTED.~~

~~(4) AFTER REVIEW OF THE FINAL ORDERS TRIGGERING DEBARMENT, WITH OR WITHOUT A HEARING ON THE RECORD, THE SECRETARY SHALL ISSUE AN ORDER AS TO WHETHER THE EMPLOYER SHALL BE PLACED ON THE LIST OF EMPLOYERS FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(5) THE COMMISSIONER'S FILING UNDER THIS SUBSECTION SHALL BE NOTICE TO A PUBLIC BODY AND ITS REPRESENTATIVES.~~

~~(6) AN EMPLOYER THAT IS ON THE LIST SHALL BE PROHIBITED FROM ENTERING INTO A CONTRACT WITH A PUBLIC BODY DIRECTLY OR INDIRECTLY FOR 2 YEARS FROM THE DATE ON WHICH THE EMPLOYER APPEARED ON THE LIST.~~

~~(7) A PUBLIC BODY MAY NOT AWARD A CONTRACT TO AN EMPLOYER PROHIBITED FROM ENTERING INTO A CONTRACT UNDER THIS SUBSECTION.~~

~~(8) THE LIST MAINTAINED IN ACCORDANCE WITH THIS SUBSECTION IS A PUBLIC RECORD.~~

~~(9) A DEBARMENT UNDER THIS SECTION SHALL BE IN EFFECT AGAINST ANY SUCCESSOR CORPORATION OR BUSINESS ENTITY THAT:~~

~~(I) HAS ONE OR MORE OF THE SAME PRINCIPALS OR OFFICERS AS THE EMPLOYER AGAINST WHOM THE DEBARMENT WAS IMPOSED; AND~~

~~(H) IS ENGAGED IN THE SAME OR EQUIVALENT TRADE OR ACTIVITY.~~

3-914.

(A) AN EMPLOYER SHALL KEEP, FOR AT LEAST 3 YEARS, IN OR ABOUT ITS PLACE OF BUSINESS, RECORDS OF THE EMPLOYER CONTAINING THE FOLLOWING INFORMATION:

(1) THE NAME, ADDRESS, ~~AND~~ OCCUPATION, AND CLASSIFICATION OF EACH EMPLOYEE OR INDEPENDENT CONTRACTOR;

(2) THE RATE OF PAY OF EACH EMPLOYEE OR METHOD OF PAYMENT FOR THE INDEPENDENT CONTRACTOR;

~~(3) THE CLASSIFICATION OF EACH INDIVIDUAL AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR;~~

~~(4)~~ (3) THE AMOUNT THAT IS PAID EACH PAY PERIOD TO EACH EMPLOYEE OR, IF APPLICABLE, INDEPENDENT CONTRACTOR;

~~(5)~~ (4) THE HOURS THAT EACH EMPLOYEE OR INDEPENDENT CONTRACTOR WORKS EACH DAY AND EACH WORKWEEK;

~~(6)~~ (5) FOR ALL INDIVIDUALS WHO ARE NOT CLASSIFIED AS EMPLOYEES, EVIDENCE THAT EACH INDIVIDUAL IS ~~A SOLE PROPRIETOR~~ AN EXEMPT PERSON OR AN INDEPENDENT CONTRACTOR OR ITS EMPLOYEE; AND

~~(7)~~ (6) OTHER INFORMATION THAT THE COMMISSIONER REQUIRES, BY REGULATION, AS NECESSARY TO ENFORCE THIS SUBTITLE.

(B) AN EMPLOYER SHALL PROVIDE EACH INDIVIDUAL CLASSIFIED AS AN INDEPENDENT CONTRACTOR OR ~~SOLE PROPRIETOR~~ EXEMPT PERSON WITH WRITTEN NOTICE OF THE CLASSIFICATION OF THE INDIVIDUAL AT THE TIME THE INDIVIDUAL IS HIRED.

(C) THE WRITTEN NOTICE SHALL:

(1) INCLUDE AN EXPLANATION OF THE IMPLICATIONS OF THE INDIVIDUAL'S CLASSIFICATION AS AN INDEPENDENT CONTRACTOR OR ~~SOLE PROPRIETOR~~ EXEMPT PERSON RATHER THAN AS AN EMPLOYEE; AND

(2) BE PROVIDED IN ENGLISH AND SPANISH.

(D) THE COMMISSIONER SHALL ADOPT REGULATIONS ESTABLISHING THE SPECIFIC REQUIREMENTS FOR THE CONTENTS AND FORM OF THE NOTICE.

3-915.

(A) A PERSON MAY NOT KNOWINGLY INCORPORATE OR FORM, OR ASSIST IN THE INCORPORATION OR FORMATION OF, A CORPORATION, PARTNERSHIP, LIMITED LIABILITY CORPORATION, OR OTHER ENTITY, OR PAY OR COLLECT A FEE FOR USE OF A FOREIGN OR DOMESTIC CORPORATION, PARTNERSHIP, LIMITED LIABILITY CORPORATION, OR OTHER ENTITY FOR THE PURPOSE OF FACILITATING, OR EVADING DETECTION OF, A VIOLATION OF THIS SUBTITLE.

(B) A PERSON MAY NOT KNOWINGLY CONSPIRE WITH, AID AND ABET, ASSIST, ADVISE, OR FACILITATE AN EMPLOYER WITH THE INTENT OF VIOLATING THIS SUBTITLE.

(C) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON THAT VIOLATES THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$20,000.

(2) A PERSON THAT VIOLATES THIS SECTION MAY NOT BE SUBJECT TO A CIVIL PENALTY UNDER THIS SECTION IF THE PERSON:

(I) HOLDS A PROFESSIONAL LICENSE AS A LAWYER OR A CERTIFIED PUBLIC ACCOUNTANT; AND

(II) WAS PERFORMING AN ACTIVITY IN THE ORDINARY COURSE OF THAT PERSON'S LICENSE WHEN THE VIOLATION OCCURRED.

(3) IF THE PERSON IS EXEMPT FROM SANCTION UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER SHALL PROMPTLY REFER THE PERSON FOR INVESTIGATION AND POSSIBLE SANCTION TO THE UNIT OF STATE GOVERNMENT THAT HAS REGULATORY JURISDICTION OVER THE BUSINESS ACTIVITIES OF THAT PERSON.

(D) THE PROCEDURES GOVERNING INVESTIGATIONS, CITATIONS, AND ADMINISTRATIVE AND JUDICIAL REVIEW OF AN ALLEGED VIOLATION UNDER

THIS SECTION SHALL BE THE SAME AS THOSE SET FORTH IN §§ 3-905 AND 3-906 OF THIS SUBTITLE.

(E) A PERSON MAY BE ASSESSED CIVIL PENALTIES UNDER THIS SECTION BY ONLY ONE FINAL ORDER OF A COURT OR ADMINISTRATIVE UNIT FOR THE SAME ACTIONS CONSTITUTING THE VIOLATION.

3-916.

(A) **A PERSON MAY NOT:**

(1) **MAKE OR CAUSE TO BE MADE A GROUNDLESS OR MALICIOUS COMPLAINT TO THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER;**

(2) **IN BAD FAITH, BRING AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE; OR**

(3) **IN BAD FAITH, TESTIFY IN AN ACTION UNDER THIS SUBTITLE OR A PROCEEDING RELATED TO THE SUBJECT OF THIS SUBTITLE.**

(B) **THE COMMISSIONER SHALL INVESTIGATE ANY ALLEGATIONS THAT A PERSON HAS VIOLATED ANY PROVISION OF THIS SECTION.**

(C) (1) **IF THE COMMISSIONER DETERMINES THAT A PERSON HAS VIOLATED ANY PROVISION OF THIS SECTION, THAT PERSON MAY BE SUBJECT TO AN ADMINISTRATIVE PENALTY OF UP TO \$1,000, ASSESSED BY THE COMMISSIONER.**

(2) **A SANCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBJECT TO THE NOTICE AND HEARING REQUIREMENTS OF § 3-906 OF THIS SUBTITLE.**

(3) **IF THE PERSON FOUND IN VIOLATION OF THIS SECTION IS A PERSON ALLEGED TO BE EMPLOYED BY THE RESPONDENT, THE COMMISSIONER SHALL DISCLOSE THE IDENTITY OF THE COMPLAINANT.**

(D) **ANY PERSON WHO MUST DEFEND AN ACTION TAKEN AS A RESULT OF A GROUNDLESS OR MALICIOUS COMPLAINT MAY BE ENTITLED TO RECOVER ATTORNEYS' FEES.**

3-916, 3-917.

**THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT ~~THE~~
~~PROVISIONS OF THIS SUBTITLE.~~**

~~3-917.~~ 3-918.

**EACH CIVIL PENALTY UNDER THIS SUBTITLE SHALL BE PAID INTO THE
GENERAL FUND OF THE STATE.**

~~3-918.~~ 3-919.

**(A) THE PROPOSED BUDGET OF THE DIVISION OF LABOR AND
INDUSTRY SHALL INCLUDE AN APPROPRIATION FROM THE WORKERS'
COMPENSATION COMMISSION TO COVER THE COST OF ADMINISTERING THIS
SUBTITLE.**

**(B) THE WORKERS' COMPENSATION COMMISSION SHALL PAY THE
COST OF ADMINISTERING THIS SUBTITLE FROM MONEY THAT THE COMMISSION
RECEIVES UNDER § 9-316 OF THIS ARTICLE.**

~~3-919.~~ 3-920.

**(A) THE COMMISSIONER SHALL PREPARE AN ANNUAL REPORT FOR THE
SECRETARY ON THE ADMINISTRATION AND ENFORCEMENT OF THIS SUBTITLE,
THAT SHALL INCLUDE:**

- (1) THE NUMBER AND NATURE OF COMPLAINTS RECEIVED;**
- (2) THE NUMBER OF INVESTIGATIONS CONDUCTED;**
- (3) THE NUMBER OF CITATIONS ISSUED;**
- (4) THE NUMBER OF INFORMAL RESOLUTIONS OF THE CITATIONS;**
- (5) THE NUMBER OF FINAL ADMINISTRATIVE ORDERS, WITH A
DESCRIPTION, THAT SHALL INCLUDE:
 - (I) WHETHER THE ALLEGED VIOLATION WAS FOUND; AND**
 - (II) WHETHER THE ORDER AFFIRMED OR OVERTURNED A
PROPOSED DECISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS;****
- (6) THE NUMBER OF ORDERS OF THE COMMISSIONER REVIEWED
BY THE SECRETARY AND WHETHER THEY WERE AFFIRMED OR OVERTURNED;
AND**

(7) THE NUMBER OF REQUESTS FOR JUDICIAL REVIEW OF ADMINISTRATIVE ORDERS AND WHETHER THE ORDERS WERE AFFIRMED OR OVERTURNED.

(B) THE COMMISSIONER'S REPORT SHALL BE A PUBLIC RECORD.

8-201.

(A) [Except as otherwise provided in this subtitle, employment is] **EMPLOYMENT IS PRESUMED TO BE** covered employment if:

(1) regardless of whether the employment is based on the common law relation of master and servant, the employment is performed:

(i) for wages; or

(ii) under a contract of hire that is written or oral or express or implied; and

(2) the employment is performed in accordance with § 8-202 of this subtitle.

(B) TO OVERCOME THE PRESUMPTION OF EMPLOYMENT, AN EMPLOYING UNIT SHALL ESTABLISH THAT THE PERSON PERFORMING SERVICES IS AN INDEPENDENT CONTRACTOR IN ACCORDANCE WITH § 8-205 OF THIS SUBTITLE OR IS SPECIFICALLY EXEMPTED UNDER THIS SUBTITLE.

8-201.1.

(A) IN THIS SECTION, "KNOWINGLY" MEANS HAVING ACTUAL KNOWLEDGE, DELIBERATE IGNORANCE, OR RECKLESS DISREGARD FOR THE TRUTH.

(B) AN EMPLOYER MAY NOT ~~MISCLASSIFY~~ FAIL TO PROPERLY CLASSIFY AN EMPLOYEE AS AN INDEPENDENT CONTRACTOR INDIVIDUAL AS AN EMPLOYEE.

(C) (1) ~~WHERE~~ IF THE SECRETARY DETERMINES THAT AN EMPLOYING UNIT HAS ~~MISCLASSIFIED~~ FAILED TO PROPERLY CLASSIFY AN EMPLOYEE AS AN INDEPENDENT CONTRACTOR INDIVIDUAL AS AN EMPLOYEE, ANY AND ALL CONTRIBUTION OR REIMBURSEMENT PAYMENTS RESULTING FROM THE ~~MISCLASSIFICATION~~ FAILURE TO PROPERLY CLASSIFY THAT ARE DUE AND UNPAID SHALL ACCRUE INTEREST ~~AT THE RATE OF 2% PER MONTH OR PART OF A MONTH FROM THE FIRST DUE DATE FOLLOWING NOTICE OF THE~~

~~MISCLASSIFICATION UNTIL THE SECRETARY RECEIVES THE CONTRIBUTION OR PAYMENT IN LIEU OF CONTRIBUTIONS AND INTEREST AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION.~~

(2) AN EMPLOYER WHO FAILS TO PAY THE CONTRIBUTION OR REIMBURSEMENT PAYMENTS WITHIN 45 DAYS SHALL BE ASSESSED INTEREST AT THE RATE OF 2% PER MONTH OR PART OF A MONTH FROM THE FIRST DUE DATE FOLLOWING NOTICE OF THE MISCLASSIFICATION UNTIL THE SECRETARY RECEIVES THE CONTRIBUTION OR PAYMENT IN LIEU OF CONTRIBUTIONS AND INTEREST.

(D) THE SECRETARY SHALL CONSIDER, AS STRONG EVIDENCE THAT AN EMPLOYER DID NOT KNOWINGLY FAIL TO PROPERLY CLASSIFY AN INDIVIDUAL, WHETHER THE EMPLOYER:

(1) (I) CLASSIFIES ALL WORKERS WHO PERFORM THE SAME OR SUBSTANTIALLY THE SAME TASKS FOR THE EMPLOYER AS INDEPENDENT CONTRACTORS; AND

(II) REPORTS THE INCOME OF THE WORKERS TO THE INTERNAL REVENUE SERVICE AS REQUIRED BY FEDERAL LAW; AND

(2) HAS RECEIVED A DETERMINATION FROM THE INTERNAL REVENUE SERVICE THAT THE INDIVIDUAL OR A WORKER WHO PERFORMS THE SAME OR SUBSTANTIALLY THE SAME TASKS FOR THE EMPLOYER IS AN INDEPENDENT CONTRACTOR.

~~(D) (E) WHERE~~ IF THE SECRETARY DETERMINES THAT AN EMPLOYING UNIT HAS KNOWINGLY MISCLASSIFIED FAILED TO PROPERLY CLASSIFY AN ~~EMPLOYEE AS AN INDEPENDENT CONTRACTOR~~ INDIVIDUAL AS AN EMPLOYEE, THE EMPLOYING UNIT SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$5,000 PER EMPLOYEE.

~~(E) (F)~~ (1) A PERSON MAY NOT KNOWINGLY ADVISE AN EMPLOYING UNIT OR A PROSPECTIVE EMPLOYING UNIT TO TAKE ACTION FOR THE PURPOSES OF VIOLATING THIS SECTION.

(2) A PERSON FOUND IN VIOLATION OF THIS SUBSECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$20,000.

~~(F) (G)~~ AN EMPLOYING UNIT FOUND TO HAVE KNOWINGLY VIOLATED THIS SECTION WHO HAS ALSO BEEN FOUND PREVIOUSLY TO HAVE KNOWINGLY VIOLATED THIS SECTION BY A FINAL ORDER OF A COURT OR ADMINISTRATIVE

UNIT MAY BE ASSESSED DOUBLE THE ADMINISTRATIVE PENALTIES SET FORTH IN SUBSECTION (D) OF THIS SECTION FOR THE NEW VIOLATION.

~~(G)~~ (H) (1) AN EMPLOYING UNIT MAY BE ASSESSED CIVIL PENALTIES BY ONLY ONE ORDER OF A COURT OR ADMINISTRATIVE UNIT FOR THE SAME ACTIONS CONSTITUTING A KNOWING ~~MISCLASSIFICATION~~ FAILURE TO PROPERLY CLASSIFY ~~OF AN INDIVIDUAL AS AN EMPLOYEE.~~

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, AN EMPLOYING UNIT MAY BE ORDERED TO MAKE RESTITUTION, PAY ANY INTEREST DUE, AND OTHERWISE COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS BY ORDERS OF A COURT, THE SECRETARY, AND ALL OTHER RELEVANT ADMINISTRATIVE UNITS, INCLUDING THE COMPTROLLER, THE WORKERS' COMPENSATION COMMISSION, THE INSURANCE ADMINISTRATION, AND THE DIVISION OF LABOR AND INDUSTRY.

~~(H)~~ (I) ~~WHERE~~ IF THE SECRETARY DETERMINES THAT AN EMPLOYING UNIT HAS ~~MISCLASSIFIED~~ FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL AS AN EMPLOYEE, THE SECRETARY SHALL PROMPTLY NOTIFY THE WORKERS' COMPENSATION COMMISSION, THE DIVISION OF LABOR AND INDUSTRY, THE INSURANCE ADMINISTRATION, AND THE COMPTROLLER.

~~(I)~~ (J) AS AUTHORIZED BY STATE AND FEDERAL LAW, UNITS WITHIN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND THE DEPARTMENT OF BUDGET AND MANAGEMENT, THE SECRETARY OF STATE, THE COMPTROLLER, THE INSURANCE ADMINISTRATION, AND OTHER STATE AGENCIES SHALL COOPERATE AND SHARE INFORMATION CONCERNING ANY SUSPECTED VIOLATION OF THIS TITLE.

~~(J)~~ (K) (1) THE SECRETARY ~~MAY~~ SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

(2) THE REGULATIONS SHALL:

(I) REQUIRE THAT THE SECRETARY PROVIDE AN EMPLOYER WITH THE FACTUAL BASIS FOR ANY VIOLATIONS CHARGED;

(II) ESTABLISH PROCEDURES REGARDING THE AUDIT PROCESS AND ANY AGENCY LEVEL REVIEW AVAILABLE BEFORE APPEAL; AND

(III) PROVIDE GUIDANCE AS TO WHAT CONSTITUTES THE EVIDENCE RELEVANT TO THE DETERMINATION OF WHETHER AN EMPLOYER KNOWINGLY FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL AS AN EMPLOYEE.

8-205.

(A) Work that an individual performs under any contract of hire is not covered employment if the Secretary is satisfied that:

(1) the individual who performs the work is free from control and direction over its performance both in fact and under the contract;

(2) the individual customarily is engaged in an independent business or occupation of the same nature as that involved in the work; and

(3) the work is:

(i) outside of the usual course of business of the person for whom the work is performed; or

(ii) performed outside of any place of business of the person for whom the work is performed.

(B) THE SECRETARY SHALL ADOPT REGULATIONS TO PROVIDE:

(1) GENERAL GUIDANCE ABOUT THE APPLICATION OF SUBSECTION (A) OF THIS SECTION; AND

(2) SPECIFIC EXAMPLES OF HOW SUBSECTION (A) OF THIS SECTION IS APPLIED TO CERTAIN INDUSTRIES, INCLUDING THE CONSTRUCTION INDUSTRY, THE LANDSCAPING INDUSTRY, AND THE HOME CARE SERVICES INDUSTRY.

8-610.1.

AN EMPLOYING UNIT THAT HAS KNOWINGLY FAILED TO PROPERLY CLASSIFY AN ~~EMPLOYEE AS AN INDEPENDENT CONTRACTOR~~ INDIVIDUAL AS AN EMPLOYEE UNDER § 8-201.1 OF THIS TITLE SHALL PAY CONTRIBUTIONS FOR 2 YEARS:

(1) AT A RATE APPLIED TO THE TAXABLE WAGE BASE THAT WOULD HAVE BEEN ASSIGNED TO THE EMPLOYING UNIT UNDER THIS SUBTITLE IF THE EMPLOYING UNIT HAD NOT KNOWINGLY FAILED TO PROPERLY CLASSIFY AN ~~EMPLOYEE AS AN INDEPENDENT CONTRACTOR~~ INDIVIDUAL AS AN EMPLOYEE; PLUS

(2) TWO PERCENTAGE POINTS.

8-628.

[A] EXCEPT AS PROVIDED IN § 8-201.1 OF THIS TITLE, A contribution or reimbursement payment that is due and unpaid shall accrue interest at the rate of 1.5% per month or part of a month from the date on which it is due until the Secretary receives the contribution or payment in lieu of contributions and the interest.

9-202.

(a) [Except as otherwise provided, an] AN individual, including a minor, is PRESUMED TO BE a covered employee while in the service of an employer under an express or implied contract of apprenticeship or hire.

(b) A minor may be a covered employee under this section even if the minor is employed unlawfully.

(c) TO OVERCOME THE PRESUMPTION OF COVERED EMPLOYMENT, AN EMPLOYER SHALL ESTABLISH THAT THE INDIVIDUAL PERFORMING SERVICES IS AN INDEPENDENT CONTRACTOR IN ACCORDANCE WITH THE COMMON LAW OR IS SPECIFICALLY EXEMPTED FROM COVERED EMPLOYMENT UNDER THIS SUBTITLE.

9-315.1.

THE COMMISSION SHALL PAY THE COSTS OF THE ADMINISTRATION OF THE WORKFORCE FRAUD PROGRAM BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER TITLE 3, SUBTITLE 9 OF THIS ARTICLE.

9-316.

(b) Out of money appropriated for the maintenance of the Commission, the State shall pay the salaries, administrative expenses, and all other expenses of the Commission, including:

(1) the costs of the administration of the Occupational Safety and Health Program by the Commissioner of Labor and Industry under Title 5 of this article; [and]

(2) **THE COSTS OF THE ADMINISTRATION OF THE WORKFORCE FRAUD PROGRAM BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER TITLE 3, SUBTITLE 9 OF THIS ARTICLE; AND**

~~[(2)]~~ (3) any cost incurred by the State, including contribution as an employer, because of the participation of a Commissioner in the Judges' Retirement System of the State of Maryland.

9-402.1.

(A) IN THIS SECTION, "KNOWINGLY" MEANS HAVING ACTUAL KNOWLEDGE, DELIBERATE IGNORANCE, OR RECKLESS DISREGARD FOR THE TRUTH.

(B) AN EMPLOYER MAY NOT ~~MISCLASSIFY~~ FAIL TO PROPERLY CLASSIFY AN EMPLOYEE AS AN INDEPENDENT CONTRACTOR INDIVIDUAL AS AN EMPLOYEE.

(C) IF THE COMMISSION DETERMINES THAT AN EMPLOYER ~~MISCLASSIFIED~~ FAILED TO PROPERLY CLASSIFY AN EMPLOYEE AS AN INDEPENDENT CONTRACTOR INDIVIDUAL AS AN EMPLOYEE, THE COMMISSION SHALL ORDER THE EMPLOYER TO SECURE COMPENSATION FOR THE COVERED EMPLOYEE IN ACCORDANCE WITH § 9-407 OF THIS SUBTITLE.

(D) IF THE COMMISSION DETERMINES THAT AN EMPLOYER KNOWINGLY ~~MISCLASSIFIED~~ FAILED TO PROPERLY CLASSIFY AN EMPLOYEE AS AN INDEPENDENT CONTRACTOR INDIVIDUAL AS AN EMPLOYEE, THE COMMISSION SHALL, IN CONFORMANCE WITH § 9-310 OF THIS TITLE, ASSESS A CIVIL PENALTY OF NOT MORE THAN \$5,000.

(E) (1) A PERSON MAY NOT KNOWINGLY ADVISE AN EMPLOYER TO TAKE ACTION FOR THE PURPOSE OF VIOLATING THIS SECTION.

(2) A PERSON FOUND IN VIOLATION OF THIS SUBSECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$20,000.

(F) AN EMPLOYER FOUND TO HAVE KNOWINGLY VIOLATED THIS SECTION WHO HAS ALSO BEEN FOUND PREVIOUSLY TO HAVE KNOWINGLY VIOLATED THIS SECTION BY A FINAL ORDER OF A COURT OR ADMINISTRATIVE UNIT MAY BE ASSESSED DOUBLE THE ADMINISTRATIVE PENALTIES SET FORTH IN SUBSECTION (D) OF THIS SECTION FOR THE NEW VIOLATION.

(G) (1) AN EMPLOYER MAY BE ASSESSED CIVIL PENALTIES BY ONLY ONE ORDER OF A COURT OR ADMINISTRATIVE UNIT FOR THE SAME ACTIONS CONSTITUTING A KNOWING ~~MISCLASSIFICATION OF~~ FAILURE TO PROPERLY CLASSIFY AN INDIVIDUAL AS AN EMPLOYEE.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, AN EMPLOYER MAY BE ORDERED TO MAKE RESTITUTION, PAY ANY INTEREST DUE, AND OTHERWISE COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS BY ORDERS OF A COURT, THE COMMISSION, AND ALL OTHER RELEVANT ADMINISTRATIVE UNITS, INCLUDING THE COMPTROLLER, THE OFFICE OF

UNEMPLOYMENT INSURANCE, THE INSURANCE ADMINISTRATION, AND THE DIVISION OF LABOR AND INDUSTRY.

(H) ~~WHERE~~ IF THE COMMISSION DETERMINES THAT AN EMPLOYER HAS ~~MISCLASSIFIED~~ FAILED TO PROPERLY CLASSIFY AN INDIVIDUAL AS AN EMPLOYEE, THE COMMISSION SHALL PROMPTLY NOTIFY THE OFFICE OF UNEMPLOYMENT INSURANCE, THE DIVISION OF LABOR AND INDUSTRY, THE INSURER, IF ANY, THE INSURANCE ADMINISTRATION, AND THE COMPTROLLER.

(I) AS AUTHORIZED BY STATE AND FEDERAL LAW, UNITS WITHIN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND THE DEPARTMENT OF BUDGET AND MANAGEMENT, THE SECRETARY OF STATE, THE COMPTROLLER, THE INSURANCE ADMINISTRATION AND OTHER STATE AGENCIES SHALL COOPERATE AND SHARE INFORMATION CONCERNING ANY SUSPECTED VIOLATION OF THIS TITLE.

(J) THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall include in the annual budget for each fiscal year beginning with fiscal year 2011 funds as necessary for the effective administration and enforcement of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Commissioner of Labor and Industry shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on the Commissioner's investigations of complaints of violations of this Act and the outcomes of those investigations including any recommendations by the Commissioner to improve the administration and enforcement of this Act, as well as any other information that the Commissioner determines relevant.

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, notwithstanding § 10-111(b) of the State Government Article, regulations proposed to implement this Act may not be proposed as emergency regulations.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 189

(Senate Bill 16)

AN ACT concerning

Baltimore City and Prince George's County – Organization of Parents and Teachers – Matching Fund

FOR the purpose of renaming a certain Parent–Teacher Association Matching Fund Pilot Program to be the Organization of Parents and Teachers Matching Fund Pilot Program; clarifying the purpose of the Program and the eligibility for the Program; requiring a certain report to be submitted to a certain committee; extending a certain termination date; and generally relating to the Organization of Parents and Teachers Matching Fund Pilot Program in Baltimore City and Prince George's County.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–118
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 637 of the Acts of the General Assembly of 2007
Section 2

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

Article – Education

7–118.

(a) In this section, “Program” means the [Parent–Teacher Association] **ORGANIZATION OF PARENTS AND TEACHERS** Matching Fund Pilot Program.

(b) There is [a Parent–Teacher Association] **AN ORGANIZATION OF PARENTS AND TEACHERS** Matching Fund Pilot Program in Baltimore City and Prince George's County.

(c) The purpose of the Program is to:

(1) Encourage [parent-teacher associations] **ORGANIZATIONS OF PARENTS AND TEACHERS** to raise funds for public high schools; and

(2) Provide additional State funds for public high schools.

(d) (1) Each public high school in Baltimore City and Prince George's County is eligible for a dollar-for-dollar match for private funds raised by [the school's parent-teacher association] **AN ORGANIZATION OF PARENTS AND TEACHERS AT THE SCHOOL** up to:

(i) In Baltimore City, the amount raised by [the parent-teacher association] **AN ORGANIZATION OF PARENTS AND TEACHERS**, not to exceed the school's equal share as determined by dividing \$125,000 by the number of public high schools in Baltimore City; and

(ii) In Prince George's County, the amount raised by [the parent-teacher association] **AN ORGANIZATION OF PARENTS AND TEACHERS**, not to exceed the school's equal share as determined by dividing \$125,000 by the number of public high schools in Prince George's County.

(2) The total amount expended under the Program may not exceed \$200,000 annually.

(e) Funds for the Program shall be as provided in the State budget by the Governor.

(f) On or before December 1 of each year, the Chief Executive Officer of the Baltimore City Public School System and the Superintendent of Schools of Prince George's County shall report to the Senate Budget and Taxation Committee, **THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE**, and the House Ways and Means Committee, in accordance with § 2-1246 of the State Government Article, on the status of, and the benefits accrued from, the [Parent-Teacher Association] **ORGANIZATION OF PARENTS AND TEACHERS** Matching Fund Pilot Program.

Chapter 637 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of [3] **5** years and, at the end of September 30, [2010] **2012**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 7, 2009.

Chapter 190

(Senate Bill 29)

AN ACT concerning

Talbot County – School Buses – Length of Operation

FOR the purpose of altering the length of time a school bus may be operated in Talbot County; and generally relating to school bus operation in Talbot County.

BY repealing and reenacting, with amendments,

Article – Education

Section 7–804

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Education

7–804.

(a) In this section, “school vehicle” has the meaning stated in § 11–154 of the Transportation Article.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 12 years.

(2) (i) In Dorchester, Somerset, **TALBOT**, Wicomico, and Worcester counties, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 15 years.

(ii) A school vehicle operating under subparagraph (i) of this paragraph shall be maintained as provided in subsection (c) of this section.

(3) Any school vehicle in operation or accepted before July 1, 2004, or under contract to be purchased before July 1, 2004, that meets the specifications of the Department and of the Motor Vehicle Administration for transit style school vehicles may be operated for 15 years.

(c) Notwithstanding the 12-year limitation in subsection (b)(1) of this section, a school vehicle may be operated for additional years if:

(1) The school vehicle is maintained under a preventive maintenance plan approved by the Motor Vehicle Administration and the Automotive Safety Enforcement Division of the Department of State Police that includes an inspection at the end of the 12th year and a minimum of 2 inspections by the Motor Vehicle Administration each year thereafter;

(2) Any structural repairs to the school vehicle necessitated by accident, metal fatigue, or any other cause are certified by an independent expert approved by the Motor Vehicle Administration to meet or exceed the manufacturer's original manufacturing standards;

(3) The school vehicle is equipped with:

(i) The body originally placed on the chassis by the manufacturer;

(ii) An 8 light warning system;

(iii) A left side stop arm;

(iv) A fire-retardant driver's seat;

(v) Fire-retardant barriers in the case of a school vehicle with a front engine; and

(vi) A fire-retardant rear seating area in the case of a school vehicle with a rear engine; and

(4) The State Superintendent grants approval.

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

Approved by the Governor, May 7, 2009.

Chapter 191

(Senate Bill 39)

AN ACT concerning

Municipal Corporations – Tax Increment Financing – Application of Bond Proceeds

FOR the purpose of authorizing a municipal corporation to apply the proceeds from the issuance of certain bonds to install infrastructure improvements for the purpose of encouraging redevelopment in certain areas; and generally relating to the application of proceeds from certain bonds issued by a municipal corporation.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 12–201(i) and (m) and 12–204(a)
Annotated Code of Maryland
(2008 Volume)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 12–207
Annotated Code of Maryland
(2008 Volume)

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

Article – Economic Development

12–201.

(i) “Issuer” means a political subdivision or the revenue authority of Prince George’s County that issues a bond under this subtitle.

(m) “Political subdivision” means a county or a municipal corporation.

12–204.

(a) Notwithstanding any limitation of law, an issuer may issue bonds from time to time to finance the development of an industrial, commercial, or residential area.

12–207.

(a) Bond proceeds may be used only:

(1) to buy, lease, condemn, or otherwise acquire property, or an interest in property:

(i) in the development district; or

(ii) needed for a right-of-way or other easement to or from the development district;

(2) for site removal;

(3) for surveys and studies;

(4) to relocate businesses or residents;

(5) to install utilities, construct parks and playgrounds, and for other needed improvements including:

(i) roads to, from, or in the development district;

(ii) parking; and

(iii) lighting;

(6) to construct or rehabilitate buildings for a governmental purpose or use;

(7) for reserves or capitalized interest;

(8) for necessary costs to issue bonds; and

(9) to pay the principal of and interest on loans, advances, or indebtedness that a political subdivision incurs for a purpose specified in this section.

(b) (1) In addition to the purposes listed in subsection (a) of this section, the proceeds from bonds that Prince George's County or the revenue authority of Prince George's County issues may be used:

(i) for convention, conference, or visitors' centers;

(ii) to maintain infrastructure improvements and convention, conference, or visitors' centers;

(iii) to market development district facilities and other improvements; and

(iv) for the purpose of encouraging redevelopment in those areas listed in paragraph (2) of this subsection, to install infrastructure improvements, including:

1. streets;

- private use;
2. parking structures of any type whether for public or private use;
 3. utilities;
 4. street lights;
 5. stormwater management and storm drain facilities;
 6. fencing;
 7. noise walls;
 8. retaining walls;
 9. trails;
 10. sidewalks;
 11. pedestrian and vehicular bridges; and
 12. park facilities.

(2) The purpose of the authority granted by paragraph (1)(iv) of this subsection is to encourage redevelopment in:

- (i) revitalization areas designated by the county;
- (ii) mixed use centers;
- (iii) blighted areas; and
- (iv) the Developed Tier, growth corridors, and growth centers, as defined in the county General Plan.

(C) (1) IN ADDITION TO THE PURPOSES LISTED IN SUBSECTION (A) OF THIS SECTION, THE PROCEEDS FROM BONDS THAT A MUNICIPAL CORPORATION ISSUES MAY BE USED FOR THE PURPOSE OF ENCOURAGING REDEVELOPMENT IN THOSE AREAS LISTED IN PARAGRAPH (2) OF THIS SUBSECTION, TO INSTALL INFRASTRUCTURE IMPROVEMENTS, INCLUDING:

- (I) STREETS;**
- (II) PARKING STRUCTURES OF ANY TYPE WHETHER FOR PUBLIC OR PRIVATE USE;**

- (III) UTILITIES;
- (IV) STREET LIGHTS;
- (V) STORMWATER MANAGEMENT AND STORM DRAIN FACILITIES;
- (VI) FENCING;
- (VII) NOISE WALLS;
- (VIII) RETAINING WALLS;
- (IX) TRAILS;
- (X) SIDEWALKS;
- (XI) PEDESTRIAN AND VEHICULAR BRIDGES; AND
- (XII) PARK FACILITIES.

(2) THE PURPOSE OF THE AUTHORITY GRANTED BY PARAGRAPH (1) OF THIS SUBSECTION IS TO ENCOURAGE REDEVELOPMENT IN:

- (I) REVITALIZATION AREAS DESIGNATED BY A COUNTY OR MUNICIPAL CORPORATION;
- (II) MIXED USE CENTERS;
- (III) BLIGHTED AREAS; AND
- (IV) DEVELOPED AREAS AND GROWTH AREAS, AS DEFINED IN A COUNTY OR MUNICIPAL CORPORATION LAND USE PLAN.

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

Approved by the Governor, May 7, 2009.

AN ACT concerning

Environment – Permit Applications – Notice Requirements

FOR the purpose of requiring ~~notification by mail to certain record residential property owners~~ the Department of the Environment to electronically post on the Department's website certain notice of certain permit applications under certain circumstances and provide a method for certain persons to electronically request certain information; requiring the notice to contain certain information; ~~requiring permit applicants to pay the cost of the notice; authorizing the Department of the Environment to require the permit applicant to publish and send the notice;~~ and generally relating to notice requirements for permit applications.

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–602
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

1–602.

(a) Wherever this subtitle requires the Department to publish notice:

(1) Notice shall be published at least once a week for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located;

(2) The Department may require notice of an informational meeting or a public hearing by mail to each person requesting the meeting or hearing or to their authorized representatives;

(3) The Department may provide additional notice by requiring the notice to be posted at the proposed facility or at public facilities in the geographical area of the proposed facility; and

(4) The applicant shall bear all costs incurred by the Department in providing notice.

(B) (1) IN ADDITION TO THE REQUIREMENTS SET FORTH IN SUBSECTION (A) OF THIS SECTION AND NOTWITHSTANDING ANY OTHER REQUIREMENTS IN THIS ARTICLE, WHEREVER THIS SUBTITLE REQUIRES THE

~~DEPARTMENT TO PUBLISH NOTICE OF AN APPLICATION FOR A PERMIT, NOTICE SHALL BE SENT BY MAIL TO THE ADDRESSES OF RECORD RESIDENTIAL PROPERTY OWNERS WITHIN A 2-MILE RADIUS OF THE ACTIVITY FOR WHICH THE PERMIT IS SOUGHT~~ THE DEPARTMENT SHALL:

(I) ELECTRONICALLY POST THE NOTICE OF AN APPLICATION FOR A PERMIT ON THE DEPARTMENT'S WEBSITE; AND

(II) PROVIDE A METHOD FOR INTERESTED PERSONS TO ELECTRONICALLY REQUEST ANY ADDITIONAL NOTICES RELATED TO AN APPLICATION FOR A PERMIT.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE APPLICANT;

(II) A DESCRIPTION OF THE LOCATION AND THE NATURE OF THE ACTIVITY FOR WHICH THE PERMIT HAS BEEN SOUGHT;

(III) A REFERENCE TO THE APPLICABLE STATUTES OR REGULATIONS GOVERNING THE APPLICATION PROCESS;

(IV) THE TIME AND PLACE OF ANY SCHEDULED INFORMATIONAL MEETING OR PUBLIC HEARING, OR A DESCRIPTION OF WHERE THIS INFORMATION CAN BE FOUND;

(V) A DESCRIPTION OF WHERE FURTHER INFORMATION ABOUT THE PERMIT APPLICATION CAN BE FOUND; AND

(VI) ANY OTHER INFORMATION THAT THE DEPARTMENT DETERMINES IS NECESSARY.

~~(3) THE APPLICANT SHALL BEAR ALL COSTS INCURRED BY THE DEPARTMENT IN PROVIDING THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.~~

[(b)] (C) The Department may REQUIRE THE APPLICANT TO publish AND SEND the [notice or require the applicant to publish the notice] NOTICES REQUIRED IN ~~SUBSECTIONS~~ SUBSECTION (A) AND ~~(B)~~ OF THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 193

(House Bill 1078)

AN ACT concerning

Environment – Permit Applications – Notice Requirements

FOR the purpose of requiring ~~notification by mail to certain record residential property owners~~ the Department of the Environment to electronically post on the Department's website certain notice of certain permit applications under certain circumstances and provide a method for certain persons to electronically request certain information; ~~excluding certain permit applications from the notification requirements~~; requiring the notice to contain certain information; ~~requiring permit applicants to pay the cost of the notice; authorizing the Department of the Environment to require the permit applicant to publish and send the notice~~; and generally relating to notice requirements for permit applications.

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–602
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

1–602.

(a) Wherever this subtitle requires the Department to publish notice:

(1) Notice shall be published at least once a week for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located;

(2) The Department may require notice of an informational meeting or a public hearing by mail to each person requesting the meeting or hearing or to their authorized representatives;

(3) The Department may provide additional notice by requiring the notice to be posted at the proposed facility or at public facilities in the geographical area of the proposed facility; and

(4) The applicant shall bear all costs incurred by the Department in providing notice.

(B) (1) ~~SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN~~ IN ADDITION TO THE REQUIREMENTS SET FORTH IN SUBSECTION (A) OF THIS SECTION AND NOTWITHSTANDING ANY OTHER REQUIREMENTS IN THIS ARTICLE, WHEREVER THIS SUBTITLE REQUIRES THE DEPARTMENT TO PUBLISH NOTICE OF AN APPLICATION FOR A PERMIT, ~~NOTICE SHALL BE SENT BY MAIL TO THE ADDRESSES OF RECORD RESIDENTIAL PROPERTY OWNERS WITHIN A 1 MILE RADIUS OF THE ACTIVITY FOR WHICH THE PERMIT IS SOUGHT~~ THE DEPARTMENT SHALL:

(I) ELECTRONICALLY POST THE NOTICE OF AN APPLICATION FOR A PERMIT ON THE DEPARTMENT'S WEBSITE; AND

(II) PROVIDE A METHOD FOR INTERESTED PERSONS TO ELECTRONICALLY REQUEST ANY ADDITIONAL NOTICES RELATED TO AN APPLICATION FOR A PERMIT.

~~(2) THIS SUBSECTION DOES NOT APPLY IF:~~

~~(I) THE PERMIT APPLICANT IS A LOCAL GOVERNMENT;~~

~~(II) THE PERMIT APPLICATION IS FOR THE RENEWAL OF AN EXISTING FACILITY; OR~~

~~(III) THE LOCAL GOVERNMENT HAS PROVIDED PUBLIC NOTICE AND HELD AT LEAST ONE PUBLIC HEARING ON THE PERMIT APPLICATION IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S PUBLIC NOTICE AND HEARING REQUIREMENTS.~~

~~(3)~~ (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE APPLICANT;

(II) A DESCRIPTION OF THE LOCATION AND THE NATURE OF THE ACTIVITY FOR WHICH THE PERMIT HAS BEEN SOUGHT;

(III) A REFERENCE TO THE APPLICABLE STATUTES OR REGULATIONS GOVERNING THE APPLICATION PROCESS;

(IV) THE TIME AND PLACE OF ANY SCHEDULED INFORMATIONAL MEETING OR PUBLIC HEARING, OR A DESCRIPTION OF WHERE THIS INFORMATION CAN BE FOUND;

(V) A DESCRIPTION OF WHERE FURTHER INFORMATION ABOUT THE PERMIT APPLICATION CAN BE FOUND; AND

(VI) ANY OTHER INFORMATION THAT THE DEPARTMENT DETERMINES IS NECESSARY.

~~(4) THE APPLICANT SHALL BEAR ALL COSTS INCURRED BY THE DEPARTMENT IN PROVIDING THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.~~

[(b)] (C) The Department may REQUIRE THE APPLICANT TO publish AND SEND the [notice or require the applicant to publish the notice] NOTICES REQUIRED IN ~~SUBSECTIONS~~ SUBSECTION (A) AND (B) OF THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 194

(Senate Bill 98)

AN ACT concerning

~~Motor Vehicles – Use of Text Messaging Device While Driving – Prohibition~~
The Delegate John Arnick Electronic Communications Traffic Safety Act

FOR the purpose of prohibiting a person from using a text messaging device to write, ~~send, or read~~ or send a text message while operating a motor vehicle under certain circumstances; defining a certain term terms; providing for the application of this Act; and generally relating to a prohibition on the use of a text messaging device while driving.

BY adding to

Article – Transportation

Section 21-1124.1

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 27–101(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

21-1124.1.

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

(2) “9-1-1 SYSTEM” HAS THE MEANING STATED IN § 1-301 OF THE PUBLIC SAFETY ARTICLE.

(3) “TEXT MESSAGING DEVICE” MEANS A HAND HELD DEVICE USED TO SEND A TEXT MESSAGE OR AN ELECTRONIC MESSAGE VIA A SHORT MESSAGE SERVICE, WIRELESS TELEPHONE SERVICE, OR ELECTRONIC COMMUNICATION NETWORK.

(B) ~~A~~ SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON MAY NOT USE A TEXT MESSAGING DEVICE TO WRITE, ~~SEND, OR READ~~ OR SEND A TEXT MESSAGE WHILE OPERATING A MOTOR VEHICLE IN MOTION OR IN THE TRAVEL PORTION OF THE ROADWAY.

(C) THIS SECTION DOES NOT APPLY TO THE USE OF:

(1) A GLOBAL POSITIONING SYSTEM; OR

(2) A TEXT MESSAGING DEVICE TO CONTACT A 9-1-1 SYSTEM.

27–101.

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

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

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

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

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

Approved by the Governor, May 7, 2009.

Chapter 195

(House Bill 72)

AN ACT concerning

~~Motor Vehicles Use of Text Messaging Device While Driving Prohibition~~
The Delegate John Arnick Electronic Communications Traffic Safety Act

FOR the purpose of prohibiting a person from using a text messaging device to write, ~~send, or read~~ or send a text message while operating a motor vehicle under certain circumstances; defining certain terms; providing for the application of this Act; and generally relating to a prohibition on the use of a text messaging device while driving.

BY adding to

Article – Transportation
Section 21–1124.1
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation
Section 27–101(a) and (b)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

21–1124.1.

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

(2) "9-1-1 SYSTEM" HAS THE MEANING STATED IN § 1-301 OF THE PUBLIC SAFETY ARTICLE.

(3) "TEXT MESSAGING DEVICE" MEANS A HAND HELD DEVICE USED TO SEND A TEXT MESSAGE OR AN ELECTRONIC MESSAGE VIA A SHORT MESSAGE SERVICE, WIRELESS TELEPHONE SERVICE, OR ELECTRONIC COMMUNICATION NETWORK.

(B) ~~A~~ SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON MAY NOT USE A TEXT MESSAGING DEVICE TO WRITE, ~~SEND, OR READ~~ OR SEND A TEXT MESSAGE WHILE OPERATING A MOTOR VEHICLE IN MOTION OR IN THE TRAVEL PORTION OF THE ROADWAY.

(C) THIS SECTION DOES NOT APPLY TO THE USE OF:

(1) A GLOBAL POSITIONING SYSTEM; OR

(2) A TEXT MESSAGING DEVICE TO CONTACT A 9-1-1 SYSTEM.

27-101.

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

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

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

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

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

Approved by the Governor, May 7, 2009.

Chapter 196**(Senate Bill 119)**

AN ACT concerning

Maryland Horse Racing Act – Sunset Extension and Program Evaluation

FOR the purpose of extending the date on which the Maryland Horse Racing Act terminates; requiring that an evaluation in accordance with the Maryland Program Evaluation Act (sunset law) be made of the State Racing Commission, the Maryland-Bred Race Fund Advisory Committee, and the Maryland Standardbred Race Fund Advisory Committee and the related statutes and regulations on or before a certain date; exempting the Commission and certain advisory committees from certain evaluation requirements; and generally relating to the Maryland Horse Racing Act.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 11–1101
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 11–1102
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a) and 8–404
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(37), (56), and (64)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

11–1101.

This title is the Maryland Horse Racing Act.

11-1102.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on July 1, [2011] **2014**.

Article - State Government

8-403.

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

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

(37) Maryland-Bred Race Fund Advisory Committee (§ 11-531 of the Business Regulation Article: July 1, [2010] **2013**);

(56) Racing Commission, State (§ 11-201 of the Business Regulation Article: July 1, [2010] **2013**);

(64) Standardbred Race Fund Advisory Committee, Maryland (§ 11-625 of the Business Regulation Article: July 1, [2010] **2013**);

8-404.

(a) (1) On or before December 15 of the second year before the evaluation date, the Department of Legislative Services shall prepare a preliminary evaluation report on each governmental activity or unit to be evaluated.

(2) The preliminary evaluation report shall include:

(i) significant legislative changes that affect the governmental activity or unit after the last evaluation;

(ii) changes in technology that impact the conduct of the profession or occupation regulated by the governmental activity or unit;

(iii) changes in the regulatory environment;

(iv) registered complaints and complaint outcomes in the time period after the last evaluation;

(v) a 5-year revenue and expenditure comparison, including indirect costs as part of the expenditures of the activity or unit; and

(vi) a recommendation whether a full evaluation should be undertaken.

(b) On request of the Department of Legislative Services, the governmental activity or unit shall provide the Department with the information required to undertake the preliminary evaluation.

SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of § 8-404 of the State Government Article requiring preliminary evaluations do not apply to the State Racing Commission, the Maryland-Bred Race Fund Advisory Committee, or the Maryland Standardbred Race Fund Advisory Committee prior to the evaluations required on or before July 1, 2013.

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

Approved by the Governor, May 7, 2009.

Chapter 197

(Senate Bill 132)

AN ACT concerning

Department of General Services – Renovation of Historic Structures – Procurement Exemptions

FOR the purpose of exempting the renovation of certain historic structures by the Department of General Services from certain provisions of the State procurement law.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11-203(a)(1)(xvi) and (xvii)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to

Article – State Finance and Procurement
Section 11–203(a)(1)(xviii)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

11–203.

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

(1) procurement by:

(xvi) the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State; [and]

(xvii) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation; **AND**

(XVIII) THE DEPARTMENT OF GENERAL SERVICES FOR THE RENOVATION OF A STRUCTURE THAT:

1. WAS BUILT DURING THE 18TH OR 19TH CENTURY;
AND

2. IS LISTED IN OR ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES;

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

Approved by the Governor, May 7, 2009.

Chapter 198

(House Bill 91)

AN ACT concerning

**Department of General Services – Renovation of Historic Structures
– Procurement Exemptions**

FOR the purpose of exempting the renovation of certain historic structures by the Department of General Services from certain provisions of the State procurement law.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11–203(a)(1)(xvi) and (xvii)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Finance and Procurement
Section 11–203(a)(1)(xviii)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

11–203.

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

(1) procurement by:

(xvi) the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State; [and]

(xvii) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation; **AND**

**(XVIII) THE DEPARTMENT OF GENERAL SERVICES FOR
THE RENOVATION OF A STRUCTURE THAT:**

- 1. WAS BUILT DURING THE 18TH OR 19TH CENTURY;**
AND
- 2. IS LISTED IN OR ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES;**

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

Approved by the Governor, May 7, 2009.

Chapter 199

(Senate Bill 140)

AN ACT concerning

**Task Force to Study How to Improve Financial Literacy in the State
- Membership, Staffing, and Extension**

FOR the purpose of extending the reporting and termination provisions relating to the Task Force to Study How to Improve Financial Literacy in the State; altering the composition and staffing of the Task Force; making certain stylistic changes; and generally relating to the Task Force to Study How to Improve Financial Literacy in the State.

BY repealing and reenacting, with amendments,
Chapter 186 of the Acts of the General Assembly of 2008
Section 1 and 2

BY repealing and reenacting, with amendments,
Chapter 187 of the Acts of the General Assembly of 2008
Section 1 and 2

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

Chapter 186 of the Acts of 2008

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

(a) There is a Task Force to Study How to Improve Financial Literacy in the State.

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

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

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

(3) the State Superintendent of Schools, or the Superintendent's designee;

(4) the Secretary of Housing and Community Development, or the Secretary's designee;

(5) the Chief of the Consumer Protection Division of the Office of the Attorney General, or the Chief's designee;

(6) the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, or the Commissioner's designee;

(7) THE STATE TREASURER, OR THE TREASURER'S DESIGNEE;

(8) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

[(7)] **(9)** the following members, appointed jointly by the President of the Senate and the Speaker of the House:

(i) two representatives of the Maryland State Teachers Association, one of whom teaches a course involving principles of financial literacy;

(ii) one representative of the American Federation of Teachers;

(iii) one representative from the consumer credit counseling industry; and

(iv) two representatives from a community development corporation or a community-focused nonprofit organization; and

[(8)] **(10)** the following members, appointed by the Governor:

(i) one representative of the Maryland State Board of Education;

(II) ONE REPRESENTATIVE FROM THE MARYLAND PARENTS AND TEACHERS ASSOCIATION (PTA);

~~(ii)~~ **(III)** one representative of the Maryland Council on Economic Education;

~~(III)~~ (IV) ONE REPRESENTATIVE OF THE MARYLAND COALITION FOR FINANCIAL LITERACY;

(V) ONE REPRESENTATIVE FROM A NONPROFIT CREDIT COUNSELING SERVICE;

[(iii)] ~~(IV)~~ **(VI)** one representative of a State-chartered community bank;

[(iv)] ~~(V)~~ **(VII)** one representative of a State-chartered credit union;

[(v)] ~~(VI)~~ **(VIII)** one representative of a federal-chartered bank or savings bank that has a branch in Maryland;

[(vi)] ~~(VII)~~ **(IX)** one representative of a federal-chartered credit union headquartered in Maryland; and

[(vii)] ~~(VIII)~~ **(X)** one licensed mortgage broker holding the Maryland Association of Mortgage Brokers' "Lending Seal of Integrity".

(c) (1) The President of the Senate shall designate one of the members appointed from the Senate as co-chair of the Task Force.

(2) The Speaker of the House shall designate one of the members appointed from the House as co-chair of the Task Force.

(d) The Department of Legislative Services **AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION** shall **JOINTLY** provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

- (1) study the current ability of high school students to understand basic financial concepts;
- (2) evaluate the current provision of financial literacy education in Maryland's public schools;
- (3) assess the utility of financial literacy education as part of primary and secondary education;
- (4) study the current ability of consumers over the age of 21 who have achieved a high school diploma to understand basic financial concepts;
- (5) study the problems created for the average consumer by a lack of financial literacy or knowledge, including an inability to:
 - (i) determine how to set financial goals;
 - (ii) establish basic household budgets;
 - (iii) locate the best-priced financial services products relative to current economic situations;
 - (iv) understand how credit can improve or impede progress toward financial goals; and
 - (v) evaluate offers for products; and
- (6) make recommendations regarding:
 - (i) how to address the problems identified under item (5) of this subsection; and
 - (ii) the benefits and drawbacks of requiring financial literacy education as part of primary and secondary education.
- (g) On or before December 1, [2008] **2009**, the Task Force shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding its findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of [1 year] **2 YEARS** and, at the end of June 30, [2009] **2010**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

(a) There is a Task Force to Study How to Improve Financial Literacy in the State.

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

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

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

(3) the State Superintendent of Schools, or the Superintendent's designee;

(4) the Secretary of Housing and Community Development, or the Secretary's designee;

(5) the Chief of the Consumer Protection Division of the Office of the Attorney General, or the Chief's designee;

(6) the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, or the Commissioner's designee;

(7) THE STATE TREASURER, OR THE TREASURER'S DESIGNEE;

(8) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

[(7)] (9) the following members, appointed jointly by the President of the Senate and the Speaker of the House:

(i) two representatives of the Maryland State Teachers Association, one of whom teaches a course involving principles of financial literacy;

(ii) one representative of the American Federation of Teachers;

(iii) one representative from the consumer credit counseling industry; and

(iv) two representatives from a community development corporation or a community-focused nonprofit organization; and

[(8)] (10) the following members, appointed by the Governor:

(i) one representative of the Maryland State Board of Education;

(II) ONE REPRESENTATIVE FROM THE MARYLAND PARENTS AND TEACHERS ASSOCIATION (PTA);

~~(ii)~~ **(III)** one representative of the Maryland Council on Economic Education;

~~(iii)~~ **(IV) ONE REPRESENTATIVE OF THE MARYLAND COALITION FOR FINANCIAL LITERACY;**

(V) ONE REPRESENTATIVE FROM A NONPROFIT CREDIT COUNSELING SERVICE;

[(iii)] ~~(iv)~~ **(VI)** one representative of a State-chartered community bank;

[(iv)] ~~(v)~~ **(VII)** one representative of a State-chartered credit union;

[(v)] ~~(vi)~~ **(VIII)** one representative of a federal-chartered bank or savings bank that has a branch in Maryland;

[(vi)] ~~(vii)~~ **(IX)** one representative of a federal-chartered credit union headquartered in Maryland; and

[(vii)] ~~(viii)~~ **(X)** one licensed mortgage broker holding the Maryland Association of Mortgage Brokers' "Lending Seal of Integrity".

(c) (1) The President of the Senate shall designate one of the members appointed from the Senate as co-chair of the Task Force.

(2) The Speaker of the House shall designate one of the members appointed from the House as co-chair of the Task Force.

(d) The Department of Legislative Services **AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION** shall **JOINTLY** provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

(1) study the current ability of high school students to understand basic financial concepts;

(2) evaluate the current provision of financial literacy education in Maryland's public schools;

(3) assess the utility of financial literacy education as part of primary and secondary education;

(4) study the current ability of consumers over the age of 21 who have achieved a high school diploma to understand basic financial concepts;

(5) study the problems created for the average consumer by a lack of financial literacy or knowledge, including an inability to:

(i) determine how to set financial goals;

(ii) establish basic household budgets;

(iii) locate the best-priced financial services products relative to current economic situations;

(iv) understand how credit can improve or impede progress toward financial goals; and

(v) evaluate offers for products; and

(6) make recommendations regarding:

(i) how to address the problems identified under item (5) of this subsection; and

(ii) the benefits and drawbacks of requiring financial literacy education as part of primary and secondary education.

(g) On or before December 1, [2008] **2009**, the Task Force shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding its findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of [1 year] **2 YEARS** and, at the end

of June 30, [2009] **2010**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 7, 2009.

Chapter 200

(House Bill 120)

AN ACT concerning

**Task Force to Study How to Improve Financial Literacy in the State
- Membership, Staffing, and Extension**

FOR the purpose of extending the reporting and termination provisions relating to the Task Force to Study How to Improve Financial Literacy in the State; altering the composition and staffing of the Task Force; making certain stylistic changes; and generally relating to the Task Force to Study How to Improve Financial Literacy in the State.

BY repealing and reenacting, with amendments,
Chapter 186 of the Acts of the General Assembly of 2008
Section 1 and 2

BY repealing and reenacting, with amendments,
Chapter 187 of the Acts of the General Assembly of 2008
Section 1 and 2

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

Chapter 186 of the Acts of 2008

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

- (a) There is a Task Force to Study How to Improve Financial Literacy in the State.
- (b) The Task Force consists of the following members:

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

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

(3) the State Superintendent of Schools, or the Superintendent's designee;

(4) the Secretary of Housing and Community Development, or the Secretary's designee;

(5) the Chief of the Consumer Protection Division of the Office of the Attorney General, or the Chief's designee;

(6) the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, or the Commissioner's designee;

(7) THE STATE TREASURER, OR THE TREASURER'S DESIGNEE;

(8) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

[(7)] **(9)** the following members, appointed jointly by the President of the Senate and the Speaker of the House:

(i) two representatives of the Maryland State Teachers Association, one of whom teaches a course involving principles of financial literacy;

(ii) one representative of the American Federation of Teachers;

(iii) one representative from the consumer credit counseling industry; and

(iv) two representatives from a community development corporation or a community-focused nonprofit organization; and

[(8)] **(10)** the following members, appointed by the Governor:

(i) one representative of the Maryland State Board of Education;

(II) ONE REPRESENTATIVE FROM THE MARYLAND PARENTS AND TEACHERS ASSOCIATION (PTA);

~~(ii)~~ **(III)** one representative of the Maryland Council on Economic Education;

~~(iii)~~ **(IV)** **ONE REPRESENTATIVE OF THE MARYLAND COALITION FOR FINANCIAL LITERACY;**

(V) ONE REPRESENTATIVE FROM A NONPROFIT CREDIT COUNSELING SERVICE;

[(iii)] ~~(iv)~~ **(VI)** one representative of a State-chartered community bank;

[(iv)] ~~(v)~~ **(VII)** one representative of a State-chartered credit union;

[(v)] ~~(vi)~~ **(VIII)** one representative of a federal-chartered bank or savings bank that has a branch in Maryland;

[(vi)] ~~(vii)~~ **(IX)** one representative of a federal-chartered credit union headquartered in Maryland; and

[(vii)] ~~(viii)~~ **(X)** one licensed mortgage broker holding the Maryland Association of Mortgage Brokers' "Lending Seal of Integrity".

(c) (1) The President of the Senate shall designate one of the members appointed from the Senate as co-chair of the Task Force.

(2) The Speaker of the House shall designate one of the members appointed from the House as co-chair of the Task Force.

(d) The Department of Legislative Services **AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION** shall **JOINTLY** provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

(1) study the current ability of high school students to understand basic financial concepts;

(2) evaluate the current provision of financial literacy education in Maryland's public schools;

(3) assess the utility of financial literacy education as part of primary and secondary education;

(4) study the current ability of consumers over the age of 21 who have achieved a high school diploma to understand basic financial concepts;

(5) study the problems created for the average consumer by a lack of financial literacy or knowledge, including an inability to:

(i) determine how to set financial goals;

(ii) establish basic household budgets;

(iii) locate the best-priced financial services products relative to current economic situations;

(iv) understand how credit can improve or impede progress toward financial goals; and

(v) evaluate offers for products; and

(6) make recommendations regarding:

(i) how to address the problems identified under item (5) of this subsection; and

(ii) the benefits and drawbacks of requiring financial literacy education as part of primary and secondary education.

(g) On or before December 1, [2008] **2009**, the Task Force shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding its findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of [1 year] **2 YEARS** and, at the end of June 30, [2009] **2010**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 187 of the Acts of 2008

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

(a) There is a Task Force to Study How to Improve Financial Literacy in the

State.

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

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

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

(3) the State Superintendent of Schools, or the Superintendent's designee;

(4) the Secretary of Housing and Community Development, or the Secretary's designee;

(5) the Chief of the Consumer Protection Division of the Office of the Attorney General, or the Chief's designee;

(6) the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, or the Commissioner's designee;

(7) THE STATE TREASURER, OR THE TREASURER'S DESIGNEE;

(8) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

[(7)] (9) the following members, appointed jointly by the President of the Senate and the Speaker of the House:

(i) two representatives of the Maryland State Teachers Association, one of whom teaches a course involving principles of financial literacy;

(ii) one representative of the American Federation of Teachers;

(iii) one representative from the consumer credit counseling industry; and

(iv) two representatives from a community development corporation or a community-focused nonprofit organization; and

[(8)] (10) the following members, appointed by the Governor:

(i) one representative of the Maryland State Board of Education;

(II) ONE REPRESENTATIVE FROM THE MARYLAND PARENTS AND TEACHERS ASSOCIATION (PTA);

~~(ii)~~ **(III)** one representative of the Maryland Council on Economic Education;

~~(iii)~~ **(IV) ONE REPRESENTATIVE OF THE MARYLAND COALITION FOR FINANCIAL LITERACY;**

(V) ONE REPRESENTATIVE FROM A NONPROFIT CREDIT COUNSELING SERVICE;

[(iii)] ~~(iv)~~ **(VI)** one representative of a State-chartered community bank;

[(iv)] ~~(v)~~ **(VII)** one representative of a State-chartered credit union;

[(v)] ~~(vi)~~ **(VIII)** one representative of a federal-chartered bank or savings bank that has a branch in Maryland;

[(vi)] ~~(vii)~~ **(IX)** one representative of a federal-chartered credit union headquartered in Maryland; and

[(vii)] ~~(viii)~~ **(X)** one licensed mortgage broker holding the Maryland Association of Mortgage Brokers' "Lending Seal of Integrity".

(c) (1) The President of the Senate shall designate one of the members appointed from the Senate as co-chair of the Task Force.

(2) The Speaker of the House shall designate one of the members appointed from the House as co-chair of the Task Force.

(d) The Department of Legislative Services **AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION** shall **JOINTLY** provide staff for the Task Force.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

- (1) study the current ability of high school students to understand basic financial concepts;
- (2) evaluate the current provision of financial literacy education in Maryland's public schools;
- (3) assess the utility of financial literacy education as part of primary and secondary education;
- (4) study the current ability of consumers over the age of 21 who have achieved a high school diploma to understand basic financial concepts;
- (5) study the problems created for the average consumer by a lack of financial literacy or knowledge, including an inability to:
 - (i) determine how to set financial goals;
 - (ii) establish basic household budgets;
 - (iii) locate the best-priced financial services products relative to current economic situations;
 - (iv) understand how credit can improve or impede progress toward financial goals; and
 - (v) evaluate offers for products; and
- (6) make recommendations regarding:
 - (i) how to address the problems identified under item (5) of this subsection; and
 - (ii) the benefits and drawbacks of requiring financial literacy education as part of primary and secondary education.
- (g) On or before December 1, [2008] **2009**, the Task Force shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding its findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of [1 year] **2 YEARS** and, at the end of June 30, [2009] **2010**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 7, 2009.

Chapter 201

(Senate Bill 151)

AN ACT concerning

Hate Crimes – Prohibitions and Protected Classes – Expansion to Homeless Persons and Groups and Gender

FOR the purpose of including homeless persons and a person's gender within the scope of certain prohibitions against committing certain crimes against certain persons, damaging certain property of certain persons, burning certain objects, and damaging certain buildings with which certain persons or groups have contacts or associations or under circumstances exhibiting animosity against a certain person or group; prohibiting the attempt to commit a crime against a certain person because of the race, color, religious beliefs, sexual orientation, gender, or national origin of that person, or because the person is homeless; establishing that a certain penalty applies to certain offenses; defining a certain term; and generally relating to hate crimes ~~against homeless persons.~~

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–301, 10–304, and 10–305
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 10–306
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

10–301.

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

(B) “HOMELESS” MEANS:

(1) LACKING A FIXED, REGULAR, AND ADEQUATE NIGHTTIME RESIDENCE; OR

(2) HAVING A PRIMARY NIGHTTIME RESIDENCE THAT IS:

(I) A SUPERVISED PUBLICLY OR PRIVATELY OPERATED SHELTER DESIGNED TO PROVIDE TEMPORARY LIVING ACCOMMODATIONS; OR

(II) A PUBLIC OR PRIVATE PLACE NOT DESIGNED FOR OR ORDINARILY USED AS A REGULAR SLEEPING ACCOMMODATION FOR HUMAN BEINGS.

(C) [In this subtitle, “sexual] “**SEXUAL** orientation” means the identification of an individual as to male or female homosexuality, heterosexuality, bisexuality, or gender-related identity.

10-304.

Because of another’s race, color, religious beliefs, sexual orientation, **GENDER**, or national origin, **OR BECAUSE ANOTHER IS HOMELESS**, a person may not:

(1) (i) commit a crime **OR ATTEMPT TO COMMIT A CRIME** against that person;

(ii) damage the real or personal property of that person;

(iii) deface, damage, or destroy, or attempt to deface, damage, or destroy the real or personal property of that person; or

(iv) burn or attempt to burn an object on the real or personal property of that person; or

(2) commit a violation of item (1) of this section that:

(i) except as provided in item (ii) of this item, involves a separate crime that is a felony; or

(ii) results in the death of the victim.

10-305.

A person may not deface, damage, or destroy, attempt to deface, damage, or destroy, burn or attempt to burn an object on, or damage the real or personal property connected to a building that is publicly or privately owned, leased, or used, including a cemetery, library, meeting hall, recreation center, or school:

(1) because a person or group of a particular race, color, religious belief, sexual orientation, **GENDER**, or national origin, **OR BECAUSE A PERSON OR GROUP THAT IS HOMELESS**, has contacts or is associated with the building; or

(2) if there is evidence that exhibits animosity against a person or group, because of the race, color, religious beliefs, sexual orientation, **GENDER**, or national origin of that person or group **OR BECAUSE THAT PERSON OR GROUP IS HOMELESS**.

10-306.

(a) Except as provided in subsection (b) of this section, a person who violates this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(b) (1) A person who violates § 10-304(2)(i) of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

(2) A person who violates § 10-304(2)(ii) of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or both.

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

Approved by the Governor, May 7, 2009.

Chapter 202

(Senate Bill 156)

AN ACT concerning

Maryland Estate Tax – Filing of Returns

FOR the purpose of requiring that a Maryland estate tax return be filed with the Comptroller or the register of wills; requiring that an amended Maryland estate tax return be filed with the Comptroller instead of with the register of wills; altering a requirement that a register of wills certify to the Comptroller the amount of inheritance tax paid for certain decedents under certain circumstances; 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 7–232, 7–305, and 7–306
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

7–232.

Each register shall certify to the Comptroller the amount of inheritance tax paid for each decedent for whom a Maryland estate tax return is filed with the register **OR FOR WHOM THE REGISTER RECEIVES A REQUEST FOR THE CERTIFICATION FROM:**

(1) THE COMPTROLLER;

(2) THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S ESTATE; OR

(3) ANY PERSON REQUIRED TO FILE A MARYLAND ESTATE TAX RETURN WITH REGARD TO PROPERTY PASSING FROM THE DECEDENT.

7–305.

(a) If a federal estate tax return is required to be filed, the person responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the **COMPTROLLER OR THE** register 9 months after the date of the death of a decedent.

(b) If a federal estate tax return is not required to be filed but a federal estate tax return would be required to be filed if the applicable exclusion amount under § 2010(c) of the Internal Revenue Code were no greater than \$1,000,000, the person who would be responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the **COMPTROLLER OR THE** register 9 months after the date of the death of the decedent.

(c) (1) After a person files a Maryland estate tax return, the person shall file an amended Maryland estate tax return with the [register] **COMPTROLLER** if the Maryland estate tax liability is increased because of:

- (i) a change in the federal gross estate, federal taxable estate, federal estate tax, or other change as determined under the Internal Revenue Code;
 - (ii) after-discovered property;
 - (iii) a correction to the value of previously reported property;
 - (iv) a correction to the amount of previously claimed deductions;
- or
- (v) any other correction to a previously filed return.

(2) **(I)** The amended return shall be filed within 90 days after the later to occur of the date of the event that caused the increase in the Maryland estate tax liability or the date on which the person required to file an amended Maryland estate tax return learned or reasonably should have learned of the increase in the Maryland estate tax liability.

(II) ON REQUEST, EACH REGISTER SHALL CERTIFY TO THE COMPTROLLER THE AMOUNT OF INHERITANCE TAX PAID FOR EACH DECEDENT FOR WHOM AN AMENDED MARYLAND ESTATE TAX RETURN IS FILED WITH THE COMPTROLLER.

7-306.

(a) Except as provided in § 7-307 of this subtitle, the person responsible for filing the Maryland estate tax return under § 7-305 of this subtitle shall pay the Maryland estate tax to the Comptroller no later than 9 months after the date of the death of the decedent.

(b) An extension of time to file the Maryland estate tax return granted by the Comptroller under § 7-305.1 of this subtitle does not extend the time for remitting the Maryland estate tax.

(c) If an amended Maryland estate tax return is filed pursuant to § 7-305(c) of this subtitle, the person responsible for filing the amended Maryland estate tax return shall pay the additional Maryland estate tax developed on the amended Maryland estate tax return to the Comptroller when the amended Maryland estate tax return is filed with the [register] **COMPTROLLER.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009, and shall be applicable to all decedents dying after December 31, 2008.

Approved by the Governor, May 7, 2009.

Chapter 203**(Senate Bill 158)**

AN ACT concerning

Baltimore County – Property Tax Credit – Civic League of Inverness, Inc.

FOR the purpose of authorizing the governing body of Baltimore County to grant, by law, a property tax credit against the county property tax imposed on real property that is owned by Civic League of Inverness, Inc.; providing for the application of this Act; and generally relating to property tax credits in Baltimore County for Civic League of Inverness, Inc.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–305(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

9–305.

(b) The governing body of Baltimore County may grant, by law, a property tax credit under this section against the county property tax imposed on:

- (1) real property that is owned by the Twin River Protective and Improvement Association, Incorporated;
- (2) real property that is owned by the Bowley's Quarters Improvement Association, Incorporated;
- (3) real property that is owned by the Oliver Beach Improvement Association, Incorporated;
- (4) real property that is owned by the Baltimore County Game and Fish Association;
- (5) real property that is owned by the Eastfield Civic Association, Incorporated;

- (6) real property that is owned by the Rockaway Beach Improvement Association;
- (7) real property that is used only for and occupied by the Fire Museum of Maryland;
- (8) real property that is owned by the Carney Rod and Gun Club;
- (9) real property improvements that promote business redevelopment, for which credit:
 - (i) the governing body shall define by law what improvements are eligible; and
 - (ii) on reassessment by the supervisor, the governing body shall determine the credit as a percentage of the actual cost of the improvements;
- (10) each unit of a condominium (as both are defined in § 11–101 of the Real Property Article), if:
 - (i) the governing body of the county consults with the council of unit owners (as defined in § 11–101 of the Real Property Article) of the condominium; and
 - (ii) the council of unit owners provides services or maintains common elements (as defined in § 11–101 of the Real Property Article) that would otherwise be the responsibility of the county;
- (11) dwellings, the land on which the dwelling is located and other improvements to the land if:
 - (i) the dwelling is in a homeowners' association where the dwelling has a declaration of covenants or restrictive covenants that may be enforced by an association of members;
 - (ii) the governing body of the county consults with the homeowners' association; and
 - (iii) the governing body of the county determines that the homeowners' association provides services that would otherwise be the responsibility of the county;
- (12) real property that is:
 - (i) owned by the Rosa Ponselle Charitable Foundation, Incorporated, known as "Villa Pace"; and

- (ii) not exempt under this article;
- (13) agricultural land, not including any improvements, that is located in an agricultural preservation district;
- (14) real property that is owned by Friends of the Oliver House, Inc.;
- (15) real property that is owned by the Bird River Beach Community Association, Inc.;
- (16) real property that is owned by Harewood Park Community League, Inc.;
- (17) real property that is owned by any other nonprofit community association, civic league or organization, or recreational or athletic organization;
- (18) personal property that is owned by the Genesee Valley Outdoor Learning Center, Inc.;
- (19) real property that is owned by The Maryland State Game and Fish Protective Association, Inc.; [and]
- (20) personal property that is owned by Leadership Through Athletics, Inc.; **AND**
- (21) REAL PROPERTY THAT IS OWNED BY CIVIC LEAGUE OF INVERNESS, INC.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 7, 2009.

Chapter 204

(Senate Bill 161)

AN ACT concerning

Injured Workers' Insurance Fund – Board – Term Limits

FOR the purpose of altering the limits on the terms that may be served by a member of the Board for the Injured Workers' Insurance Fund; and generally relating to the Board for the Injured Workers' Insurance Fund.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 10–109
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 10–110
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Labor and Employment

10–109.

There is a Board for the Injured Workers' Insurance Fund.

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) [(i) Except as provided in subparagraph (ii) of this paragraph, a] **A member may not serve for more than:**

(I) two **FULL** terms; **OR**

(ii) [Service for a partial term of 1 year or less may not be counted toward the two-term limitation] **A TOTAL OF ~~MORE THAN~~ 10 YEARS.**

(e) The Governor may remove a member for incompetence or misconduct.

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

Approved by the Governor, May 7, 2009.

Chapter 205

(Senate Bill 162)

AN ACT concerning

Alcoholic Beverages – Resident Dealer’s Permit

FOR the purpose of authorizing the Comptroller to issue a resident dealer’s permit to certain persons; altering the fee for certain permits; specifying a permit fee; requiring that alcoholic beverages sold under the permit be sold through a licensed wholesaler; prohibiting certain persons from being issued a resident dealer’s permit; prohibiting a holder of a permit from owning or operating a warehouse; making a holder of a resident dealer’s permit subject to certain restrictions; requiring a resident dealer to file a certain tax return on or before a certain date and pay a certain tax; defining a certain term; and generally relating to resident dealer’s permits.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 2–101(b)(1)(i) and (k), 2–301(b)(1), 12–102(a) and (b), 12–103(c) and (e),
12–104(a), (c), and (d), and 15–205(b)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 2–101(w)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 12–104(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 5–101 and 5–301(e) and (f)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – Tax – General
Section 5–201(e)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

2–101.

(b) (1) (i) The Office of the Comptroller shall collect a fee for the issuance or renewal of the following permits:

1. \$50 for a solicitor's permit, an individual storage permit, a nonresident winery permit, or a commercial nonbeverage permit;
2. \$75 for a public storage permit, a public transportation permit, or an import and export permit;
3. ~~\$100~~ **\$200** for a public storage and transportation permit, a nonresident [dealer] **DEALER'S** permit, **A RESIDENT DEALER'S PERMIT**, or a bulk transfer permit;
4. \$400 for a family beer and wine facility permit; and
5. \$10 for a direct wine seller's permit.

(k) A solicitor's permit may be issued in the discretion of the Office of the Comptroller and, if issued, shall grant a resident or nonresident holder the privilege of promoting, selling, or offering for sale, beer, wines or distilled spirits to

manufacturers, wholesalers or retailers in this State. A permit holder may not contact consumers, and if the person holding the permit is employed by a nonresident dealer **OR RESIDENT DEALER**, the person holding the permit is not permitted to sell, promote or offer for sale alcoholic beverages to retail dealers, except for the account of a Maryland wholesaler or manufacturer who is a distributor for the products of the employer of the nonresident person **OR RESIDENT PERSON** holding such a permit.

(W) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMPTROLLER MAY ISSUE A RESIDENT DEALER'S PERMIT TO:

(I) AN IMPORTER OF BEER, WINE, OR DISTILLED SPIRITS PRODUCED OUTSIDE THE UNITED STATES WHO PURCHASES DIRECTLY FROM THE BRAND OWNER OR FROM A SALES AGENT OF A BREWER, DISTILLER, RECTIFIER, BOTTLER, MANUFACTURER, VINTNER, OR WINERY, WHO IS AUTHORIZED BY THE BRAND OWNER TO SELL IN THE STATE, AND WHO HAS PROVIDED PROOF OF THIS SALES AGENCY RELATIONSHIP TO THE COMPTROLLER; OR

(II) AN AMERICAN SALES AGENT OF AN IMPORTER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, PROVIDING PROOF OF THAT AGENCY IS PRESENTED TO THE COMPTROLLER.

(2) TO BE ISSUED A RESIDENT DEALER'S PERMIT, AN INDIVIDUAL APPLICANT, AN APPLICANT QUALIFYING AS A RESIDENT APPLICANT FOR A CORPORATION, OR EACH APPLICANT FOR A PARTNERSHIP SHALL HAVE BEEN A RESIDENT OF THE STATE FOR AT LEAST 2 YEARS IMMEDIATELY BEFORE APPLYING FOR THE PERMIT.

(3) A RESIDENT DEALER'S PERMIT MAY NOT BE ISSUED TO A PERSON WHO:

(I) HOLDS A WHOLESALER OR RETAILER LICENSE OF ANY CLASS ISSUED UNDER THIS ARTICLE;

(II) HAS AN INTEREST IN A WHOLESALER LICENSED UNDER THIS ARTICLE, OTHER THAN A DISCLOSED LEGAL, EQUITY, OR SECURITY INTEREST OF A MALT BEVERAGE WHOLESALER; OR

(III) HAS AN INTEREST IN A RETAILER LICENSED UNDER THIS ARTICLE.

(4) A RESIDENT DEALER'S PERMIT AUTHORIZES THE HOLDER TO SELL ALCOHOLIC BEVERAGES TO A WHOLESALER LICENSED UNDER THIS

ARTICLE IN THE STATE OR TO A PERSON OUTSIDE OF THE STATE WHO THE COMPTROLLER AUTHORIZES TO ACQUIRE THE ALCOHOLIC BEVERAGES.

(5) A HOLDER OF A RESIDENT DEALER'S PERMIT MAY NOT OWN OR OPERATE A WAREHOUSE IN THE STATE.

2-301.

(b) (1) Except as otherwise provided in this subsection, a wholesaler's license issued in accordance with the fee paid entitles the holder to acquire the alcoholic beverages indicated on the license from licensees and holders of nonresident dealer's permits **AND RESIDENT DEALER'S PERMITS** authorized by this State to make the sales and deliveries. The license authorizes the sale and delivery of those alcoholic beverages from the licensed premises to licensees and permit holders in Maryland and to persons outside of this State.

12-102.

(a) In order to eliminate the undue stimulation of the sale of alcoholic beverages and the practice of manufacturers and wholesalers in granting secret discounts, rebates, allowances, free goods or other inducement to selected licensees which contribute to a disorderly distribution of alcoholic beverages, it shall be unlawful for any person licensed hereunder as a manufacturer, wholesaler, **RESIDENT DEALER**, or nonresident winery permit holder to discriminate directly or indirectly in price, discounts or the quality of merchandise sold, between one dispensary and another dispensary, between one wholesaler and another wholesaler or between one retailer and another retailer purchasing alcoholic beverages bearing the same brand and trade name and of like age and quality. It shall be unlawful for any nonresident dealer, **RESIDENT DEALER**, nonresident winery permit holder, or nonresident unlicensed manufacturer to use or promote the use of any such practices for the sale or distribution of alcoholic beverages to or through the manufacturers, wholesalers or county dispensaries in this State. This section shall not restrict a manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder from limiting the quantity of alcoholic beverages to be sold to any licensee under a voluntary or compulsory plan of ration and the word "purchase" shall not imply that a manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder shall be required to sell to all licensees from whom they receive orders. The Comptroller may promulgate such rules and regulations as are necessary to carry out the purpose of this section.

(b) A supplier, nonresident dealer, **RESIDENT DEALER**, nonresident winery permit holder, or wholesaler may not make a discount, rebate, or depletion allowance that is offered on a product dependent on the pricing policy or practice of the licensee who is invoiced for the product.

12-103.

(c) The Comptroller is authorized and directed, by regulation, to require the filing, from time to time, by any manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder of schedules of prices at which wines and liquors are sold by such manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder and further to require the filing of any proposed price change. Said regulation shall provide that the effective date of any proposed price decrease shall be postponed for such period of time as the Comptroller may prescribe sufficient to permit notice thereof to other manufacturers or wholesalers selling similar wines and liquors and an opportunity for the same to make a like price decrease. Said regulation shall also provide that any manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder proposing to sell any wines and liquors not currently being sold by the same shall first give notice to the Comptroller of the prices at which such wines and liquors are proposed to be sold; and said regulation shall further provide that sales of such wines and liquors shall not be made for such period of time as the Comptroller may prescribe sufficient to permit notice thereof to other manufacturers or wholesalers selling similar wines and liquors and an opportunity for such other manufacturers or wholesalers to alter the price of such similar wines and liquors so as to make that price comparable to the price fixed by the manufacturer or wholesaler proposing to sell wines and liquors not currently being sold. The Comptroller is authorized and empowered, in promulgating the regulations required by this subsection, to require the filing by any manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder of any other information with regard to the size, containers, brands, labels, descriptions, packages, quantities to be sold and any other data in connection with wines and liquors as the Comptroller may reasonably determine.

(e) Nothing contained in this section shall be construed to authorize the Comptroller to fix the prices at which any wines and liquors may be sold by any manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder other than to fix permissible discounts which may be allowed by any manufacturer or wholesaler on such sales and other than to postpone the effective date of any proposed price decrease in the sale and distribution of wines and liquors currently sold by any manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder or the effective date of the sale of any wines and liquors not currently being sold by any manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder for a reasonable period sufficient to permit the filing of proposed price decreases or proposed sales of wines and liquors not currently being sold, as the case may be, with the Comptroller and notice thereof to other manufacturers or wholesalers, and an opportunity for the same to make like price changes. Nothing contained in this section shall be construed to require any manufacturer, wholesaler, nonresident dealer, **RESIDENT DEALER**, or nonresident winery permit holder of wines and liquors to make sales to any licensees under the provisions of this article.

12-104.

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

(2) "Business entity" means any holder of a manufacturer's or wholesaler's license, or anyone connected with the business of the holder, or any distiller, nonresident dealer, **RESIDENT DEALER**, brewer, rectifier, blender or bottler of alcoholic beverages.

(3) "Sign" means any sign, display, poster, placard, or other form of advertisement, whether graphic or not.

(b) (1) A business entity may not have any financial interest in the premises upon or in which any alcoholic beverage is sold at retail by any licensee or in any business conducted by any licensee.

(2) A person or business entity, or anyone connected with that person or business entity, may not lend any money or other thing of value, make any gift, or offer any gratuity to any retail dealer.

(3) Except as provided for, a retail dealer may not accept, receive or make use of any money, gift, or sign furnished by any business entity or become indebted to any person except for the purchase of alcoholic beverages and allied products purchased for resale.

(4) A business entity, other than a wholesaler of beer and malt beverages, may not furnish any sign, except as provided in this article.

(c) (1) The provisions of this subsection apply only to brewed products.

(2) Subject to paragraph (3) of this subsection, a brewer, nonresident dealer, **RESIDENT DEALER**, or beer wholesaler may not furnish any sign over \$150 in value to the holder of any retail license issued under the provisions of this article where the sign advertises the beer or malt products of a particular brewer, nonresident dealer, **RESIDENT DEALER**, or beer wholesaler.

(3) A sign that is manufactured by a beer wholesaler and furnished to the holder of any retail license issued under this article may not be over \$50 in value to the holder of the retail license where the sign advertises the beer or malt products of the beer wholesaler.

(4) The sign shall contain brand identifiable advertising matter that is prominent, permanent, and equal to the life and value of the utilitarian character of the advertising item.

(d) (1) The provisions of this subsection apply only to wine and distilled spirits products.

(2) Signs bearing advertising matter or any other forms of advertising for use in windows or elsewhere on a retail liquor establishment may be given or furnished to a retailer by a brand owner who is engaged in the business of a business entity, if:

(i) The utilitarian value is secondary and only incidental to the value as an advertisement;

(ii) The total value of any item furnished by any brand owner for each of its individual brands for use in any one retail establishment at any one time does not exceed the sum of \$150 for each individual brand; and

(iii) The cost of installation of these materials does not exceed that which is usual and customary in that particular locality.

(3) (i) In lieu of premanufactured advertising material, materials and labor may be furnished by a brand owner for the custom manufacture of an advertising display not exceeding \$150 which is temporary in nature and has no other utilitarian value.

(ii) A manufacturer [or], nonresident dealer, **RESIDENT DEALER**, or brand owner may not undertake any plan or design which directly or indirectly results in the purchase of advertising materials or supplies or advertising services by any wholesale or retail licensee; neither may a wholesale or retail licensee participate directly or indirectly in any transaction in which he pays for or shares in the cost for any of the value of the advertising materials, supplies, services, or mailing expenses utilized to promote a brand owner's products.

(iii) These provisions do not prevent a wholesale licensee from furnishing brand owners with display materials and installation services at charges, computed at not less than the fair market value for these services.

15-205.

The liquor control board of each county shall have full power and authority within its county:

(b) To purchase from any licensed wholesaler or manufacturer any sparkling or fortified wine or any other alcoholic beverage which the Board is authorized to sell, upon which the tax imposed by § 5-102 of the Tax – General Article has been paid, and to purchase from any nonresident **OR RESIDENT** producer or dealer any such alcoholic beverages and import the same for resale, as hereinafter provided; but such importations shall not be resold until the excise tax has been paid.

5-101.

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

(b) (1) "Alcoholic beverage" means a spirituous, vinous, malt, or fermented liquor, liquid, or compound that:

- (i) is fit for beverage purposes; and
- (ii) contains one-half of 1% or more of alcohol by volume.

(2) "Alcoholic beverage" includes:

- (i) beer;
- (ii) distilled spirits; and
- (iii) wine.

(c) "Alcoholic beverage license" means an alcoholic beverage license or permit issued under Article 2B of the Code.

(d) (1) "Beer" means a brewed alcoholic beverage.

(2) "Beer" includes:

- (i) ale;
- (ii) porter;
- (iii) stout;
- (iv) hard cider, as defined in Article 2B, § 1-102(a)(9-1) of the

Code; and

(v) alcoholic beverages that contain:

1. 6% or less alcohol by volume, derived primarily from the fermentation of grain, with not more than 49% of the beverage's overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol; or

2. more than 6% alcohol by volume, derived primarily from the fermentation of grain, with not more than 1.5% of the beverage's overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol.

(e) “Consumer” means a person who buys, possesses, or transports an alcoholic beverage for a purpose other than selling the alcoholic beverage.

(f) “Direct wine seller” has the meaning stated in Article 2B, § 7.5–101 of the Code.

(g) (1) “Distilled spirits” means a distilled alcoholic beverage.

(2) “Distilled spirits” includes:

(i) alcohol;

(ii) brandy;

(iii) cordials;

(iv) gin;

(v) liqueur;

(vi) rum;

(vii) vodka;

(viii) whiskey; and

(ix) solutions or mixtures of distilled spirits except fortified wines.

(h) “Manufacturer” means a person who operates within the State a place of business for blending, bottling, brewing, distilling, fermenting, or rectifying an alcoholic beverage.

(i) “Nonresident dealer” means a person who is required to obtain a nonresident dealer’s permit under Article 2B, § 2–101(i) of the Code.

(j) “Person” includes:

(1) this State or a political subdivision, unit, or instrumentality of this State;

(2) another state or a political subdivision, unit, or instrumentality of that state; and

(3) a unit or instrumentality of a political subdivision of this State or of another state.

(K) “RESIDENT DEALER” MEANS A PERSON WHO IS REQUIRED TO OBTAIN A RESIDENT DEALER’S PERMIT UNDER ARTICLE 2B, § 2-101(W) OF THIS CODE.

[(k)] (L) (1) “Retail dealer” means a person who buys an alcoholic beverage for sale to a consumer.

(2) “Retail dealer” includes a county department of liquor control or liquor control board that operates a dispensary.

[(l)] (M) “Tax stamp” means a device in the design and denomination that the Comptroller authorizes for the purpose of being affixed to a container of distilled spirits as evidence that the alcoholic beverage tax is paid.

[(m)] (N) (1) “Wholesaler” means a person who buys or imports an alcoholic beverage for sale to another person for resale.

(2) “Wholesaler” includes a county department of liquor control or liquor control board that operates a wholesale dispensary.

[(n)] (O) (1) “Wine” means a fermented alcoholic beverage.

(2) “Wine” includes:

- (i) carbonated, flavored, imitation, sparkling, or still wine;**
- (ii) champagne;**
- (iii) cider;**
- (iv) fortified wine;**
- (v) perry;**
- (vi) sake; and**
- (vii) vermouth.**

5-201.

(E) A RESIDENT DEALER SHALL COMPLETE, UNDER OATH, AND FILE WITH THE COMPTROLLER AN ALCOHOLIC BEVERAGE TAX RETURN:

(1) ON OR BEFORE THE 15TH DAY OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH THE RESIDENT DEALER DELIVERS BEER INTO THE STATE; AND

(2) IF THE COMPTROLLER SO SPECIFIES, BY REGULATION, ON OTHER DATES FOR EACH MONTH IN WHICH THE RESIDENT DEALER DOES NOT DELIVER BEER INTO THE STATE.

5-301.

(E) BEFORE A RESIDENT DEALER DELIVERS OR SHIPS BEER TO A WHOLESALER IN THE STATE, THE RESIDENT DEALER SHALL PAY THE ALCOHOLIC BEVERAGE TAX ON THAT BEER, IN THE MANNER THAT THE COMPTROLLER REQUIRES.

[(e)] (F) (1) A wholesaler that sells or delivers distilled spirits or wine to retail dealers in the State shall pay the alcoholic beverage tax on those distilled spirits and wine, in the manner that the Comptroller requires, with the return that covers the period in which the wholesaler sells or delivers those distilled spirits and wine.

(2) A wholesaler that imports beer directly from a place outside the United States shall pay the alcoholic beverage tax on that beer, in the manner that the Comptroller requires, before the wholesaler receives that beer in the State.

[(f)] (G) A person who pays the alcoholic beverage tax shall obtain:

(1) tax stamps or certificates if required for distilled spirits under § 5-303 of this subtitle; or

(2) any other evidence of tax payment that the Comptroller requires by regulation.

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

Approved by the Governor, May 7, 2009.

Chapter 206

(Senate Bill 163)

AN ACT concerning

**Program Open Space – Use of Funds – Indoor or Outdoor Recreational
Facilities**

FOR the purpose of authorizing a local government body to use certain Program Open Space funds for the construction of certain indoor or outdoor recreational facilities; requiring certain indoor recreational facilities to meet or exceed a certain rating under certain circumstances; requiring certain indoor recreational facilities to incorporate, to the maximum extent practicable, certain site design standards; altering the percentage of funds that the State shall provide to a local governing body for the construction of an indoor recreational facility located outside of a priority funding area under certain circumstances; altering the percentage of funds that the State shall provide to a local governing body for the acquisition of land located within a priority funding area under certain circumstances; requiring the Department of Planning, in consultation with the Department of Natural Resources, to conduct a certain evaluation; requiring the Department of Planning to report its evaluation to certain committees of the General Assembly on or before a certain date; providing for the application of this Act; making this Act an emergency measure; and generally relating to the use of funds for Program Open Space.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 5–903(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–903(b) and 5–905(c)(3)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

5–903.

(a) (1) Of the funds distributed to Program Open Space under § 13–209 of the Tax – Property Article, up to \$3,000,000 may be transferred by an appropriation in the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of the State Finance and Procurement Article, to the Maryland Heritage Areas Authority Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions Article to be used for the purposes provided in that subtitle.

(2) (i) 1. Of the remaining funds not appropriated under paragraph (1) of this subsection:

A. One half of the funds shall be used for recreation and open space purposes by the Department and the Historic St. Mary's City Commission; and

B. 20% of the funds or \$21,000,000, whichever is greater, shall be appropriated to the Forest and Park Service in the Department to operate State forests and parks.

2. Except as otherwise provided in this section, any funds the General Assembly appropriates to the State under this subsection shall be used only for land acquisition projects.

(ii) At least \$1,500,000 of the State's share of funds available under subparagraph (i)1A of this paragraph for this program shall be utilized to make grants to Baltimore City for projects which meet park purposes. The grants shall be in addition to any funds Baltimore City is eligible to receive under subsection (b) of this section, and may be used for acquisition or development. In order for Baltimore City to be eligible for a State grant, the Department shall review projects or land to be acquired within Baltimore City, and upon the Department's recommendation, the Board of Public Works may approve projects and land including the cost. Title to the land shall be in the name of the Mayor and City Council of Baltimore City. The State is not responsible for costs involved in the development or maintenance of the land.

(iii) 1. A portion of the State's share of funds available under subparagraph (i)1A of this paragraph for this Program not to exceed \$8,000,000 for each fiscal year may be transferred by an appropriation in the State budget to the Rural Legacy Program under Subtitle 9A of this title.

2. In each fiscal year, up to \$2 million of the funds transferred under this subparagraph to the Rural Legacy Program may be used to purchase zero coupon bonds for easements.

3. Sums allocated to the Rural Legacy Program may not revert to the General Fund of the State.

(b) (1) The General Assembly shall appropriate the remaining funds not appropriated under subsection (a) of this section to assist local governing bodies in acquisition and development of land for recreation and open space purposes.

(2) ~~FUNDS~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, FUNDS APPROPRIATED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR DEVELOPMENT OF LAND FOR RECREATION AND OPEN SPACE PURPOSES MAY BE USED FOR INDOOR OR OUTDOOR RECREATION AND OPEN SPACE PURPOSES, INCLUDING THE CONSTRUCTION OF INDOOR OR OUTDOOR RECREATIONAL FACILITIES SUCH AS AQUATIC, GOLF, COMMUNITY, AND NATURE CENTERS.

(3) AN INDOOR RECREATIONAL FACILITY FUNDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) IF THE FACILITY IS 7,500 SQUARE FEET OR GREATER, MEET OR EXCEED THE CURRENT VERSION OF THE U.S. GREEN BUILDING COUNCIL'S LEED GREEN BUILDING RATING SYSTEM SILVER RATING, HOWEVER, THE FACILITY IS NOT REQUIRED TO BE CERTIFIED THROUGH THE LEED CERTIFICATION PROCESS; AND

(II) INCORPORATE, TO THE MAXIMUM EXTENT PRACTICABLE, THE NONSTRUCTURAL SITE DESIGN PRACTICES IN THE MARYLAND STORMWATER DESIGN MANUAL, INCORPORATED BY REFERENCE IN COMAR 26.17.02.

5-905.

(c) (3) (i) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF the local governing body is unable to obtain federal funds pursuant to § 5-906 of this subtitle, for each approved local development project the State shall provide:

- 1. 75 percent of the total project cost; or**
- 2. If the Department has certified pursuant to paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the total project cost.**

(ii) [If] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, IF federal funds are provided on any acquisition or development project cost, the State shall provide 50 percent of the difference between the total project cost and the federal contribution. Subject to the limitation that total State funds, when added to every other available fund, may not exceed 100 percent of a project's cost, the minimum State contribution to a project shall be 25 percent. If the federal funds are less than 50 percent of the total project cost, the State shall provide an amount equal to the difference between the federal contribution and:

- 1. 75 percent of the total project cost; or**
- 2. If the Department has certified pursuant to paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the total project cost.**

(III) 1. SUBJECT TO THE REQUIREMENT IN SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, IF A LOCAL GOVERNING BODY

USES ITS FUNDS APPROPRIATED UNDER § 5-903(B)(1) OF THIS SUBTITLE TO ACQUIRE LAND WITHIN A PRIORITY FUNDING AREA, AS DEFINED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE STATE SHALL PROVIDE 90 PERCENT OF THE TOTAL PROJECT COST.

2. IF A LOCAL GOVERNING BODY USES ITS FUNDS APPROPRIATED UNDER § 5-903(B)(1) OF THIS SUBTITLE TO CONSTRUCT AN INDOOR RECREATIONAL FACILITY THAT IS NOT ANCILLARY AND NECESSARY FOR OUTDOOR RECREATION, AND WILL BE LOCATED OUTSIDE OF A PRIORITY FUNDING AREA, AS DEFINED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE STATE SHALL PROVIDE 50 PERCENT OF THE TOTAL PROJECT COST.

3. THE STATE SHALL PROVIDE 90 PERCENT OF THE TOTAL PROJECT COST UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IF THE LOCAL GOVERNING BODY AGREES TO LIMIT THE AMOUNT OF IMPERVIOUS SURFACE ON THE LAND ACQUIRED WITHIN A PRIORITY FUNDING AREA, AS DEFINED IN § 5-7B-02 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, TO NO MORE THAN 10 PERCENT OF THE LAND.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Planning shall evaluate, in consultation with the Department of Natural Resources and local governments, the degree to which State goals for recreation, parks, open space, and land acquisition are being effectively addressed through the local side Program Open Space process. On or before October 1, 2010, the Department of Planning shall report its evaluation, as well as any recommended statutory or administrative changes, to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply prospectively and may not be applied or interpreted to have any effect on projects initiated prior to the effective date of this Act.

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

Approved by the Governor, May 7, 2009.

Chapter 207**(Senate Bill 164)**

AN ACT concerning

Natural Resources – Recreational Fishing Licenses – Penalties

FOR the purpose of altering the authority of the Secretary of Natural Resources to revoke or suspend certain recreational fishing licenses to apply to licenses issued to fish in certain nontidal and tidal waters; authorizing the Secretary to adopt regulations that list the criteria for the suspension of certain recreational fishing licenses; prohibiting a person from engaging in certain activities during a period of suspension of a license; establishing certain grounds for the immediate suspension of a license; establishing certain timing and hearing requirements before suspension of a license; authorizing the Department of Natural Resources to suspend immediately the license of a nonresident license holder under certain circumstances; repealing certain penalty provisions applicable to recreational fishing in nontidal waters; repealing certain penalty provisions applicable to recreational fishing in tidal waters; and generally relating to penalties for violations of recreational fishing laws.

BY adding to

Article – Natural Resources
Section 4–220
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 4–602 and 4–745
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing

Article – Natural Resources
Section 4–626
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

4–220.

(A) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THE PROVISIONS OF THIS TITLE, THE SECRETARY MAY REVOKE OR SUSPEND ANY RECREATIONAL LICENSE ISSUED TO ANY PERSON UNDER THIS TITLE.

(B) THE SECRETARY MAY ADOPT REGULATIONS THAT LIST THE CRITERIA FOR A SUSPENSION OF A PERSON'S ENTITLEMENT TO ENGAGE IN AN ACTIVITY OR ACTIVITIES THAT ARE LICENSED OR PERMITTED UNDER THIS TITLE.

(C) (1) DURING A PERIOD OF SUSPENSION IMPOSED BY THE DEPARTMENT, THE PERSON WHOSE ENTITLEMENT TO ENGAGE IN AN ACTIVITY OR ACTIVITIES HAS BEEN SUSPENDED MAY NOT ENGAGE IN AN ACTIVITY FOR WHICH THE SUSPENSION WAS IMPOSED.

(2) THE FOLLOWING ARE GROUNDS FOR AN IMMEDIATE SUSPENSION OF A LICENSE ISSUED UNDER THIS TITLE:

(I) ~~MAKING~~ KNOWINGLY MAKING A FALSE STATEMENT IN AN APPLICATION;

(II) THREE CONVICTIONS FOR VIOLATIONS OCCURRING ON SEPARATE DAYS WITHIN ANY 3-YEAR PERIOD OF PROVISIONS UNDER THIS TITLE;

(III) FAILURE TO SUBMIT A REPORT REQUIRED UNDER THIS TITLE OR BY REGULATION; OR

(IV) FAILURE OF A NONRESIDENT OF THE STATE TO APPEAR IN COURT IN ACCORDANCE WITH A CITATION ISSUED BY A NATURAL RESOURCES POLICE OFFICER, OR TO ANY OTHER PROCESS ISSUED BY ANY COURT OF MARYLAND, FOR VIOLATION OF THIS TITLE.

(3) A PENALTY IMPOSED IN ACCORDANCE WITH THIS SECTION IS IN ADDITION TO ANY OTHER PENALTY AUTHORIZED UNDER § 4-1201 OF THIS TITLE REGARDING STRIPED BASS.

(4) THE DEPARTMENT SHALL INITIATE ANY PROCEEDING TO SUSPEND A LICENSE UNDER THIS SECTION NOT LATER THAN 6 MONTHS AFTER THE TIME FOR FILING AN APPEAL OF THE THIRD CONVICTION UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION HAS PASSED.

(5) (I) BEFORE THE SUSPENSION OF A LICENSE UNDER THIS SECTION, THE DEPARTMENT SHALL HOLD A HEARING ON NOT LESS THAN 10 DAYS' NOTICE TO THE LICENSEE.

(II) ON THE FAILURE OF A NONRESIDENT OF THE STATE TO APPEAR IN A COURT OF THIS STATE AS REQUIRED BY ANY CHARGING DOCUMENT ACCUSING THE PERSON OF COMMITTING ANY OFFENSE UNDER THIS SUBTITLE, IN ADDITION TO ANY OTHER APPROPRIATE ACTION TAKEN BY THE COURT OR THE DEPARTMENT, THE DEPARTMENT MAY SUSPEND IMMEDIATELY AND WITHOUT A HEARING ANY LICENSE ISSUED TO THE PERSON UNDER THIS TITLE.

4-602.

[(a)] With due regard for distribution, abundance, economic value, and breeding habits of fish in nontidal waters, the Secretary may adopt rules and regulations to extend, restrict, or prohibit catching, possessing, purchasing, transporting, or exporting fish from nontidal waters.

[(b)] In addition to any other penalty provided in this title, any person convicted of violating any rule or regulation the Department adopts, shall be fined \$5 for each fish illegally caught. If a person is convicted a second or subsequent time within the same 12-month period for a violation of the rules and regulations the Department adopts, he shall have his angler's license suspended for a period of 12 months from the date of the second or subsequent conviction.]

[4-626.

In addition to any other penalty provided in this title, any person who is convicted of a second violation of any rule or regulation adopted by the Department pursuant to the provision of this subtitle shall have his license suspended if the violation occurs within 12 months of any prior violation of the same rule or regulation.]

4-745.

(a) (1) Except as provided in subsections (c) and (d) of this section and § 4-217 of this title, a person may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries without first obtaining a Chesapeake Bay sport fishing license.

(2) The license may be obtained from the Department or from any authorized agent of the Department. The following annual license fees shall apply:

- (i) Resident..... \$15
- (ii) Short-term license valid for 5 consecutive days from date of issue..... \$6

- (iii) Nonresident..... \$15
- (iv) Resident and nonresident blind persons..... No fee
- (v) Complimentary license under subsection (f) of this section..... No fee

(3) Except for a license issued under subsection (d) of this section, every Chesapeake Bay sport fishing license shall be valid for not more than 1 year and shall expire on December 31.

(b) (1) The Department may designate a person engaged in a commercial enterprise to sell the Chesapeake Bay sport fishing license as an agent under the Department's control and supervision.

(2) As compensation, the agent shall retain \$1 for each license issued.

(3) The Chesapeake Bay sport fishing license shall be furnished to an agent upon satisfactory payment or upon consignment and only if the Department is given adequate security to insure ultimate payment by an agent to the Department for the licenses.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, all fees collected on behalf of the Department pursuant to this section shall be remitted to the Department in accordance with its rules and regulations for deposit with the State Treasurer to the credit of the Fisheries Research and Development Fund to be used for the replenishment, protection, and conservation of fish stocks caught by recreational fishermen, for enhancement of recreational fishing opportunities, and for research concerning tidal fishery resources. The Department shall publicly report annually the amounts collected and the expenditures.

(ii) In fiscal year 1999 and in each subsequent fiscal year, the Department, for the purposes set forth in subparagraph (iii) of this paragraph, shall use:

1. \$2 from the sale of each license under subsection (a) of this section;
2. \$20 from the sale of each license under subsection (d)(2) of this section; and
3. \$225 of the special charter boat license under subsection (d)(1) of this section.

(iii) The Department shall use the moneys specified in subparagraph (ii) of this paragraph for:

1. Achieving the maximum federal fund apportionments;
 2. Management assessment and sportfishing surveys;
- and
3. Angler outreach and public fishing information.

(5) In the preparation of plans for the expenditure of license receipts, the Secretary annually shall solicit the advice and opinions of the Department's Sport Fisheries Advisory Commission, representative fishing and boating associations, and other interested parties.

(c) A person may fish for finfish in the Chesapeake Bay or its tidal tributaries without a Chesapeake Bay sport fishing license if the person:

- (1) Is under the age of 16;
- (2) Possesses a valid commercial license;
- (3) Is fishing from private real property as an owner, family member of an owner, or nonpaying guest of an owner;
- (4) Is fishing with a hook and line from a public bridge or public pier that has been designated by the Department as a free fishing area;
- (5) Holds a valid tidal water sport fishing license issued by the State of Virginia, Potomac River Fisheries Commission, or District of Columbia, provided that this exemption shall not take effect until the Secretary has published notice in the Maryland Register of the Secretary's determination that the Virginia, Potomac River Fisheries Commission, or District of Columbia requirements for a tidal water sport fishing license are substantially similar to and reciprocal with the Chesapeake Bay sport fishing license requirements of this section;
- (6) Is fishing pursuant to any special license issued under subsection (d) of this section;
- (7)
 - (i) Is on active duty with the armed forces of the United States;
 - (ii) Is a resident of this State;
 - (iii) Is on leave from the armed forces; and
 - (iv) Has, while fishing, a copy of the person's official leave orders;
- (8) Fishes on a free fishing day designated by the Secretary; or

(9) Holds a current resident consolidated senior sport fishing license issued under § 4–216 of this title.

(d) (1) The Department may provide by regulation for issuance of a special charter boat license that would be valid for all individuals on a charter boat operated by a licensed fishing guide. The fee shall be:

- (i) For 6 fishermen or less \$240.
- (ii) For 7 or more fishermen \$290.

(2) (i) The Department may provide by regulation for issuance of an annual special Chesapeake Bay sport fishing license, which when permanently affixed to a boat registered in any state shall authorize any person on the boat to fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries, except that such a license may not be used on a boat that has been hired to take such persons fishing.

(ii) The annual fee for this special license shall be \$50.

(iii) If a boat owner purchases the special license under this paragraph, the boat owner may fish anywhere in the Chesapeake Bay, whether the boat owner is fishing in the owner's boat, in another person's boat, on land, or elsewhere. The Department shall issue a complimentary Chesapeake Bay sport fishing license to the boat owner who purchases a special license under this paragraph. If a boat to which the special license is affixed has more than one owner, then only the individual applicant who signs the application for the special license shall be entitled to a complimentary Chesapeake Bay sport fishing license under this paragraph.

[(e) (1) In addition to any other penalty provided under this title, the Department may suspend a person's entitlement to engage in a particular activity or activities licensed or permitted under this section.

(2) During a period of suspension imposed by the Department, the person whose license has been suspended may not engage in an activity for which the license suspension is imposed.

(3) The following are grounds for suspension of a license issued under this section:

- (i) Making a false statement in an application;
- (ii) Three convictions for violations occurring on separate days within any 3-year period of provisions under this title;
- (iii) Failure to submit a report required under this title or by regulation; or

(iv) Failure of a nonresident of the State to appear in court pursuant to a citation issued by a Natural Resources police officer, or to any other process issued by any court of Maryland, for violation of this title.

(4) A penalty imposed in accordance with this section is in addition to any other penalty authorized under § 4–1201 of this title regarding striped bass.

(5) The Department shall adopt regulations that provide:

(i) A schedule of points assigned to various offenses under this title;

(ii) A schedule of the maximum number of days that a license may be suspended according to the number of points accumulated; and

(iii) For suspension of a license for conviction of an offense under this title.

(6) The Department shall initiate any proceeding to suspend a license under this section not later than 6 months after the time for filing an appeal of the third conviction under paragraph (3)(ii) of this subsection has passed.

(7) Before the suspension of a license under this section, the Department shall hold a hearing on not less than 10 days' notice to the licensee, except that on the failure of a nonresident of the State to appear in a court of this State as required by any charging document accusing the person of committing any offense under this subtitle, in addition to any other appropriate action taken by the court or the Department, the Department may suspend immediately and without hearing any license issued to the person under this title.

(f)] (E) (1) In this subsection, “former prisoner of war” means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

(2) The Department may issue a lifetime complimentary Chesapeake Bay sport fishing license to any Maryland resident who certifies that the resident is a former prisoner of war or a 100% service connected disabled American veteran.

(3) A complimentary license is not transferable and shall be issued on forms the Department designates.

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

Approved by the Governor, May 7, 2009.

Chapter 208

(Senate Bill 169)

AN ACT concerning

Department of Natural Resources – Antiquated Fish and Fisheries Laws – Repeal

FOR the purpose of repealing certain provisions of law that prohibit a person from catching certain species of fish under certain circumstances; repealing certain provisions of law that prohibit a person from using certain devices to catch certain species under certain circumstances; repealing a law that prohibits the Department from closing Deep Creek Lake under a certain circumstance; repealing a provision of law that prohibits a person from setting certain nets within a certain distance of certain other nets; repealing a provision of law that prohibits a person from selling, offering to buy or sell, or possessing certain fish under certain circumstances; repealing a certain provision of law that places certain restrictions on the number of hard crabs a person may catch; and generally relating to the repeal of certain fish and fisheries laws.

BY repealing

Article – Natural Resources

Section 4–615, 4–737, 4–808, 4–811, and 4–813

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 4–620, 4–625, 4–710, 4–734, 4–809, 4–1008.1, and 4–1031

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

[4–615.

Between the hours of 8:00 p.m. and 5:30 a.m., a person may not fish for or catch any fish in any nontidal water or stream which the Department or the federal government has stocked with trout, except as the Department provides by rule or regulation.]

4-620.

(a) Under supervision, rule or regulation, and control of the Department, a person may catch carp with bow and arrow and by gig.

[(b) A person may catch carp or eels under the supervision, or rule or regulation, and control of the Department in the waters of Allegany County, the Potomac River, and the Monocacy River in Frederick County.]

[(c)] (B) (1) Except as provided in paragraph (2) of this subsection, a dip net or seine not more than 6 feet in length nor more than 4 feet in depth may be used to catch bait fish.

(2) A dip net or seine may not be used within 50 yards of the mouth of any river or tributary or the base of any dam.

[(d)] (C) Fish may not be snagged by means of hooks.

[(e) Dams commonly known as "fish pots" may be constructed only in the waters of Conococheague Creek and Licking Creek. Necessary portable slats, tilts, slides, or escapes shall be installed in every fish pot and shall remain open when the fish pot is not attended or in use. Bass may not be caught from any fish pots by any means.

(f) A person may not use a seine or net of any description in any of the waters of Carroll County except to catch minnows and as provided in § 4-617(c)(3) of this subtitle.]

4-625.

(a) A person may not build, construct, have constructed, or place any wharf, pier, dock, float, or any projection along or running into or over the waters of Deep Creek Lake without first obtaining a written permit from the Department and the lessors of the area.

(b) [The Department may not close to the public any part of Deep Creek Lake at any time during the term of the lease between the State and the Eastern Land Corporation and Pennsylvania Electric Company dated June 8, 1942. However, the] **THE** Department, for proper fish management, may close as many as three tributaries to the lake for their length, at any one time, or prohibit fishing during the period between one hour after sunset and half an hour before sunrise if necessary to police the area properly.

[(c) This section does not change, modify, or enlarge in any manner, any term of the lease from the Eastern Land Corporation and the Pennsylvania Electric

Company to the State for the Department to use the Deep Creek Lake area, nor affect, in any manner, the rights, privileges, and reservations of the lessors in the area.]

4-710.

(a) A person may not catch finfish for any purpose in the tidal waters of the State by use of any gig, gig iron, purse net, beam trawl, otter trawl, trammel net, troll net, or drag net. Any person who violates this section by catching fish with any of the equipment or devices referred to in this subsection, with the exception of a gig or gig iron, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both, with costs imposed in the discretion of the court. Any person who illegally catches fish with a gig or gig iron is subject to the penalties provided by this title.

(b) An appropriately licensed person may fish in the waters of the Atlantic Ocean with an otter trawl or beam trawl, subject to Department rules and regulations, if the person is at least one mile from the shoreline. The Department rules and regulations shall include:

(1) Setting seasons when otter trawl or beam trawl fishing is permitted; and

(2) Enumerating the species of fish which may be taken.

(c) (1) A person may not fish with any net whose size of stretched mesh, allowing a reasonable tolerance for shrinkage, is less than the following: pound net, 1 1/2 inches; haul seine, 1 1/2 inches; gill net, 2 1/2 inches; fyke or hoop net, 1 1/2 inches.

(2) Any hedging or lead attached to a fish trap, fyke net, or pound net shall be constructed of materials which have meshes having a twine size of #12 or larger.

(3) In the Chesapeake Bay and its tributaries, a person may not set or fish any gill net whose size of stretched mesh is more than 6 inches.

(4) This subsection does not apply to catching eels with a net.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not install, set, operate, or maintain in any tidal water of the Chesapeake Bay or its tributaries any monofilament gill net webbing of any description to catch fish.

(2) A person may use a monofilament cast net or a monofilament throw net to catch baitfish in any tidal water of the Chesapeake Bay or its tributaries.

(3) In casting a monofilament net as provided under paragraph (2) of this subsection, a person:

(i) May not use a cast net that has a radius greater than 10 feet; and

(ii) May cast a cast net only by hand.

(e) [(1)] A person may not set any anchored gill net or fyke or hoop net or any line of these nets which has a length more than one third the distance across the waters of the bay, sound, river, creek, cove, or inlet where it is set, or is set so that it impedes or obstructs navigation on or blocks in any way the main channel of the bay, sound, river, creek, cove or inlet. The outer end of the submerged gear of any nets referred to in this subsection shall be marked by means of a paddle or board which shows the name, address and license number of the net owner.

[(2)] A person may not set an anchored gill net within 1200 feet of a pound or stake net, measured at right angles to the line of stakes.]

(f) A person may not haul any seine or net more than one third of the distance across the body of water, bay, sound, river, creek, cove, or inlet.

(g) A person may take or shoot carp, garfish, skate, bullfish, shark, oyster toads, swelling toads, sting rays, or any other ray fish with bow and arrow, except a crossbow, and snag these fish by means of hooks in the tidal waters of the State under the supervision, regulation, and control of the Department. This subsection only applies to the fish referred to in it.

(h) A person may not catch or attempt to catch finfish by the use of any stationary fishing gear, or set an anchor or mooring buoy, or in any way obstruct the normal taking of finfish by drift net from December 1 through April 1.

This subsection applies only to waters more than 50 feet in depth in the Chesapeake Bay south of the William Preston Lane, Jr., Memorial Bridge and is not applicable to any Chesapeake Bay tributaries. This provision does not apply to any designated anchorage in existence on July 1, 1975. The Department has the authority to permit exceptions to this section by regulations when it can be shown that the obstruction will not interfere with a useable fishing reach.

(i) (1) Except in State waters in the Atlantic Ocean, a person may not use more than 2 hooks or 2 sets of hooks for each rod or line.

(2) For the purposes of this subsection, artificial lures or plugs with multiple or gang hooks are considered 1 set of hooks.

4-734.

(a) A person may not sell, offer to buy or sell, or possess any of the following fish:

(1) Bass, largemouth or smallmouth less than 15 inches from March 1 through June 15, and less than 12 inches from June 16 through the end of February;

[(2) Catfish, except bullheads, less than 10 inches;

(3) Croakers:

(i) For commercial catches, less than 9 inches;

(ii) For recreational catches and possession only, less than 9 inches and not more than 25 fish per day; and

(iii) However, a croaker less than the size limit provided in this paragraph may be sold during closed season if:

1. The croaker was caught in another state;

2. The croaker is accompanied by a bill of sale or bill of lading from the state of origin certifying that the croaker was caught in full compliance with the laws of the state of origin; and

3. The state of origin is in compliance with interstate fishing management requirements as determined by the Department;

(4) Yellow perch less than 8 inches, if caught other than by hook or line;]

[(5)] (2) Pike [or walleyed pike] less than 14 inches; **AND**

[(6) Weakfish less than 12 inches, except that weakfish less than 12 inches may be sold during closed season if:

(i) The weakfish was caught in another state;

(ii) The weakfish is accompanied by a bill of sale or bill of lading from the state of origin certifying that the weakfish was caught in full compliance with the laws of the state of origin; and

(iii) The state of origin is in compliance with interstate fishing management requirements as determined by the Department;

(7) Spotted sea trout less than 12 inches;

(8) Striped bass, less than 14 inches in length or measuring more than 32 inches. However, a person may possess one striped bass over 32 inches per day caught with hook and line in the tidal waters of the State at any time of the year

except from March 1 to April 30 inclusive, which may not be sold or offered for sale. In any year that the young-of-the-year striped bass index exceeds 15, the Department may permit by regulation during the 12-month period beginning April 1 of the following year, the possession, sale, or offer for sale of striped bass 12 inches in length;

(9) Sturgeon weighing less than 25 pounds;]

[(10)] (3) Taylor [or bluefish] less than 8 inches.

[(11) Summer flounder less than 13 inches except that an amount of undersized fish not greater than 5 percent of a vessel's load by number, as indicated by a sample of not less than 200 fish, may be retained by licensed commercial fishermen; and

(12) Red drum or channel bass less than 14 inches. A person may not possess more than 2 red drum or channel bass over 32 inches total length each, per day.]

(b) Measurement for each fish mentioned above shall be from the tip of the nose to the end of the tail.

(c) The Department may set the size limits for white perch. However, the Department may not prohibit catching white perch more than 8 inches.

[4-737.

(a) A person may catch shad and herring in the tidal waters of the State from January 1 to June 5, inclusive.

(b) A person may not catch, offer for sale, or possess any shad or herring freshly caught in the State between June 11 and December 31, inclusive. However, from June 6 to July 5, a person may catch or possess shad taken by means of hook and line.

(c) The season for catching shad and herring in the tidal waters shall be shortened by five days from the end of each season if Virginia shortens its season for catching shad and herring by 10 days from the end of the season, or takes action contingent upon action by this State shortening its season for shad and herring in its tidal waters by 5 days or less from the end of the season.]

[4-808.

A person may not catch hard crabs in any waters of the State, between January 1 and April 1.]

4-809.

(a) [A person may not catch or possess more than 10 hard crabs per bushel or 25 hard crabs per barrel which measure less than 5 inches across the shell from tip to tip of spike.]

[(b)] (1) Except as provided in paragraph (2) of this subsection, a person may not catch or possess peeler crabs measuring less than 3 inches across the shell from tip to tip of spike.

(2) A person may possess a bycatch of peeler crabs measuring less than 3 inches across the shell from tip to tip of spike if the bycatch is not greater than:

(i) 30 per bushel; or

(ii) 60 per float.

(3) In determining the number of peelers measuring less than 3 inches across the shell from tip to tip of the spike, the Department shall select the minimum number of bushels or floats necessary to be representative of the person's catch.

[(c)] (B) (1) Except as provided in paragraph (2) of this subsection, a person may not catch or possess soft crabs measuring less than three and one-half inches across the shell from tip to tip of the spike.

(2) (i) This paragraph applies until the Department adopts regulations under paragraph (3) of this subsection.

(ii) A person may possess a bycatch of soft crabs measuring less than three and one-half inches across the shell from tip to tip of the spike if the bycatch is not greater than one undersized soft crab per dozen soft crabs possessed.

(3) (i) The Department shall adopt regulations establishing and governing a permissible bycatch for soft crabs under this subsection.

(ii) The regulations that the Department adopts under this paragraph may not be more restrictive than the applicable restrictions on the permissible bycatch for hard crabs and peeler crabs.

[(d)] (C) In the waters of Worcester County, a person may not catch, possess, or keep in floats any fat crabs, or any crab known as snot crab, green crab, or buckram crab.

[(e)] (D) The minimum size of crabs does not apply to mature female crabs, identified by the rounded apron.

[(f)] (E) The provisions of subsection (a) do not apply to crabs imported into Maryland during the closed season for catching crabs if the person possessing the imported crabs has a certificate of origin.

[(g)] (F) Once taken, peelers shall be kept separate from other crabs.

[4-811.

Any owner of tidewater shoreline property in Anne Arundel, Baltimore, Worcester, Calvert, Charles, St. Mary's, Somerset, and Wicomico counties may set not more than four crab pots attached to his pier or dock, by line, string or rope, or attached to a pole set not more than 200 feet from shore. This pole shall be conspicuously marked by colored tape or similar material and shall have on it a sign at least 6 inches by 6 inches indicating the owner's name and address. In Worcester County, an owner of tidewater shoreline property may set not more than 4 crab pots attached to a buoy or float set not more than 200 feet from shore. In Worcester County, this buoy or float shall be colored or painted orange and conspicuously marked by a sign at least 6 inches by 6 inches indicating the owner's name and address. Pots may be set any day or night during the crab season when the shore owner or a member of his family is residing at the owner's shore property. Any person catching crabs in this manner shall use them for personal consumption only and may not sell them. The provisions of this section do not apply in the Potomac River.]

[4-813.

In Somerset County, a person may not harvest crabs with crab pots between sunset on any day and 1 hour before sunrise on the following day.]

4-1008.1.

(a) [A person may not catch oysters on Sunday or between sunset on any day and sunrise on the following day. A person may not land oysters earlier than one hour before sunrise or later than 2 hours after sunset. A buy boat or buy truck may not unload oysters earlier than one hour before sunrise or later than 2 hours after sunset unless the cargo of the buy boat or buy truck is accompanied by a certificate of inspection issued by a Natural Resources police officer. The certificate of inspection shall state the point of origin, and the time of origin which shall be between sunrise and sunset, and the quantity, in bushels, of the cargo.

(b) A person may not catch oysters by tongs or patent tongs or by diving except during the tonging and diving season from September 15 to March 31 inclusive the following year. However, in the waters of Worcester County, the tonging and diving season is from January 1 to December 31, inclusive.

(c) A person may not catch oysters by dredge in the waters of the State where dredging is permitted except during the dredging season from November 1 to March 15 of the following year.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, the] **THE** Department may prolong by not more than two weeks the season for catching oysters.

[(e)] **(B)** (1) On the recommendation of the Calvert County or the St. Mary's County tongers' committee, the Department may authorize handscraping of oysters in the waters of Calvert and St. Mary's counties for 2 weeks, if inclement weather has prevailed during the tonging season.

(2) The Department shall determine the areas where handscraping of oysters is permitted.

(3) The Department shall establish regulations for the handscraping of oysters under this subsection. There shall be a catch limit of 10 bushels per person and no more than 30 bushels per boat. A person may not handscrape for oysters after 12:00 noon.

4-1031.

(a) In this section, "transverse dimension" means the measurement across both shells of a hard-shell clam at the widest point perpendicular to the hinge line where the two shells meet.

[(b)] Except as provided in subsection (d) of this section, a person may not possess hard-shell clams having a transverse dimension of less than seven-eighths of an inch.]

[(c)] **(B)** A clam dealer may possess hard-shell clams having a transverse dimension of less than [seven-eighths of an inch] **THE SIZE REQUIRED BY THE DEPARTMENT** if the dealer offers a bill of lading approved by the Department as proof that all clams were caught in waters outside the State.

[(d)] (1) Out of each 105 hard-shell clams in a person's possession, the person may possess up to 10 hard-shell clams that have a transverse dimension of less than seven-eighths of an inch.

(2) The Department shall determine the number of hard-shell clams in a person's possession that have a transverse dimension of less than seven-eighths of an inch by taking a representative sample of the hard-shell clams in the person's possession.]

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

Approved by the Governor, May 7, 2009.

Chapter 209

(Senate Bill 174)

AN ACT concerning

Business Regulation – Vending Machine Sales – Bulk Vending Machine Exemption

FOR the purpose of exempting from certain licensing requirements the sale or offering for sale of certain merchandise through certain vending machines; and generally relating to an exemption from certain vending machine licensing requirements for the sale or offering for sale of certain merchandise through certain vending machines.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 17–1902
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 11–201.1(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

17–1902.

This subtitle does not apply to:

(1) the sale or offering for sale of cigarettes, newspapers, magazines, paper cups, paper or cloth towels, soap, toilet seat covers, postage stamps, or sanitary napkins; **OR**

(2) THE SALE OR OFFERING FOR SALE OF MERCHANDISE THROUGH A BULK VENDING MACHINE AS DEFINED IN § 11-201.1 OF THE TAX – GENERAL ARTICLE.

Article – Tax – General

11-201.1.

(a) In this section, “bulk vending machine” means a vending machine that:

(1) contains unsorted merchandise; and

(2) on insertion of a coin, dispenses the unsorted merchandise in approximately equal portions at random and without selection by the customer.

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

Approved by the Governor, May 7, 2009.

Chapter 210

(House Bill 171)

AN ACT concerning

Business Regulation – Vending Machine Sales – Bulk Vending Machine Exemption

FOR the purpose of exempting from certain licensing requirements the sale or offering for sale of certain merchandise through certain vending machines; and generally relating to an exemption from certain vending machine licensing requirements for the sale or offering for sale of certain merchandise through certain vending machines.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 17-1902
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 11-201.1(a)
Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

17–1902.

This subtitle does not apply to:

(1) the sale or offering for sale of cigarettes, newspapers, magazines, paper cups, paper or cloth towels, soap, toilet seat covers, postage stamps, or sanitary napkins; **OR**

(2) **THE SALE OR OFFERING FOR SALE OF MERCHANDISE THROUGH A BULK VENDING MACHINE AS DEFINED IN § 11–201.1 OF THE TAX – GENERAL ARTICLE.**

Article – Tax – General

11–201.1.

(a) In this section, “bulk vending machine” means a vending machine that:

(1) contains unsorted merchandise; and

(2) on insertion of a coin, dispenses the unsorted merchandise in approximately equal portions at random and without selection by the customer.

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

Approved by the Governor, May 7, 2009.

Chapter 211

(Senate Bill 175)

AN ACT concerning

Department of Natural Resources – Shell Dredging – Permit Application

FOR the purpose of altering the date by which the Department of Natural Resources is required to apply to the Department of the Environment and the United States Army Corps of Engineers for permits to dredge buried oyster shells; making a technical correction; making this Act ~~and~~ an emergency measure; and generally relating to the dredging of buried oyster shells.

BY repealing and reenacting, with amendments,
Chapter 325 of the Acts of the General Assembly of 2008
Section 2

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

Chapter 325 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall apply to the Department of the Environment and the United States Army Corps of Engineers for permits to dredge buried oyster shells on or before [December 1, 2008] **JULY 1, 2009**, if the Oyster Advisory ~~Committee~~ **COMMISSION** recommends the application based on its work, including a review of the findings of the draft Environmental Impact Statement concerning evaluation of oyster restoration alternatives for the Chesapeake Bay.

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 ye 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 7, 2009.

Chapter 212

(House Bill 103)

AN ACT concerning

Department of Natural Resources – Shell Dredging – Permit Application

FOR the purpose of altering the date by which the Department of Natural Resources is required to apply to the Department of the Environment and the United States Army Corps of Engineers for permits to dredge buried oyster shells; making a technical correction; making this Act ~~and~~ an emergency measure; and generally relating to the dredging of buried oyster shells.

BY repealing and reenacting, with amendments,
Chapter 325 of the Acts of the General Assembly of 2008
Section 2

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

Chapter 325 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Natural Resources shall apply to the Department of the Environment and the United States Army Corps of Engineers for permits to dredge buried oyster shells on or before [December 1, 2008] **JULY 1, 2009**, if the Oyster Advisory ~~Committee~~ Commission recommends the application based on its work, including a review of the findings of the draft Environmental Impact Statement concerning evaluation of oyster restoration alternatives for the Chesapeake Bay.

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 ye 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 7, 2009.

Chapter 213

(Senate Bill 176)

AN ACT concerning

Education – Baltimore City Community College – Academic Facility Bonds

FOR the purpose of increasing the amount of available bond debt for Baltimore City Community College; authorizing Baltimore City Community College to issue bonds for academic facilities; requiring the Capital Debt Affordability Committee to estimate in a certain annual report the amount of new bonds for academic facilities that may be authorized in the aggregate for the next fiscal year by the Baltimore City Community College; and generally relating to bonding authority and Baltimore City Community College.

BY repealing and reenacting, with amendments,
Article – Education
Section 19–102
Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 8–112(e)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

Article – Education

19–102.

(a) In order to provide auxiliary and academic facilities a system may:

(1) Acquire, construct, reconstruct, equip, maintain, repair, renovate, and operate auxiliary and academic facilities at any of its campuses or locations, now existing or hereafter acquired;

(2) (i) Issue bonds for the purpose of financing or refinancing all or any part of the costs of any 1 or more projects of a system, including any project previously financed by a system or any predecessor; or

(ii) Issue bonds for the purpose of acquiring any auxiliary facility or academic facility previously financed through a capital lease with a system or any predecessor;

(3) Establish 1 or more trust funds for the deposit of the proceeds of the bonds of any issue and retain the interest revenue or other investment income thereon to be applied to the costs of any project, but shall maintain separate accounts within any such trust funds for auxiliary facilities and for academic facilities;

(4) Fix, revise, charge, and collect auxiliary facilities fees and academic fees and pledge all or any part of such auxiliary facilities fees and academic fees as security for bonds issued for auxiliary and academic facilities by a system;

(5) Establish 1 or more trust funds for the deposit of any auxiliary facilities fees and academic fees which may be imposed pursuant to this subtitle, and retain the interest revenue or other investment income thereon, for the purpose of acquiring, constructing, reconstructing, renovating, equipping, maintaining, repairing, and operating auxiliary and academic facilities;

(6) Acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this title;

(7) Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this title, and employ consulting engineers, architects, attorneys, construction and financial experts, and other employees and agents as may be necessary, and fix their compensation;

(8) Receive and accept from the United States of America or any agency thereof grants and loans for the purpose of financing or refinancing all or any part of the costs of any 1 or more projects, and receive and accept aid or contributions from any sources of money, property, labor, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions were made; and

(9) Do all acts and things necessary or convenient to carry out the powers expressly granted by the provisions of this title.

(b) A system may not pledge all or any part of the revenues received from:

(1) A State appropriation;

(2) Contracts, grants, or gifts received or to be received by a system, other than contracts for tuition, student fees, activity fees, or auxiliary facilities fees; or

(3) Any other source not expressly authorized by the General Assembly.

(c) (1) [Except as provided in paragraph (3) of this subsection, the] **THE** aggregate principal amount of bonds outstanding and the present value of capital lease payments, less the amount of any reserve fund or sinking fund requirement established for the bonds or capital leases, may not exceed, as of the date of issue of the bonds, the following:

(i) \$1,050,000,000 for the University System of Maryland;

(ii) \$88,000,000 for Morgan State University;

(iii) \$60,000,000 for St. Mary's College of Maryland; and

(iv) [~~\$15,000,000~~ ~~\$50,000,000~~ \$65,000,000] for Baltimore City Community College.

(2) Bonds outstanding do not include:

(i) Bonds previously issued by a system or any predecessor that are to be refunded, but only:

1. To the extent of any outstanding principal on the bonds that are being refunded; and

2. If an escrow or other similar arrangement has been made and held by the State Treasurer, a bank, or a trust company for the payment of such bonds, whether or not redeemed; or

(ii) Borrowings pursuant to § 12–105(c) of this article, except to the extent that such borrowings are subject to a financing agreement the term of which is for more than 5 years for the acquisition of the personal property.

[(3) Notwithstanding any other provision in this subsection, the Baltimore City Community College may issue bonds only for the purpose of financing auxiliary facilities.]

(d) (1) A system may not issue bonds for the purpose of financing all or any part of the costs of any academic facility or facilities until the General Assembly has approved in an act the:

(i) Project or projects for any academic facility or facilities; and

(ii) Maximum principal amount of bonds a system may issue in connection with such project or projects for any academic facility or facilities.

(2) The General Assembly's approval shall expressly authorize the project or projects for any academic facility or facilities and the maximum principal amount of bonds a system may issue in connection with such project or projects for the academic facility or facilities.

(3) Without the approval of the General Assembly, a system may issue bonds to refinance all or any part of the costs of any project for any academic facility or facilities for which a system previously issued bonds under the authority of this section.

(4) (i) Any bonds issued under the requirements of this subsection shall mature at such times not exceeding the useful life of the project for which the bonds are issued, but not later than 21 years after their respective dates of issue, as may be determined by a system.

(ii) Any bonds issued in accordance with paragraph (3) of this subsection shall mature at such times as may be determined by a system, but not later than 21 years after the date of issue of the bonds that were originally issued for the academic facility or facilities authorized under the requirements of this subsection.

(e) (1) A system shall maintain records identifying the sources and amounts of payments used to support:

(i) The auxiliary facilities; and

(ii) The academic facilities authorized under the requirements of this subtitle.

(2) A system shall report:

(i) By September 1 to the Board of Public Works and, subject to § 2–1246 of the State Government Article, to the Department of Legislative Services, the information for the prior fiscal year required under paragraph (1) of this subsection; and

(ii) By December 1, subject to § 2–1246 of the State Government Article, to the Department of Legislative Services, the anticipated sources and amounts of payments required for the next fiscal year for:

1. Auxiliary facilities; and

2. Academic facilities authorized under the requirements of this subtitle.

Article – State Finance and Procurement

8–112.

(e) (1) In addition to its other duties under this section, the Committee shall review on a continuing basis the size and condition of any debt of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and the Baltimore City Community College.

(2) In preparing an estimate with respect to the authorization of any new State debt, the Committee shall take into account as part of the affordability analysis any debt for academic facilities to be issued by a System.

(3) At the same time that the Committee makes its report as required under subsection (b) of this section, the Committee shall submit to the Governor and the General Assembly the Committee's estimate of the amount of new bonds for academic facilities that prudently may be authorized in the aggregate for the next fiscal year by the University System of Maryland, Morgan State University, [and] St. Mary's College of Maryland, AND THE BALTIMORE CITY COMMUNITY COLLEGE.

(4) For purposes of this subtitle, the terms "System" and "academic facilities" have the meanings stated in § 19–101 of the Education Article.

(5) The Committee may request any needed information from a System and shall consider the information in making its estimates, including any information submitted by a System at its own initiative.

(6) This estimate:

(i) is advisory; and

(ii) does not bind the General Assembly, the Board, or the Governor.

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

Approved by the Governor, May 7, 2009.

Chapter 214

(Senate Bill 179)

AN ACT concerning

State Retirement Agency – Monitoring of Telephone Calls – Quality Assurance

FOR the purpose of authorizing the Board of Trustees of the State Retirement and Pension System to adopt regulations to manage, for a certain purpose, the monitoring and recording of certain telephone calls by the State Retirement Agency; and generally relating to the monitoring of telephone calls by the State Retirement Agency for quality assurance purposes.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–110(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

21–110.

- (a) The Board of Trustees shall adopt regulations providing for:
- (1) the administration of the several systems;
 - (2) the management of the assets of the several systems;

(3) the transaction of its business; [and]

(4) the imposition of an administrative fee on any participating employer that fails to provide the information required by the State Retirement Agency to properly enroll eligible employees in the several systems; **AND**

(5) NOTWITHSTANDING THE PROVISIONS OF § 9-602 OF THE CRIMINAL LAW ARTICLE, THE MANAGEMENT OF MONITORING AND RECORDING INCOMING TELEPHONE CONVERSATIONS TO AND FROM EMPLOYEES OF THE MEMBER SERVICES DIVISION OF THE STATE RETIREMENT AGENCY, FROM TO TELEPHONES WITHIN THE OFFICES OF THE STATE RETIREMENT AGENCY, FOR THE PURPOSE OF ASSURING THAT THE MEMBERS AND RETIREES OF THE SEVERAL SYSTEMS ARE PROVIDED CORRECT RETIREMENT BENEFIT INFORMATION TRAINING AND QUALITY CONTROL PURPOSES.

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

Approved by the Governor, May 7, 2009.

Chapter 215

(Senate Bill 186)

AN ACT concerning

Correctional Facilities – Released Inmates – Identification Cards

FOR the purpose of requiring the Commissioner of Correction to issue an identification card that meets certain requirements to an inmate before release from a certain State correctional facility; requiring the Commissioner of Correction to adopt certain regulations; and generally relating to identification cards for released inmates.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 9-609
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY adding to
Article – Correctional Services
Section 9-609.1
Annotated Code of Maryland

(2008 Replacement Volume and 2008 Supplement)

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

Article – Correctional Services

9–609.

(a) Whenever a date of release from confinement in a State correctional facility is a Saturday, Sunday, or legal holiday, the inmate shall be released on the first preceding day that is not a Saturday, Sunday, or legal holiday.

(b) The Commissioner **OF CORRECTION** shall adopt regulations:

(1) establishing a release plan for inmates upon release from confinement in a State correctional facility to help identify resources to assist inmates following release, including the provision of transportation from the facility for an inmate upon release; **AND**

(2) **IMPLEMENTING THE PROVISIONS OF § 9–609.1 OF THIS SUBTITLE CONCERNING ISSUANCE OF AN IDENTIFICATION CARD TO INMATES ON RELEASE FROM CONFINEMENT IN A STATE CORRECTIONAL FACILITY.**

9–609.1.

(A) **THE COMMISSIONER OF CORRECTION SHALL ISSUE AN IDENTIFICATION CARD TO AN INMATE BEFORE RELEASE FROM CONFINEMENT IN A STATE CORRECTIONAL FACILITY.**

(B) **THE IDENTIFICATION CARD ISSUED UNDER SUBSECTION (A) OF THIS SECTION SHALL MEET THE REQUIREMENTS FOR SECONDARY IDENTIFICATION FOR THE PURPOSE OF AN IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION UNDER § 12–301 OF THE TRANSPORTATION ARTICLE.**

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

Approved by the Governor, May 7, 2009.

Chapter 216**(Senate Bill 187)**

AN ACT concerning

State Procurement – ~~Structuring and Bundling of Procurements~~

FOR the purpose of prohibiting a unit of State government subject to the State procurement law from ~~structuring or~~ bundling a procurement, limiting the number of competitive bidders or offerors, or limiting certain participation to a predetermined group of bidders or offerors for the purpose of precluding or limiting participation by certain entities under certain circumstances; providing for the application of this Act; defining a certain term; and generally relating to prohibitions governing the ~~structuring or~~ bundling of a procurement.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11–201
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

11–201.

- (a) The purposes and policies of this Division II include:
- (1) providing for increased confidence in State procurement;
 - (2) ensuring fair and equitable treatment of all persons who deal with the State procurement system;
 - (3) providing safeguards for maintaining a State procurement system of quality and integrity;
 - (4) fostering effective broad-based competition in the State through support of the free enterprise system;
 - (5) promoting increased long-term economic efficiency and responsibility in the State by encouraging the use of recycled materials;
 - (6) providing increased economy in the State procurement system;

(7) getting the maximum benefit from the purchasing power of the State;

(8) simplifying, clarifying, and modernizing the law that governs State procurement;

(9) allowing the continued development of procurement regulations, policies, and practices in the State; and

(10) promoting development of uniform State procurement procedures to the extent possible.

(b) Unless otherwise indicated, this Division II shall be construed liberally and applied to promote the purposes and policies enumerated in subsection (a) of this section.

(c) If a provision of this Division II is inconsistent with a federal law, regulation, or grant agreement or other federal requirement that governs procurement or a procurement contract or with the terms of a gift, as defined in Article 1, § 22 of the Code, the federal requirement or the terms of the gift control the procurement or procurement contract.

(D) (1) IN THIS SUBSECTION, ~~“CONTRACT BUNDLING” MEANS~~ SUBSECTION, “BUNDLE” MEANS THE CONSOLIDATION OF TWO OR MORE PROCUREMENT REQUIREMENTS FOR GOODS SUPPLIES OR SERVICES PREVIOUSLY PROVIDED OR PERFORMED UNDER SEPARATE CONTRACTS INTO A SINGLE SOLICITATION SEEKING OFFERS FOR A SINGLE CONTRACT THAT IS UNLIKELY TO BE ACCESSIBLE FOR AWARD TO A SMALL BUSINESS OR MINORITY BUSINESS ENTERPRISE.

(2) THIS SUBSECTION DOES NOT APPLY IF A UNIT BUNDLES A PROCUREMENT FOR THE PURPOSE OF PARTICIPATING IN THE SMALL BUSINESS RESERVE PROGRAM IN ACCORDANCE WITH TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

~~(2) (3) EXCEPT FOR THE PURPOSE OF A UNIT'S PARTICIPATION IN THE SMALL BUSINESS RESERVE PROGRAM IN ACCORDANCE WITH TITLE 14, SUBTITLE 5 OF THIS ARTICLE, A UNIT SUBJECT TO THIS DIVISION II MAY NOT STRUCTURE OR BUNDLE A PROCUREMENT FOR THE PURPOSE OF~~ FOR THE PURPOSE OF PRECLUDING OR LIMITING PARTICIPATION BY A MINORITY BUSINESS ENTERPRISE AS DEFINED UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE OR A SMALL BUSINESS AS DEFINED UNDER TITLE 14, SUBTITLE 2 OF THIS ARTICLE A UNIT SUBJECT TO THIS DIVISION II MAY NOT:

(I) ~~PRECLUDING PARTICIPATION BY MINORITY BUSINESS ENTERPRISES UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE OR ANY OTHER SMALL BUSINESS AS DEFINED UNDER TITLE 14, SUBTITLE 2 OF THIS ARTICLE BUNDLE A PROCUREMENT;~~

(II) ~~LIMITING~~ LIMIT THE NUMBER OF COMPETITIVE BIDDERS OR OFFERORS; OR

(III) ~~LIMITING~~ LIMIT PARTICIPATION TO A PREDETERMINED GROUP OF BIDDERS OR OFFERORS; OR.

~~(IV) CONTRACT BUNDLING.~~

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

Approved by the Governor, May 7, 2009.

Chapter 217

(House Bill 124)

AN ACT concerning

State Procurement – ~~Structuring and~~ Bundling of Procurements

FOR the purpose of prohibiting a unit of State government subject to the State procurement law from ~~structuring or~~ bundling a procurement, limiting the number of competitive bidders or offerors, or limiting certain participation to a predetermined group of bidders or offerors for the purpose of precluding or limiting participation by certain entities under certain circumstances; providing for the application of this Act; defining a certain term; and generally relating to prohibitions governing the ~~structuring or~~ bundling of a procurement.

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 11–201
 Annotated Code of Maryland
 (2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

11-201.

- (a) The purposes and policies of this Division II include:
- (1) providing for increased confidence in State procurement;
 - (2) ensuring fair and equitable treatment of all persons who deal with the State procurement system;
 - (3) providing safeguards for maintaining a State procurement system of quality and integrity;
 - (4) fostering effective broad-based competition in the State through support of the free enterprise system;
 - (5) promoting increased long-term economic efficiency and responsibility in the State by encouraging the use of recycled materials;
 - (6) providing increased economy in the State procurement system;
 - (7) getting the maximum benefit from the purchasing power of the State;
 - (8) simplifying, clarifying, and modernizing the law that governs State procurement;
 - (9) allowing the continued development of procurement regulations, policies, and practices in the State; and
 - (10) promoting development of uniform State procurement procedures to the extent possible.

(b) Unless otherwise indicated, this Division II shall be construed liberally and applied to promote the purposes and policies enumerated in subsection (a) of this section.

(c) If a provision of this Division II is inconsistent with a federal law, regulation, or grant agreement or other federal requirement that governs procurement or a procurement contract or with the terms of a gift, as defined in Article 1, § 22 of the Code, the federal requirement or the terms of the gift control the procurement or procurement contract.

(D) (1) IN THIS ~~SUBSECTION, “CONTRACT BUNDLING” MEANS~~ SUBSECTION, “BUNDLE” MEANS THE CONSOLIDATION OF TWO OR MORE PROCUREMENT REQUIREMENTS FOR ~~GOODS~~ SUPPLIES OR SERVICES PREVIOUSLY PROVIDED OR PERFORMED UNDER SEPARATE CONTRACTS INTO A

SINGLE SOLICITATION SEEKING OFFERS FOR A SINGLE CONTRACT THAT IS UNLIKELY TO BE ACCESSIBLE FOR AWARD TO A SMALL BUSINESS OR MINORITY BUSINESS ENTERPRISE.

(2) THIS SUBSECTION DOES NOT APPLY IF A UNIT BUNDLES A PROCUREMENT FOR THE PURPOSE OF PARTICIPATING IN THE SMALL BUSINESS RESERVE PROGRAM IN ACCORDANCE WITH TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

~~(2) (3) EXCEPT FOR THE PURPOSE OF A UNIT'S PARTICIPATION IN THE SMALL BUSINESS RESERVE PROGRAM IN ACCORDANCE WITH TITLE 14, SUBTITLE 5 OF THIS ARTICLE, A UNIT SUBJECT TO THIS DIVISION II MAY NOT STRUCTURE OR BUNDLE A PROCUREMENT FOR THE PURPOSE OF~~ **FOR THE PURPOSE OF PRECLUDING OR LIMITING PARTICIPATION BY A MINORITY BUSINESS ENTERPRISE AS DEFINED UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE OR A SMALL BUSINESS AS DEFINED UNDER TITLE 14, SUBTITLE 2 OF THIS ARTICLE A UNIT SUBJECT TO THIS DIVISION II MAY NOT:**

~~(I) PRECLUDING PARTICIPATION BY MINORITY BUSINESS ENTERPRISES UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE OR ANY OTHER SMALL BUSINESS AS DEFINED UNDER TITLE 14, SUBTITLE 2 OF THIS ARTICLE~~ **BUNDLE A PROCUREMENT;**

~~(II) LIMITING~~ **LIMIT** THE NUMBER OF COMPETITIVE BIDDERS OR OFFERORS; ~~OR~~

~~(III) LIMITING~~ **LIMIT** PARTICIPATION TO A PREDETERMINED GROUP OF BIDDERS OR OFFERORS; ~~OR.~~

~~(IV) CONTRACT BUNDLING.~~

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

Approved by the Governor, May 7, 2009.

Chapter 218

(Senate Bill 192)

AN ACT concerning

Criminal Law - ~~Theft~~ Fraudulent Conversion of Rental Property

FOR the purpose of ~~prohibiting a person from hiring or leasing personal property or equipment from another person who is in lawful possession of the personal property or equipment with intent to defraud that person of the rental due under the rental agreement; prohibiting a person from abandoning or willfully refusing to redeliver personal property as required under a rental agreement without the consent of the lessor or the lessor's agent with intent to defraud the lessor or the lessor's agent; establishing penalties for a violation of this Act; making technical corrections; clarifying that the prohibition against fraudulent conversion of rental property applies to a written contract or written lease for a leased or rented good or thing of value whether or not the contract or lease contains an option to purchase the good or thing of value if the contract or lease meets certain requirements; providing that the item or thing of value have a certain value; providing that a prosecution under the prohibition against fraudulent conversion of rental property does not preclude prosecution for theft; requiring a conviction for fraudulent conversion of rental property to merge for sentencing purposes into a conviction for theft under certain circumstances; and generally relating to the theft~~ fraudulent conversion of rental property.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section ~~7-104~~ 8-407
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

~~7-104.~~

~~(a) A person may not willfully or knowingly obtain or exert unauthorized control over property, if the person:~~

- ~~(1) intends to deprive the owner of the property;~~
- ~~(2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or~~
- ~~(3) uses, conceals, or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property.~~

~~(b) A person may not obtain control over property by willfully or knowingly using deception, if the person:~~

- ~~(1) intends to deprive the owner of the property;~~

~~(2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or~~

~~(3) uses, conceals, or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property.~~

~~(e) (1) A person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, if the person:~~

~~(i) intends to deprive the owner of the property;~~

~~(ii) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or~~

~~(iii) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.~~

~~(2) In the case of a person in the business of buying or selling goods, the knowledge required under this subsection may be inferred if:~~

~~(i) the person possesses or exerts control over property stolen from more than one person on separate occasions;~~

~~(ii) during the year preceding the criminal possession charged, the person has acquired stolen property in a separate transaction; or~~

~~(iii) being in the business of buying or selling property of the sort possessed, the person acquired it for a consideration that the person knew was far below a reasonable value.~~

~~(3) In a prosecution for theft by possession of stolen property under this subsection, it is not a defense that:~~

~~(i) the person who stole the property has not been convicted, apprehended, or identified;~~

~~(ii) the defendant stole or participated in the stealing of the property;~~

~~(iii) the property was provided by law enforcement as part of an investigation, if the property was described to the defendant as being obtained through the commission of theft; or~~

~~(iv) the stealing of the property did not occur in the State.~~

~~(4) Unless the person who criminally possesses stolen property participated in the stealing, the person who criminally possesses stolen property and a person who has stolen the property are not accomplices in theft for the purpose of any rule of evidence requiring corroboration of the testimony of an accomplice.~~

~~(d) A person may not obtain control over property knowing that the property was lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature or amount of the property, if the person:~~

~~(1) knows or learns the identity of the owner or knows, is aware of, or learns of a reasonable method of identifying the owner;~~

~~(2) fails to take reasonable measures to restore the property to the owner; and~~

~~(3) intends to deprive the owner permanently of the use or benefit of the property when the person obtains the property or at a later time.~~

~~(e) A person may not obtain the services of another that are available only for compensation:~~

~~(1) by deception; or~~

~~(2) with knowledge that the services are provided without the consent of the person providing them.~~

~~(F) A PERSON MAY NOT:~~

~~(1) HIRE OR LEASE PERSONAL PROPERTY OR EQUIPMENT FROM ANOTHER PERSON WHO IS IN LAWFUL POSSESSION OF THE PERSONAL PROPERTY OR EQUIPMENT WITH INTENT TO DEFRAUD THAT PERSON OF THE RENTAL DUE UNDER THE RENTAL AGREEMENT; OR~~

~~(2) ABANDON OR WILLFULLY REFUSE TO REDELIVER PERSONAL PROPERTY AS REQUIRED UNDER A RENTAL AGREEMENT WITHOUT THE CONSENT OF THE LESSOR OR THE LESSOR'S AGENT WITH INTENT TO DEFRAUD THE LESSOR OR THE LESSOR'S AGENT.~~

~~[(f)] (G) Under this section, an offender's intention or knowledge that a promise would not be performed may not be established by or inferred solely from the fact that the promise was not performed.~~

~~[(g)] (H) (1) A person convicted of theft of property or services with a value of \$500 or more is guilty of a felony and:~~

~~(i) is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both; and~~

~~(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~(2) Except as provided in paragraphs (3) and (4) of this subsection, a person convicted of theft of property or services with a value of less than \$500, is guilty of a misdemeanor and:~~

~~(i) is subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or both; and~~

~~(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~(3) A person convicted of theft of property or services with a value of less than \$100 is guilty of a misdemeanor and:~~

~~(i) is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both; and~~

~~(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~(4) Subject to paragraph (5) of this subsection, a person who has two or more prior convictions under this subtitle and who is convicted of theft of property or services with a value of less than \$500 under paragraph (2) of this subsection is guilty of a misdemeanor and:~~

~~(i) is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both; and~~

~~(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~(5) The court may not impose the penalties under paragraph (4) of this subsection unless the State's Attorney serves notice on the defendant or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least 15 days before trial that:~~

~~(i) the State will seek the penalties under paragraph (4) of this subsection; and~~

~~(ii) lists the alleged prior convictions.~~

~~[(h)] (I) (1) If a person is convicted of a violation under this section for failure to pay for motor fuel after the motor fuel was dispensed into a vehicle, the court shall:~~

~~(i) notify the person that the person's driver's license may be suspended under § 16-206.1 of the Transportation Article; and~~

~~(ii) notify the Motor Vehicle Administration of the violation.~~

~~(2) The Chief Judge of the District Court and the Administrative Office of the Courts, in conjunction with the Motor Vehicle Administration, shall establish uniform procedures for reporting a violation under this subsection.~~

~~[(i)] (J) An action or prosecution for a violation of subsection [(g)(2) or (3)] (H)(2) OR (3) of this section shall be commenced within 2 years after the commission of the crime.~~

~~[(j)] (K) A person who violates this section by use of an interactive computer service may be prosecuted, indicted, tried, and convicted in any county in which the victim resides or the electronic communication originated or terminated.~~

8-407.

(a) This section applies to a **WRITTEN CONTRACT OR** written lease [notwithstanding that] **FOR A LEASED OR RENTED GOOD OR THING OF VALUE WHETHER OR NOT** the **CONTRACT OR** lease contains an option to purchase the good or thing of value if the lease:

(1) does not exceed a period of 6 months; and

(2) is [not for nominal consideration] **FOR A GOOD OR THING WITH A VALUE OF \$1,500 OR MORE.**

(b) A person may not fraudulently convert to the person's own use a good or thing of value received under a written contract or written lease entered into for the purpose of renting or leasing things for valuable consideration.

(c) The failure to return the good or thing of value to the possession of, or account for the good or thing of value with, the person who delivered the good or thing of value at the time or in the manner described in the written contract or written lease is prima facie evidence of intent to fraudulently convert the good or thing of value.

(d) (1) A person may not be prosecuted under this section if within 10 days after a written demand for the return of the good or thing of value is mailed by certified United States mail, return receipt requested, to the person who received the good or thing of value at the last address known to the person who delivered the good

or thing of value, the person returns the good or thing of value to the possession of, or accounts for the good or thing of value with, the person who delivered the good or thing of value.

(2) A prosecution may not be started until 10 days after a written demand described in paragraph (1) of this subsection is mailed.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 60 days or a fine not exceeding \$1,000 or both.

(f) A person who violates this section shall restore the good or thing of value converted to the person's own use or pay the full value to the owner or the person who delivered the good or thing of value.

(G) (1) A PROSECUTION UNDER THIS SECTION DOES NOT PRECLUDE PROSECUTION FOR THEFT UNDER § 7-104 OF THIS ARTICLE.

(2) IF A PERSON IS CONVICTED UNDER § 7-104 OF THIS ARTICLE AND THIS SECTION FOR THE SAME ACT OR TRANSACTION, THE CONVICTION UNDER THIS SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE CONVICTION UNDER § 7-104 OF THIS ARTICLE.

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

Approved by the Governor, May 7, 2009.

Chapter 219

(House Bill 501)

AN ACT concerning

Criminal Law - ~~Theft~~ Fraudulent Conversion of Rental Property

FOR the purpose of ~~prohibiting a person from hiring or leasing personal property or equipment from another person who is in lawful possession of the personal property or equipment with intent to defraud that person of the rental due under the rental agreement; prohibiting a person from abandoning or willfully refusing to redeliver personal property as required under a rental agreement without the consent of the lessor or the lessor's agent with intent to defraud the lessor or the lessor's agent; establishing penalties for a violation of this Act; making technical corrections;~~ clarifying that the prohibition against fraudulent

conversion of rental property applies to a written contract or written lease for a leased or rented good or thing of value whether or not the contract or lease contains an option to purchase the good or thing of value if the contract or lease meets certain requirements; providing that the item or thing of value have a certain value; providing that a prosecution under the prohibition against fraudulent conversion of rental property does not preclude prosecution for theft; requiring a conviction for fraudulent conversion of rental property to merge for sentencing purposes into a conviction for theft under certain circumstances; and generally relating to the ~~theft~~ fraudulent conversion of rental property.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section ~~7-104~~ 8-407
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

~~7-104.~~

~~(a) A person may not willfully or knowingly obtain or exert unauthorized control over property, if the person:~~

~~(1) intends to deprive the owner of the property;~~

~~(2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or~~

~~(3) uses, conceals, or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property.~~

~~(b) A person may not obtain control over property by willfully or knowingly using deception, if the person:~~

~~(1) intends to deprive the owner of the property;~~

~~(2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or~~

~~(3) uses, conceals, or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property.~~

~~(c) (1) A person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, if the person:~~

~~(i) intends to deprive the owner of the property;~~

~~(ii) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or~~

~~(iii) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.~~

~~(2) In the case of a person in the business of buying or selling goods, the knowledge required under this subsection may be inferred if:~~

~~(i) the person possesses or exerts control over property stolen from more than one person on separate occasions;~~

~~(ii) during the year preceding the criminal possession charged, the person has acquired stolen property in a separate transaction; or~~

~~(iii) being in the business of buying or selling property of the sort possessed, the person acquired it for a consideration that the person knew was far below a reasonable value.~~

~~(3) In a prosecution for theft by possession of stolen property under this subsection, it is not a defense that:~~

~~(i) the person who stole the property has not been convicted, apprehended, or identified;~~

~~(ii) the defendant stole or participated in the stealing of the property;~~

~~(iii) the property was provided by law enforcement as part of an investigation, if the property was described to the defendant as being obtained through the commission of theft; or~~

~~(iv) the stealing of the property did not occur in the State.~~

~~(4) Unless the person who criminally possesses stolen property participated in the stealing, the person who criminally possesses stolen property and a person who has stolen the property are not accomplices in theft for the purpose of any rule of evidence requiring corroboration of the testimony of an accomplice.~~

~~(d) A person may not obtain control over property knowing that the property was lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature or amount of the property, if the person:~~

~~(1) knows or learns the identity of the owner or knows, is aware of, or learns of a reasonable method of identifying the owner;~~

~~(2) fails to take reasonable measures to restore the property to the owner; and~~

~~(3) intends to deprive the owner permanently of the use or benefit of the property when the person obtains the property or at a later time.~~

~~(e) A person may not obtain the services of another that are available only for compensation:~~

~~(1) by deception; or~~

~~(2) with knowledge that the services are provided without the consent of the person providing them.~~

~~(F) A PERSON MAY NOT:~~

~~(1) HIRE OR LEASE PERSONAL PROPERTY OR EQUIPMENT FROM ANOTHER PERSON WHO IS IN LAWFUL POSSESSION OF THE PERSONAL PROPERTY OR EQUIPMENT WITH INTENT TO DEFRAUD THAT PERSON OF THE RENTAL DUE UNDER THE RENTAL AGREEMENT; OR~~

~~(2) ABANDON OR WILLFULLY REFUSE TO REDELIVER PERSONAL PROPERTY AS REQUIRED UNDER A RENTAL AGREEMENT WITHOUT THE CONSENT OF THE LESSOR OR THE LESSOR'S AGENT WITH INTENT TO DEFRAUD THE LESSOR OR THE LESSOR'S AGENT.~~

~~[(f)] (G) Under this section, an offender's intention or knowledge that a promise would not be performed may not be established by or inferred solely from the fact that the promise was not performed.~~

~~[(g)] (H) (1) A person convicted of theft of property or services with a value of \$500 or more is guilty of a felony and:~~

~~(i) is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both; and~~

~~(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~(2) Except as provided in paragraphs (3) and (4) of this subsection, a person convicted of theft of property or services with a value of less than \$500, is guilty of a misdemeanor and:~~

~~(i) is subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or both; and~~

~~(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~(3) A person convicted of theft of property or services with a value of less than \$100 is guilty of a misdemeanor and:~~

~~(i) is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both; and~~

~~(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~(4) Subject to paragraph (5) of this subsection, a person who has two or more prior convictions under this subtitle and who is convicted of theft of property or services with a value of less than \$500 under paragraph (2) of this subsection is guilty of a misdemeanor and:~~

~~(i) is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both; and~~

~~(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~(5) The court may not impose the penalties under paragraph (4) of this subsection unless the State's Attorney serves notice on the defendant or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least 15 days before trial that:~~

~~(i) the State will seek the penalties under paragraph (4) of this subsection; and~~

~~(ii) lists the alleged prior convictions.~~

~~[(h)](1) (1) If a person is convicted of a violation under this section for failure to pay for motor fuel after the motor fuel was dispensed into a vehicle, the court shall:~~

~~(i) notify the person that the person's driver's license may be suspended under § 16-206.1 of the Transportation Article; and~~

~~(ii) notify the Motor Vehicle Administration of the violation.~~

~~(2) The Chief Judge of the District Court and the Administrative Office of the Courts, in conjunction with the Motor Vehicle Administration, shall establish uniform procedures for reporting a violation under this subsection.~~

~~[(i)] (J) An action or prosecution for a violation of subsection [(g)(2) or (3)] (H)(2) OR (3) of this section shall be commenced within 2 years after the commission of the crime.~~

~~[(j)] (K) A person who violates this section by use of an interactive computer service may be prosecuted, indicted, tried, and convicted in any county in which the victim resides or the electronic communication originated or terminated.~~

8-407.

(a) This section applies to a **WRITTEN CONTRACT OR** written lease [notwithstanding that] **FOR A LEASED OR RENTED GOOD OR THING OF VALUE WHETHER OR NOT** the **CONTRACT OR** lease contains an option to purchase the good or thing of value if the lease:

(1) does not exceed a period of 6 months; and

(2) is ~~not for nominal consideration~~ **FOR A GOOD OR THING WITH A VALUE OF \$1,500 OR MORE.**

(b) A person may not fraudulently convert to the person's own use a good or thing of value received under a written contract or written lease entered into for the purpose of renting or leasing things for valuable consideration.

(c) The failure to return the good or thing of value to the possession of, or account for the good or thing of value with, the person who delivered the good or thing of value at the time or in the manner described in the written contract or written lease is prima facie evidence of intent to fraudulently convert the good or thing of value.

(d) (1) A person may not be prosecuted under this section if within 10 days after a written demand for the return of the good or thing of value is mailed by certified United States mail, return receipt requested, to the person who received the good or thing of value at the last address known to the person who delivered the good or thing of value, the person returns the good or thing of value to the possession of, or accounts for the good or thing of value with, the person who delivered the good or thing of value.

(2) A prosecution may not be started until 10 days after a written demand described in paragraph (1) of this subsection is mailed.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 60 days or a fine not exceeding \$1,000 or both.

(f) A person who violates this section shall restore the good or thing of value converted to the person's own use or pay the full value to the owner or the person who delivered the good or thing of value.

(G) (1) A PROSECUTION UNDER THIS SECTION DOES NOT PRECLUDE PROSECUTION FOR THEFT UNDER § 7-104 OF THIS ARTICLE.

(2) IF A PERSON IS CONVICTED UNDER § 7-104 OF THIS ARTICLE AND THIS SECTION FOR THE SAME ACT OR TRANSACTION, THE CONVICTION UNDER THIS SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE CONVICTION UNDER § 7-104 OF THIS ARTICLE.

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

Approved by the Governor, May 7, 2009.

Chapter 220

(Senate Bill 204)

AN ACT concerning

State Board of Public Accountancy – Required Peer Reviews

FOR the purpose of expanding the kinds of services performed by a licensed certified public accountant that require a system review or an engagement review; repealing a requirement for a review report for certain licensed certified public accountants; requiring, as a condition for serving as a team captain of a system review, a peer reviewer to have and maintain ownership or management of a firm or comparable responsibility; repealing and adding certain defined terms; and generally relating to system and engagement reviews in connection with the practice of certified public accountancy.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2-401(b), 2-4A-01, 2-4A-04, and 2-4A-05
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Occupations and Professions

2–401.

(b) A firm that does not have an office in this State may perform attest services as defined in § 2–101(c)(2) or § [2–4A–01(c)] **2–4A–01(B)** of this title for a client with a home office in this State without a permit if the firm:

(1) meets the application and peer review requirements under §§ 2–402, 2–402.1, 2–403, and 2–4A–02 of this title; and

(2) performs services through an individual with a practice privilege under § 2–321 of this title.

2–4A–01.

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

(b) [“Adverse report” means a report of a peer reviewer that indicates a severe deficiency in quality control or professional standards in the individual or firm being reviewed.

(c)] “Compilation” means a presentation of information in the form of a financial statement that:

(1) is performed in accordance with the statements on standards for accounting and review services of the American Institute of Certified Public Accountants; and

(2) is the representation of management without an undertaking on the part of the preparer to express any assurance on the statements.

[(d)] (C) “Engagement review” means a peer review that evaluates whether there is a reasonable basis for expressing limited assurance that:

(1) financial statements with which the individual or firm is associated conform in all material respects with professional standards; and

(2) reports and internal documentation of the work performed by the individual or firm conforms with professional standards.

(D) **“FAIL” MEANS, IN CONNECTION WITH A REPORT OF A PEER REVIEWER, ONE OR MORE SIGNIFICANT DEFICIENCIES IN PERFORMING OR**

REPORTING IN CONFORMITY WITH PROFESSIONAL STANDARDS IN THE INDIVIDUAL OR THE FIRM BEING REVIEWED.

[(e) “Modified report” means a report of a peer reviewer that indicates a significant deficiency in quality control or professional standards in the individual or firm being reviewed.]

[(f)] **(E)** “Peer review” means a study, appraisal, or review of one or more aspects of the professional work of an individual or firm performed by a person licensed as a certified public accountant.

(F) **“REPORT INDICATING PASS WITH DEFICIENCIES” MEANS A REPORT OF A PEER REVIEWER THAT INDICATES ~~A SIGNIFICANT DEFICIENCY IN QUALITY CONTROL OR~~ ONE OR MORE DEFICIENCIES IN PERFORMING OR REPORTING IN CONFORMITY WITH PROFESSIONAL STANDARDS IN THE INDIVIDUAL OR FIRM BEING REVIEWED.**

(g) [“Report review” means a peer review that evaluates whether financial statements and related accountant’s reports prepared by the individual or firm being reviewed appear to conform with professional standards in all material respects.

(h)] “Review” means the analysis of a financial statement that:

(1) is performed in accordance with the statements on standards for accounting and review services of the American Institute of Certified Public Accountants; and

(2) provides a licensee with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statement in order for it to be in accordance with generally accepted accounting principles, or, if applicable, with any other comprehensive basis of accounting.

[(i)] **(H)** “System review” means a peer review evaluating whether there is reasonable assurance that:

(1) the system of quality control of the individual or firm being reviewed is designed and operated in such a manner as to meet professional standards;

(2) financial statements with which the licensee or firm is associated conform in all material respects with professional standards; and

(3) reports and internal documentation of the work performed by the licensee or firm conforms with professional standards.

(a) A system review is required for a licensee or permit holder that performs any of the following services:

(1) engagements governed by the Statements on Auditing Standards of the American Institute of Certified Public Accountants; or

(2) ENGAGEMENTS GOVERNED BY THE GOVERNMENT AUDITING STANDARDS ISSUED BY THE U.S. GOVERNMENT ACCOUNTABILITY OFFICE;

[(2)] (3) examinations of prospective financial information under:

(i) the Statements on Standards for Attestation Engagements of the American Institute of Certified Public Accountants; or

(ii) the government auditing standards issued by the U.S. Government Accountability Office; **OR**

(4) AUDITS OF ISSUERS NOT REGISTERED WITH THE U.S. SECURITIES AND EXCHANGE COMMISSION THAT ARE PERFORMED UNDER STANDARDS OF THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD.

(b) An engagement review is required for a licensee or permit holder not required to have a system review that performs any of the following services:

[(1) engagements in accordance with the Statements on Standards for Accounting and Review Services of the American Institute of Certified Public Accountants; or

(2) review engagements in accordance with the Statements on Standards for Attestation Engagements of the American Institute of Certified Public Accountants.]

(1) REVIEW OF HISTORICAL FINANCIAL STATEMENTS IN ACCORDANCE WITH THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS;

(2) COMPILATION OF HISTORICAL FINANCIAL STATEMENTS WITH DISCLOSURES PERFORMED UNDER THE STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS;

(3) COMPILATION OF HISTORICAL FINANCIAL STATEMENTS THAT OMIT SUBSTANTIALLY ALL DISCLOSURES PERFORMED UNDER THE

STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS; OR

(4) ENGAGEMENTS PERFORMED UNDER THE STATEMENTS ON STANDARDS FOR ATTESTATION ENGAGEMENTS OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OTHER THAN THE EXAMINATION OF PROSPECTIVE FINANCIAL STATEMENTS.

[(c) A report review is required for a licensee or permit holder that is not required to have an engagement review and issues reports only on compilations omitting all disclosures.]

2-4A-05.

(a) Prior to conducting a peer review, an individual must be approved by the Board.

(b) In order to receive approval from the Board, a peer reviewer shall:

(1) have and maintain an active license as a certified public accountant in this or any other state;

(2) possess a level of knowledge of applicable professional standards acceptable to the Board;

(3) possess at least 5 years recent experience in the practice of public accounting;

(4) [have and maintain ownership or management of a firm, or comparable responsibility;

(5)] have received [an unmodified] A **PASSING** report on the most recent peer review of the prospective peer reviewer; and

[(6)] (5) complete an appropriate training course as determined by the Board.

(C) IN ORDER TO SERVE AS A TEAM CAPTAIN OF A SYSTEM REVIEW, A PEER REVIEWER MUST HAVE AND MAINTAIN OWNERSHIP OR MANAGEMENT OF A FIRM OR COMPARABLE RESPONSIBILITY.

[(c)] (D) A peer reviewer shall have no connection to the licensee or permit holder being reviewed that might impair the peer reviewer's independence.

[(d)] (E) A peer reviewer shall:

(1) prepare a report of findings in accordance with the standards for performing and reporting on peer reviews of the American Institute of Certified Public Accountants; and

(2) maintain the report for a period of 3 years.

[(e)] (F) A peer reviewer shall provide a copy of the report to the Board only if the licensee or permit holder being reviewed has:

(1) been directed to take corrective action and has failed to satisfy the peer reviewer that such action has been completed in a timely manner;

(2) received a second consecutive [modified report] **REPORT INDICATING PASS WITH DEFICIENCIES**; or

(3) received [an adverse] **A FAILING** report.

[(f)] (G) A peer reviewer shall comply with all Board regulations and directives regarding the peer review process.

[(g)] (H) The Board may revoke its approval of a peer reviewer under this section if the peer reviewer:

(1) violates any provision of this title;

(2) violates any regulation adopted by the Board; or

(3) is sanctioned by any state board of accountancy or any unit of State or federal government.

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

Approved by the Governor, May 7, 2009.

Chapter 221

(Senate Bill 209)

AN ACT concerning

State Highway Administration – Snow Removal – Use of Farm Trucks

FOR the purpose of prohibiting a person from making a certain claim for a refund of motor fuel tax for motor fuel used to operate a farm truck under certain provisions of this Act; authorizing the State Highway Administration to request the use of certain farm trucks to assist in snow removal under certain circumstances; authorizing the owner of a farm truck to refuse to allow the Administration to use the farm truck; prohibiting the owner of a farm truck from allowing the farm truck to be used to assist in snow removal outside of the county in which the farm truck is registered; requiring the Administration to compensate the owner of a farm truck that is used by the Administration for snow removal; providing that the provisions of this Act apply only if a farm truck meets certain minimum requirements; authorizing the Administration to adopt certain regulations; defining certain terms; and generally relating to the use of farm trucks by the State Highway Administration for snow removal.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 13-901(f)(1)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article – Tax – General

Section 13-901(f)(3)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 13-1030

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 8-602

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 13-921

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

13–901.

(f) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A claim for refund of motor fuel tax may be filed by a claimant who pays the tax on:

(i) aviation fuel, as defined in § 9–101 of this article, that is:

1. dispensed to aircraft by an aircraft manufacturing company located in the State; or

2. used:

A. by a person who engages in agricultural activities; and

B. in an aircraft that is used for agricultural purposes at least 70% of the time that the aircraft is used; or

(ii) motor fuel, as defined in § 9–101 of this article, that:

1. is used to operate:

A. a bus that is used only in the operation of a transportation system of a political subdivision of the State to transport the public on regular schedules between fixed termini, as defined in Title 11 of the Transportation Article;

B. farm equipment that is used for an agricultural purpose and is not registered to operate on a public highway;

C. fire or rescue apparatus or vehicles by a volunteer fire company or nonprofit volunteer rescue company incorporated in the State;

D. an internal combustion engine that is installed permanently at a fixed location; or

E. a vehicle that is owned and used by a Maryland chapter of the American Red Cross or a bona fide unit of a national veterans' organization;

2. is bought by:

A. the United States or a unit of the United States government;

B. the Department of General Services for use by State agencies; or

C. a person who is required to pay a tax on the same fuel to another state;

3. except for any operation of a motor vehicle on a public highway in the State, is used for a commercial purpose, including:

A. the operation of a vessel used only for commercial purposes;

B. commercial cleaning; or

C. commercial dyeing;

4. is used in any of the following vehicles that have pumping or other equipment mechanically or hydraulically driven by the engine that propels the vehicle:

A. a concrete mixing motor vehicle or concrete pump truck;

B. a motor fuel delivery vehicle;

C. a solid waste compacting vehicle;

D. a well-drilling vehicle; or

E. farm equipment registered as a vehicle for highway use that is designed or adapted solely and used exclusively for bulk farm spreading of agriculture liming materials, chemicals, or fertilizer;

5. is used by a system of transportation based in the State, in a vehicle that is used to provide transportation to elderly or low income individuals, or individuals with disabilities, if the system is operated by a nonprofit organization for purposes relating to the charge for which the nonprofit organization was established and the nonprofit organization:

A. is exempt for federal income tax purposes under § 501(c) of the Internal Revenue Code;

B. is funded to provide transportation to elderly or low income individuals, or individuals with disabilities;

C. receives part of its operating funding from the Maryland Department of Transportation or the Maryland Department of Health and Mental Hygiene;

D. has stated in its charter or bylaws that operating transportation services for elderly or low income individuals, or individuals with disabilities, is one of the purposes for which it was established; and

E. is actively operating a system of transportation for elderly or low income individuals, or individuals with disabilities; or

6. is lost as a result of fire, collision, or other casualty, except for loss in ordinary transportation and storage.

(3) A PERSON MAY NOT MAKE A CLAIM FOR A REFUND OF MOTOR FUEL TAX UNDER PARAGRAPH (1)(II)1B OF THIS SUBSECTION FOR MOTOR FUEL USED TO OPERATE A FARM TRUCK UNDER THE PROVISIONS OF § 8-602(C) OF THE TRANSPORTATION ARTICLE.

13-1030.

(a) A person who makes or assists another person to make a false claim for refund of motor fuel tax is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000 or imprisonment in the county jail not exceeding 6 months or both.

(b) A person who fraudulently obtains or assists another person to fraudulently obtain a refund of motor fuel tax is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000 or imprisonment in the county jail not exceeding 6 months or both.

Article – Transportation

8-602.

(a) The Administration shall:

(1) Keep all State highways reasonably clear of brush, snow, and other debris; and

(2) Remove from a State highway, as soon as its presence is made known to the Administration, any animal carcass that will impede traffic or substantially endanger the safety of the traveling public.

(b) (1) In removing snow from highways in Garrett County, the Administration:

(i) Shall avoid blocking completely the entrance to any home or business adjacent to the highway; and

(ii) May not throw or pile snow against any building in any way that interferes with the use of the building by its owner or occupant.

(2) If, in unusual circumstances, the entrance to any home or business is blocked in the course of snow removal, the Administration shall unblock the entrance within a reasonable time.

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

(II) "FARM TRUCK" HAS THE MEANING STATED IN § 13-921 OF THIS ARTICLE.

(III) "LOCAL STATE OF EMERGENCY" MEANS A LOCAL STATE OF EMERGENCY DECLARED UNDER § 14-111 OF THE PUBLIC SAFETY ARTICLE.

(IV) "STATE OF EMERGENCY" MEANS A STATE OF EMERGENCY DECLARED UNDER § 14-107 OF THE PUBLIC SAFETY ARTICLE.

(2) IN THE EVENT OF A STATE OF EMERGENCY OR A LOCAL STATE OF EMERGENCY, INCLUDING SNOW, HURRICANE, WINDSTORM, OR A SIMILAR EVENT, THE ADMINISTRATION MAY REQUEST THAT THE OWNER OF A FARM TRUCK ALLOW THE ADMINISTRATION TO USE THE FARM TRUCK TO ASSIST IN SNOW REMOVAL.

(3) THE OWNER OF A FARM TRUCK MAY REFUSE A REQUEST MADE UNDER PARAGRAPH (2) OF THIS SUBSECTION TO ALLOW THE ADMINISTRATION TO USE THE FARM TRUCK.

(4) THE OWNER OF A FARM TRUCK MAY NOT ALLOW THE FARM TRUCK TO BE USED UNDER THIS SUBSECTION TO ASSIST IN SNOW REMOVAL OUTSIDE OF THE COUNTY IN WHICH THE FARM TRUCK IS REGISTERED.

(5) THE ADMINISTRATION SHALL COMPENSATE THE OWNER OF A FARM TRUCK THAT IS USED BY THE ADMINISTRATION FOR SNOW REMOVAL.

~~(5)~~ (6) THIS SUBSECTION APPLIES ONLY IF THE FARM TRUCK MEETS THE FOLLOWING MINIMUM REQUIREMENTS:

(I) THE FARM TRUCK PASSED ITS MOST RECENT INSPECTION UNDER § 23-302 OF THIS ARTICLE;

(II) THE OPERATOR OF THE FARM TRUCK POSSESSES A VALID COMMERCIAL DRIVER'S LICENSE AND A CURRENT MEDICAL CARD;

(III) THE OWNER OF THE FARM TRUCK MEETS MINIMUM INSURANCE REQUIREMENTS; AND

(IV) THE FARM TRUCK USES ULTRA-LOW SULFUR DIESEL FUEL WHILE BEING USED TO ASSIST THE ADMINISTRATION IN SNOW REMOVAL.

~~(5) (6) (7)~~ THE ADMINISTRATION MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION.

13-921.

(a) In this section, "farm truck" means a farm vehicle that:

(1) Is a Class E (truck) vehicle; and

(2) Has a shipping weight of its chassis and battery, as certified by the manufacturer, of more than 3/4 ton.

(b) On application, the Administration shall issue a Class E "farm truck registration" to any applicant who certifies:

(1) That the applicant is a farmer; and

(2) That the vehicle for which the application is made is a farm truck, specifying its proposed use.

(c) For each vehicle registered under this section, the annual registration fee is based on the maximum gross vehicle weight, as follows:

Maximum Gross Weight Limit (in Pounds)	Fee (per 1,000 Pounds or Fraction Thereof)
10,000 (minimum) – 40,000	\$5.00
40,001 – 65,000 (maximum)	\$5.25

(d) [A] **EXCEPT AS PROVIDED IN § 8-602(C) OF THIS ARTICLE**, A vehicle registered under this section may not be used:

(1) [for] **FOR** hire except to haul farm products for another [farmer.]
FARMER; OR

[(e) A vehicle registered under this section may not be used]

(2) [in] **IN** any manner other than as a farm truck.

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

Approved by the Governor, May 7, 2009.

Chapter 222

(Senate Bill 211)

AN ACT concerning

Minority Business Enterprise Program – Participation by Race or Gender

FOR the purpose of authorizing a woman who is also a member of an ethnic or racial minority group to be certified in that category in addition to the gender category; authorizing a woman-owned business to participate in certain procurement contracts as either a woman-owned business or a business owned by a member of an ethnic or racial minority group for certain purposes within the Minority Business Enterprise Program; ~~altering a provision relating to the Department of Transportation and the application of certain requirements to certain of its procurement contracts~~; altering a certain definition; and generally relating to participation in the Minority Business Enterprise Program.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 11–101(e) and (m)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–301(i) and 14–302(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

11–101.

(e) (1) “Construction” means the process of building, altering, improving, or demolishing an improvement to real property.

(2) "Construction" includes any major work necessary to repair, prevent damage to, or sustain existing components of an improvement to real property.

(3) "Construction" does not include the maintenance or routine operation of an existing improvement to real property, or activities related to an energy performance contract.

(m) (1) "Procurement" means the process of:

(i) leasing real or personal property as lessee; or

(ii) buying or otherwise obtaining supplies, services, construction, construction related services, architectural services, engineering services, or services provided under an energy performance contract.

(2) "Procurement" includes the solicitation and award of procurement contracts and all phases of procurement contract administration.

14-301.

(i) (1) Subject to paragraphs (2) and (3) of this subsection, "socially and economically disadvantaged individual" means a citizen or lawfully admitted permanent resident of the United States who is:

(i) in any of the following minority groups:

1. African American – an individual having origins in any of the black racial groups of Africa;

2. American Indian/Native American – an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which the individual claims to be a part, but does not include an individual of Eskimo or Aleutian origin;

3. Asian – an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the person claims to be a part;

4. Hispanic – an individual of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of

race, and who is regarded as such by the community of which the person claims to be a part;

5. physically or mentally disabled – an individual who has an impairment that substantially limits one or more major life activity, who is regarded generally by the community as having such a disability, and whose disability has substantially limited his or her ability to engage in competitive business; or

6. women – a woman, regardless of race or ethnicity[, unless she is also a member of an ethnic or racial minority group and elects that category in lieu of the gender category], ~~BUT IF SHE IS ALSO A MEMBER OF AN ETHNIC OR RACIAL MINORITY GROUP, A WOMAN MAY BE CERTIFIED IN THAT CATEGORY IN ADDITION TO THE GENDER CATEGORY~~; or

(ii) otherwise found by the certification agency to be a socially and economically disadvantaged individual.

(2) There is a rebuttable presumption that an individual who is a member of a minority group under paragraph (1)(i) of this subsection is socially and economically disadvantaged.

(3) An individual whose personal net worth exceeds \$1,500,000 may not be found to be economically disadvantaged.

14–302.

(a) (1) Except for leases of real property and except as provided in paragraphs (2) and (3) of this subsection, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

(i) a minimum of 7% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American–owned businesses;

(ii) a minimum of 10% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women–owned businesses; and

(iii) an overall minimum of 25% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from all certified minority business enterprises.

(2) (i) Except as provided in paragraph (3) of this subsection, in procurement for construction, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

1. a minimum of 7% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American-owned businesses;

2. a minimum of 10% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women-owned businesses; and

3. an overall minimum of 25% of the unit's total dollar value of construction contracts is to be made directly or indirectly from all certified minority business enterprises.

(ii) The unit shall:

1. consider the practical severability of the construction projects; and

2. implement a program that will enable the unit to evaluate each contract to determine the appropriateness of the goal.

(3) With respect to the Maryland Department of Transportation, the provisions of paragraph (2)(i) of this subsection shall apply only to ~~construction~~ **PROCUREMENT** contracts in excess of \$50,000.

(4) (I) A WOMAN WHO IS ALSO A MEMBER OF AN ETHNIC OR RACIAL MINORITY GROUP MAY BE CERTIFIED IN THAT CATEGORY IN ADDITION TO THE GENDER CATEGORY.

(II) FOR PURPOSES OF ACHIEVING THE GOALS IN THIS SUBSECTION, A CERTIFIED MINORITY BUSINESS ENTERPRISE MAY PARTICIPATE IN A PROCUREMENT CONTRACT AND BE COUNTED AS A WOMAN-OWNED BUSINESS, OR AS A BUSINESS OWNED BY A MEMBER OF AN ETHNIC OR RACIAL GROUP, BUT NOT BOTH, IF THE BUSINESS HAS BEEN CERTIFIED IN BOTH CATEGORIES.

~~**(II) THE SPECIFIC CATEGORY USED FOR PARTICIPATION AS A CERTIFIED MINORITY BUSINESS ENTERPRISE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MUST BE IDENTIFIED AT THE TIME THE BID OR PROPOSAL IS SUBMITTED TO THE PROCURING AGENCY.**~~

[(4)] (5) Each unit shall meet the maximum feasible portion of the goals stated in paragraphs (1), (2), and (3) of this subsection by using race-neutral measures to facilitate minority business enterprise participation in the procurement process.

[(5)] (6) To achieve the result specified in paragraph (1) or (2) of this subsection, a contractor, including a contractor that is a certified minority business enterprise, shall:

(i) identify specific work categories appropriate for subcontracting;

(ii) at least 10 days before bid opening, solicit minority business enterprises, through written notice that:

1. describes the categories of work under item (i) of this subparagraph; and

2. provides information regarding the type of work being solicited and specific instructions on how to submit a bid;

(iii) attempt to make personal contact with the firms in item (ii) of this paragraph;

(iv) assist minority business enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

(v) in order to publicize contracting opportunities to minority business enterprises, attend prebid meetings or other meetings scheduled by the unit; and

(vi) upon acceptance of a bid, provide the unit with a list of minority businesses with whom the contractor negotiated, including price quotes from minority and nonminority firms.

[(6)] (7) (i) The unit shall make a finding whether the contractor complied, in good faith, with paragraph **[(5)] (6)** of this subsection.

(ii) If the unit finds the contractor complied with paragraph **[(5)] (6)** of this subsection, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.

[(7)] (8) If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § 14-301(i)(3) of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

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

Approved by the Governor, May 7, 2009.

Chapter 223

(House Bill 641)

AN ACT concerning

Minority Business Enterprise Program – Participation by Race or Gender

FOR the purpose of authorizing a woman who is also a member of an ethnic or racial minority group to be certified in that category in addition to the gender category; authorizing a woman-owned business to participate in certain procurement contracts as either a woman-owned business or a business owned by a member of an ethnic or racial minority group for certain purposes within the Minority Business Enterprise Program; ~~altering a provision relating to the Department of Transportation and the application of certain requirements to certain of its procurement contracts~~; altering a certain definition; and generally relating to participation in the Minority Business Enterprise Program.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 11-101(e) and (m)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14-301(i) and 14-302(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

11–101.

(e) (1) “Construction” means the process of building, altering, improving, or demolishing an improvement to real property.

(2) “Construction” includes any major work necessary to repair, prevent damage to, or sustain existing components of an improvement to real property.

(3) “Construction” does not include the maintenance or routine operation of an existing improvement to real property, or activities related to an energy performance contract.

(m) (1) “Procurement” means the process of:

(i) leasing real or personal property as lessee; or

(ii) buying or otherwise obtaining supplies, services, construction, construction related services, architectural services, engineering services, or services provided under an energy performance contract.

(2) “Procurement” includes the solicitation and award of procurement contracts and all phases of procurement contract administration.

14–301.

(i) (1) Subject to paragraphs (2) and (3) of this subsection, “socially and economically disadvantaged individual” means a citizen or lawfully admitted permanent resident of the United States who is:

(i) in any of the following minority groups:

1. African American – an individual having origins in any of the black racial groups of Africa;

2. American Indian/Native American – an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native

American community of which the individual claims to be a part, but does not include an individual of Eskimo or Aleutian origin;

3. Asian – an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the person claims to be a part;

4. Hispanic – an individual of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race, and who is regarded as such by the community of which the person claims to be a part;

5. physically or mentally disabled – an individual who has an impairment that substantially limits one or more major life activity, who is regarded generally by the community as having such a disability, and whose disability has substantially limited his or her ability to engage in competitive business; or

6. women – a woman, regardless of race or ethnicity[, unless she is also a member of an ethnic or racial minority group and elects that category in lieu of the gender category], ~~BUT IF SHE IS ALSO A MEMBER OF AN ETHNIC OR RACIAL MINORITY GROUP, A WOMAN MAY BE CERTIFIED IN THAT CATEGORY IN ADDITION TO THE GENDER CATEGORY~~; or

(ii) otherwise found by the certification agency to be a socially and economically disadvantaged individual.

(2) There is a rebuttable presumption that an individual who is a member of a minority group under paragraph (1)(i) of this subsection is socially and economically disadvantaged.

(3) An individual whose personal net worth exceeds \$1,500,000 may not be found to be economically disadvantaged.

14–302.

(a) (1) Except for leases of real property and except as provided in paragraphs (2) and (3) of this subsection, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

(i) a minimum of 7% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American–owned businesses;

(ii) a minimum of 10% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority

business enterprises classified by the certification agency as women-owned businesses; and

(iii) an overall minimum of 25% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from all certified minority business enterprises.

(2) (i) Except as provided in paragraph (3) of this subsection, in procurement for construction, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

1. a minimum of 7% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American-owned businesses;

2. a minimum of 10% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women-owned businesses; and

3. an overall minimum of 25% of the unit's total dollar value of construction contracts is to be made directly or indirectly from all certified minority business enterprises.

(ii) The unit shall:

1. consider the practical severability of the construction projects; and

2. implement a program that will enable the unit to evaluate each contract to determine the appropriateness of the goal.

(3) With respect to the Maryland Department of Transportation, the provisions of paragraph (2)(i) of this subsection shall apply only to ~~construction~~ **PROCUREMENT** contracts in excess of \$50,000.

(4) (I) A WOMAN WHO IS ALSO A MEMBER OF AN ETHNIC OR RACIAL MINORITY GROUP MAY BE CERTIFIED IN THAT CATEGORY IN ADDITION TO THE GENDER CATEGORY.

(II) FOR PURPOSES OF ACHIEVING THE GOALS IN THIS SUBSECTION, A CERTIFIED MINORITY BUSINESS ENTERPRISE MAY PARTICIPATE IN A PROCUREMENT CONTRACT AND BE COUNTED AS A WOMAN-OWNED BUSINESS, OR AS A BUSINESS OWNED BY A MEMBER OF AN ETHNIC OR RACIAL

GROUP, BUT NOT BOTH, IF THE BUSINESS HAS BEEN CERTIFIED IN BOTH CATEGORIES.

~~(H) THE SPECIFIC CATEGORY USED FOR PARTICIPATION AS A CERTIFIED MINORITY BUSINESS ENTERPRISE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MUST BE IDENTIFIED AT THE TIME THE BID OR PROPOSAL IS SUBMITTED TO THE PROCURING AGENCY.~~

[(4)] (5) Each unit shall meet the maximum feasible portion of the goals stated in paragraphs (1), (2), and (3) of this subsection by using race-neutral measures to facilitate minority business enterprise participation in the procurement process.

[(5)] (6) To achieve the result specified in paragraph (1) or (2) of this subsection, a contractor, including a contractor that is a certified minority business enterprise, shall:

(i) identify specific work categories appropriate for subcontracting;

(ii) at least 10 days before bid opening, solicit minority business enterprises, through written notice that:

1. describes the categories of work under item (i) of this subparagraph; and

2. provides information regarding the type of work being solicited and specific instructions on how to submit a bid;

(iii) attempt to make personal contact with the firms in item (ii) of this paragraph;

(iv) assist minority business enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

(v) in order to publicize contracting opportunities to minority business enterprises, attend prebid meetings or other meetings scheduled by the unit; and

(vi) upon acceptance of a bid, provide the unit with a list of minority businesses with whom the contractor negotiated, including price quotes from minority and nonminority firms.

[(6)] (7) (i) The unit shall make a finding whether the contractor complied, in good faith, with paragraph [(5)] (6) of this subsection.

(ii) If the unit finds the contractor complied with paragraph [(5)] (6) of this subsection, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.

[(7)] (8) If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § 14–301(i)(3) of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

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

Approved by the Governor, May 7, 2009.

Chapter 224

(Senate Bill 212)

AN ACT concerning

Environment – Green Building Council

FOR the purpose of expanding the responsibilities of the Green Building Council to include providing certain recommendations on how to expand green building; repealing certain obsolete dates; expanding the scope of certain recommendations that the Council is required to make relating to the implementation of a certain building program; and generally relating to the Green Building Council.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 4–809(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement

Section 4–809(f) and (g)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

4–809.

(a) There is a Maryland Green Building Council.

(f) [On or before September 30, 2007, the] **THE** Maryland Green Building Council shall:

(1) evaluate current high performance building technologies;

(2) provide recommendations concerning the most cost-effective green building technologies that the State might consider requiring in the construction of State facilities, including consideration of the additional cost associated with the various technologies; [and]

(3) PROVIDE RECOMMENDATIONS CONCERNING HOW TO EXPAND GREEN BUILDING IN THE STATE; AND

[(3)] (4) develop a list of building types for which green building technologies should not be applied, taking into consideration the operational aspects of facilities evaluated, and the utility of a waiver process where appropriate.

(g) On or before [November 1, 2007, and every year thereafter] **NOVEMBER 1 OF EACH YEAR**, the Council shall report to the Governor and the General Assembly, in accordance with § 2–1246 of the State Government Article, as to recommendations for the implementation plan for a [State] higher performance building program **IN THE STATE** and any progress that has been made during the preceding year.

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

Approved by the Governor, May 7, 2009.

AN ACT concerning

Environment – Green Building Council

FOR the purpose of expanding the responsibilities of the Green Building Council to include providing certain recommendations on how to expand green building; repealing certain obsolete dates; expanding the scope of certain recommendations that the Council is required to make relating to the implementation of a certain building program; and generally relating to the Green Building Council.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 4–809(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 4–809(f) and (g)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

4–809.

(a) There is a Maryland Green Building Council.

(f) [On or before September 30, 2007, the] **THE** Maryland Green Building Council shall:

(1) evaluate current high performance building technologies;

(2) provide recommendations concerning the most cost-effective green building technologies that the State might consider requiring in the construction of State facilities, including consideration of the additional cost associated with the various technologies; [and]

(3) PROVIDE RECOMMENDATIONS CONCERNING HOW TO EXPAND GREEN BUILDING IN THE STATE; AND

[(3)] (4) develop a list of building types for which green building technologies should not be applied, taking into consideration the operational aspects of facilities evaluated, and the utility of a waiver process where appropriate.

(g) On or before [November 1, 2007, and every year thereafter] **NOVEMBER 1 OF EACH YEAR**, the Council shall report to the Governor and the General Assembly, in accordance with § 2-1246 of the State Government Article, as to recommendations for the implementation plan for a [State] higher performance building program **IN THE STATE** and any progress that has been made during the preceding year.

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

Approved by the Governor, May 7, 2009.

Chapter 226

(Senate Bill 217)

AN ACT concerning

Natural Resources – Tree Services – Advertising

FOR the purpose of prohibiting a person from advertising certain tree services unless certain information is included in the advertisement; and generally relating to advertising and tree services.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5-423
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

5-423.

(a) A person may not: (1) solicit, advertise, or represent the person to the public as a tree expert, or assume to practice as a tree expert without having received a license; or (2) after having received the license and subsequently losing it by revocation or suspension continue to practice as a tree expert, or; (3) use the title or

abbreviation "L.T.E." or any other words, letters, or abbreviations tending to indicate that the person is a licensed tree expert or a tree expert without having received a license, or when the license has been revoked or suspended.

(b) If the owner of a tree employs any person to engage in the practice of a "licensed tree expert" as provided in § 5-415, the owner is not subject to this penalty.

(c) A PERSON MAY NOT ADVERTISE THAT THE PERSON CAN PROVIDE TREE SERVICES, INCLUDING TREATMENT, CARE, OR REMOVAL OF TREES, UNLESS THE ADVERTISEMENT INCLUDES:

(1) THE LICENSE NUMBER OF THE LICENSED TREE EXPERT ADVERTISING TREE SERVICES IN ONE OF THE FOLLOWING FORMS: "LICENSED TREE EXPERT No.____" OR "L.T.E. No.____"; OR

(2) A STATEMENT THAT ALL TREE SERVICES ARE LIMITED TO TREES 20 FEET TALL OR LESS.

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

Approved by the Governor, May 7, 2009.

Chapter 227

(Senate Bill 224)

AN ACT concerning

Garrett County – Code of Ordinances – Review of Salaries

FOR the purpose of repealing the requirement that the Garrett County Salary Study Commission study the salary of the State's Attorney; authorizing the Commission to recommend to the County Commissioners certain changes to the salary of the State's Attorney; and generally relating to the salary of the State's Attorney of Garrett County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Garrett County
Section 32.43
Article 12 – Public Local Laws of Maryland
(2005 Edition and 2007 Supplement, as amended)

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

Article 12 – Garrett County

32.43.

(A) The Commission shall study the salaries of the:

- (1) County Commissioners;
- (2) Board of Education;
- (3) Board of Supervisors of Elections;
- (4) Judges of the Orphans' Court;
- (5) Liquor Control Board; AND
- (6) Sheriff[; and
- (7) State's Attorney].

(B) The Commission may recommend to the County Commissioners an increase or decrease in the salary of **THE STATE'S ATTORNEY, OR** any office in division (A) of this section.

(C) The Commission shall report its recommendations to the County Commissioners on or before June 30, 1997, and on or before June 30 every fourth year thereafter.

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

Approved by the Governor, May 7, 2009.

Chapter 228

(Senate Bill 228)

AN ACT concerning

Harford County – Property Tax Credit for Homes Near a Refuse Disposal System

FOR the purpose of repealing a certain requirement for a home to qualify for a certain property tax credit in Harford County for certain residential real property in proximity to certain refuse disposal systems; *extending the property tax credit in Harford County for certain residential real property in proximity to certain refuse disposal systems to certain other residential real property*; providing for the application of this Act; and generally relating to certain authorization for Harford County to grant a property tax credit for certain residential real property in proximity to certain refuse disposal systems.

BY repealing and reenacting, with amendments,
 Article – Tax – Property
 Section 9–314(a)(1)(x)
 Annotated Code of Maryland
 (2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
 Article – Tax – Property
 Section 9–314(a)(4)
 Annotated Code of Maryland
 (2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

9–314.

(a) (1) The governing body of Harford County may grant, by law, a property tax credit under this section against the county property tax imposed on:

(x) subject to the condition established under paragraph (4) of this subsection, owner-occupied residential real property [that]:

1. [was completed on or before June 30, 1988;

2.] A. whose structural boundaries are within 1,000 feet of a refuse disposal system for which an active permit has been issued to the Harford County government under § 9–204 of the Environment Article; ~~and~~ OR

B. WAS COMPLETED ON OR BEFORE JANUARY 1, 1989, AND IS LOCATED IN AN AREA THAT CONSISTS OF MAGNOLIA ROAD TO TRIMBLE ROAD TO FORT HOYLE ROAD AND TO MAGNOLIA ROAD; AND

[3.] **2. THAT** is determined by the governing body of Harford County to have been adversely impacted by its proximity to the refuse disposal system;

(4) (i) In this paragraph, “environmental surcharges” means tipping fees that:

1. are paid to the county by the user of a refuse disposal system; and
2. have been set at a specific amount per ton of refuse that is deposited at the site of the disposal system.

(ii) A property tax credit may not be granted under paragraph (1)(x) of this subsection unless the governing body of Harford County approves the use of environmental surcharges to offset the total amount of the property tax credits granted.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 7, 2009.

Chapter 229

(House Bill 865)

AN ACT concerning

Harford County – Property Tax Credit for Homes Near a Refuse Disposal System

FOR the purpose of repealing a certain requirement for a home to qualify for a certain property tax credit in Harford County for certain residential real property in proximity to certain refuse disposal systems; extending the property tax credit in Harford County for certain residential real property in proximity to certain refuse disposal systems to certain other residential real property; providing for the application of this Act; and generally relating to certain authorization for Harford County to grant a property tax credit for certain residential real property in proximity to certain refuse disposal systems.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 9–314(a)(1)(x)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 9–314(a)(4)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

9–314.

(a) (1) The governing body of Harford County may grant, by law, a property tax credit under this section against the county property tax imposed on:

(x) subject to the condition established under paragraph (4) of this subsection, owner-occupied residential real property [that]:

1. [was completed on or before June 30, 1988;

2.] **A.** whose structural boundaries are within 1,000 feet of a refuse disposal system for which an active permit has been issued to the Harford County government under § 9–204 of the Environment Article; [and] **OR**

B. WAS COMPLETED ON OR BEFORE JANUARY 1, 1989, AND IS LOCATED IN AN AREA THAT CONSISTS OF ~~MOUNTAIN~~ MAGNOLIA ROAD TO TRIMBLE ROAD TO FORT HOYLE ROAD AND TO ~~MOUNTAIN~~ MAGNOLIA ROAD; AND

[3.] **2. THAT** is determined by the governing body of Harford County to have been adversely impacted by its proximity to the refuse disposal system;

(4) (i) In this paragraph, “environmental surcharges” means tipping fees that:

1. are paid to the county by the user of a refuse disposal system; and

2. have been set at a specific amount per ton of refuse that is deposited at the site of the disposal system.

(ii) A property tax credit may not be granted under paragraph (1)(x) of this subsection unless the governing body of Harford County approves the use of environmental surcharges to offset the total amount of the property tax credits granted.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 7, 2009.

Chapter 230

(Senate Bill 241)

AN ACT concerning

Education – Suspension and Expulsion Procedures – Attendance–Related Offenses

FOR the purpose of prohibiting a principal from suspending or expelling a student from school solely for attendance–related offenses; *establishing an exception for in-school suspensions for attendance–related offenses*; and generally relating to school suspension and expulsion procedures.

BY repealing and reenacting, with amendments,

Article – Education

Section 7–305

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Education

7–305.

(a) (1) [In] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**, IN accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.

(2) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(3) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(b) **(1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A STUDENT MAY NOT BE SUSPENDED OR EXPELLED FROM SCHOOL SOLELY FOR ATTENDANCE-RELATED OFFENSES.**

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO IN-SCHOOL SUSPENSIONS FOR ATTENDANCE-RELATED OFFENSES.

(C) At the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel the student.

[[c]] (D) (1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(2) The county superintendent or the county superintendent's designated representative promptly shall make a thorough investigation of the matter.

(3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, the county superintendent or the county superintendent's designated representative promptly shall arrange a conference with the student and his parent or guardian.

(4) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(5) If after the conference the county superintendent or the county superintendent's designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or the student's parent or guardian may:

(i) Appeal to the county board within 10 days after the determination;

(ii) Be heard before the county board, its designated committee, or a hearing examiner, in accordance with the procedures established under § 6-203 of this article; and

(iii) Bring counsel and witnesses to the hearing.

(6) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(7) The appeal to the county board does not stay the decision of the county superintendent.

(8) The decision of the county board is final.

[(d)] (E) (1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

(4) (i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

[(e)] (F) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.

(2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.

(3) The county superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the county board, for a student who has brought a firearm onto school property.

(4) The State Board shall adopt regulations to implement this subsection.

[(f)] (G) (1) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

[(g)] (H) (1) This subsection does not apply if the student is referred to the Department of Juvenile Services.

(2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or \$2,500, or the student's assignment to a school work project, or both.

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

Approved by the Governor, May 7, 2009.

AN ACT concerning

Education – Suspension and Expulsion Procedures – Attendance–Related Offenses

FOR the purpose of prohibiting a principal from suspending or expelling a student from school solely for attendance–related offenses; establishing an exception for in–school suspensions for attendance–related offenses; and generally relating to school suspension and expulsion procedures.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–305
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

7–305.

(a) (1) **[In] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN** accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.

(2) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(3) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7–310 of this subtitle.

(b) (1) **A EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A STUDENT MAY NOT BE SUSPENDED OR EXPELLED FROM SCHOOL SOLELY FOR ATTENDANCE–RELATED OFFENSES.**

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO IN–SCHOOL SUSPENSIONS FOR ATTENDANCE–RELATED OFFENSES.

(C) At the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel the student.

[(c)] (D) (1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(2) The county superintendent or the county superintendent's designated representative promptly shall make a thorough investigation of the matter.

(3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, the county superintendent or the county superintendent's designated representative promptly shall arrange a conference with the student and his parent or guardian.

(4) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(5) If after the conference the county superintendent or the county superintendent's designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or the student's parent or guardian may:

(i) Appeal to the county board within 10 days after the determination;

(ii) Be heard before the county board, its designated committee, or a hearing examiner, in accordance with the procedures established under § 6-203 of this article; and

(iii) Bring counsel and witnesses to the hearing.

(6) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(7) The appeal to the county board does not stay the decision of the county superintendent.

(8) The decision of the county board is final.

[(d)] (E) (1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

(4) (i) If a student has been suspended or expelled, the principal or a designee of the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

[(e)] (F) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.

(2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.

(3) The county superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the county board, for a student who has brought a firearm onto school property.

(4) The State Board shall adopt regulations to implement this subsection.

[(f)] (G) (1) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary

reasons, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

[(g)] (H) (1) This subsection does not apply if the student is referred to the Department of Juvenile Services.

(2) If a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian and any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or \$2,500, or the student's assignment to a school work project, or both.

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

Approved by the Governor, May 7, 2009.

Chapter 232

(Senate Bill 292)

AN ACT concerning

Vehicle Laws – Motor Vehicle and Bicycle Racing Events – Sunset Repeal

FOR the purpose of repealing a certain termination provision relating to motor vehicle and bicycle racing events; and generally relating to motor vehicle and bicycle racing events.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–1211
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 211 of the Acts of the General Assembly of 2007
Section 2

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

Article – Transportation

21–1211.

(a) When the State Highway Administration or a local authority approves a motor vehicle or bicycle racing event on a highway or a highway bridge under its respective jurisdiction, motor vehicle or bicycle racing shall be lawful.

(b) The State Highway Administration or a local authority may approve a motor vehicle or bicycle racing event only if:

(1) The racing event is held under conditions that:

(i) Provide reasonable safety for race participants, spectators, and other highway or highway bridge users; and

(ii) Prevent unreasonable interference with traffic flow that would seriously inconvenience other highway or highway bridge users;

(2) The sponsors of the racing event:

(i) Indemnify the State and local governments from any loss arising out of or relating to the racing event; and

(ii) Provide comprehensive liability insurance, in an amount to be determined by the State Highway Administration or local authority with jurisdiction over the highway on which the racing event is to be held, for the benefit of the State and local governments, spectators, and other highway or highway bridge users;

(3) The county or other local jurisdiction in which the racing event is held provides written authorization for the racing event; and

(4) The highway on which the racing event is held is closed, in a manner approved by the State Highway Administration or local authority with jurisdiction over the highway, with appropriate access measures in place.

(c) If traffic control adequately assures the safety of participants, spectators, and other highway or highway bridge users, the State Highway Administration or a local authority may exempt participants in an approved motor vehicle or bicycle racing

event from compliance with other provisions of the Maryland Vehicle Law that otherwise would be applicable to the participants in the motor vehicle or bicycle racing event.

Chapter 211 of the Acts of 2007

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 ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. [It shall remain effective through September 30, 2009, and at the end of September 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

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

Approved by the Governor, May 7, 2009.

Chapter 233

(House Bill 224)

AN ACT concerning

Vehicle Laws – Motor Vehicle and Bicycle Racing Events – Sunset Repeal

FOR the purpose of repealing a certain termination provision relating to motor vehicle and bicycle racing events; and generally relating to motor vehicle and bicycle racing events.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–1211
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 211 of the Acts of the General Assembly of 2007
Section 2

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

Article – Transportation

21-1211.

(a) When the State Highway Administration or a local authority approves a motor vehicle or bicycle racing event on a highway or a highway bridge under its respective jurisdiction, motor vehicle or bicycle racing shall be lawful.

(b) The State Highway Administration or a local authority may approve a motor vehicle or bicycle racing event only if:

(1) The racing event is held under conditions that:

(i) Provide reasonable safety for race participants, spectators, and other highway or highway bridge users; and

(ii) Prevent unreasonable interference with traffic flow that would seriously inconvenience other highway or highway bridge users;

(2) The sponsors of the racing event:

(i) Indemnify the State and local governments from any loss arising out of or relating to the racing event; and

(ii) Provide comprehensive liability insurance, in an amount to be determined by the State Highway Administration or local authority with jurisdiction over the highway on which the racing event is to be held, for the benefit of the State and local governments, spectators, and other highway or highway bridge users;

(3) The county or other local jurisdiction in which the racing event is held provides written authorization for the racing event; and

(4) The highway on which the racing event is held is closed, in a manner approved by the State Highway Administration or local authority with jurisdiction over the highway, with appropriate access measures in place.

(c) If traffic control adequately assures the safety of participants, spectators, and other highway or highway bridge users, the State Highway Administration or a local authority may exempt participants in an approved motor vehicle or bicycle racing event from compliance with other provisions of the Maryland Vehicle Law that otherwise would be applicable to the participants in the motor vehicle or bicycle racing event.

Chapter 211 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety,

has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. [It shall remain effective through September 30, 2009, and at the end of September 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

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

Approved by the Governor, May 7, 2009.

Chapter 234

(Senate Bill 296)

AN ACT concerning

Automotive Dismantlers, Recyclers, and Scrap Processors – Notice of Vehicle Acquisition

FOR the purpose of expanding the exception to the requirement that an automotive dismantler and recycler or scrap processor provide certain notice of vehicle acquisition to include vehicles obtained through an out-of-state salvage certificate; making this Act an emergency measure; and generally relating to notice of vehicle acquisition by automotive dismantlers, recyclers, and scrap processors.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 15–511
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

15–511.

(a) Each automotive dismantler and recycler and each scrap processor shall keep an accurate and complete record of all vehicles acquired in his business.

(b) The records shall contain, for each vehicle acquired:

- (1) The name and address of the person from whom the vehicle was acquired;
- (2) The date on which it was acquired;
- (3) Documentary evidence acceptable to the Administration of ownership of the vehicle; and
- (4) Any other information that the Administration requires.

(c) (1) Except as provided in paragraph (3) of this subsection, within 30 days after an automotive dismantler and recycler or scrap processor acquires title to a vehicle, the automotive dismantler and recycler or scrap processor shall, electronically and in a form prescribed by the Administration, notify the Administration or the Administration's designee of the acquisition.

(2) Immediately after giving the notice required under paragraph (1) of this subsection, the automotive dismantler and recycler or scrap processor may dispose of the vehicle for dismantling or scrapping.

(3) Paragraph (1) of this subsection does not apply to a vehicle acquired through a salvage certificate ~~issued by the Administration~~ **OR BY THE APPROPRIATE GOVERNMENT AGENCY OF ANOTHER STATE**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye 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 7, 2009.

Chapter 235

(House Bill 408)

AN ACT concerning

Automotive Dismantlers, Recyclers, and Scrap Processors – Notice of Vehicle Acquisition

FOR the purpose of expanding the exception to the requirement that an automotive dismantler and recycler or scrap processor provide certain notice of vehicle acquisition to include vehicles obtained through an out-of-state salvage certificate; making this Act an emergency measure; and generally relating to

notice of vehicle acquisition by automotive dismantlers, recyclers, and scrap processors.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 15–511
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

15–511.

(a) Each automotive dismantler and recycler and each scrap processor shall keep an accurate and complete record of all vehicles acquired in his business.

(b) The records shall contain, for each vehicle acquired:

(1) The name and address of the person from whom the vehicle was acquired;

(2) The date on which it was acquired;

(3) Documentary evidence acceptable to the Administration of ownership of the vehicle; and

(4) Any other information that the Administration requires.

(c) (1) Except as provided in paragraph (3) of this subsection, within 30 days after an automotive dismantler and recycler or scrap processor acquires title to a vehicle, the automotive dismantler and recycler or scrap processor shall, electronically and in a form prescribed by the Administration, notify the Administration or the Administration's designee of the acquisition.

(2) Immediately after giving the notice required under paragraph (1) of this subsection, the automotive dismantler and recycler or scrap processor may dispose of the vehicle for dismantling or scrapping.

(3) Paragraph (1) of this subsection does not apply to a vehicle acquired through a salvage certificate ~~issued by the Administration~~ **OR BY THE APPROPRIATE GOVERNMENT AGENCY OF ~~ANY OTHER~~ ANOTHER STATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety,

has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 7, 2009.

Chapter 236

(Senate Bill 304)

AN ACT concerning

Crimes – Financial Exploitation of Elderly – Penalty

FOR the purpose of prohibiting a person from knowingly and willfully obtaining by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is of at least a certain age, with intent to deprive the individual of the individual's property; altering a certain definition of "undue influence" to include the exercise, under certain circumstances, of certain dominion and influence over an individual of at least a certain age; applying certain penalties; making conforming changes; and generally relating to the financial exploitation of the elderly.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 8–801
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

8–801.

- (a) (1) In this section the following words have the meanings indicated.
- (2) "Deception" has the meaning stated in § 7–101 of this article.
- (3) "Deprive" has the meaning stated in § 7–101 of this article.
- (4) "Obtain" has the meaning stated in § 7–101 of this article.
- (5) "Property" has the meaning stated in § 7–101 of this article.

(6) "Value" has the meaning stated in § 7-103 of this article.

(7) (i) "Undue influence" means domination and influence amounting to force and coercion exercised by another person to such an extent that a vulnerable adult **OR AN INDIVIDUAL AT LEAST 68 YEARS OLD** was prevented from exercising free judgment and choice.

(ii) "Undue influence" does not include the normal influence that one member of a family has over another member of the family.

(8) "Vulnerable adult" has the meaning stated in § 3-604 of this article.

(b) (1) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult's property.

(2) A PERSON MAY NOT KNOWINGLY AND WILLFULLY OBTAIN BY DECEPTION, INTIMIDATION, OR UNDUE INFLUENCE THE PROPERTY OF AN INDIVIDUAL THAT THE PERSON KNOWS OR REASONABLY SHOULD KNOW IS AT LEAST 68 YEARS OLD, WITH INTENT TO DEPRIVE THE INDIVIDUAL OF THE INDIVIDUAL'S PROPERTY.

(c) (1) A person convicted of a violation of this section when the value of the property is \$500 or more is guilty of a felony and:

(i) is subject to imprisonment not exceeding 15 years or a fine not exceeding \$10,000 or both; and

(ii) shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(2) A person convicted of a violation of this section when the value of the property is less than \$500 is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or both; and

(ii) shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

(e) A conviction under this section shall disqualify the defendant from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the [vulnerable adult] **VICTIM OF THE OFFENSE**, whether by operation of law or pursuant to a legal document executed or entered into by the [vulnerable adult] **VICTIM** before the defendant shall have been convicted under this section and shall have made full restoration of the property taken or of its value to the [vulnerable adult] **VICTIM**.

(f) This section may not be construed to impose criminal liability on a person who, at the request of the [vulnerable adult] **VICTIM OF THE OFFENSE**, the [vulnerable adult's] **VICTIM'S** family, or the court appointed guardian of the [vulnerable adult] **VICTIM**, has made a good faith effort to assist the [vulnerable adult] **VICTIM** in the management of or transfer of the [vulnerable adult's] **VICTIM'S** property.

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

Approved by the Governor, May 7, 2009.

Chapter 237

(House Bill 583)

AN ACT concerning

Crimes – Financial Exploitation of Elderly – Penalty

FOR the purpose of prohibiting a person from knowingly and willfully obtaining by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is of at least a certain age, with intent to deprive the individual of the individual's property; altering a certain definition of "undue influence" to include the exercise, under certain circumstances, of certain dominion and influence over an individual of at least a certain age; applying certain penalties; making conforming changes; and generally relating to the financial exploitation of the elderly.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 8–801

Annotated Code of Maryland

(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

8–801.

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

(2) “Deception” has the meaning stated in § 7–101 of this article.

(3) “Deprive” has the meaning stated in § 7–101 of this article.

(4) “Obtain” has the meaning stated in § 7–101 of this article.

(5) “Property” has the meaning stated in § 7–101 of this article.

(6) “Value” has the meaning stated in § 7–103 of this article.

(7) (i) “Undue influence” means domination and influence amounting to force and coercion exercised by another person to such an extent that a vulnerable adult **OR AN INDIVIDUAL AT LEAST 68 YEARS OLD** was prevented from exercising free judgment and choice.

(ii) “Undue influence” does not include the normal influence that one member of a family has over another member of the family.

(8) “Vulnerable adult” has the meaning stated in § 3–604 of this article.

(b) (1) A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult’s property.

(2) A PERSON MAY NOT KNOWINGLY AND WILLFULLY OBTAIN BY DECEPTION, INTIMIDATION, OR UNDUE INFLUENCE THE PROPERTY OF AN INDIVIDUAL THAT THE PERSON KNOWS OR REASONABLY SHOULD KNOW IS AT LEAST 68 YEARS OLD, WITH INTENT TO DEPRIVE THE INDIVIDUAL OF THE INDIVIDUAL’S PROPERTY.

(c) (1) A person convicted of a violation of this section when the value of the property is \$500 or more is guilty of a felony and:

(i) is subject to imprisonment not exceeding 15 years or a fine not exceeding \$10,000 or both; and

(ii) shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(2) A person convicted of a violation of this section when the value of the property is less than \$500 is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or both; and

(ii) shall restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner's estate.

(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing the violation of this section.

(e) A conviction under this section shall disqualify the defendant from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the [vulnerable adult] **VICTIM OF THE OFFENSE**, whether by operation of law or pursuant to a legal document executed or entered into by the [vulnerable adult] **VICTIM** before the defendant shall have been convicted under this section and shall have made full restoration of the property taken or of its value to the [vulnerable adult] **VICTIM**.

(f) This section may not be construed to impose criminal liability on a person who, at the request of the [vulnerable adult] **VICTIM OF THE OFFENSE**, the [vulnerable adult's] **VICTIM'S** family, or the court appointed guardian of the [vulnerable adult] **VICTIM**, has made a good faith effort to assist the [vulnerable adult] **VICTIM** in the management of or transfer of the [vulnerable adult's] **VICTIM'S** property.

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

Approved by the Governor, May 7, 2009.

Chapter 238

(Senate Bill 328)

AN ACT concerning

Caroline County – Tax Sales – Auctioneer Fees

FOR the purpose of altering the fees auctioneers are allowed at tax sales in Caroline County; and generally relating to tax sales in Caroline County.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 14–813(e)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

14–813.

(e) (1) The following expenses relating to the sale shall be allowed, all of which are liens on the property to be sold:

(i) the expense of publication of all notices;

(ii) the cost of the county or municipal corporation surveyor's description and plat, if necessary;

(iii) except as provided in items (vi) and (vii) of this paragraph, a fee to the attorney representing the county treasurer for services, that does not exceed \$15 for each property; except that in any county that has a paid full-time solicitor, counsel or attorney, the fee shall be collected and paid into the general funds of the county;

(iv) the auctioneer's fee, as provided in paragraph (2) of this subsection;

(v) in Baltimore County, where provision has been made for the posting of the premises to be sold, a sum that does not exceed \$7.50;

(vi) in Somerset County, Wicomico County and Worcester County a fee to the attorney representing the county treasurer or director of finance, that does not exceed \$35 for each property, to be approved by the county treasurer or director of finance and by the governing body;

(vii) in Baltimore City:

1. a fee of \$30 for each property to the attorney representing the director of finance, that is collected and paid into the General Fund of Baltimore City; and

2. a fee that does not exceed \$10 for the mailing of statements and notices;

(viii) in Montgomery County, instead of the fee allowed under item (iii) of this paragraph, a fee that does not exceed \$30 for each property for legal services relating to the sale, to be collected and paid into the general funds of the county; and

(ix) a reasonable fee that does not exceed \$150 for examinations of title before the mailing of statements and notices.

(2) The auctioneer's fee allowed in paragraph (1) of this subsection shall be:

(i) except in Baltimore City, Caroline County, Carroll County, Cecil County, Dorchester County, Kent County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, or Worcester County:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed \$10; and

2. for any date when 4 or more properties are sold, \$3 for each property sold;

(ii) in [Caroline County and] Dorchester County, \$10 for each property sold, but in no event may the auctioneer's fee be less than \$50 a day or greater than \$200 a day;

(iii) in Kent County, an amount not exceeding \$7.50 for each property sold;

(iv) in Cecil County and Queen Anne's County, \$7.50 for each property sold;

(v) in Somerset County and Wicomico County, \$8 for each property sold;

(vi) in Worcester County, the greater of \$8 for each property sold or \$300, to be allocated pro rata among each property sold;

(vii) in Baltimore City:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed \$10;

2. for any date when 4 or more properties are sold, \$3 for each property sold; and
 3. in an electronic sale, an amount not to exceed \$10 for each property sold;
- (viii) in Carroll County, the amount set by the Carroll County Commissioners; and
- (ix) in **CAROLINE COUNTY AND** Talbot County, \$10 for each property sold.

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

Approved by the Governor, May 7, 2009.

Chapter 239

(Senate Bill 330)

AN ACT concerning

Dorchester County – Board of Education – Benefits

FOR the purpose of providing ~~certain benefits to that elected~~ certain members of the Dorchester County Board of Education may be provided certain benefits under certain terms and conditions; providing that the benefits ~~established under this Act~~ may not be considered compensation for certain purposes; *providing for the application of this Act*; and generally relating to the Dorchester County Board of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 3–5A–04
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

3–5A–04.

(a) Subject to subsection (b) of this section, the voting members shall receive compensation as set by the County Council.

(b) (1) The salary of each voting member of the county board shall be at least \$3,200.

(2) The salary of the president of the county board shall be at least \$3,600.

(c) (1) ~~EACH ELECTED VOTING MEMBER OF THE COUNTY BOARD IS ENTITLED TO~~ MAY BE PROVIDED HEALTH INSURANCE AND ~~TO~~ OTHER FRINGE BENEFITS REGULARLY PROVIDED TO EMPLOYEES OF THE COUNTY BOARD UNDER THE SAME TERMS AND CONDITIONS EXTENDED TO OTHER EMPLOYEES OF THE COUNTY BOARD.

(2) A BOARD MEMBER'S PARTICIPATION IN A BENEFITS PROGRAM SPONSORED BY THE COUNTY BOARD UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSIDERED COMPENSATION FOR THE PURPOSES OF CALCULATING COMPENSATION UNDER SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any member of the Dorchester County Board of Education elected before November 2010.

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

Approved by the Governor, May 7, 2009.

Chapter 240

(Senate Bill 331)

AN ACT concerning

Dorchester County Board of Education – Annual Election of Board Officers

FOR the purpose of altering the date of the annual election of officers of the Dorchester County Board of Education; and generally relating to the date of the annual election of officers of the Dorchester County Board of Education.

BY repealing and reenacting, without amendments,
Article – Education

Section 3-5A-01(a) through (d)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 3-5A-03
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

3-5A-01.

(a) The Dorchester County Board consists of:

(1) Five voting members, elected in accordance with subsection (b) of this section; and

(2) One nonvoting student member from each public high school in the county.

(b) (1) The elected members of the county board shall be elected at the general election.

(2) One member shall be elected from each of the five councilmanic districts only by the voters of that councilmanic district.

(c) (1) A member elected from a councilmanic district shall be a resident of the district.

(2) A member elected or appointed from a councilmanic district who no longer resides in the district may not continue as a member of the county board.

(d) (1) Each voting member serves for a term of 4 years beginning at noon on the first Monday in December after the member's election and until a successor is elected and qualifies.

(2) A voting member may not serve for more than three consecutive terms.

3-5A-03.

At its first meeting [at the beginning of each calendar] **IN DECEMBER OF EACH** year, the county board shall elect a president and a vice president from among its members.

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

Approved by the Governor, May 7, 2009.

Chapter 241

(Senate Bill 335)

AN ACT concerning

Dorchester County and Talbot County – Property Tax Credit for Habitat for Humanity of Talbot & Dorchester Counties, Inc.

FOR the purpose of authorizing the governing body of ~~Talbot~~ Dorchester County or Talbot County or of a municipal corporation in ~~Talbot~~ Dorchester County or Talbot County to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain real property owned by Habitat for Humanity of Talbot & Dorchester Counties, Inc.; requiring Habitat for Humanity of Talbot & Dorchester Counties, Inc. to submit certain reports to ~~Talbot~~ Dorchester County and Talbot County; authorizing the governing ~~body~~ bodies of Dorchester County and Talbot County to set, by law, the amount, terms, scope, and duration of the credit and to provide for any other provision necessary to carry out the tax credit; providing for the application of this Act; and generally relating to authorization for a property tax credit for certain real property owned by Habitat for Humanity of Talbot & Dorchester Counties, Inc.

BY adding to

Article – Tax – Property
Section 9-311(d) and 9-322(e)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

9-311.

(D) (1) THE GOVERNING BODY OF DORCHESTER COUNTY OR OF A MUNICIPAL CORPORATION IN DORCHESTER COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX THAT IS IMPOSED ON REAL PROPERTY THAT IS:

(I) OWNED BY HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC. WITH THE INTENTION OF RELINQUISHING OWNERSHIP IN THE IMMEDIATE FUTURE;

(II) USED EXCLUSIVELY FOR THE PURPOSE OF REHABILITATION AND TRANSFER TO A PRIVATE OWNER; AND

(III) NOT OCCUPIED BY ADMINISTRATIVE OR WAREHOUSE BUILDINGS OWNED BY HABITAT FOR HUMANITY.

(2) HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC. SHALL SUBMIT AN ANNUAL WRITTEN REPORT TO THE GOVERNING BODY OF DORCHESTER COUNTY DOCUMENTING:

(I) ALL OF HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC.'S REAL PROPERTY HOLDINGS IN DORCHESTER COUNTY; AND

(II) ALL TRANSACTIONS INVOLVING HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC.'S REAL PROPERTY HOLDINGS IN DORCHESTER COUNTY.

(3) THE GOVERNING BODY OF DORCHESTER COUNTY OR OF A MUNICIPAL CORPORATION IN DORCHESTER COUNTY MAY, BY LAW:

(I) SET THE AMOUNT, TERMS, SCOPE, AND DURATION OF A CREDIT GRANTED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) ADOPT ANY PROVISION NECESSARY TO ADMINISTER A CREDIT GRANTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

9-322.

(E) (1) THE GOVERNING BODY OF TALBOT COUNTY OR OF A MUNICIPAL CORPORATION IN TALBOT COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX THAT IS IMPOSED ON REAL PROPERTY THAT IS:

(I) OWNED BY HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC. WITH THE INTENTION OF RELINQUISHING OWNERSHIP IN THE IMMEDIATE FUTURE;

(II) USED EXCLUSIVELY FOR THE PURPOSE OF REHABILITATION AND TRANSFER TO A PRIVATE OWNER; AND

(III) NOT OCCUPIED BY ADMINISTRATIVE OR WAREHOUSE BUILDINGS OWNED BY HABITAT FOR HUMANITY.

(2) HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC. SHALL SUBMIT AN ANNUAL WRITTEN REPORT TO THE GOVERNING BODY OF TALBOT COUNTY DOCUMENTING:

(I) ALL OF HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC.'S REAL PROPERTY HOLDINGS IN TALBOT COUNTY; AND

(II) ALL TRANSACTIONS INVOLVING HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC.'S REAL PROPERTY HOLDINGS IN TALBOT COUNTY.

(3) THE GOVERNING BODY OF TALBOT COUNTY OR OF A MUNICIPAL CORPORATION IN TALBOT COUNTY MAY, BY LAW:

(I) SET THE AMOUNT, TERMS, SCOPE, AND DURATION OF A CREDIT GRANTED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) ADOPT ANY PROVISION NECESSARY TO ADMINISTER A CREDIT GRANTED UNDER PARAGRAPH (1) OF THIS SUBSECTION; ~~AND~~

~~(III) PROVIDE ANY OTHER RESTRICTION OR CONDITION CONSIDERED DESIRABLE ON THE GRANTING OF A CREDIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 7, 2009.

Chapter 242

(House Bill 42)

AN ACT concerning

Dorchester County and Talbot County – Property Tax Credit for Habitat for Humanity of Talbot & Dorchester Counties, Inc.

FOR the purpose of authorizing the governing body of ~~Talbot~~ Dorchester County or Talbot County or of a municipal corporation in ~~Talbot~~ Dorchester County or Talbot County to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain real property owned by Habitat for Humanity of Talbot & Dorchester Counties, Inc.; requiring Habitat for Humanity of Talbot & Dorchester Counties, Inc. to submit certain reports to ~~Talbot~~ Dorchester County and Talbot County; authorizing the governing ~~body~~ bodies of Dorchester County and Talbot County to set, by law, the amount, terms, scope, and duration of the credit and to provide for any other provision necessary to carry out the tax credit; providing for the application of this Act; and generally relating to authorization for a property tax credit for certain real property owned by Habitat for Humanity of Talbot & Dorchester Counties, Inc.

BY adding to

Article – Tax – Property

Section ~~9–311(d)~~ and 9–322(e)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

9–311.

(D) (1) THE GOVERNING BODY OF DORCHESTER COUNTY OR OF A MUNICIPAL CORPORATION IN DORCHESTER COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX THAT IS IMPOSED ON REAL PROPERTY THAT IS:

(I) OWNED BY HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC. WITH THE INTENTION OF RELINQUISHING OWNERSHIP IN THE IMMEDIATE FUTURE;

(II) USED EXCLUSIVELY FOR THE PURPOSE OF REHABILITATION AND TRANSFER TO A PRIVATE OWNER; AND

(III) NOT OCCUPIED BY ADMINISTRATIVE OR WAREHOUSE BUILDINGS OWNED BY HABITAT FOR HUMANITY.

(2) HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC. SHALL SUBMIT AN ANNUAL WRITTEN REPORT TO THE GOVERNING BODY OF DORCHESTER COUNTY DOCUMENTING:

(I) ALL OF HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC.'S REAL PROPERTY HOLDINGS IN DORCHESTER COUNTY; AND

(II) ALL TRANSACTIONS INVOLVING HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC.'S REAL PROPERTY HOLDINGS IN DORCHESTER COUNTY.

(3) THE GOVERNING BODY OF DORCHESTER COUNTY OR OF A MUNICIPAL CORPORATION IN DORCHESTER COUNTY MAY, BY LAW:

(I) SET THE AMOUNT, TERMS, SCOPE, AND DURATION OF A CREDIT GRANTED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) ADOPT ANY PROVISION NECESSARY TO ADMINISTER A CREDIT GRANTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

9-322.

(E) (1) THE GOVERNING BODY OF TALBOT COUNTY OR OF A MUNICIPAL CORPORATION IN TALBOT COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX THAT IS IMPOSED ON REAL PROPERTY THAT IS:

(I) OWNED BY HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC. WITH THE INTENTION OF RELINQUISHING OWNERSHIP IN THE IMMEDIATE FUTURE;

(II) USED EXCLUSIVELY FOR THE PURPOSE OF REHABILITATION AND TRANSFER TO A PRIVATE OWNER; AND

(III) NOT OCCUPIED BY ADMINISTRATIVE OR WAREHOUSE BUILDINGS OWNED BY HABITAT FOR HUMANITY.

(2) HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC. SHALL SUBMIT AN ANNUAL WRITTEN REPORT TO THE GOVERNING BODY OF TALBOT COUNTY DOCUMENTING:

(I) ALL OF HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC.'S REAL PROPERTY HOLDINGS IN TALBOT COUNTY; AND

(II) ALL TRANSACTIONS INVOLVING HABITAT FOR HUMANITY OF TALBOT & DORCHESTER COUNTIES, INC.'S REAL PROPERTY HOLDINGS IN TALBOT COUNTY.

(3) THE GOVERNING BODY OF TALBOT COUNTY OR OF A MUNICIPAL CORPORATION IN TALBOT COUNTY MAY, BY LAW:

(I) SET THE AMOUNT, TERMS, SCOPE, AND DURATION OF A CREDIT GRANTED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) ADOPT ANY PROVISION NECESSARY TO ADMINISTER A CREDIT GRANTED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

~~(III) PROVIDE ANY OTHER RESTRICTION OR CONDITION CONSIDERED DESIRABLE ON THE GRANTING OF A CREDIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 7, 2009.

Chapter 243

(Senate Bill 341)

AN ACT concerning

Prosthetic Parity Act

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide certain coverage for prosthetic devices, components of prosthetic devices, and repairs to prosthetic devices;

prohibiting certain benefits from being subject to a certain copayment or coinsurance requirement; prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from imposing a certain dollar maximum on certain coverage and from establishing certain requirements for medical necessity or appropriateness; repealing a certain requirement for certain health insurance contracts that is rendered inconsistent by this Act; making certain provisions of this Act applicable to health maintenance organizations; defining a certain term; providing for the application of this Act; and generally relating to health insurance coverage for prosthetic devices, components of prosthetic devices, and repairs to prosthetic devices.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–820

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY adding to

Article – Insurance

Section 15–844

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY adding to

Article – Health – General

Section 19–706(ttt)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Insurance

15–820.

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

(2) “Orthopedic], “**ORTHOPEdic** brace” means a rigid or semi–rigid device that is used to:

[(i)] (1) support a weak or deformed body member; or

[(ii)] (2) restrict or eliminate motion in a diseased or injured part of the body.

[(3) "Prosthetic device" means an artificial limb.]

(b) Each health insurance contract that is delivered or issued for delivery in the State by a nonprofit health service plan and that provides hospital benefits shall provide benefits for [prosthetic devices and] orthopedic braces.

15-844.

(A) IN THIS SECTION, "PROSTHETIC DEVICE" MEANS AN ARTIFICIAL DEVICE TO REPLACE, IN WHOLE OR IN PART, A LEG, AN ARM, OR AN EYE.

(B) THIS SECTION APPLIES TO:

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(C) AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR:

(1) PROSTHETIC DEVICES;

(2) COMPONENTS OF PROSTHETIC DEVICES; AND

(3) REPAIRS TO PROSTHETIC DEVICES.

(D) THE COVERED BENEFITS UNDER THIS SECTION MAY NOT BE SUBJECT TO A HIGHER COPAYMENT OR COINSURANCE REQUIREMENT THAN THE COPAYMENT OR COINSURANCE FOR PRIMARY CARE BENEFITS COVERED UNDER THE POLICY OR CONTRACT OF THE INSURED OR ENROLLEE.

(E) AN ENTITY SUBJECT TO THIS SECTION MAY NOT IMPOSE AN ANNUAL OR LIFETIME DOLLAR MAXIMUM ON COVERAGE REQUIRED UNDER THIS SECTION SEPARATE FROM ANY ANNUAL OR LIFETIME DOLLAR MAXIMUM THAT APPLIES IN THE AGGREGATE TO ALL COVERED BENEFITS UNDER THE POLICY OR CONTRACT OF THE INSURED OR ENROLLEE.

(F) AN ENTITY SUBJECT TO THIS SECTION MAY NOT ESTABLISH REQUIREMENTS FOR MEDICAL NECESSITY OR APPROPRIATENESS FOR THE

COVERAGE REQUIRED UNDER THIS SECTION THAT ARE MORE RESTRICTIVE THAN THE INDICATIONS AND LIMITATIONS OF COVERAGE AND MEDICAL NECESSITY ESTABLISHED UNDER THE MEDICARE COVERAGE DATABASE.

Article - Health - General

19-706.

(TTT) THE PROVISIONS OF § 15-844 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 244

(House Bill 579)

AN ACT concerning

Prosthetic Parity Act

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide certain coverage for prosthetic devices, components of prosthetic devices, and repairs to prosthetic devices; prohibiting certain benefits from being subject to a certain copayment or coinsurance requirement; prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from imposing a certain dollar maximum on certain coverage and from establishing certain requirements for medical necessity or appropriateness; repealing a certain requirement for certain health insurance contracts that is rendered inconsistent by this Act; making certain provisions of this Act applicable to health maintenance organizations; defining a certain term; providing for the application of this Act; and generally relating to health insurance coverage for prosthetic devices, components of prosthetic devices, and repairs to prosthetic devices.

BY repealing and reenacting, with amendments,
Article - Insurance

Section 15–820
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Insurance
Section 15–844
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 19–706(ttt)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Insurance

15–820.

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

(2) “Orthopedic], “**ORTHOPEDIC** brace” means a rigid or semi–rigid device that is used to:

[(i)] (1) support a weak or deformed body member; or

[(ii)] (2) restrict or eliminate motion in a diseased or injured part of the body.

[(3) “Prosthetic device” means an artificial limb.]

(b) Each health insurance contract that is delivered or issued for delivery in the State by a nonprofit health service plan and that provides hospital benefits shall provide benefits for [prosthetic devices and] orthopedic braces.

15–844.

(A) **IN THIS SECTION, “PROSTHETIC DEVICE” MEANS AN ARTIFICIAL DEVICE TO REPLACE, IN WHOLE OR IN PART, A LEG, AN ARM, OR AN EYE.**

(B) **THIS SECTION APPLIES TO:**

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(C) AN ENTITY SUBJECT TO THIS SECTION SHALL PROVIDE COVERAGE FOR:

(1) PROSTHETIC DEVICES;

(2) COMPONENTS OF PROSTHETIC DEVICES; AND

(3) REPAIRS TO PROSTHETIC DEVICES.

(D) THE COVERED BENEFITS UNDER THIS SECTION MAY NOT BE SUBJECT TO A HIGHER COPAYMENT OR COINSURANCE REQUIREMENT THAN THE COPAYMENT OR COINSURANCE FOR PRIMARY CARE BENEFITS COVERED UNDER THE POLICY OR CONTRACT OF THE INSURED OR ENROLLEE.

(E) AN ENTITY SUBJECT TO THIS SECTION MAY NOT IMPOSE AN ANNUAL OR LIFETIME DOLLAR MAXIMUM ON COVERAGE REQUIRED UNDER THIS SECTION SEPARATE FROM ANY ANNUAL OR LIFETIME DOLLAR MAXIMUM THAT APPLIES IN THE AGGREGATE TO ALL COVERED BENEFITS UNDER THE POLICY OR CONTRACT OF THE INSURED OR ENROLLEE.

(F) AN ENTITY SUBJECT TO THIS SECTION MAY NOT ESTABLISH REQUIREMENTS FOR MEDICAL NECESSITY OR APPROPRIATENESS FOR THE COVERAGE REQUIRED UNDER THIS SECTION THAT ARE MORE RESTRICTIVE THAN THE INDICATIONS AND LIMITATIONS OF COVERAGE AND MEDICAL NECESSITY ESTABLISHED UNDER THE MEDICARE COVERAGE DATABASE.

Article - Health - General

19-706.

(TTT) THE PROVISIONS OF § 15-844 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 245

(Senate Bill 343)

AN ACT concerning

Allegany County – Video Lottery Construction – Local Impact Grants – Rocky Gap Construction Costs

FOR the purpose of authorizing local impact grants from proceeds of certain video lottery terminals to be used in Allegany County for certain purposes and to pay down certain debt incurred by the county in the construction and related costs for the golf course, lodge, and other improvements in Rocky Gap State Park; and generally relating to video lottery gaming and local impact grants from gaming proceeds in Allegany County.

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–02(b)(1)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–1A–31(b)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Government

9–1A–02.

(b) (1) The Commission shall regulate the operation of video lottery terminals in accordance with this subtitle.

9-1A-31.

(b) (1) [Local] **EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, LOCAL** impact grants provided under subsection (a)(1)(i) of this section shall be used for improvements in the communities in immediate proximity to the video lottery facilities and may be used for the following purposes:

[(1)] (I) infrastructure improvements;

[(2)] (II) facilities;

[(3)] (III) public safety;

[(4)] (IV) sanitation;

[(5)] (V) economic and community development, including housing;
and

[(6)] (VI) other public services and improvements.

(2) IN ALLEGANY COUNTY, LOCAL IMPACT GRANTS PROVIDED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION MAY BE USED:

(I) FOR PURPOSES LISTED IN PARAGRAPH (1) OF THIS SUBSECTION THROUGHOUT THE COUNTY; AND

(II) TO PAY DOWN THE DEBT INCURRED BY THE COUNTY IN THE CONSTRUCTION AND RELATED COSTS FOR THE GOLF COURSE, LODGE, AND OTHER IMPROVEMENTS IN ROCKY GAP STATE PARK.

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

Approved by the Governor, May 7, 2009.

Chapter 246

(Senate Bill 348)

AN ACT concerning

Tax Sales – Fees

FOR the purpose of altering the type of expenses for which a holder of a certificate of sale may be reimbursed under certain circumstances; providing for the application of this Act; and generally relating to tax sales.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–843(a)(3)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

14–843.

(a) (3) If an action to foreclose the right of redemption has not been filed, and the property is redeemed more than 4 months after the date of the tax sale, the holder of a certificate of sale may be reimbursed for the following expenses actually incurred:

- (i) [attorney's fees] COSTS for recording the certificate of sale;
- (ii) a title search fee, not to exceed \$250; and
- (iii) reasonable attorney's fees, not to exceed \$500.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any tax sale or any proceeding relating to a tax sale held before the effective date of this Act.

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

Approved by the Governor, May 7, 2009.

Chapter 247

(Senate Bill 356)

AN ACT concerning

Family Day Care Homes and Child Care Centers – Emergency Preparedness Plans

FOR the purpose of requiring the adoption of certain regulations that require certain family day care providers and certain child care centers to have certain emergency preparedness plans for certain emergency situations; requiring certain plans to include certain relocation sites, certain evacuation routes, and certain procedures; requiring certain family day care providers and certain child care centers to train certain staff and ensure that certain staff are familiar with certain plans; requiring the State Department of Education and the State Superintendent of Schools to consult with certain entities in adopting certain regulations; and generally relating to the emergency preparedness plans of family day care homes and child care centers.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–501(e) and (f), 5–551(a), and 5–573(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY adding to
Article – Family Law
Section 5–551(d)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–573(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

5–501.

(e) “Family day care” means the care given to a child under the age of 13 years or to any developmentally disabled person under the age of 21 years, in place of parental care for less than 24 hours a day, in a residence other than the child’s residence, for which the day care provider is paid.

(f) “Family day care home” means a residence in which family day care is provided.

5-551.

(a) The Department shall adopt regulations that relate to the registration of family day care homes.

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:

(1) REQUIRE A FAMILY DAY CARE PROVIDER TO HAVE A WRITTEN EMERGENCY PREPAREDNESS PLAN FOR EMERGENCY SITUATIONS THAT REQUIRE EVACUATION ~~OR~~, SHELTERING IN PLACE, OR OTHER PROTECTION OF CHILDREN SUCH AS IN THE EVENT OF FIRE, NATURAL DISASTER, OR OTHER THREATENING SITUATION THAT MAY POSE A HEALTH OR SAFETY HAZARD TO THE CHILDREN IN THE FAMILY DAY CARE HOME;

(2) REQUIRE THE PLAN UNDER ITEM (1) OF THIS SUBSECTION TO INCLUDE:

(I) A DESIGNATED RELOCATION SITE AND EVACUATION ROUTE;

(II) PROCEDURES FOR NOTIFYING PARENTS OR OTHER ADULTS RESPONSIBLE FOR THE CHILD OF THE RELOCATION;

(III) PROCEDURES TO ADDRESS THE NEEDS OF INDIVIDUAL CHILDREN INCLUDING CHILDREN WITH SPECIAL NEEDS;

(IV) PROCEDURES FOR THE REASSIGNMENT OF STAFF DUTIES DURING AN EMERGENCY, AS APPROPRIATE; AND

(V) PROCEDURES FOR COMMUNICATING WITH LOCAL EMERGENCY MANAGEMENT OFFICIALS OR OTHER APPROPRIATE STATE OR LOCAL AUTHORITIES; AND

(3) REQUIRE A FAMILY DAY CARE PROVIDER TO TRAIN STAFF AND ENSURE THAT STAFF ARE FAMILIAR WITH THE PLAN.

5-573.

(a) The State Superintendent shall adopt rules and regulations for licensing and operating child care centers.

(b) These rules and regulations shall:

(1) ensure safe and sanitary conditions in child care centers;

- (2) ensure proper care, protection, and supervision of children in child care centers;
- (3) ensure the health of children in child care centers by:
 - (i) monitoring children for signs and symptoms of child abuse;
 - (ii) instructing licensees and staff concerning child abuse detection and reporting;
 - (iii) monitoring health practices to help prevent the spread of disease; and
 - (iv) monitoring the care of infants and children with special needs;
- (4) promote the sound growth and development of children in child care centers;
- (5) encourage the care of children in a homelike environment by reflecting the impracticability of conforming a residence to standards that are appropriate for institutions and otherwise providing for centers that are in residences or other facilities and serve between 7 and 12 children and facilities having 6 or fewer children required to be licensed under § 5-574 of this subtitle;
- (6) carry out otherwise the purposes and requirements of this Part VII of this subtitle, including imposition of intermediate sanctions to ensure compliance;
- (7) prohibit a child from remaining at a child care center for more than 14 hours in 1 day unless the Department issues an exception for that child based on guidelines set by the State Superintendent;
- (8)
 - (i) require that a child care center have in attendance at all times at least 1 individual who is responsible for supervision of children, including children on field trips, and who holds a current certificate indicating successful completion of approved:
 - 1. basic first aid training through the American Red Cross or through a program with equivalent standards; and
 - 2. cardiopulmonary resuscitation (CPR) training through the American Heart Association or through a program with equivalent standards appropriate for the ages of children for whom care is provided in the child care center; and

(ii) require that a child care center serving more than 20 children have in attendance certificate holders described in item (i) of this item in a ratio of at least 1 certificate holder for every 20 children; [and]

(9) (i) require that a child care center that receives notice of a contaminated drinking water supply from the child care center's supplier of water, in accordance with § 9-410 of the Environment Article or otherwise, send notice of the drinking water contamination to the parent or legal guardian of each child attending the child care center; and

(ii) require that the notice sent by the child care center shall:

1. be sent within 10 business days after receipt of the notice of contamination from the child care center's water supplier;

2. be in writing;

3. identify the contaminants and their levels in the center's water supply; and

4. describe the child care center's plan for dealing with the water contamination problem until the child care center's water is determined by the appropriate authority to be safe for consumption; **AND**

(10) (I) REQUIRE A CHILD CARE CENTER TO HAVE A WRITTEN EMERGENCY PREPAREDNESS PLAN FOR EMERGENCY SITUATIONS THAT REQUIRE EVACUATION ~~OR~~, SHELTERING IN PLACE, OR OTHER PROTECTION OF CHILDREN, SUCH AS IN THE EVENT OF FIRE, NATURAL DISASTER, OR OTHER THREATENING SITUATION THAT MAY POSE A HEALTH OR SAFETY HAZARD TO THE CHILDREN IN THE CHILD CARE CENTER;

(II) REQUIRE THE PLAN UNDER ITEM (I) OF THIS ITEM TO INCLUDE:

1. A DESIGNATED RELOCATION SITE AND EVACUATION ROUTE;

2. PROCEDURES FOR NOTIFYING PARENTS OR OTHER ADULTS RESPONSIBLE FOR THE CHILD OF THE RELOCATION;

3. PROCEDURES TO ADDRESS THE NEEDS OF INDIVIDUAL CHILDREN, INCLUDING CHILDREN WITH SPECIAL NEEDS;

4. PROCEDURES FOR THE REASSIGNMENT OF STAFF DUTIES DURING AN EMERGENCY, AS APPROPRIATE; AND

5. PROCEDURES FOR COMMUNICATING WITH LOCAL EMERGENCY MANAGEMENT OFFICIALS OR OTHER APPROPRIATE STATE OR LOCAL AUTHORITIES; AND

(III) REQUIRE A CHILD CARE CENTER TO TRAIN STAFF AND ENSURE THAT STAFF ARE FAMILIAR WITH THE PLAN.

SECTION 2. AND BE IT FURTHER ENACTED, That, before adopting regulations in accordance with this Act, the State Department of Education and the State Superintendent of Schools, respectively, shall consult with the Maryland Emergency Management Agency, the Maryland Emergency Management Association, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Department of Disabilities.

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

Approved by the Governor, May 7, 2009.

Chapter 248

(House Bill 712)

AN ACT concerning

Family Day Care Homes and Child Care Centers – Emergency Preparedness Plans

FOR the purpose of requiring the adoption of certain regulations that require certain family day care providers and certain child care centers to have certain emergency preparedness plans for certain emergency situations; requiring certain plans to include certain relocation sites, certain evacuation routes, and certain procedures; requiring certain family day care providers and certain child care centers to train certain staff and ensure that certain staff are familiar with certain plans; requiring the State Department of Education and the State Superintendent of Schools to consult with certain entities in adopting certain regulations; and generally relating to the emergency preparedness plans of family day care homes and child care centers.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–501(e) and (f), 5–551(a), and 5–573(a)
Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY adding to

Article – Family Law

Section 5–551(d)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–573(b)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

5–501.

(e) “Family day care” means the care given to a child under the age of 13 years or to any developmentally disabled person under the age of 21 years, in place of parental care for less than 24 hours a day, in a residence other than the child’s residence, for which the day care provider is paid.

(f) “Family day care home” means a residence in which family day care is provided.

5–551.

(a) The Department shall adopt regulations that relate to the registration of family day care homes.

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:

(1) REQUIRE A FAMILY DAY CARE PROVIDER TO HAVE A WRITTEN EMERGENCY PREPAREDNESS PLAN FOR EMERGENCY SITUATIONS THAT REQUIRE EVACUATION ~~OR~~ , SHELTERING IN PLACE, OR OTHER PROTECTION OF CHILDREN SUCH AS IN THE EVENT OF FIRE, NATURAL DISASTER, OR OTHER THREATENING SITUATION THAT MAY POSE A HEALTH OR SAFETY HAZARD TO THE CHILDREN IN THE FAMILY DAY CARE HOME;

(2) REQUIRE THE PLAN UNDER ITEM (1) OF THIS SUBSECTION TO INCLUDE:

(I) A DESIGNATED RELOCATION SITE AND EVACUATION ROUTE;

(II) PROCEDURES FOR NOTIFYING PARENTS OR OTHER ADULTS RESPONSIBLE FOR THE CHILD OF THE RELOCATION;

(III) PROCEDURES TO ADDRESS THE NEEDS OF INDIVIDUAL CHILDREN INCLUDING CHILDREN WITH SPECIAL NEEDS;

(IV) PROCEDURES FOR THE REASSIGNMENT OF STAFF DUTIES DURING AN EMERGENCY, AS APPROPRIATE; AND

(V) PROCEDURES FOR COMMUNICATING WITH LOCAL EMERGENCY MANAGEMENT OFFICIALS OR OTHER APPROPRIATE STATE OR LOCAL AUTHORITIES; AND

(3) REQUIRE A FAMILY DAY CARE PROVIDER TO TRAIN STAFF AND ENSURE THAT STAFF ARE FAMILIAR WITH THE PLAN.

5-573.

(a) The State Superintendent shall adopt rules and regulations for licensing and operating child care centers.

(b) These rules and regulations shall:

(1) ensure safe and sanitary conditions in child care centers;

(2) ensure proper care, protection, and supervision of children in child care centers;

(3) ensure the health of children in child care centers by:

(i) monitoring children for signs and symptoms of child abuse;

(ii) instructing licensees and staff concerning child abuse detection and reporting;

(iii) monitoring health practices to help prevent the spread of disease; and

(iv) monitoring the care of infants and children with special needs;

(4) promote the sound growth and development of children in child care centers;

(5) encourage the care of children in a homelike environment by reflecting the impracticability of conforming a residence to standards that are appropriate for institutions and otherwise providing for centers that are in residences or other facilities and serve between 7 and 12 children and facilities having 6 or fewer children required to be licensed under § 5-574 of this subtitle;

(6) carry out otherwise the purposes and requirements of this Part VII of this subtitle, including imposition of intermediate sanctions to ensure compliance;

(7) prohibit a child from remaining at a child care center for more than 14 hours in 1 day unless the Department issues an exception for that child based on guidelines set by the State Superintendent;

(8) (i) require that a child care center have in attendance at all times at least 1 individual who is responsible for supervision of children, including children on field trips, and who holds a current certificate indicating successful completion of approved:

1. basic first aid training through the American Red Cross or through a program with equivalent standards; and

2. cardiopulmonary resuscitation (CPR) training through the American Heart Association or through a program with equivalent standards appropriate for the ages of children for whom care is provided in the child care center; and

(ii) require that a child care center serving more than 20 children have in attendance certificate holders described in item (i) of this item in a ratio of at least 1 certificate holder for every 20 children; [and]

(9) (i) require that a child care center that receives notice of a contaminated drinking water supply from the child care center's supplier of water, in accordance with § 9-410 of the Environment Article or otherwise, send notice of the drinking water contamination to the parent or legal guardian of each child attending the child care center; and

(ii) require that the notice sent by the child care center shall:

1. be sent within 10 business days after receipt of the notice of contamination from the child care center's water supplier;

2. be in writing;

3. identify the contaminants and their levels in the center's water supply; and

4. describe the child care center's plan for dealing with the water contamination problem until the child care center's water is determined by the appropriate authority to be safe for consumption; AND

(10) (I) REQUIRE A CHILD CARE CENTER TO HAVE A WRITTEN EMERGENCY PREPAREDNESS PLAN FOR EMERGENCY SITUATIONS THAT REQUIRE EVACUATION ~~OR~~, SHELTERING IN PLACE, OR OTHER PROTECTION OF CHILDREN, SUCH AS IN THE EVENT OF FIRE, NATURAL DISASTER, OR OTHER THREATENING SITUATION THAT MAY POSE A HEALTH OR SAFETY HAZARD TO THE CHILDREN IN THE CHILD CARE CENTER;

(II) REQUIRE THE PLAN UNDER ITEM (I) OF THIS ITEM TO INCLUDE:

1. A DESIGNATED RELOCATION SITE AND EVACUATION ROUTE;

2. PROCEDURES FOR NOTIFYING PARENTS OR OTHER ADULTS RESPONSIBLE FOR THE CHILD OF THE RELOCATION;

3. PROCEDURES TO ADDRESS THE NEEDS OF INDIVIDUAL CHILDREN, INCLUDING CHILDREN WITH SPECIAL NEEDS;

4. PROCEDURES FOR THE REASSIGNMENT OF STAFF DUTIES DURING AN EMERGENCY, AS APPROPRIATE; AND

5. PROCEDURES FOR COMMUNICATING WITH LOCAL EMERGENCY MANAGEMENT OFFICIALS OR OTHER APPROPRIATE STATE OR LOCAL AUTHORITIES; AND

(III) REQUIRE A CHILD CARE CENTER TO TRAIN STAFF AND ENSURE THAT STAFF ARE FAMILIAR WITH THE PLAN.

SECTION 2. AND BE IT FURTHER ENACTED, That, before adopting regulations in accordance with this Act, the State Department of Education and the State Superintendent of Schools, respectively, shall consult with the Maryland Emergency Management Agency, the Maryland Emergency Management Association, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Department of Disabilities.

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

Approved by the Governor, May 7, 2009.

Chapter 249

(Senate Bill 370)

AN ACT concerning

Maryland Quiet Vehicles and Pedestrian Safety Task Force – ~~Extension and~~ Membership Reconstitution

FOR the purpose of ~~extending the duration of~~ reconstituting the Maryland Quiet Vehicles and Pedestrian Safety Task Force; ~~altering the membership of the Task Force; altering the date on which the final findings and recommendations of the Task Force are due; requiring the Task Force to report its final findings and recommendations to the Governor; making this Act an emergency measure; making a certain technical correction~~ providing for the membership and duties of the Task Force; providing for the staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to report to the Governor and the General Assembly by a certain date; making this Act an emergency measure; providing for the termination of this Act; stating the intent of the General Assembly; and generally relating to the Maryland Quiet Vehicles and Pedestrian Safety Task Force.

~~BY repealing and reenacting, with amendments,
Chapter 384 of the Acts of the General Assembly of 2008
Section 1 and 2~~

~~BY repealing and reenacting, with amendments,
Chapter 385 of the Acts of the General Assembly of 2008
Section 1 and 2~~

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

~~Chapter 384 of the Acts of 2008~~

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

- (a) There is a Maryland Quiet Vehicles and Pedestrian Safety Task Force.
- (b) ~~The Task Force consists of:~~

(b) The Task Force consists of:

~~(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND~~

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House; and

~~(3)~~ (3) the following members, appointed by the Governor in consultation with the Secretary of Transportation:

~~[(1)]~~ ~~(I)~~ (i) one representative from the Department of Transportation;

~~[(2)]~~ ~~(II)~~ (ii) one representative from the Department of the Environment;

~~[(3)]~~ ~~(III)~~ (iii) two or three individuals who:

~~[(i)]~~ ~~1.~~ 1. represent the organized blind community in this State;

~~[(ii)]~~ ~~2.~~ 2. are legally blind; and

~~[(iii)]~~ ~~3.~~ 3. have experience or expertise in training blind people to travel safely and independently;

~~[(4)]~~ ~~(IV)~~ (iv) two or three individuals representing pedestrian organizations in this State; and

~~[(5)]~~ ~~(V)~~ (v) one representative of an organization representing the interests of automobile manufacturers.

(c) The Governor shall appoint a chair of the Task Force from its membership.

(d) The Secretary of Transportation shall provide staff support for the Task Force from the Department of Transportation.

(e) A member of the Task Force:

- (1) may not receive compensation as a member of the Task Force; but
 - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (f) The Task Force shall:
- (1) study:
 - (i) the effects of vehicle sound on pedestrian safety; and
 - (ii) all available technology that may enhance the safety of blind pedestrians;
 - (2) review all available research regarding the effects of vehicle sound on pedestrian safety;
 - (3) consult with:
 - (i) consumer groups representing individuals who are blind, other pedestrians, and cyclists; and
 - (ii) advocates for the safety of children;
 - (4) as appropriate, contract for additional research and studies to be conducted;
 - (5) conduct hearings to accept testimony from:
 - (i) experts on acoustics, automobile design, environmental quality, orientation and mobility for blind people, pedestrian safety, and other relevant fields; and
 - (ii) interested members of the public; and
 - (6) make recommendations concerning:
 - (i) a minimum sound level and the nature and characteristics of the minimum sound to be required for all new vehicles sold and ~~licensed~~ **REGISTERED** registered in the State; and
 - (ii) the use of technology to enhance the safety of blind pedestrians.

(g) The Task Force is not required to specify the method or technology through which automobile manufacturers must implement the recommended sound standard.

(h) On or before December 31, ~~[2008]~~ **2010** 2010, the Task Force shall report its ~~FINAL~~ final findings and recommendations to the ~~[General Assembly]~~ **GOVERNOR AND Governor and**, in accordance with § 2-1246 of the State Government Article, ~~THE GENERAL ASSEMBLY~~, the General Assembly.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 2 YEARS AND 7 months and, at the end of December 31, [2008] 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

~~Chapter 385 of the Acts of 2008~~

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

~~(a) There is a Maryland Quiet Vehicles and Pedestrian Safety Task Force.~~

~~(b) The Task Force consists of:~~

~~(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND~~

~~(3) the following members, appointed by the Governor in consultation with the Secretary of Transportation:~~

~~[(1)] (I) one representative from the Department of Transportation;~~

~~[(2)] (II) one representative from the Department of the Environment;~~

~~[(3)] (III) two or three individuals who:~~

~~[(i)] 1. represent the organized blind community in this State;~~

~~[(ii)] 2. are legally blind; and~~

~~[(iii)] 3. have experience or expertise in training blind people to travel safely and independently;~~

~~[(4)] (IV) two or three individuals representing pedestrian organizations in this State; and~~

~~[(5)] (V) one representative of an organization representing the interests of automobile manufacturers.~~

~~(e) The Governor shall appoint a chair of the Task Force from its membership.~~

~~(d) The Secretary of Transportation shall provide staff support for the Task Force from the Department of Transportation.~~

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

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

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

~~(f) The Task Force shall:~~

~~(1) study:~~

~~(i) the effects of vehicle sound on pedestrian safety; and~~

~~(ii) all available technology that may enhance the safety of blind pedestrians;~~

~~(2) review all available research regarding the effects of vehicle sound on pedestrian safety;~~

~~(3) consult with:~~

~~(i) consumer groups representing individuals who are blind, other pedestrians, and cyclists; and~~

~~(ii) advocates for the safety of children;~~

~~(4) as appropriate, contract for additional research and studies to be conducted;~~

~~(5) conduct hearings to accept testimony from:~~

~~(i) experts on acoustics, automobile design, environmental quality, orientation and mobility for blind people, pedestrian safety, and other relevant fields; and~~

~~(ii) interested members of the public; and~~

~~(6) make recommendations concerning:~~

~~(i) a minimum sound level and the nature and characteristics of the minimum sound to be required for all new vehicles sold and [licensed] REGISTERED in the State; and~~

~~(ii) the use of technology to enhance the safety of blind pedestrians.~~

~~(g) The Task Force is not required to specify the method or technology through which automobile manufacturers must implement the recommended sound standard.~~

~~(h) On or before December 31, [2008] 2010, the Task Force shall report its FINAL findings and recommendations to the [General Assembly] GOVERNOR AND, in accordance with § 2-1246 of the State Government Article, THE GENERAL ASSEMBLY.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 2 YEARS AND 7 months and, at the end of December 31, [2008] 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor appoint to the Maryland Quiet Vehicles and Pedestrian Safety Task Force those individuals who formerly were appointed to the predecessor Task Force established under Chapter 384 of the Acts of the General Assembly of 2008 and who were serving on the Task Force as of December 31, 2009.

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 ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through December 31, 2010, and, at the end of December 31, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 7, 2009.

Chapter 250

(House Bill 367)

AN ACT concerning

**Maryland Quiet Vehicles and Pedestrian Safety Task Force - ~~Extension and~~
Membership Reconstitution**

FOR the purpose of ~~extending the duration of~~ reconstituting the Maryland Quiet Vehicles and Pedestrian Safety Task Force; ~~altering the membership of the Task Force; altering the date on which the final findings and recommendations of the Task Force are due; requiring the Task Force to report its final findings and recommendations to the Governor; making this Act an emergency measure; making a certain technical correction~~ providing for the membership and duties of the Task Force; providing for the staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to report to the Governor and the General Assembly by a certain date; making this Act an emergency measure; providing for the termination of this Act; *stating the intent of the General Assembly*; and generally relating to the Maryland Quiet Vehicles and Pedestrian Safety Task Force.

~~BY repealing and reenacting, with amendments,
Chapter 384 of the Acts of the General Assembly of 2008
Section 1 and 2~~

~~BY repealing and reenacting, with amendments,
Chapter 385 of the Acts of the General Assembly of 2008
Section 1 and 2~~

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

~~Chapter 384 of the Acts of 2008~~

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

- (a) There is a Maryland Quiet Vehicles and Pedestrian Safety Task Force.
- ~~(b) The Task Force consists of:~~
- (b) The Task Force consists of:

~~(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND~~

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House; and

~~(3)~~ (3) the following members, appointed by the Governor in consultation with the Secretary of Transportation:

~~[(1)]~~ ~~(I)~~ (i) one representative from the Department of Transportation;

~~[(2)]~~ ~~(II)~~ (ii) one representative from the Department of the Environment;

~~[(3)]~~ ~~(III)~~ (iii) two or three individuals who:

~~[(i)]~~ ~~1.~~ 1. represent the organized blind community in this State;

~~[(ii)]~~ ~~2.~~ 2. are legally blind; and

~~[(iii)]~~ ~~3.~~ 3. have experience or expertise in training blind people to travel safely and independently;

~~[(4)]~~ ~~(IV)~~ (iv) two or three individuals representing pedestrian organizations in this State; and

~~[(5)]~~ ~~(V)~~ (v) one representative of an organization representing the interests of automobile manufacturers.

(c) The Governor shall appoint a chair of the Task Force from its membership.

(d) The Secretary of Transportation shall provide staff support for the Task Force from the Department of Transportation.

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

(1) study:

(i) the effects of vehicle sound on pedestrian safety; and

(ii) all available technology that may enhance the safety of blind pedestrians;

(2) review all available research regarding the effects of vehicle sound on pedestrian safety;

(3) consult with:

(i) consumer groups representing individuals who are blind, other pedestrians, and cyclists; and

(ii) advocates for the safety of children;

(4) as appropriate, contract for additional research and studies to be conducted;

(5) conduct hearings to accept testimony from:

(i) experts on acoustics, automobile design, environmental quality, orientation and mobility for blind people, pedestrian safety, and other relevant fields; and

(ii) interested members of the public; and

(6) make recommendations concerning:

(i) a minimum sound level and the nature and characteristics of the minimum sound to be required for all new vehicles sold and ~~licensed~~ ~~REGISTERED~~ registered in the State; and

(ii) the use of technology to enhance the safety of blind pedestrians.

(g) The Task Force is not required to specify the method or technology through which automobile manufacturers must implement the recommended sound standard.

(h) On or before December 31, ~~[2008]~~ ~~2010~~ 2010, the Task Force shall report its ~~FINAL~~ final findings and recommendations to the ~~[General Assembly]~~ ~~GOVERNOR AND Governor and~~, in accordance with § 2-1246 of the State Government Article, ~~THE GENERAL ASSEMBLY~~, the General Assembly.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 2 YEARS AND 7 months and, at the end of December 31, [2008] 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

~~Chapter 385 of the Acts of 2008~~

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

~~(a) There is a Maryland Quiet Vehicles and Pedestrian Safety Task Force.~~

~~(b) The Task Force consists of:~~

~~(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE; AND~~

~~(3) the following members, appointed by the Governor in consultation with the Secretary of Transportation:~~

~~[(1)] (I) one representative from the Department of Transportation;~~

~~[(2)] (II) one representative from the Department of the Environment;~~

~~[(3)] (III) two or three individuals who:~~

~~[(i)] 1. represent the organized blind community in this State;~~

~~[(ii)] 2. are legally blind; and~~

~~[(iii)] 3. have experience or expertise in training blind people to travel safely and independently;~~

~~[(4)] (IV) two or three individuals representing pedestrian organizations in this State; and~~

~~[(5)] (V) one representative of an organization representing the interests of automobile manufacturers.~~

~~(e) The Governor shall appoint a chair of the Task Force from its membership.~~

~~(d) The Secretary of Transportation shall provide staff support for the Task Force from the Department of Transportation.~~

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

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

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

~~(f) The Task Force shall:~~

~~(1) study:~~

~~(i) the effects of vehicle sound on pedestrian safety; and~~

~~(ii) all available technology that may enhance the safety of blind pedestrians;~~

~~(2) review all available research regarding the effects of vehicle sound on pedestrian safety;~~

~~(3) consult with:~~

~~(i) consumer groups representing individuals who are blind, other pedestrians, and cyclists; and~~

~~(ii) advocates for the safety of children;~~

~~(4) as appropriate, contract for additional research and studies to be conducted;~~

~~(5) conduct hearings to accept testimony from:~~

~~(i) experts on acoustics, automobile design, environmental quality, orientation and mobility for blind people, pedestrian safety, and other relevant fields; and~~

~~(ii) interested members of the public; and~~

~~(6) make recommendations concerning:~~

~~(i) a minimum sound level and the nature and characteristics of the minimum sound to be required for all new vehicles sold and [licensed] REGISTERED in the State; and~~

~~(ii) the use of technology to enhance the safety of blind pedestrians.~~

~~(g) The Task Force is not required to specify the method or technology through which automobile manufacturers must implement the recommended sound standard.~~

~~(h) On or before December 31, [2008] 2010, the Task Force shall report its FINAL findings and recommendations to the [General Assembly] GOVERNOR AND, in accordance with § 2-1246 of the State Government Article, THE GENERAL ASSEMBLY.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 2 YEARS AND 7 months and, at the end of December 31, [2008] 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor appoint to the Maryland Quiet Vehicles and Pedestrian Safety Task Force those individuals who formerly were appointed to the predecessor Task Force established under Chapter 384 of the Acts of the General Assembly of 2008 and who were serving on the Task Force as of December 31, 2009.

SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through December 31, 2010, and, at the end of December 31, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 7, 2009.

Chapter 251

(Senate Bill 372)

Foster Care – Tuition Exemption – Expanded Eligibility

FOR the purpose of altering a certain definition to alter a certain age of eligibility of an adopted individual and to include younger siblings of an adopted individual if the younger sibling is adopted concurrently with the older sibling for purposes of determining eligibility for a certain tuition exemption; and generally ~~related~~ relating to tuition exemption exemptions for foster care recipients.

BY repealing and reenacting, with amendments,
 Article – Education
 Section 15–106.1
 Annotated Code of Maryland
 (2008 Replacement Volume)

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

Article – Education

15–106.1.

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

(2) (I) “Foster care recipient” means an individual who:

[(i) 1. Was placed in an out-of-home placement by the Maryland Department of Human Resources; and

[(ii) 1.] **2. A.** Resided in an out-of-home placement in the State at the time the individual graduated from high school or successfully completed a general equivalency development examination (GED); or

[2. A.] **B.** Resided in an out-of-home placement in the State on the individual’s ~~14th~~ **13TH** birthday]; and

B. Was] **AND WAS** adopted out of an out-of-home placement after the individual’s ~~14th~~ **13TH** birthday.

(II) **“FOSTER CARE RECIPIENT” INCLUDES A YOUNGER SIBLING OF AN INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE YOUNGER SIBLING IS CONCURRENTLY ADOPTED OUT OF AN OUT-OF-HOME PLACEMENT IN ACCORDANCE WITH § 5-525.2(A) OF THE FAMILY LAW ARTICLE BY THE SAME ADOPTIVE FAMILY.**

(3) "Out-of-home placement" has the meaning stated in § 5-501 of the Family Law Article.

(4) (i) "Tuition" means the charges imposed by a public institution of higher education for enrollment at the institution.

(ii) "Tuition" includes charges for registration and all fees required as a condition of enrollment.

(b) (1) Except as provided in paragraph (2) of this subsection, a foster care recipient is exempt from paying tuition at a public institution of higher education if:

(i) The foster care recipient is enrolled at the institution on or before the date that the foster care recipient reaches the age of 21 years;

(ii) The foster care recipient is enrolled as a candidate for an associate's degree or a bachelor's degree; and

(iii) The foster care recipient has filed for federal and State financial aid by March 1 each year.

(2) If a foster care recipient receives a scholarship or grant for postsecondary study and is enrolled before the recipient's 21st birthday as a candidate for an associate's degree or bachelor's degree at a public institution of higher education, the foster care recipient may not be required to pay the difference between the amount of the scholarship or grant and the amount of the tuition.

(3) A foster care recipient who is exempt from tuition under this section continues to be exempt until the earlier of:

(i) 5 years after first enrolling as a candidate for an associate's degree or a bachelor's degree at a public institution of higher education in the State; or

(ii) The date that the foster care recipient is awarded a bachelor's degree.

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

Approved by the Governor, May 7, 2009.

AN ACT concerning

Foster Care – Tuition Exemption – Expanded Eligibility

FOR the purpose of altering a certain definition to alter a certain age of eligibility of an adopted individual and to include younger siblings of an adopted individual if the younger sibling is adopted concurrently with the older sibling for purposes of determining eligibility for a certain tuition exemption; and generally related ~~relating~~ to tuition ~~exemption~~ exemptions for foster care recipients.

BY repealing and reenacting, with amendments,
Article – Education
Section 15–106.1
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

15–106.1.

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

(2) (I) “Foster care recipient” means an individual who:

[(i)] 1. Was placed in an out-of-home placement by the Maryland Department of Human Resources; and

[(ii) 1.] 2. A. Resided in an out-of-home placement in the State at the time the individual graduated from high school or successfully completed a general equivalency development examination (GED); or

[2. A.] B. Resided in an out-of-home placement in the State on the individual’s ~~14th~~ 13TH birthday; and

B. Was] **AND WAS** adopted out of an out-of-home placement after the individual’s ~~14th~~ 13TH birthday.

(II) “FOSTER CARE RECIPIENT” INCLUDES A YOUNGER SIBLING OF AN INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE YOUNGER SIBLING IS CONCURRENTLY ADOPTED OUT OF AN OUT-OF-HOME PLACEMENT IN ACCORDANCE WITH § 5-525.2(A) OF THE FAMILY LAW ARTICLE BY THE SAME ADOPTIVE FAMILY.

(3) "Out-of-home placement" has the meaning stated in § 5-501 of the Family Law Article.

(4) (i) "Tuition" means the charges imposed by a public institution of higher education for enrollment at the institution.

(ii) "Tuition" includes charges for registration and all fees required as a condition of enrollment.

(b) (1) Except as provided in paragraph (2) of this subsection, a foster care recipient is exempt from paying tuition at a public institution of higher education if:

(i) The foster care recipient is enrolled at the institution on or before the date that the foster care recipient reaches the age of 21 years;

(ii) The foster care recipient is enrolled as a candidate for an associate's degree or a bachelor's degree; and

(iii) The foster care recipient has filed for federal and State financial aid by March 1 each year.

(2) If a foster care recipient receives a scholarship or grant for postsecondary study and is enrolled before the recipient's 21st birthday as a candidate for an associate's degree or bachelor's degree at a public institution of higher education, the foster care recipient may not be required to pay the difference between the amount of the scholarship or grant and the amount of the tuition.

(3) A foster care recipient who is exempt from tuition under this section continues to be exempt until the earlier of:

(i) 5 years after first enrolling as a candidate for an associate's degree or a bachelor's degree at a public institution of higher education in the State; or

(ii) The date that the foster care recipient is awarded a bachelor's degree.

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

Approved by the Governor, May 7, 2009.

AN ACT concerning

Higher Education – ~~Maryland National Guard Members~~ Public Institutions of Higher Education – Nonresident Tuition Exemption

FOR the purpose of exempting certain members of the National Guard from paying nonresident tuition at public institutions of higher education; altering the type of individual who is exempt from paying nonresident tuition at public institutions of higher education; and generally relating to exemptions from paying nonresident tuition for military personnel at public institutions of higher education.

BY repealing and reenacting, with amendments,

Article – Education

Section 15–106.4

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Education

15–106.4.

(a) This section applies to the following individuals:

- (1) An active duty member of the United States armed forces;
- (2) The spouse of an active duty member of the United States armed forces;
- (3) A financially dependent child of an active duty member of the United States armed forces; [or]
- (4) An honorably discharged veteran of the United States armed forces; **OR**

(5) A MEMBER OF THE NATIONAL GUARD AS DEFINED IN § 13–405(A)(3) OF THE PUBLIC SAFETY ARTICLE.

(b) Notwithstanding any other provision of this article, [beginning with the 2004 fall semester,] an individual described in subsection (a) of this section who ~~registers as an entering student in~~ **ATTENDS** a public institution of higher education in the State is exempt from paying nonresident tuition at a public institution of higher education in this State if:

(1) The active duty member referred to in subsection (a) of this section:

- (i) Is stationed in this State;
- (ii) Resides in this State; or
- (iii) Is domiciled in this State; [or]

(2) The honorably discharged veteran presents the following documentation within 1 year after the veteran's discharge:

(i) Evidence that the veteran attended a public or private secondary school in this State for at least 3 years; and

(ii) Documentation that the veteran graduated from a public or private secondary school in this State or received the equivalent of a high school diploma in this State; **OR**

(3) THE NATIONAL GUARD MEMBER DESCRIBED IN SUBSECTION (A)(5) OF THIS SECTION IS A MEMBER OF THE MARYLAND NATIONAL GUARD AND JOINED OR SUBSEQUENTLY SERVES IN THE MARYLAND NATIONAL GUARD TO:

(I) PROVIDE A CRITICAL MILITARY OCCUPATIONAL SKILL;
OR

(II) BE A MEMBER OF THE AIR FORCE CRITICAL SPECIALTY CODE AS DETERMINED BY THE NATIONAL GUARD.

(c) Notwithstanding any other provision of this article, [beginning with the 2004 fall semester,] a spouse or financially dependent child of an active duty member who enrolls as an entering student in a public institution of higher education and is exempt from paying nonresident tuition under subsection (b) of this section shall continue to be exempt from paying nonresident tuition if:

(1) The active duty member no longer meets the requirements of subsection (b)(1) of this section; and

(2) The spouse or financially dependent child remains continuously enrolled at the public institution of higher education.

(d) The Commission shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article to implement the provisions of this section.

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

Approved by the Governor, May 7, 2009.

Chapter 254

(Senate Bill 378)

AN ACT concerning

Somerset County – Fire Company – Appropriations

FOR the purpose of requiring the County Commissioners of Somerset County to appropriate to certain organized volunteer fire companies in the county certain amounts for certain fiscal years; requiring that the appropriations required for a certain fiscal year remain in effect for subsequent fiscal years unless altered by a future enactment; and generally relating to appropriations for organized volunteer fire companies in Somerset County.

BY repealing and reenacting, with amendments,
 The Public Local Laws of Somerset County
 Section 2–304
 Article 20 – Public Local Laws of Maryland
 (2003 Edition and 2007 Supplement, as amended)

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

Article 20 – Somerset County

2–304.

(a) (1) The County Commissioners shall appropriate and levy annually the following amounts for the use of the organized volunteer fire companies in the County:

Fire Company	[FY 2005]	[FY 2006]	[FY 2007]	[FY 2008]	[FY 2009]	[FY 2010]
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY2015
Crisfield Volunteer Fire Company	[\$48,200] \$58,700	[\$53,150] \$60,200	[\$54,500] \$61,750	[\$55,850] \$63,300	[\$57,250] \$64,900	[\$58,700] \$66,550
Princess Anne Volunteer Fire	[\$48,200]	[\$53,150]	[\$54,500]	[\$55,850]	[\$57,250]	[\$58,700]

Company		\$58,700	\$60,200	\$61,750	\$63,300	\$64,900	\$66,550
Marion		[\$30,700]	[\$33,800]	[\$34,650]	[\$35,500]	[\$36,400]	[\$37,350]
Volunteer Fire Company		\$37,350	\$38,300	\$39,300	\$40,300	\$41,350	\$42,400
Deal Island–Chance		[\$26,700]	[\$29,400]	[\$30,150]	[\$30,900]	[\$31,700]	[\$32,500]
Volunteer Fire Company		\$32,500	\$33,350	\$34,200	\$35,100	\$36,000	\$36,900
Ewell	Fire	[\$21,300]	[\$23,450]	[\$24,050]	[\$24,650]	[\$25,250]	[\$25,900]
Department, Inc., of Smith Island		\$25,900	\$26,550	\$27,250	\$27,950	\$28,650	\$29,400
Mount Vernon		[\$21,300]	[\$29,400]	[\$30,150]	[\$30,900]	[\$31,700]	[\$32,500]
Volunteer Fire Company, Inc.		\$32,500	\$33,350	\$34,200	\$35,100	\$36,000	\$36,900
Tylerton		[\$6,600]	[\$7,250]	[\$7,450]	[\$7,650]	[\$7,850]	[\$8,050]
Volunteer Fire Company		\$8,050	\$8,250	\$8,500	\$8,750	\$9,000	\$9,250
Fairmount		[\$21,300]	[\$29,400]	[\$30,150]	[\$30,900]	[\$31,700]	[\$32,500]
Volunteer Fire Company		\$32,500	\$33,500	\$34,200	\$35,100	\$36,000	\$36,900
			<u>\$33,350</u>				

(2) The required appropriation for fiscal year [2010] **2015** shall remain in effect for subsequent fiscal years unless altered by future enactment.

(b) (1) From the money appropriated for each of the fire companies in subsection (a) of this section:

(i) Except as provided in item (ii) of this paragraph, \$5,000 shall be placed into a capital account by the respective fire companies, and shall be used only for capital expenditures, such as purchasing, operating, and repairing fire apparatus and equipment; and

(ii) \$1,000 shall be placed into a capital account by the Tylerton Volunteer Fire Company, and shall be used only for capital expenditures, such as purchasing, operating, and repairing fire apparatus and equipment.

(2) Payments may not be made to any company which has any regulations or resolutions limiting the territory within which it will respond to calls.

(c) Each fire company receiving County funds shall provide an accounting of the expenditures of the funds to the County Commissioners.

(d) The County Commissioners may levy for and appropriate funds annually for emergency services provided by any volunteer fire company or rescue squad if the volunteer fire company or rescue squad is operated on a not for profit basis.

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

Approved by the Governor, May 7, 2009.

Chapter 255

(House Bill 198)

AN ACT concerning

Somerset County – Fire Company – Appropriations

FOR the purpose of requiring the County Commissioners of Somerset County to appropriate to certain organized volunteer fire companies in the county certain amounts for certain fiscal years; requiring that the appropriations required for a certain fiscal year remain in effect for subsequent fiscal years unless altered by a future enactment; and generally relating to appropriations for organized volunteer fire companies in Somerset County.

BY repealing and reenacting, with amendments,
 The Public Local Laws of Somerset County
 Section 2–304
 Article 20 – Public Local Laws of Maryland
 (2003 Edition and 2007 Supplement, as amended)

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

Article 20 – Somerset County

2–304.

(a) (1) The County Commissioners shall appropriate and levy annually the following amounts for the use of the organized volunteer fire companies in the County:

Fire Company	[FY 2005] FY 2010	[FY 2006] FY 2011	[FY 2007] FY 2012	[FY 2008] FY 2013	[FY 2009] FY 2014	[FY 2010] FY 2015
Crisfield Volunteer Fire	[\$48,200]	[\$53,150]	[\$54,500]	[\$55,850]	[\$57,250]	[\$58,700]

Company	\$58,700	\$60,200	\$61,750	\$63,300	\$64,900	\$66,550
Princess Anne Volunteer Fire Company	[\$48,200] \$58,700	[\$53,150] \$60,200	[\$54,500] \$61,750	[\$55,850] \$63,300	[\$57,250] \$64,900	[\$58,700] \$66,550
Marion Volunteer Fire Company	[\$30,700] \$37,350	[\$33,800] \$38,300	[\$34,650] \$39,300	[\$35,500] \$40,300	[\$36,400] \$41,350	[\$37,350] \$42,400
Deal Island– Chance Volunteer Fire Company	[\$26,700] \$32,500	[\$29,400] \$33,350	[\$30,150] \$34,200	[\$30,900] \$35,100	[\$31,700] \$36,000	[\$32,500] \$36,900
Ewell Fire Department, Inc., of Smith Island	[\$21,300] \$25,900	[\$23,450] \$26,550	[\$24,050] \$27,250	[\$24,650] \$27,950	[\$25,250] \$28,650	[\$25,900] \$29,400
Mount Vernon Volunteer Fire Company, Inc.	[\$21,300] \$32,500	[\$29,400] \$33,350	[\$30,150] \$34,200	[\$30,900] \$35,100	[\$31,700] \$36,000	[\$32,500] \$36,900
Tylerton Volunteer Fire Company	[\$6,600] \$8,050	[\$7,250] \$8,250	[\$7,450] \$8,500	[\$7,650] \$8,750	[\$7,850] \$9,000	[\$8,050] \$9,250
Fairmount Volunteer Fire Company	[\$21,300] \$32,500	[\$29,400] \$33,500 \$33,350	[\$30,150] \$34,200	[\$30,900] \$35,100	[\$31,700] \$36,000	[\$32,500] \$36,900

(2) The required appropriation for fiscal year [2010] **2015** shall remain in effect for subsequent fiscal years unless altered by future enactment.

(b) (1) From the money appropriated for each of the fire companies in subsection (a) of this section:

(i) Except as provided in item (ii) of this paragraph, \$5,000 shall be placed into a capital account by the respective fire companies, and shall be used only for capital expenditures, such as purchasing, operating, and repairing fire apparatus and equipment; and

(ii) \$1,000 shall be placed into a capital account by the Tylerton Volunteer Fire Company, and shall be used only for capital expenditures, such as purchasing, operating, and repairing fire apparatus and equipment.

(2) Payments may not be made to any company which has any regulations or resolutions limiting the territory within which it will respond to calls.

(c) Each fire company receiving County funds shall provide an accounting of the expenditures of the funds to the County Commissioners.

(d) The County Commissioners may levy for and appropriate funds annually for emergency services provided by any volunteer fire company or rescue squad if the volunteer fire company or rescue squad is operated on a not for profit basis.

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

Approved by the Governor, May 7, 2009.

Chapter 256

(Senate Bill 403)

AN ACT concerning

Prince George's County – Green Businesses – Tax Credits

FOR the purpose of authorizing the governing body of Prince George's County to grant, by law, a tax credit against the county property tax imposed on certain property owned or leased by certain businesses; authorizing the governing body of Prince George's County to provide, by law, for eligibility and certification criteria for the credit, the amount and duration of the credit, certain regulations and procedures, and any other provision necessary to carry out the credit; requiring the County Council and the County Executive of Prince George's County to jointly appoint an advisory board; specifying the duties of the advisory board; requiring certain members of the advisory board to be affiliated with certain organizations; defining certain terms; providing for the application of this Act; and generally relating to a property tax credit in Prince George's County for certain property owned or leased by certain businesses.

BY adding to

Article – Tax – Property

Section 9–318(f)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

9–318.

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

(II) "GREEN BUSINESS" MEANS A BUSINESS THAT IS CERTIFIED BY PRINCE GEORGE'S COUNTY AND:

1. PRIMARYLY DISTRIBUTES, MANUFACTURES, MARKETS, OR SELLS GREEN PRODUCTS; ~~OR~~

2. PRIMARYLY PROVIDES SERVICES RELATING TO GREEN PRODUCTS; OR

3. PRIMARYLY PROVIDES RESEARCH AND DEVELOPMENT RELATING TO GREEN PRODUCTS.

~~2. ENGAGES IN GREEN PRACTICES.~~

~~(III) "GREEN PRACTICES" MEANS:~~

~~1. COMPLIANCE WITH ALL ENVIRONMENTAL REGULATIONS;~~

~~2. IMPLEMENTATION OF PROCEDURES FOR:~~

~~A. WATER CONSERVATION;~~

~~B. SOLID WASTE REDUCTION AND RECYCLING;~~

~~C. ENERGY CONSERVATION; AND~~

~~D. POLLUTION PREVENTION; AND~~

~~3. OFFERING ENVIRONMENTAL EDUCATION AND OUTREACH TO THE COMMUNITY AND OTHER BUSINESSES.~~

~~(IV)~~ (III) "GREEN PRODUCT" MEANS A PRODUCT THAT:

1. IS ENERGY OR WATER EFFICIENT;

2. USES HEALTHY, NONTOXIC MATERIALS;

3. IS MADE FROM RECYCLED OR RENEWABLE RESOURCES; OR

4. MAKES CURRENT PRODUCTS MORE ENERGY EFFICIENT; ~~OR~~

~~5. IS RECYCLABLE OR BIODEGRADABLE.~~

(2) THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL OR PERSONAL PROPERTY THAT IS OWNED OR LEASED BY A CERTIFIED GREEN BUSINESS.

(3) THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY MAY PROVIDE, BY LAW, FOR:

(I) CRITERIA FOR ELIGIBILITY AND CERTIFICATION FOR THE TAX CREDIT UNDER THIS SUBSECTION;

(II) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SUBSECTION;

(III) REGULATIONS AND PROCEDURES FOR THE APPLICATION, CERTIFICATION, AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

(IV) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE TAX CREDIT.

(4) (I) THE COUNTY COUNCIL AND COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY SHALL JOINTLY APPOINT AN ADVISORY BOARD TO PROVIDE ADVICE TO THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY REGARDING THE IMPLEMENTATION OF PARAGRAPH (3) OF THIS SUBSECTION.

(II) A MAJORITY OF THE MEMBERS OF THE ADVISORY BOARD SHALL BE AFFILIATED WITH A NONPROFIT ENVIRONMENTAL ORGANIZATION IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 7, 2009.

Chapter 257**(House Bill 959)**

AN ACT concerning

Prince George's County – Green Businesses – Tax Credits**PG 401-09**

FOR the purpose of authorizing the governing body of Prince George's County to grant, by law, a tax credit against the county property tax imposed on certain property owned or leased by certain businesses; authorizing the governing body of Prince George's County to provide, by law, for eligibility and certification criteria for the credit, the amount and duration of the credit, certain regulations and procedures, and any other provision necessary to carry out the credit; requiring the County Council and the County Executive of Prince George's County to jointly appoint an advisory board; specifying the duties of the advisory board; requiring certain members of the advisory board to be affiliated with certain organizations; defining certain terms; providing for the application of this Act; and generally relating to a property tax credit in Prince George's County for certain property owned or leased by certain businesses.

BY adding to

Article – Tax – Property

Section 9-318(f)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property

9-318.

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

(II) “GREEN BUSINESS” MEANS A BUSINESS THAT IS CERTIFIED BY PRINCE GEORGE’S COUNTY AND:

1. PRIMARILY DISTRIBUTES, MANUFACTURES, MARKETS, OR SELLS GREEN PRODUCTS; ~~OR~~

2. PRIMARILY PROVIDES SERVICES RELATING TO GREEN PRODUCTS; OR

3. PRIMARILY PROVIDES RESEARCH AND DEVELOPMENT RELATING TO GREEN PRODUCTS.

~~2. ENGAGES IN GREEN PRACTICES.~~

~~(III) "GREEN PRACTICES" MEANS:~~

~~1. COMPLIANCE WITH ALL ENVIRONMENTAL REGULATIONS;~~

~~2. IMPLEMENTATION OF PROCEDURES FOR:~~

~~A. WATER CONSERVATION;~~

~~B. SOLID WASTE REDUCTION AND RECYCLING;~~

~~C. ENERGY CONSERVATION; AND~~

~~D. POLLUTION PREVENTION; AND~~

~~3. OFFERING ENVIRONMENTAL EDUCATION AND OUTREACH TO THE COMMUNITY AND OTHER BUSINESSES.~~

~~(IV)~~ (III) "GREEN PRODUCT" MEANS A PRODUCT THAT:

1. IS ENERGY OR WATER EFFICIENT;

2. USES HEALTHY, NONTOXIC MATERIALS;

3. IS MADE FROM RECYCLED OR RENEWABLE

RESOURCES; OR

4. MAKES CURRENT PRODUCTS MORE ENERGY

EFFICIENT; OR

~~5. IS RECYCLABLE OR BIODEGRADABLE.~~

(2) THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL OR PERSONAL PROPERTY THAT IS OWNED OR LEASED BY A CERTIFIED GREEN BUSINESS.

(3) THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY MAY PROVIDE, BY LAW, FOR:

(I) CRITERIA FOR ELIGIBILITY AND CERTIFICATION FOR THE TAX CREDIT UNDER THIS SUBSECTION;

(II) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SUBSECTION;

(III) REGULATIONS AND PROCEDURES FOR THE APPLICATION, CERTIFICATION, AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

(IV) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE TAX CREDIT.

(4) (I) THE COUNTY COUNCIL AND COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY SHALL JOINTLY APPOINT AN ADVISORY BOARD TO PROVIDE ADVICE TO THE GOVERNING BODY OF PRINCE GEORGE'S COUNTY REGARDING THE IMPLEMENTATION OF PARAGRAPH (3) OF THIS SUBSECTION.

(II) A MAJORITY OF THE MEMBERS OF THE ADVISORY BOARD SHALL BE AFFILIATED WITH A NONPROFIT ENVIRONMENTAL ORGANIZATION IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 7, 2009.

Chapter 258

(Senate Bill 408)

AN ACT concerning

Environment - Water Pollution Control - ~~Incentives and Penalties~~

FOR the purpose of ~~requiring the Department of the Environment to adopt regulations providing performance improvement incentives for the owner or operator of certain wastewater systems; requiring the incentives adopted by regulation to~~

~~be in the form of reductions in certain penalties; increasing certain penalties for certain violations of the water pollution control law; requiring certain regulations to be considered when imposing a certain penalty; and generally relating to water pollution control.~~

BY repealing and reenacting, with amendments,
Article – Environment
Section ~~9-320 and 9-342~~
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

~~9-320.~~

- (a) ~~There is a Maryland Clean Water Fund.~~
- (b) ~~The following payments shall be made into the Maryland Clean Water Fund:~~
- (1) ~~All application fees, permit fees, renewal fees, and funds collected by the Department under this subtitle, including any civil or administrative penalty or any fine imposed by a court under the provisions of this subtitle; and~~
- (2) ~~Any civil penalty or any fine imposed by a court under the provisions of Title 5, Subtitle 5 of this article relating to water appropriation and use.~~
- (c) ~~The Department shall use the Maryland Clean Water Fund for activities that are related to:~~
- (1) ~~The identification, monitoring, and regulation of the proper discharge of effluent into the waters of the State including program development of these activities as provided by the State budget; and~~
- (2) ~~The management, conservation, protection, and preservation of the State's groundwater and surface water including program development of these activities as provided by the State budget.~~
- (d) ~~In determining the use of the Maryland Clean Water Fund, priority shall be given to activities relating to the water quality of the Chesapeake Bay and its tributaries.~~
- (e) ~~Notwithstanding any law to the contrary, unexpended moneys in the Fund shall not revert to the general treasury at the end of a fiscal year.~~

~~(F) (1) BY DECEMBER 31, 2009, THE DEPARTMENT SHALL ADOPT REGULATIONS PROVIDING PERFORMANCE IMPROVEMENT INCENTIVES FOR THE OWNER OR OPERATOR OF ANY SANITARY SEWER SYSTEM, COMBINED SEWER SYSTEM, OR WASTEWATER TREATMENT PLANT.~~

~~(2) THE INCENTIVES PROVIDED BY REGULATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN THE FORM OF A REDUCTION IN PENALTIES IMPOSED UNDER § 9-342(B)(2) OF THIS SUBTITLE.~~

9-342.

(a) In addition to being subject to an injunctive action under this subtitle, a person who violates any provision of this subtitle or of any rule, regulation, order, or permit adopted or issued under this subtitle is liable to a civil penalty not exceeding \$10,000, to be collected in a civil action brought by the Department. Each day a violation occurs is a separate violation under this subsection.

(b) (1) In addition to any other remedies available at law or in equity and after an opportunity for a hearing which may be waived in writing by the person accused of a violation, the Department may impose a penalty for violation of any provision of this subtitle or any rule, regulation, order, or permit adopted or issued under this subtitle.

(2) The penalty imposed on a person under this subsection shall be:

(i) Up to ~~[\$1,000] \$10,000~~ \$5,000 for each violation, but not exceeding \$50,000 total; and

(ii) Assessed with consideration given to:

1. The willfulness of the violation, the extent to which the existence of the violation was known to but uncorrected by the violator, and the extent to which the violator exercised reasonable care;

2. Any actual harm to the environment or to human health, including injury to or impairment of the use of the waters of this State or the natural resources of this State;

3. The cost of cleanup and the cost of restoration of natural resources;

4. The nature and degree of injury to or interference with general welfare, health, and property;

5. The extent to which the location of the violation, including location near waters of this State or areas of human population, creates the potential for harm to the environment or to human health or safety;

6. The available technology and economic reasonableness of controlling, reducing, or eliminating the violation;

7. The degree of hazard posed by the particular pollutant or pollutants involved; ~~and~~

8. The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator; ~~AND~~

~~9. REGULATIONS ADOPTED UNDER § 9-320(F)(1) OF THIS SUBTITLE.~~

(3) Each day a violation occurs is a separate violation under this subsection.

(4) Any penalty imposed under this subsection is payable to this State and collectible in any manner provided at law for the collection of debts.

(5) If any person who is liable to pay a penalty imposed under this subsection fails to pay it after demand, the amount, together with interest and any costs that may accrue, shall be:

(i) A lien in favor of this State on any property, real or personal, of the person; and

(ii) Recorded in the office of the clerk of court for the county in which the property is located.

(6) Any penalty collected under this subsection shall be placed in a special fund to be used for monitoring and surveillance by the Department to assure and maintain an adequate record of any violations, including discharge of waste material and other pollutants into the waters of this State or into the environment.

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

Approved by the Governor, May 7, 2009.

Chapter 259**(Senate Bill 421)**

AN ACT concerning

Social Services Administration – ~~Children at Substantial Risk of Abuse or Neglect – Identification and Notice~~ and Department of Health and Mental Hygiene – Parents Responsible for Child Abuse or Neglect – Birth of Subsequent Child

FOR the purpose of requiring the Secretary of Health and Mental Hygiene to provide certain birth record information to the Executive Director of the Social Services Administration in the Department of Human Resources under certain circumstances; requiring the Executive Director to provide certain information regarding certain individuals to the Secretary; requiring the Executive Director to take certain action following the receipt of certain information from the Secretary; providing a certain exception to the confidentiality of certain vital records; and generally relating to the Social Services Administration, the Department of Health and Mental Hygiene, and ~~children at substantial risk of abuse or neglect.~~ child abuse and neglect.

BY adding to

Article – Health – General
Section 4–222
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 4–224
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Family Law
Section 5–715
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Health – General**4–222.**

THE SECRETARY SHALL PROVIDE TO THE EXECUTIVE DIRECTOR OF THE SOCIAL SERVICES ADMINISTRATION IN THE DEPARTMENT OF HUMAN RESOURCES BIRTH RECORD INFORMATION FOR A CHILD BORN TO AN INDIVIDUAL WHOSE IDENTIFYING INFORMATION HAS BEEN PROVIDED TO THE SECRETARY WITHIN THE PREVIOUS ~~FIVE~~ 5 YEARS BY THE EXECUTIVE DIRECTOR UNDER § 5-715 OF THE FAMILY LAW ARTICLE.

4-224.

To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the vital records system, a person may not, except as authorized in § 4-217, § 4-220, [or] § 4-221, **OR § 4-222** of this subtitle or § 9-1015 of the State Government Article or by the rules and regulations of the Department:

- (1) Permit inspection of or disclose any information contained in a vital record; or
- (2) Copy or issue a copy of all or part of any vital record.

Article - Family Law

5-715.

(A) THE EXECUTIVE DIRECTOR OF THE ADMINISTRATION SHALL PROVIDE THE SECRETARY OF HEALTH AND MENTAL HYGIENE WITH IDENTIFYING INFORMATION REGARDING INDIVIDUALS WHO, AS TO ANY CHILD, HAVE HAD THEIR PARENTAL RIGHTS TERMINATED UNDER § 5-322 OR § 5-323 OF THIS TITLE AND HAVE BEEN IDENTIFIED ~~BY A LOCAL DEPARTMENT OF SOCIAL SERVICES AS RESPONSIBLE FOR INDICATED ABUSE OR NEGLECT AS~~ RESPONSIBLE FOR ABUSE OR NEGLECT IN A CENTRAL REGISTRY AS DESCRIBED IN § 5-714(E) OF THIS SUBTITLE.

(B) IF IN ACCORDANCE WITH § 4-222 OF THE HEALTH - GENERAL ARTICLE, THE SECRETARY PROVIDES TO THE EXECUTIVE DIRECTOR BIRTH RECORD INFORMATION FOR A CHILD BORN TO AN INDIVIDUAL WHOSE IDENTIFYING INFORMATION HAS BEEN PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL:

- (1) **VERIFY THAT THE PARENT OF THE CHILD IS THE SAME INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION; AND**
- (2) **IMMEDIATELY NOTIFY THE LOCAL DEPARTMENT IN THE JURISDICTION IN WHICH THE CHILD RESIDES ~~THAT THE CHILD MAY BE AT SUBSTANTIAL RISK OF ABUSE OR NEGLECT~~ SO THAT THE LOCAL DEPARTMENT**

MAY REVIEW ITS RECORDS AND, WHEN APPROPRIATE, PROVIDE AN ASSESSMENT OF THE FAMILY AND OFFER SERVICES IF NEEDED.

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

Approved by the Governor, May 7, 2009.

Chapter 260

(House Bill 144)

AN ACT concerning

Social Services Administration – ~~Children at Substantial Risk of Abuse or Neglect – Identification and Notice~~ and Department of Health and Mental Hygiene – Parents Responsible for Child Abuse or Neglect – Birth of Subsequent Child

FOR the purpose of requiring the Secretary of Health and Mental Hygiene to provide certain birth record information to the Executive Director of the Social Services Administration in the Department of Human Resources under certain circumstances; requiring the Executive Director to provide certain information regarding certain individuals to the Secretary; requiring the Executive Director to take certain action following the receipt of certain information from the Secretary; providing a certain exception to the confidentiality of certain vital records; and generally relating to the Social Services Administration, the Department of Health and Mental Hygiene, and ~~children at substantial risk of abuse or neglect.~~ child abuse and neglect.

BY adding to

Article – Health – General
Section 4–222
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 4–224
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Family Law

Section 5-715
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article - Health - General

4-222.

THE SECRETARY SHALL PROVIDE TO THE EXECUTIVE DIRECTOR OF THE SOCIAL SERVICES ADMINISTRATION IN THE DEPARTMENT OF HUMAN RESOURCES BIRTH RECORD INFORMATION FOR A CHILD BORN TO AN INDIVIDUAL WHOSE IDENTIFYING INFORMATION HAS BEEN PROVIDED TO THE SECRETARY WITHIN THE PREVIOUS ~~FIVE~~ 5 YEARS BY THE EXECUTIVE DIRECTOR UNDER § 5-715 OF THE FAMILY LAW ARTICLE.

4-224.

To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the vital records system, a person may not, except as authorized in § 4-217, § 4-220, [or] § 4-221, **OR § 4-222** of this subtitle or § 9-1015 of the State Government Article or by the rules and regulations of the Department:

- (1) Permit inspection of or disclose any information contained in a vital record; or
- (2) Copy or issue a copy of all or part of any vital record.

Article - Family Law

5-715.

(A) THE EXECUTIVE DIRECTOR OF THE ADMINISTRATION SHALL PROVIDE THE SECRETARY OF HEALTH AND MENTAL HYGIENE WITH IDENTIFYING INFORMATION REGARDING INDIVIDUALS WHO, AS TO ANY CHILD, HAVE HAD THEIR PARENTAL RIGHTS TERMINATED UNDER § 5-322 OR § 5-323 OF THIS TITLE AND HAVE BEEN IDENTIFIED ~~BY A LOCAL DEPARTMENT OF SOCIAL SERVICES AS RESPONSIBLE FOR INDICATED ABUSE OR NEGLECT AS RESPONSIBLE FOR ABUSE OR NEGLECT IN A CENTRAL REGISTRY AS DESCRIBED IN § 5-714(E) OF THIS SUBTITLE.~~

(B) IF IN ACCORDANCE WITH § 4-222 OF THE HEALTH - GENERAL ARTICLE, THE SECRETARY PROVIDES TO THE EXECUTIVE DIRECTOR BIRTH RECORD INFORMATION FOR A CHILD BORN TO AN INDIVIDUAL WHOSE IDENTIFYING INFORMATION HAS BEEN PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL:

(1) VERIFY THAT THE PARENT OF THE CHILD IS THE SAME INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION; AND

(2) IMMEDIATELY NOTIFY THE LOCAL DEPARTMENT IN THE JURISDICTION IN WHICH THE CHILD RESIDES ~~THAT THE CHILD MAY BE AT SUBSTANTIAL RISK OF ABUSE OR NEGLECT~~ SO THAT THE LOCAL DEPARTMENT MAY REVIEW ITS RECORDS AND, WHEN APPROPRIATE, PROVIDE AN ASSESSMENT OF THE FAMILY AND OFFER SERVICES IF NEEDED.

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

Approved by the Governor, May 7, 2009.

Chapter 261

(Senate Bill 433)

AN ACT concerning

State Board of Physicians - Polysomnographic Technologists - Education and Licensing Requirements

FOR the purpose of requiring the State Board of Physicians to waive certain education requirements for certain polysomnographic technologists who meet certain requirements by a certain date; altering the date by which an individual must be licensed before the individual may practice polysomnography in the State; and generally relating to education and licensing requirements for polysomnographic technologists.

BY repealing and reenacting, without amendments,
Article - Health Occupations
Section 14-5C-01(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article - Health Occupations

Section 14-5C-08 and 14-5C-10
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article - Health Occupations

14-5C-01.

(b) "Board" means the State Board of Physicians.

14-5C-08.

(a) Except as otherwise provided in this subtitle, on or after October 1, [2009] ~~2012~~ 2011, an individual shall be licensed by the Board before the individual may practice polysomnography in this State.

(b) This section does not apply to a student enrolled in an education program under § 14-5C-09(c)(3) of this subtitle while practicing polysomnography in that program.

14-5C-10.

(a) The Board shall waive the education requirement under § 14-5C-09(c)(3) of this subtitle if on or before September 30, [2009] ~~2012~~ 2011, an individual:

(1) Has passed the national certifying examination by the Board of Registered Polysomnographic Technologists;

(2) Is certified by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist;

(3) Has submitted an application for licensure to the Board; and

(4) Meets all of the requirements under § 14-5C-09(b) and (c)(1) and (2) of this subtitle.

(b) (1) If an individual has not satisfied the requirements under subsection (a) of this section on or before September 30, [2009] ~~2012~~ 2011, the individual may petition the Board for an extension.

(2) The Board shall determine whether to grant an extension under this subsection on a case-by-case basis.

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

Approved by the Governor, May 7, 2009.

Chapter 262

(House Bill 597)

AN ACT concerning

State Board of Physicians – Polysomnographic Technologists – Education and Licensing Requirements

FOR the purpose of requiring the State Board of Physicians to waive certain education requirements for certain polysomnographic technologists who meet certain requirements by a certain date; altering the date by which an individual must be licensed before the individual may practice polysomnography in the State; and generally relating to education and licensing requirements for polysomnographic technologists.

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–5C–01(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 14–5C–08 and 14–5C–10
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health Occupations

14–5C–01.

(b) “Board” means the State Board of Physicians.

14–5C–08.

(a) Except as otherwise provided in this subtitle, on or after October 1, [2009] ~~2012~~ 2011, an individual shall be licensed by the Board before the individual may practice polysomnography in this State.

(b) This section does not apply to a student enrolled in an education program under § 14-5C-09(c)(3) of this subtitle while practicing polysomnography in that program.

14-5C-10.

(a) The Board shall waive the education requirement under § 14-5C-09(c)(3) of this subtitle if on or before September 30, [2009] ~~2012~~ 2011, an individual:

(1) Has passed the national certifying examination by the Board of Registered Polysomnographic Technologists;

(2) Is certified by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist;

(3) Has submitted an application for licensure to the Board; and

(4) Meets all of the requirements under § 14-5C-09(b) and (c)(1) and (2) of this subtitle.

(b) (1) If an individual has not satisfied the requirements under subsection (a) of this section on or before September 30, [2009] ~~2012~~ 2011, the individual may petition the Board for an extension.

(2) The Board shall determine whether to grant an extension under this subsection on a case-by-case basis.

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

Approved by the Governor, May 7, 2009.

Chapter 263

(Senate Bill 449)

AN ACT concerning

**Allegany County and Garrett County – Exceptional Hauling Permits for
Forestry Products – Sunset Repeal**

FOR the purpose of repealing the termination date for a certain provision of law relating to the issuance of exceptional hauling permits for forestry products in Allegany County and Garrett County.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 24–113.2
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 409 of the Acts of the General Assembly of 2006
Section 4

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

Article – Transportation

24–113.2.

(a) An exceptional hauling permit issued under this section is valid only in Allegany County and Garrett County.

(b) Notwithstanding any other provision of this title, the State Highway Administration may issue an exceptional hauling permit for a combination of vehicles that:

(1) Carries forestry products that:

(i) Are loaded in fields or other off–highway locations; and

(ii) Are the only load of the vehicle; and

(2) Has an axle configuration of not less than six axles and a front–to–rear centerline axle spacing of not less than 50 feet.

(c) A combination of vehicles operating under the authority of an exceptional hauling permit issued under subsection (b) of this section shall:

(1) Comply with the following weight limits:

(i) A maximum of 20,000 pounds gross weight on a single axle;

(ii) For any consecutive axle configuration of two or more axles on individual vehicles in the combination, the maximum gross weight specified in § 24–109(c) of this subtitle; and

(iii) A maximum of 87,000 gross combination weight;

(2) Twice each year, submit to and pass a North American Standard Driver/Vehicle Level 1 inspection; and

(3) Be allowed a load limit tolerance of only 1,000 pounds for gross combination weight and 15% for axle weights.

(d) While operating a combination of vehicles under the authority of an exceptional hauling permit issued under subsection (b) of this section, a person may not:

(1) Violate a highway restriction issued by a competent authority;

(2) Operate the combination of vehicles on the interstate highway system, as defined in § 8–101(j) of this article;

(3) Operate the combination of vehicles if the combination of vehicles exceeds any tire weight rating or tire speed restriction adopted under § 25–111 of this article; or

(4) Fail to comply with the terms and conditions of the exceptional hauling permit.

(e) While operating a combination of vehicles under the authority of an exceptional hauling permit issued under subsection (b) of this section, a person shall have in the person's possession:

(1) The original exceptional hauling permit issued for the vehicle; and

(2) For each vehicle in the combination of vehicles, a copy of a valid North American Standard Driver/Vehicle Level 1 inspection report issued within the preceding 180 days that shows no out-of-service violations.

(f) (1) A violation of this section, regulations adopted to implement this section, or the terms and conditions of an exceptional hauling permit issued under subsection (b) of this section shall:

(i) Void the authority granted under the exceptional hauling permit;

(ii) Subject the vehicle to all weight requirements and tolerances specified in this article; and

(iii) For a violation of a weight restriction specified in this section that exceeds 5,000 pounds, subject the exceptional hauling permit to

immediate confiscation by an officer or authorized civilian employee of the Department of State Police, an officer of the Maryland Transportation Authority Police, or any police officer.

(2) A person who confiscates an exceptional hauling permit under paragraph (1) of this subsection shall immediately notify the State Highway Administration.

(3) On notification of the confiscation of an exceptional hauling permit, the State Highway Administration shall review the confiscation, verify the violation of a weight restriction, and, if the State Highway Administration determines that a violation did occur, revoke the permit.

(4) An owner or operator of a combination of vehicles may appeal the revocation of an exceptional hauling permit to the State Highway Administrator or the Administrator's designee.

(g) (1) On request from the State Highway Administrator or the Administrator's designee, weight and delivery records of the holder of an exceptional hauling permit that are kept in the normal course of business shall be provided by:

(i) The holder of the exceptional hauling permit; or

(ii) A facility that receives forestry products delivered by a vehicle operating under the authority of an exceptional hauling permit.

(2) If the holder of an exceptional hauling permit or a facility that receives forestry products does not comply with a request under this subsection, the State Highway Administration may:

(i) Suspend the holder's exceptional hauling permit; or

(ii) Prohibit a vehicle from delivering forestry products under the authority of the exceptional hauling permit to the noncompliant facility.

(h) (1) An applicant for an exceptional hauling permit shall pay to the State Highway Administration:

(i) \$500 for the issuance of a new permit or the annual renewal of a permit;

(ii) \$1,000 for the reinstatement of a permit that was revoked under subsection (f)(3) of this section for a first violation; and

(iii) \$5,000 for the reinstatement of a permit that was revoked under subsection (f)(3) of this section for a second or subsequent violation within the prior 24 months.

(2) A fee paid under this subsection is nonrefundable.

(i) Except as otherwise provided in this section, an exceptional hauling permit is valid for 1 year from the date of issuance.

(j) In consultation with the Secretary of State Police, the State Highway Administration shall adopt regulations to implement this section.

Chapter 409 of the Acts of 2006

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2006. [It shall remain effective for a period of 4 years and, at the end of May 31, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

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

Approved by the Governor, May 7, 2009.

Chapter 264

(Senate Bill 473)

AN ACT concerning

Environment – Recycling – Public School Plans

FOR the purpose of requiring a county recycling plan to address the collection, processing, marketing, and disposition of recyclable materials from county public schools; requiring a county to submit a revised recycling plan by a certain date; and generally relating to county recycling plans.

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1703

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 239 of the Acts of the General Assembly of 2007)

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

Article – Environment

9-1703.

(a) Each county shall submit a recycling plan to the Secretary for approval when the county submits its county plan to the Secretary in accordance with the provisions of § 9-505 of this title.

(b) In preparing the recycling plan as required in § 9-505 of this title, the county shall address:

- (1) Methods to meet the solid waste stream reduction;
- (2) The feasibility of source separation of the solid waste stream generated within the county;
- (3) The recyclable materials to be separated;
- (4) The strategy for the collection, processing, marketing, and disposition of recyclable materials, including the cost-effective use of recycling centers;
- (5) Methods of financing the recycling efforts proposed by the county;
- (6) Methods for the separate collection and composting of yard waste;
- (7) The feasibility of a system for the composting of mixed solid wastes;
- (8) The feasibility of a system for the collection and recycling of white goods;
- (9) The separate collection of other recyclable materials; [and]

(10) THE STRATEGY FOR THE COLLECTION, PROCESSING, MARKETING, AND DISPOSITION OF RECYCLABLE MATERIALS FROM COUNTY PUBLIC SCHOOLS; AND

[(10)] **(11)** Any other alternative methods of recycling that will attain or exceed the solid waste stream reduction goals determined by the county.

(c) (1) In preparing the recycling plan as required under § 9-505 of this title, the county may address methods for the separate collection and recycling of covered electronic devices, including efforts by the county to establish partnerships with covered electronic device manufacturers, recyclers, retailers, or other local governments for the collection and recycling of covered electronic devices.

(2) If a county elects to address methods for the separate collection and recycling of covered electronic devices in its recycling plan, any reduction in the county's solid waste stream attributable to the implementation of the methods shall count towards the county's required reduction through recycling of the solid waste stream under § 9-505 of this title.

(d) A county that achieves a reduction of at least 5 percent in the volume of its waste through the utilization of 1 or more resource recovery facilities in operation as of January 1, 1988 shall be considered to have achieved a reduction by recycling of 5 percent of its solid waste stream.

(e) In preparing a recycling plan, a county may not calculate a tax or mandatory deposit on any beverage container that is enacted by a county or municipality to achieve the recycling goals required under § 9-505 of this title.

(f) For the purpose of determining weight, the Department may not preclude the use of portable weigh scales.

(G) A COUNTY SHALL REVISE ITS RECYCLING PLAN BY OCTOBER 1, 2010, TO ADDRESS THE REQUIREMENTS OF SUBSECTION (B)(10) OF THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 265

(House Bill 1290)

AN ACT concerning

Environment – Recycling – Public School Plans

FOR the purpose of requiring a county recycling plan to address the collection, processing, marketing, and disposition of recyclable materials from county public schools; requiring a county to submit a revised recycling plan by a certain date; and generally relating to county recycling plans.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9-1703
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 239 of the Acts of the General Assembly of 2007)

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

Article – Environment

9–1703.

(a) Each county shall submit a recycling plan to the Secretary for approval when the county submits its county plan to the Secretary in accordance with the provisions of § 9–505 of this title.

(b) In preparing the recycling plan as required in § 9–505 of this title, the county shall address:

- (1) Methods to meet the solid waste stream reduction;
- (2) The feasibility of source separation of the solid waste stream generated within the county;
- (3) The recyclable materials to be separated;
- (4) The strategy for the collection, processing, marketing, and disposition of recyclable materials, including the cost-effective use of recycling centers;
- (5) Methods of financing the recycling efforts proposed by the county;
- (6) Methods for the separate collection and composting of yard waste;
- (7) The feasibility of a system for the composting of mixed solid wastes;
- (8) The feasibility of a system for the collection and recycling of white goods;
- (9) The separate collection of other recyclable materials; [and]
- (10) THE STRATEGY FOR THE COLLECTION, PROCESSING, MARKETING, AND DISPOSITION OF RECYCLABLE MATERIALS FROM COUNTY PUBLIC SCHOOLS; AND**

[(10)] **(11)** Any other alternative methods of recycling that will attain or exceed the solid waste stream reduction goals determined by the county.

(c) (1) In preparing the recycling plan as required under § 9–505 of this title, the county may address methods for the separate collection and recycling of covered electronic devices, including efforts by the county to establish partnerships with covered electronic device manufacturers, recyclers, retailers, or other local governments for the collection and recycling of covered electronic devices.

(2) If a county elects to address methods for the separate collection and recycling of covered electronic devices in its recycling plan, any reduction in the county's solid waste stream attributable to the implementation of the methods shall count towards the county's required reduction through recycling of the solid waste stream under § 9–505 of this title.

(d) A county that achieves a reduction of at least 5 percent in the volume of its waste through the utilization of 1 or more resource recovery facilities in operation as of January 1, 1988 shall be considered to have achieved a reduction by recycling of 5 percent of its solid waste stream.

(e) In preparing a recycling plan, a county may not calculate a tax or mandatory deposit on any beverage container that is enacted by a county or municipality to achieve the recycling goals required under § 9–505 of this title.

(f) For the purpose of determining weight, the Department may not preclude the use of portable weigh scales.

(G) A COUNTY SHALL REVISE ITS RECYCLING PLAN BY OCTOBER 1, 2010, TO ADDRESS THE REQUIREMENTS OF SUBSECTION (B)(10) OF THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 266

(Senate Bill 484)

AN ACT concerning

Cecil County – Public Facilities Bond Bill

FOR the purpose of authorizing and empowering the County Commissioners of Cecil County, from time to time, to borrow not more than ~~\$5,000,000~~ \$13,600,000 in order to finance the cost of the construction and improvement of certain public facilities in Cecil County and to effect that borrowing by the issuance and sale

at public or private sale of its general obligation bonds in like amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds, and the interest thereon and any income derived therefrom, from all State, county, municipal, and other taxation in the State of Maryland; and relating generally to the issuance and sale of the bonds by Cecil County.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used in this Act, the term "County" means that body politic and corporate of the State of Maryland known as the County Commissioners of Cecil County; and the term "construction and improvement of public facilities" means the alteration, construction, reconstruction, enlargement, expansion, extension, improvement, replacement, rehabilitation, renovation, upgrading and repair, and related architectural, financial, legal, planning, designing, or engineering services, for public capital projects in Cecil County, including any finance charges or interest prior to or during such financing and any other costs or expenditures incurred by the County in connection with the projects.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, ~~\$5,000,000~~ \$13,600,000 and to evidence its borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued pursuant to a resolution of the County which shall describe generally the public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined

to be in the best interests of the County; the manner of executing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of and security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds.

In case any officer whose signature appears on any bond ceases to be such officer before delivery, the signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until delivery. The bonds and their issue and sale shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment shall be made to the Treasurer of Cecil County or such other official of the County as may be designated to receive payment in a resolution passed by the County Commissioners of Cecil County before delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the public facilities for which the bonds are sold.

If the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the public facilities described in the resolution, the excess funds shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County adopts a resolution allocating the excess funds to the construction, improvement, or development of other public facilities.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assume the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, if the proceeds from the taxes so levied in any fiscal year prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any deficiency. The County may apply to the payment of the principal of and interest on any bonds issued under this Act any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality of either, or from any other source. If such funds are granted for the purpose of assisting the County in financing the construction, improvement, development, or renovation of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, taxes that might otherwise be required to be levied under this Act may be reduced or need not be levied.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is hereby further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, upon purchase or redemption, any bonds issued under this Act. The validity of any refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations being refunded. The powers granted under this Act with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued under this Act, prior to their maturity, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds which are, by their terms, redeemable. The proceeds of the sale of any refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The County may, by appropriate resolution, provide for the replacement of any bonds issued under this Act which may have become mutilated or lost or destroyed upon whatever conditions and after receiving whatever indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued under this Act, their transfer, the interest payable on them, and any income derived from them from time to time (including any profit made in their sale) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide additional, alternative, and supplemental authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and may not be regarded as in derogation of any power now existing; and all previously enacted laws authorizing the County to borrow money are hereby continued to the extent that the power contained in them is continuing or has not been exercised, unless any law is expressly repealed by this Act, and the validity of any bonds issued under previously enacted laws is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect its purposes. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of any inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 267

(Senate Bill 489)

AN ACT concerning

Minority Business Enterprise Certification – Cap on Personal Net Worth

FOR the purpose of ~~altering~~ requiring the amount of the cap on the personal net worth requirement for certification as a minority business enterprise to be adjusted annually in accordance with the Consumer Price Index; requiring the certification agency to evaluate certain data in conjunction with certain committees of the General Assembly and the Office of the Attorney General; requiring the certification agency to make a certain report on or before a certain date; altering a certain term to exclude up to a certain amount of the cash value of certain retirement funds from the calculation of personal net worth; and generally relating to requirements for certification as minority business enterprises.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section ~~14-301(i)~~ 14-301(g) and (i)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

14–301.

(g) (1) Subject to paragraphs (2) and (3) of this subsection, “personal net worth” means the net value of the assets of an individual remaining after total liabilities are deducted.

(2) “Personal net worth” includes the individual’s share of assets held jointly or as community property with the individual’s spouse.

(3) “Personal net worth” does not include:

(i) the individual’s ownership interest in the applicant or a certified minority business enterprise; [or]

(ii) the individual’s equity in his or her primary place of residence; OR

(III) UP TO \$500,000 OF THE CASH VALUE OF ANY QUALIFIED RETIREMENT SAVINGS PLANS OR INDIVIDUAL RETIREMENT ACCOUNTS.

(i) (1) Subject to paragraphs (2) and (3) of this subsection, “socially and economically disadvantaged individual” means a citizen or lawfully admitted permanent resident of the United States who is:

(i) in any of the following minority groups:

1. African American – an individual having origins in any of the black racial groups of Africa;

2. American Indian/Native American – an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which the individual claims to be a part, but does not include an individual of Eskimo or Aleutian origin;

3. Asian – an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the person claims to be a part;

4. Hispanic – an individual of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race, and who is regarded as such by the community of which the person claims to be a part;

5. physically or mentally disabled – an individual who has an impairment that substantially limits one or more major life activity, who is regarded generally by the community as having such a disability, and whose disability has substantially limited his or her ability to engage in competitive business; or

6. women – a woman, regardless of race or ethnicity, unless she is also a member of an ethnic or racial minority group and elects that category in lieu of the gender category; or

(ii) otherwise found by the certification agency to be a socially and economically disadvantaged individual.

(2) There is a rebuttable presumption that an individual who is a member of a minority group under paragraph (1)(i) of this subsection is socially and economically disadvantaged.

(3) An individual whose personal net worth exceeds ~~£~~~~\$~~1,500,000~~£~~ **\$1,750,000, AS ADJUSTED ANNUALLY FOR INFLATION ACCORDING TO THE CONSUMER PRICE INDEX**, may not be found to be economically disadvantaged.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010:

(a) The certification agency as defined in § 14–301 of the State Finance and Procurement Article, in consultation with the ~~General Assembly~~ Senate Education, Health, and Environmental Affairs Committee, the House Health and Government Operations Committee, and the Office of the Attorney General, shall evaluate State bonding and other financial business data to determine whether the cap on the personal net worth requirement for certification as a minority business enterprise should be further adjusted; and

(b) The certification agency shall report its findings to the General Assembly, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 268**(House Bill 471)**

AN ACT concerning

Minority Business Enterprise Certification – Cap on Personal Net Worth

FOR the purpose of ~~altering~~ requiring the amount of the cap on the personal net worth requirement for certification as a minority business enterprise to be adjusted annually in accordance with the Consumer Price Index; requiring the certification agency to evaluate certain data in conjunction with certain committees of the General Assembly and the Office of the Attorney General; requiring the certification agency to make a certain report on or before a certain date; altering a certain term to exclude up to a certain amount of the cash value of certain retirement funds from the calculation of personal net worth; and generally relating to requirements for certification as minority business enterprises.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section ~~14-301(i)~~ 14-301(g) and (i)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

14-301.

(g) (1) Subject to paragraphs (2) and (3) of this subsection, “personal net worth” means the net value of the assets of an individual remaining after total liabilities are deducted.

(2) “Personal net worth” includes the individual’s share of assets held jointly or as community property with the individual’s spouse.

(3) “Personal net worth” does not include:

(i) the individual’s ownership interest in the applicant or a certified minority business enterprise; [or]

(ii) the individual’s equity in his or her primary place of residence; OR

(III) UP TO \$500,000 OF THE CASH VALUE OF ANY QUALIFIED RETIREMENT SAVINGS PLANS OR INDIVIDUAL RETIREMENT ACCOUNTS.

(i) (1) Subject to paragraphs (2) and (3) of this subsection, “socially and economically disadvantaged individual” means a citizen or lawfully admitted permanent resident of the United States who is:

(i) in any of the following minority groups:

1. African American – an individual having origins in any of the black racial groups of Africa;

2. American Indian/Native American – an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which the individual claims to be a part, but does not include an individual of Eskimo or Aleutian origin;

3. Asian – an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the person claims to be a part;

4. Hispanic – an individual of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race, and who is regarded as such by the community of which the person claims to be a part;

5. physically or mentally disabled – an individual who has an impairment that substantially limits one or more major life activity, who is regarded generally by the community as having such a disability, and whose disability has substantially limited his or her ability to engage in competitive business; or

6. women – a woman, regardless of race or ethnicity, unless she is also a member of an ethnic or racial minority group and elects that category in lieu of the gender category; or

(ii) otherwise found by the certification agency to be a socially and economically disadvantaged individual.

(2) There is a rebuttable presumption that an individual who is a member of a minority group under paragraph (1)(i) of this subsection is socially and economically disadvantaged.

(3) An individual whose personal net worth exceeds ~~[\$1,500,000]~~ ~~\$3,000,000~~ ~~\$1,750,000~~, AS ADJUSTED ANNUALLY FOR INFLATION ACCORDING TO THE CONSUMER PRICE INDEX, may not be found to be economically disadvantaged.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2010:

(a) The certification agency as defined in § 14-301 of the State Finance and Procurement Article, in consultation with the Senate Education, Health, and Environmental Affairs Committee, the House Health and Government Operations Committee, and the Office of the Attorney General, shall evaluate State bonding and other financial business data to determine whether the cap on the personal net worth requirement for certification as a minority business enterprise should be further adjusted; and

(b) The certification agency shall report its findings to the General Assembly, in accordance with § 2-1246 of the State Government Article.

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

Approved by the Governor, May 7, 2009.

Chapter 269

(Senate Bill 497)

AN ACT concerning

Circuit Court Judgeships – Workforce Planning – Counties of Greatest Identified Need

FOR the purpose of altering the number of resident judges of the circuit court in certain judicial circuits; making this Act subject to certain contingencies; and generally relating to judgeships in the circuit courts.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 1-503
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Courts and Judicial Proceedings

1–503.

(a) In each county in the first seven judicial circuits there shall be the number of resident judges of the circuit court set forth below, including the judge or judges provided for by the Constitution:

(1)	Allegany	2
(2)	Anne Arundel.....	[11] 12
(3)	Baltimore County	[17] 18
(4)	Calvert.....	2
(5)	Caroline.....	1
(6)	Carroll	3
(7)	Charles	4
(8)	Cecil.....	3
(9)	Dorchester.....	1
(10)	Frederick.....	4
(11)	Garrett	1
(12)	Harford.....	5
(13)	Howard.....	5
(14)	Kent.....	1
(15)	Montgomery	[21] 22
(16)	Prince George’s	23
(17)	Queen Anne’s	1
(18)	St. Mary’s	3

(19) Somerset..... 1

(20) Talbot 1

(21) Washington 5

(22) Wicomico 3

(23) Worcester 3

(b) In Baltimore City there shall be [32] **33** resident judges of the Circuit Court for Baltimore City.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009, contingent on the appropriation of funds in the State budget for fiscal year 2010 to implement this Act. If funds are not appropriated in the State budget for fiscal year 2010 to implement this Act, this Act shall take effect July 1, 2010, contingent on the appropriation of funds in the State budget for fiscal year 2011 to implement this Act. If funds are not appropriated in the State budget for fiscal year 2010 or fiscal year 2011 to implement this Act, this Act shall be null and void without the necessity of further action by the General Assembly.

Approved by the Governor, May 7, 2009.

Chapter 270

(Senate Bill 500)

AN ACT concerning

Prince George’s County – Board of Education – Financial Literacy Curriculum Content Pilot Program Course

FOR the purpose of requiring the Prince George’s County Board of Education to develop and implement a certain pilot program that includes an elective course on financial literacy as a part of the county board’s high school curriculum; requiring the county board to develop the curriculum content for a certain course in financial literacy as a part of the pilot program; requiring certain curriculum content to include certain instruction; ~~requiring certain students to complete a certain course in order to graduate from high school;~~ requiring the county board to select a certain number of high schools in the county to participate in the pilot program course; requiring the county board to submit a certain report to the Prince George’s County Senate Delegation and House Delegation on or before a certain date each year; providing for the termination

of this Act; and generally relating to the development and implementation of a pilot program course in financial literacy.

BY adding to

Article – Education

Section 3–1008

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

3–1008.

(A) THE COUNTY BOARD SHALL DEVELOP AND IMPLEMENT A PILOT PROGRAM THAT INCLUDES A SEMESTER-LONG ELECTIVE COURSE IN FINANCIAL LITERACY AS A PART OF THE COUNTY BOARD'S HIGH SCHOOL CURRICULUM.

(B) (1) THE COUNTY BOARD SHALL DEVELOP CURRICULUM CONTENT FOR A SEMESTER-LONG THE COURSE IN FINANCIAL LITERACY.

~~(B) (2) THE CURRICULUM CONTENT DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE INSTRUCTION REGARDING:~~

- ~~(1)~~ (I) CHOOSING A CAREER AND EARNING AN INCOME;**
- ~~(2)~~ (II) ECONOMIC AND FINANCIAL DECISION MAKING;**
- ~~(3)~~ (III) BASIC ECONOMIC CONCEPTS INCLUDING OPPORTUNITY COST, COST/BENEFIT ANALYSIS, AND SUPPLY AND DEMAND;**
- ~~(4)~~ (IV) SAVING AND INVESTING MONEY;**
- ~~(5)~~ (V) CREDIT;**
- ~~(6)~~ (VI) CHARITABLE GIVING;**
- ~~(7)~~ (VII) HOUSEHOLD BUDGETING;**
- ~~(8)~~ (VIII) INSURANCE;**
- ~~(9)~~ (IX) CONSUMER AWARENESS;**

- ~~(10)~~ (X) UNDERSTANDING CONTRACTUAL AGREEMENTS; AND
- ~~(11)~~ (XI) FRAUD AND IDENTITY THEFT.

~~(C) IN ORDER TO GRADUATE FROM HIGH SCHOOL IN PRINCE GEORGE'S COUNTY, A STUDENT SHALL COMPLETE A COURSE IN FINANCIAL LITERACY. THE COUNTY BOARD SHALL SELECT THREE HIGH SCHOOLS IN THE COUNTY TO PARTICIPATE IN THE PILOT PROGRAM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before June 30 of each year, the Prince George's County Board of Education shall submit a report, in accordance with § 2-1246 of the State Government Article, to the Prince George's County Senate Delegation and House Delegation on the success of the pilot program developed and implemented under this Act.

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. It shall remain effective for a period of 2 years and, at the end of June 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 7, 2009.

Chapter 271

(Senate Bill 506)

AN ACT concerning

Maryland Transit Administration – Public Hearings

FOR the purpose of prohibiting the Administration from ~~changing a bus timetable or reducing under certain circumstances~~ certain bus or rail service until a public hearing is held on the matter; ~~altering the time period during which the Administration may implement a policy change on certain matters;~~ requiring the Administration to ~~revise, correct, and reissue~~ make a reasonable effort to correct certain notice and to provide notice under a certain process to certain persons before implementing a certain change under certain circumstances; providing that certain notice shall be deemed defective; authorizing the Administration to establish a process for providing certain notice; and generally relating to public hearings held by the Maryland Transit Administration.

BY repealing and reenacting, with amendments,
 Article – Transportation
 Section 7-506

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Transportation

7–506.

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

- (i) Fix or revise any fare or rate charged the general public;
- (ii) Establish or abandon any bus or rail route listed on a published timetable;
- (iii) Change a bus or rail route alignment listed on a published timetable, unless the change is needed because of temporary construction or changes in the road network; [or]

(IV) ~~CHANGE A BUS TIMETABLE;~~

~~(V) CHANGE REDUCE THE FREQUENCY, NUMBER OF DAYS, OR DAYS OF SERVICE FOR A COMMUTER BUS OR COMMUTER RAIL ROUTE WITHOUT SUBSTITUTING A COMPARABLE LEVEL OF SERVICE, UNLESS THE REDUCTION IS TEMPORARY OR A RESULT OF:~~

1. A NATURAL DISASTER;
2. WEATHER OR OTHER EMERGENCY CONDITIONS;
3. SCHEDULE ADJUSTMENTS REQUIRED BY A THIRD PARTY THAT OPERATES SERVICE ON THE SAME RIGHT-OF-WAY; OR

4. OTHER CIRCUMSTANCES BEYOND THE CONTROL OF THE ADMINISTRATION; OR

[(iv)] ~~(VI)~~ (V) Establish or abandon a rail transit station.

(2) The Administration may only implement a change described in paragraph (1) of this subsection during the time period that begins 6 weeks after the public hearing and ends ~~[6 months]~~ **10 WEEKS** after the public hearing.

(3) (i) If the Administration gives inadequate **OR DEFECTIVE** notice of a public hearing on a change described in paragraph (1) of this subsection, the Administration may not implement the change unless ~~THE NOTICE IS REVISED, CORRECTED, AND REISSUED~~ **ADMINISTRATION MAKES A REASONABLE EFFORT TO CORRECT THE INADEQUACY OR DEFECT** AND a legally sufficient public hearing is held.

(ii) For the purposes of this paragraph, notice shall be considered inadequate **OR DEFECTIVE** if:

1. The Administration does not comply with the newspaper publication requirements under subsection (d) of this section; [or]

2. THE ADMINISTRATION DOES NOT COMPLY WITH THE NOTICE REQUIREMENTS FOR AFFECTED JURISDICTIONS PRESCRIBED UNDER SUBSECTION (D) OF THIS SECTION;

[2.] **3.** At least 30% of the Administration's facilities are not posted as required under subsection (d) of this section; **OR**

4. THE NOTICE CONTAINS ERRONEOUS INFORMATION.

(4) A public hearing required under paragraph (1) of this subsection shall be at a place and time that is reasonably accessible and convenient to the patrons of the service to be affected.

(5) The Administration shall accept written comments for 30 days after a hearing held on a change described in paragraph (1) of this subsection.

(b) The Administration may add service on a new alignment branching off of an existing route without holding a public hearing, if the addition of the new alignment does not alter the existing route.

(c) (1) The following persons may request the Administration to hold a hearing on any rentals, rates, fares, fees, or other charges of the Administration or any service rendered by the transit facilities owned or controlled by the Administration:

(i) Any person served by or using the transit facilities;

(ii) The People's Counsel, as a representative of the general public; and

(iii) Any private carrier operating in the District.

(2) The request for a hearing shall:

- (i) Be in writing;
- (ii) State the matter sought to be heard; and
- (iii) Set forth clearly the grounds for the request.

(3) As soon as possible after the Administration receives a request for a hearing, a designated employee of the Administration shall confer on the matter with the person requesting the hearing. After the conference, if the Administration considers the matter meritorious and of general significance, it may call a hearing.

(d) (1) The Administration shall give at least a 30-day notice before a hearing.

(2) The notice shall be:

(i) Published once a week for 2 successive weeks in two or more newspapers of daily circulation throughout the District; [and]

(ii) Posted in all of the Administration's offices, stations, and terminals and all of the vehicles and rolling stock used in revenue service by the mode of transportation that will be affected by the proposed action described in subsection (a) of this section; **AND**

(iii) ~~DELIVERED~~ PROVIDED TO THE GOVERNING BODY OF EACH JURISDICTION COUNTY OR MUNICIPAL CORPORATION AFFECTED BY A CHANGE IN TRANSIT SERVICE OR FARE OR RATE DESCRIBED UNDER SUBSECTION (A)(1) OF THIS SECTION.

(3) THE ADMINISTRATION MAY ESTABLISH A PROCESS FOR PROVIDING NOTICE TO LOCAL GOVERNMENTS UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION.

(4) The 30-day period begins when the notice first appears in the newspaper.

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

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

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

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

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

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

Approved by the Governor, May 7, 2009.

Chapter 272

(House Bill 199)

AN ACT concerning

Maryland Transit Administration – Public Hearings

FOR the purpose of prohibiting the Administration from ~~changing a bus timetable or reducing under certain circumstances certain bus or rail service until a public hearing is held on the matter; altering the time period during which the Administration may implement a policy change on certain matters;~~ requiring the Administration to ~~revise, correct, and reissue~~ make a reasonable effort to correct certain notice and to provide notice under a certain process to certain persons before implementing a certain change under certain circumstances; providing that certain notice shall be deemed defective; authorizing the Administration to establish a process for providing certain notice; and generally relating to public hearings held by the Maryland Transit Administration.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 7–506

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Transportation

7–506.

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

- (i) Fix or revise any fare or rate charged the general public;
- (ii) Establish or abandon any bus or rail route listed on a published timetable;
- (iii) Change a bus or rail route alignment listed on a published timetable, unless the change is needed because of temporary construction or changes in the road network; [or]

(IV) ~~CHANGE A BUS TIMETABLE;~~

~~(V) CHANGE~~ **REDUCE THE FREQUENCY, NUMBER OF DAYS, OR DAYS OF SERVICE FOR A COMMUTER BUS OR COMMUTER RAIL ROUTE WITHOUT SUBSTITUTING A COMPARABLE LEVEL OF SERVICE, UNLESS THE REDUCTION IS TEMPORARY OR A RESULT OF:**

- 1. A NATURAL DISASTER;**
- 2. WEATHER OR OTHER EMERGENCY CONDITIONS;**
- 3. SCHEDULE ADJUSTMENTS REQUIRED BY A THIRD PARTY THAT OPERATES SERVICE ON THE SAME RIGHT-OF-WAY; OR**
- 4. OTHER CIRCUMSTANCES BEYOND THE CONTROL OF THE ADMINISTRATION; OR**

[(iv)] ~~(vi)~~ (v) Establish or abandon a rail transit station.

(2) The Administration may only implement a change described in paragraph (1) of this subsection during the time period that begins 6 weeks after the public hearing and ends ~~[6 months]~~ **10 WEEKS** after the public hearing.

(3) (i) If the Administration gives inadequate **OR DEFECTIVE** notice of a public hearing on a change described in paragraph (1) of this subsection, the Administration may not implement the change unless ~~THE NOTICE IS REVISED, CORRECTED, AND REISSUED~~ **ADMINISTRATION MAKES A REASONABLE EFFORT TO CORRECT THE INADEQUACY OR DEFECT** AND a legally sufficient public hearing is held.

(ii) For the purposes of this paragraph, notice shall be considered inadequate **OR DEFECTIVE** if:

1. The Administration does not comply with the newspaper publication requirements under subsection (d) of this section; [or]

2. THE ADMINISTRATION DOES NOT COMPLY WITH THE NOTICE REQUIREMENTS FOR AFFECTED JURISDICTIONS PRESCRIBED UNDER SUBSECTION (D) OF THIS SECTION;

[2.] **3.** At least 30% of the Administration's facilities are not posted as required under subsection (d) of this section; **OR**

4. THE NOTICE CONTAINS ERRONEOUS INFORMATION.

(4) A public hearing required under paragraph (1) of this subsection shall be at a place and time that is reasonably accessible and convenient to the patrons of the service to be affected.

(5) The Administration shall accept written comments for 30 days after a hearing held on a change described in paragraph (1) of this subsection.

(b) The Administration may add service on a new alignment branching off of an existing route without holding a public hearing, if the addition of the new alignment does not alter the existing route.

(c) (1) The following persons may request the Administration to hold a hearing on any rentals, rates, fares, fees, or other charges of the Administration or any service rendered by the transit facilities owned or controlled by the Administration:

- (i) Any person served by or using the transit facilities;
- (ii) The People's Counsel, as a representative of the general public; and
- (iii) Any private carrier operating in the District.

(2) The request for a hearing shall:

- (i) Be in writing;
- (ii) State the matter sought to be heard; and
- (iii) Set forth clearly the grounds for the request.

(3) As soon as possible after the Administration receives a request for a hearing, a designated employee of the Administration shall confer on the matter with the person requesting the hearing. After the conference, if the Administration considers the matter meritorious and of general significance, it may call a hearing.

(d) (1) The Administration shall give at least a 30-day notice before a hearing.

(2) The notice shall be:

(i) Published once a week for 2 successive weeks in two or more newspapers of daily circulation throughout the District; [and]

(ii) Posted in all of the Administration's offices, stations, and terminals and all of the vehicles and rolling stock used in revenue service by the mode of transportation that will be affected by the proposed action described in subsection (a) of this section; **AND**

(iii) ~~DELIVERED~~ PROVIDED TO THE GOVERNING BODY OF EACH JURISDICTION COUNTY OR MUNICIPAL CORPORATION AFFECTED BY A CHANGE IN TRANSIT SERVICE OR FARE OR RATE DESCRIBED UNDER SUBSECTION (A)(1) OF THIS SECTION.

(3) THE ADMINISTRATION MAY ESTABLISH A PROCESS FOR PROVIDING NOTICE TO LOCAL GOVERNMENTS UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION.

(4) The 30-day period begins when the notice first appears in the newspaper.

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

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

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

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

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

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

Approved by the Governor, May 7, 2009.

Chapter 273**(Senate Bill 517)**

AN ACT concerning

State Debt – Annuity Bond Fund – Payment of Fiscal Agents

FOR the purpose of requiring the Comptroller to credit to the Annuity Bond Fund certain money appropriated in the State budget to pay the costs of certain fiscal agents and contracting parties appointed by the State Treasurer in connection with certain financial transactions; authorizing the Comptroller to use certain money to pay the cost of certain fiscal agents and contracting parties; and generally relating to certain money appropriated to the Annuity Bond Fund.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 8–132
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

8–132.

- (a) There is an Annuity Bond Fund.
- (b) The Comptroller shall:
 - (1) credit to the Annuity Bond Fund any money appropriated in the State budget to:
 - (I) meet the debt service requirements on State bonds; **AND**
 - (II) **PAY THE COSTS OF FISCAL AGENTS AND OTHER CONTRACTING PARTIES APPOINTED BY THE STATE TREASURER UNDER §§ 8–121 AND 8–136 OF THIS SUBTITLE; and**
 - (2) **AS SPECIFIED IN THE APPROPRIATION, use the money to meet the debt service on the State bonds [specified in the appropriation] AND PAY FISCAL AGENTS AND OTHER CONTRACTING PARTIES' COSTS.**

(c) Any premium from the sale of State bonds transferred to the Annuity Bond Fund under § 8-125 of this subtitle may be used to pay debt service on State bonds.

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

Approved by the Governor, May 7, 2009.

Chapter 274

(Senate Bill 538)

AN ACT concerning

Property Tax Assessment – Home Improvements

FOR the purpose of altering the circumstances under which certain real property is required to be revalued for property tax assessment purposes in any year of a 3-year assessment cycle; ~~altering a certain definition under the Homestead Property Tax Credit; altering the calculation of the Homestead Property Tax Credit under certain circumstances;~~ and generally relating to the assessment of certain real property for property tax purposes.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section ~~8-104(e)(1)(iii), 9-105(a)(5), 9-109(b), and 9-243(e)~~ 8-104(c)(1)(iii)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – Tax – Property~~

~~Section 9-105(a)(2)~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2008 Supplement)~~

~~BY repealing~~

~~Article – Tax – Property~~

~~Section 9-105(e)(5)(iv)~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume and 2008 Supplement)~~

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

Article - Tax - Property

8-104.

(c) (1) In any year of a 3-year cycle, real property shall be revalued if any of the factors listed below causes a change in the value of the real property:

(iii) substantially completed improvements are made ~~TO REAL PROPERTY OTHER THAN A DWELLING, AS DEFINED IN § 9-105 OF THIS ARTICLE,~~ which add at least ~~\$50,000~~ \$100,000 in value to the property;

~~9-105.~~

~~(a) (2) (i) "Dwelling" means:~~

~~1. a house that is:~~

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

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

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

~~(ii) "Dwelling" includes:~~

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

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

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

~~(5) "Taxable assessment" means the assessment on which the State, county, or municipal corporation property tax rate was imposed in the preceding taxable year, [adjusted by the phased-in assessment increase resulting from a revaluation under § 8-104(e)(1)(iii) of this article,] less the amount of any assessment on which a property tax credit under this section is authorized.~~

~~(e) (5) [(iv) If a homeowner qualifies for a credit under this paragraph, the calculation of the credit associated with the initial taxable assessment of the~~

~~substantially completed new improvements, which is effective on or before the second July 1 after the razing or vacating of the dwelling, shall include the revaluation under § 8-104(e)(1)(iii) of this article.]~~

~~9-109.~~

~~(b) The amount of the property tax credit allowed under this section shall equal 100% of the property tax attributable to an increase in the assessment of the dwelling upon revaluation [under § 8-104(e)(1)(iii) of this article], including improvements, over the last assessment of the dwelling before the natural disaster, less the amount of any assessment on which a property tax credit under § 9-105 of this subtitle has been authorized.~~

~~9-243.~~

~~(e) The amount of the property tax credit allowed under this section shall equal 50% of the property tax attributable to an increase in the assessment of the dwelling on revaluation [under § 8-104(e)(1)(iii) of this article], including improvements, over the last assessment of the dwelling before the natural disaster, less the amount of any assessment on which a property tax credit under § 9-105 of this title has been authorized.~~

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

Approved by the Governor, May 7, 2009.

Chapter 275

(Senate Bill 543)

AN ACT concerning

Baltimore County – Towson Commercial Revitalization District – Alcoholic Beverages – Transfer and Conversion of Licenses

FOR the purpose of increasing the number of certain alcoholic beverages licenses that may be transferred under certain circumstances and converted into certain licenses for restaurants in the Towson Commercial Revitalization District in Baltimore County; ~~altering the seating capacity that may be devoted to the bar area of licensed restaurants;~~ altering a certain minimum percentage of the average daily receipts of a restaurant that must come from the sale of food; specifying that the licenses for restaurants may not confer an off-sale privilege; specifying that the minimum capital investment for restaurants excludes the cost of the land and building shell; requiring that the Board of Liquor License

Commissioners deny an application for the transfer and conversion of a license under certain circumstances; prohibiting a license from being transferred from the Towson Commercial Revitalization District or converted into any other class of license; repealing the termination provision relating to the period during which a certain alcoholic beverages license may be transferred and converted into a certain license for a restaurant in the Towson Commercial Revitalization District; and generally relating to alcoholic beverages in Baltimore County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–204.3
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 215 of the Acts of the General Assembly of 2006
Section 2

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

Article 2B – Alcoholic Beverages

8–204.3.

(a) This section applies only in Baltimore County.

(b) (1) Notwithstanding the license population quota limitations of the Board of Liquor License Commissioners and in addition to the licenses authorized for issuance in Baltimore County, the Board of Liquor License Commissioners may authorize the transfer into the Towson Commercial Revitalization District, as defined by the Baltimore County Council, of not more than [two] **10** beer, wine and liquor (on-sale) licenses that:

(i) Were issued on or before December 31, [2005] **2008**;

(ii) Are in existence in Election District [13, 14, or] 15 of Baltimore County on June 1, [2006] **2009**; and

(iii) Are valid on the date of transfer.

(2) To be transferred under this section, a license:

(i) Shall be a Class B or a Class D license; and

(ii) May not be a license that is prohibited from being transferred by statute or regulation.

(3) A license transferred under this section shall be considered by the Board of Liquor 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 Liquor License Commissioners that limits the total number of licenses available by population.

(4) On the date of transfer, a license transferred under this section shall be converted into a Class B (B, W, L) (TCRD) license and may not be construed to exist in the election district from where it was transferred.

(c) Except as provided in subsection (d) of this section, the license issuance requirements, license fee, the minimum square foot area requirement for food and beverage preparation and consumption, and days and hours of sale for a Class B (B, W, L) (TCRD) (on-sale) license are the same as those for a Class B beer, wine and liquor (on-sale) hotel and restaurant license.

(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) The restaurant operation shall maintain average daily receipts from the sale of food at least ~~[70%]~~ **65%** of the total daily receipts of the restaurant.

(4) The seating capacity for the bar area may not exceed ~~[25%]~~ **35%** of the total seating capacity of the restaurant.

(5) The area dedicated to the restaurant operation shall have a minimum seating capacity of 100 persons.

(6) The hours during which the privileges conferred by the license may be exercised may not exceed the hours during which food is offered for sale.

(7) THE LICENSE MAY NOT CONFER AN OFF-SALE PRIVILEGE.

(e) An applicant for transfer of a Class B or Class D license and issuance of a Class B (B, W, L) (TCRD) license shall demonstrate to the Board of Liquor License Commissioners that the restaurant has a minimum capital investment of \$500,000, **EXCLUDING THE COST OF THE LAND AND BUILDING SHELL.**

(F) THE BOARD OF LIQUOR LICENSE COMMISSIONERS SHALL DENY AN APPLICATION FOR TRANSFER OF A CLASS B OR CLASS D LICENSE AND ISSUANCE OF A CLASS B (B,W, L) (TCRD) LICENSE IF:

~~(1) WITHIN 2 YEARS IMMEDIATELY PRECEDING THE APPLICATION, A PREVIOUS CLASS B (B, W, L) (TCRD) LICENSE WAS ISSUED TO THE APPLICANT OR~~ WITHIN 2 YEARS IMMEDIATELY PRECEDING THE APPLICATION:

(1) (I) THE APPLICANT WAS A HOLDER OF AN ON-SALE LICENSE ISSUED UNDER THIS ARTICLE WITHIN THE BOUNDARIES OF THE TOWSON COMMERCIAL REVITALIZATION DISTRICT; OR

(II) THERE WAS AN ON-SALE LICENSE IN EXISTENCE FOR THE PROPOSED PREMISES OF THE APPLICANT; AND

(2) THE PREVIOUS ~~CLASS B (B, W, L) (TCRD)~~ ON-SALE LICENSE WAS TRANSFERRED TO PREMISES OUTSIDE OF THE TOWSON COMMERCIAL REVITALIZATION DISTRICT.

[(f)] (G) A Class B (B, W, L) (TCRD) license issued under this section may not be transferred from the [location of its issuance] **TOWSON COMMERCIAL REVITALIZATION DISTRICT** or be converted into any other class of license.

Chapter 215 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2006. [It shall remain effective for a period of 3 years and 7 months and, at the end of December 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

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

Approved by the Governor, May 7, 2009.

Chapter 276

(House Bill 1439)

AN ACT concerning

Baltimore County – Towson Commercial Revitalization District – Alcoholic Beverages – Transfer and Conversion of Licenses

FOR the purpose of increasing the number of certain alcoholic beverages licenses that may be transferred under certain circumstances and converted into certain licenses for restaurants in the Towson Commercial Revitalization District in Baltimore County; altering the percentage of total daily receipts that a certain restaurant operation is required to maintain; specifying that the licenses for restaurants may not confer an off-sale privilege; specifying that the minimum capital investment for restaurants excludes the cost of the land and building shell; requiring that the Baltimore County Board of Liquor License Commissioners deny an application for the transfer and conversion of a license under certain circumstances; prohibiting a license from being transferred from the Towson Commercial Revitalization District or converted into any other class of license; repealing the termination provision relating to the period during which a certain alcoholic beverages license may be transferred and converted into a certain license for a restaurant in the Towson Commercial Revitalization District; and generally relating to alcoholic beverages in Baltimore County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–204.3
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Chapter 215 of the Acts of the General Assembly of 2006
Section 2

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

Article 2B – Alcoholic Beverages

8–204.3.

(a) This section applies only in Baltimore County.

(b) (1) Notwithstanding the license population quota limitations of the Board of Liquor License Commissioners and in addition to the licenses authorized for issuance in Baltimore County, the Board of Liquor License Commissioners may authorize the transfer into the Towson Commercial Revitalization District, as defined by the Baltimore County Council, of not more than [two] **10** beer, wine and liquor (on-sale) licenses that:

(i) Were issued on or before December 31, [2005] **2008**;

(ii) Are in existence in Election District [13, 14, or] 15 of Baltimore County on June 1, [2006] **2009**; and

(iii) Are valid on the date of transfer.

(2) To be transferred under this section, a license:

(i) Shall be a Class B or a Class D license; and

(ii) May not be a license that is prohibited from being transferred by statute or regulation.

(3) A license transferred under this section shall be considered by the Board of Liquor 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 Liquor License Commissioners that limits the total number of licenses available by population.

(4) On the date of transfer, a license transferred under this section shall be converted into a Class B (B, W, L) (TCRD) license and may not be construed to exist in the election district from where it was transferred.

(c) Except as provided in subsection (d) of this section, the license issuance requirements, license fee, the minimum square foot area requirement for food and beverage preparation and consumption, and days and hours of sale for a Class B (B, W, L) (TCRD) (on-sale) license are the same as those for a Class B beer, wine and liquor (on-sale) hotel and restaurant license.

(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) The restaurant operation shall maintain average daily receipts from the sale of food at least [70%] **65%** of the total daily receipts of the restaurant.

(4) The seating capacity for the bar area may not exceed 25% of the total seating capacity of the restaurant.

(5) The area dedicated to the restaurant operation shall have a minimum seating capacity of 100 persons.

(6) The hours during which the privileges conferred by the license may be exercised may not exceed the hours during which food is offered for sale.

(7) THE LICENSE MAY NOT CONFER AN OFF-SALE PRIVILEGE.

(e) An applicant for transfer of a Class B or Class D license and issuance of a Class B (B, W, L) (TCRD) license shall demonstrate to the Board of Liquor License Commissioners that the restaurant has a minimum capital investment of \$500,000, **EXCLUDING THE COST OF THE LAND AND BUILDING SHELL.**

(F) THE BOARD OF LIQUOR LICENSE COMMISSIONERS SHALL DENY AN APPLICATION FOR TRANSFER OF A CLASS B OR CLASS D LICENSE AND ISSUANCE OF A CLASS B (B, W, L) (TCRD) LICENSE IF WITHIN 2 YEARS IMMEDIATELY PRECEDING THE APPLICATION:

(1) (I) THE APPLICANT WAS A HOLDER OF AN ON-SALE LICENSE ISSUED UNDER THIS ARTICLE WITHIN THE BOUNDARIES OF THE TOWSON COMMERCIAL REVITALIZATION DISTRICT; OR

(II) THERE WAS AN ON-SALE LICENSE IN EXISTENCE FOR THE PROPOSED PREMISES OF THE APPLICANT; AND

(2) THE PREVIOUS ON-SALE LICENSE WAS TRANSFERRED TO PREMISES OUTSIDE OF THE TOWSON COMMERCIAL REVITALIZATION DISTRICT.

[(f)] (G) A Class B (B, W, L) (TCRD) license issued under this section may not be transferred from the [location of its issuance] TOWSON COMMERCIAL REVITALIZATION DISTRICT or be converted into any other class of license.

Chapter 215 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2006. [It shall remain effective for a period of 3 years and 7 months and, at the end of December 31, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

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

Approved by the Governor, May 7, 2009.

Chapter 277

(Senate Bill 552)

AN ACT concerning

Tax Amnesty Program

FOR the purpose of requiring the Comptroller to waive certain penalties and interest imposed for the nonpayment, nonreporting, or underreporting of certain taxes under certain circumstances; establishing a period during which the Comptroller shall grant amnesty; authorizing the Comptroller to enter into certain agreements to provide a certain waiver under certain circumstances with respect to certain taxes that a taxpayer agrees to pay in accordance with certain terms and a certain schedule; requiring the Comptroller to submit a certain report on the tax amnesty program; and generally relating to a tax amnesty program for certain taxes.

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

(a) Subject to Section 2 of this Act, the Comptroller shall declare an amnesty period for delinquent taxpayers from September 1, 2009, to October ~~31~~ 30, 2009, both inclusive.

(b) The amnesty period shall be applicable to the Maryland State and local income tax, withholding taxes, sales and use taxes, and admissions and amusement taxes.

(c) The waiver required under this Act applies to:

- (1) Nonreporting of tax liability;
- (2) Underreporting of tax liability; and
- (3) Nonpayment of tax liability.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) Except as otherwise provided in this section, the Comptroller shall waive all civil penalties (except previously assessed fraud penalties) and ~~one-half of the all~~ one-half of the interest imposed against a taxpayer who:

(i) On or before December 31, 2008, failed to file a return required or pay the tax imposed under the Tax – General Article for:

1. Individual income tax;
2. Corporate income tax;
3. Withholding tax;

4. Sales and use tax; or
5. Admissions and amusement tax; and

(ii) During the amnesty period:

1. Files a delinquent return and pays the tax, including one-half of any interest, ~~including one-half of any interest~~, due under the return;
2. Pays the tax, plus one-half of any interest, ~~plus one-half of any interest~~, due on a previously filed return; or
3. With respect to delinquent tax due under a return filed during the amnesty period or under a previously filed return, enters into an agreement with the Comptroller under paragraph (2) of this subsection to pay the tax, including one-half of any interest, ~~including one-half of any interest~~, in accordance with the terms and schedule established in the agreement.

(2) (i) The Comptroller may at the Comptroller's discretion enter into an agreement with a taxpayer to provide a waiver under this section with respect to taxes that are not paid in full during the amnesty period but that the taxpayer agrees to pay in accordance with the terms and schedule established under the agreement.

(ii) Except as otherwise provided in this paragraph, the required terms and schedule for payment under an agreement under this paragraph are entirely at the discretion of the Comptroller.

(iii) An agreement under this paragraph shall provide for payment in full of the delinquent tax plus one-half of the interest ~~plus one-half of the interest~~ due on or before December 31, 2010.

(iv) With respect to taxes that are subject to an agreement under this paragraph:

1. The waiver of civil penalties and interest provided under this section is void if the taxpayer fails to pay the full amount of taxes plus one-half of any interest ~~plus one-half of any interest~~ strictly in accordance with the terms and schedule established in the agreement; and

2. The waiver provided under this section for one-half of the ~~the one-half of the~~ interest imposed with respect to delinquent taxes does not apply to interest accruing for periods after October ~~31~~ 30, 2009, on amounts remaining unpaid after that date.

(3) (i) In this paragraph, "corporate group" means an affiliated group or controlled group of corporations under § 1504 or § 1563 of the Internal Revenue Code.

(ii) The amnesty program under this section does not apply to:

1. Any taxpayer that as of September 1, 2009, has more than 500 employees in the United States or is a member of a corporate group that has more than 500 employees in the United States; ~~or~~

2. Any taxpayer that was granted amnesty under the 2001 Maryland Tax Amnesty Program established under Chapter 275 of the Acts of the General Assembly of 2001, with respect to the taxes for which the taxpayer received amnesty under the 2001 Maryland Tax Amnesty ~~Program~~ Program; or

3. Any taxpayer eligible for the July 1, 2004, through November 1, 2004, Settlement Period, as provided in Chapter 557 of the Acts of 2004, which was applicable to the Maryland corporation income tax assessed by the Comptroller based on issues that were ruled on by the Maryland Court of Appeals in the decisions in the Comptroller of the Treasury v. SYL, Inc., and the Comptroller of the Treasury v. Crown Cork & Seal Company (Delaware), Inc., 375 Md. 78 (2003), whether or not the taxpayer participated in the Settlement Period.

(b) (1) Except as otherwise provided in this Act, a taxpayer may not be charged with a criminal tax offense arising out of any return filed and tax paid during the amnesty period or in accordance with an agreement entered into under subsection (a)(2) of this section if the taxpayer, in accordance with the provisions of this Act:

(i) During the amnesty period:

1. Files a delinquent return and pays the tax, plus one-half of any interest, ~~plus one-half of any interest~~, due under the return; or

2. Pays the tax, plus one-half of any interest, ~~plus one-half of any interest~~, due on a previously filed return; or

(ii) With respect to delinquent tax due under a return filed during the amnesty period or under a previously filed return:

1. Enters into an agreement with the Comptroller under subsection (a)(2) of this section; and

2. Pays the full amount of taxes plus one-half of any interest ~~plus one-half of any interest~~ strictly in accordance with the terms and schedule established in the agreement.

(2) The amnesty from criminal charges under paragraph (1) of this subsection does not apply to:

- (i) Any criminal charges pending in the courts of the State; or
- (ii) Any criminal charges under investigation by an office with the constitutional authority to prosecute a person for violation of criminal laws.

(3) For purposes of this subsection, an office with constitutional authority to prosecute persons for violation of the criminal laws:

(i) Includes the Office of the Attorney General of Maryland, the Office of the State Prosecutor, and the Office of the State's Attorney for any of the political subdivisions of the State; and

(ii) Does not include the Office of the Comptroller.

(c) Except as expressly provided in this section, this Act does not authorize the Comptroller to waive any interest charges or ~~interest charges or~~ previously assessed fraud penalties.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before March 15, 2010, the Comptroller shall report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, on:

- (1) The revenues raised under the amnesty program; and
- (2) Other matters relating to the amnesty program.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 278

(Senate Bill 553)

AN ACT concerning

Chesapeake Bay Phosphorous Reduction Act of 2009

FOR the purpose of prohibiting a certain fertilizer from being labeled in a certain manner on or after a certain date; requiring a certain fertilizer to be marked with certain words in a certain manner on or after a certain date; prohibiting a

certain person from selling or distributing certain fertilizer at a retail establishment on or after a certain date unless it is low phosphorous fertilizer; requiring certain manufacturers to reduce phosphorous levels resulting from the application of their lawn care products by a certain amount and on or before a certain date; prohibiting certain manufacturers from exceeding certain phosphorous levels in their lawn care products under certain circumstances; requiring certain manufacturers to report certain phosphorous levels annually to the Department of Agriculture after a certain date; authorizing the Department to adopt certain regulations; defining certain terms; and generally relating to fertilizer and phosphorus.

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 6–201 and 6–210

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY adding to

Article – Agriculture

Section 6–222

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Agriculture

6–201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) A commercial fertilizer is “adulterated” if:
 - (1) Any poisonous, deleterious, or nonnutritive ingredient is added in sufficient amount to render it injurious to the health of plants, humans, or animal life or injurious to the environment;
 - (2) A valuable constituent is omitted or abstracted wholly or partially from it or any less valuable substance is substituted for it; or
 - (3) Its composition or quality falls below or differs from that which it is purported or is represented to contain by its labeling.
- (c) “Brand” means the term, design, trademark, or other specific designation under which a commercial fertilizer or soil conditioner is distributed in the State.

(d) "Bulk fertilizer" means any commercial fertilizer distributed in a nonpackaged form.

(e) "Buyer's mixture" means commercial fertilizer mixed on specific request of a purchaser according to a formula furnished by him.

(f) "Commercial fertilizer" means any substance containing a recognized plant nutrient used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manure, marl, lime, wood ashes, and gypsum.

(g) "Custom-mix" means commercial fertilizer mixed on specific request of a purchaser according to a formula furnished by him.

(h) "Distribute" means to import, manufacture, produce, compound, mix, blend, barter, sell, offer for sale, consign, furnish, provide, or otherwise supply commercial fertilizer or soil conditioners as part of a commercial enterprise.

(i) "Fertilizer material" means a commercial fertilizer containing a recognized plant nutrient, which is used primarily for its plant nutrient content.

(j) "Grade" means the percentage of total nitrogen (N), available phosphoric acid (H_3PO_4), and soluble potash (K_2O) stated in whole numbers in the same terms, order, and percentages as in the "guaranteed analysis". In the case of any "specialty fertilizer" or "mixed-to-order fertilizer" guarantees may be stated in decimal fractions of whole numbers.

(k) "Guaranteed analysis" means the minimum percentage of plant nutrient claimed as follows:

(1) Total nitrogen (N), available phosphoric acid (H_3PO_4), soluble potash (K_2O);

(2) For unacidulated mineral phosphatic materials and basic slag, both total and available phosphoric acid and the degree of fineness;

(3) For bone, tankage, and other organic phosphatic materials, total phosphoric acid;

(4) Additional plant nutrients, when claimed, shall be expressed in elemental form; and

(5) Potential basicity or acidity may be expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton.

(l) "Gypsum" means any product that consists chiefly of calcium sulfate intended for use for agricultural purposes.

(m) "Label" means the display of all written, printed, or graphic matter on the immediate container or a statement accompanying a commercial fertilizer or soil conditioner.

(n) "Labeling" means all written, printed, or graphic matter on or accompanying any commercial fertilizer or soil conditioner, or the contents of any advertisement, brochure, poster or television or radio announcement used in promoting the sale of a commercial fertilizer or soil conditioner.

(o) "Lot" means a definite quantity of commercial fertilizer or soil conditioner, identified by name, grade, or code designation as certified by the Secretary.

(P) "LOW PHOSPHOROUS FERTILIZER" MEANS FERTILIZER:

(1) CONTAINING NOT MORE THAN 5% OF AVAILABLE PHOSPHORIC ACID (H₃PO₄); AND

(2) THAT HAS AN APPLICATION RATE NOT TO EXCEED 0.25 POUND OF AVAILABLE PHOSPHORIC ACID (H₃PO₄)/1,000 SQUARE FEET/APPLICATION AND 0.5 POUND OF AVAILABLE PHOSPHORIC ACID (H₃PO₄)/1,000 SQUARE FEET/YEAR.

[(p)] (Q) A commercial fertilizer or soil conditioner is "misbranded", if:

(1) Its labeling is false or misleading in any particular;

(2) It is distributed under the name of another product;

(3) It is not labeled as required in § 6-210 of this subtitle and in rules and regulations prescribed under this subtitle;

(4) A fertilizer purports to be or is represented as a commercial fertilizer or if it purports to contain or is represented as containing a fertilizer material, unless the fertilizer material conforms to any definition of identity, prescribed by departmental rules and regulations which give due regard to commonly accepted definitions, such as those issued by the Association of American Plant Food Control Officials, Inc.; or

(5) Any word, statement, or other information, required to appear on the label or labeling, is not placed on it prominently and conspicuously as compared with other words, statements, designs, or devices in the labeling, and it is not in terms that render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

[(q)] (R) “Mixed fertilizer” means a commercial fertilizer containing any combination, blend, or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

[(r)] (S) “Mixed-to-order” means commercial fertilizer mixed on a specific request of a purchaser according to a formula furnished by him.

[(s)] (T) “Official sample” means any sample of fertilizer or soil conditioner taken and designated as “official” by the Secretary.

[(t)] (U) “Percent” or “percentage” means percentage by weight.

[(u)] (V) “Registrant” means any person who registers a commercial fertilizer or soil conditioner pursuant to the provisions of this subtitle.

(W) “RETAIL ESTABLISHMENT” HAS THE MEANING STATED IN § 5-401 OF THE ECONOMIC DEVELOPMENT ARTICLE.

[(v)] (X) (1) “Soil conditioner” means any substance or mixture of substances intended for sale, offered for sale, or sold for:

(i) Manurial, soil enriching, or soil corrective purposes;

(ii) Promoting or stimulating the growth of plants;

(iii) Increasing the productivity of plants;

(iv) Improving the quality of crops; or

(v) Producing any chemical or physical change in the soil, except a commercial fertilizer, unmanipulated animal and vegetable manures, agricultural liming material, and gypsum.

(2) “Soil conditioner” includes but is not limited to materials such as compost, peat, vermiculite, or perlite, that are incorporated into the soil.

[(w)] (Y) “Specialty fertilizer” means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries, and may include commercial fertilizers used for any research or experimental purpose.

[(x)] (Z) “Ton” means a net weight of two thousand pounds avoirdupois.

(a) Each brand and grade of commercial fertilizer distributed in the State shall be accompanied by a legible label bearing the following information:

- (1) The net weight;
- (2) The brand and grade under which the commercial fertilizer is distributed;
- (3) The guaranteed analysis giving the minimum percentage of every plant nutrient claimed to be contained in the fertilizer; and
- (4) Name and address of manufacturer.

(b) If distributed in bulk, a written or printed statement of the information required by subsection (a) of this section shall accompany delivery and be supplied to the purchaser at the time of delivery.

(c) Any fertilizer mixed or blended according to a formula furnished by a purchaser shall be marked plainly or tagged with the words "buyer's mixture", or "mixed-to-order", or "custom-mix" together with a statement containing the following information:

- (1) Net weight;
- (2) The guaranteed analysis giving the minimum percentage of every plant nutrient claimed to be contained in the fertilizer; and
- (3) Name and address of the manufacturer. In addition, the amounts or kinds of materials used in the formulation may be shown.

(d) A specialty fertilizer shall be labeled to contain all information required by subsection (a) of this section in a legible and conspicuous manner on at least one side of the container. If it does not appear on the face or display side of the container, it shall appear on the upper third of the side used.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR AFTER APRIL 1, 2011, A LAWN FERTILIZER WITH AN AVAILABLE PHOSPHORIC ACID (H₃PO₄) CONTENT GREATER THAN 5%:

(I) MAY NOT BE LABELED FOR USE ON ESTABLISHED LAWNS OR GRASS;

(II) MAY NOT BE LABELED WITH SPREADER SETTINGS; AND

(III) SHALL BE MARKED WITH THE WORDS "NOT FOR USE ON ESTABLISHED LAWNS OR GRASS" IN AT LEAST A THREE-QUARTER

INCH FONT AND IN A LEGIBLE AND CONSPICUOUS MANNER ON THE FRONT SIDE OF THE CONTAINER.

(2) THIS SUBSECTION DOES NOT APPLY TO SEED STARTER FERTILIZER FOR USE ON NEWLY ESTABLISHED LAWNS OR TURF.

[(e)] (F) Each brand of soil conditioner distributed in the State shall be accompanied by a legible label bearing the following information:

- (1) Net weight or other measure prescribed as satisfactory by the Secretary;
- (2) The brand under which the soil conditioner is distributed;
- (3) An accurate statement of composition and purpose; and
- (4) Name and address of the registrant.

6-222.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR AFTER APRIL 1, 2011, A PERSON MAY NOT SELL OR DISTRIBUTE FOR USE OR SALE AT A RETAIL ESTABLISHMENT IN THE STATE ANY FERTILIZER INTENDED FOR USE ON ESTABLISHED LAWNS OR GRASS UNLESS IT IS LOW PHOSPHOROUS FERTILIZER.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) A LANDSCAPING CONTRACTOR WHO IS LICENSED UNDER TITLE 8 OF THE BUSINESS REGULATION ARTICLE; OR

(II) A SALESPERSON, EMPLOYEE, OR OTHER AGENT OF A LANDSCAPING CONTRACTOR WHO IS LICENSED UNDER TITLE 8 OF THE BUSINESS REGULATION ARTICLE.

(B) (1) ON OR BEFORE APRIL 1, 2011, A MANUFACTURER OF LAWN FERTILIZER WHOSE PRODUCTS ARE SOLD IN THE STATE SHALL REDUCE BY 50% FROM 2006 LEVELS THE AMOUNT OF AVAILABLE PHOSPHORIC ACID (H₃PO₄) RESULTING FROM THE APPLICATION OF ITS LAWN CARE PRODUCTS WITHIN THE STATE.

(2) THE AMOUNT OF AVAILABLE PHOSPHORIC ACID (H₃PO₄) RESULTING FROM THE APPLICATION WITHIN THE STATE OF LAWN CARE PRODUCTS SOLD OR DISTRIBUTED BY A MANUFACTURER MAY NOT EXCEED AN

AVERAGE OF 1.5% AVAILABLE PHOSPHORIC ACID (H₃PO₄) IF, PRIOR TO APRIL 1, 2010, THE MANUFACTURER DID NOT SELL OR DISTRIBUTE FERTILIZER IN THE STATE INTENDED FOR USE ON ESTABLISHED LAWNS OR GRASS.

(3) BEGINNING IN 2011, A MANUFACTURER OF FERTILIZER WHOSE PRODUCTS ARE SOLD IN THE STATE SHALL REPORT THE POUNDS OF PHOSPHORUS IN ITS LAWN CARE PRODUCTS SOLD AT RETAIL LOCATIONS IN THE STATE TO THE DEPARTMENT AT THE END OF EACH CALENDAR YEAR.

(C) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 279

(House Bill 609)

AN ACT concerning

Chesapeake Bay Phosphorous Reduction Act of 2009

FOR the purpose of prohibiting a certain fertilizer from being labeled in a certain manner on or after a certain date; requiring a certain fertilizer to be marked with certain words in a certain manner on or after a certain date; prohibiting a certain person from selling or distributing certain fertilizer at a retail establishment on or after a certain date unless it is low phosphorous fertilizer; requiring certain manufacturers to reduce phosphorous levels resulting from the application of their lawn care products by a certain amount and on or before a certain date; prohibiting certain manufacturers from exceeding certain phosphorous levels in their lawn care products under certain circumstances; requiring certain manufacturers to report certain phosphorous levels annually to the Department of Agriculture after a certain date; authorizing the Department to adopt certain regulations; defining certain terms; and generally relating to fertilizer and phosphorus.

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 6–201 and 6–210

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY adding to

Article – Agriculture

Section 6–222

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Agriculture

6–201.

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

(b) A commercial fertilizer is “adulterated” if:

(1) Any poisonous, deleterious, or nonnutritive ingredient is added in sufficient amount to render it injurious to the health of plants, humans, or animal life or injurious to the environment;

(2) A valuable constituent is omitted or abstracted wholly or partially from it or any less valuable substance is substituted for it; or

(3) Its composition or quality falls below or differs from that which it is purported or is represented to contain by its labeling.

(c) “Brand” means the term, design, trademark, or other specific designation under which a commercial fertilizer or soil conditioner is distributed in the State.

(d) “Bulk fertilizer” means any commercial fertilizer distributed in a nonpackaged form.

(e) “Buyer’s mixture” means commercial fertilizer mixed on specific request of a purchaser according to a formula furnished by him.

(f) “Commercial fertilizer” means any substance containing a recognized plant nutrient used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manure, marl, lime, wood ashes, and gypsum.

(g) “Custom–mix” means commercial fertilizer mixed on specific request of a purchaser according to a formula furnished by him.

(h) "Distribute" means to import, manufacture, produce, compound, mix, blend, barter, sell, offer for sale, consign, furnish, provide, or otherwise supply commercial fertilizer or soil conditioners as part of a commercial enterprise.

(i) "Fertilizer material" means a commercial fertilizer containing a recognized plant nutrient, which is used primarily for its plant nutrient content.

(j) "Grade" means the percentage of total nitrogen (N), available phosphoric acid (H_3PO_4), and soluble potash (K_2O) stated in whole numbers in the same terms, order, and percentages as in the "guaranteed analysis". In the case of any "specialty fertilizer" or "mixed-to-order fertilizer" guarantees may be stated in decimal fractions of whole numbers.

(k) "Guaranteed analysis" means the minimum percentage of plant nutrient claimed as follows:

(1) Total nitrogen (N), available phosphoric acid (H_3PO_4), soluble potash (K_2O);

(2) For unacidulated mineral phosphatic materials and basic slag, both total and available phosphoric acid and the degree of fineness;

(3) For bone, tankage, and other organic phosphatic materials, total phosphoric acid;

(4) Additional plant nutrients, when claimed, shall be expressed in elemental form; and

(5) Potential basicity or acidity may be expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton.

(l) "Gypsum" means any product that consists chiefly of calcium sulfate intended for use for agricultural purposes.

(m) "Label" means the display of all written, printed, or graphic matter on the immediate container or a statement accompanying a commercial fertilizer or soil conditioner.

(n) "Labeling" means all written, printed, or graphic matter on or accompanying any commercial fertilizer or soil conditioner, or the contents of any advertisement, brochure, poster or television or radio announcement used in promoting the sale of a commercial fertilizer or soil conditioner.

(o) "Lot" means a definite quantity of commercial fertilizer or soil conditioner, identified by name, grade, or code designation as certified by the Secretary.

(P) “LOW PHOSPHOROUS FERTILIZER” MEANS FERTILIZER:

(1) CONTAINING NOT MORE THAN 5% OF AVAILABLE PHOSPHORIC ACID (H₃PO₄); AND

(2) THAT HAS AN APPLICATION RATE NOT TO EXCEED 0.25 POUND OF AVAILABLE PHOSPHORIC ACID (H₃PO₄)/1,000 SQUARE FEET/APPLICATION AND 0.5 POUND OF AVAILABLE PHOSPHORIC ACID (H₃PO₄)/1,000 SQUARE FEET/YEAR.

[(p)] (Q) A commercial fertilizer or soil conditioner is “misbranded”, if:

(1) Its labeling is false or misleading in any particular;

(2) It is distributed under the name of another product;

(3) It is not labeled as required in § 6–210 of this subtitle and in rules and regulations prescribed under this subtitle;

(4) A fertilizer purports to be or is represented as a commercial fertilizer or if it purports to contain or is represented as containing a fertilizer material, unless the fertilizer material conforms to any definition of identity, prescribed by departmental rules and regulations which give due regard to commonly accepted definitions, such as those issued by the Association of American Plant Food Control Officials, Inc.; or

(5) Any word, statement, or other information, required to appear on the label or labeling, is not placed on it prominently and conspicuously as compared with other words, statements, designs, or devices in the labeling, and it is not in terms that render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

[(q)] (R) “Mixed fertilizer” means a commercial fertilizer containing any combination, blend, or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

[(r)] (S) “Mixed-to-order” means commercial fertilizer mixed on a specific request of a purchaser according to a formula furnished by him.

[(s)] (T) “Official sample” means any sample of fertilizer or soil conditioner taken and designated as “official” by the Secretary.

[(t)] (U) “Percent” or “percentage” means percentage by weight.

[(u)] (V) “Registrant” means any person who registers a commercial fertilizer or soil conditioner pursuant to the provisions of this subtitle.

(W) “RETAIL ESTABLISHMENT” HAS THE MEANING STATED IN § 5-401 OF THE ECONOMIC DEVELOPMENT ARTICLE.

~~[(v)] (X)~~ (1) “Soil conditioner” means any substance or mixture of substances intended for sale, offered for sale, or sold for:

- (i) Manurial, soil enriching, or soil corrective purposes;
- (ii) Promoting or stimulating the growth of plants;
- (iii) Increasing the productivity of plants;
- (iv) Improving the quality of crops; or

(v) Producing any chemical or physical change in the soil, except a commercial fertilizer, unmanipulated animal and vegetable manures, agricultural liming material, and gypsum.

(2) “Soil conditioner” includes but is not limited to materials such as compost, peat, vermiculite, or perlite, that are incorporated into the soil.

~~[(w)] (Y)~~ “Specialty fertilizer” means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries, and may include commercial fertilizers used for any research or experimental purpose.

~~[(x)] (Z)~~ “Ton” means a net weight of two thousand pounds avoirdupois.

6-210.

(a) Each brand and grade of commercial fertilizer distributed in the State shall be accompanied by a legible label bearing the following information:

- (1) The net weight;
- (2) The brand and grade under which the commercial fertilizer is distributed;
- (3) The guaranteed analysis giving the minimum percentage of every plant nutrient claimed to be contained in the fertilizer; and
- (4) Name and address of manufacturer.

(b) If distributed in bulk, a written or printed statement of the information required by subsection (a) of this section shall accompany delivery and be supplied to the purchaser at the time of delivery.

(c) Any fertilizer mixed or blended according to a formula furnished by a purchaser shall be marked plainly or tagged with the words "buyer's mixture", or "mixed-to-order", or "custom-mix" together with a statement containing the following information:

(1) Net weight;

(2) The guaranteed analysis giving the minimum percentage of every plant nutrient claimed to be contained in the fertilizer; and

(3) Name and address of the manufacturer. In addition, the amounts or kinds of materials used in the formulation may be shown.

(d) A specialty fertilizer shall be labeled to contain all information required by subsection (a) of this section in a legible and conspicuous manner on at least one side of the container. If it does not appear on the face or display side of the container, it shall appear on the upper third of the side used.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR AFTER APRIL 1, 2011, A LAWN FERTILIZER WITH AN AVAILABLE PHOSPHORIC ACID (H₃PO₄) CONTENT GREATER THAN 5%:

(I) MAY NOT BE LABELED FOR USE ON ESTABLISHED LAWNS OR GRASS;

(II) MAY NOT BE LABELED WITH SPREADER SETTINGS; AND

(III) SHALL BE MARKED WITH THE WORDS "NOT FOR USE ON ESTABLISHED LAWNS OR GRASS" IN AT LEAST A THREE-QUARTER INCH FONT AND IN A LEGIBLE AND CONSPICUOUS MANNER ON THE FRONT SIDE OF THE CONTAINER.

(2) THIS SUBSECTION DOES NOT APPLY TO SEED STARTER FERTILIZER FOR USE ON NEWLY ESTABLISHED LAWNS OR TURF.

[(e)] (F) Each brand of soil conditioner distributed in the State shall be accompanied by a legible label bearing the following information:

(1) Net weight or other measure prescribed as satisfactory by the Secretary;

- (2) The brand under which the soil conditioner is distributed;
- (3) An accurate statement of composition and purpose; and
- (4) Name and address of the registrant.

6-222.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR AFTER APRIL 1, 2011, A PERSON MAY NOT SELL OR DISTRIBUTE FOR USE OR SALE AT A RETAIL ESTABLISHMENT IN THE STATE ANY FERTILIZER INTENDED FOR USE ON ESTABLISHED LAWNS OR GRASS UNLESS IT IS LOW PHOSPHOROUS FERTILIZER.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) A LANDSCAPING CONTRACTOR WHO IS LICENSED UNDER TITLE 8 OF THE BUSINESS REGULATION ARTICLE; OR

(II) A SALESPERSON, EMPLOYEE, OR OTHER AGENT OF A LANDSCAPING CONTRACTOR WHO IS LICENSED UNDER TITLE 8 OF THE BUSINESS REGULATION ARTICLE.

(B) (1) ON OR BEFORE APRIL 1, 2011, A MANUFACTURER OF LAWN FERTILIZER WHOSE PRODUCTS ARE SOLD IN THE STATE SHALL REDUCE BY 50% FROM 2006 LEVELS THE AMOUNT OF AVAILABLE PHOSPHORIC ACID (H₃PO₄) RESULTING FROM THE APPLICATION OF ITS LAWN CARE PRODUCTS WITHIN THE STATE.

(2) THE AMOUNT OF AVAILABLE PHOSPHORIC ACID (H₃PO₄) RESULTING FROM THE APPLICATION WITHIN THE STATE OF LAWN CARE PRODUCTS SOLD OR DISTRIBUTED BY A MANUFACTURER MAY NOT EXCEED AN AVERAGE OF 1.5% AVAILABLE PHOSPHORIC ACID (H₃PO₄) IF, PRIOR TO APRIL 1, 2010, THE MANUFACTURER DID NOT SELL OR DISTRIBUTE FERTILIZER IN THE STATE INTENDED FOR USE ON ESTABLISHED LAWNS OR GRASS.

(3) BEGINNING IN 2011, A MANUFACTURER OF FERTILIZER WHOSE PRODUCTS ARE SOLD IN THE STATE SHALL REPORT THE POUNDS OF PHOSPHORUS IN ITS LAWN CARE PRODUCTS SOLD AT RETAIL LOCATIONS IN THE STATE TO THE DEPARTMENT AT THE END OF EACH CALENDAR YEAR.

(C) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 280

(Senate Bill 554)

AN ACT concerning

Chesapeake Bay Nitrogen Reduction Act of 2009

FOR the purpose of prohibiting the installation of an on-site sewage disposal system in the Chesapeake and Atlantic Coastal Bays Critical Area to service a newly constructed building unless the system utilizes nitrogen removal technology; prohibiting the ~~repair or~~ replacement of an on-site sewage disposal system in the Chesapeake and Atlantic Coastal Bays Critical Area unless the ~~repaired or~~ replacement on-site sewage disposal system utilizes nitrogen removal technology; requiring the Department of the Environment to assist homeowners in paying for certain costs under certain circumstances; establishing ~~a~~ certain ~~penalty~~ penalties and enforcement mechanisms for a certain violation; requiring the Department to adopt certain regulations; defining certain terms; providing a subtraction modification under the Maryland income tax for certain costs related to certain disposal systems that exceed the amount of assistance the Department provides; providing for the application of certain provisions of this Act; and generally relating to on-site sewage disposal systems with nitrogen removal technology.

BY adding to

Article – Environment

Section 9-1108

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 10-208(a)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article – Tax – General

Section 10-208(q)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

Article - Environment

9-1108.

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

(2) "NITROGEN REMOVAL TECHNOLOGY" MEANS THE BEST AVAILABLE TECHNOLOGY FOR THE REMOVAL OF NITROGEN.

(3) "ON-SITE SEWAGE DISPOSAL SYSTEM" MEANS A SEWAGE TREATMENT UNIT, COLLECTION SYSTEM, DISPOSAL AREA, AND RELATED APPURTENANCES.

(B) A PERSON MAY NOT ~~INSTALL:~~

(1) INSTALL, OR HAVE INSTALLED, ON PROPERTY A PERSON OWNS IN THE STATE IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AN ON-SITE SEWAGE DISPOSAL SYSTEM IN THE STATE TO SERVICE A NEWLY CONSTRUCTED BUILDING, UNLESS THE ON-SITE SEWAGE DISPOSAL SYSTEM UTILIZES NITROGEN REMOVAL TECHNOLOGY; OR

(2) REPAIR OR REPLACE, OR HAVE REPAIRED OR REPLACE OR HAVE REPLACED, AN EXISTING ON-SITE SEWAGE DISPOSAL SYSTEM ON PROPERTY A PERSON OWNS IN THE STATE IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, UNLESS THE REPAIRED OR REPLACEMENT ON-SITE SEWAGE DISPOSAL SYSTEM UTILIZES NITROGEN REMOVAL TECHNOLOGY.

(C) IN ACCORDANCE WITH § 9-1605.2(H) OF THIS TITLE, THE DEPARTMENT SHALL ASSIST HOMEOWNERS IN PAYING THE COST DIFFERENCE BETWEEN A CONVENTIONAL ON-SITE SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES NITROGEN REMOVAL TECHNOLOGY WITH MONEY FROM THE BAY RESTORATION FUND, IF SUFFICIENT FUNDS ARE AVAILABLE.

(D) (1) A SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000. SUBJECT TO THE CIVIL AND ADMINISTRATIVE PENALTIES AND THE

ENFORCEMENT MECHANISMS PROVIDED IN §§ 9-334 THROUGH 9-342 OF THIS TITLE.

(2) THE PENALTIES IMPOSED UNDER THIS SECTION MAY NOT EXCEED \$1,000 PER DAY \$8,000.

(3) EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE UNDER THIS SECTION.

(E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

(2) THE REGULATIONS ADOPTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE PROVISIONS TO ENSURE THAT APPROPRIATE MANAGEMENT MEASURES ARE PROVIDED FOR THE OPERATION AND MAINTENANCE OF NITROGEN REMOVAL TECHNOLOGY.

Article - Tax - General

10-208.

(a) In addition to the modification under § 10-207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

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

(II) "NITROGEN REMOVAL TECHNOLOGY" HAS THE MEANING STATED IN § 9-1108 OF THE ENVIRONMENT ARTICLE.

(III) "ON-SITE SEWAGE DISPOSAL SYSTEM" HAS THE MEANING STATED IN § 9-1108 OF THE ENVIRONMENT ARTICLE.

(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT BY WHICH THE COST DIFFERENCE BETWEEN A CONVENTIONAL ON-SITE SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES NITROGEN REMOVAL TECHNOLOGY EXCEEDS THE AMOUNT OF ASSISTANCE THE DEPARTMENT OF THE ENVIRONMENT PROVIDES THE HOMEOWNER UNDER § 9-1108 OF THE ENVIRONMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. The subtraction modification under § 10-208(q) of the Tax - General Article, as enacted by this Act, shall be applicable to all taxable years beginning after December 31, 2009.

Approved by the Governor, May 7, 2009.

Chapter 281

(Senate Bill 560)

AN ACT concerning

Calvert County – Education – Certificated School Personnel – Collective Bargaining Representation Fees

FOR the purpose of authorizing the Board of Education of Calvert County to negotiate a certain fee with a certain certificated employee organization to be charged to certain nonmembers for certain representation; ~~requiring the Board of Education of Calvert County to negotiate a certain fee structure to be charged to certain nonmembers for certain representation by certain noncertificated employee organizations;~~ and generally relating to education and collective bargaining fees for certain certificated school personnel in Calvert County.

BY repealing and reenacting, without amendments,

Article – Education

~~Section 6-401, 6-407(a) and (b), 6-501, and 6-504(a)~~

Section 6-401 and 6-407(a) and (b)

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education

~~Section 6-407(d) and 6-504(b)~~

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Education

6-401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Employee organization” means an organization that:

(1) Includes certificated employees of a public school employer or individuals of equivalent status in Baltimore City; and

(2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

(c) (1) “Home and hospital teacher” means a teacher employed by a public school employer to provide instructional services to a public school student who is unable to function effectively in the classroom setting due to the student’s medical, physical, or emotional condition.

(2) A home and hospital teacher may teach in:

- (i) A private home;
- (ii) A hospital;
- (iii) A therapeutic center;
- (iv) A school; or
- (v) Any other appropriate site.

(d) (1) “Public school employee” means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § 6–408(b) of this subtitle.

(2) In Montgomery County, “public school employees” include:

(i) Certificated and noncertificated substitute teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 1978, and each year after; and

(ii) Home and hospital teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 2000, and each year after.

(3) In Baltimore County, “public school employee” includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § 6–501(h) of this title.

(4) In Frederick County, “public school employee” includes a social worker employed by a public school employer.

(5) In Prince George’s County, “public school employee” includes home and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

(6) In Charles County and Garrett County, “public school employee” includes Junior Reserve Officer Training Corps (JROTC) instructors.

(7) In Carroll County, “public school employee” includes supervisory noncertificated employees as defined under § 6–501(h) of this title.

(e) “Public school employer” means a county board of education or the Baltimore City Board of School Commissioners.

6–407.

(a) An employee organization designated as an exclusive representative shall be the negotiating agent of all public school employees in the unit in the county.

(b) (1) An employee organization designated as an exclusive representative shall represent all employees in the unit fairly and without discrimination, whether or not the employees are members of the employee organization.

(2) In addition, in Montgomery County the exclusive representative shall represent fairly and without discrimination all persons actually employed as substitute teachers without regard to whether they are included in § 6–401(d) of this subtitle as public school employees.

(d) (1) In Allegany County, **CALVERT COUNTY**, Charles County, Garrett County, and Washington County, the public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee, to be charged nonmembers for representing them in negotiation, contract administration, including grievances, and other activities specified under subsection (b) of this section.

(2) In Charles County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 2005.

~~6–501.~~

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

~~(b) “Confidential employee” includes an individual whose employment responsibilities require knowledge of the public school employer’s posture in the~~

~~collective negotiation process, as determined by the public school employer in negotiations with an employee organization that requests negotiation on this issue.~~

~~(c) "Employee organization" means an organization that:~~

~~(1) Includes noncertificated employees of a public school employer; and~~

~~(2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.~~

~~(d) "Management personnel" includes an individual who is engaged mainly in executive and managerial functions, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.~~

~~(e) "Noncertificated employee", in Montgomery County, means only a full-time employee.~~

~~(f) (1) "Public school employee" means a noncertificated individual who is employed for at least 9 months a year on a full-time basis by a public school employer.~~

~~(2) "Public school employee" includes a noncertificated employee in Baltimore City notwithstanding that the noncertificated employee does not work for at least 9 months a year on a full-time basis.~~

~~(3) "Public school employee" does not include:~~

~~(i) Management personnel;~~

~~(ii) A confidential employee; or~~

~~(iii) Any individual designated by the public school employer to act in a negotiating capacity as provided in § 6-510(b) of this subtitle.~~

~~(g) (1) "Public school employer" means the county board in each county.~~

~~(2) "Public school employer" includes the Baltimore City Board of School Commissioners.~~

~~(h) "Supervisory employee" includes any individual who responsibly directs the work of other employees, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.~~

~~6-504.~~

~~(a) A public school employee may refuse to join or participate in the activities of employee organizations.~~

(b) (1) ~~In Montgomery County, Allegany County, CALVERT COUNTY, Charles County, and Howard County, the county board, with respect to noncertificated employees, shall negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.~~

(2) ~~In Charles County, the provisions of this subsection shall apply only to employees hired on or after July 1, 2005.~~

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

Approved by the Governor, May 7, 2009.

Chapter 282

(House Bill 122)

AN ACT concerning

Calvert County - Education - Certificated School Personnel - Employee Service or Representation Fee Collective Bargaining Representation Fees

FOR the purpose of authorizing the Board of Education of Calvert County Board of Education to negotiate a certain fee with a certain ~~employee organization a service or representation fee~~ certificated employee organization to be charged to certain ~~nonmember school employees~~ nonmembers for certain ~~purposes, requiring representation;~~ the Calvert County Board of Education to negotiate with a certain employee organization a reasonable service fee to be charged to certain nonmember school employees for certain purposes; making this Act applicable only to school employees hired on or after a certain date; and generally relating to the negotiation of a service or representation fee to be charged to certain school employees employed by the education and collective bargaining fees for certain certificated school personnel in Calvert County Board of Education.

BY repealing and reenacting, without amendments,

Article - Education

Section 6-401 and 6-407(a) and (b)

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Education

Section ~~6-407 and 6-504~~ 6-407(d)

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

6–401.

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

(b) “Employee organization” means an organization that:

(1) Includes certificated employees of a public school employer or individuals of equivalent status in Baltimore City; and

(2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

(c) (1) “Home and hospital teacher” means a teacher employed by a public school employer to provide instructional services to a public school student who is unable to function effectively in the classroom setting due to the student’s medical, physical, or emotional condition.

(2) A home and hospital teacher may teach in:

(i) A private home;

(ii) A hospital;

(iii) A therapeutic center;

(iv) A school; or

(v) Any other appropriate site.

(d) (1) “Public school employee” means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § 6–408(b) of this subtitle.

(2) In Montgomery County, “public school employees” include:

(i) Certificated and noncertificated substitute teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 1978, and each year after; and

(ii) Home and hospital teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 2000, and each year after.

(3) In Baltimore County, "public school employee" includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § 6-501(h) of this title.

(4) In Frederick County, "public school employee" includes a social worker employed by a public school employer.

(5) In Prince George's County, "public school employee" includes home and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

(6) In Charles County and Garrett County, "public school employee" includes Junior Reserve Officer Training Corps (JROTC) instructors.

(7) In Carroll County, "public school employee" includes supervisory noncertificated employees as defined under § 6-501(h) of this title.

(e) "Public school employer" means a county board of education or the Baltimore City Board of School Commissioners.

6-407.

(a) An employee organization designated as an exclusive representative shall be the negotiating agent of all public school employees in the unit in the county.

(b) (1) An employee organization designated as an exclusive representative shall represent all employees in the unit fairly and without discrimination, whether or not the employees are members of the employee organization.

(2) In addition, in Montgomery County the exclusive representative shall represent fairly and without discrimination all persons actually employed as substitute teachers without regard to whether they are included in § 6-401(d) of this subtitle as public school employees.

~~(e) (1) In Montgomery County, Prince George's County, Baltimore County, Baltimore City, and Howard County, the public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee, to be charged nonmembers for representing them in negotiations, contract administration, including grievances, and other activities as are required under subsection (b) of this section.~~

~~(2) The service or representation fee may not exceed the annual dues of the members of the organization.~~

~~(3) An employee who is a substitute teacher and who works on a short term day to day basis is not required to pay a service or representation fee.~~

~~(4) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:~~

~~(i) Not required to pay a service or representation fee; and~~

~~(ii) Required to pay an amount of money as determined in paragraph (2) of this subsection to a nonreligious, nonunion charity or to such other charitable organization as may be mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of such payment.~~

~~(5) (i) In Baltimore County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 1997.~~

~~(ii) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.~~

~~(iii) 1. Subject to the provisions of subparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.~~

~~2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.~~

~~(iv) The employee organization designated as the exclusive representative shall submit to the board an annual audit from an external auditor~~

~~that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.~~

~~(v) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including the handling of grievances, and other activities, as required under this section.~~

~~2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.~~

~~(6) In Montgomery County, an employee who is a home or hospital teacher and who works on a short-term day-to-day basis is not required to pay a service or representation fee.~~

(d) (1) In Allegany County, **CALVERT COUNTY**, Charles County, Garrett County, and Washington County, the public school employer may negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee, to be charged nonmembers for representing them in negotiation, contract administration, including grievances, and other activities specified under subsection (b) of this section.

~~(2) **IN CALVERT COUNTY, THE PROVISIONS OF THIS SUBSECTION SHALL APPLY ONLY TO EMPLOYEES WHO ARE HIRED ON OR AFTER JULY 1, 2009.**~~

~~(3)~~ In Charles County, the provisions of this subsection shall apply only to employees who are hired on or after July 1, 2005.

~~(e) In Garrett County:~~

~~(1) A public school employee who is not a member of the employee organization designated as the exclusive representative for the public school employees in a unit at the time that a negotiated service or representation fee is initiated is exempt from the fee provided under subsection (d) of this section; and~~

~~(2) An individual who becomes a public school employee after the time that a negotiated service or representation fee is initiated and does not join the employee organization designated as the exclusive representative is liable for the fee provided under subsection (d) of this section.~~

~~(f) In Anne Arundel County:~~

~~(1) The public school employer may negotiate with the employee organization designated as the exclusive representative for the public school~~

~~employees in a unit, a reasonable service or representation fee to be charged nonmembers for representing them in negotiations, contract administration, including grievance, and other activities as are required under subsection (b) of this section.~~

~~(2) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Anne Arundel County Board of Education against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.~~

~~(ii) The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.~~

~~(3) The employee organization designated as the exclusive representative shall submit to the Anne Arundel County Board of Education an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the service or representation fee is calculated based on the audit.~~

~~(4) (i) The service or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including grievance, and other activities under this section.~~

~~(ii) Political activities of the employee organization designated as the exclusive representative may not be financed with the funds collected from the service or representation fee.~~

~~(5) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:~~

~~(i) Not required to pay a service or representation fee; and~~

~~(ii) Required to pay an amount of money as determined under paragraph (1) of this subsection to a nonreligious, nonunion charity or to another charitable organization that is mutually agreed upon by the employee and the exclusive representative, and who furnishes to the public school employer and the exclusive representative written proof of the payment.~~

~~(6) Any negotiated agreement that includes a representation fee also shall contain a provision that requires that an amount of revenue equal to 25% of the annual representation fees collected and maintained by the local bargaining representative be designated for professional development for represented educators.~~

~~(7) This subsection shall apply only to employees who are hired on or after October 1, 2004.~~

~~6-504.~~

~~(a) A public school employee may refuse to join or participate in the activities of employee organizations.~~

~~(b) (1) In Montgomery County, Allegany County, CALVERT COUNTY, Charles County, and Howard County, the county board, with respect to noncertificated employees, shall negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.~~

~~(2) IN CALVERT COUNTY, THE PROVISIONS OF THIS SUBSECTION SHALL APPLY ONLY TO EMPLOYEES HIRED ON OR AFTER JULY 1, 2009.~~

~~(3) In Charles County, the provisions of this subsection shall apply only to employees hired on or after July 1, 2005.~~

~~(c) In Prince George's County, the county board shall negotiate an organizational security provision, commonly known as "agency shop", with employee organizations.~~

~~(d) (1) In Anne Arundel County and Baltimore County, the county board, with respect to noncertificated employees, may negotiate a structure of reasonable service fees to be charged nonmembers for representation in negotiations and grievance matters by employee organizations.~~

~~(2) In Anne Arundel County, if the county board negotiates a structure of fees as authorized under this subsection:~~

~~(i) Each party shall:~~

~~1. Confer in good faith, at all reasonable times; and~~
~~2. Reduce to writing the matters agreed on as a result of the negotiations; and~~

~~(ii) Neither party is required to agree to any proposal or to make any concession.~~

~~(3) (i) The provisions of this paragraph apply if an agency or representation fee is negotiated in Baltimore County.~~

~~(ii) 1. Subject to the provisions of subsubparagraph 2 of this subparagraph, the employee organization designated as the exclusive representative for the public school employees shall indemnify and hold harmless the Board of Education of Baltimore County against any and all claims, demands, suits, or any other forms of liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.~~

~~2. The board shall retain without charge to the board the services of counsel that are designated by the exclusive representative with regard to any claim, demand, suit, or any other liability that may arise out of, or by reason of, action taken by the board for the purpose of complying with any of the agency or representation fee provisions of the negotiated agreement.~~

~~(iii) The employee organization designated as the exclusive representative shall submit to the board an annual audit from an external auditor that reflects the operational expenses of the employee organization and explains how the representation fee is calculated based on the audit.~~

~~(iv) 1. The agency or representation fee shall be based only on the expenses incurred by the employee organization in its representation in negotiations, contract administration, including the handling of grievances, and other activities as required under § 6-509 of this subtitle; and~~

~~2. Any political activities of the employee organization designated as the exclusive representative may not be financed by the funds collected from the agency or representation fee.~~

~~(e) In Baltimore City, the public school employer shall negotiate with the employee organization designated as the exclusive representative for the public school employees in a unit, a reasonable service or representation fee to be charged to nonmembers for representing them in negotiations in the same manner that any such fee was permitted under law and bargained for prior to January 1, 1997.~~

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

Approved by the Governor, May 7, 2009.

Chapter 283

(Senate Bill 568)

AN ACT concerning

Minority Business Enterprise Program – Directory of Minority Business Enterprises

FOR the purpose of requiring a certain minority business certification agency to include in its directory certain minority business enterprises that, for certain reasons, have become ineligible for the Minority Business Enterprise Program; and generally relating to the Minority Business Enterprise Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–304
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

14–304.

(a) (1) The certification agency shall develop and maintain a directory of all certified minority business enterprises.

(2) The directory shall be accessible to the public through the Internet.

(3) For each minority business enterprise included in the directory, the certification agency shall include the following information:

(i) all contract information available to the certification agency for the minority business enterprise;

(ii) the certification number and minority status of the minority business enterprise;

(iii) contact information for up to three professional references for the minority business enterprise; and

(iv) any other information the certification agency considers necessary or appropriate to encourage participation in the procurement process by minority business enterprises.

(4) The certification agency shall:

(i) update the directory at least monthly; [and]

(ii) identify as recently certified in the directory each minority business enterprise that has obtained certification during the calendar year; AND

(III) INCLUDE IN THE DIRECTORY A LIST OF ALL MINORITY BUSINESS ENTERPRISES THAT HAVE BECOME INELIGIBLE TO PARTICIPATE IN THE MINORITY BUSINESS ENTERPRISE PROGRAM BECAUSE:

1. ONE OR MORE OF ITS OWNERS HAS A PERSONAL NET WORTH THAT EXCEEDS THE AMOUNT SPECIFIED IN § 14-301(I)(3) OF THIS SUBTITLE; OR

2. THE MINORITY BUSINESS ENTERPRISE NO LONGER MEETS THE STANDARDS DEVELOPED UNDER § 14-303(B)(12) OF THIS SUBTITLE.

[(b)] (C) In the same manner and with the same fees as provided by law in civil cases, in a matter regarding the decertification of a certified minority business enterprise, the certification agency may:

- (1) subpoena witnesses;
- (2) administer oaths; and
- (3) compel the production of records, books, papers, and other documents.

[(c)] (D) If a person fails to comply with a subpoena issued under subsection (b) of this section, or fails to produce documents or other evidence, on petition of the certification agency, a court of competent jurisdiction may pass an order directing compliance with the subpoena or compelling the production of documents or other evidence.

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

Approved by the Governor, May 7, 2009.

Chapter 284

(Senate Bill 569)

AN ACT concerning

Education – Collective Bargaining – Topics of Negotiation

FOR the purpose of including the discipline and discharge of an employee for just cause ~~and employee transfers and assignments~~ among the matters a public school employer must meet and negotiate with a certain employee organization on request; repealing the public school employer's authority to negotiate due process for discipline and discharge with a certain employee organization under certain circumstances; providing for the application of this Act; and generally relating to collective bargaining for public school employees.

BY repealing and reenacting, without amendments,

Article – Education

Section 6–501

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education

Section 6–510

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Education

6–501.

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

(b) “Confidential employee” includes an individual whose employment responsibilities require knowledge of the public school employer's posture in the collective negotiation process, as determined by the public school employer in negotiations with an employee organization that requests negotiation on this issue.

(c) “Employee organization” means an organization that:

(1) Includes noncertificated employees of a public school employer; and

(2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

(d) “Management personnel” includes an individual who is engaged mainly in executive and managerial functions, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

(e) “Noncertificated employee”, in Montgomery County, means only a full-time employee.

(f) (1) “Public school employee” means a noncertificated individual who is employed for at least 9 months a year on a full-time basis by a public school employer.

(2) “Public school employee” includes a noncertificated employee in Baltimore City notwithstanding that the noncertificated employee does not work for at least 9 months a year on a full-time basis.

(3) “Public school employee” does not include:

(i) Management personnel;

(ii) A confidential employee; or

(iii) Any individual designated by the public school employer to act in a negotiating capacity as provided in § 6-510(b) of this subtitle.

(g) (1) “Public school employer” means the county board in each county.

(2) “Public school employer” includes the Baltimore City Board of School Commissioners.

(h) “Supervisory employee” includes any individual who responsibly directs the work of other employees, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

6-510.

(a) (1) In this section, “negotiate” includes the duty to:

(i) Confer in good faith, at all reasonable times; and

(ii) Reduce to writing the matters agreed on as a result of the negotiations.

(2) The agreements may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.

(b) (1) On request, a public school employer or at least two of its designated representatives shall meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to salaries, wages, hours, and other working conditions, **INCLUDING THE DISCIPLINE**

AND DISCHARGE OF AN EMPLOYEE FOR JUST CAUSE, ~~AND EMPLOYEE TRANSFERS AND ASSIGNMENTS.~~

(2) Except as provided in paragraph (3) of this subsection, a public school employer or at least two of its designated representatives may negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on other matters[, including due process for discipline and discharge,] that are mutually agreed to by the employer and the employee organization.

(3) A public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable statutory law.

(4) A matter that is not subject to negotiation under paragraph (2) of this subsection because it has not been mutually agreed to by the employer and the employee organization may not be raised in any action taken to resolve an impasse under subsection (d) of this section.

(c) The designation of representatives by the employer under this section does not prevent an employee organization from appearing before or making proposals to the public school employer at a public meeting or hearing.

(d) (1) If, on the request of either party, the State Superintendent determines from the facts that an impasse is reached in negotiations between a public school employer and an employee organization that is designated as an exclusive negotiating agent, the assistance and advice of the State Board may be requested, with the consent of both parties.

(2) If consent is not given and at the request of either party, a panel shall be named to aid in resolving the differences.

(3) The panel shall contain three individuals chosen as follows:

(i) One member is to be named by each party within 3 days;
and

(ii) The third member is to be chosen by the other two members within 10 days after the request.

(4) The State Board or the panel selected shall meet with the parties to aid in resolving the differences, and, if the matter is not resolved, shall make a written report and recommendation within 30 days after the request.

(5) A copy of the report shall be sent to representatives of the public school employer and the employee organization.

(6) All costs of the impasse proceedings, including mediation, shall be shared equally by the public school employer and the employee organization.

(7) Notwithstanding any other provision of this subtitle, the public school employer shall make the final determination as to matters which have been the subject of negotiation, but this final determination is subject to the other provisions of this article concerning the fiscal relationship between the public school employer and the county commissioners and county council.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any negotiations regarding the discipline and discharge of an employee for just cause requested or entered into before the effective date of this Act.

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

Approved by the Governor, May 7, 2009.

Chapter 285

(House Bill 792)

AN ACT concerning

Education – Collective Bargaining – Topics of Negotiation

FOR the purpose of including the discipline and discharge of an employee for just cause ~~and employee transfers and assignments~~ among the matters a public school employer must meet and negotiate with a certain employee organization on request; repealing the public school employer's authority to negotiate due process for discipline and discharge with a certain employee organization under certain circumstances; providing for the application of this Act; and generally relating to collective bargaining for public school employees.

BY repealing and reenacting, without amendments,

Article – Education

Section 6–501

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education

Section 6–510

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

6–501.

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

(b) “Confidential employee” includes an individual whose employment responsibilities require knowledge of the public school employer’s posture in the collective negotiation process, as determined by the public school employer in negotiations with an employee organization that requests negotiation on this issue.

(c) “Employee organization” means an organization that:

(1) Includes noncertificated employees of a public school employer; and

(2) Has as one of its main purposes the representation of the employees in their relations with that public school employer.

(d) “Management personnel” includes an individual who is engaged mainly in executive and managerial functions, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

(e) “Noncertificated employee”, in Montgomery County, means only a full–time employee.

(f) (1) “Public school employee” means a noncertificated individual who is employed for at least 9 months a year on a full–time basis by a public school employer.

(2) “Public school employee” includes a noncertificated employee in Baltimore City notwithstanding that the noncertificated employee does not work for at least 9 months a year on a full–time basis.

(3) “Public school employee” does not include:

(i) Management personnel;

(ii) A confidential employee; or

(iii) Any individual designated by the public school employer to act in a negotiating capacity as provided in § 6–510(b) of this subtitle.

(g) (1) "Public school employer" means the county board in each county.

(2) "Public school employer" includes the Baltimore City Board of School Commissioners.

(h) "Supervisory employee" includes any individual who responsibly directs the work of other employees, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue.

6-510.

(a) (1) In this section, "negotiate" includes the duty to:

(i) Confer in good faith, at all reasonable times; and

(ii) Reduce to writing the matters agreed on as a result of the negotiations.

(2) The agreements may provide for binding arbitration of the grievances arising under the agreement that the parties have agreed to be subject to arbitration.

(b) (1) On request, a public school employer or at least two of its designated representatives shall meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on all matters that relate to salaries, wages, hours, and other working conditions, **INCLUDING THE DISCIPLINE AND DISCHARGE OF AN EMPLOYEE FOR JUST CAUSE, AND EMPLOYEE TRANSFERS AND ASSIGNMENTS.**

(2) Except as provided in paragraph (3) of this subsection, a public school employer or at least two of its designated representatives may negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county on other matters[, including due process for discipline and discharge,] that are mutually agreed to by the employer and the employee organization.

(3) A public school employer may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by applicable statutory law.

(4) A matter that is not subject to negotiation under paragraph (2) of this subsection because it has not been mutually agreed to by the employer and the employee organization may not be raised in any action taken to resolve an impasse under subsection (d) of this section.

(c) The designation of representatives by the employer under this section does not prevent an employee organization from appearing before or making proposals to the public school employer at a public meeting or hearing.

(d) (1) If, on the request of either party, the State Superintendent determines from the facts that an impasse is reached in negotiations between a public school employer and an employee organization that is designated as an exclusive negotiating agent, the assistance and advice of the State Board may be requested, with the consent of both parties.

(2) If consent is not given and at the request of either party, a panel shall be named to aid in resolving the differences.

(3) The panel shall contain three individuals chosen as follows:

(i) One member is to be named by each party within 3 days;
and

(ii) The third member is to be chosen by the other two members within 10 days after the request.

(4) The State Board or the panel selected shall meet with the parties to aid in resolving the differences, and, if the matter is not resolved, shall make a written report and recommendation within 30 days after the request.

(5) A copy of the report shall be sent to representatives of the public school employer and the employee organization.

(6) All costs of the impasse proceedings, including mediation, shall be shared equally by the public school employer and the employee organization.

(7) Notwithstanding any other provision of this subtitle, the public school employer shall make the final determination as to matters which have been the subject of negotiation, but this final determination is subject to the other provisions of this article concerning the fiscal relationship between the public school employer and the county commissioners and county council.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any negotiations regarding the discipline and discharge of an employee for just cause requested or entered into before the effective date of this Act.

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

Approved by the Governor, May 7, 2009.

Chapter 286

(Senate Bill 574)

AN ACT concerning

Wicomico County – Annual Financial Report – Filing Date

FOR the purpose of altering the date by which Wicomico County may file its annual financial report for the fiscal year with the Maryland Department of Legislative Services; and generally relating to the annual financial report of Wicomico County.

BY repealing and reenacting, with amendments,
Article 19 – Comptroller
Section 37
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 19 – Comptroller

37.

(a) (1) Except as provided in paragraph (2) of this subsection, each county, municipal corporation, and taxing district in the State shall by the first day of November after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(2) (i) Each county, municipal corporation, or taxing district with a population of more than 400,000 may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(ii) Unless subparagraph (i) of this paragraph applies, Howard County may by the first day of December after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(iii) Frederick County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(IV) WICOMICO COUNTY MAY BY THE FIRST DAY OF JANUARY AFTER THE CLOSE OF THE FISCAL YEAR FILE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES ITS FINANCIAL REPORT COVERING THE FULL PERIOD OF THAT FISCAL YEAR.

(b) The reports required by subsection (a) of this section shall be:

(1) Properly filled in on the form or forms established by the Department as provided in this subtitle; and

(2) Verified by the chief executive officer of each county, municipal corporation, and taxing district.

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

Approved by the Governor, May 7, 2009.

Chapter 287

(Senate Bill 576)

AN ACT concerning

Unemployment Insurance – Maximum Benefit – Increase

FOR the purpose of increasing the amount of the weekly unemployment insurance benefit up to a certain amount over a certain period of time; providing for the application of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to unemployment insurance benefits.

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 8–803

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 8–803

Annotated Code of Maryland
 (2008 Replacement Volume)
 (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 – Labor and Employment

8–803.

(a) (1) To determine the weekly benefit amount to assign to a claimant in the schedule of benefits in subsection (b) of this section, the line in the schedule of benefits shall be located in which the high quarter wages in column (A) correspond to wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest.

(2) The claimant shall be assigned:

(i) the weekly benefit amount in column (B) of the schedule for that line; or

(ii) if the claimant is not eligible under § 8–802 of this subtitle for that weekly benefit amount but was paid wages to qualify in 1 of the next 6 lower lines of the schedule, the weekly benefit amount in the next lower line in column (B) of the schedule.

(b)

SCHEDULE OF BENEFITS

Line	High Quarter Wages (A)	Weekly Benefit Amount (B)	Minimum Qualifying Wages (C)
(1)	\$ 576.01 to \$ 600.00	25.00	900.00
(2)	\$ 600.01 to \$ 624.00	26.00	936.00
(3)	\$ 624.01 to \$ 648.00	27.00	972.00
(4)	\$ 648.01 to \$ 672.00	28.00	1,008.00
(5)	\$ 672.01 to \$ 696.00	29.00	1,044.00
(6)	\$ 696.01 to \$ 720.00	30.00	1,080.00
(7)	\$ 720.01 to \$ 744.00	31.00	1,116.00
(8)	\$ 744.01 to \$ 768.00	32.00	1,152.00
(9)	\$ 768.01 to \$ 792.00	33.00	1,188.00
(10)	\$ 792.01 to \$ 816.00	34.00	1,224.00
(11)	\$ 816.01 to \$ 840.00	35.00	1,260.00
(12)	\$ 840.01 to \$ 864.00	36.00	1,296.00
(13)	\$ 864.01 to \$ 888.00	37.00	1,332.00

(14)	\$ 888.01 to \$ 912.00	38.00	1,368.00
(15)	\$ 912.01 to \$ 936.00	39.00	1,404.00
(16)	\$ 936.01 to \$ 960.00	40.00	1,440.00
(17)	\$ 960.01 to \$ 984.00	41.00	1,476.00
(18)	\$ 984.01 to \$1,008.00	42.00	1,512.00
(19)	\$1,008.01 to \$1,032.00	43.00	1,548.00
(20)	\$1,032.01 to \$1,056.00	44.00	1,584.00
(21)	\$1,056.01 to \$1,080.00	45.00	1,620.00
(22)	\$1,080.01 to \$1,104.00	46.00	1,656.00
(23)	\$1,104.01 to \$1,128.00	47.00	1,692.00
(24)	\$1,128.01 to \$1,152.00	48.00	1,728.00
(25)	\$1,152.01 to \$1,176.00	49.00	1,764.00
(26)	\$1,176.01 to \$1,200.00	50.00	1,800.00
(27)	\$1,200.01 to \$1,224.00	51.00	1,836.00
(28)	\$1,224.01 to \$1,248.00	52.00	1,872.00
(29)	\$1,248.01 to \$1,272.00	53.00	1,908.00
(30)	\$1,272.01 to \$1,296.00	54.00	1,944.00
(31)	\$1,296.01 to \$1,320.00	55.00	1,980.00
(32)	\$1,320.01 to \$1,344.00	56.00	2,016.00
(33)	\$1,344.01 to \$1,368.00	57.00	2,052.00
(34)	\$1,368.01 to \$1,392.00	58.00	2,088.00
(35)	\$1,392.01 to \$1,416.00	59.00	2,124.00
(36)	\$1,416.01 to \$1,440.00	60.00	2,160.00
(37)	\$1,440.01 to \$1,464.00	61.00	2,196.00
(38)	\$1,464.01 to \$1,488.00	62.00	2,232.00
(39)	\$1,488.01 to \$1,512.00	63.00	2,268.00
(40)	\$1,512.01 to \$1,536.00	64.00	2,304.00
(41)	\$1,536.01 to \$1,560.00	65.00	2,340.00
(42)	\$1,560.01 to \$1,584.00	66.00	2,376.00
(43)	\$1,584.01 to \$1,608.00	67.00	2,412.00
(44)	\$1,608.01 to \$1,632.00	68.00	2,448.00
(45)	\$1,632.01 to \$1,656.00	69.00	2,484.00
(46)	\$1,656.01 to \$1,680.00	70.00	2,520.00
(47)	\$1,680.01 to \$1,704.00	71.00	2,556.00
(48)	\$1,704.01 to \$1,728.00	72.00	2,592.00
(49)	\$1,728.01 to \$1,752.00	73.00	2,628.00
(50)	\$1,752.01 to \$1,776.00	74.00	2,664.00
(51)	\$1,776.01 to \$1,800.00	75.00	2,700.00
(52)	\$1,800.01 to \$1,824.00	76.00	2,736.00
(53)	\$1,824.01 to \$1,848.00	77.00	2,772.00
(54)	\$1,848.01 to \$1,872.00	78.00	2,808.00
(55)	\$1,872.01 to \$1,896.00	79.00	2,844.00
(56)	\$1,896.01 to \$1,920.00	80.00	2,880.00
(57)	\$1,920.01 to \$1,944.00	81.00	2,916.00
(58)	\$1,944.01 to \$1,968.00	82.00	2,952.00
(59)	\$1,968.01 to \$1,992.00	83.00	2,988.00
(60)	\$1,992.01 to \$2,016.00	84.00	3,024.00

(61)	\$2,016.01 to \$2,040.00	85.00	3,060.00
(62)	\$2,040.01 to \$2,064.00	86.00	3,096.00
(63)	\$2,064.01 to \$2,088.00	87.00	3,132.00
(64)	\$2,088.01 to \$2,112.00	88.00	3,168.00
(65)	\$2,112.01 to \$2,136.00	89.00	3,204.00
(66)	\$2,136.01 to \$2,160.00	90.00	3,240.00
(67)	\$2,160.01 to \$2,184.00	91.00	3,276.00
(68)	\$2,184.01 to \$2,208.00	92.00	3,312.00
(69)	\$2,208.01 to \$2,232.00	93.00	3,348.00
(70)	\$2,232.01 to \$2,256.00	94.00	3,384.00
(71)	\$2,256.01 to \$2,280.00	95.00	3,420.00
(72)	\$2,280.01 to \$2,304.00	96.00	3,456.00
(73)	\$2,304.01 to \$2,328.00	97.00	3,492.00
(74)	\$2,328.01 to \$2,352.00	98.00	3,528.00
(75)	\$2,352.01 to \$2,376.00	99.00	3,564.00
(76)	\$2,376.01 to \$2,400.00	100.00	3,600.00
(77)	\$2,400.01 to \$2,424.00	101.00	3,636.00
(78)	\$2,424.01 to \$2,448.00	102.00	3,672.00
(79)	\$2,448.01 to \$2,472.00	103.00	3,708.00
(80)	\$2,472.01 to \$2,496.00	104.00	3,744.00
(81)	\$2,496.01 to \$2,520.00	105.00	3,780.00
(82)	\$2,520.01 to \$2,544.00	106.00	3,816.00
(83)	\$2,544.01 to \$2,568.00	107.00	3,852.00
(84)	\$2,568.01 to \$2,592.00	108.00	3,888.00
(85)	\$2,592.01 to \$2,616.00	109.00	3,924.00
(86)	\$2,616.01 to \$2,640.00	110.00	3,960.00
(87)	\$2,640.01 to \$2,664.00	111.00	3,996.00
(88)	\$2,664.01 to \$2,688.00	112.00	4,032.00
(89)	\$2,688.01 to \$2,712.00	113.00	4,068.00
(90)	\$2,712.01 to \$2,736.00	114.00	4,104.00
(91)	\$2,736.01 to \$2,760.00	115.00	4,140.00
(92)	\$2,760.01 to \$2,784.00	116.00	4,176.00
(93)	\$2,784.01 to \$2,808.00	117.00	4,212.00
(94)	\$2,808.01 to \$2,832.00	118.00	4,248.00
(95)	\$2,832.01 to \$2,856.00	119.00	4,284.00
(96)	\$2,856.01 to \$2,880.00	120.00	4,320.00
(97)	\$2,880.01 to \$2,904.00	121.00	4,356.00
(98)	\$2,904.01 to \$2,928.00	122.00	4,392.00
(99)	\$2,928.01 to \$2,952.00	123.00	4,428.00
(100)	\$2,952.01 to \$2,976.00	124.00	4,464.00
(101)	\$2,976.01 to \$3,000.00	125.00	4,500.00
(102)	\$3,000.01 to \$3,024.00	126.00	4,536.00
(103)	\$3,024.01 to \$3,048.00	127.00	4,572.00
(104)	\$3,048.01 to \$3,072.00	128.00	4,608.00
(105)	\$3,072.01 to \$3,096.00	129.00	4,644.00
(106)	\$3,096.01 to \$3,120.00	130.00	4,680.00
(107)	\$3,120.01 to \$3,144.00	131.00	4,716.00

(108)	\$3,144.01 to \$3,168.00	132.00	4,752.00
(109)	\$3,168.01 to \$3,192.00	133.00	4,788.00
(110)	\$3,192.01 to \$3,216.00	134.00	4,824.00
(111)	\$3,216.01 to \$3,240.00	135.00	4,860.00
(112)	\$3,240.01 to \$3,264.00	136.00	4,896.00
(113)	\$3,264.01 to \$3,288.00	137.00	4,932.00
(114)	\$3,288.01 to \$3,312.00	138.00	4,968.00
(115)	\$3,312.01 to \$3,336.00	139.00	5,004.00
(116)	\$3,336.01 to \$3,360.00	140.00	5,040.00
(117)	\$3,360.01 to \$3,384.00	141.00	5,076.00
(118)	\$3,384.01 to \$3,408.00	142.00	5,112.00
(119)	\$3,408.01 to \$3,432.00	143.00	5,148.00
(120)	\$3,432.01 to \$3,456.00	144.00	5,184.00
(121)	\$3,456.01 to \$3,480.00	145.00	5,220.00
(122)	\$3,480.01 to \$3,504.00	146.00	5,256.00
(123)	\$3,504.01 to \$3,528.00	147.00	5,292.00
(124)	\$3,528.01 to \$3,552.00	148.00	5,328.00
(125)	\$3,552.01 to \$3,576.00	149.00	5,364.00
(126)	\$3,576.01 to \$3,600.00	150.00	5,400.00
(127)	\$3,600.01 to \$3,624.00	151.00	5,436.00
(128)	\$3,624.01 to \$3,648.00	152.00	5,472.00
(129)	\$3,648.01 to \$3,672.00	153.00	5,508.00
(130)	\$3,672.01 to \$3,696.00	154.00	5,544.00
(131)	\$3,696.01 to \$3,720.00	155.00	5,580.00
(132)	\$3,720.01 to \$3,744.00	156.00	5,616.00
(133)	\$3,744.01 to \$3,768.00	157.00	5,652.00
(134)	\$3,768.01 to \$3,792.00	158.00	5,688.00
(135)	\$3,792.01 to \$3,816.00	159.00	5,724.00
(136)	\$3,816.01 to \$3,840.00	160.00	5,760.00
(137)	\$3,840.01 to \$3,864.00	161.00	5,796.00
(138)	\$3,864.01 to \$3,888.00	162.00	5,832.00
(139)	\$3,888.01 to \$3,912.00	163.00	5,868.00
(140)	\$3,912.01 to \$3,936.00	164.00	5,904.00
(141)	\$3,936.01 to \$3,960.00	165.00	5,940.00
(142)	\$3,960.01 to \$3,984.00	166.00	5,976.00
(143)	\$3,984.01 to \$4,008.00	167.00	6,012.00
(144)	\$4,008.01 to \$4,032.00	168.00	6,048.00
(145)	\$4,032.01 to \$4,056.00	169.00	6,084.00
(146)	\$4,056.01 to \$4,080.00	170.00	6,120.00
(147)	\$4,080.01 to \$4,104.00	171.00	6,156.00
(148)	\$4,104.01 to \$4,128.00	172.00	6,192.00
(149)	\$4,128.01 to \$4,152.00	173.00	6,228.00
(150)	\$4,152.01 to \$4,176.00	174.00	6,264.00
(151)	\$4,176.01 to \$4,200.00	175.00	6,300.00
(152)	\$4,200.01 to \$4,224.00	176.00	6,336.00
(153)	\$4,224.01 to \$4,248.00	177.00	6,372.00
(154)	\$4,248.01 to \$4,272.00	178.00	6,408.00

(155)	\$4,272.01 to \$4,296.00	179.00	6,444.00
(156)	\$4,296.01 to \$4,320.00	180.00	6,480.00
(157)	\$4,320.01 to \$4,344.00	181.00	6,516.00
(158)	\$4,344.01 to \$4,368.00	182.00	6,552.00
(159)	\$4,368.01 to \$4,392.00	183.00	6,588.00
(160)	\$4,392.01 to \$4,416.00	184.00	6,624.00
(161)	\$4,416.01 to \$4,440.00	185.00	6,660.00
(162)	\$4,440.01 to \$4,464.00	186.00	6,696.00
(163)	\$4,464.01 to \$4,488.00	187.00	6,732.00
(164)	\$4,488.01 to \$4,512.00	188.00	6,768.00
(165)	\$4,512.01 to \$4,536.00	189.00	6,804.00
(166)	\$4,536.01 to \$4,560.00	190.00	6,840.00
(167)	\$4,560.01 to \$4,584.00	191.00	6,876.00
(168)	\$4,584.01 to \$4,608.00	192.00	6,912.00
(169)	\$4,608.01 to \$4,632.00	193.00	6,948.00
(170)	\$4,632.01 to \$4,656.00	194.00	6,984.00
(171)	\$4,656.01 to \$4,680.00	195.00	7,020.00
(172)	\$4,680.01 to \$4,704.00	196.00	7,056.00
(173)	\$4,704.01 to \$4,728.00	197.00	7,092.00
(174)	\$4,728.01 to \$4,752.00	198.00	7,128.00
(175)	\$4,752.01 to \$4,776.00	199.00	7,164.00
(176)	\$4,776.01 to \$4,800.00	200.00	7,200.00
(177)	\$4,800.01 to \$4,824.00	201.00	7,236.00
(178)	\$4,824.01 to \$4,848.00	202.00	7,272.00
(179)	\$4,848.01 to \$4,872.00	203.00	7,308.00
(180)	\$4,872.01 to \$4,896.00	204.00	7,344.00
(181)	\$4,896.01 to \$4,920.00	205.00	7,380.00
(182)	\$4,920.01 to \$4,944.00	206.00	7,416.00
(183)	\$4,944.01 to \$4,968.00	207.00	7,452.00
(184)	\$4,968.01 to \$4,992.00	208.00	7,488.00
(185)	\$4,992.01 to \$5,016.00	209.00	7,524.00
(186)	\$5,016.01 to \$5,040.00	210.00	7,560.00
(187)	\$5,040.01 to \$5,064.00	211.00	7,596.00
(188)	\$5,064.01 to \$5,088.00	212.00	7,632.00
(189)	\$5,088.01 to \$5,112.00	213.00	7,668.00
(190)	\$5,112.01 to \$5,136.00	214.00	7,704.00
(191)	\$5,136.01 to \$5,160.00	215.00	7,740.00
(192)	\$5,160.01 to \$5,184.00	216.00	7,776.00
(193)	\$5,184.01 to \$5,208.00	217.00	7,812.00
(194)	\$5,208.01 to \$5,232.00	218.00	7,848.00
(195)	\$5,232.01 to \$5,256.00	219.00	7,884.00
(196)	\$5,256.01 to \$5,280.00	220.00	7,920.00
(197)	\$5,280.01 to \$5,304.00	221.00	7,956.00
(198)	\$5,304.01 to \$5,328.00	222.00	7,992.00
(199)	\$5,328.01 to \$5,352.00	223.00	8,028.00
(200)	\$5,352.01 to \$5,376.00	224.00	8,064.00
(201)	\$5,376.01 to \$5,400.00	225.00	8,100.00

(202)	\$5,400.01 to \$5,424.00	226.00	8,136.00
(203)	\$5,424.01 to \$5,448.00	227.00	8,172.00
(204)	\$5,448.01 to \$5,472.00	228.00	8,208.00
(205)	\$5,472.01 to \$5,496.00	229.00	8,244.00
(206)	\$5,496.01 to \$5,520.00	230.00	8,280.00
(207)	\$5,520.01 to \$5,544.00	231.00	8,316.00
(208)	\$5,544.01 to \$5,568.00	232.00	8,352.00
(209)	\$5,568.01 to \$5,592.00	233.00	8,388.00
(210)	\$5,592.01 to \$5,616.00	234.00	8,424.00
(211)	\$5,616.01 to \$5,640.00	235.00	8,460.00
(212)	\$5,640.01 to \$5,664.00	236.00	8,496.00
(213)	\$5,664.01 to \$5,688.00	237.00	8,532.00
(214)	\$5,688.01 to \$5,712.00	238.00	8,568.00
(215)	\$5,712.01 to \$5,736.00	239.00	8,604.00
(216)	\$5,736.01 to \$5,760.00	240.00	8,640.00
(217)	\$5,760.01 to \$5,784.00	241.00	8,676.00
(218)	\$5,784.01 to \$5,808.00	242.00	8,712.00
(219)	\$5,808.01 to \$5,832.00	243.00	8,748.00
(220)	\$5,832.01 to \$5,856.00	244.00	8,784.00
(221)	\$5,856.01 to \$5,880.00	245.00	8,820.00
(222)	\$5,880.01 to \$5,904.00	246.00	8,856.00
(223)	\$5,904.01 to \$5,928.00	247.00	8,892.00
(224)	\$5,928.01 to \$5,952.00	248.00	8,928.00
(225)	\$5,952.01 to \$5,976.00	249.00	8,964.00
(226)	\$5,976.01 to \$6,000.00	250.00	9,000.00
(227)	\$6,000.01 to \$6,024.00	251.00	9,036.00
(228)	\$6,024.01 to \$6,048.00	252.00	9,072.00
(229)	\$6,048.01 to \$6,072.00	253.00	9,108.00
(230)	\$6,072.01 to \$6,096.00	254.00	9,144.00
(231)	\$6,096.01 to \$6,120.00	255.00	9,180.00
(232)	\$6,120.01 to \$6,144.00	256.00	9,216.00
(233)	\$6,144.01 to \$6,168.00	257.00	9,252.00
(234)	\$6,168.01 to \$6,192.00	258.00	9,288.00
(235)	\$6,192.01 to \$6,216.00	259.00	9,324.00
(236)	\$6,216.01 to \$6,240.00	260.00	9,360.00
(237)	\$6,240.01 to \$6,264.00	261.00	9,396.00
(238)	\$6,264.01 to \$6,288.00	262.00	9,432.00
(239)	\$6,288.01 to \$6,312.00	263.00	9,468.00
(240)	\$6,312.01 to \$6,336.00	264.00	9,504.00
(241)	\$6,336.01 to \$6,360.00	265.00	9,540.00
(242)	\$6,360.01 to \$6,384.00	266.00	9,576.00
(243)	\$6,384.01 to \$6,408.00	267.00	9,612.00
(244)	\$6,408.01 to \$6,432.00	268.00	9,648.00
(245)	\$6,432.01 to \$6,456.00	269.00	9,684.00
(246)	\$6,456.01 to \$6,480.00	270.00	9,720.00
(247)	\$6,480.01 to \$6,504.00	271.00	9,756.00
(248)	\$6,504.01 to \$6,528.00	272.00	9,792.00

(249)	\$6,528.01 to \$6,552.00	273.00	9,828.00
(250)	\$6,552.01 to \$6,576.00	274.00	9,864.00
(251)	\$6,576.01 to \$6,600.00	275.00	9,900.00
(252)	\$6,600.01 to \$6,624.00	276.00	9,936.00
(253)	\$6,624.01 to \$6,648.00	277.00	9,972.00
(254)	\$6,648.01 to \$6,672.00	278.00	10,008.00
(255)	\$6,672.01 to \$6,696.00	279.00	10,044.00
(256)	\$6,696.01 to \$6,720.00	280.00	10,080.00
(257)	\$6,720.01 to \$6,744.00	281.00	10,116.00
(258)	\$6,744.01 to \$6,768.00	282.00	10,152.00
(259)	\$6,768.01 to \$6,792.00	283.00	10,188.00
(260)	\$6,792.01 to \$6,816.00	284.00	10,224.00
(261)	\$6,816.01 to \$6,840.00	285.00	10,260.00
(262)	\$6,840.01 to \$6,864.00	286.00	10,296.00
(263)	\$6,864.01 to \$6,888.00	287.00	10,332.00
(264)	\$6,888.01 to \$6,912.00	288.00	10,368.00
(265)	\$6,912.01 to \$6,936.00	289.00	10,404.00
(266)	\$6,936.01 to \$6,960.00	290.00	10,440.00
(267)	\$6,960.01 to \$6,984.00	291.00	10,476.00
(268)	\$6,984.01 to \$7,008.00	292.00	10,512.00
(269)	\$7,008.01 to \$7,032.00	293.00	10,548.00
(270)	\$7,032.01 to \$7,056.00	294.00	10,584.00
(271)	\$7,056.01 to \$7,080.00	295.00	10,620.00
(272)	\$7,080.01 to \$7,104.00	296.00	10,656.00
(273)	\$7,104.01 to \$7,128.00	297.00	10,692.00
(274)	\$7,128.01 to \$7,152.00	298.00	10,728.00
(275)	\$7,152.01 to \$7,176.00	299.00	10,764.00
(276)	\$7,176.01 to \$7,200.00	300.00	10,800.00
(277)	\$7,200.01 to \$7,224.00	301.00	10,836.00
(278)	\$7,224.01 to \$7,248.00	302.00	10,872.00
(279)	\$7,248.01 to \$7,272.00	303.00	10,908.00
(280)	\$7,272.01 to \$7,296.00	304.00	10,944.00
(281)	\$7,296.01 to \$7,320.00	305.00	10,980.00
(282)	\$7,320.01 to \$7,344.00	306.00	11,016.00
(283)	\$7,344.01 to \$7,368.00	307.00	11,052.00
(284)	\$7,368.01 to \$7,392.00	308.00	11,088.00
(285)	\$7,392.01 to \$7,416.00	309.00	11,124.00
(286)	\$7,416.01 to \$7,440.00	310.00	11,160.00
(287)	\$7,440.01 to \$7,464.00	311.00	11,196.00
(288)	\$7,464.01 to \$7,488.00	312.00	11,232.00
(289)	\$7,488.01 to \$7,512.00	313.00	11,268.00
(290)	\$7,512.01 to \$7,536.00	314.00	11,304.00
(291)	\$7,536.01 to \$7,560.00	315.00	11,340.00
(292)	\$7,560.01 to \$7,584.00	316.00	11,376.00
(293)	\$7,584.01 to \$7,608.00	317.00	11,412.00
(294)	\$7,608.01 to \$7,632.00	318.00	11,448.00
(295)	\$7,632.01 to \$7,656.00	319.00	11,484.00

(296)	\$7,656.01 to \$7,680.00	320.00	11,520.00
(297)	\$7,680.01 to \$7,704.00	321.00	11,556.00
(298)	\$7,704.01 to \$7,728.00	322.00	11,592.00
(299)	\$7,728.01 to \$7,752.00	323.00	11,628.00
(300)	\$7,752.01 to \$7,776.00	324.00	11,664.00
(301)	\$7,776.01 to \$7,800.00	325.00	11,700.00
(302)	\$7,800.01 to \$7,824.00	326.00	11,736.00
(303)	\$7,824.01 to \$7,848.00	327.00	11,772.00
(304)	\$7,848.01 to \$7,872.00	328.00	11,808.00
(305)	\$7,872.01 to \$7,896.00	329.00	11,844.00
(306)	\$7,896.01 to \$7,920.00	330.00	11,880.00
(307)	\$7,920.01 to \$7,944.00	331.00	11,916.00
(308)	\$7,944.01 to \$7,968.00	332.00	11,952.00
(309)	\$7,968.01 to \$7,992.00	333.00	11,988.00
(310)	\$7,992.01 to \$8,016.00	334.00	12,024.00
(311)	\$8,016.01 to \$8,040.00	335.00	12,060.00
(312)	\$8,040.01 to \$8,064.00	336.00	12,096.00
(313)	\$8,064.01 to \$8,088.00	337.00	12,132.00
(314)	\$8,088.01 to \$8,112.00	338.00	12,168.00
(315)	\$8,112.01 to \$8,136.00	339.00	12,204.00
(316)	\$8,136.01 to \$8,160.00	340.00	12,240.00
(317)	\$8,160.01 to \$8,184.00	341.00	12,276.00
(318)	\$8,184.01 to \$8,208.00	342.00	12,312.00
(319)	\$8,208.01 to \$8,232.00	343.00	12,348.00
(320)	\$8,232.01 to \$8,256.00	344.00	12,384.00
(321)	\$8,256.01 to \$8,280.00	345.00	12,420.00
(322)	\$8,280.01 to \$8,304.00	346.00	12,456.00
(323)	\$8,304.01 to \$8,328.00	347.00	12,492.00
(324)	\$8,328.01 to \$8,352.00	348.00	12,528.00
(325)	\$8,352.01 to \$8,376.00	349.00	12,564.00
(326)	\$8,376.01 to \$8,400.00	350.00	12,600.00
(327)	\$8,400.01 to \$8,424.00	351.00	12,636.00
(328)	\$8,424.01 to \$8,448.00	352.00	12,672.00
(329)	\$8,448.01 to \$8,472.00	353.00	12,708.00
(330)	\$8,472.01 to \$8,496.00	354.00	12,744.00
(331)	\$8,496.01 to \$8,520.00	355.00	12,780.00
(332)	\$8,520.01 to \$8,544.00	356.00	12,816.00
(333)	\$8,544.01 to \$8,568.00	357.00	12,852.00
(334)	\$8,568.01 to \$8,592.00	358.00	12,888.00
(335)	\$8,592.01 to \$8,616.00	359.00	12,924.00
(336)	\$8,616.01 to \$8,640.00	360.00	12,960.00
(337)	\$8,640.01 to \$8,664.00	361.00	12,996.00
(338)	\$8,664.01 to \$8,688.00	362.00	13,032.00
(339)	\$8,688.01 to \$8,712.00	363.00	13,068.00
(340)	\$8,712.01 to \$8,736.00	364.00	13,104.00
(341)	\$8,736.01 to \$8,760.00	365.00	13,140.00
(342)	\$8,760.01 to \$8,784.00	366.00	13,176.00

(343)	\$8,784.01 to \$8,808.00	367.00	13,212.00
(344)	\$8,808.01 to \$8,832.00	368.00	13,248.00
(345)	\$8,832.01 to \$8,856.00	369.00	13,284.00
(346)	\$8,856.01 to \$8,880.00	370.00	13,320.00
(347)	\$8,880.01 to \$8,904.00	371.00	13,356.00
(348)	\$8,904.01 to \$8,928.00	372.00	13,392.00
(349)	\$8,928.01 to \$8,952.00	373.00	13,428.00
(350)	\$8,952.01 to \$8,976.00	374.00	13,464.00
(351)	\$8,976.01 to \$9,000.00	375.00	13,500.00
(352)	\$9,000.01 to \$9,024.00	376.00	13,536.00
(353)	\$9,024.01 to \$9,048.00	377.00	13,572.00
(354)	\$9,048.01 to \$9,072.00	378.00	13,608.00
(355)	\$9,072.01 to \$9,096.00	379.00	13,644.00
(356)	\$9,096.01 [and over] TO \$9,120.00	380.00	13,680.00
(357)	\$9,120.01 TO \$9,144.00	381.00	13,716.00
(358)	\$9,144.01 TO \$9,168.00	382.00	13,752.00
(359)	\$9,168.01 TO \$9,192.00	383.00	13,788.00
(360)	\$9,192.01 TO \$9,216.00	384.00	13,824.00
(361)	\$9,216.01 TO \$9,240.00	385.00	13,860.00
(362)	\$9,240.01 TO \$9,264.00	386.00	13,896.00
(363)	\$9,264.01 TO \$9,288.00	387.00	13,932.00
(364)	\$9,288.01 TO \$9,312.00	388.00	13,968.00
(365)	\$9,312.01 TO \$9,336.00	389.00	14,004.00
(366)	\$9,336.01 TO \$9,360.00	390.00	14,040.00
(367)	\$9,360.01 TO \$9,384.00	391.00	14,076.00
(368)	\$9,384.01 TO \$9,408.00	392.00	14,112.00
(369)	\$9,408.01 TO \$9,432.00	393.00	14,148.00
(370)	\$9,432.01 TO \$9,456.00	394.00	14,184.00
(371)	\$9,456.01 TO \$9,480.00	395.00	14,220.00
(372)	\$9,480.01 TO \$9,504.00	396.00	14,256.00
(373)	\$9,504.01 TO \$9,528.00	397.00	14,292.00
(374)	\$9,528.01 TO \$9,552.00	398.00	14,328.00
(375)	\$9,552.01 TO \$9,576.00	399.00	14,364.00
(376)	\$9,576.01 TO \$9,600.00	400.00	14,400.00
(377)	\$9,600.01 TO \$9,624.00	401.00	14,436.00
(378)	\$9,624.01 TO \$9,648.00	402.00	14,472.00
(379)	\$9,648.01 TO \$9,672.00	403.00	14,508.00
(380)	\$9,672.01 TO \$9,696.00	404.00	14,544.00
(381)	\$9,696.01 TO \$9,720.00	405.00	14,580.00
(382)	\$9,720.01 TO \$9,744.00	406.00	14,616.00
(383)	\$9,744.01 TO \$9,768.00	407.00	14,652.00
(384)	\$9,768.01 TO \$9,792.00	408.00	14,688.00
(385)	\$9,792.01 TO \$9,816.00	409.00	14,724.00
(386)	\$9,816.01 AND OVER	410.00	14,760.00

(c) The schedule of benefits that is in effect on the 1st day of a claimant's benefit year applies to the claimant throughout that benefit year.

(d) (1) Except as provided in § 8–1207 of this title for the work sharing program and § 8–1604 of this title for the Self-Employment Assistance Program, an eligible claimant shall be paid a weekly benefit amount that is computed by:

(i) determining the claimant's weekly benefit amount under this section;

(ii) adding any allowance for a dependent to which the claimant is entitled under § 8–804 of this subtitle; and

(iii) subtracting any wages exceeding \$100 payable to the claimant for the week.

(2) In computing benefits under this subsection, a fraction of a dollar shall be rounded to the next lower dollar.

(e) Any child support payment that is required under § 8–807 of this subtitle shall be withheld from benefits.

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

Article – Labor and Employment

8–803.

(a) (1) To determine the weekly benefit amount to assign to a claimant in the schedule of benefits in subsection (b) of this section, the line in the schedule of benefits shall be located in which the high quarter wages in column (A) correspond to wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest.

(2) The claimant shall be assigned:

(i) the weekly benefit amount in column (B) of the schedule for that line; or

(ii) if the claimant is not eligible under § 8–802 of this subtitle for that weekly benefit amount but was paid wages to qualify in 1 of the next 6 lower lines of the schedule, the weekly benefit amount in the next lower line in column (B) of the schedule.

(b)

SCHEDULE OF BENEFITS

Line	High Quarter Wages (A)	Weekly Benefit Amount (B)	Minimum Qualifying Wages (C)
(1)	\$ 576.01 to \$ 600.00	25.00	900.00
(2)	\$ 600.01 to \$ 624.00	26.00	936.00
(3)	\$ 624.01 to \$ 648.00	27.00	972.00
(4)	\$ 648.01 to \$ 672.00	28.00	1,008.00
(5)	\$ 672.01 to \$ 696.00	29.00	1,044.00
(6)	\$ 696.01 to \$ 720.00	30.00	1,080.00
(7)	\$ 720.01 to \$ 744.00	31.00	1,116.00
(8)	\$ 744.01 to \$ 768.00	32.00	1,152.00
(9)	\$ 768.01 to \$ 792.00	33.00	1,188.00
(10)	\$ 792.01 to \$ 816.00	34.00	1,224.00
(11)	\$ 816.01 to \$ 840.00	35.00	1,260.00
(12)	\$ 840.01 to \$ 864.00	36.00	1,296.00
(13)	\$ 864.01 to \$ 888.00	37.00	1,332.00
(14)	\$ 888.01 to \$ 912.00	38.00	1,368.00
(15)	\$ 912.01 to \$ 936.00	39.00	1,404.00
(16)	\$ 936.01 to \$ 960.00	40.00	1,440.00
(17)	\$ 960.01 to \$ 984.00	41.00	1,476.00
(18)	\$ 984.01 to \$1,008.00	42.00	1,512.00
(19)	\$1,008.01 to \$1,032.00	43.00	1,548.00
(20)	\$1,032.01 to \$1,056.00	44.00	1,584.00
(21)	\$1,056.01 to \$1,080.00	45.00	1,620.00
(22)	\$1,080.01 to \$1,104.00	46.00	1,656.00
(23)	\$1,104.01 to \$1,128.00	47.00	1,692.00
(24)	\$1,128.01 to \$1,152.00	48.00	1,728.00
(25)	\$1,152.01 to \$1,176.00	49.00	1,764.00
(26)	\$1,176.01 to \$1,200.00	50.00	1,800.00
(27)	\$1,200.01 to \$1,224.00	51.00	1,836.00
(28)	\$1,224.01 to \$1,248.00	52.00	1,872.00
(29)	\$1,248.01 to \$1,272.00	53.00	1,908.00
(30)	\$1,272.01 to \$1,296.00	54.00	1,944.00
(31)	\$1,296.01 to \$1,320.00	55.00	1,980.00
(32)	\$1,320.01 to \$1,344.00	56.00	2,016.00
(33)	\$1,344.01 to \$1,368.00	57.00	2,052.00
(34)	\$1,368.01 to \$1,392.00	58.00	2,088.00
(35)	\$1,392.01 to \$1,416.00	59.00	2,124.00
(36)	\$1,416.01 to \$1,440.00	60.00	2,160.00
(37)	\$1,440.01 to \$1,464.00	61.00	2,196.00
(38)	\$1,464.01 to \$1,488.00	62.00	2,232.00
(39)	\$1,488.01 to \$1,512.00	63.00	2,268.00
(40)	\$1,512.01 to \$1,536.00	64.00	2,304.00
(41)	\$1,536.01 to \$1,560.00	65.00	2,340.00

(42)	\$1,560.01 to \$1,584.00	66.00	2,376.00
(43)	\$1,584.01 to \$1,608.00	67.00	2,412.00
(44)	\$1,608.01 to \$1,632.00	68.00	2,448.00
(45)	\$1,632.01 to \$1,656.00	69.00	2,484.00
(46)	\$1,656.01 to \$1,680.00	70.00	2,520.00
(47)	\$1,680.01 to \$1,704.00	71.00	2,556.00
(48)	\$1,704.01 to \$1,728.00	72.00	2,592.00
(49)	\$1,728.01 to \$1,752.00	73.00	2,628.00
(50)	\$1,752.01 to \$1,776.00	74.00	2,664.00
(51)	\$1,776.01 to \$1,800.00	75.00	2,700.00
(52)	\$1,800.01 to \$1,824.00	76.00	2,736.00
(53)	\$1,824.01 to \$1,848.00	77.00	2,772.00
(54)	\$1,848.01 to \$1,872.00	78.00	2,808.00
(55)	\$1,872.01 to \$1,896.00	79.00	2,844.00
(56)	\$1,896.01 to \$1,920.00	80.00	2,880.00
(57)	\$1,920.01 to \$1,944.00	81.00	2,916.00
(58)	\$1,944.01 to \$1,968.00	82.00	2,952.00
(59)	\$1,968.01 to \$1,992.00	83.00	2,988.00
(60)	\$1,992.01 to \$2,016.00	84.00	3,024.00
(61)	\$2,016.01 to \$2,040.00	85.00	3,060.00
(62)	\$2,040.01 to \$2,064.00	86.00	3,096.00
(63)	\$2,064.01 to \$2,088.00	87.00	3,132.00
(64)	\$2,088.01 to \$2,112.00	88.00	3,168.00
(65)	\$2,112.01 to \$2,136.00	89.00	3,204.00
(66)	\$2,136.01 to \$2,160.00	90.00	3,240.00
(67)	\$2,160.01 to \$2,184.00	91.00	3,276.00
(68)	\$2,184.01 to \$2,208.00	92.00	3,312.00
(69)	\$2,208.01 to \$2,232.00	93.00	3,348.00
(70)	\$2,232.01 to \$2,256.00	94.00	3,384.00
(71)	\$2,256.01 to \$2,280.00	95.00	3,420.00
(72)	\$2,280.01 to \$2,304.00	96.00	3,456.00
(73)	\$2,304.01 to \$2,328.00	97.00	3,492.00
(74)	\$2,328.01 to \$2,352.00	98.00	3,528.00
(75)	\$2,352.01 to \$2,376.00	99.00	3,564.00
(76)	\$2,376.01 to \$2,400.00	100.00	3,600.00
(77)	\$2,400.01 to \$2,424.00	101.00	3,636.00
(78)	\$2,424.01 to \$2,448.00	102.00	3,672.00
(79)	\$2,448.01 to \$2,472.00	103.00	3,708.00
(80)	\$2,472.01 to \$2,496.00	104.00	3,744.00
(81)	\$2,496.01 to \$2,520.00	105.00	3,780.00
(82)	\$2,520.01 to \$2,544.00	106.00	3,816.00
(83)	\$2,544.01 to \$2,568.00	107.00	3,852.00
(84)	\$2,568.01 to \$2,592.00	108.00	3,888.00
(85)	\$2,592.01 to \$2,616.00	109.00	3,924.00
(86)	\$2,616.01 to \$2,640.00	110.00	3,960.00
(87)	\$2,640.01 to \$2,664.00	111.00	3,996.00
(88)	\$2,664.01 to \$2,688.00	112.00	4,032.00

(89)	\$2,688.01 to \$2,712.00	113.00	4,068.00
(90)	\$2,712.01 to \$2,736.00	114.00	4,104.00
(91)	\$2,736.01 to \$2,760.00	115.00	4,140.00
(92)	\$2,760.01 to \$2,784.00	116.00	4,176.00
(93)	\$2,784.01 to \$2,808.00	117.00	4,212.00
(94)	\$2,808.01 to \$2,832.00	118.00	4,248.00
(95)	\$2,832.01 to \$2,856.00	119.00	4,284.00
(96)	\$2,856.01 to \$2,880.00	120.00	4,320.00
(97)	\$2,880.01 to \$2,904.00	121.00	4,356.00
(98)	\$2,904.01 to \$2,928.00	122.00	4,392.00
(99)	\$2,928.01 to \$2,952.00	123.00	4,428.00
(100)	\$2,952.01 to \$2,976.00	124.00	4,464.00
(101)	\$2,976.01 to \$3,000.00	125.00	4,500.00
(102)	\$3,000.01 to \$3,024.00	126.00	4,536.00
(103)	\$3,024.01 to \$3,048.00	127.00	4,572.00
(104)	\$3,048.01 to \$3,072.00	128.00	4,608.00
(105)	\$3,072.01 to \$3,096.00	129.00	4,644.00
(106)	\$3,096.01 to \$3,120.00	130.00	4,680.00
(107)	\$3,120.01 to \$3,144.00	131.00	4,716.00
(108)	\$3,144.01 to \$3,168.00	132.00	4,752.00
(109)	\$3,168.01 to \$3,192.00	133.00	4,788.00
(110)	\$3,192.01 to \$3,216.00	134.00	4,824.00
(111)	\$3,216.01 to \$3,240.00	135.00	4,860.00
(112)	\$3,240.01 to \$3,264.00	136.00	4,896.00
(113)	\$3,264.01 to \$3,288.00	137.00	4,932.00
(114)	\$3,288.01 to \$3,312.00	138.00	4,968.00
(115)	\$3,312.01 to \$3,336.00	139.00	5,004.00
(116)	\$3,336.01 to \$3,360.00	140.00	5,040.00
(117)	\$3,360.01 to \$3,384.00	141.00	5,076.00
(118)	\$3,384.01 to \$3,408.00	142.00	5,112.00
(119)	\$3,408.01 to \$3,432.00	143.00	5,148.00
(120)	\$3,432.01 to \$3,456.00	144.00	5,184.00
(121)	\$3,456.01 to \$3,480.00	145.00	5,220.00
(122)	\$3,480.01 to \$3,504.00	146.00	5,256.00
(123)	\$3,504.01 to \$3,528.00	147.00	5,292.00
(124)	\$3,528.01 to \$3,552.00	148.00	5,328.00
(125)	\$3,552.01 to \$3,576.00	149.00	5,364.00
(126)	\$3,576.01 to \$3,600.00	150.00	5,400.00
(127)	\$3,600.01 to \$3,624.00	151.00	5,436.00
(128)	\$3,624.01 to \$3,648.00	152.00	5,472.00
(129)	\$3,648.01 to \$3,672.00	153.00	5,508.00
(130)	\$3,672.01 to \$3,696.00	154.00	5,544.00
(131)	\$3,696.01 to \$3,720.00	155.00	5,580.00
(132)	\$3,720.01 to \$3,744.00	156.00	5,616.00
(133)	\$3,744.01 to \$3,768.00	157.00	5,652.00
(134)	\$3,768.01 to \$3,792.00	158.00	5,688.00
(135)	\$3,792.01 to \$3,816.00	159.00	5,724.00

(136)	\$3,816.01 to \$3,840.00	160.00	5,760.00
(137)	\$3,840.01 to \$3,864.00	161.00	5,796.00
(138)	\$3,864.01 to \$3,888.00	162.00	5,832.00
(139)	\$3,888.01 to \$3,912.00	163.00	5,868.00
(140)	\$3,912.01 to \$3,936.00	164.00	5,904.00
(141)	\$3,936.01 to \$3,960.00	165.00	5,940.00
(142)	\$3,960.01 to \$3,984.00	166.00	5,976.00
(143)	\$3,984.01 to \$4,008.00	167.00	6,012.00
(144)	\$4,008.01 to \$4,032.00	168.00	6,048.00
(145)	\$4,032.01 to \$4,056.00	169.00	6,084.00
(146)	\$4,056.01 to \$4,080.00	170.00	6,120.00
(147)	\$4,080.01 to \$4,104.00	171.00	6,156.00
(148)	\$4,104.01 to \$4,128.00	172.00	6,192.00
(149)	\$4,128.01 to \$4,152.00	173.00	6,228.00
(150)	\$4,152.01 to \$4,176.00	174.00	6,264.00
(151)	\$4,176.01 to \$4,200.00	175.00	6,300.00
(152)	\$4,200.01 to \$4,224.00	176.00	6,336.00
(153)	\$4,224.01 to \$4,248.00	177.00	6,372.00
(154)	\$4,248.01 to \$4,272.00	178.00	6,408.00
(155)	\$4,272.01 to \$4,296.00	179.00	6,444.00
(156)	\$4,296.01 to \$4,320.00	180.00	6,480.00
(157)	\$4,320.01 to \$4,344.00	181.00	6,516.00
(158)	\$4,344.01 to \$4,368.00	182.00	6,552.00
(159)	\$4,368.01 to \$4,392.00	183.00	6,588.00
(160)	\$4,392.01 to \$4,416.00	184.00	6,624.00
(161)	\$4,416.01 to \$4,440.00	185.00	6,660.00
(162)	\$4,440.01 to \$4,464.00	186.00	6,696.00
(163)	\$4,464.01 to \$4,488.00	187.00	6,732.00
(164)	\$4,488.01 to \$4,512.00	188.00	6,768.00
(165)	\$4,512.01 to \$4,536.00	189.00	6,804.00
(166)	\$4,536.01 to \$4,560.00	190.00	6,840.00
(167)	\$4,560.01 to \$4,584.00	191.00	6,876.00
(168)	\$4,584.01 to \$4,608.00	192.00	6,912.00
(169)	\$4,608.01 to \$4,632.00	193.00	6,948.00
(170)	\$4,632.01 to \$4,656.00	194.00	6,984.00
(171)	\$4,656.01 to \$4,680.00	195.00	7,020.00
(172)	\$4,680.01 to \$4,704.00	196.00	7,056.00
(173)	\$4,704.01 to \$4,728.00	197.00	7,092.00
(174)	\$4,728.01 to \$4,752.00	198.00	7,128.00
(175)	\$4,752.01 to \$4,776.00	199.00	7,164.00
(176)	\$4,776.01 to \$4,800.00	200.00	7,200.00
(177)	\$4,800.01 to \$4,824.00	201.00	7,236.00
(178)	\$4,824.01 to \$4,848.00	202.00	7,272.00
(179)	\$4,848.01 to \$4,872.00	203.00	7,308.00
(180)	\$4,872.01 to \$4,896.00	204.00	7,344.00
(181)	\$4,896.01 to \$4,920.00	205.00	7,380.00
(182)	\$4,920.01 to \$4,944.00	206.00	7,416.00

(183)	\$4,944.01 to \$4,968.00	207.00	7,452.00
(184)	\$4,968.01 to \$4,992.00	208.00	7,488.00
(185)	\$4,992.01 to \$5,016.00	209.00	7,524.00
(186)	\$5,016.01 to \$5,040.00	210.00	7,560.00
(187)	\$5,040.01 to \$5,064.00	211.00	7,596.00
(188)	\$5,064.01 to \$5,088.00	212.00	7,632.00
(189)	\$5,088.01 to \$5,112.00	213.00	7,668.00
(190)	\$5,112.01 to \$5,136.00	214.00	7,704.00
(191)	\$5,136.01 to \$5,160.00	215.00	7,740.00
(192)	\$5,160.01 to \$5,184.00	216.00	7,776.00
(193)	\$5,184.01 to \$5,208.00	217.00	7,812.00
(194)	\$5,208.01 to \$5,232.00	218.00	7,848.00
(195)	\$5,232.01 to \$5,256.00	219.00	7,884.00
(196)	\$5,256.01 to \$5,280.00	220.00	7,920.00
(197)	\$5,280.01 to \$5,304.00	221.00	7,956.00
(198)	\$5,304.01 to \$5,328.00	222.00	7,992.00
(199)	\$5,328.01 to \$5,352.00	223.00	8,028.00
(200)	\$5,352.01 to \$5,376.00	224.00	8,064.00
(201)	\$5,376.01 to \$5,400.00	225.00	8,100.00
(202)	\$5,400.01 to \$5,424.00	226.00	8,136.00
(203)	\$5,424.01 to \$5,448.00	227.00	8,172.00
(204)	\$5,448.01 to \$5,472.00	228.00	8,208.00
(205)	\$5,472.01 to \$5,496.00	229.00	8,244.00
(206)	\$5,496.01 to \$5,520.00	230.00	8,280.00
(207)	\$5,520.01 to \$5,544.00	231.00	8,316.00
(208)	\$5,544.01 to \$5,568.00	232.00	8,352.00
(209)	\$5,568.01 to \$5,592.00	233.00	8,388.00
(210)	\$5,592.01 to \$5,616.00	234.00	8,424.00
(211)	\$5,616.01 to \$5,640.00	235.00	8,460.00
(212)	\$5,640.01 to \$5,664.00	236.00	8,496.00
(213)	\$5,664.01 to \$5,688.00	237.00	8,532.00
(214)	\$5,688.01 to \$5,712.00	238.00	8,568.00
(215)	\$5,712.01 to \$5,736.00	239.00	8,604.00
(216)	\$5,736.01 to \$5,760.00	240.00	8,640.00
(217)	\$5,760.01 to \$5,784.00	241.00	8,676.00
(218)	\$5,784.01 to \$5,808.00	242.00	8,712.00
(219)	\$5,808.01 to \$5,832.00	243.00	8,748.00
(220)	\$5,832.01 to \$5,856.00	244.00	8,784.00
(221)	\$5,856.01 to \$5,880.00	245.00	8,820.00
(222)	\$5,880.01 to \$5,904.00	246.00	8,856.00
(223)	\$5,904.01 to \$5,928.00	247.00	8,892.00
(224)	\$5,928.01 to \$5,952.00	248.00	8,928.00
(225)	\$5,952.01 to \$5,976.00	249.00	8,964.00
(226)	\$5,976.01 to \$6,000.00	250.00	9,000.00
(227)	\$6,000.01 to \$6,024.00	251.00	9,036.00
(228)	\$6,024.01 to \$6,048.00	252.00	9,072.00
(229)	\$6,048.01 to \$6,072.00	253.00	9,108.00

(230)	\$6,072.01 to \$6,096.00	254.00	9,144.00
(231)	\$6,096.01 to \$6,120.00	255.00	9,180.00
(232)	\$6,120.01 to \$6,144.00	256.00	9,216.00
(233)	\$6,144.01 to \$6,168.00	257.00	9,252.00
(234)	\$6,168.01 to \$6,192.00	258.00	9,288.00
(235)	\$6,192.01 to \$6,216.00	259.00	9,324.00
(236)	\$6,216.01 to \$6,240.00	260.00	9,360.00
(237)	\$6,240.01 to \$6,264.00	261.00	9,396.00
(238)	\$6,264.01 to \$6,288.00	262.00	9,432.00
(239)	\$6,288.01 to \$6,312.00	263.00	9,468.00
(240)	\$6,312.01 to \$6,336.00	264.00	9,504.00
(241)	\$6,336.01 to \$6,360.00	265.00	9,540.00
(242)	\$6,360.01 to \$6,384.00	266.00	9,576.00
(243)	\$6,384.01 to \$6,408.00	267.00	9,612.00
(244)	\$6,408.01 to \$6,432.00	268.00	9,648.00
(245)	\$6,432.01 to \$6,456.00	269.00	9,684.00
(246)	\$6,456.01 to \$6,480.00	270.00	9,720.00
(247)	\$6,480.01 to \$6,504.00	271.00	9,756.00
(248)	\$6,504.01 to \$6,528.00	272.00	9,792.00
(249)	\$6,528.01 to \$6,552.00	273.00	9,828.00
(250)	\$6,552.01 to \$6,576.00	274.00	9,864.00
(251)	\$6,576.01 to \$6,600.00	275.00	9,900.00
(252)	\$6,600.01 to \$6,624.00	276.00	9,936.00
(253)	\$6,624.01 to \$6,648.00	277.00	9,972.00
(254)	\$6,648.01 to \$6,672.00	278.00	10,008.00
(255)	\$6,672.01 to \$6,696.00	279.00	10,044.00
(256)	\$6,696.01 to \$6,720.00	280.00	10,080.00
(257)	\$6,720.01 to \$6,744.00	281.00	10,116.00
(258)	\$6,744.01 to \$6,768.00	282.00	10,152.00
(259)	\$6,768.01 to \$6,792.00	283.00	10,188.00
(260)	\$6,792.01 to \$6,816.00	284.00	10,224.00
(261)	\$6,816.01 to \$6,840.00	285.00	10,260.00
(262)	\$6,840.01 to \$6,864.00	286.00	10,296.00
(263)	\$6,864.01 to \$6,888.00	287.00	10,332.00
(264)	\$6,888.01 to \$6,912.00	288.00	10,368.00
(265)	\$6,912.01 to \$6,936.00	289.00	10,404.00
(266)	\$6,936.01 to \$6,960.00	290.00	10,440.00
(267)	\$6,960.01 to \$6,984.00	291.00	10,476.00
(268)	\$6,984.01 to \$7,008.00	292.00	10,512.00
(269)	\$7,008.01 to \$7,032.00	293.00	10,548.00
(270)	\$7,032.01 to \$7,056.00	294.00	10,584.00
(271)	\$7,056.01 to \$7,080.00	295.00	10,620.00
(272)	\$7,080.01 to \$7,104.00	296.00	10,656.00
(273)	\$7,104.01 to \$7,128.00	297.00	10,692.00
(274)	\$7,128.01 to \$7,152.00	298.00	10,728.00
(275)	\$7,152.01 to \$7,176.00	299.00	10,764.00
(276)	\$7,176.01 to \$7,200.00	300.00	10,800.00

(277)	\$7,200.01 to \$7,224.00	301.00	10,836.00
(278)	\$7,224.01 to \$7,248.00	302.00	10,872.00
(279)	\$7,248.01 to \$7,272.00	303.00	10,908.00
(280)	\$7,272.01 to \$7,296.00	304.00	10,944.00
(281)	\$7,296.01 to \$7,320.00	305.00	10,980.00
(282)	\$7,320.01 to \$7,344.00	306.00	11,016.00
(283)	\$7,344.01 to \$7,368.00	307.00	11,052.00
(284)	\$7,368.01 to \$7,392.00	308.00	11,088.00
(285)	\$7,392.01 to \$7,416.00	309.00	11,124.00
(286)	\$7,416.01 to \$7,440.00	310.00	11,160.00
(287)	\$7,440.01 to \$7,464.00	311.00	11,196.00
(288)	\$7,464.01 to \$7,488.00	312.00	11,232.00
(289)	\$7,488.01 to \$7,512.00	313.00	11,268.00
(290)	\$7,512.01 to \$7,536.00	314.00	11,304.00
(291)	\$7,536.01 to \$7,560.00	315.00	11,340.00
(292)	\$7,560.01 to \$7,584.00	316.00	11,376.00
(293)	\$7,584.01 to \$7,608.00	317.00	11,412.00
(294)	\$7,608.01 to \$7,632.00	318.00	11,448.00
(295)	\$7,632.01 to \$7,656.00	319.00	11,484.00
(296)	\$7,656.01 to \$7,680.00	320.00	11,520.00
(297)	\$7,680.01 to \$7,704.00	321.00	11,556.00
(298)	\$7,704.01 to \$7,728.00	322.00	11,592.00
(299)	\$7,728.01 to \$7,752.00	323.00	11,628.00
(300)	\$7,752.01 to \$7,776.00	324.00	11,664.00
(301)	\$7,776.01 to \$7,800.00	325.00	11,700.00
(302)	\$7,800.01 to \$7,824.00	326.00	11,736.00
(303)	\$7,824.01 to \$7,848.00	327.00	11,772.00
(304)	\$7,848.01 to \$7,872.00	328.00	11,808.00
(305)	\$7,872.01 to \$7,896.00	329.00	11,844.00
(306)	\$7,896.01 to \$7,920.00	330.00	11,880.00
(307)	\$7,920.01 to \$7,944.00	331.00	11,916.00
(308)	\$7,944.01 to \$7,968.00	332.00	11,952.00
(309)	\$7,968.01 to \$7,992.00	333.00	11,988.00
(310)	\$7,992.01 to \$8,016.00	334.00	12,024.00
(311)	\$8,016.01 to \$8,040.00	335.00	12,060.00
(312)	\$8,040.01 to \$8,064.00	336.00	12,096.00
(313)	\$8,064.01 to \$8,088.00	337.00	12,132.00
(314)	\$8,088.01 to \$8,112.00	338.00	12,168.00
(315)	\$8,112.01 to \$8,136.00	339.00	12,204.00
(316)	\$8,136.01 to \$8,160.00	340.00	12,240.00
(317)	\$8,160.01 to \$8,184.00	341.00	12,276.00
(318)	\$8,184.01 to \$8,208.00	342.00	12,312.00
(319)	\$8,208.01 to \$8,232.00	343.00	12,348.00
(320)	\$8,232.01 to \$8,256.00	344.00	12,384.00
(321)	\$8,256.01 to \$8,280.00	345.00	12,420.00
(322)	\$8,280.01 to \$8,304.00	346.00	12,456.00
(323)	\$8,304.01 to \$8,328.00	347.00	12,492.00

(324)	\$8,328.01 to \$8,352.00	348.00	12,528.00
(325)	\$8,352.01 to \$8,376.00	349.00	12,564.00
(326)	\$8,376.01 to \$8,400.00	350.00	12,600.00
(327)	\$8,400.01 to \$8,424.00	351.00	12,636.00
(328)	\$8,424.01 to \$8,448.00	352.00	12,672.00
(329)	\$8,448.01 to \$8,472.00	353.00	12,708.00
(330)	\$8,472.01 to \$8,496.00	354.00	12,744.00
(331)	\$8,496.01 to \$8,520.00	355.00	12,780.00
(332)	\$8,520.01 to \$8,544.00	356.00	12,816.00
(333)	\$8,544.01 to \$8,568.00	357.00	12,852.00
(334)	\$8,568.01 to \$8,592.00	358.00	12,888.00
(335)	\$8,592.01 to \$8,616.00	359.00	12,924.00
(336)	\$8,616.01 to \$8,640.00	360.00	12,960.00
(337)	\$8,640.01 to \$8,664.00	361.00	12,996.00
(338)	\$8,664.01 to \$8,688.00	362.00	13,032.00
(339)	\$8,688.01 to \$8,712.00	363.00	13,068.00
(340)	\$8,712.01 to \$8,736.00	364.00	13,104.00
(341)	\$8,736.01 to \$8,760.00	365.00	13,140.00
(342)	\$8,760.01 to \$8,784.00	366.00	13,176.00
(343)	\$8,784.01 to \$8,808.00	367.00	13,212.00
(344)	\$8,808.01 to \$8,832.00	368.00	13,248.00
(345)	\$8,832.01 to \$8,856.00	369.00	13,284.00
(346)	\$8,856.01 to \$8,880.00	370.00	13,320.00
(347)	\$8,880.01 to \$8,904.00	371.00	13,356.00
(348)	\$8,904.01 to \$8,928.00	372.00	13,392.00
(349)	\$8,928.01 to \$8,952.00	373.00	13,428.00
(350)	\$8,952.01 to \$8,976.00	374.00	13,464.00
(351)	\$8,976.01 to \$9,000.00	375.00	13,500.00
(352)	\$9,000.01 to \$9,024.00	376.00	13,536.00
(353)	\$9,024.01 to \$9,048.00	377.00	13,572.00
(354)	\$9,048.01 to \$9,072.00	378.00	13,608.00
(355)	\$9,072.01 to \$9,096.00	379.00	13,644.00
(356)	\$9,096.01 to \$9,120.00	380.00	13,680.00
(357)	\$9,120.01 to \$9,144.00	381.00	13,716.00
(358)	\$9,144.01 to \$9,168.00	382.00	13,752.00
(359)	\$9,168.01 to \$9,192.00	383.00	13,788.00
(360)	\$9,192.01 to \$9,216.00	384.00	13,824.00
(361)	\$9,216.01 to \$9,240.00	385.00	13,860.00
(362)	\$9,240.01 to \$9,264.00	386.00	13,896.00
(363)	\$9,264.01 to \$9,288.00	387.00	13,932.00
(364)	\$9,288.01 to \$9,312.00	388.00	13,968.00
(365)	\$9,312.01 to \$9,336.00	389.00	14,004.00
(366)	\$9,336.01 to \$9,360.00	390.00	14,040.00
(367)	\$9,360.01 to \$9,384.00	391.00	14,076.00
(368)	\$9,384.01 to \$9,408.00	392.00	14,112.00
(369)	\$9,408.01 to \$9,432.00	393.00	14,148.00
(370)	\$9,432.01 to \$9,456.00	394.00	14,184.00

(371)	\$9,456.01 to \$9,480.00	395.00	14,220.00
(372)	\$9,480.01 to \$9,504.00	396.00	14,256.00
(373)	\$9,504.01 to \$9,528.00	397.00	14,292.00
(374)	\$9,528.01 to \$9,552.00	398.00	14,328.00
(375)	\$9,552.01 to \$9,576.00	399.00	14,364.00
(376)	\$9,576.01 to \$9,600.00	400.00	14,400.00
(377)	\$9,600.01 to \$9,624.00	401.00	14,436.00
(378)	\$9,624.01 to \$9,648.00	402.00	14,472.00
(379)	\$9,648.01 to \$9,672.00	403.00	14,508.00
(380)	\$9,672.01 to \$9,696.00	404.00	14,544.00
(381)	\$9,696.01 to \$9,720.00	405.00	14,580.00
(382)	\$9,720.01 to \$9,744.00	406.00	14,616.00
(383)	\$9,744.01 to \$9,768.00	407.00	14,652.00
(384)	\$9,768.01 to \$9,792.00	408.00	14,688.00
(385)	\$9,792.01 to \$9,816.00	409.00	14,724.00
(386)	\$9,816.01 [and over] TO \$9,840.00	410.00	14,760.00
(387)	\$9,840.01 TO \$9,864.00	411.00	14,796.00
(388)	\$9,864.01 TO \$9,888.00	412.00	14,832.00
(389)	\$9,888.01 TO \$9,912.00	413.00	14,868.00
(390)	\$9,912.01 TO \$9,936.00	414.00	14,904.00
(391)	\$9,936.01 TO \$9,960.00	415.00	14,940.00
(392)	\$9,960.01 TO \$9,984.00	416.00	14,976.00
(393)	\$9,984.01 TO \$10,008.00	417.00	15,012.00
(394)	\$10,008.01 TO \$10,032.00	418.00	15,048.00
(395)	\$10,032.01 TO \$10,056.00	419.00	15,084.00
(396)	\$10,056.01 TO \$10,080.00	420.00	15,120.00
(397)	\$10,080.01 TO \$10,104.00	421.00	15,156.00
(398)	\$10,104.01 TO \$10,128.00	422.00	15,192.00
(399)	\$10,128.01 TO \$10,152.00	423.00	15,228.00
(400)	\$10,152.01 TO \$10,176.00	424.00	15,264.00
(401)	\$10,176.01 TO \$10,200.00	425.00	15,300.00
(402)	\$10,200.01 TO \$10,224.00	426.00	15,336.00
(403)	\$10,224.01 TO \$10,248.00	427.00	15,372.00
(404)	\$10,248.01 TO \$10,272.00	428.00	15,408.00
(405)	\$10,272.01 TO \$10,296.00	429.00	15,444.00
(406)	\$10,296.01 AND OVER	430.00	15,480.00

(c) The schedule of benefits that is in effect on the 1st day of a claimant's benefit year applies to the claimant throughout that benefit year.

(d) (1) Except as provided in § 8-1207 of this title for the work sharing program and § 8-1604 of this title for the Self-Employment Assistance Program, an eligible claimant shall be paid a weekly benefit amount that is computed by:

(i) determining the claimant's weekly benefit amount under this section;

(ii) adding any allowance for a dependent to which the claimant is entitled under § 8–804 of this subtitle; and

(iii) subtracting any wages exceeding \$100 payable to the claimant for the week.

(2) In computing benefits under this subsection, a fraction of a dollar shall be rounded to the next lower dollar.

(e) Any child support payment that is required under § 8–807 of this subtitle shall be withheld from benefits.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2009, and shall apply to all claims filed establishing a new benefit year on or after October 4, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2010, and shall apply to all claims filed establishing a new benefit year on or after October 3, 2010.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Sections 3 and 4 of this Act, this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 288

(House Bill 740)

AN ACT concerning

Unemployment Insurance – Maximum Benefit – Increase

FOR the purpose of increasing the amount of the weekly unemployment insurance benefit up to a certain amount over a certain period of time; providing for the application of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to unemployment insurance benefits.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–803

Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–803
Annotated Code of Maryland
(2008 Replacement Volume)
(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 – Labor and Employment

8–803.

(a) (1) To determine the weekly benefit amount to assign to a claimant in the schedule of benefits in subsection (b) of this section, the line in the schedule of benefits shall be located in which the high quarter wages in column (A) correspond to wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest.

(2) The claimant shall be assigned:

(i) the weekly benefit amount in column (B) of the schedule for that line; or

(ii) if the claimant is not eligible under § 8–802 of this subtitle for that weekly benefit amount but was paid wages to qualify in 1 of the next 6 lower lines of the schedule, the weekly benefit amount in the next lower line in column (B) of the schedule.

(b)

SCHEDULE OF BENEFITS

Line	High Quarter Wages (A)	Weekly Benefit Amount (B)	Minimum Qualifying Wages (C)
(1)	\$ 576.01 to \$ 600.00	25.00	900.00
(2)	\$ 600.01 to \$ 624.00	26.00	936.00
(3)	\$ 624.01 to \$ 648.00	27.00	972.00
(4)	\$ 648.01 to \$ 672.00	28.00	1,008.00
(5)	\$ 672.01 to \$ 696.00	29.00	1,044.00
(6)	\$ 696.01 to \$ 720.00	30.00	1,080.00
(7)	\$ 720.01 to \$ 744.00	31.00	1,116.00

(8)	\$ 744.01 to \$ 768.00	32.00	1,152.00
(9)	\$ 768.01 to \$ 792.00	33.00	1,188.00
(10)	\$ 792.01 to \$ 816.00	34.00	1,224.00
(11)	\$ 816.01 to \$ 840.00	35.00	1,260.00
(12)	\$ 840.01 to \$ 864.00	36.00	1,296.00
(13)	\$ 864.01 to \$ 888.00	37.00	1,332.00
(14)	\$ 888.01 to \$ 912.00	38.00	1,368.00
(15)	\$ 912.01 to \$ 936.00	39.00	1,404.00
(16)	\$ 936.01 to \$ 960.00	40.00	1,440.00
(17)	\$ 960.01 to \$ 984.00	41.00	1,476.00
(18)	\$ 984.01 to \$1,008.00	42.00	1,512.00
(19)	\$1,008.01 to \$1,032.00	43.00	1,548.00
(20)	\$1,032.01 to \$1,056.00	44.00	1,584.00
(21)	\$1,056.01 to \$1,080.00	45.00	1,620.00
(22)	\$1,080.01 to \$1,104.00	46.00	1,656.00
(23)	\$1,104.01 to \$1,128.00	47.00	1,692.00
(24)	\$1,128.01 to \$1,152.00	48.00	1,728.00
(25)	\$1,152.01 to \$1,176.00	49.00	1,764.00
(26)	\$1,176.01 to \$1,200.00	50.00	1,800.00
(27)	\$1,200.01 to \$1,224.00	51.00	1,836.00
(28)	\$1,224.01 to \$1,248.00	52.00	1,872.00
(29)	\$1,248.01 to \$1,272.00	53.00	1,908.00
(30)	\$1,272.01 to \$1,296.00	54.00	1,944.00
(31)	\$1,296.01 to \$1,320.00	55.00	1,980.00
(32)	\$1,320.01 to \$1,344.00	56.00	2,016.00
(33)	\$1,344.01 to \$1,368.00	57.00	2,052.00
(34)	\$1,368.01 to \$1,392.00	58.00	2,088.00
(35)	\$1,392.01 to \$1,416.00	59.00	2,124.00
(36)	\$1,416.01 to \$1,440.00	60.00	2,160.00
(37)	\$1,440.01 to \$1,464.00	61.00	2,196.00
(38)	\$1,464.01 to \$1,488.00	62.00	2,232.00
(39)	\$1,488.01 to \$1,512.00	63.00	2,268.00
(40)	\$1,512.01 to \$1,536.00	64.00	2,304.00
(41)	\$1,536.01 to \$1,560.00	65.00	2,340.00
(42)	\$1,560.01 to \$1,584.00	66.00	2,376.00
(43)	\$1,584.01 to \$1,608.00	67.00	2,412.00
(44)	\$1,608.01 to \$1,632.00	68.00	2,448.00
(45)	\$1,632.01 to \$1,656.00	69.00	2,484.00
(46)	\$1,656.01 to \$1,680.00	70.00	2,520.00
(47)	\$1,680.01 to \$1,704.00	71.00	2,556.00
(48)	\$1,704.01 to \$1,728.00	72.00	2,592.00
(49)	\$1,728.01 to \$1,752.00	73.00	2,628.00
(50)	\$1,752.01 to \$1,776.00	74.00	2,664.00
(51)	\$1,776.01 to \$1,800.00	75.00	2,700.00
(52)	\$1,800.01 to \$1,824.00	76.00	2,736.00
(53)	\$1,824.01 to \$1,848.00	77.00	2,772.00
(54)	\$1,848.01 to \$1,872.00	78.00	2,808.00

(55)	\$1,872.01 to \$1,896.00	79.00	2,844.00
(56)	\$1,896.01 to \$1,920.00	80.00	2,880.00
(57)	\$1,920.01 to \$1,944.00	81.00	2,916.00
(58)	\$1,944.01 to \$1,968.00	82.00	2,952.00
(59)	\$1,968.01 to \$1,992.00	83.00	2,988.00
(60)	\$1,992.01 to \$2,016.00	84.00	3,024.00
(61)	\$2,016.01 to \$2,040.00	85.00	3,060.00
(62)	\$2,040.01 to \$2,064.00	86.00	3,096.00
(63)	\$2,064.01 to \$2,088.00	87.00	3,132.00
(64)	\$2,088.01 to \$2,112.00	88.00	3,168.00
(65)	\$2,112.01 to \$2,136.00	89.00	3,204.00
(66)	\$2,136.01 to \$2,160.00	90.00	3,240.00
(67)	\$2,160.01 to \$2,184.00	91.00	3,276.00
(68)	\$2,184.01 to \$2,208.00	92.00	3,312.00
(69)	\$2,208.01 to \$2,232.00	93.00	3,348.00
(70)	\$2,232.01 to \$2,256.00	94.00	3,384.00
(71)	\$2,256.01 to \$2,280.00	95.00	3,420.00
(72)	\$2,280.01 to \$2,304.00	96.00	3,456.00
(73)	\$2,304.01 to \$2,328.00	97.00	3,492.00
(74)	\$2,328.01 to \$2,352.00	98.00	3,528.00
(75)	\$2,352.01 to \$2,376.00	99.00	3,564.00
(76)	\$2,376.01 to \$2,400.00	100.00	3,600.00
(77)	\$2,400.01 to \$2,424.00	101.00	3,636.00
(78)	\$2,424.01 to \$2,448.00	102.00	3,672.00
(79)	\$2,448.01 to \$2,472.00	103.00	3,708.00
(80)	\$2,472.01 to \$2,496.00	104.00	3,744.00
(81)	\$2,496.01 to \$2,520.00	105.00	3,780.00
(82)	\$2,520.01 to \$2,544.00	106.00	3,816.00
(83)	\$2,544.01 to \$2,568.00	107.00	3,852.00
(84)	\$2,568.01 to \$2,592.00	108.00	3,888.00
(85)	\$2,592.01 to \$2,616.00	109.00	3,924.00
(86)	\$2,616.01 to \$2,640.00	110.00	3,960.00
(87)	\$2,640.01 to \$2,664.00	111.00	3,996.00
(88)	\$2,664.01 to \$2,688.00	112.00	4,032.00
(89)	\$2,688.01 to \$2,712.00	113.00	4,068.00
(90)	\$2,712.01 to \$2,736.00	114.00	4,104.00
(91)	\$2,736.01 to \$2,760.00	115.00	4,140.00
(92)	\$2,760.01 to \$2,784.00	116.00	4,176.00
(93)	\$2,784.01 to \$2,808.00	117.00	4,212.00
(94)	\$2,808.01 to \$2,832.00	118.00	4,248.00
(95)	\$2,832.01 to \$2,856.00	119.00	4,284.00
(96)	\$2,856.01 to \$2,880.00	120.00	4,320.00
(97)	\$2,880.01 to \$2,904.00	121.00	4,356.00
(98)	\$2,904.01 to \$2,928.00	122.00	4,392.00
(99)	\$2,928.01 to \$2,952.00	123.00	4,428.00
(100)	\$2,952.01 to \$2,976.00	124.00	4,464.00
(101)	\$2,976.01 to \$3,000.00	125.00	4,500.00

(102)	\$3,000.01 to \$3,024.00	126.00	4,536.00
(103)	\$3,024.01 to \$3,048.00	127.00	4,572.00
(104)	\$3,048.01 to \$3,072.00	128.00	4,608.00
(105)	\$3,072.01 to \$3,096.00	129.00	4,644.00
(106)	\$3,096.01 to \$3,120.00	130.00	4,680.00
(107)	\$3,120.01 to \$3,144.00	131.00	4,716.00
(108)	\$3,144.01 to \$3,168.00	132.00	4,752.00
(109)	\$3,168.01 to \$3,192.00	133.00	4,788.00
(110)	\$3,192.01 to \$3,216.00	134.00	4,824.00
(111)	\$3,216.01 to \$3,240.00	135.00	4,860.00
(112)	\$3,240.01 to \$3,264.00	136.00	4,896.00
(113)	\$3,264.01 to \$3,288.00	137.00	4,932.00
(114)	\$3,288.01 to \$3,312.00	138.00	4,968.00
(115)	\$3,312.01 to \$3,336.00	139.00	5,004.00
(116)	\$3,336.01 to \$3,360.00	140.00	5,040.00
(117)	\$3,360.01 to \$3,384.00	141.00	5,076.00
(118)	\$3,384.01 to \$3,408.00	142.00	5,112.00
(119)	\$3,408.01 to \$3,432.00	143.00	5,148.00
(120)	\$3,432.01 to \$3,456.00	144.00	5,184.00
(121)	\$3,456.01 to \$3,480.00	145.00	5,220.00
(122)	\$3,480.01 to \$3,504.00	146.00	5,256.00
(123)	\$3,504.01 to \$3,528.00	147.00	5,292.00
(124)	\$3,528.01 to \$3,552.00	148.00	5,328.00
(125)	\$3,552.01 to \$3,576.00	149.00	5,364.00
(126)	\$3,576.01 to \$3,600.00	150.00	5,400.00
(127)	\$3,600.01 to \$3,624.00	151.00	5,436.00
(128)	\$3,624.01 to \$3,648.00	152.00	5,472.00
(129)	\$3,648.01 to \$3,672.00	153.00	5,508.00
(130)	\$3,672.01 to \$3,696.00	154.00	5,544.00
(131)	\$3,696.01 to \$3,720.00	155.00	5,580.00
(132)	\$3,720.01 to \$3,744.00	156.00	5,616.00
(133)	\$3,744.01 to \$3,768.00	157.00	5,652.00
(134)	\$3,768.01 to \$3,792.00	158.00	5,688.00
(135)	\$3,792.01 to \$3,816.00	159.00	5,724.00
(136)	\$3,816.01 to \$3,840.00	160.00	5,760.00
(137)	\$3,840.01 to \$3,864.00	161.00	5,796.00
(138)	\$3,864.01 to \$3,888.00	162.00	5,832.00
(139)	\$3,888.01 to \$3,912.00	163.00	5,868.00
(140)	\$3,912.01 to \$3,936.00	164.00	5,904.00
(141)	\$3,936.01 to \$3,960.00	165.00	5,940.00
(142)	\$3,960.01 to \$3,984.00	166.00	5,976.00
(143)	\$3,984.01 to \$4,008.00	167.00	6,012.00
(144)	\$4,008.01 to \$4,032.00	168.00	6,048.00
(145)	\$4,032.01 to \$4,056.00	169.00	6,084.00
(146)	\$4,056.01 to \$4,080.00	170.00	6,120.00
(147)	\$4,080.01 to \$4,104.00	171.00	6,156.00
(148)	\$4,104.01 to \$4,128.00	172.00	6,192.00

(149)	\$4,128.01 to \$4,152.00	173.00	6,228.00
(150)	\$4,152.01 to \$4,176.00	174.00	6,264.00
(151)	\$4,176.01 to \$4,200.00	175.00	6,300.00
(152)	\$4,200.01 to \$4,224.00	176.00	6,336.00
(153)	\$4,224.01 to \$4,248.00	177.00	6,372.00
(154)	\$4,248.01 to \$4,272.00	178.00	6,408.00
(155)	\$4,272.01 to \$4,296.00	179.00	6,444.00
(156)	\$4,296.01 to \$4,320.00	180.00	6,480.00
(157)	\$4,320.01 to \$4,344.00	181.00	6,516.00
(158)	\$4,344.01 to \$4,368.00	182.00	6,552.00
(159)	\$4,368.01 to \$4,392.00	183.00	6,588.00
(160)	\$4,392.01 to \$4,416.00	184.00	6,624.00
(161)	\$4,416.01 to \$4,440.00	185.00	6,660.00
(162)	\$4,440.01 to \$4,464.00	186.00	6,696.00
(163)	\$4,464.01 to \$4,488.00	187.00	6,732.00
(164)	\$4,488.01 to \$4,512.00	188.00	6,768.00
(165)	\$4,512.01 to \$4,536.00	189.00	6,804.00
(166)	\$4,536.01 to \$4,560.00	190.00	6,840.00
(167)	\$4,560.01 to \$4,584.00	191.00	6,876.00
(168)	\$4,584.01 to \$4,608.00	192.00	6,912.00
(169)	\$4,608.01 to \$4,632.00	193.00	6,948.00
(170)	\$4,632.01 to \$4,656.00	194.00	6,984.00
(171)	\$4,656.01 to \$4,680.00	195.00	7,020.00
(172)	\$4,680.01 to \$4,704.00	196.00	7,056.00
(173)	\$4,704.01 to \$4,728.00	197.00	7,092.00
(174)	\$4,728.01 to \$4,752.00	198.00	7,128.00
(175)	\$4,752.01 to \$4,776.00	199.00	7,164.00
(176)	\$4,776.01 to \$4,800.00	200.00	7,200.00
(177)	\$4,800.01 to \$4,824.00	201.00	7,236.00
(178)	\$4,824.01 to \$4,848.00	202.00	7,272.00
(179)	\$4,848.01 to \$4,872.00	203.00	7,308.00
(180)	\$4,872.01 to \$4,896.00	204.00	7,344.00
(181)	\$4,896.01 to \$4,920.00	205.00	7,380.00
(182)	\$4,920.01 to \$4,944.00	206.00	7,416.00
(183)	\$4,944.01 to \$4,968.00	207.00	7,452.00
(184)	\$4,968.01 to \$4,992.00	208.00	7,488.00
(185)	\$4,992.01 to \$5,016.00	209.00	7,524.00
(186)	\$5,016.01 to \$5,040.00	210.00	7,560.00
(187)	\$5,040.01 to \$5,064.00	211.00	7,596.00
(188)	\$5,064.01 to \$5,088.00	212.00	7,632.00
(189)	\$5,088.01 to \$5,112.00	213.00	7,668.00
(190)	\$5,112.01 to \$5,136.00	214.00	7,704.00
(191)	\$5,136.01 to \$5,160.00	215.00	7,740.00
(192)	\$5,160.01 to \$5,184.00	216.00	7,776.00
(193)	\$5,184.01 to \$5,208.00	217.00	7,812.00
(194)	\$5,208.01 to \$5,232.00	218.00	7,848.00
(195)	\$5,232.01 to \$5,256.00	219.00	7,884.00

(196)	\$5,256.01 to \$5,280.00	220.00	7,920.00
(197)	\$5,280.01 to \$5,304.00	221.00	7,956.00
(198)	\$5,304.01 to \$5,328.00	222.00	7,992.00
(199)	\$5,328.01 to \$5,352.00	223.00	8,028.00
(200)	\$5,352.01 to \$5,376.00	224.00	8,064.00
(201)	\$5,376.01 to \$5,400.00	225.00	8,100.00
(202)	\$5,400.01 to \$5,424.00	226.00	8,136.00
(203)	\$5,424.01 to \$5,448.00	227.00	8,172.00
(204)	\$5,448.01 to \$5,472.00	228.00	8,208.00
(205)	\$5,472.01 to \$5,496.00	229.00	8,244.00
(206)	\$5,496.01 to \$5,520.00	230.00	8,280.00
(207)	\$5,520.01 to \$5,544.00	231.00	8,316.00
(208)	\$5,544.01 to \$5,568.00	232.00	8,352.00
(209)	\$5,568.01 to \$5,592.00	233.00	8,388.00
(210)	\$5,592.01 to \$5,616.00	234.00	8,424.00
(211)	\$5,616.01 to \$5,640.00	235.00	8,460.00
(212)	\$5,640.01 to \$5,664.00	236.00	8,496.00
(213)	\$5,664.01 to \$5,688.00	237.00	8,532.00
(214)	\$5,688.01 to \$5,712.00	238.00	8,568.00
(215)	\$5,712.01 to \$5,736.00	239.00	8,604.00
(216)	\$5,736.01 to \$5,760.00	240.00	8,640.00
(217)	\$5,760.01 to \$5,784.00	241.00	8,676.00
(218)	\$5,784.01 to \$5,808.00	242.00	8,712.00
(219)	\$5,808.01 to \$5,832.00	243.00	8,748.00
(220)	\$5,832.01 to \$5,856.00	244.00	8,784.00
(221)	\$5,856.01 to \$5,880.00	245.00	8,820.00
(222)	\$5,880.01 to \$5,904.00	246.00	8,856.00
(223)	\$5,904.01 to \$5,928.00	247.00	8,892.00
(224)	\$5,928.01 to \$5,952.00	248.00	8,928.00
(225)	\$5,952.01 to \$5,976.00	249.00	8,964.00
(226)	\$5,976.01 to \$6,000.00	250.00	9,000.00
(227)	\$6,000.01 to \$6,024.00	251.00	9,036.00
(228)	\$6,024.01 to \$6,048.00	252.00	9,072.00
(229)	\$6,048.01 to \$6,072.00	253.00	9,108.00
(230)	\$6,072.01 to \$6,096.00	254.00	9,144.00
(231)	\$6,096.01 to \$6,120.00	255.00	9,180.00
(232)	\$6,120.01 to \$6,144.00	256.00	9,216.00
(233)	\$6,144.01 to \$6,168.00	257.00	9,252.00
(234)	\$6,168.01 to \$6,192.00	258.00	9,288.00
(235)	\$6,192.01 to \$6,216.00	259.00	9,324.00
(236)	\$6,216.01 to \$6,240.00	260.00	9,360.00
(237)	\$6,240.01 to \$6,264.00	261.00	9,396.00
(238)	\$6,264.01 to \$6,288.00	262.00	9,432.00
(239)	\$6,288.01 to \$6,312.00	263.00	9,468.00
(240)	\$6,312.01 to \$6,336.00	264.00	9,504.00
(241)	\$6,336.01 to \$6,360.00	265.00	9,540.00
(242)	\$6,360.01 to \$6,384.00	266.00	9,576.00

(243)	\$6,384.01 to \$6,408.00	267.00	9,612.00
(244)	\$6,408.01 to \$6,432.00	268.00	9,648.00
(245)	\$6,432.01 to \$6,456.00	269.00	9,684.00
(246)	\$6,456.01 to \$6,480.00	270.00	9,720.00
(247)	\$6,480.01 to \$6,504.00	271.00	9,756.00
(248)	\$6,504.01 to \$6,528.00	272.00	9,792.00
(249)	\$6,528.01 to \$6,552.00	273.00	9,828.00
(250)	\$6,552.01 to \$6,576.00	274.00	9,864.00
(251)	\$6,576.01 to \$6,600.00	275.00	9,900.00
(252)	\$6,600.01 to \$6,624.00	276.00	9,936.00
(253)	\$6,624.01 to \$6,648.00	277.00	9,972.00
(254)	\$6,648.01 to \$6,672.00	278.00	10,008.00
(255)	\$6,672.01 to \$6,696.00	279.00	10,044.00
(256)	\$6,696.01 to \$6,720.00	280.00	10,080.00
(257)	\$6,720.01 to \$6,744.00	281.00	10,116.00
(258)	\$6,744.01 to \$6,768.00	282.00	10,152.00
(259)	\$6,768.01 to \$6,792.00	283.00	10,188.00
(260)	\$6,792.01 to \$6,816.00	284.00	10,224.00
(261)	\$6,816.01 to \$6,840.00	285.00	10,260.00
(262)	\$6,840.01 to \$6,864.00	286.00	10,296.00
(263)	\$6,864.01 to \$6,888.00	287.00	10,332.00
(264)	\$6,888.01 to \$6,912.00	288.00	10,368.00
(265)	\$6,912.01 to \$6,936.00	289.00	10,404.00
(266)	\$6,936.01 to \$6,960.00	290.00	10,440.00
(267)	\$6,960.01 to \$6,984.00	291.00	10,476.00
(268)	\$6,984.01 to \$7,008.00	292.00	10,512.00
(269)	\$7,008.01 to \$7,032.00	293.00	10,548.00
(270)	\$7,032.01 to \$7,056.00	294.00	10,584.00
(271)	\$7,056.01 to \$7,080.00	295.00	10,620.00
(272)	\$7,080.01 to \$7,104.00	296.00	10,656.00
(273)	\$7,104.01 to \$7,128.00	297.00	10,692.00
(274)	\$7,128.01 to \$7,152.00	298.00	10,728.00
(275)	\$7,152.01 to \$7,176.00	299.00	10,764.00
(276)	\$7,176.01 to \$7,200.00	300.00	10,800.00
(277)	\$7,200.01 to \$7,224.00	301.00	10,836.00
(278)	\$7,224.01 to \$7,248.00	302.00	10,872.00
(279)	\$7,248.01 to \$7,272.00	303.00	10,908.00
(280)	\$7,272.01 to \$7,296.00	304.00	10,944.00
(281)	\$7,296.01 to \$7,320.00	305.00	10,980.00
(282)	\$7,320.01 to \$7,344.00	306.00	11,016.00
(283)	\$7,344.01 to \$7,368.00	307.00	11,052.00
(284)	\$7,368.01 to \$7,392.00	308.00	11,088.00
(285)	\$7,392.01 to \$7,416.00	309.00	11,124.00
(286)	\$7,416.01 to \$7,440.00	310.00	11,160.00
(287)	\$7,440.01 to \$7,464.00	311.00	11,196.00
(288)	\$7,464.01 to \$7,488.00	312.00	11,232.00
(289)	\$7,488.01 to \$7,512.00	313.00	11,268.00

(290)	\$7,512.01 to \$7,536.00	314.00	11,304.00
(291)	\$7,536.01 to \$7,560.00	315.00	11,340.00
(292)	\$7,560.01 to \$7,584.00	316.00	11,376.00
(293)	\$7,584.01 to \$7,608.00	317.00	11,412.00
(294)	\$7,608.01 to \$7,632.00	318.00	11,448.00
(295)	\$7,632.01 to \$7,656.00	319.00	11,484.00
(296)	\$7,656.01 to \$7,680.00	320.00	11,520.00
(297)	\$7,680.01 to \$7,704.00	321.00	11,556.00
(298)	\$7,704.01 to \$7,728.00	322.00	11,592.00
(299)	\$7,728.01 to \$7,752.00	323.00	11,628.00
(300)	\$7,752.01 to \$7,776.00	324.00	11,664.00
(301)	\$7,776.01 to \$7,800.00	325.00	11,700.00
(302)	\$7,800.01 to \$7,824.00	326.00	11,736.00
(303)	\$7,824.01 to \$7,848.00	327.00	11,772.00
(304)	\$7,848.01 to \$7,872.00	328.00	11,808.00
(305)	\$7,872.01 to \$7,896.00	329.00	11,844.00
(306)	\$7,896.01 to \$7,920.00	330.00	11,880.00
(307)	\$7,920.01 to \$7,944.00	331.00	11,916.00
(308)	\$7,944.01 to \$7,968.00	332.00	11,952.00
(309)	\$7,968.01 to \$7,992.00	333.00	11,988.00
(310)	\$7,992.01 to \$8,016.00	334.00	12,024.00
(311)	\$8,016.01 to \$8,040.00	335.00	12,060.00
(312)	\$8,040.01 to \$8,064.00	336.00	12,096.00
(313)	\$8,064.01 to \$8,088.00	337.00	12,132.00
(314)	\$8,088.01 to \$8,112.00	338.00	12,168.00
(315)	\$8,112.01 to \$8,136.00	339.00	12,204.00
(316)	\$8,136.01 to \$8,160.00	340.00	12,240.00
(317)	\$8,160.01 to \$8,184.00	341.00	12,276.00
(318)	\$8,184.01 to \$8,208.00	342.00	12,312.00
(319)	\$8,208.01 to \$8,232.00	343.00	12,348.00
(320)	\$8,232.01 to \$8,256.00	344.00	12,384.00
(321)	\$8,256.01 to \$8,280.00	345.00	12,420.00
(322)	\$8,280.01 to \$8,304.00	346.00	12,456.00
(323)	\$8,304.01 to \$8,328.00	347.00	12,492.00
(324)	\$8,328.01 to \$8,352.00	348.00	12,528.00
(325)	\$8,352.01 to \$8,376.00	349.00	12,564.00
(326)	\$8,376.01 to \$8,400.00	350.00	12,600.00
(327)	\$8,400.01 to \$8,424.00	351.00	12,636.00
(328)	\$8,424.01 to \$8,448.00	352.00	12,672.00
(329)	\$8,448.01 to \$8,472.00	353.00	12,708.00
(330)	\$8,472.01 to \$8,496.00	354.00	12,744.00
(331)	\$8,496.01 to \$8,520.00	355.00	12,780.00
(332)	\$8,520.01 to \$8,544.00	356.00	12,816.00
(333)	\$8,544.01 to \$8,568.00	357.00	12,852.00
(334)	\$8,568.01 to \$8,592.00	358.00	12,888.00
(335)	\$8,592.01 to \$8,616.00	359.00	12,924.00
(336)	\$8,616.01 to \$8,640.00	360.00	12,960.00

(337)	\$8,640.01 to \$8,664.00	361.00	12,996.00
(338)	\$8,664.01 to \$8,688.00	362.00	13,032.00
(339)	\$8,688.01 to \$8,712.00	363.00	13,068.00
(340)	\$8,712.01 to \$8,736.00	364.00	13,104.00
(341)	\$8,736.01 to \$8,760.00	365.00	13,140.00
(342)	\$8,760.01 to \$8,784.00	366.00	13,176.00
(343)	\$8,784.01 to \$8,808.00	367.00	13,212.00
(344)	\$8,808.01 to \$8,832.00	368.00	13,248.00
(345)	\$8,832.01 to \$8,856.00	369.00	13,284.00
(346)	\$8,856.01 to \$8,880.00	370.00	13,320.00
(347)	\$8,880.01 to \$8,904.00	371.00	13,356.00
(348)	\$8,904.01 to \$8,928.00	372.00	13,392.00
(349)	\$8,928.01 to \$8,952.00	373.00	13,428.00
(350)	\$8,952.01 to \$8,976.00	374.00	13,464.00
(351)	\$8,976.01 to \$9,000.00	375.00	13,500.00
(352)	\$9,000.01 to \$9,024.00	376.00	13,536.00
(353)	\$9,024.01 to \$9,048.00	377.00	13,572.00
(354)	\$9,048.01 to \$9,072.00	378.00	13,608.00
(355)	\$9,072.01 to \$9,096.00	379.00	13,644.00
(356)	\$9,096.01 [and over] TO \$9,120.00	380.00	13,680.00
(357)	\$9,120.01 TO \$9,144.00	381.00	13,716.00
(358)	\$9,144.01 TO \$9,168.00	382.00	13,752.00
(359)	\$9,168.01 TO \$9,192.00	383.00	13,788.00
(360)	\$9,192.01 TO \$9,216.00	384.00	13,824.00
(361)	\$9,216.01 TO \$9,240.00	385.00	13,860.00
(362)	\$9,240.01 TO \$9,264.00	386.00	13,896.00
(363)	\$9,264.01 TO \$9,288.00	387.00	13,932.00
(364)	\$9,288.01 TO \$9,312.00	388.00	13,968.00
(365)	\$9,312.01 TO \$9,336.00	389.00	14,004.00
(366)	\$9,336.01 TO \$9,360.00	390.00	14,040.00
(367)	\$9,360.01 TO \$9,384.00	391.00	14,076.00
(368)	\$9,384.01 TO \$9,408.00	392.00	14,112.00
(369)	\$9,408.01 TO \$9,432.00	393.00	14,148.00
(370)	\$9,432.01 TO \$9,456.00	394.00	14,184.00
(371)	\$9,456.01 TO \$9,480.00	395.00	14,220.00
(372)	\$9,480.01 TO \$9,504.00	396.00	14,256.00
(373)	\$9,504.01 TO \$9,528.00	397.00	14,292.00
(374)	\$9,528.01 TO \$9,552.00	398.00	14,328.00
(375)	\$9,552.01 TO \$9,576.00	399.00	14,364.00
(376)	\$9,576.01 TO \$9,600.00	400.00	14,400.00
(377)	\$9,600.01 TO \$9,624.00	401.00	14,436.00
(378)	\$9,624.01 TO \$9,648.00	402.00	14,472.00
(379)	\$9,648.01 TO \$9,672.00	403.00	14,508.00
(380)	\$9,672.01 TO \$9,696.00	404.00	14,544.00
(381)	\$9,696.01 TO \$9,720.00	405.00	14,580.00

(382)	\$9,720.01 TO \$9,744.00	406.00	14,616.00
(383)	\$9,744.01 TO \$9,768.00	407.00	14,652.00
(384)	\$9,768.01 TO \$9,792.00	408.00	14,688.00
(385)	\$9,792.01 TO \$9,816.00	409.00	14,724.00
(386)	\$9,816.01 AND OVER	410.00	14,760.00

(c) The schedule of benefits that is in effect on the 1st day of a claimant's benefit year applies to the claimant throughout that benefit year.

(d) (1) Except as provided in § 8–1207 of this title for the work sharing program and § 8–1604 of this title for the Self–Employment Assistance Program, an eligible claimant shall be paid a weekly benefit amount that is computed by:

(i) determining the claimant's weekly benefit amount under this section;

(ii) adding any allowance for a dependent to which the claimant is entitled under § 8–804 of this subtitle; and

(iii) subtracting any wages exceeding \$100 payable to the claimant for the week.

(2) In computing benefits under this subsection, a fraction of a dollar shall be rounded to the next lower dollar.

(e) Any child support payment that is required under § 8–807 of this subtitle shall be withheld from benefits.

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

Article – Labor and Employment

8–803.

(a) (1) To determine the weekly benefit amount to assign to a claimant in the schedule of benefits in subsection (b) of this section, the line in the schedule of benefits shall be located in which the high quarter wages in column (A) correspond to wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest.

(2) The claimant shall be assigned:

(i) the weekly benefit amount in column (B) of the schedule for that line; or

(ii) if the claimant is not eligible under § 8-802 of this subtitle for that weekly benefit amount but was paid wages to qualify in 1 of the next 6 lower lines of the schedule, the weekly benefit amount in the next lower line in column (B) of the schedule.

(b)

SCHEDULE OF BENEFITS

Line	High Quarter Wages (A)	Weekly Benefit Amount (B)	Minimum Qualifying Wages (C)
(1)	\$ 576.01 to \$ 600.00	25.00	900.00
(2)	\$ 600.01 to \$ 624.00	26.00	936.00
(3)	\$ 624.01 to \$ 648.00	27.00	972.00
(4)	\$ 648.01 to \$ 672.00	28.00	1,008.00
(5)	\$ 672.01 to \$ 696.00	29.00	1,044.00
(6)	\$ 696.01 to \$ 720.00	30.00	1,080.00
(7)	\$ 720.01 to \$ 744.00	31.00	1,116.00
(8)	\$ 744.01 to \$ 768.00	32.00	1,152.00
(9)	\$ 768.01 to \$ 792.00	33.00	1,188.00
(10)	\$ 792.01 to \$ 816.00	34.00	1,224.00
(11)	\$ 816.01 to \$ 840.00	35.00	1,260.00
(12)	\$ 840.01 to \$ 864.00	36.00	1,296.00
(13)	\$ 864.01 to \$ 888.00	37.00	1,332.00
(14)	\$ 888.01 to \$ 912.00	38.00	1,368.00
(15)	\$ 912.01 to \$ 936.00	39.00	1,404.00
(16)	\$ 936.01 to \$ 960.00	40.00	1,440.00
(17)	\$ 960.01 to \$ 984.00	41.00	1,476.00
(18)	\$ 984.01 to \$1,008.00	42.00	1,512.00
(19)	\$1,008.01 to \$1,032.00	43.00	1,548.00
(20)	\$1,032.01 to \$1,056.00	44.00	1,584.00
(21)	\$1,056.01 to \$1,080.00	45.00	1,620.00
(22)	\$1,080.01 to \$1,104.00	46.00	1,656.00
(23)	\$1,104.01 to \$1,128.00	47.00	1,692.00
(24)	\$1,128.01 to \$1,152.00	48.00	1,728.00
(25)	\$1,152.01 to \$1,176.00	49.00	1,764.00
(26)	\$1,176.01 to \$1,200.00	50.00	1,800.00
(27)	\$1,200.01 to \$1,224.00	51.00	1,836.00
(28)	\$1,224.01 to \$1,248.00	52.00	1,872.00
(29)	\$1,248.01 to \$1,272.00	53.00	1,908.00
(30)	\$1,272.01 to \$1,296.00	54.00	1,944.00
(31)	\$1,296.01 to \$1,320.00	55.00	1,980.00
(32)	\$1,320.01 to \$1,344.00	56.00	2,016.00
(33)	\$1,344.01 to \$1,368.00	57.00	2,052.00
(34)	\$1,368.01 to \$1,392.00	58.00	2,088.00
(35)	\$1,392.01 to \$1,416.00	59.00	2,124.00

(36)	\$1,416.01 to \$1,440.00	60.00	2,160.00
(37)	\$1,440.01 to \$1,464.00	61.00	2,196.00
(38)	\$1,464.01 to \$1,488.00	62.00	2,232.00
(39)	\$1,488.01 to \$1,512.00	63.00	2,268.00
(40)	\$1,512.01 to \$1,536.00	64.00	2,304.00
(41)	\$1,536.01 to \$1,560.00	65.00	2,340.00
(42)	\$1,560.01 to \$1,584.00	66.00	2,376.00
(43)	\$1,584.01 to \$1,608.00	67.00	2,412.00
(44)	\$1,608.01 to \$1,632.00	68.00	2,448.00
(45)	\$1,632.01 to \$1,656.00	69.00	2,484.00
(46)	\$1,656.01 to \$1,680.00	70.00	2,520.00
(47)	\$1,680.01 to \$1,704.00	71.00	2,556.00
(48)	\$1,704.01 to \$1,728.00	72.00	2,592.00
(49)	\$1,728.01 to \$1,752.00	73.00	2,628.00
(50)	\$1,752.01 to \$1,776.00	74.00	2,664.00
(51)	\$1,776.01 to \$1,800.00	75.00	2,700.00
(52)	\$1,800.01 to \$1,824.00	76.00	2,736.00
(53)	\$1,824.01 to \$1,848.00	77.00	2,772.00
(54)	\$1,848.01 to \$1,872.00	78.00	2,808.00
(55)	\$1,872.01 to \$1,896.00	79.00	2,844.00
(56)	\$1,896.01 to \$1,920.00	80.00	2,880.00
(57)	\$1,920.01 to \$1,944.00	81.00	2,916.00
(58)	\$1,944.01 to \$1,968.00	82.00	2,952.00
(59)	\$1,968.01 to \$1,992.00	83.00	2,988.00
(60)	\$1,992.01 to \$2,016.00	84.00	3,024.00
(61)	\$2,016.01 to \$2,040.00	85.00	3,060.00
(62)	\$2,040.01 to \$2,064.00	86.00	3,096.00
(63)	\$2,064.01 to \$2,088.00	87.00	3,132.00
(64)	\$2,088.01 to \$2,112.00	88.00	3,168.00
(65)	\$2,112.01 to \$2,136.00	89.00	3,204.00
(66)	\$2,136.01 to \$2,160.00	90.00	3,240.00
(67)	\$2,160.01 to \$2,184.00	91.00	3,276.00
(68)	\$2,184.01 to \$2,208.00	92.00	3,312.00
(69)	\$2,208.01 to \$2,232.00	93.00	3,348.00
(70)	\$2,232.01 to \$2,256.00	94.00	3,384.00
(71)	\$2,256.01 to \$2,280.00	95.00	3,420.00
(72)	\$2,280.01 to \$2,304.00	96.00	3,456.00
(73)	\$2,304.01 to \$2,328.00	97.00	3,492.00
(74)	\$2,328.01 to \$2,352.00	98.00	3,528.00
(75)	\$2,352.01 to \$2,376.00	99.00	3,564.00
(76)	\$2,376.01 to \$2,400.00	100.00	3,600.00
(77)	\$2,400.01 to \$2,424.00	101.00	3,636.00
(78)	\$2,424.01 to \$2,448.00	102.00	3,672.00
(79)	\$2,448.01 to \$2,472.00	103.00	3,708.00
(80)	\$2,472.01 to \$2,496.00	104.00	3,744.00
(81)	\$2,496.01 to \$2,520.00	105.00	3,780.00
(82)	\$2,520.01 to \$2,544.00	106.00	3,816.00

(83)	\$2,544.01 to \$2,568.00	107.00	3,852.00
(84)	\$2,568.01 to \$2,592.00	108.00	3,888.00
(85)	\$2,592.01 to \$2,616.00	109.00	3,924.00
(86)	\$2,616.01 to \$2,640.00	110.00	3,960.00
(87)	\$2,640.01 to \$2,664.00	111.00	3,996.00
(88)	\$2,664.01 to \$2,688.00	112.00	4,032.00
(89)	\$2,688.01 to \$2,712.00	113.00	4,068.00
(90)	\$2,712.01 to \$2,736.00	114.00	4,104.00
(91)	\$2,736.01 to \$2,760.00	115.00	4,140.00
(92)	\$2,760.01 to \$2,784.00	116.00	4,176.00
(93)	\$2,784.01 to \$2,808.00	117.00	4,212.00
(94)	\$2,808.01 to \$2,832.00	118.00	4,248.00
(95)	\$2,832.01 to \$2,856.00	119.00	4,284.00
(96)	\$2,856.01 to \$2,880.00	120.00	4,320.00
(97)	\$2,880.01 to \$2,904.00	121.00	4,356.00
(98)	\$2,904.01 to \$2,928.00	122.00	4,392.00
(99)	\$2,928.01 to \$2,952.00	123.00	4,428.00
(100)	\$2,952.01 to \$2,976.00	124.00	4,464.00
(101)	\$2,976.01 to \$3,000.00	125.00	4,500.00
(102)	\$3,000.01 to \$3,024.00	126.00	4,536.00
(103)	\$3,024.01 to \$3,048.00	127.00	4,572.00
(104)	\$3,048.01 to \$3,072.00	128.00	4,608.00
(105)	\$3,072.01 to \$3,096.00	129.00	4,644.00
(106)	\$3,096.01 to \$3,120.00	130.00	4,680.00
(107)	\$3,120.01 to \$3,144.00	131.00	4,716.00
(108)	\$3,144.01 to \$3,168.00	132.00	4,752.00
(109)	\$3,168.01 to \$3,192.00	133.00	4,788.00
(110)	\$3,192.01 to \$3,216.00	134.00	4,824.00
(111)	\$3,216.01 to \$3,240.00	135.00	4,860.00
(112)	\$3,240.01 to \$3,264.00	136.00	4,896.00
(113)	\$3,264.01 to \$3,288.00	137.00	4,932.00
(114)	\$3,288.01 to \$3,312.00	138.00	4,968.00
(115)	\$3,312.01 to \$3,336.00	139.00	5,004.00
(116)	\$3,336.01 to \$3,360.00	140.00	5,040.00
(117)	\$3,360.01 to \$3,384.00	141.00	5,076.00
(118)	\$3,384.01 to \$3,408.00	142.00	5,112.00
(119)	\$3,408.01 to \$3,432.00	143.00	5,148.00
(120)	\$3,432.01 to \$3,456.00	144.00	5,184.00
(121)	\$3,456.01 to \$3,480.00	145.00	5,220.00
(122)	\$3,480.01 to \$3,504.00	146.00	5,256.00
(123)	\$3,504.01 to \$3,528.00	147.00	5,292.00
(124)	\$3,528.01 to \$3,552.00	148.00	5,328.00
(125)	\$3,552.01 to \$3,576.00	149.00	5,364.00
(126)	\$3,576.01 to \$3,600.00	150.00	5,400.00
(127)	\$3,600.01 to \$3,624.00	151.00	5,436.00
(128)	\$3,624.01 to \$3,648.00	152.00	5,472.00
(129)	\$3,648.01 to \$3,672.00	153.00	5,508.00

(130)	\$3,672.01 to \$3,696.00	154.00	5,544.00
(131)	\$3,696.01 to \$3,720.00	155.00	5,580.00
(132)	\$3,720.01 to \$3,744.00	156.00	5,616.00
(133)	\$3,744.01 to \$3,768.00	157.00	5,652.00
(134)	\$3,768.01 to \$3,792.00	158.00	5,688.00
(135)	\$3,792.01 to \$3,816.00	159.00	5,724.00
(136)	\$3,816.01 to \$3,840.00	160.00	5,760.00
(137)	\$3,840.01 to \$3,864.00	161.00	5,796.00
(138)	\$3,864.01 to \$3,888.00	162.00	5,832.00
(139)	\$3,888.01 to \$3,912.00	163.00	5,868.00
(140)	\$3,912.01 to \$3,936.00	164.00	5,904.00
(141)	\$3,936.01 to \$3,960.00	165.00	5,940.00
(142)	\$3,960.01 to \$3,984.00	166.00	5,976.00
(143)	\$3,984.01 to \$4,008.00	167.00	6,012.00
(144)	\$4,008.01 to \$4,032.00	168.00	6,048.00
(145)	\$4,032.01 to \$4,056.00	169.00	6,084.00
(146)	\$4,056.01 to \$4,080.00	170.00	6,120.00
(147)	\$4,080.01 to \$4,104.00	171.00	6,156.00
(148)	\$4,104.01 to \$4,128.00	172.00	6,192.00
(149)	\$4,128.01 to \$4,152.00	173.00	6,228.00
(150)	\$4,152.01 to \$4,176.00	174.00	6,264.00
(151)	\$4,176.01 to \$4,200.00	175.00	6,300.00
(152)	\$4,200.01 to \$4,224.00	176.00	6,336.00
(153)	\$4,224.01 to \$4,248.00	177.00	6,372.00
(154)	\$4,248.01 to \$4,272.00	178.00	6,408.00
(155)	\$4,272.01 to \$4,296.00	179.00	6,444.00
(156)	\$4,296.01 to \$4,320.00	180.00	6,480.00
(157)	\$4,320.01 to \$4,344.00	181.00	6,516.00
(158)	\$4,344.01 to \$4,368.00	182.00	6,552.00
(159)	\$4,368.01 to \$4,392.00	183.00	6,588.00
(160)	\$4,392.01 to \$4,416.00	184.00	6,624.00
(161)	\$4,416.01 to \$4,440.00	185.00	6,660.00
(162)	\$4,440.01 to \$4,464.00	186.00	6,696.00
(163)	\$4,464.01 to \$4,488.00	187.00	6,732.00
(164)	\$4,488.01 to \$4,512.00	188.00	6,768.00
(165)	\$4,512.01 to \$4,536.00	189.00	6,804.00
(166)	\$4,536.01 to \$4,560.00	190.00	6,840.00
(167)	\$4,560.01 to \$4,584.00	191.00	6,876.00
(168)	\$4,584.01 to \$4,608.00	192.00	6,912.00
(169)	\$4,608.01 to \$4,632.00	193.00	6,948.00
(170)	\$4,632.01 to \$4,656.00	194.00	6,984.00
(171)	\$4,656.01 to \$4,680.00	195.00	7,020.00
(172)	\$4,680.01 to \$4,704.00	196.00	7,056.00
(173)	\$4,704.01 to \$4,728.00	197.00	7,092.00
(174)	\$4,728.01 to \$4,752.00	198.00	7,128.00
(175)	\$4,752.01 to \$4,776.00	199.00	7,164.00
(176)	\$4,776.01 to \$4,800.00	200.00	7,200.00

(177)	\$4,800.01 to \$4,824.00	201.00	7,236.00
(178)	\$4,824.01 to \$4,848.00	202.00	7,272.00
(179)	\$4,848.01 to \$4,872.00	203.00	7,308.00
(180)	\$4,872.01 to \$4,896.00	204.00	7,344.00
(181)	\$4,896.01 to \$4,920.00	205.00	7,380.00
(182)	\$4,920.01 to \$4,944.00	206.00	7,416.00
(183)	\$4,944.01 to \$4,968.00	207.00	7,452.00
(184)	\$4,968.01 to \$4,992.00	208.00	7,488.00
(185)	\$4,992.01 to \$5,016.00	209.00	7,524.00
(186)	\$5,016.01 to \$5,040.00	210.00	7,560.00
(187)	\$5,040.01 to \$5,064.00	211.00	7,596.00
(188)	\$5,064.01 to \$5,088.00	212.00	7,632.00
(189)	\$5,088.01 to \$5,112.00	213.00	7,668.00
(190)	\$5,112.01 to \$5,136.00	214.00	7,704.00
(191)	\$5,136.01 to \$5,160.00	215.00	7,740.00
(192)	\$5,160.01 to \$5,184.00	216.00	7,776.00
(193)	\$5,184.01 to \$5,208.00	217.00	7,812.00
(194)	\$5,208.01 to \$5,232.00	218.00	7,848.00
(195)	\$5,232.01 to \$5,256.00	219.00	7,884.00
(196)	\$5,256.01 to \$5,280.00	220.00	7,920.00
(197)	\$5,280.01 to \$5,304.00	221.00	7,956.00
(198)	\$5,304.01 to \$5,328.00	222.00	7,992.00
(199)	\$5,328.01 to \$5,352.00	223.00	8,028.00
(200)	\$5,352.01 to \$5,376.00	224.00	8,064.00
(201)	\$5,376.01 to \$5,400.00	225.00	8,100.00
(202)	\$5,400.01 to \$5,424.00	226.00	8,136.00
(203)	\$5,424.01 to \$5,448.00	227.00	8,172.00
(204)	\$5,448.01 to \$5,472.00	228.00	8,208.00
(205)	\$5,472.01 to \$5,496.00	229.00	8,244.00
(206)	\$5,496.01 to \$5,520.00	230.00	8,280.00
(207)	\$5,520.01 to \$5,544.00	231.00	8,316.00
(208)	\$5,544.01 to \$5,568.00	232.00	8,352.00
(209)	\$5,568.01 to \$5,592.00	233.00	8,388.00
(210)	\$5,592.01 to \$5,616.00	234.00	8,424.00
(211)	\$5,616.01 to \$5,640.00	235.00	8,460.00
(212)	\$5,640.01 to \$5,664.00	236.00	8,496.00
(213)	\$5,664.01 to \$5,688.00	237.00	8,532.00
(214)	\$5,688.01 to \$5,712.00	238.00	8,568.00
(215)	\$5,712.01 to \$5,736.00	239.00	8,604.00
(216)	\$5,736.01 to \$5,760.00	240.00	8,640.00
(217)	\$5,760.01 to \$5,784.00	241.00	8,676.00
(218)	\$5,784.01 to \$5,808.00	242.00	8,712.00
(219)	\$5,808.01 to \$5,832.00	243.00	8,748.00
(220)	\$5,832.01 to \$5,856.00	244.00	8,784.00
(221)	\$5,856.01 to \$5,880.00	245.00	8,820.00
(222)	\$5,880.01 to \$5,904.00	246.00	8,856.00
(223)	\$5,904.01 to \$5,928.00	247.00	8,892.00

(224)	\$5,928.01 to \$5,952.00	248.00	8,928.00
(225)	\$5,952.01 to \$5,976.00	249.00	8,964.00
(226)	\$5,976.01 to \$6,000.00	250.00	9,000.00
(227)	\$6,000.01 to \$6,024.00	251.00	9,036.00
(228)	\$6,024.01 to \$6,048.00	252.00	9,072.00
(229)	\$6,048.01 to \$6,072.00	253.00	9,108.00
(230)	\$6,072.01 to \$6,096.00	254.00	9,144.00
(231)	\$6,096.01 to \$6,120.00	255.00	9,180.00
(232)	\$6,120.01 to \$6,144.00	256.00	9,216.00
(233)	\$6,144.01 to \$6,168.00	257.00	9,252.00
(234)	\$6,168.01 to \$6,192.00	258.00	9,288.00
(235)	\$6,192.01 to \$6,216.00	259.00	9,324.00
(236)	\$6,216.01 to \$6,240.00	260.00	9,360.00
(237)	\$6,240.01 to \$6,264.00	261.00	9,396.00
(238)	\$6,264.01 to \$6,288.00	262.00	9,432.00
(239)	\$6,288.01 to \$6,312.00	263.00	9,468.00
(240)	\$6,312.01 to \$6,336.00	264.00	9,504.00
(241)	\$6,336.01 to \$6,360.00	265.00	9,540.00
(242)	\$6,360.01 to \$6,384.00	266.00	9,576.00
(243)	\$6,384.01 to \$6,408.00	267.00	9,612.00
(244)	\$6,408.01 to \$6,432.00	268.00	9,648.00
(245)	\$6,432.01 to \$6,456.00	269.00	9,684.00
(246)	\$6,456.01 to \$6,480.00	270.00	9,720.00
(247)	\$6,480.01 to \$6,504.00	271.00	9,756.00
(248)	\$6,504.01 to \$6,528.00	272.00	9,792.00
(249)	\$6,528.01 to \$6,552.00	273.00	9,828.00
(250)	\$6,552.01 to \$6,576.00	274.00	9,864.00
(251)	\$6,576.01 to \$6,600.00	275.00	9,900.00
(252)	\$6,600.01 to \$6,624.00	276.00	9,936.00
(253)	\$6,624.01 to \$6,648.00	277.00	9,972.00
(254)	\$6,648.01 to \$6,672.00	278.00	10,008.00
(255)	\$6,672.01 to \$6,696.00	279.00	10,044.00
(256)	\$6,696.01 to \$6,720.00	280.00	10,080.00
(257)	\$6,720.01 to \$6,744.00	281.00	10,116.00
(258)	\$6,744.01 to \$6,768.00	282.00	10,152.00
(259)	\$6,768.01 to \$6,792.00	283.00	10,188.00
(260)	\$6,792.01 to \$6,816.00	284.00	10,224.00
(261)	\$6,816.01 to \$6,840.00	285.00	10,260.00
(262)	\$6,840.01 to \$6,864.00	286.00	10,296.00
(263)	\$6,864.01 to \$6,888.00	287.00	10,332.00
(264)	\$6,888.01 to \$6,912.00	288.00	10,368.00
(265)	\$6,912.01 to \$6,936.00	289.00	10,404.00
(266)	\$6,936.01 to \$6,960.00	290.00	10,440.00
(267)	\$6,960.01 to \$6,984.00	291.00	10,476.00
(268)	\$6,984.01 to \$7,008.00	292.00	10,512.00
(269)	\$7,008.01 to \$7,032.00	293.00	10,548.00
(270)	\$7,032.01 to \$7,056.00	294.00	10,584.00

(271)	\$7,056.01 to \$7,080.00	295.00	10,620.00
(272)	\$7,080.01 to \$7,104.00	296.00	10,656.00
(273)	\$7,104.01 to \$7,128.00	297.00	10,692.00
(274)	\$7,128.01 to \$7,152.00	298.00	10,728.00
(275)	\$7,152.01 to \$7,176.00	299.00	10,764.00
(276)	\$7,176.01 to \$7,200.00	300.00	10,800.00
(277)	\$7,200.01 to \$7,224.00	301.00	10,836.00
(278)	\$7,224.01 to \$7,248.00	302.00	10,872.00
(279)	\$7,248.01 to \$7,272.00	303.00	10,908.00
(280)	\$7,272.01 to \$7,296.00	304.00	10,944.00
(281)	\$7,296.01 to \$7,320.00	305.00	10,980.00
(282)	\$7,320.01 to \$7,344.00	306.00	11,016.00
(283)	\$7,344.01 to \$7,368.00	307.00	11,052.00
(284)	\$7,368.01 to \$7,392.00	308.00	11,088.00
(285)	\$7,392.01 to \$7,416.00	309.00	11,124.00
(286)	\$7,416.01 to \$7,440.00	310.00	11,160.00
(287)	\$7,440.01 to \$7,464.00	311.00	11,196.00
(288)	\$7,464.01 to \$7,488.00	312.00	11,232.00
(289)	\$7,488.01 to \$7,512.00	313.00	11,268.00
(290)	\$7,512.01 to \$7,536.00	314.00	11,304.00
(291)	\$7,536.01 to \$7,560.00	315.00	11,340.00
(292)	\$7,560.01 to \$7,584.00	316.00	11,376.00
(293)	\$7,584.01 to \$7,608.00	317.00	11,412.00
(294)	\$7,608.01 to \$7,632.00	318.00	11,448.00
(295)	\$7,632.01 to \$7,656.00	319.00	11,484.00
(296)	\$7,656.01 to \$7,680.00	320.00	11,520.00
(297)	\$7,680.01 to \$7,704.00	321.00	11,556.00
(298)	\$7,704.01 to \$7,728.00	322.00	11,592.00
(299)	\$7,728.01 to \$7,752.00	323.00	11,628.00
(300)	\$7,752.01 to \$7,776.00	324.00	11,664.00
(301)	\$7,776.01 to \$7,800.00	325.00	11,700.00
(302)	\$7,800.01 to \$7,824.00	326.00	11,736.00
(303)	\$7,824.01 to \$7,848.00	327.00	11,772.00
(304)	\$7,848.01 to \$7,872.00	328.00	11,808.00
(305)	\$7,872.01 to \$7,896.00	329.00	11,844.00
(306)	\$7,896.01 to \$7,920.00	330.00	11,880.00
(307)	\$7,920.01 to \$7,944.00	331.00	11,916.00
(308)	\$7,944.01 to \$7,968.00	332.00	11,952.00
(309)	\$7,968.01 to \$7,992.00	333.00	11,988.00
(310)	\$7,992.01 to \$8,016.00	334.00	12,024.00
(311)	\$8,016.01 to \$8,040.00	335.00	12,060.00
(312)	\$8,040.01 to \$8,064.00	336.00	12,096.00
(313)	\$8,064.01 to \$8,088.00	337.00	12,132.00
(314)	\$8,088.01 to \$8,112.00	338.00	12,168.00
(315)	\$8,112.01 to \$8,136.00	339.00	12,204.00
(316)	\$8,136.01 to \$8,160.00	340.00	12,240.00
(317)	\$8,160.01 to \$8,184.00	341.00	12,276.00

(318)	\$8,184.01 to \$8,208.00	342.00	12,312.00
(319)	\$8,208.01 to \$8,232.00	343.00	12,348.00
(320)	\$8,232.01 to \$8,256.00	344.00	12,384.00
(321)	\$8,256.01 to \$8,280.00	345.00	12,420.00
(322)	\$8,280.01 to \$8,304.00	346.00	12,456.00
(323)	\$8,304.01 to \$8,328.00	347.00	12,492.00
(324)	\$8,328.01 to \$8,352.00	348.00	12,528.00
(325)	\$8,352.01 to \$8,376.00	349.00	12,564.00
(326)	\$8,376.01 to \$8,400.00	350.00	12,600.00
(327)	\$8,400.01 to \$8,424.00	351.00	12,636.00
(328)	\$8,424.01 to \$8,448.00	352.00	12,672.00
(329)	\$8,448.01 to \$8,472.00	353.00	12,708.00
(330)	\$8,472.01 to \$8,496.00	354.00	12,744.00
(331)	\$8,496.01 to \$8,520.00	355.00	12,780.00
(332)	\$8,520.01 to \$8,544.00	356.00	12,816.00
(333)	\$8,544.01 to \$8,568.00	357.00	12,852.00
(334)	\$8,568.01 to \$8,592.00	358.00	12,888.00
(335)	\$8,592.01 to \$8,616.00	359.00	12,924.00
(336)	\$8,616.01 to \$8,640.00	360.00	12,960.00
(337)	\$8,640.01 to \$8,664.00	361.00	12,996.00
(338)	\$8,664.01 to \$8,688.00	362.00	13,032.00
(339)	\$8,688.01 to \$8,712.00	363.00	13,068.00
(340)	\$8,712.01 to \$8,736.00	364.00	13,104.00
(341)	\$8,736.01 to \$8,760.00	365.00	13,140.00
(342)	\$8,760.01 to \$8,784.00	366.00	13,176.00
(343)	\$8,784.01 to \$8,808.00	367.00	13,212.00
(344)	\$8,808.01 to \$8,832.00	368.00	13,248.00
(345)	\$8,832.01 to \$8,856.00	369.00	13,284.00
(346)	\$8,856.01 to \$8,880.00	370.00	13,320.00
(347)	\$8,880.01 to \$8,904.00	371.00	13,356.00
(348)	\$8,904.01 to \$8,928.00	372.00	13,392.00
(349)	\$8,928.01 to \$8,952.00	373.00	13,428.00
(350)	\$8,952.01 to \$8,976.00	374.00	13,464.00
(351)	\$8,976.01 to \$9,000.00	375.00	13,500.00
(352)	\$9,000.01 to \$9,024.00	376.00	13,536.00
(353)	\$9,024.01 to \$9,048.00	377.00	13,572.00
(354)	\$9,048.01 to \$9,072.00	378.00	13,608.00
(355)	\$9,072.01 to \$9,096.00	379.00	13,644.00
(356)	\$9,096.01 to \$9,120.00	380.00	13,680.00
(357)	\$9,120.01 to \$9,144.00	381.00	13,716.00
(358)	\$9,144.01 to \$9,168.00	382.00	13,752.00
(359)	\$9,168.01 to \$9,192.00	383.00	13,788.00
(360)	\$9,192.01 to \$9,216.00	384.00	13,824.00
(361)	\$9,216.01 to \$9,240.00	385.00	13,860.00
(362)	\$9,240.01 to \$9,264.00	386.00	13,896.00
(363)	\$9,264.01 to \$9,288.00	387.00	13,932.00
(364)	\$9,288.01 to \$9,312.00	388.00	13,968.00

(365)	\$9,312.01 to \$9,336.00	389.00	14,004.00
(366)	\$9,336.01 to \$9,360.00	390.00	14,040.00
(367)	\$9,360.01 to \$9,384.00	391.00	14,076.00
(368)	\$9,384.01 to \$9,408.00	392.00	14,112.00
(369)	\$9,408.01 to \$9,432.00	393.00	14,148.00
(370)	\$9,432.01 to \$9,456.00	394.00	14,184.00
(371)	\$9,456.01 to \$9,480.00	395.00	14,220.00
(372)	\$9,480.01 to \$9,504.00	396.00	14,256.00
(373)	\$9,504.01 to \$9,528.00	397.00	14,292.00
(374)	\$9,528.01 to \$9,552.00	398.00	14,328.00
(375)	\$9,552.01 to \$9,576.00	399.00	14,364.00
(376)	\$9,576.01 to \$9,600.00	400.00	14,400.00
(377)	\$9,600.01 to \$9,624.00	401.00	14,436.00
(378)	\$9,624.01 to \$9,648.00	402.00	14,472.00
(379)	\$9,648.01 to \$9,672.00	403.00	14,508.00
(380)	\$9,672.01 to \$9,696.00	404.00	14,544.00
(381)	\$9,696.01 to \$9,720.00	405.00	14,580.00
(382)	\$9,720.01 to \$9,744.00	406.00	14,616.00
(383)	\$9,744.01 to \$9,768.00	407.00	14,652.00
(384)	\$9,768.01 to \$9,792.00	408.00	14,688.00
(385)	\$9,792.01 to \$9,816.00	409.00	14,724.00
(386)	\$9,816.01 [and over] TO \$9,840.00	410.00	14,760.00
(387)	\$9,840.01 TO \$9,864.00	411.00	14,796.00
(388)	\$9,864.01 TO \$9,888.00	412.00	14,832.00
(389)	\$9,888.01 TO \$9,912.00	413.00	14,868.00
(390)	\$9,912.01 TO \$9,936.00	414.00	14,904.00
(391)	\$9,936.01 TO \$9,960.00	415.00	14,940.00
(392)	\$9,960.01 TO \$9,984.00	416.00	14,976.00
(393)	\$9,984.01 TO \$10,008.00	417.00	15,012.00
(394)	\$10,008.01 TO \$10,032.00	418.00	15,048.00
(395)	\$10,032.01 TO \$10,056.00	419.00	15,084.00
(396)	\$10,056.01 TO \$10,080.00	420.00	15,120.00
(397)	\$10,080.01 TO \$10,104.00	421.00	15,156.00
(398)	\$10,104.01 TO \$10,128.00	422.00	15,192.00
(399)	\$10,128.01 TO \$10,152.00	423.00	15,228.00
(400)	\$10,152.01 TO \$10,176.00	424.00	15,264.00
(401)	\$10,176.01 TO \$10,200.00	425.00	15,300.00
(402)	\$10,200.01 TO \$10,224.00	426.00	15,336.00
(403)	\$10,224.01 TO \$10,248.00	427.00	15,372.00
(404)	\$10,248.01 TO \$10,272.00	428.00	15,408.00
(405)	\$10,272.01 TO \$10,296.00	429.00	15,444.00
(406)	\$10,296.01 AND OVER	430.00	15,480.00

(c) The schedule of benefits that is in effect on the 1st day of a claimant's benefit year applies to the claimant throughout that benefit year.

(d) (1) Except as provided in § 8–1207 of this title for the work sharing program and § 8–1604 of this title for the Self–Employment Assistance Program, an eligible claimant shall be paid a weekly benefit amount that is computed by:

(i) determining the claimant's weekly benefit amount under this section;

(ii) adding any allowance for a dependent to which the claimant is entitled under § 8–804 of this subtitle; and

(iii) subtracting any wages exceeding \$100 payable to the claimant for the week.

(2) In computing benefits under this subsection, a fraction of a dollar shall be rounded to the next lower dollar.

(e) Any child support payment that is required under § 8–807 of this subtitle shall be withheld from benefits.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2009, and shall apply to all claims filed establishing a new benefit year on or after October 4, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2010, and shall apply to all claims filed establishing a new benefit year on or after October 3, 2010.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Sections 3 and 4 of this Act, this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 289

(Senate Bill 581)

AN ACT concerning

Natural Resources – Roadside Trees – Protection and Enforcement

FOR the purpose of authorizing a county or municipality to adopt a local law or ordinance relating to roadside trees under certain circumstances; prohibiting a county or municipality from adopting a local law or ordinance that applies to the cutting or clearing of certain trees by public utilities under certain

circumstances; authorizing a county or municipality to issue a stop work order under certain circumstances; authorizing the Department of Natural Resources to authorize a county or municipality to enforce certain provisions of law under certain circumstances; prohibiting a county or municipality from issuing a building permit under certain circumstances; establishing certain penalties for certain violations; requiring the State Highway Administration to include a certain requirement relating to roadside trees in certain contracts; making stylistic changes; and generally relating to the protection of roadside trees.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 5–401 and 5–402
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–403, 5–404, and 5–406
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 8–614
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Natural Resources

5–401.

In this subtitle, roadside tree means any tree or shrub growing within the right-of-way of any public road.

5–402.

The Department may plant trees along the roadsides, make rules and regulations governing the planting, care for and protect any roadside tree, and establish one or more State forest nurseries for the propagation of trees for any roadside planting.

5–403.

(a) If the governing body or the road supervisors of any county of the State, the Department of Transportation, the council of any municipality, or any organization or person applies to the Department to plant, care **FOR**, or protect any roadside tree, the Department shall evaluate the application and inform the applicant concerning the advisability of the requested planting, care, or protection. If, in the judgment of the Department, the requested planting, care, or protection is advisable, the Department shall prepare and submit to the applicant a plan for the same, including an estimate of the cost.

(b) Any plan to plant, care **FOR**, or protect roadside trees may not become operative until the applicant approves the plan and has guaranteed to the Department the cost of the work. When the applicant approves a plan the Department has prepared, and the applicant has guaranteed payment of the cost in a manner satisfactory to the Department, the Department shall perform, or cause to be performed, the specified planting, care, or protection of roadside trees.

(c) The Department, without being requested as provided in subsection (a) or guaranteed as provided in subsection (b), may plant, care for, and protect roadside trees and pay for the work out of any unexpended balance of the amount appropriated for the purposes of this subtitle. However, no tree may be planted under the provisions of this section without the consent and approval of the owner of the land on which planted.

(D) A EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A COUNTY OR MUNICIPALITY MAY ADOPT, WITH THE DEPARTMENT'S APPROVAL, A LOCAL LAW OR ORDINANCE FOR THE PLANTING, CARE, AND PROTECTION OF ROADSIDE TREES THAT IS MORE STRINGENT THAN THE REQUIREMENTS OF §§ 5-402 AND 5-406 OF THIS SUBTITLE IF THE LOCAL LAW OR ORDINANCE DOES NOT CONFLICT WITH THE PROVISIONS OF §§ 5-402 AND 5-406 OF THIS SUBTITLE.

(E) A COUNTY OR MUNICIPALITY MAY NOT ADOPT A LOCAL LAW OR ORDINANCE FOR THE PLANTING, CARE, AND PROTECTION OF ROADSIDE TREES THAT APPLIES TO:

(1) THE CUTTING OR CLEARING OF PUBLIC UTILITY RIGHTS-OF-WAY OR LAND FOR ELECTRIC GENERATING STATIONS LICENSED UNDER § 7-204, § 7-205, § 7-207, OR § 7-208 OF THE PUBLIC UTILITY COMPANIES ARTICLE, PROVIDED THAT:

(I) ANY REQUIRED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY HAVE BEEN ISSUED IN ACCORDANCE WITH § 5-1603(F) OF THIS SUBTITLE TITLE; AND

(II) THE CUTTING OR CLEARING OF THE FOREST IS CONDUCTED SO AS TO MINIMIZE THE LOSS OF FOREST; AND

(2) THE ROUTINE MAINTENANCE OF PUBLIC UTILITY RIGHTS-OF-WAY; AND

(3) THE CUTTING OR CLEARING OF PUBLIC UTILITY RIGHTS-OF-WAY OR LAND FOR NEW TRANSMISSION OR DISTRIBUTION LINES.

~~(E)~~ (F) A COUNTY OR MUNICIPALITY THAT IS AUTHORIZED TO ADOPT ADOPTS A LOCAL LAW OR ORDINANCE IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION MAY ISSUE A STOP WORK ORDER AGAINST ANY PERSON THAT VIOLATES ANY PROVISION OF THE LOCAL LAW OR ORDINANCE.

5-404.

(A) Forest wardens and other persons having police powers in the State, in addition to their regular duties, shall enforce the law for the care and protection of roadside trees. In the enforcement of these laws, they possess the same powers as a peace officer to arrest with a warrant.

(B) THE DEPARTMENT MAY AUTHORIZE A COUNTY OR MUNICIPALITY TO ENFORCE §§ 5-402 AND 5-406 OF THIS SUBTITLE.

5-406.

(a) [Any] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY person who desires to cut down or trim any roadside tree shall apply to the Department for a permit[, except that: (1)].

(B) (1) A PERSON MAY REMOVE A TREE OR ITS BRANCHES WITHOUT FIRST OBTAINING A PERMIT FROM THE DEPARTMENT if [a] THE tree is unrooted or its branches broken so as to contact telephone, telegraph, electric power, or other wires carrying electric current, or if the tree or its branches endanger persons or property[, the tree or its branches may be removed without first obtaining a permit from the Department; and (2) a].

(2) A TREE MAY BE CUT DOWN AND REMOVED BY AN ABUTTING LANDOWNER FOR THE LANDOWNER'S OWN USE WITHOUT FIRST OBTAINING A PERMIT IF THE tree IS standing within the right-of-way of a public road which has not been surfaced with either stone, shell, gravel, concrete, brick, asphalt, or other improved surface [may be cut down and removed by the abutting landowner for his own use without first obtaining a permit].

[(b)] (C) A person may not cut down, trim, mutilate, or in any manner injure any roadside tree, except as authorized by this section, without a permit from the Department.

(D) A COUNTY OR MUNICIPALITY MAY NOT ISSUE A BUILDING PERMIT TO AN APPLICANT FOR ANY CLEARING, CONSTRUCTION, OR DEVELOPMENT THAT WILL RESULT IN THE TRIMMING, CUTTING, REMOVAL, OR INJURY OF A ROADSIDE TREE UNTIL THE APPLICANT FIRST OBTAINS A PERMIT FROM THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION.

~~(E) THE DEPARTMENT MAY NOT ISSUE A PERMIT UNDER THIS SECTION TO REMOVE A TREE FOR AESTHETIC PURPOSES.~~

~~(F)~~ A PERSON WHO TRIMS, CUTS, REMOVES, OR INJURES A ROADSIDE TREE IN VIOLATION OF A REGULATION ADOPTED UNDER § 5-402 OF THIS SUBTITLE OR A PERMIT ISSUED UNDER THIS SECTION OR WHO FAILS TO OBTAIN A PERMIT AS REQUIRED BY THIS SECTION IS LIABLE FOR THE IMPOSITION OF A PENALTY:

- (1) NOT EXCEEDING \$2,000 FOR A FIRST OFFENSE; AND
- (2) NOT EXCEEDING \$5,000 FOR A SECOND OR SUBSEQUENT OFFENSE.

Article - Transportation

8-614.

(a) All State highway projects shall be performed under the supervision of the Administration and subject to its approval, in accordance with plans and specifications prepared by the chief engineer and approved by the Administration.

(b) To receive the full benefit of competitive bidding, the Administration, whenever practicable, shall separate major construction projects into two or more smaller contracts.

(C) THE ADMINISTRATION SHALL INCLUDE IN CONSTRUCTION AND MAINTENANCE CONTRACTS A REQUIREMENT THAT A CONTRACTOR PROTECT ROADSIDE TREES TO THE MAXIMUM EXTENT PRACTICABLE IN THE PERFORMANCE OF THE CONTRACTOR'S DUTIES UNDER THE CONTRACT.

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

Approved by the Governor, May 7, 2009.

Chapter 290

(Senate Bill 604)

AN ACT concerning

Tax Credits for Qualifying Employees with Disabilities – Sunset ~~Repeal~~ Extension

FOR the purpose of ~~repealing~~ extending 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, and Chapter 658 of the Acts of the General Assembly of 2008

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, and Chapter 658 of the Acts of the General Assembly of 2008

Section 4 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, and Chapter 658 of the Acts of 2008

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, 2012~~ 2013; 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, 2009~~ **2010**; 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, ~~2012~~ **2013**.

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 ~~11~~ **12** years and 9 months and at the end of June 30, 2009~~ **2010**, 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, and Chapter 658 of the Acts of 2008

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, 2012~~ **2013**; 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, 2009~~ **2010**; 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, ~~2012~~ **2013**.

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 ~~11~~ **12** years and 9 months and at the end of June 30, 2009~~ **2010**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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

Approved by the Governor, May 7, 2009.

Chapter 291

(Senate Bill 609)

AN ACT concerning

Frederick County – Deer Hunting on Private Property – Sundays

FOR the purpose of authorizing a person in Frederick County to hunt deer on certain Sundays on private property with a bow and arrow during certain months; removing Frederick County from a list of counties in which certain Sunday deer hunting privileges do not apply; and generally relating to hunting on private property on Sundays.

~~BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 10–410(a)(1)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section ~~10–410(a)(2)~~ 10–410(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

10–410.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen-reared game birds:

A. Pheasants;

B. Bobwhite quail;

- C. Chukar partridge;
- D. Hungarian partridge;
- E. Tower released flighted mallard ducks; and
- F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays; and

(iv) Subject to the provisions of § 10-411 of this subtitle, in Dorchester, **FREDERICK**, St. Mary's, Somerset, Washington, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow during open season on the last three Sundays in October and the second Sunday in November.

(3) Provided that the provisions of § 10-415 of this subtitle are met and subject to paragraph (4) of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

- (i) The bow hunting season in November; and
- (ii) The deer firearms season.

(4) The Sunday deer hunting provisions under paragraph (3) of this subsection do not apply:

- (i) In Baltimore, Carroll, [Frederick,] Howard, and Prince George's counties; and
- (ii) In Baltimore City.

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

Approved by the Governor, May 7, 2009.

Chapter 292

(Senate Bill 611)

AN ACT concerning

**Minority Business Enterprise Program – Prohibitions ~~and Penalties for~~
Contractors**

FOR the purpose of prohibiting certain ~~contractors~~ persons from engaging in certain acts when submitting a bid or proposal or performing a contract under certain circumstances; ~~requiring the Board of Public Works to impose certain penalties against certain contractors; requiring the Board to consider certain factors when determining certain penalties;~~ requiring the Governor's Office of Minority Affairs to make available a certain hotline for ~~the use of certain minority business enterprises to report a certain violation by a contractor~~ reporting certain violations of this Act; and generally relating to prohibitions ~~and penalties for contractors~~ under the Minority Business Enterprise Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–308
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

14–308.

- (a) (1) A person may not:
- (i) fraudulently obtain, hold, or attempt to obtain or hold certification;
 - (ii) aid another person in performing an act prohibited under item (i) of this paragraph;
 - (iii) willfully obstruct, impede, or attempt to obstruct or impede a State official or employee investigating the qualifications of a business entity that has requested certification;
 - (iv) fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public moneys to which the person is not entitled under this subtitle; or
 - (v) in any minority business enterprise matter administered under this subtitle:
 - 1. willfully falsify, conceal, or cover up a material fact by any scheme or device;

2. make a false or fraudulent statement or representation; or

3. use a false writing or document that the person knows to contain a false or fraudulent statement or entry.

(2) EXCEPT AS OTHERWISE PROVIDED BY LAW, A CONTRACTOR MAY NOT IDENTIFY A CERTIFIED MINORITY BUSINESS ENTERPRISE IN A BID OR PROPOSAL AND:

(I) FAIL TO REQUEST, RECEIVE, OR OTHERWISE OBTAIN AUTHORIZATION FROM THE CERTIFIED MINORITY BUSINESS ENTERPRISE TO IDENTIFY THE CERTIFIED MINORITY BUSINESS ENTERPRISE IN ITS BID OR PROPOSAL;

(II) FAIL TO NOTIFY THE CERTIFIED MINORITY BUSINESS ENTERPRISE BEFORE EXECUTION OF THE CONTRACT OF ITS INCLUSION OF THE BID OR PROPOSAL;

(III) FAIL TO USE THE CERTIFIED MINORITY BUSINESS ENTERPRISE IN THE PERFORMANCE OF THE CONTRACT; OR

(IV) PAY THE CERTIFIED MINORITY BUSINESS ENTERPRISE SOLELY FOR THE USE OF ITS NAME IN THE BID OR PROPOSAL.

~~(2)~~ **(3)** A person who violates any provision of this subsection is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

(b) (1) A person may not make a false statement about whether an entity has certification.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 1 year or both.

~~(C) (1) UNLESS A WAIVER HAS BEEN GRANTED OR AN AMENDMENT TO A BID OR PROPOSAL HAS BEEN AUTHORIZED, A CONTRACTOR MAY NOT IDENTIFY A CERTIFIED MINORITY BUSINESS ENTERPRISE IN A BID OR PROPOSAL AND:~~

~~(I) FAIL TO NOTIFY THE CERTIFIED MINORITY BUSINESS ENTERPRISE OF ITS INCLUSION IN THE BID OR PROPOSAL;~~

~~(H) FAIL TO REQUEST A QUOTE FROM THE CERTIFIED MINORITY BUSINESS ENTERPRISE;~~

~~(H) FAIL TO UTILIZE THE CERTIFIED MINORITY BUSINESS ENTERPRISE IN THE PERFORMANCE OF THE CONTRACT; OR~~

~~(IV) PAY THE CERTIFIED MINORITY BUSINESS ENTERPRISE SOLELY FOR THE USE OF ITS NAME IN THE BID OR PROPOSAL.~~

~~(2) THE BOARD SHALL IMPOSE ONE OF THE FOLLOWING PENALTIES AGAINST A CONTRACTOR WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION:~~

~~(I) SUSPENSION FROM BIDDING AND WORKING ON STATE CONTRACTS FOR AT LEAST 6 MONTHS; OR~~

~~(H) DEBARMENT FROM BIDDING OR PERFORMING ON STATE CONTRACTS.~~

~~(3) IN DETERMINING THE PENALTY TO BE IMPOSED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD SHALL CONSIDER:~~

~~(I) THE GOOD FAITH OF THE CONTRACTOR; AND~~

~~(H) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE CONTRACTOR.~~

~~(4) (C) THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS SHALL MAKE AVAILABLE A FRAUD HOTLINE TO BE USED BY CERTIFIED MINORITY BUSINESS ENTERPRISES TO REPORT A VIOLATION OF THIS SUBSECTION BY A CONTRACTOR FOR REPORTING VIOLATIONS OF THIS SECTION.~~

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

Approved by the Governor, May 7, 2009.

Chapter 293

(House Bill 389)

AN ACT concerning

**Minority Business Enterprise Program – Prohibitions ~~and Penalties for~~
Contractors**

FOR the purpose of prohibiting certain ~~contractors~~ persons from engaging in certain acts when submitting a bid or proposal or performing a contract under certain circumstances; ~~requiring the Board of Public Works to impose certain penalties against certain contractors; requiring the Board to consider certain factors when determining certain penalties;~~ requiring the Governor's Office of Minority Affairs to make available a certain hotline for ~~the use of certain minority business enterprises to report a certain violation by a contractor~~ reporting certain violations of this Act; and generally relating to prohibitions ~~and penalties for contractors~~ under the Minority Business Enterprise Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–308
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

14–308.

- (a) (1) A person may not:
- (i) fraudulently obtain, hold, or attempt to obtain or hold certification;
 - (ii) aid another person in performing an act prohibited under item (i) of this paragraph;
 - (iii) willfully obstruct, impede, or attempt to obstruct or impede a State official or employee investigating the qualifications of a business entity that has requested certification;
 - (iv) fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public moneys to which the person is not entitled under this subtitle; or
 - (v) in any minority business enterprise matter administered under this subtitle:
 - 1. willfully falsify, conceal, or cover up a material fact by any scheme or device;

2. make a false or fraudulent statement or representation; or

3. use a false writing or document that the person knows to contain a false or fraudulent statement or entry.

(2) EXCEPT AS OTHERWISE PROVIDED BY LAW, A CONTRACTOR MAY NOT IDENTIFY A CERTIFIED MINORITY BUSINESS ENTERPRISE IN A BID OR PROPOSAL AND:

(I) FAIL TO REQUEST, RECEIVE, OR OTHERWISE OBTAIN AUTHORIZATION FROM THE CERTIFIED MINORITY BUSINESS ENTERPRISE TO IDENTIFY THE CERTIFIED MINORITY BUSINESS ENTERPRISE IN ITS BID OR PROPOSAL;

(II) FAIL TO NOTIFY THE CERTIFIED MINORITY BUSINESS ENTERPRISE BEFORE EXECUTION OF THE CONTRACT OF ITS INCLUSION OF THE BID OR PROPOSAL;

(III) FAIL TO USE THE CERTIFIED MINORITY BUSINESS ENTERPRISE IN THE PERFORMANCE OF THE CONTRACT; OR

(IV) PAY THE CERTIFIED MINORITY BUSINESS ENTERPRISE SOLELY FOR THE USE OF ITS NAME IN THE BID OR PROPOSAL.

~~(2)~~ **(3)** A person who violates any provision of this subsection is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

(b) (1) A person may not make a false statement about whether an entity has certification.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 1 year or both.

~~(C) (1) UNLESS A WAIVER HAS BEEN GRANTED OR AN AMENDMENT TO A BID OR PROPOSAL HAS BEEN AUTHORIZED, A CONTRACTOR MAY NOT IDENTIFY A CERTIFIED MINORITY BUSINESS ENTERPRISE IN A BID OR PROPOSAL AND:~~

~~(I) FAIL TO NOTIFY THE CERTIFIED MINORITY BUSINESS ENTERPRISE OF ITS INCLUSION IN THE BID OR PROPOSAL;~~

~~(II) FAIL TO REQUEST A QUOTE FROM THE CERTIFIED MINORITY BUSINESS ENTERPRISE;~~

~~(III) FAIL TO UTILIZE THE CERTIFIED MINORITY BUSINESS ENTERPRISE IN THE PERFORMANCE OF THE CONTRACT; OR~~

~~(IV) PAY THE CERTIFIED MINORITY BUSINESS ENTERPRISE SOLELY FOR THE USE OF ITS NAME IN THE BID OR PROPOSAL.~~

~~(2) THE BOARD SHALL IMPOSE ONE OF THE FOLLOWING PENALTIES AGAINST A CONTRACTOR WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION:~~

~~(I) SUSPENSION FROM BIDDING AND WORKING ON STATE CONTRACTS FOR AT LEAST 6 MONTHS; OR~~

~~(II) DEBARMENT FROM BIDDING OR PERFORMING ON STATE CONTRACTS.~~

~~(3) IN DETERMINING THE PENALTY TO BE IMPOSED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD SHALL CONSIDER:~~

~~(I) THE GOOD FAITH OF THE CONTRACTOR; AND~~

~~(II) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE CONTRACTOR.~~

~~(4) (C) THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS SHALL MAKE AVAILABLE A FRAUD HOTLINE TO BE USED BY CERTIFIED MINORITY BUSINESS ENTERPRISES TO REPORT A VIOLATION OF THIS SUBSECTION BY A CONTRACTOR~~ FOR REPORTING VIOLATIONS OF THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 294

(Senate Bill 625)

AN ACT concerning

Maryland Building Performance Standards – Energy Conservation and Efficiency

FOR the purpose of requiring the Department of Housing and Community Development to adopt the International Energy Conservation Code as part of the Maryland Building Performance Standards; ~~altering the time at which the Department is required to adopt each subsequent version of the Standards;~~ requiring the Department of Housing and Community Development to consider certain changes to the International Building Code before adopting each new version into the Standards; authorizing the Department to adopt certain modifications of the building code as part of the Standards; prohibiting the Department from adopting certain other modifications of the building code as part of the Standards; ~~requiring any version of the Standards adopted after a certain date to include certain additional energy savings in new buildings;~~ prohibiting local jurisdictions from adopting certain local amendments to the Standards; requiring local jurisdictions to implement and enforce a certain version of the Standards ~~by a certain date;~~ requiring certain modifications of the Standards to be implemented and enforced by a local jurisdiction no later than a certain period of time after the modifications are adopted; defining a certain term; and generally relating to energy efficiency requirements under the Maryland Building Performance Standards.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–501, 12–503, 12–504(a), and 12–505(a)(1)
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

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

Article – Public Safety

12–501.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Building” has the meaning stated in the International Building Code.
- (c) “Department” means the Department of Housing and Community Development.
- (d) (1) “International Building Code” means the first printing of the most recent edition of the International Building Code issued by the International Code Council.

(2) "International Building Code" does not include interim amendments or subsequent printings of the most recent edition of the International Building Code.

(e) (1) **"INTERNATIONAL ENERGY CONSERVATION CODE" MEANS THE FIRST PRINTING OF THE MOST RECENT EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE ISSUED BY THE INTERNATIONAL CODE COUNCIL.**

(2) **"INTERNATIONAL ENERGY CONSERVATION CODE" DOES NOT INCLUDE INTERIM AMENDMENTS OR SUBSEQUENT PRINTINGS OF THE MOST RECENT EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE.**

(F) "Local jurisdiction" means the county or municipal corporation that is responsible for implementation and enforcement of the Standards under this subtitle.

[(f)] (G) "Standards" means the Maryland Building Performance Standards.

[(g)] (H) "Structure" has the meaning stated in the International Building Code.

12-503.

(a) (1) The Department shall adopt by regulation, as the Maryland Building Performance Standards, the International Building Code, **INCLUDING THE INTERNATIONAL ENERGY CONSERVATION CODE**, with the modifications incorporated by the Department under subsection (b) of this section.

(2) The Department shall adopt each subsequent version of the Standards within ~~12~~ 9 months after it is issued.

(b) (1) Before adopting each version of the Standards, the Department shall:

(i) review the International Building Code to determine whether modifications should be incorporated in the Standards;

(II) CONSIDER CHANGES TO THE INTERNATIONAL BUILDING CODE TO ENHANCE ENERGY CONSERVATION AND EFFICIENCY;

[(ii)] (III) accept written comments;

[(iii)] (IV) consider any comments received; and

[(iv)] (v) hold a public hearing on each proposed modification.

(2) (I) [The] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,** THE Department may not adopt, as part of the Standards, a modification of a building code requirement that is more stringent than the requirement in the International Building Code.

(II) THE DEPARTMENT MAY ADOPT ENERGY ~~SAVINGS~~ CONSERVATION REQUIREMENTS THAT ARE MORE STRINGENT THAN THE REQUIREMENTS IN THE INTERNATIONAL ENERGY CONSERVATION CODE, BUT MAY NOT ADOPT ENERGY ~~SAVINGS~~ CONSERVATION REQUIREMENTS THAT ARE LESS STRINGENT ~~THAT THAN~~ THE REQUIREMENTS IN THE INTERNATIONAL ENERGY CONSERVATION CODE.

~~(c) (1) ANY VERSION OF THE STANDARDS ADOPTED AFTER DECEMBER 31, 2012, SHALL INCLUDE ENERGY CONSERVATION REQUIREMENTS THAT ACHIEVE ADDITIONAL ENERGY SAVINGS IN NEW BUILDINGS THAT ARE AT LEAST 30% GREATER THAN THE SAVINGS ACHIEVED BY COMPARABLE BUILDINGS MEETING THE REQUIREMENTS OF THE 2006 VERSION OF THE INTERNATIONAL ENERGY CONSERVATION CODE.~~

~~(2) ANY VERSION OF THE STANDARDS ADOPTED AFTER DECEMBER 31, 2018, SHALL INCLUDE ENERGY CONSERVATION REQUIREMENTS THAT ACHIEVE ADDITIONAL ENERGY SAVINGS IN NEW BUILDINGS THAT ARE AT LEAST 50% GREATER THAN THE SAVINGS ACHIEVED BY COMPARABLE BUILDINGS MEETING THE REQUIREMENTS OF THE 2006 VERSION OF THE INTERNATIONAL ENERGY CONSERVATION CODE.~~

~~(c)] (d)~~ The Standards apply to each building or structure in the State for which a building permit application is received by a local jurisdiction on or after August 1, 1995.

12-504.

(a) A local jurisdiction may adopt local amendments to the Standards if the local amendments do not:

(1) prohibit the minimum implementation and enforcement activities set forth in § 12-505 of this subtitle; **OR**

(2) WEAKEN ENERGY CONSERVATION AND EFFICIENCY PROVISIONS CONTAINED IN THE STANDARDS.

12-505.

(a) (1) (I) Each local jurisdiction shall implement and enforce the **MOST CURRENT VERSION OF THE** Standards and any local amendments to the Standards.

(II) **ANY MODIFICATION OF THE STANDARDS ADOPTED BY THE STATE AFTER DECEMBER 31, 2009, SHALL BE IMPLEMENTED AND ENFORCED BY A LOCAL JURISDICTION NO LATER THAN ~~90~~ 120 DAYS 6 MONTHS AFTER THE MODIFICATIONS ARE ADOPTED BY THE STATE.**

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

Approved by the Governor, May 7, 2009.

Chapter 295

(Senate Bill 626)

AN ACT concerning

Corporations – Corporate Documents, *Distributions*, Fractional Shares, and Redemption of Stock

FOR the purpose of repealing a certain requirement that the original or a certified copy of the bylaws of a corporation, including amendments to them, be kept at the corporation's principal office; authorizing a corporation to eliminate fractional shares of stock by rounding up, but not down, to a full share of stock; increasing the amount of the aggregate net asset value of shares that a corporation may redeem from a stockholder under certain circumstances; authorizing a corporation to make distributions from certain net earnings under certain circumstances; authorizing a certain statement of affairs of a corporation to be placed on file, in a certain form, at the corporation's principal office or at any other office or agency specified in the bylaws of the corporation; requiring a written request for certain persons to inspect and copy certain documents of a corporation; requiring a corporation, within a certain time period after a certain request for a certain document is presented to an officer or the resident agent of the corporation, to have the requested document available on file at the corporation's principal office; making certain clarifying and conforming changes; and generally relating to corporate documents, fractional shares, and redemption of stock.

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 2-110, 2-214(a), 2-308, 2-310.1, 2-311(a), 2-313, and 2-512

Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 2–510
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Corporations and Associations

2–110.

(a) The bylaws may contain any provisions not inconsistent with law or the charter of the corporation for the regulation and management of the affairs of the corporation.

(b) The bylaws may divide the directors of the corporation into classes and specify the term of office of each class.

(c) [The original or a certified copy of the bylaws, including any amendments to them, shall be kept at the corporation's principal office.

(d)] (1) In this subsection, “facts ascertainable outside the bylaws” include:

(i) An action or determination by any person, including the corporation, its board of directors, an officer or agent of the corporation, and any other person affiliated with the corporation;

(ii) Any agreement or other document; or

(iii) Any other event.

(2) Any provision of the bylaws permitted under subsection (a) of this section may be made dependent upon facts ascertainable outside the bylaws.

2–214.

(a) A corporation may, but is not obliged to:

(1) Issue fractional shares of stock;

(2) Eliminate a fractional interest by rounding [off] UP to a full share of stock;

- (3) Arrange for the disposition of a fractional interest by the person entitled to it;
- (4) Pay cash for the fair value of a fractional share of stock determined as of the time when the person entitled to receive it is determined; or
- (5) Issue scrip or other evidence of ownership which:
 - (i) Entitles its holder to exchange scrip or other evidence of ownership aggregating a full share for a certificate which represents the share; and
 - (ii) Unless otherwise provided, does not entitle its holder to exercise voting rights, receive dividends, or participate in the assets of the corporation in the event of liquidation.

2-308.

(a) Subject to the limitations of subsection (b) of this section, any surplus which arises from a reduction of stated capital becomes capital surplus and may be made the basis of:

- (1) A distribution or payment to stockholders; and
- (2) A reduction of the liability of stockholders whose shares of stock are not fully paid.

(b) [The] EXCEPT AS PROVIDED IN § 2-311(A)(2) OF THIS SUBTITLE, THE net assets of the corporation which remain after a distribution, payment, or reduction of liability shall be at least equal to the aggregate preferential amount payable in the event of voluntary liquidation to the holders of all stock having rights preferred to the rights of holders who received the distribution, payment, or whose liability was reduced.

2-310.1.

(a) This section applies only to a corporation registered as an open-end company under the Investment Company Act of 1940.

(b) Subject to the provisions of § 2-311 of this subtitle, if authorized by its board of directors, a corporation may redeem shares of its stock from any stockholder if the corporation's charter expressly provides for the redemption of shares of its stock from any stockholder.

(c) **(1)** Subject to the provisions of § 2-311 of this subtitle, unless prohibited by its charter, in the case of a corporation whose charter does not expressly

provide for the redemption of shares of its stock, the corporation may redeem shares of its stock from any stockholder if ~~the following conditions are met:~~

~~(1)~~ **(I)** The aggregate net asset value of the shares to be redeemed from the stockholder is, as of the date of the redemption, ~~[\$500]~~ **\$1,000** or less; and

~~(2)~~ **(II)** Written notice of the redemption ~~is given~~ to the stockholder of record ~~that~~:

~~(i)~~ **1.** Is mailed first-class to the ~~shareholder's~~ **STOCKHOLDER'S** last known address of record;

~~(ii)~~ **2.** States that all of the shares will be redeemed; and

~~(iii)~~ **3.** Establishes a date for the redemption which is at least 45 days from the date of the notice.

~~(3)~~ **(2)** The price to be paid for shares redeemed under this subsection shall be the aggregate net asset value of the shares at the close of business on the date of the redemption.

~~(4)~~ **(3)** If certificates representing the shares to be redeemed under this subsection have been issued and are not surrendered for cancellation on the date of redemption:

(i) The corporation may withhold payment for the redeemed shares until the certificates are surrendered for cancellation; and

(ii) Except for the right to receive payment of the redemption price, the stockholder shall cease to have any rights as a stockholder of the corporation on the date of redemption.

~~(5)~~ **(4)** If the aggregate net asset value of the shares to be redeemed under this subsection should increase to an amount greater than ~~[\$500]~~ **\$1,000** between the date of the notice of redemption and the date of the redemption, then the notice of redemption shall have no further force or effect.

2-311.

(a) (1) No distribution may be made if, after giving effect to the distribution:

[(1)] (I) The corporation would not be able to pay indebtedness of the corporation as the indebtedness becomes due in the usual course of business; or

[(2)] (II) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE corporation's total assets would be less than the sum of the corporation's total liabilities plus, unless the charter permits otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of stockholders whose preferential rights on dissolution are superior to those receiving the distribution.

(2) A CORPORATION MAY MAKE A DISTRIBUTION FROM:

(I) THE NET EARNINGS OF THE CORPORATION FOR THE FISCAL YEAR IN WHICH THE DISTRIBUTION IS MADE;

(II) THE NET EARNINGS OF THE CORPORATION FOR THE PRECEDING FISCAL YEAR; OR

(III) THE SUM OF THE NET EARNINGS OF THE CORPORATION FOR THE PRECEDING EIGHT FISCAL QUARTERS.

2-313.

(a) The president or, if provided in the bylaws, some other executive officer of each corporation shall prepare annually a full and correct statement of the affairs of the corporation, to include a balance sheet and a financial statement of operations for the preceding fiscal year.

(b) Except as provided in subsection (c) of this section, the statement of affairs shall be submitted at the annual meeting of stockholders and, within 20 days after the meeting, placed on file at the corporation's principal office **OR AT ANY OTHER OFFICE OR AGENCY SPECIFIED IN THE BYLAWS OF THE CORPORATION, IN WRITTEN FORM OR IN ANY OTHER FORM THAT MAY BE CONVERTED WITHIN A REASONABLE TIME INTO WRITTEN FORM FOR VISUAL INSPECTION.**

(c) If a corporation is not required to hold an annual meeting of stockholders under a charter or bylaw provision adopted in accordance with § 2-501 of this title, the statement of affairs shall be placed on file at the corporation's principal office **OR AT ANY OTHER OFFICE OR AGENCY SPECIFIED IN THE BYLAWS OF THE CORPORATION,** within 120 days after the end of the fiscal year, **IN WRITTEN FORM OR IN ANY OTHER FORM THAT MAY BE CONVERTED WITHIN A REASONABLE TIME INTO WRITTEN FORM FOR VISUAL INSPECTION.**

2-510.

One or more stockholders of a corporation may confer the right to vote or otherwise represent their stock to a trustee by:

- (1) Entering into a written voting trust agreement which specifies the terms and conditions of the voting trust;
- (2) Depositing an executed copy of the agreement with the corporation at its principal office; and
- (3) Transferring their stock for purposes of the agreement to a trustee.

2-512.

(a) Any stockholder, holder of a voting trust certificate in a corporation, or his agent, **ON WRITTEN REQUEST**, may inspect and copy during usual business hours any of the following corporate documents:

- (1) Bylaws;
- (2) Minutes of the proceedings of the stockholders;
- (3) Annual statements of affairs; and
- (4) Voting trust agreements [on file] **DEPOSITED WITH THE CORPORATION** at the corporation's principal office **IN ACCORDANCE WITH § 2-510(2) OF THIS SUBTITLE**.

(B) WITHIN 7 DAYS AFTER A REQUEST FOR DOCUMENTS MADE UNDER SUBSECTION (A) OF THIS SECTION IS PRESENTED TO AN OFFICER OR THE RESIDENT AGENT OF A CORPORATION, THE CORPORATION SHALL HAVE THE REQUESTED DOCUMENTS AVAILABLE ON FILE AT ITS PRINCIPAL OFFICE.

[(b)] (C) (1) Any stockholder or holder of a voting trust certificate in a corporation other than an open-ended investment company may present to any officer or resident agent of the corporation a written request for a statement showing all stock and securities issued by the corporation during a specified period of not more than 12 months before the date of the request.

(2) Within 20 days after a request is made under this subsection, the corporation shall prepare and have available on file at its principal office a sworn statement of its president or treasurer or one of its vice-presidents or assistant treasurers which states:

- (i) The number of shares or amounts of each class of stock or other securities issued during the specified period;
- (ii) The consideration received per share or unit, which may be aggregated as to all issuances for the same consideration per share or unit; and

(iii) The value of any consideration other than money as set in a resolution of the board of directors.

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

Approved by the Governor, May 7, 2009.

Chapter 296

(House Bill 378)

AN ACT concerning

Corporations – Corporate Documents, *Distributions*, Fractional Shares, and Redemption of Stock

FOR the purpose of repealing a certain requirement that the original or a certified copy of the bylaws of a corporation, including amendments to them, be kept at the corporation's principal office; authorizing a corporation to eliminate fractional shares of stock by rounding up, but not down, to a full share of stock; increasing the amount of the aggregate net asset value of shares that a corporation may redeem from a stockholder under certain circumstances; *authorizing a corporation to make distributions from certain net earnings under certain circumstances*; authorizing a certain statement of affairs of a corporation to be placed on file, in a certain form, at the corporation's principal office or at any other office or agency specified in the bylaws of the corporation; requiring a written request for certain persons to inspect and copy certain documents of a corporation; requiring a corporation, within a certain time period after a certain request for a certain document is presented to an officer or the resident agent of the corporation, to have the requested document available on file at the corporation's principal office; making certain clarifying and conforming changes; and generally relating to corporate documents, fractional shares, and redemption of stock.

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 2-110, 2-214(a), ~~2-308~~, 2-310.1, ~~2-311(a)~~, 2-313, and 2-512

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Corporations and Associations

Section 2-510

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Corporations and Associations

2–110.

(a) The bylaws may contain any provisions not inconsistent with law or the charter of the corporation for the regulation and management of the affairs of the corporation.

(b) The bylaws may divide the directors of the corporation into classes and specify the term of office of each class.

(c) [The original or a certified copy of the bylaws, including any amendments to them, shall be kept at the corporation's principal office.

(d)] (1) In this subsection, "facts ascertainable outside the bylaws" include:

(i) An action or determination by any person, including the corporation, its board of directors, an officer or agent of the corporation, and any other person affiliated with the corporation;

(ii) Any agreement or other document; or

(iii) Any other event.

(2) Any provision of the bylaws permitted under subsection (a) of this section may be made dependent upon facts ascertainable outside the bylaws.

2–214.

(a) A corporation may, but is not obliged to:

(1) Issue fractional shares of stock;

(2) Eliminate a fractional interest by rounding [off] UP to a full share of stock;

(3) Arrange for the disposition of a fractional interest by the person entitled to it;

(4) Pay cash for the fair value of a fractional share of stock determined as of the time when the person entitled to receive it is determined; or

(5) Issue scrip or other evidence of ownership which:

(i) Entitles its holder to exchange scrip or other evidence of ownership aggregating a full share for a certificate which represents the share; and

(ii) Unless otherwise provided, does not entitle its holder to exercise voting rights, receive dividends, or participate in the assets of the corporation in the event of liquidation.

2-308.

(a) Subject to the limitations of subsection (b) of this section, any surplus which arises from a reduction of stated capital becomes capital surplus and may be made the basis of:

(1) A distribution or payment to stockholders; and

(2) A reduction of the liability of stockholders whose shares of stock are not fully paid.

(b) [The] EXCEPT AS PROVIDED IN § 2-311(A)(2) OF THIS SUBTITLE, THE net assets of the corporation which remain after a distribution, payment, or reduction of liability shall be at least equal to the aggregate preferential amount payable in the event of voluntary liquidation to the holders of all stock having rights preferred to the rights of holders who received the distribution, payment, or whose liability was reduced.

2-310.1.

(a) This section applies only to a corporation registered as an open-end company under the Investment Company Act of 1940.

(b) Subject to the provisions of § 2-311 of this subtitle, if authorized by its board of directors, a corporation may redeem shares of its stock from any stockholder if the corporation's charter expressly provides for the redemption of shares of its stock from any stockholder.

(c) **(1)** Subject to the provisions of § 2-311 of this subtitle, unless prohibited by its charter, in the case of a corporation whose charter does not expressly provide for the redemption of shares of its stock, the corporation may redeem shares of its stock from any stockholder if ~~the following conditions are met:~~

~~(1)~~ **(I)** The aggregate net asset value of the shares to be redeemed from the stockholder is, as of the date of the redemption, ~~[\$500]~~ **\$1,000** or less; and

~~(2)~~ **(II)** Written notice of the redemption ~~is given~~ to the stockholder of record ~~that~~:

~~(i)~~ **1.** Is mailed first-class to the ~~shareholder's~~ **STOCKHOLDER'S** last known address of record;

~~(ii)~~ **2.** States that all of the shares will be redeemed; and

~~(iii)~~ **3.** Establishes a date for the redemption which is at least 45 days from the date of the notice.

~~(3)~~ **(2)** The price to be paid for shares redeemed under this subsection shall be the aggregate net asset value of the shares at the close of business on the date of the redemption.

~~(4)~~ **(3)** If certificates representing the shares to be redeemed under this subsection have been issued and are not surrendered for cancellation on the date of redemption:

(i) The corporation may withhold payment for the redeemed shares until the certificates are surrendered for cancellation; and

(ii) Except for the right to receive payment of the redemption price, the stockholder shall cease to have any rights as a stockholder of the corporation on the date of redemption.

~~(5)~~ **(4)** If the aggregate net asset value of the shares to be redeemed under this subsection should increase to an amount greater than ~~[\$500]~~ **\$1,000** between the date of the notice of redemption and the date of the redemption, then the notice of redemption shall have no further force or effect.

2-311.

(a) (1) No distribution may be made if, after giving effect to the distribution:

[(1)] (I) The corporation would not be able to pay indebtedness of the corporation as the indebtedness becomes due in the usual course of business; or

[(2)] (II) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE corporation's total assets would be less than the sum of the corporation's total liabilities plus, unless the charter permits otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of stockholders whose preferential rights on dissolution are superior to those receiving the distribution.

(2) A CORPORATION MAY MAKE A DISTRIBUTION FROM:

(I) THE NET EARNINGS OF THE CORPORATION FOR THE FISCAL YEAR IN WHICH THE DISTRIBUTION IS MADE;

(II) THE NET EARNINGS OF THE CORPORATION FOR THE PRECEDING FISCAL YEAR; OR

(III) THE SUM OF THE NET EARNINGS OF THE CORPORATION FOR THE PRECEDING EIGHT FISCAL QUARTERS.

2-313.

(a) The president or, if provided in the bylaws, some other executive officer of each corporation shall prepare annually a full and correct statement of the affairs of the corporation, to include a balance sheet and a financial statement of operations for the preceding fiscal year.

(b) Except as provided in subsection (c) of this section, the statement of affairs shall be submitted at the annual meeting of stockholders and, within 20 days after the meeting, placed on file at the corporation's principal office **OR AT ANY OTHER OFFICE OR AGENCY SPECIFIED IN THE BYLAWS OF THE CORPORATION, IN WRITTEN FORM OR IN ANY OTHER FORM THAT MAY BE CONVERTED WITHIN A REASONABLE TIME INTO WRITTEN FORM FOR VISUAL INSPECTION.**

(c) If a corporation is not required to hold an annual meeting of stockholders under a charter or bylaw provision adopted in accordance with § 2-501 of this title, the statement of affairs shall be placed on file at the corporation's principal office **OR AT ANY OTHER OFFICE OR AGENCY SPECIFIED IN THE BYLAWS OF THE CORPORATION,** within 120 days after the end of the fiscal year, **IN WRITTEN FORM OR IN ANY OTHER FORM THAT MAY BE CONVERTED WITHIN A REASONABLE TIME INTO WRITTEN FORM FOR VISUAL INSPECTION.**

2-510.

One or more stockholders of a corporation may confer the right to vote or otherwise represent their stock to a trustee by:

(1) Entering into a written voting trust agreement which specifies the terms and conditions of the voting trust;

(2) Depositing an executed copy of the agreement with the corporation at its principal office; and

(3) Transferring their stock for purposes of the agreement to a trustee.

2-512.

(a) Any stockholder, holder of a voting trust certificate in a corporation, or his agent, **ON WRITTEN REQUEST**, may inspect and copy during usual business hours any of the following corporate documents:

- (1) Bylaws;
- (2) Minutes of the proceedings of the stockholders;
- (3) Annual statements of affairs; and

(4) Voting trust agreements [on file] **DEPOSITED WITH THE CORPORATION** at the corporation's principal office **IN ACCORDANCE WITH § 2-510(2) OF THIS SUBTITLE**.

(B) WITHIN 7 DAYS AFTER A REQUEST FOR DOCUMENTS MADE UNDER SUBSECTION (A) OF THIS SECTION IS PRESENTED TO AN OFFICER OR THE RESIDENT AGENT OF A CORPORATION, THE CORPORATION SHALL HAVE THE REQUESTED DOCUMENTS AVAILABLE ON FILE AT ITS PRINCIPAL OFFICE.

[(b)] (C) (1) Any stockholder or holder of a voting trust certificate in a corporation other than an open-ended investment company may present to any officer or resident agent of the corporation a written request for a statement showing all stock and securities issued by the corporation during a specified period of not more than 12 months before the date of the request.

(2) Within 20 days after a request is made under this subsection, the corporation shall prepare and have available on file at its principal office a sworn statement of its president or treasurer or one of its vice-presidents or assistant treasurers which states:

(i) The number of shares or amounts of each class of stock or other securities issued during the specified period;

(ii) The consideration received per share or unit, which may be aggregated as to all issuances for the same consideration per share or unit; and

(iii) The value of any consideration other than money as set in a resolution of the board of directors.

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

Approved by the Governor, May 7, 2009.

Chapter 297**(Senate Bill 644)**

AN ACT concerning

Property Tax Credit – Marine Trade Waterfront Property

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant, by law, a tax credit against the county or municipal corporation property tax imposed on certain waterfront property used primarily in certain activities or businesses; authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit and certain other provisions to carry out the credit; defining a certain term; providing for the application of this Act; and generally relating to a local property tax credit for marine trade waterfront property.

BY adding to

Article – Tax – Property

Section 9–251

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

Article – Tax – Property**9–251.****(A) IN THIS SECTION:**

(1) “MARINE TRADE WATERFRONT PROPERTY” MEANS REAL PROPERTY THAT:

(I) IS ADJACENT TO THE TIDAL WATERS OF THE STATE;

(II) IS USED PRIMARILY FOR AN ACTIVITY OR BUSINESS THAT REQUIRES DIRECT ACCESS TO, OR LOCATION IN, MARINE WATERS DUE TO THE NATURE OF THE ACTIVITY OR BUSINESS; AND

(III) FOR THE MOST RECENT 3–YEAR PERIOD, HAS PRODUCED AN AVERAGE ANNUAL GROSS INCOME OF AT LEAST \$1,000; AND

(2) **“MARINE TRADE WATERFRONT PROPERTY” INCLUDES:**

(I) **MARINAS, BOAT RAMPS, BOAT HAULING AND REPAIR FACILITIES, ~~RECREATIONAL FACILITIES~~, FISHING FACILITIES, AND ANY OTHER BOATING FACILITIES; AND**

(II) **LAND THAT IS ADJACENT TO OR UNDER IMPROVEMENTS USED PRIMARILY FOR AN ACTIVITY OR BUSINESS THAT REQUIRES ACCESS TO, OR LOCATION IN, MARINE WATERS DUE TO THE NATURE OF THE ACTIVITY OR BUSINESS.**

(B) **THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON MARINE TRADE WATERFRONT PROPERTY.**

(C) **THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:**

(1) **THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SECTION;**

(2) **ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION;**

(3) **REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND**

(4) **ANY OTHER PROVISION NECESSARY TO CARRY OUT THE CREDIT UNDER THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

Approved by the Governor, May 7, 2009.

AN ACT concerning

Natural Resources – No Net Loss of Forest Policy – Forest Conservation Act

FOR the purpose of ~~reducing the threshold acreage of land in a proposed subdivision plan above which the Forest Conservation Act applies;~~ reducing the threshold acreage of forest cut, cleared, or graded above which certain activities no longer qualify as exemptions to the Forest Conservation Act; ~~repealing certain exemptions from the requirements of the Forest Conservation Act for cutting or clearing trees in a public utility right-of-way;~~ limiting a certain exemption from the requirements of the Forest Conservation Act for intrafamily transfers; repealing the authority of a local jurisdiction to waive the requirements of the Forest Conservation Act for certain previously developed and paved areas; ~~requiring the Public Service Commission to ensure compliance with certain requirements when reviewing an application for a certificate of public convenience and necessity;~~ authorizing the acquisition of an off-site protective easement for temporarily protected forested areas as a mitigation technique to meet afforestation or reforestation requirements; altering the standard that a person is required to meet to determine whether certain vegetation and areas of land may be disturbed; authorizing the owner of certain preserved forestland to place the forestland into the Forest Conservation and Management Program or under an approved forest management plan; altering the fee-in-lieu contribution to State or local forest conservation funds that is required under certain circumstances; altering the authorized uses of State and local forest conservation funds; ~~requiring the Department of Natural Resources to develop and implement a no net loss of forest policy by a certain date, to adopt certain regulations and propose certain legislation to achieve this goal, and to achieve this goal without reducing the acreage of a certain land use in the State;~~ requiring the Department of Natural Resources to submit a report to the General Assembly annually after a certain date on its progress in developing and implementing a no net loss of forest policy in the State requiring the Department of Natural Resources to cooperate with certain groups to develop a certain definition and policy; requiring the Department to submit a certain report on or before a certain date; ~~declaring the intent of the General Assembly;~~ making certain stylistic changes; making a technical correction; and generally relating to the Forest Conservation Act and the development and implementation of a no net loss of forest policy.

BY adding to

Article – Natural Resources

Section 5-104

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 5-1602, ~~5-1603(e)(3)~~ 5-1603(c)(3), ~~(f)~~, and ~~(g)~~, ~~5-1604(a)~~, 5-1607(b)(2),
 (c), and (f), and 5-1610
 Annotated Code of Maryland
 (2005 Replacement Volume and 2008 Supplement)

~~BY repealing~~

~~Article – Natural Resources
 Section 5-1603(f)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, without amendments,

Article – Natural Resources
 Section ~~5-1603(f)~~ and ~~(g)~~, ~~5-1604(a)~~, 5-1607(e), and 5-1611
 Annotated Code of Maryland
 (2005 Replacement Volume and 2008 Supplement)

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

Article - Natural Resources

5-104.

~~(A) THE DEPARTMENT SHALL:~~

~~(1) DEVELOP AND IMPLEMENT A NO NET LOSS OF FOREST POLICY BY DECEMBER 31, 2012;~~

~~(2) ADOPT ANY REGULATIONS AND PROPOSE ANY LEGISLATION NECESSARY TO ACHIEVE THIS GOAL; AND~~

~~(3) ACHIEVE THIS GOAL WITHOUT REDUCING THE ACREAGE OF PRIME PRODUCTIVE AGRICULTURAL LAND IN THE STATE.~~

~~(B) ON OR BEFORE DECEMBER 1, 2011 AND EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE PROGRESS OF THE DEPARTMENT IN DEVELOPING AND IMPLEMENTING A POLICY OF NO NET LOSS OF FOREST IN THE STATE.~~

(A) THE DEPARTMENT SHALL COOPERATE WITH FORESTRY-RELATED STAKEHOLDER GROUPS TO:

(1) DETERMINE THE MEANING OF NO NET LOSS OF ~~FORESTS~~ FOREST FOR THE PURPOSES OF ANY STATE POLICY; AND

(2) DEVELOP PROPOSALS FOR THE CREATION OF A POLICY OF NO NET LOSS OF FOREST IN THE STATE.

(B) ON OR BEFORE DECEMBER 1, 2011, THE DEPARTMENT, IN CONSULTATION WITH THE FORESTRY-RELATED STAKEHOLDER GROUPS, SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON PROPOSALS FOR THE DEVELOPMENT OF STATUTORY, BUDGETARY, AND REGULATORY POLICIES TO ACHIEVE NO NET LOSS OF ~~FORESTS~~ FOREST IN THE STATE.

5-1602.

(a) Except as provided in subsection (b) of this section, this subtitle shall apply to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State or local government on areas ~~40,000~~ ~~20,000~~ square feet or greater.

(b) The provisions of this subtitle do not apply to:

(1) Any construction activity that is subject to § 5-103 of this title;

(2) Any cutting or clearing of forest in areas governed by the Chesapeake Bay Critical Area Protection Law (Title 8, Subtitle 18 of this article);

(3) Commercial logging and timber harvesting operations, including any harvesting conducted under the forest conservation and management program under § 8-211 of the Tax – Property Article:

(i) That were completed before July 1, 1991; or

(ii) That were completed on or after July 1, 1991 on property that is not the subject of an application for a grading permit for development within 5 years after the logging or harvesting operation. However, after this 5-year period, the property shall be subject to this subtitle;

(4) Any agricultural activity that does not result in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices;

(5) ~~¶~~The cutting or clearing of public utility rights-of-way or land for electric generating stations licensed pursuant to § 7-204, § 7-205, § 7-207, or § 7-208 of the Public Utility Companies Article, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5-1603(f) of this subtitle; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

(6) Any routine maintenance of public utility rights-of-way;

(7)~~¶~~ Any activity conducted on a single lot of any size or a linear project provided that:

(i) The activity does not result in the cutting, clearing, or grading of more than [40,000] **20,000** square feet of forest; and

(ii) The activity on the lot or linear project will not result in the cutting, clearing, or grading of any forest that is subject to the requirements of a previous forest conservation plan prepared under this subtitle;

~~¶(8) (6)~~ Any strip or deep mining of coal regulated under Title 15, Subtitle 5 or 6 of the Environment Article and any noncoal surface mining regulated under Title 15, Subtitle 8 of the Environment Article;

~~¶(9) (7)~~ Any activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child [or grandchild] of the owner, if the activity does not result in the cutting, clearing, or grading of more than [40,000] **20,000** square feet of forest;

~~¶(10) (8)~~ A county that has and maintains 200,000 acres or more of its land area in forest cover; and

~~¶(11) (9)~~ The cutting or clearing of trees to comply with the requirements of 14 C.F.R. § 77.25 relating to objects affecting navigable airspace, provided that the Federal Aviation Administration has determined that the trees are a hazard to aviation.

(c) For an application for subdivision or sediment and erosion control or grading for a site with more than 50% of the net tract area governed by Title 8, Subtitle 18 of this article, the Department or local authority may allow an applicant to extend critical area forest protection measures [in lieu] **INSTEAD** of meeting the requirements of this subtitle.

(c) (3) (i) A local authority shall review and amend, as appropriate, all current local ordinances, policies and procedures that are inconsistent with the intent and requirements of this subtitle such as parking, road width, setback, curb and gutter, grading, and sidewalk requirements.

(ii) A local forest conservation program, when approved by the Department, may[:

1. Allow] **ALLOW** clustering and other innovative land use techniques that protect and establish forests where open space is preserved, sensitive areas are protected, and development is physically concentrated[; and

2. Waive the requirements of this subtitle for an area that was previously developed and is covered by paved surface at the time of application for subdivision plan, grading, or sediment control permit approval].

~~[(f)~~ After December 31, 1992, the Public Service Commission shall give due consideration to the need to minimize the loss of forest and the provisions for afforestation and reforestation set forth in this subtitle together with all applicable electrical safety codes, when reviewing applications for a certificate of public convenience and necessity issued pursuant to § 7-204, § 7-205, § 7-207, or § 7-208 of the Public Utility Companies Article.]

~~[(g)]~~ ~~(F)~~ A local authority or the Department in its administration of a State forest conservation program in jurisdictions which do not have an approved local program in effect may establish reasonable and appropriate procedures for the recovery of all costs incurred in the development, implementation, administration, and enforcement of the local forest conservation program or the State forest conservation program for jurisdictions without an approved forest conservation program.

5-1604.

(a) Except as provided in subsection (b)(2) and (3) of this section, after December 31, 1992, or after the date on which a local program has been adopted under § 5-1603 of this subtitle, whichever occurs first, a person making application for subdivision or grading or sediment control permits on areas ~~[greater than 40,000]~~ **20,000** square feet ~~OR GREATER~~ shall submit a forest stand delineation for the entire site prepared by a licensed forester, licensed landscape architect, or other qualified professionals that may be approved by the State or a local authority in the manner required by the approved program.

5-1607.

(b) Standards for meeting afforestation or reforestation requirements shall be established by the State or local program using one or more of the following methods:

(2) The use of street trees in a municipal corporation with a tree management plan, in an existing population center designated in a county master plan that has been adopted to conform with the Economic Growth, Resource Protection, and Planning Act of 1992, or in any other designated area approved by the Department as part of a local program, under criteria established by the local program, subject to the approval of the Department, using:

(i) Street trees as a permissible step in the priority sequence for afforestation or reforestation and, based on a mature canopy coverage, may grant full credit as a mitigation technique; and

(ii) Acquisition as a mitigation technique of an off-site protective easement for existing forested areas not currently protected **IN PERPETUITY**, in which case the afforestation or reforestation credit granted may not exceed 50% of the area of forest cover protected.

(c) **(1) ~~TREES, SHRUBS, AND PLANTS LOCATED IN SENSITIVE AREAS INCLUDING 100-YEAR FLOODPLAINS, INTERMITTENT AND PERENNIAL STREAMS AND THEIR BUFFERS, COASTAL BAYS AND THEIR BUFFERS, STEEP SLOPES, AND CRITICAL HABITATS SHALL BE:~~**

(1) ~~CONSIDERED THE FOLLOWING TREES, SHRUBS, PLANTS, AND SPECIFIC AREAS SHALL BE CONSIDERED PRIORITY FOR RETENTION AND PROTECTION;~~

(1) ~~LEFT, AND THEY SHALL BE LEFT IN AN UNDISTURBED CONDITION UNLESS THE APPLICANT HAS DEMONSTRATED, TO THE SATISFACTION OF THE STATE OR LOCAL AUTHORITY, THAT REASONABLE EFFORTS HAVE BEEN MADE TO PROTECT THEM AND THE PLAN CANNOT REASONABLY BE ALTERED:~~

(1) ~~TREES, SHRUBS, AND PLANTS LOCATED IN SENSITIVE AREAS INCLUDING 100-YEAR FLOODPLAINS, INTERMITTENT AND PERENNIAL STREAMS AND THEIR BUFFERS, COASTAL BAYS AND THEIR BUFFERS, STEEP SLOPES, AND CRITICAL HABITATS; AND~~

(II) ~~CONTIGUOUS FOREST THAT CONNECTS THE LARGEST UNDEVELOPED OR MOST VEGETATED TRACTS OF LAND WITHIN AND ADJACENT TO THE SITE.~~

(2) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that [reasonable efforts have been made to protect them and the plan cannot reasonably be altered] **THE APPLICANT QUALIFIES FOR A VARIANCE UNDER § 5-1611 OF THIS SUBTITLE:**

~~(1) Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, intermittent and perennial streams and their buffers, coastal bays and their buffers, steep slopes, and critical habitats;~~

~~(2) (I) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;~~

(3) ~~(II)~~ Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;

(4) ~~(III)~~ (II) Trees that are part of a historic site or associated with a historic structure or designated by the Department or local authority as a national, State, or local Champion Tree; and

(5) ~~(IV)~~ (III) Trees having a diameter measured at 4.5 feet above the ground of:

~~(i)~~ 1. 30 inches; or

~~(ii)~~ 2. 75% of the diameter, measured at 4.5 feet above the ground, of the current State Champion Tree of that species as designated by the Department.

(e) (1) As part of the development of a forest conservation program, the State or local government shall develop provisions for:

(i) Preservation of areas described in subsections (c) and (d)(1) and (3) of this section;

(ii) Retention as forest of all land forested, afforested, or reforested under this subtitle; and

(iii) Limitation of uses of forest to those that are not inconsistent with forest conservation, such as recreational activities and forest management under subsection (f) of this section.

(2) The provisions required in paragraph (1) of this subsection may include protective agreements for areas of forest conservation, including conservation easements, deed restrictions, and covenants.

(f) [Except for land that is preserved under subsection (e) of this section, an] **AN** owner may place land that is forested, afforested, or reforested under this subtitle in the forest conservation and management program under § 8–211 et seq. of the Tax – Property Article or in a forest management plan prepared by a licensed forester and approved by the local authority or the State. Reforestation shall be required when the final regeneration harvest is complete or if determined to be necessary due to the lack of adequate natural regeneration.

5–1610.

(a) In this section, “Fund” means the Forest Conservation Fund.

(b) There is a Forest Conservation Fund in the Department.

(c) Except as provided in subsection (h) of this section, if any person subject to this subtitle demonstrates to the satisfaction of the appropriate State or local authority that the requirements for reforestation or afforestation on–site or off–site cannot be reasonably accomplished, the person shall contribute money [at a rate of 10 cents per square foot of the area of required planting] to the Fund:

(1) UNTIL SEPTEMBER 30, 2014, AT A RATE OF 30 CENTS PER SQUARE FOOT OF THE AREA OF REQUIRED PLANTING; AND

(2) AFTER SEPTEMBER 30, 2014, AT A RATE ADJUSTED FOR INFLATION AS DETERMINED BY THE DEPARTMENT ANNUALLY BY REGULATION.

(d) Money collected by the State or a local authority under § 5–1608(c) or § 5–1612 of this subtitle for noncompliance with this subtitle or regulations adopted under this subtitle or for noncompliance with a forest conservation plan or the associated 2–year management agreement shall be deposited in the Fund.

(e) (1) The Department shall accomplish the reforestation or afforestation for which the money is deposited within 2 years or 3 growing seasons, as appropriate, after receipt of the money.

(2) Money deposited in the Fund under subsection (c) of this section shall remain in the Fund for a period of 2 years or 3 growing seasons, and at the end of that time period, any portion that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

(f) (1) (i) Money deposited in the Fund under subsection (c) of this section may only be spent on reforestation and afforestation, including site identification, acquisition, and preparation, **MAINTENANCE OF EXISTING FORESTS, AND ACHIEVING URBAN CANOPY GOALS**, and may not revert to the General Fund of the State.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation or afforestation requirement under this subsection shall occur in the county and watershed in which the project is located.

(ii) If the reforestation or afforestation cannot be reasonably accomplished in the county and watershed in which the project is located, then the reforestation or afforestation shall occur in the county or watershed in the State in which the project is located.

(iii) If the reforestation or afforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then the reforestation or afforestation shall be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank in accordance with regulations of the Department. The Reforestation Fund may not be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

(g) Money deposited in the Fund under subsection (d) of this section may be used by the Department for the purpose of implementing this subtitle.

(h) (1) In lieu of a State Forest Conservation Fund, any local authority with an approved forest conservation program may establish a forest conservation fund, to be administered by the local authority, to allow a payment by any person who has demonstrated to the satisfaction of the local authority that the requirements for reforestation and afforestation on-site and off-site cannot be reasonably accomplished.

(2) The rate shall be [10 cents per square foot of the area required to be replanted] **THE SAME AS THE RATE ESTABLISHED FOR THE STATE FOREST CONSERVATION FUND UNDER SUBSECTION (C) OF THIS SECTION.**

(i) Money deposited in the local forest conservation fund under subsection (h) of this section shall remain in the fund for a period of 2 years or 3 growing seasons. At the end of that time period, any portion that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

(j) (1) Money deposited in the local forest conservation fund under subsection (h) of this section may only be spent on reforestation and afforestation, including the costs directly related to site identification, acquisition, prepurchase, and preparation, **MAINTENANCE OF EXISTING FORESTS, AND ACHIEVING URBAN CANOPY GOALS**, and may not revert to any other local general fund.

(2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation or afforestation requirement under this subsection shall occur in the county and watershed in which the project is located.

(ii) If the reforestation or afforestation cannot be reasonably accomplished in the county and watershed in which the project is located, then the reforestation or afforestation shall occur in the county or watershed in the State in which the project is located.

(iii) If the reforestation or afforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then the reforestation or afforestation shall be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank in accordance with regulations of the local forest conservation program. The Reforestation Fund may not be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

(k) Money collected by the local authority under § 5-1608(c) of this subtitle for noncompliance with this subtitle or regulations or ordinances adopted under this subtitle for noncompliance with a forest conservation plan or the associated 2-year management agreement shall be deposited in the local fund. The rate shall be 30 cents per square foot of the area found to be in noncompliance with the required forest conservation.

(l) Money deposited in a local forest conservation fund under subsection (k) of this section may be used by the local authority for purposes related to implementing this subtitle.

5-1611.

(a) In the preparation of the State or local forest conservation programs, the State and local authorities shall provide for the granting of variances to the requirements of this subtitle, where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to an applicant.

(b) Variance procedures adopted under this section shall:

- (1) Be designed in a manner consistent with the spirit and intent of this subtitle; and
- (2) Assure that the granting of a variance will not adversely affect water quality.

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Public Service Commission allow a public utility company to recover the actual costs incurred in complying with the Forest Conservation Act.~~

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

Approved by the Governor, May 7, 2009.

Chapter 299

(Senate Bill 670)

AN ACT concerning

Discrimination in Employment – Expansion of Disability Rights

FOR the purpose of altering the definition of disability applicable to certain provisions of law prohibiting discrimination in employment; prohibiting an employer from failing or refusing to make certain reasonable accommodations for certain disabilities of certain employees; providing that an employer is not required to reasonably accommodate an employee's disability if the accommodation would cause certain undue hardship; prohibiting an employer or labor union from retaliating against a certain individual because the individual has taken certain action; and generally relating to discrimination in employment.

BY repealing and reenacting, with amendments,

Article – State Government

Section 20–601(b), 20–603, and 20–606

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of 2009)

BY repealing and reenacting, without amendments,

Article – State Government

Section 20–601(c), (d), (e), and (h)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 120 (H.B. 51) 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 Government

20–601.

(b) (1) “Disability” means:

(i) 1. a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy; or

[~~(ii)~~] 2. a mental impairment or deficiency;

~~(II) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH AS OTHERWISE DEFINED UNDER THIS SUBSECTION; OR~~

~~(III) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH AS OTHERWISE DEFINED UNDER THIS SUBSECTION.~~

(2) “Disability” includes:

(i) 1. any degree of paralysis, amputation, or lack of physical coordination;

2. blindness or visual impairment;

3. deafness or hearing impairment;

4. muteness or speech impediment; and

5. physical reliance on a service animal, wheelchair, or other remedial appliance or device; and

(ii) retardation and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.

(c) (1) “Employee” means an individual employed by an employer.

(2) Unless the individual is subject to the State or local civil service laws, "employee" does not include:

- (i) an individual elected to public office;
- (ii) an individual chosen by an elected officer to be on the officer's personal staff;
- (iii) an appointee on the policy making level; or
- (iv) an immediate adviser with respect to the exercise of the constitutional or legal powers of an elected office.

(d) (1) "Employer" means:

- (i) a person that:
 - 1. is engaged in an industry or business; and
 - 2. has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; and
- (ii) an agent of a person described in item (i) of this paragraph.

(2) "Employer" includes the State to the extent provided in this title.

(3) Except for a labor organization, "employer" does not include a bona fide private membership club that is exempt from taxation under § 501(c) of the Internal Revenue Code.

(e) (1) "Employment agency" means:

(i) a person that regularly undertakes with or without compensation to procure:

- 1. employees for an employer; or
- 2. opportunities for employees to work for an employer;

and

(ii) an agent of a person described in item (i) of this paragraph.

(2) Except for the United States Employment Service and the system of State and local employment services receiving federal assistance, "employment agency" does not include a unit of the United States, the State, or a political subdivision of the State.

(h) (1) “Labor organization” means:

- (i) a labor organization engaged in an industry; and
- (ii) an agent of an organization described in item (i) of this paragraph.

(2) “Labor organization” includes:

- (i) an organization of any kind, an agency, or an employee representation committee, group, association, or plan:
 - 1. in which employees participate; and
 - 2. that exists, wholly or partly, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment; and
- (ii) a conference, general committee, joint or system board, or joint council that is subordinate to a national or international labor organization.

20–603.

This subtitle does not require:

(1) an employer, employment agency, labor organization, or joint labor–management committee subject to this subtitle to grant preferential treatment to any individual or group on the basis of the race, color, religion, sex, age, national origin, sexual orientation, or disability of the individual or group because an imbalance may exist with respect to the total number or percentage of individuals of any race, color, religion, sex, age, national origin, or sexual orientation or individuals with disabilities employed by the employer, referred or classified for employment by the employment agency or labor organization, admitted to membership or classified by the labor organization, or admitted to, or employed in, any apprenticeship or other training program, compared to the total number or percentage of individuals of that race, color, religion, sex, age, national origin, or sexual orientation or individuals with disabilities in the State or any community, section, or other area, or in the available work force in the State or any community, section, or other area; or

(2) an employer to reasonably accommodate an employee’s religion **OR DISABILITY** if the accommodation would cause undue hardship on the conduct of the employer’s business.

20–606.

(a) An employer may not:

(1) fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment because of:

(i) the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(ii) the individual's refusal to submit to a genetic test or make available the results of a genetic test;

(2) limit, segregate, or classify its employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of:

(i) the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(ii) the individual's refusal to submit to a genetic test or make available the results of a genetic test; [or]

(3) request or require genetic tests or genetic information as a condition of hiring or determining benefits; **OR**

(4) FAIL OR REFUSE TO MAKE A REASONABLE ACCOMMODATION FOR THE KNOWN DISABILITY OF AN OTHERWISE QUALIFIED EMPLOYEE.

(b) An employment agency may not:

(1) fail or refuse to refer for employment or otherwise discriminate against any individual because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(2) classify or refer for employment any individual on the basis of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment.

(c) A labor organization may not:

(1) exclude or expel from its membership, or otherwise discriminate against, any individual because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment;

(2) limit, segregate, or classify its membership, or classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive the individual of employment opportunities, limit the individual's employment opportunities, or otherwise adversely affect the individual's status as an employee or as an applicant for employment because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(3) cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) An employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, may not discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment.

(e) (1) Except as provided in paragraph (2) of this subsection, an employer, labor organization, or employment agency may not print or cause to be printed or published any notice or advertisement relating to employment by the employer, membership in or any classification or referral for employment by the labor organization, or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, age, national origin, sexual orientation, or disability.

(2) A notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, national origin, or disability if religion, sex, age, national origin, or disability is a bona fide occupational qualification for employment.

(f) An employer may not discriminate **OR RETALIATE** against any of its employees or applicants for employment, an employment agency may not discriminate against any individual, and a labor organization may not discriminate **OR RETALIATE** against any member or applicant for membership because the individual has:

(1) opposed any practice prohibited by this subtitle; or

(2) made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subtitle.

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

Approved by the Governor, May 7, 2009.

Chapter 300

(House Bill 393)

AN ACT concerning

Discrimination in Employment – Expansion of Disability Rights

FOR the purpose of altering the definition of disability applicable to certain provisions of law prohibiting discrimination in employment; prohibiting an employer from failing or refusing to make certain reasonable accommodations for certain disabilities of certain employees; providing that an employer is not required to reasonably accommodate an employee's disability if the accommodation would cause certain undue hardship; prohibiting an employer or labor union from retaliating against a certain individual because the individual has taken certain action; and generally relating to discrimination in employment.

BY repealing and reenacting, with amendments,

Article – State Government

Section 20–601(b), 20–603, and 20–606

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of 2009)

BY repealing and reenacting, without amendments,

Article – State Government

Section 20–601(c), (d), (e), and (h)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 120 (H.B. 51) 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 Government

20–601.

(b) (1) “Disability” means:

(i) 1. a physical disability, infirmity, malformation, or disfigurement that is caused by bodily injury, birth defect, or illness, including epilepsy; or

[(ii)] 2. a mental impairment or deficiency;

(II) A RECORD OF HAVING A PHYSICAL OR MENTAL IMPAIRMENT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH AS OTHERWISE DEFINED UNDER THIS SUBSECTION; OR

(III) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT DESCRIBED IN ITEM (I) OF THIS PARAGRAPH AS OTHERWISE DEFINED UNDER THIS SUBSECTION.

(2) "Disability" includes:

(i) 1. any degree of paralysis, amputation, or lack of physical coordination;

2. blindness or visual impairment;

3. deafness or hearing impairment;

4. muteness or speech impediment; and

5. physical reliance on a service animal, wheelchair, or other remedial appliance or device; and

(ii) retardation and any other mental impairment or deficiency that may have necessitated remedial or special education and related services.

(c) (1) "Employee" means an individual employed by an employer.

(2) Unless the individual is subject to the State or local civil service laws, "employee" does not include:

(i) an individual elected to public office;

(ii) an individual chosen by an elected officer to be on the officer's personal staff;

(iii) an appointee on the policy making level; or

(iv) an immediate adviser with respect to the exercise of the constitutional or legal powers of an elected office.

- (d) (1) "Employer" means:
- (i) a person that:
 - 1. is engaged in an industry or business; and
 - 2. has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; and
 - (ii) an agent of a person described in item (i) of this paragraph.
- (2) "Employer" includes the State to the extent provided in this title.
- (3) Except for a labor organization, "employer" does not include a bona fide private membership club that is exempt from taxation under § 501(c) of the Internal Revenue Code.
- (e) (1) "Employment agency" means:
- (i) a person that regularly undertakes with or without compensation to procure:
 - 1. employees for an employer; or
 - 2. opportunities for employees to work for an employer;
- and
- (ii) an agent of a person described in item (i) of this paragraph.
- (2) Except for the United States Employment Service and the system of State and local employment services receiving federal assistance, "employment agency" does not include a unit of the United States, the State, or a political subdivision of the State.
- (h) (1) "Labor organization" means:
- (i) a labor organization engaged in an industry; and
 - (ii) an agent of an organization described in item (i) of this paragraph.
- (2) "Labor organization" includes:
- (i) an organization of any kind, an agency, or an employee representation committee, group, association, or plan:
 - 1. in which employees participate; and

2. that exists, wholly or partly, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment; and

(ii) a conference, general committee, joint or system board, or joint council that is subordinate to a national or international labor organization.

20-603.

This subtitle does not require:

(1) an employer, employment agency, labor organization, or joint labor-management committee subject to this subtitle to grant preferential treatment to any individual or group on the basis of the race, color, religion, sex, age, national origin, sexual orientation, or disability of the individual or group because an imbalance may exist with respect to the total number or percentage of individuals of any race, color, religion, sex, age, national origin, or sexual orientation or individuals with disabilities employed by the employer, referred or classified for employment by the employment agency or labor organization, admitted to membership or classified by the labor organization, or admitted to, or employed in, any apprenticeship or other training program, compared to the total number or percentage of individuals of that race, color, religion, sex, age, national origin, or sexual orientation or individuals with disabilities in the State or any community, section, or other area, or in the available work force in the State or any community, section, or other area; or

(2) an employer to reasonably accommodate an employee's religion **OR DISABILITY** if the accommodation would cause undue hardship on the conduct of the employer's business.

20-606.

(a) An employer may not:

(1) fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment because of:

(i) the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(ii) the individual's refusal to submit to a genetic test or make available the results of a genetic test;

(2) limit, segregate, or classify its employees or applicants for employment in any way that would deprive or tend to deprive any individual of

employment opportunities or otherwise adversely affect the individual's status as an employee because of:

(i) the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(ii) the individual's refusal to submit to a genetic test or make available the results of a genetic test; [or]

(3) request or require genetic tests or genetic information as a condition of hiring or determining benefits; **OR**

(4) FAIL OR REFUSE TO MAKE A REASONABLE ACCOMMODATION FOR THE KNOWN DISABILITY OF AN OTHERWISE QUALIFIED EMPLOYEE.

(b) An employment agency may not:

(1) fail or refuse to refer for employment or otherwise discriminate against any individual because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(2) classify or refer for employment any individual on the basis of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment.

(c) A labor organization may not:

(1) exclude or expel from its membership, or otherwise discriminate against, any individual because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment;

(2) limit, segregate, or classify its membership, or classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive the individual of employment opportunities, limit the individual's employment opportunities, or otherwise adversely affect the individual's status as an employee or as an applicant for employment because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(3) cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) An employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, may not discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment.

(e) (1) Except as provided in paragraph (2) of this subsection, an employer, labor organization, or employment agency may not print or cause to be printed or published any notice or advertisement relating to employment by the employer, membership in or any classification or referral for employment by the labor organization, or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, age, national origin, sexual orientation, or disability.

(2) A notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, age, national origin, or disability if religion, sex, age, national origin, or disability is a bona fide occupational qualification for employment.

(f) An employer may not discriminate **OR RETALIATE** against any of its employees or applicants for employment, an employment agency may not discriminate against any individual, and a labor organization may not discriminate **OR RETALIATE** against any member or applicant for membership because the individual has:

(1) opposed any practice prohibited by this subtitle; or

(2) made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subtitle.

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

Approved by the Governor, May 7, 2009.

Chapter 301

(Senate Bill 684)

AN ACT concerning

Senior Investment Protection Act

FOR the purpose of prohibiting a person from using a ~~senior-specific certification or professional~~ senior or retiree credential or designation in such a way as to mislead a person in connection with the offer, sale, or purchase of ~~any security or in~~ securities, in connection with receiving certain consideration from another person for advising ~~another~~ the other person as to the value, purchase, or sale of ~~any security~~ securities, or in connection with acting as a broker-dealer, agent, investment adviser, or investment adviser representative; ~~specifying the factors that must be considered in determining whether a person is using a senior-specific certification or professional designation; establishing a rebuttable presumption that a certifying or professional designating organization is not disqualified under certain provisions of this Act under certain circumstances; providing that a certification or professional designation does not include a job title within certain organizations under certain circumstances; defining a certain term;~~ requiring the Securities Commissioner of the Securities Division, by rule or order, to define what constitutes a misleading use of a senior or retiree credential or designation for a certain purpose; providing that a violation of a certain rule or order constitutes a dishonest or unethical practice for purposes of certain provisions of law; authorizing the Commissioner, by rule or order, to provide certain exemptions from certain provisions of this Act under certain circumstances; providing that certain provisions of this Act do not limit certain powers of the Commissioner; establishing certain penalties for a willful violation of certain provisions of this Act; making certain stylistic changes; making this Act an emergency measure; and generally relating to the Senior Investment Protection Act.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Corporations and Associations
Section ~~11-301 and 11-302~~ 11-302(a) and 11-412
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY adding to
Article – Corporations and Associations
Section 11-305
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, ~~without~~ with amendments,
Article – Corporations and Associations
Section ~~11-412~~ 11-705(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Corporations and Associations

~~11-301.~~

~~(A) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly to:~~

~~(1) Employ any device, scheme, or artifice to defraud;~~

~~(2) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; [or]~~

~~(3) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on any person; OR~~

~~(4) USE A SENIOR-SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION IN A WAY THAT IS MISLEADING.~~

~~(B) (1) FOR PURPOSES OF SUBSECTION (A)(4) OF THIS SECTION, THE USE OF A SENIOR-SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION IN A WAY THAT IS MISLEADING INCLUDES:~~

~~(I) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION WITHOUT HAVING EARNED OR BEING OTHERWISE ELIGIBLE TO USE THE CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(II) USING A NONEXISTENT OR SELF-CONFERRED CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(III) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES A LEVEL OF OCCUPATIONAL QUALIFICATION OBTAINED THROUGH EDUCATION, TRAINING, OR EXPERIENCE WITHOUT COMPLETING THE QUALIFICATION; AND~~

~~(IV) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT WAS OBTAINED FROM A DESIGNATING OR CERTIFYING ORGANIZATION THAT:~~

~~1. IS PRIMARILY ENGAGED IN THE BUSINESS OF INSTRUCTION IN SALES OR MARKETING;~~

~~2. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR ASSURING THE COMPETENCY OF THOSE WHOM IT CERTIFIES OR DESIGNATES;~~

~~3. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR MONITORING AND DISCIPLINING THOSE WHOM IT CERTIFIES OR DESIGNATES FOR IMPROPER OR UNETHICAL CONDUCT; OR~~

~~4. DOES NOT HAVE REASONABLE CONTINUING EDUCATION REQUIREMENTS FOR THOSE WHOM IT CERTIFIES OR DESIGNATES IN ORDER TO MAINTAIN THE CERTIFICATION OR PROFESSIONAL DESIGNATION.~~

~~(2) THERE IS A REBUTTABLE PRESUMPTION THAT A CERTIFYING OR PROFESSIONAL DESIGNATING ORGANIZATION IS NOT DISQUALIFIED FOR PURPOSES OF PARAGRAPH (1)(IV) OF THIS SUBSECTION IF THE ORGANIZATION IS ACCREDITED BY:~~

~~(I) THE AMERICAN NATIONAL STANDARDS INSTITUTE;~~

~~(II) THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES; OR~~

~~(III) 1. AN ORGANIZATION THAT IS ON THE U.S. DEPARTMENT OF EDUCATION'S LIST "ACCREDITING AGENCIES RECOGNIZED FOR TITLE IV PURPOSES"; AND~~

~~2. THE CERTIFICATION OR PROFESSIONAL DESIGNATION DOES NOT APPLY PRIMARILY TO SALES OR MARKETING.~~

~~(3) IN DETERMINING WHETHER A PERSON IS USING A SENIOR SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION, THE FOLLOWING FACTORS SHALL BE CONSIDERED:~~

~~(I) USE OF THE WORDS "SENIOR", "RETIREMENT", "ELDER", OR SIMILAR WORDS, COMBINED WITH "CERTIFIED", "REGISTERED", "CHARTERED", "ADVISER", "SPECIALIST", "CONSULTANT", "PLANNER", OR SIMILAR WORDS IN THE NAME OF THE PROFESSIONAL CERTIFICATION OR PROFESSIONAL DESIGNATION; AND~~

~~(II) THE MANNER IN WHICH THE WORDS IN ITEM (I) OF THIS PARAGRAPH ARE COMBINED.~~

~~(4) (I) IN THIS PARAGRAPH, "FEDERAL FINANCIAL SERVICES REGULATORY AGENCY" INCLUDES AN AGENCY THAT REGULATES BROKER DEALERS, INVESTMENT ADVISERS, OR INVESTMENT COMPANIES AS DEFINED UNDER THE INVESTMENT COMPANY ACT OF 1940.~~

~~(H) A CERTIFICATION OR PROFESSIONAL DESIGNATION DOES NOT INCLUDE A JOB TITLE WITHIN AN ORGANIZATION THAT IS LICENSED OR REGISTERED BY A STATE OR FEDERAL FINANCIAL SERVICES REGULATORY AGENCY IF THE JOB TITLE:~~

~~1. INDICATES SENIORITY OR STANDING WITHIN THE ORGANIZATION; OR~~

~~2. SPECIFIES AN INDIVIDUAL'S AREA OF SPECIALIZATION WITHIN THE ORGANIZATION.~~

11-302.

(a) It is unlawful for any person who receives, directly or indirectly, any consideration from another person for advising the other person as to the value of securities or their purchase or sale, or for acting as an investment adviser or representative under § 11-101(h) and (i) of this title, whether through the issuance of analyses, reports, or otherwise, to:

(1) Employ any device, scheme, or artifice to defraud the other person;

(2) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on the other person;

(3) Engage in dishonest or unethical practices as the Commissioner may define by rule; ~~for~~

(4) When acting as principal for the person's own account knowingly sell any security to or purchase any security from a client, or when acting in an agency capacity for a person other than such client knowingly effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which the person is acting and obtaining the consent of the client to such transaction; ~~OR~~

~~(5) USE A SENIOR-SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION IN A WAY THAT IS MISLEADING.~~

~~(b) The prohibitions of subsection (a)(4) of this section do not apply to any transaction with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser in relation to the transaction or to transactions by a federal covered adviser who is otherwise subject to the limitations on principal trades under the federal securities laws.~~

~~(c) In the solicitation of or in dealings with advisory clients, it is unlawful for any person knowingly to make any untrue statement of a material fact, or omit to~~

~~state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.~~

~~(d) (1) The Commissioner by rule or order may require that certain information be furnished or disseminated by investment advisers as appropriate in the public interest or for the protection of investors and advisory clients.~~

~~(2) To the extent determined by the Commissioner in the Commissioner's discretion, information furnished to clients or prospective clients of an investment adviser that would be in compliance with the disclosure requirements of the Investment Advisers Act of 1940 and the rules thereunder may be used in whole or partial satisfaction of this requirement.~~

~~(e) (1) Except as permitted by rule or order of the Commissioner, it is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract, unless it provides in writing that:~~

~~(i) The investment adviser shall not be compensated on the basis of a share of capital gains on or capital appreciation of the funds or any portion of the funds of the client;~~

~~(ii) An assignment of the contract may not be made by the investment adviser without the consent of the other party to the contract; and~~

~~(iii) The investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.~~

~~(2) Paragraph (1)(i) of this subsection does not prohibit an investment advisory contract which provides for compensation based on the total value of a fund averaged over a definite period or as of definite dates or taken as of a definite date.~~

~~(3) "Assignment", as used in paragraph (1)(ii) of this subsection, includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of controlling block of the assignor's outstanding voting securities by a security holder of the assignor, but, if the investment adviser is a partnership, an assignment of an investment advisory contract is not considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.~~

~~(f) It is unlawful for any investment adviser to take or have custody of any securities or funds of any client if:~~

~~(1) The Commissioner by rule prohibits custody; or~~

~~(2) In the absence of a rule, the investment adviser fails to notify the Commissioner that he has or may have custody.~~

~~(g) The Commissioner by rule or order may adopt exemptions from subsections (a)(4), and (c)(1)(i), (ii), and (iii) of this section, where such exemptions are consistent with the public interest and within the purposes fairly intended by the policy and provisions of this title.~~

~~(H) (1) FOR PURPOSES OF SUBSECTION (A)(5) OF THIS SECTION, THE USE OF A SENIOR-SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION IN A WAY THAT IS MISLEADING INCLUDES:~~

~~(I) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION WITHOUT HAVING EARNED OR BEING OTHERWISE ELIGIBLE TO USE THE CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(II) USING A NONEXISTENT OR SELF-CONFERRED CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(III) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES A LEVEL OF OCCUPATIONAL QUALIFICATION OBTAINED THROUGH EDUCATION, TRAINING, OR EXPERIENCE WITHOUT COMPLETING THE QUALIFICATION; AND~~

~~(IV) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT WAS OBTAINED FROM A DESIGNATING OR CERTIFYING ORGANIZATION THAT:~~

~~1. IS PRIMARILY ENGAGED IN THE BUSINESS OF INSTRUCTION IN SALES OR MARKETING;~~

~~2. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR ASSURING THE COMPETENCY OF THOSE WHOM IT CERTIFIES OR DESIGNATES;~~

~~3. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR MONITORING AND DISCIPLINING THOSE WHOM IT CERTIFIES OR DESIGNATES FOR IMPROPER OR UNETHICAL CONDUCT; OR~~

~~4. DOES NOT HAVE REASONABLE CONTINUING EDUCATION REQUIREMENTS FOR THOSE WHOM IT CERTIFIES OR DESIGNATES IN ORDER TO MAINTAIN THE CERTIFICATION OR PROFESSIONAL DESIGNATION.~~

~~(2) THERE IS A REBUTTABLE PRESUMPTION THAT A CERTIFYING OR PROFESSIONAL DESIGNATING ORGANIZATION IS NOT DISQUALIFIED FOR PURPOSES OF PARAGRAPH (1)(IV) OF THIS SUBSECTION IF THE ORGANIZATION IS ACCREDITED BY:~~

~~(I) THE AMERICAN NATIONAL STANDARDS INSTITUTE;~~

~~(II) THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES; OR~~

~~(III) 1. AN ORGANIZATION THAT IS ON THE U.S. DEPARTMENT OF EDUCATION'S LIST "ACCREDITING AGENCIES RECOGNIZED FOR TITLE IV PURPOSES"; AND~~

~~2. THE CERTIFICATION OR PROFESSIONAL DESIGNATION DOES NOT APPLY PRIMARILY TO SALES OR MARKETING.~~

~~(3) IN DETERMINING WHETHER A PERSON IS USING A SENIOR SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION, THE FOLLOWING FACTORS SHALL BE CONSIDERED:~~

~~(I) USE OF THE WORDS "SENIOR", "RETIREMENT", "ELDER", OR SIMILAR WORDS, COMBINED WITH "CERTIFIED", "REGISTERED", "CHARTERED", "ADVISER", "SPECIALIST", "CONSULTANT", "PLANNER", OR SIMILAR WORDS IN THE NAME OF THE PROFESSIONAL CERTIFICATION OR PROFESSIONAL DESIGNATION; AND~~

~~(II) THE MANNER IN WHICH THE WORDS IN ITEM (I) OF THIS PARAGRAPH ARE COMBINED.~~

~~(4) (I) IN THIS PARAGRAPH, "FEDERAL FINANCIAL SERVICES REGULATORY AGENCY" INCLUDES AN AGENCY THAT REGULATES BROKER DEALERS, INVESTMENT ADVISERS, OR INVESTMENT COMPANIES AS DEFINED UNDER THE INVESTMENT COMPANY ACT OF 1940.~~

~~(II) A CERTIFICATION OR PROFESSIONAL DESIGNATION DOES NOT INCLUDE A JOB TITLE WITHIN AN ORGANIZATION THAT IS LICENSED OR REGISTERED BY A STATE OR FEDERAL FINANCIAL SERVICES REGULATORY AGENCY IF THE JOB TITLE:~~

~~1. INDICATES SENIORITY OR STANDING WITHIN THE ORGANIZATION; OR~~

~~2. SPECIFIES AN INDIVIDUAL'S AREA OF SPECIALIZATION WITHIN THE ORGANIZATION.~~

11-305.

(A) IT IS UNLAWFUL FOR ANY PERSON TO USE A SENIOR OR RETIREE CREDENTIAL OR DESIGNATION IN A WAY THAT IS OR WOULD BE MISLEADING IN CONNECTION WITH:

(1) THE OFFER, SALE, OR PURCHASE OF SECURITIES;

(2) RECEIVING, DIRECTLY OR INDIRECTLY, ANY CONSIDERATION FROM ANOTHER PERSON FOR ADVISING THE OTHER PERSON AS TO THE VALUE OF SECURITIES OR THEIR PURCHASE OR SALE; OR

(3) ACTING AS A BROKER-DEALER, AGENT, INVESTMENT ADVISER, OR INVESTMENT ADVISER REPRESENTATIVE.

(B) THE COMMISSIONER BY RULE OR ORDER SHALL DEFINE WHAT CONSTITUTES A MISLEADING USE OF A SENIOR OR RETIREE CREDENTIAL OR DESIGNATION FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION.

(C) A VIOLATION OF A RULE OR ORDER ADOPTED UNDER SUBSECTION (B) OF THIS SECTION ALSO CONSTITUTES A DISHONEST OR UNETHICAL PRACTICE FOR PURPOSES OF § 11-302(A)(3) OF THIS SUBTITLE AND § ~~11-417(A)(7)~~ 11-412(A)(7) OF THIS TITLE.

(D) THE COMMISSIONER BY RULE OR ORDER MAY PROVIDE EXEMPTIONS FROM SUBSECTIONS (A) AND (C) OF THIS SECTION, WHERE SUCH EXEMPTIONS ARE CONSISTENT WITH THE PUBLIC INTEREST AND WITHIN THE PURPOSES FAIRLY INTENDED BY THE POLICY AND PROVISIONS OF THIS TITLE.

(E) THIS SECTION DOES NOT LIMIT ANY POWERS OF THE COMMISSIONER GRANTED UNDER THIS TITLE.

11-412.

(a) The Commissioner by order may deny, suspend, or revoke any registration if the Commissioner finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

(1) Has filed an application for registration which, as of its effective date or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) Has willfully violated or willfully failed to comply with any provisions of this title, a predecessor act, or any rule or order under this title or a predecessor act;

(3) Has been convicted, within the last 10 years, of a felony, or of an offense that:

(i) Involves the taking of a false oath, the making of a false report, bribery, perjury, burglary, or attempt or conspiracy to commit any of those offenses;

(ii) Arises out of the conduct of business as, or employment by or association with, a broker–dealer, municipal or government securities broker or dealer, investment adviser, bank, savings institution, trust company, credit union, savings and loan association, insurance company or insurance producer, fiduciary, investment company, accountant, or real estate agent or broker, or any entity or person required to be registered under the Commodity Exchange Act; or

(iii) Involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities, or an attempt or conspiracy to commit any of those offenses;

(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practices involving any aspect of the securities or investment advisory or any other financial services business;

(5) Is the subject of an order of the Commissioner denying, suspending, or revoking registration as a broker–dealer, agent, investment adviser, or investment adviser representative;

(6) Is the subject of an order entered within the past five years by the securities administrator or any other financial services regulator of any state or by the Securities and Exchange Commission denying or revoking registration as a broker–dealer, investment adviser, investment adviser representative, or agent or the substantial equivalent of those terms as defined in this title, or any other financial services license or registration, or is the subject of an order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act, or is suspended or expelled from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934 either by action of a national securities exchange or national securities

association, the effect of which action has not been stayed by appeal or otherwise, or by order of the Securities and Exchange Commission, or is the subject of a United States post office fraud order, but:

(i) The Commissioner may not institute a revocation or suspension proceeding under this item (6) more than one year from the date of the order or action relied on; and

(ii) The Commissioner may not enter an order under this item (6) on the basis of an order under another state act unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) Has engaged in dishonest or unethical practices in the securities or investment advisory or any other financial services business;

(8) Is insolvent, either in the sense that the person's liabilities exceed assets or in the sense that the person cannot meet obligations as they mature, but the Commissioner may not enter an order against a broker-dealer or investment adviser under this item (8) without a finding of insolvency as to the broker-dealer or investment adviser;

(9) Is not qualified on the basis of factors such as training, experience, and knowledge of the securities or investment advisory or any other financial services business, except as otherwise provided in subsection (c) of this section;

(10) Has failed reasonably to supervise the broker-dealer's agents, if the person is a broker-dealer, or the investment adviser's representatives, if the person is an investment adviser; or

(11) Has failed to pay the proper fee, but the Commissioner may enter only a denial order under this item (11), and the Commissioner shall vacate the order when the deficiency is corrected.

(b) (1) In this subsection, "final administrative order" does not include an order that is stayed or subject to further review or appeal.

(2) If an applicant for initial registration discloses the existence of a final judicial or administrative order to the Commissioner before the effective date of the initial registration, the Commissioner may not institute a suspension or revocation proceeding based solely on the judicial or administrative order unless the proceeding is initiated within 90 days immediately following the effective date of the applicant's initial registration.

(c) The following provisions govern the application of subsection (a)(9) of this section:

(1) The Commissioner may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than that broker-dealer if the broker-dealer is an individual, or an agent of the broker-dealer;

(2) The Commissioner may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than that investment adviser if the investment adviser is an individual, or an investment adviser representative of the investment adviser;

(3) The Commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both;

(4) The Commissioner shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer and that an investment adviser representative who will work under the supervision of a registered investment adviser need not have the same qualifications as an investment adviser;

(5) The Commissioner shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When the Commissioner finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser, the Commissioner by order may condition the applicant's registration as a broker-dealer upon the broker-dealer not transacting business in this State as an investment adviser; and

(6) The Commissioner by rule may provide for an examination, which may be written, oral, or both, to be taken by any class of or all applicants. The Commissioner by rule or order may waive the examination requirement as to a person or class of persons if the Commissioner determines that the examination is not necessary or appropriate in the public interest or for the protection of investors.

11-705.

(a) (1) Any person who willfully violates any provision of this title, except § 11-303 OR § 11-305 of this title or who willfully violates any rule or order under this title EXCEPT A RULE OR ORDER UNDER § 11-305 OF THIS TITLE, or who willfully violates § 11-303 of this title knowing the statement made to be false or misleading in any material respect, on conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding [three] 3 years or both.

(2) ANY PERSON WHO WILLFULLY VIOLATES § 11-305 OF THIS TITLE OR WHO WILLFULLY VIOLATES A RULE OR ORDER UNDER § 11-305 OF THIS TITLE, ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.

~~[(2)] (3)~~ A person may not be imprisoned for the violation of any rule or order if [he] **THE PERSON** proves that [he] **THE PERSON** had no knowledge of the rule or order.

~~[(3)] (4)~~ An indictment or information may not be returned under this title more than [five] **5** years after the alleged violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2009~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye 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 7, 2009.

Chapter 302

(House Bill 571)

AN ACT concerning

Senior Investment Protection Act

FOR the purpose of prohibiting a person from using a ~~senior-specific certification or professional~~ senior or retiree credential or designation in such a way as to mislead a person in connection with the offer, sale, or purchase of ~~any security or in securities,~~ in connection with receiving certain consideration from another person for advising another the other person as to the value, purchase, or sale of any security securities, or in connection with acting as a broker-dealer, agent, investment adviser, or investment adviser representative; specifying the factors that must be considered in determining whether a person is using a senior-specific certification or professional designation; establishing a rebuttable presumption that a certifying or professional designating organization is not disqualified under certain provisions of this Act under certain circumstances; providing that a certification or professional designation does not include a job title within certain organizations under certain circumstances; defining a certain term; requiring the Securities Commissioner of the Securities Division, by rule or order, to define what constitutes a misleading use of a senior or retiree credential or designation for a certain purpose; providing that a violation of a certain rule or order constitutes a dishonest or unethical practice for purposes of certain provisions of law; authorizing the Commissioner, by rule or order, to provide certain exemptions from certain provisions of this Act under certain circumstances; providing that certain provisions of this Act do not limit certain powers of the Commissioner; establishing certain penalties for a willful violation of certain provisions of this Act; making certain stylistic changes;

making this Act an emergency measure; and generally relating to the Senior Investment Protection Act.

BY repealing and reenacting, ~~with~~ without amendments,
 Article – Corporations and Associations
 Section ~~11-301 and 11-302~~ 11-302(a) and 11-412
 Annotated Code of Maryland
 (2007 Replacement Volume and 2008 Supplement)

BY adding to
Article – Corporations and Associations
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SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Corporations and Associations

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~~(A) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly to:~~

~~(1) Employ any device, scheme, or artifice to defraud;~~

~~(2) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; [or]~~

~~(3) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on any person; OR~~

~~(4) USE A SENIOR-SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION IN A WAY THAT IS MISLEADING.~~

~~(B) (1) FOR PURPOSES OF SUBSECTION (A)(4) OF THIS SECTION, THE USE OF A SENIOR-SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION IN A WAY THAT IS MISLEADING INCLUDES:~~

~~(I) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION WITHOUT HAVING EARNED OR BEING OTHERWISE ELIGIBLE TO USE THE CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(II) USING A NONEXISTENT OR SELF-CONFERRED CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(III) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES A LEVEL OF OCCUPATIONAL QUALIFICATION OBTAINED THROUGH EDUCATION, TRAINING, OR EXPERIENCE WITHOUT COMPLETING THE QUALIFICATION; AND~~

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~~1. IS PRIMARILY ENGAGED IN THE BUSINESS OF INSTRUCTION IN SALES OR MARKETING;~~

~~2. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR ASSURING THE COMPETENCY OF THOSE WHOM IT CERTIFIES OR DESIGNATES;~~

~~3. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR MONITORING AND DISCIPLINING THOSE WHOM IT CERTIFIES OR DESIGNATES FOR IMPROPER OR UNETHICAL CONDUCT; OR~~

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~~(2) THERE IS A REBUTTABLE PRESUMPTION THAT A CERTIFYING OR PROFESSIONAL DESIGNATING ORGANIZATION IS NOT DISQUALIFIED FOR PURPOSES OF PARAGRAPH (1)(IV) OF THIS SUBSECTION IF THE ORGANIZATION IS ACCREDITED BY:~~

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~~(3) IN DETERMINING WHETHER A PERSON IS USING A SENIOR SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION, THE FOLLOWING FACTORS SHALL BE CONSIDERED:~~

~~(I) USE OF THE WORDS "SENIOR", "RETIREMENT", "ELDER", OR SIMILAR WORDS, COMBINED WITH "CERTIFIED", "REGISTERED", "CHARTERED", "ADVISER", "SPECIALIST", "CONSULTANT", "PLANNER", OR SIMILAR WORDS IN THE NAME OF THE PROFESSIONAL CERTIFICATION OR PROFESSIONAL DESIGNATION; AND~~

~~(II) THE MANNER IN WHICH THE WORDS IN ITEM (I) OF THIS PARAGRAPH ARE COMBINED.~~

~~(4) (I) IN THIS PARAGRAPH, "FEDERAL FINANCIAL SERVICES REGULATORY AGENCY" INCLUDES AN AGENCY THAT REGULATES BROKER DEALERS, INVESTMENT ADVISERS, OR INVESTMENT COMPANIES AS DEFINED UNDER THE INVESTMENT COMPANY ACT OF 1940.~~

~~(II) A CERTIFICATION OR PROFESSIONAL DESIGNATION DOES NOT INCLUDE A JOB TITLE WITHIN AN ORGANIZATION THAT IS LICENSED OR REGISTERED BY A STATE OR FEDERAL FINANCIAL SERVICES REGULATORY AGENCY IF THE JOB TITLE:~~

~~1. INDICATES SENIORITY OR STANDING WITHIN THE ORGANIZATION; OR~~

~~2. SPECIFIES AN INDIVIDUAL'S AREA OF SPECIALIZATION WITHIN THE ORGANIZATION.~~

11-302.

(a) It is unlawful for any person who receives, directly or indirectly, any consideration from another person for advising the other person as to the value of securities or their purchase or sale, or for acting as an investment adviser or representative under § 11-101(h) and (i) of this title, whether through the issuance of analyses, reports, or otherwise, to:

(1) Employ any device, scheme, or artifice to defraud the other person;

(2) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on the other person;

(3) Engage in dishonest or unethical practices as the Commissioner may define by rule; ~~for~~

(4) When acting as principal for the person's own account knowingly sell any security to or purchase any security from a client, or when acting in an agency capacity for a person other than such client knowingly effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which the person is acting and obtaining the consent of the client to such transaction; ~~OR~~

~~(5) USE A SENIOR SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION IN A WAY THAT IS MISLEADING.~~

~~(b) The prohibitions of subsection (a)(4) of this section do not apply to any transaction with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser in relation to the transaction or to transactions by a federal covered adviser who is otherwise subject to the limitations on principal trades under the federal securities laws.~~

~~(c) In the solicitation of or in dealings with advisory clients, it is unlawful for any person knowingly to make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.~~

~~(d) (1) The Commissioner by rule or order may require that certain information be furnished or disseminated by investment advisers as appropriate in the public interest or for the protection of investors and advisory clients.~~

~~(2) To the extent determined by the Commissioner in the Commissioner's discretion, information furnished to clients or prospective clients of an investment adviser that would be in compliance with the disclosure requirements of the Investment Advisers Act of 1940 and the rules thereunder may be used in whole or partial satisfaction of this requirement.~~

~~(e) (1) Except as permitted by rule or order of the Commissioner, it is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract, unless it provides in writing that:~~

~~(i) The investment adviser shall not be compensated on the basis of a share of capital gains on or capital appreciation of the funds or any portion of the funds of the client;~~

~~(ii) An assignment of the contract may not be made by the investment adviser without the consent of the other party to the contract; and~~

~~(iii) The investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.~~

~~(2) Paragraph (1)(i) of this subsection does not prohibit an investment advisory contract which provides for compensation based on the total value of a fund averaged over a definite period or as of definite dates or taken as of a definite date.~~

~~(3) "Assignment", as used in paragraph (1)(ii) of this subsection, includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of controlling block of the assignor's outstanding voting securities by a security holder of the assignor, but, if the investment adviser is a partnership, an assignment of an investment advisory contract is not considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.~~

~~(f) It is unlawful for any investment adviser to take or have custody of any securities or funds of any client if:~~

~~(1) The Commissioner by rule prohibits custody; or~~

~~(2) In the absence of a rule, the investment adviser fails to notify the Commissioner that he has or may have custody.~~

~~(g) The Commissioner by rule or order may adopt exemptions from subsections (a)(4), and (c)(1)(i), (ii), and (iii) of this section, where such exemptions are consistent with the public interest and within the purposes fairly intended by the policy and provisions of this title.~~

~~(H) (1) FOR PURPOSES OF SUBSECTION (A)(5) OF THIS SECTION, THE USE OF A SENIOR-SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION IN A WAY THAT IS MISLEADING INCLUDES:~~

~~(I) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION WITHOUT HAVING EARNED OR BEING OTHERWISE ELIGIBLE TO USE THE CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(II) USING A NONEXISTENT OR SELF-CONFERRED CERTIFICATION OR PROFESSIONAL DESIGNATION;~~

~~(III) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES A LEVEL OF OCCUPATIONAL QUALIFICATION OBTAINED THROUGH EDUCATION, TRAINING, OR EXPERIENCE WITHOUT COMPLETING THE QUALIFICATION; AND~~

~~(IV) USING A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT WAS OBTAINED FROM A DESIGNATING OR CERTIFYING ORGANIZATION THAT:~~

~~1. IS PRIMARILY ENGAGED IN THE BUSINESS OF INSTRUCTION IN SALES OR MARKETING;~~

~~2. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR ASSURING THE COMPETENCY OF THOSE WHOM IT CERTIFIES OR DESIGNATES;~~

~~3. DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR MONITORING AND DISCIPLINING THOSE WHOM IT CERTIFIES OR DESIGNATES FOR IMPROPER OR UNETHICAL CONDUCT; OR~~

~~4. DOES NOT HAVE REASONABLE CONTINUING EDUCATION REQUIREMENTS FOR THOSE WHOM IT CERTIFIES OR DESIGNATES IN ORDER TO MAINTAIN THE CERTIFICATION OR PROFESSIONAL DESIGNATION.~~

~~(2) THERE IS A REBUTTABLE PRESUMPTION THAT A CERTIFYING OR PROFESSIONAL DESIGNATING ORGANIZATION IS NOT DISQUALIFIED FOR PURPOSES OF PARAGRAPH (1)(IV) OF THIS SUBSECTION IF THE ORGANIZATION IS ACCREDITED BY:~~

~~(I) THE AMERICAN NATIONAL STANDARDS INSTITUTE;~~

~~(II) THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES; OR~~

~~(III) 1. AN ORGANIZATION THAT IS ON THE U.S. DEPARTMENT OF EDUCATION'S LIST "ACCREDITING AGENCIES RECOGNIZED FOR TITLE IV PURPOSES"; AND~~

~~2. THE CERTIFICATION OR PROFESSIONAL DESIGNATION DOES NOT APPLY PRIMARILY TO SALES OR MARKETING.~~

~~(3) IN DETERMINING WHETHER A PERSON IS USING A SENIOR SPECIFIC CERTIFICATION OR PROFESSIONAL DESIGNATION, THE FOLLOWING FACTORS SHALL BE CONSIDERED:~~

~~(I) USE OF THE WORDS "SENIOR", "RETIREMENT", "ELDER", OR SIMILAR WORDS, COMBINED WITH "CERTIFIED", "REGISTERED", "CHARTERED", "ADVISER", "SPECIALIST", "CONSULTANT", "PLANNER", OR SIMILAR WORDS IN THE NAME OF THE PROFESSIONAL CERTIFICATION OR PROFESSIONAL DESIGNATION; AND~~

~~(II) THE MANNER IN WHICH THE WORDS IN ITEM (I) OF THIS PARAGRAPH ARE COMBINED.~~

~~(4) (I) IN THIS PARAGRAPH, "FEDERAL FINANCIAL SERVICES REGULATORY AGENCY" INCLUDES AN AGENCY THAT REGULATES BROKER DEALERS, INVESTMENT ADVISERS, OR INVESTMENT COMPANIES AS DEFINED UNDER THE INVESTMENT COMPANY ACT OF 1940.~~

~~(II) A CERTIFICATION OR PROFESSIONAL DESIGNATION DOES NOT INCLUDE A JOB TITLE WITHIN AN ORGANIZATION THAT IS LICENSED OR REGISTERED BY A STATE OR FEDERAL FINANCIAL SERVICES REGULATORY AGENCY IF THE JOB TITLE:~~

~~1. INDICATES SENIORITY OR STANDING WITHIN THE ORGANIZATION; OR~~

~~2. SPECIFIES AN INDIVIDUAL'S AREA OF SPECIALIZATION WITHIN THE ORGANIZATION.~~

11-305.

(A) IT IS UNLAWFUL FOR ANY PERSON TO USE A SENIOR OR RETIREE CREDENTIAL OR DESIGNATION IN A WAY THAT IS OR WOULD BE MISLEADING IN CONNECTION WITH:

(1) THE OFFER, SALE, OR PURCHASE OF SECURITIES;

(2) RECEIVING, DIRECTLY OR INDIRECTLY, ANY CONSIDERATION FROM ANOTHER PERSON FOR ADVISING THE OTHER PERSON AS TO THE VALUE OF SECURITIES OR THEIR PURCHASE OR SALE; OR

(3) ACTING AS A BROKER-DEALER, AGENT, INVESTMENT ADVISER, OR INVESTMENT ADVISER REPRESENTATIVE.

(B) THE COMMISSIONER BY RULE OR ORDER SHALL DEFINE WHAT CONSTITUTES A MISLEADING USE OF A SENIOR OR RETIREE CREDENTIAL OR DESIGNATION FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION.

(C) A VIOLATION OF A RULE OR ORDER ADOPTED UNDER SUBSECTION (B) OF THIS SECTION ALSO CONSTITUTES A DISHONEST OR UNETHICAL PRACTICE FOR PURPOSES OF § 11-302(A)(3) OF THIS SUBTITLE AND § 11-412(A)(7) OF THIS TITLE.

(D) THE COMMISSIONER BY RULE OR ORDER MAY PROVIDE EXEMPTIONS FROM SUBSECTIONS (A) AND (C) OF THIS SECTION, WHERE SUCH EXEMPTIONS ARE CONSISTENT WITH THE PUBLIC INTEREST AND WITHIN THE PURPOSES FAIRLY INTENDED BY THE POLICY AND PROVISIONS OF THIS TITLE.

(E) THIS SECTION DOES NOT LIMIT ANY POWERS OF THE COMMISSIONER GRANTED UNDER THIS TITLE.

11-412.

(a) The Commissioner by order may deny, suspend, or revoke any registration if the Commissioner finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

(1) Has filed an application for registration which, as of its effective date or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) Has willfully violated or willfully failed to comply with any provisions of this title, a predecessor act, or any rule or order under this title or a predecessor act;

(3) Has been convicted, within the last 10 years, of a felony, or of an offense that:

(i) Involves the taking of a false oath, the making of a false report, bribery, perjury, burglary, or attempt or conspiracy to commit any of those offenses;

(ii) Arises out of the conduct of business as, or employment by or association with, a broker-dealer, municipal or government securities broker or dealer, investment adviser, bank, savings institution, trust company, credit union, savings and loan association, insurance company or insurance producer, fiduciary, investment company, accountant, or real estate agent or broker, or any entity or person required to be registered under the Commodity Exchange Act; or

(iii) Involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities, or an attempt or conspiracy to commit any of those offenses;

(4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practices involving any aspect of the securities or investment advisory or any other financial services business;

(5) Is the subject of an order of the Commissioner denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser, or investment adviser representative;

(6) Is the subject of an order entered within the past five years by the securities administrator or any other financial services regulator of any state or by the Securities and Exchange Commission denying or revoking registration as a broker-dealer, investment adviser, investment adviser representative, or agent or the substantial equivalent of those terms as defined in this title, or any other financial services license or registration, or is the subject of an order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act, or is suspended or expelled from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934 either by action of a national securities exchange or national securities association, the effect of which action has not been stayed by appeal or otherwise, or by order of the Securities and Exchange Commission, or is the subject of a United States post office fraud order, but:

(i) The Commissioner may not institute a revocation or suspension proceeding under this item (6) more than one year from the date of the order or action relied on; and

(ii) The Commissioner may not enter an order under this item (6) on the basis of an order under another state act unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) Has engaged in dishonest or unethical practices in the securities or investment advisory or any other financial services business;

(8) Is insolvent, either in the sense that the person's liabilities exceed assets or in the sense that the person cannot meet obligations as they mature, but the Commissioner may not enter an order against a broker-dealer or investment adviser under this item (8) without a finding of insolvency as to the broker-dealer or investment adviser;

(9) Is not qualified on the basis of factors such as training, experience, and knowledge of the securities or investment advisory or any other financial services business, except as otherwise provided in subsection (c) of this section;

(10) Has failed reasonably to supervise the broker–dealer’s agents, if the person is a broker–dealer, or the investment adviser’s representatives, if the person is an investment adviser; or

(11) Has failed to pay the proper fee, but the Commissioner may enter only a denial order under this item (11), and the Commissioner shall vacate the order when the deficiency is corrected.

(b) (1) In this subsection, “final administrative order” does not include an order that is stayed or subject to further review or appeal.

(2) If an applicant for initial registration discloses the existence of a final judicial or administrative order to the Commissioner before the effective date of the initial registration, the Commissioner may not institute a suspension or revocation proceeding based solely on the judicial or administrative order unless the proceeding is initiated within 90 days immediately following the effective date of the applicant’s initial registration.

(c) The following provisions govern the application of subsection (a)(9) of this section:

(1) The Commissioner may not enter an order against a broker–dealer on the basis of the lack of qualification of any person other than that broker–dealer if the broker–dealer is an individual, or an agent of the broker–dealer;

(2) The Commissioner may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than that investment adviser if the investment adviser is an individual, or an investment adviser representative of the investment adviser;

(3) The Commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both;

(4) The Commissioner shall consider that an agent who will work under the supervision of a registered broker–dealer need not have the same qualifications as a broker–dealer and that an investment adviser representative who will work under the supervision of a registered investment adviser need not have the same qualifications as an investment adviser;

(5) The Commissioner shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker–dealer or agent. When the Commissioner finds that an applicant for initial or renewal registration as a

broker-dealer is not qualified as an investment adviser, the Commissioner by order may condition the applicant's registration as a broker-dealer upon the broker-dealer not transacting business in this State as an investment adviser; and

(6) The Commissioner by rule may provide for an examination, which may be written, oral, or both, to be taken by any class of or all applicants. The Commissioner by rule or order may waive the examination requirement as to a person or class of persons if the Commissioner determines that the examination is not necessary or appropriate in the public interest or for the protection of investors.

11-705.

(a) (1) Any person who willfully violates any provision of this title, except § 11-303 OR § 11-305 of this title or who willfully violates any rule or order under this title EXCEPT A RULE OR ORDER UNDER § 11-305 OF THIS TITLE, or who willfully violates § 11-303 of this title knowing the statement made to be false or misleading in any material respect, on conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding [three] 3 years or both.

(2) ANY PERSON WHO WILLFULLY VIOLATES § 11-305 OF THIS TITLE OR WHO WILLFULLY VIOLATES A RULE OR ORDER UNDER § 11-305 OF THIS TITLE, ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.

[(2)] (3) A person may not be imprisoned for the violation of any rule or order if [he] THE PERSON proves that [he] THE PERSON had no knowledge of the rule or order.

[(3)] (4) An indictment or information may not be returned under this title more than [five] 5 years after the alleged violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2009~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye 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 7, 2009.

Chapter 303

(Senate Bill 689)

AN ACT concerning

~~Education — Study Group on Expanding Enrollment Options for High School Students~~
High Schools and High School Students – Options for Accelerated Graduation

~~FOR the purpose of establishing a Study Group on Expanding Enrollment Options for High School Students; establishing the membership and staffing of the Study Group; providing for the designation of co-chairs of the Study Group; requiring the Study Group to review, evaluate, and make findings and recommendations regarding certain issues; requiring the Study Group to submit a report to the Governor and the General Assembly by a certain date; prohibiting a member of the Study Group from receiving certain compensation; authorizing a member of the Study Group to receive certain reimbursements; providing for the termination of this Act; and generally relating to expanding enrollment options for high school students~~ requiring the State Department of Education to conduct a certain study to identify examinations that allow certain students to earn certain credits in certain courses for a certain purpose; requiring the study to include certain information; requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date; requiring the State Superintendent of Schools to implement a certain process on or before a certain school year; requiring the Department to review and evaluate certain programs; requiring the review and evaluation to include certain discussions; requiring the Department to report certain findings to the State Superintendent on or before a certain date; requiring certain programs to be implemented on or before a certain school year under certain circumstances; providing for the termination of this Act; and generally relating to the accelerated graduation of high school students.

Preamble

WHEREAS, Many Maryland students find that the traditional 4-year enrollment plan for high school completion does not serve their personal academic interests and needs and are in search of legitimate approaches to the high school program configuration that permits from 3 to 5 years of enrollment as appropriate to their needs; and

WHEREAS, Some Maryland students are pursuing an accelerated high school course sequence and find that they need specialized academic experiences in lieu of or during their senior year to facilitate attainment of their personal academic goals; and

~~WHEREAS, Some Maryland high school students find that the course offerings available at community colleges, 4-year colleges, and universities better match their personal academic goals; and~~

~~WHEREAS, Maryland high schools typically provide Advanced Placement courses or International Baccalaureate programs that equate to freshman level college~~

~~or university courses, and that often are accepted by colleges and universities for college credit; and~~

WHEREAS, Some Maryland high school students achieve their academic work their senior year through ~~dual enrollment~~ arrangements that involve courses taught at the student's home high school and other courses that are taught at a community college, 4-year college, or university, with the college or university work accepted by the student's high school toward the awarding of the Maryland high school diploma; and

~~WHEREAS, Dually enrolled students are expected to defray the costs of higher education enrollment while enrolled at both the high school and the college or university, and are ineligible to access financial aid offered through higher education institutions, such as those available through the federal Pell Grant Program; and~~

~~WHEREAS, Financially challenged families frequently need financial assistance in order to support the student's academic work as they transition into higher education; and~~

WHEREAS, Local school systems would be able to serve accelerated students more effectively if they were able to develop cooperative agreements involving the student, parent, and the higher education institution; and

~~WHEREAS, Some students, particularly students with disabilities and English Language Learners, find that it takes more than 4 years to successfully complete their high school programs; and~~

WHEREAS, Schools frequently have difficulty matching the 4-year high school program to the individual needs of students who more appropriately would complete the high school program in more or less time than the standard; now, therefore,

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

~~(a) There is a Study Group on Expanding Enrollment Options for High School Students.~~

~~(b) The Study Group consists of the following members:~~

~~(1) One member of the Senate of Maryland, who shall be the cochair of the Study Group, appointed by the President of the Senate;~~

~~(2) One member of the House of Delegates, who shall be the cochair of the Study Group, appointed by the Speaker of the House;~~

~~(3) The State Superintendent of Schools, or an individual designated by the State Superintendent;~~

~~(4) One representative of the Public Schools Superintendents Association, designated by the Association;~~

~~(5) The Secretary of the Maryland Higher Education Commission, or an individual designated by the Secretary;~~

~~(6) Two principals of Maryland comprehensive high schools, one from a large enrollment (1,400 or more students) high school and one from a small enrollment (less than 1,000 students) high school, designated by the Maryland Association of Secondary School Principals;~~

~~(7) One representative of the Maryland Association of Boards of Education, designated by the Association;~~

~~(8) One assistant superintendent for instruction, designated by the State Superintendent of Schools;~~

~~(9) One representative of the Community Colleges Association of Maryland, designated by the Association;~~

~~(10) One representative of Maryland public 4-year colleges and universities, designated by the Chancellor of the University System of Maryland;~~

~~(11) One representative of Maryland's independent 4-year colleges or universities, designated by the Maryland Association of Independent Colleges and Universities; and~~

~~(12) One representative of the Maryland business community designated by the Maryland Chamber of Commerce.~~

~~(e) The State Department of Education, the University System of Maryland, and the Maryland Higher Education Commission jointly shall provide staff support for the Study Group.~~

~~(d) A member of the Study Group:~~

~~(1) May not receive compensation for serving on the Study Group; but~~

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

~~(e) (1) The Study Group shall review, evaluate, and make findings and recommendations regarding the following issues relating to enrollment options for the senior year for Maryland high school students:~~

~~(i) Data regarding students over the past three years who have participated in Advanced Placement courses, International Baccalaureate programs, dual enrollment, and early admission to college programs;~~

~~(ii) Data regarding students over the past three years who dropped out of high school and selected alternative routes for completion of their educational goals, including the GED;~~

~~(iii) Benefits and disadvantages of Advanced Placement and International Baccalaureate programs, dual enrollment, and early admission to college programs;~~

~~(iv) Benefits and disadvantages of GED and other alternative routes for completion of educational goals for students exiting high school before graduation;~~

~~(v) Evaluation of the quality of academic experiences for high school students taking college or university courses versus Advanced Placement or International Baccalaureate programs;~~

~~(vi) Support and guidance provided and needed for families of students seeking challenging academic experiences in their senior year of high school or in lieu of the senior year of high school;~~

~~(vii) Support and guidance provided and needed for families of struggling students who find that the 4-year high school program is inadequate to meet their needs;~~

~~(viii) Fiscal implications for local school systems, colleges and universities, and families on account of the offering of quality experiences for high school seniors;~~

~~(ix) School accountability issues associated with the implementation of programs for high school students seeking challenging academic experiences and for those needing more than four years to complete a successful high school experience; and~~

~~(x) Successful efforts in other states that are reconfiguring high school experiences to meet student needs with nontraditional schedules.~~

~~(2) The Study Group's findings and recommendations at a minimum shall include:~~

~~(i) Short term strategies for reconfiguring high school programs for nontraditional students;~~

~~(ii) Funding and fiscal considerations that must be considered if high school programs are reconfigured for nontraditional students;~~

~~(iii) Recommendations about the lack of uniformity among Maryland colleges and universities in acceptable minimum Advanced Placement scores for college credit;~~

~~(iv) Examination of the awarding of Advanced Placement credit by colleges and universities;~~

~~(v) Recommendations for State Board action regarding the role of GED programs as alternative graduation routes, revisions in high school graduation requirements, and reexamination of the definition of the high school senior year, as necessary;~~

~~(vi) Recommendations related to appropriate long-term funding strategies for students in dual enrollment or senior year placement at colleges or universities;~~

~~(vii) A uniform plan that recognizes and supports the multiple pathways that students take to achieve the Maryland high school diploma in fewer or more than the traditional 4-year time frame; and~~

~~(viii) Requisite record keeping that would need to be initiated to ensure legal sufficiency and compliance with State and federal laws.~~

~~(3) On or before December 1, 2009, the Study Group shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.~~

(a) (1) The State Department of Education shall conduct a study to identify examinations that allow students to earn substitute credits in the State-approved high school courses English 12 and Algebra II in order to accelerate a student's graduation from high school.

(2) The study conducted under paragraph (1) of this subsection shall:

(i) ensure that the content of an examination:

1. assesses a student's mastery of the entire content of the State-approved course; and

2. is aligned with Maryland Content Standards for the State-approved course;

(ii) determine the passing score of an examination that allows a student to receive credit for the State-approved course; and

(iii) establish eligibility criteria for students.

(3) On or before March 1, 2010, the Department shall report on its progress toward identifying examinations and implementing a credit-by-examination process for the State-approved high school courses English 12 and Algebra II to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

(3) (4) On or before the 2010-2011 school year, the State Superintendent of Schools shall implement a credit-by-examination process for the State-approved high school courses English 12 and Algebra II.

(b) (1) The Department shall review and evaluate the appropriateness of implementing middle college programs for students in high schools in the State.

(2) The review and evaluation conducted under paragraph (1) of this subsection shall:

(i) explore and discuss with institutions of higher education in the State the feasibility of establishing partnerships to implement middle college programs for students in high schools; and

(ii) explore and discuss with local school systems the benefits of and the level of interest in offering middle college programs to students in high schools in their jurisdictions.

(3) On or before February 1, 2010, the Department shall report its findings of the review and evaluation conducted under this subsection to the State Superintendent.

(4) If the State Superintendent determines that there is sufficient interest and capability to implement middle college programs for high school students based on the findings of the report submitted under paragraph (3) of this subsection, the State Superintendent shall implement a middle college program in interested school systems beginning in the 2010-2011 school year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June~~ July 1, 2009. *It shall remain effective for a period of 3 years and, at the end of June 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.* ~~It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 7, 2009.

Chapter 304**(Senate Bill 700)**

AN ACT concerning

Pharmacists – Administration of Vaccinations – Expanded Authority

FOR the purpose of expanding the authority of pharmacists to administer certain vaccinations to individuals under certain circumstances; requiring the Board of Pharmacy, the Board of Physicians, and the Board of Nursing to meet at least annually to jointly develop, adopt, and review certain regulations; requiring that certain regulations require a pharmacist to submit a certain registration form to the Board of Pharmacy that includes certain information; altering a certain definition; and generally relating to the expansion of the authority of pharmacists to administer vaccinations to individuals.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–101(s) and 12–508
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health Occupations

12–101.

(s) (1) “Practice pharmacy” means to engage in any of the following activities:

- (i) Providing pharmaceutical care;
- (ii) Compounding, dispensing, or distributing prescription drugs or devices;
- (iii) Compounding or dispensing nonprescription drugs or devices;
- (iv) Monitoring prescriptions for prescription and nonprescription drugs or devices;

(v) Providing information, explanation, or recommendations to patients and health care practitioners about the safe and effective use of prescription or nonprescription drugs or devices;

(vi) Identifying and appraising problems concerning the use or monitoring of therapy with drugs or devices;

(vii) Acting within the parameters of a therapy management contract, as provided under Subtitle 6A of this title;

(viii) Administering an influenza vaccination, **A VACCINATION FOR PNEUMOCOCCAL PNEUMONIA OR HERPES ZOSTER, OR ANY VACCINATION THAT HAS BEEN DETERMINED BY THE BOARD, WITH THE AGREEMENT OF THE BOARD OF PHYSICIANS AND THE BOARD OF NURSING, TO BE IN THE BEST HEALTH INTERESTS OF THE COMMUNITY** in accordance with § 12-508 of this title;

(ix) Delegating a pharmacy act to a registered pharmacy technician, pharmacy student, or an individual engaged in a Board approved pharmacy technician training program; or

(x) Supervising a delegated pharmacy act performed by a registered pharmacy technician, pharmacy student, or an individual engaged in a Board approved pharmacy technician training program.

(2) "Practice pharmacy" does not include the operations of a person who holds a permit issued under § 12-602 of this title.

12-508.

(a) (1) A pharmacist may administer an influenza vaccination to an individual, in accordance with regulations adopted under subsection (c) of this section.

(2) A pharmacist may administer a vaccination for pneumococcal pneumonia or herpes zoster, **OR ANY VACCINATION THAT HAS BEEN DETERMINED BY THE BOARD, WITH THE AGREEMENT OF THE BOARD OF PHYSICIANS AND THE BOARD OF NURSING TO BE IN THE BEST HEALTH INTERESTS OF THE COMMUNITY,** to an individual if:

(i) The individual is an adult;

(ii) The individual has a prescription from a physician;

(iii) The pharmacist informs the prescribing physician that the vaccination has been administered;

(iv) If the prescribing physician is not the patient's primary care physician, the pharmacist has made a reasonable effort to inform the patient's primary care physician that the vaccination has been administered; and

(v) The vaccination is administered in accordance with regulations adopted under subsection (c) of this section.

~~(3) A PHARMACIST MAY ADMINISTER A VACCINATION TO AN INDIVIDUAL, IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER SUBSECTION (C) OF THIS SECTION, THAT HAS BEEN DETERMINED BY THE BOARD, WITH THE BOARD OF PHYSICIANS AND THE BOARD OF NURSING, TO BE IN THE BEST HEALTH INTERESTS OF THE COMMUNITY.~~

(b) The Board shall set reasonable fees for the administration of vaccinations in accordance with subsection (a) of this section.

(c) **(1)** The Board, ~~with~~ the Board of Physicians, and the Board of Nursing, shall MEET AT LEAST ANNUALLY TO jointly develop ~~and~~, adopt, AND REVIEW regulations to provide for patient safety and to implement this section.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REQUIRE A PHARMACIST TO SUBMIT A REGISTRATION FORM TO THE BOARD THAT INCLUDES VERIFICATION THAT THE PHARMACIST:

(I) HAS SUCCESSFULLY COMPLETED A CERTIFICATION COURSE APPROVED BY THE BOARD THAT INCLUDED INSTRUCTION IN THE GUIDELINES AND RECOMMENDATIONS OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION REGARDING VACCINATIONS; AND

(II) IS CERTIFIED IN BASIC CARDIOPULMONARY RESUSCITATION AND OBTAINED THE CERTIFICATION THROUGH IN-PERSON CLASSROOM INSTRUCTION.

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

Approved by the Governor, May 7, 2009.

Chapter 305

(Senate Bill 703)

AN ACT concerning

Electric Universal Service Program – Modifications

FOR the purpose of altering certain criteria for providing bill assistance under the electric universal service program; repealing a certain limitation on providing arrearage retirement assistance under the program; clarifying the scope of certain weatherization assistance funded under the program; authorizing the program to provide arrearage retirement assistance to certain customers under certain conditions; authorizing the Department of Human Resources to establish certain criteria for certain program assistance and to coordinate program benefits with certain other benefits; altering certain information that the Public Service Commission must report to the General Assembly; requiring the Office of Home Energy Programs to report certain information to the Commission and the General Assembly; altering the period within which certain funds may be retained for use in certain fiscal years; making a technical correction; *making this Act an emergency measure*; and generally relating to low-income electric customers and the electric universal service program.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–512.1
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Public Utility Companies

7–512.1.

(a) (1) The Commission shall establish an electric universal service program to assist electric customers with annual incomes at or below 175% of the federal poverty level.

(2) The components of the electric universal service program shall include:

(i) bill assistance[, at a minimum of 50% of the determined need];

(ii) low-income **RESIDENTIAL** weatherization; and

(iii) the retirement of arrearages for electric customers who have not [previously] received assistance in retiring arrearages under the universal service

program[, not to exceed a total of \$1.5 million in any given] **WITHIN THE PRECEDING 7 fiscal [year] YEARS.**

(3) The Department of Housing and Community Development is responsible for administering the low-income **RESIDENTIAL** weatherization component of the electric universal service program.

(4) (I) The Department of Human Resources, through the Office of Home Energy Programs, is responsible for administering the bill assistance and the arrearage retirement components of the electric universal service program.

(II) **THE DEPARTMENT OF HUMAN RESOURCES MAY:**

1. ESTABLISH MINIMUM AND MAXIMUM BENEFITS AVAILABLE TO AN ELECTRIC CUSTOMER UNDER THE BILL ASSISTANCE AND ARREARAGE RETIREMENT COMPONENTS; AND

2. COORDINATE BENEFITS UNDER THE ELECTRIC UNIVERSAL SERVICE PROGRAM WITH BENEFITS UNDER THE MARYLAND ENERGY ASSISTANCE PROGRAM AND OTHER AVAILABLE ENERGY ASSISTANCE PROGRAMS.

(5) The Department of Human Resources may, with input from a panel or roundtable of interested parties, contract to assist in administering the bill assistance and the arrearage retirement components of the electric universal service program.

(6) The Commission has oversight responsibility for the bill assistance and the arrearage retirement components of the electric universal service program.

(7) In a specific case, the electric universal service program may waive the income eligibility limitation under paragraph (1) of this subsection in order to provide assistance to an electric customer who would qualify for a similar waiver under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article.

(b) (1) All customers shall contribute to the funding of the electric universal service program through a charge collected by each electric company.

(2) The Commission shall determine a fair and equitable allocation for collecting the charges among all customer classes pursuant to subsection (e) of this section.

(3) In accordance with subsection (f)(6) of this section, any unexpended bill assistance and arrearage retirement funds returned to customers under subsection

(f) of this section shall be returned to each customer class as a credit in the same proportion that the customer class contributed charges to the fund.

(4) An electric company shall recover electric universal service program costs in accordance with § 7-512 of this subtitle.

(5) As determined by the Office of Home Energy Programs, bill assistance payments to an electric company may be on a monthly basis for each customer.

(6) The Commission shall determine the allocation of the electric universal service charge among the generation, transmission, and distribution rate components of all classes.

(7) The Commission may not assess the electric universal service surcharge on a per kilowatt-hour basis.

(c) (1) On or before December 1 of each year, the Commission shall report, subject to § 2-1246 of the State Government Article, to the General Assembly on the electric universal service program, including:

(i) subject to subsection (e) of this section, a recommendation on the total amount of funds for the program for the following fiscal year based on:

1. the level of participation in and the amounts expended on bill assistance and arrearage retirement during the preceding fiscal year;

2. how bill assistance and arrearage retirement payments were calculated during the preceding fiscal year;

3. the projected needs for the bill assistance and the arrearage retirement components for the next fiscal year; and

4. the amount of any bill assistance or arrearage retirement surplus carried over in the electric universal service program fund under subsection (f)(6)(i) of this section;

(ii) for bill [assistance:

1.] **ASSISTANCE**, the total amount of need, as determined by the Commission, for electric customers with annual incomes at or below [150%] **175%** of the federal poverty level and the basis for this determination; [and

2. the percentage of need, as determined by the Commission, but at a minimum of 50%, that should be funded through the electric universal service program and the basis for this determination;]

(iii) the amount of funds needed, as determined by the Commission, to retire arrearages for electric customers who have not [previously] received assistance in retiring arrearages under the electric universal service program **WITHIN THE PRECEDING 7 FISCAL YEARS**, and the basis for this determination;

(iv) the amount of funds needed, as determined by the Commission, for bill assistance and arrearage retirement, respectively, for customers for whom income limitations may be waived under subsection (a)(7) of this section, and the basis for each determination;

(v) the impact on customers' rates, including the allocation among customer classes, from collecting the total amount recommended by the Commission under item (i) of this paragraph; and

(vi) the impact of using other federal poverty level benchmarks on costs and the effectiveness of the electric universal service program.

(2) (i) To assist the Commission in preparing its recommendations under paragraph (1) of this subsection, the Office of Home Energy Programs shall report to the Commission each year on:

1. the number of customers and the amount of distributions made to fuel customers under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article, identified by funding source and fuel source; [and]

2. the cost of outreach and education materials provided by the Office of Home Energy Programs for the electric universal service program; **AND**

3. THE AMOUNT OF MONEY THAT THE DEPARTMENT OF HUMAN RESOURCES RECEIVES, AND IS PROJECTED TO RECEIVE, FOR LOW-INCOME ENERGY ASSISTANCE FROM:

A. THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE;

B. WITH RESPECT TO ELECTRIC CUSTOMERS ONLY, THE MARYLAND ENERGY ASSISTANCE PROGRAM; AND

C. ANY OTHER FEDERAL, STATE, LOCAL, OR PRIVATE SOURCE.

(ii) The Office of Home Energy Programs may satisfy the reporting requirement of subparagraph (i)1 of this paragraph by providing the

Commission with a copy of material that contains the required information and that the Office of Home Energy Programs submits to the federal government.

(iii) The Commission shall include the information provided by the Office of Home Energy Programs under subparagraph (i) of this paragraph in its report to the General Assembly under paragraph (1) of this subsection.

(3) Subject to subsection (d)(2) of this section, the Commission shall include the information provided by the Department of Housing and Community Development under subsection (d)(1) of this section in its report to the General Assembly under paragraph (1) of this subsection.

(4) (i) The Office of Legislative Audits shall conduct a performance audit of the electric universal service program once every 3 years or at another interval as directed by the Joint Audit Committee and shall report the results of the audit to the General Assembly.

(ii) The cost of the performance audit under this paragraph shall be included in the costs of administering the electric universal service program, and funded through the electric universal service program fund under subsection (f) of this section.

(d) (1) On or before December 1 of each year, the Department of Housing and Community Development shall report, in accordance with § 2-1246 of the State Government Article, to the General Assembly on the low-income **RESIDENTIAL** weatherization component of the electric universal service program, including:

(i) the amount of funds expended during the preceding fiscal year;

(ii) the level of participation during the preceding fiscal year, including the number of households served in each area of the State; and

(iii) the types of projects, including the average cost per unit, provided to households during the preceding fiscal year.

(2) The Department of Housing and Community Development may satisfy the reporting requirement under paragraph (1) of this subsection by requesting the Commission to include the information in the Commission's report required under subsection (c) of this section and providing the information to the Commission by the date specified by the Commission.

(e) The total amount of funds to be collected for the electric universal service program each year shall be \$37 million, allocated in the following manner:

(1) \$27.4 million shall be collected from the industrial and commercial classes; and

(2) \$9.6 million shall be collected from the residential class.

(f) (1) In this subsection, “fund” means the electric universal service program fund.

(2) There is an electric universal service program fund.

(3) (i) 1. The Comptroller shall collect the revenue collected by electric companies under subsection (b) of this section and place the revenue into the fund.

2. The General Assembly may appropriate funds supplemental to the funds collected under subparagraph 1 of this subparagraph.

(ii) The fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(iii) The purpose of the fund is to assist electric customers as provided in subsection (a)(1) of this section.

(4) The Department of Human Resources, with oversight by the Commission, shall disburse the bill assistance and arrearage retirement funds in accordance with the provisions of this section.

(5) The Comptroller annually shall disburse \$1,000,000 of low-income **RESIDENTIAL** weatherization funds to the Department of Housing and Community Development.

(6) (i) At the end of a given fiscal year, any unexpended bill assistance and arrearage retirement funds that were collected for that fiscal year shall be retained in the fund and shall be made available for disbursement through the first [3] 6 months of the next fiscal year to customers who:

1. qualify for assistance from the fund during the given fiscal year;

2. apply for assistance from the fund before the end of the given fiscal year; and

3. remain eligible for assistance at the time services are provided.

(ii) If the Commission determines that an extension is needed, the Commission may extend up to an additional 3 months the period in which unexpended bill assistance and arrearage retirement funds may be made available for disbursement under subparagraph (i) of this paragraph.

(iii) Any bill assistance and arrearage retirement funds collected for a given fiscal year that are retained under subparagraph (i) of this paragraph and that remain unexpended at the end of the period allowed under subparagraphs (i) and (ii) of this paragraph shall be returned to each customer class in the proportion that the customer class contributed charges to the fund for the given fiscal year in the form of a credit toward the charge assessed in the following fiscal year.

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

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 ye 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 7, 2009.

Chapter 306

(House Bill 736)

AN ACT concerning

Electric Universal Service Program – Modifications

FOR the purpose of altering certain criteria for providing bill assistance under the electric universal service program; repealing a certain limitation on providing arrearage retirement assistance under the program; clarifying the scope of certain weatherization assistance funded under the program; authorizing the program to provide arrearage retirement assistance to certain customers under certain conditions; authorizing the Department of Human Resources to establish certain criteria for certain program assistance and to coordinate program benefits with certain other benefits; altering certain information that the Public Service Commission must report to the General Assembly; requiring the Office of Home Energy Programs to report certain information to the Commission and the General Assembly; altering the period within which certain funds may be retained for use in certain fiscal years; making a technical correction; making this Act an emergency measure; and generally relating to low-income electric customers and the electric universal service program.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7-512.1

Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Public Utility Companies

7-512.1.

(a) (1) The Commission shall establish an electric universal service program to assist electric customers with annual incomes at or below 175% of the federal poverty level.

(2) The components of the electric universal service program shall include:

(i) bill assistance[, at a minimum of 50% of the determined need];

(ii) low-income **RESIDENTIAL** weatherization; and

(iii) the retirement of arrearages for electric customers who have not [previously] received assistance in retiring arrearages under the universal service program[, not to exceed a total of \$1.5 million in any given] **WITHIN THE PRECEDING 7 fiscal [year] YEARS.**

(3) The Department of Housing and Community Development is responsible for administering the low-income **RESIDENTIAL** weatherization component of the electric universal service program.

(4) (I) The Department of Human Resources, through the Office of Home Energy Programs, is responsible for administering the bill assistance and the arrearage retirement components of the electric universal service program.

(II) **THE DEPARTMENT OF HUMAN RESOURCES MAY:**

1. ESTABLISH MINIMUM AND MAXIMUM BENEFITS AVAILABLE TO AN ELECTRIC CUSTOMER UNDER THE BILL ASSISTANCE AND ARREARAGE RETIREMENT COMPONENTS; AND

2. COORDINATE BENEFITS UNDER THE ELECTRIC UNIVERSAL SERVICE PROGRAM WITH BENEFITS UNDER THE MARYLAND ENERGY ASSISTANCE PROGRAM AND OTHER AVAILABLE ENERGY ASSISTANCE PROGRAMS.

(5) The Department of Human Resources may, with input from a panel or roundtable of interested parties, contract to assist in administering the bill assistance and the arrearage retirement components of the electric universal service program.

(6) The Commission has oversight responsibility for the bill assistance and the arrearage retirement components of the electric universal service program.

(7) In a specific case, the electric universal service program may waive the income eligibility limitation under paragraph (1) of this subsection in order to provide assistance to an electric customer who would qualify for a similar waiver under the Maryland Energy Assistance Program established under Title 5, Subtitle 5A of the Human Services Article.

(b) (1) All customers shall contribute to the funding of the electric universal service program through a charge collected by each electric company.

(2) The Commission shall determine a fair and equitable allocation for collecting the charges among all customer classes pursuant to subsection (e) of this section.

(3) In accordance with subsection (f)(6) of this section, any unexpended bill assistance and arrearage retirement funds returned to customers under subsection (f) of this section shall be returned to each customer class as a credit in the same proportion that the customer class contributed charges to the fund.

(4) An electric company shall recover electric universal service program costs in accordance with § 7-512 of this subtitle.

(5) As determined by the Office of Home Energy Programs, bill assistance payments to an electric company may be on a monthly basis for each customer.

(6) The Commission shall determine the allocation of the electric universal service charge among the generation, transmission, and distribution rate components of all classes.

(7) The Commission may not assess the electric universal service surcharge on a per kilowatt-hour basis.

(c) (1) On or before December 1 of each year, the Commission shall report, subject to § 2-1246 of the State Government Article, to the General Assembly on the electric universal service program, including:

(i) subject to subsection (e) of this section, a recommendation on the total amount of funds for the program for the following fiscal year based on:

1. the level of participation in and the amounts expended on bill assistance and arrearage retirement during the preceding fiscal year;
2. how bill assistance and arrearage retirement payments were calculated during the preceding fiscal year;
3. the projected needs for the bill assistance and the arrearage retirement components for the next fiscal year; and
4. the amount of any bill assistance or arrearage retirement surplus carried over in the electric universal service program fund under subsection (f)(6)(i) of this section;

(ii) for bill [assistance:

1.] **ASSISTANCE**, the total amount of need, as determined by the Commission, for electric customers with annual incomes at or below [150%] **175%** of the federal poverty level and the basis for this determination; [and

2. the percentage of need, as determined by the Commission, but at a minimum of 50%, that should be funded through the electric universal service program and the basis for this determination;]

(iii) the amount of funds needed, as determined by the Commission, to retire arrearages for electric customers who have not [previously] received assistance in retiring arrearages under the electric universal service program **WITHIN THE PRECEDING 7 FISCAL YEARS**, and the basis for this determination;

(iv) the amount of funds needed, as determined by the Commission, for bill assistance and arrearage retirement, respectively, for customers for whom income limitations may be waived under subsection (a)(7) of this section, and the basis for each determination;

(v) the impact on customers' rates, including the allocation among customer classes, from collecting the total amount recommended by the Commission under item (i) of this paragraph; and

(vi) the impact of using other federal poverty level benchmarks on costs and the effectiveness of the electric universal service program.

(2) (i) To assist the Commission in preparing its recommendations under paragraph (1) of this subsection, the Office of Home Energy Programs shall report to the Commission each year on:

1. the number of customers and the amount of distributions made to fuel customers under the Maryland Energy Assistance Program

established under Title 5, Subtitle 5A of the Human Services Article, identified by funding source and fuel source; [and]

2. the cost of outreach and education materials provided by the Office of Home Energy Programs for the electric universal service program;
AND

3. THE AMOUNT OF MONEY THAT THE DEPARTMENT OF HUMAN RESOURCES RECEIVES, AND IS PROJECTED TO RECEIVE, FOR LOW-INCOME ENERGY ASSISTANCE FROM:

A. THE MARYLAND STRATEGIC ENERGY INVESTMENT FUND UNDER § 9-20B-05 OF THE STATE GOVERNMENT ARTICLE;

B. WITH RESPECT TO ELECTRIC CUSTOMERS ONLY, THE MARYLAND ENERGY ASSISTANCE PROGRAM; AND

C. ANY OTHER FEDERAL, STATE, LOCAL, OR PRIVATE SOURCE.

(ii) The Office of Home Energy Programs may satisfy the reporting requirement of subparagraph (i)1 of this paragraph by providing the Commission with a copy of material that contains the required information and that the Office of Home Energy Programs submits to the federal government.

(iii) The Commission shall include the information provided by the Office of Home Energy Programs under subparagraph (i) of this paragraph in its report to the General Assembly under paragraph (1) of this subsection.

(3) Subject to subsection (d)(2) of this section, the Commission shall include the information provided by the Department of Housing and Community Development under subsection (d)(1) of this section in its report to the General Assembly under paragraph (1) of this subsection.

(4) (i) The Office of Legislative Audits shall conduct a performance audit of the electric universal service program once every 3 years or at another interval as directed by the Joint Audit Committee and shall report the results of the audit to the General Assembly.

(ii) The cost of the performance audit under this paragraph shall be included in the costs of administering the electric universal service program, and funded through the electric universal service program fund under subsection (f) of this section.

(d) (1) On or before December 1 of each year, the Department of Housing and Community Development shall report, in accordance with § 2-1246 of the State

Government Article, to the General Assembly on the low-income **RESIDENTIAL** weatherization component of the electric universal service program, including:

(i) the amount of funds expended during the preceding fiscal year;

(ii) the level of participation during the preceding fiscal year, including the number of households served in each area of the State; and

(iii) the types of projects, including the average cost per unit, provided to households during the preceding fiscal year.

(2) The Department of Housing and Community Development may satisfy the reporting requirement under paragraph (1) of this subsection by requesting the Commission to include the information in the Commission's report required under subsection (c) of this section and providing the information to the Commission by the date specified by the Commission.

(e) The total amount of funds to be collected for the electric universal service program each year shall be \$37 million, allocated in the following manner:

(1) \$27.4 million shall be collected from the industrial and commercial classes; and

(2) \$9.6 million shall be collected from the residential class.

(f) (1) In this subsection, "fund" means the electric universal service program fund.

(2) There is an electric universal service program fund.

(3) (i) 1. The Comptroller shall collect the revenue collected by electric companies under subsection (b) of this section and place the revenue into the fund.

2. The General Assembly may appropriate funds supplemental to the funds collected under subparagraph 1 of this subparagraph.

(ii) The fund is a continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(iii) The purpose of the fund is to assist electric customers as provided in subsection (a)(1) of this section.

(4) The Department of Human Resources, with oversight by the Commission, shall disburse the bill assistance and arrearage retirement funds in accordance with the provisions of this section.

(5) The Comptroller annually shall disburse \$1,000,000 of low-income **RESIDENTIAL** weatherization funds to the Department of Housing and Community Development.

(6) (i) At the end of a given fiscal year, any unexpended bill assistance and arrearage retirement funds that were collected for that fiscal year shall be retained in the fund and shall be made available for disbursement through the first [3] **6** months of the next fiscal year to customers who:

1. qualify for assistance from the fund during the given fiscal year;
2. apply for assistance from the fund before the end of the given fiscal year; and
3. remain eligible for assistance at the time services are provided.

(ii) If the Commission determines that an extension is needed, the Commission may extend up to an additional 3 months the period in which unexpended bill assistance and arrearage retirement funds may be made available for disbursement under subparagraph (i) of this paragraph.

(iii) Any bill assistance and arrearage retirement funds collected for a given fiscal year that are retained under subparagraph (i) of this paragraph and that remain unexpended at the end of the period allowed under subparagraphs (i) and (ii) of this paragraph shall be returned to each customer class in the proportion that the customer class contributed charges to the fund for the given fiscal year in the form of a credit toward the charge assessed in the following fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect July 1, 2009~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 7, 2009.

Chapter 307

(Senate Bill 711)

AN ACT concerning

Trooper Tobin Triebel ~~Life Insurance~~ Memorial Act

FOR the purpose of requiring the Secretary of Budget and Management to include in the State Employee and Retiree Health and Welfare Benefits Program an option to purchase up to a certain amount of additional life insurance coverage for certain employees; authorizing the Secretary of State Police and the Secretary of Budget and Management to award certain death benefits and funeral expenses to certain recipients on behalf of certain individuals; requiring that certain death benefits and funeral expenses be paid and funded in a certain manner; providing for the application of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to ~~benefit options under the State Employee and Retiree Health and Welfare Benefits Program~~ benefits for public safety employees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–503
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

2–503.

(a) The Secretary shall:

- (1) adopt regulations for the administration of the Program;
- (2) ensure that the Program complies with all federal and State laws governing employee benefit plans; and
- (3) each year, recommend to the Governor the State share of the costs of the Program.

(b) (1) The Secretary may arrange as the Secretary considers appropriate any benefit option for inclusion in the Program.

(2) **THE SECRETARY SHALL INCLUDE IN THE PROGRAM AN OPTION TO PURCHASE UP TO \$200,000 OF ADDITIONAL LIFE INSURANCE COVERAGE FOR EMPLOYEES WHO:**

(I) **FLY IN A HELICOPTER IN THE COURSE OF THEIR EMPLOYMENT WITH THE STATE;**

(II) SCUBA DIVE IN THE COURSE OF THEIR EMPLOYMENT WITH THE STATE; OR

(III) AS A RESULT OF THEIR EMPLOYMENT WITH THE STATE, FACE A SIGNIFICANT LIKELIHOOD OF RECEIVING A LESS FAVORABLE LIFE INSURANCE RATING THAN AN INDIVIDUAL EMPLOYED IN A NONHAZARDOUS POSITION.

(c) The Secretary shall specify by regulation the types or categories of State employees who:

- (1) are eligible to enroll and participate in the Program with State subsidies;
- (2) are eligible to enroll and participate in the Program without State subsidies; and
- (3) are not eligible to enroll or participate in the Program.

(d) (1) The regulations adopted by the Secretary shall include provisions for the enrollment and participation of employees of all:

(i) organizations and entities that were participating in the Program as satellite organizations on January 1, 1993; and

(ii) employee organizations that qualify for payroll deductions under the provisions of § 2-403 of this title.

(2) Employees of organizations and entities covered by this section may participate:

- (i) without State subsidies; and
- (ii) with payment by the organization or entity of administrative costs resulting from the participation of its employees in the Program.

(3) The regulations adopted by the Secretary under this subsection shall provide that an employee organization specified in paragraph (1)(ii) of this subsection:

(i) may not enroll or participate in the Program unless the organization has notified the Secretary, in writing, on or before July 1, 1994 of the organization's intent to enroll and participate in the Program during calendar year 1994; and

(ii) may not enroll or participate in the Program on or after January 1, 1995 unless the organization has participated in the Program during calendar year 1994.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies to any individual who, on or after November 1, 2008:

(1) was an active police employee in good standing of the Department of State Police; and

(2) died while participating in off-duty training exercises directly related to maintaining fitness for duty as a police employee employed by the Department of State Police.

(b) (1) The Secretary of State Police may award to the surviving spouse, child, dependent parent, or estate of an individual described in subsection (a) of this section:

(i) a death benefit equal to \$125,000; and

(ii) reasonable funeral expenses, not exceeding \$10,000.

(2) The Secretary of Budget and Management may award to the surviving spouse, child, dependent parent, or estate of an individual described in subsection (a) of this section a death benefit equal to \$50,000.

(c) If the Secretary of State Police and Secretary of Budget and Management determine that the benefits under this section are to be paid, the benefits shall be paid:

(1) to the decedent's surviving spouse;

(2) if no individual is eligible under item (1) of this subsection, to each surviving child of the decedent in equal shares;

(3) if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent, if the parent was a dependent as defined under § 152 of the Internal Revenue Code; or

(4) if no individual is eligible under item (1), (2), or (3) of this subsection, to the decedent's estate.

(d) (1) Any benefit awarded by the Secretary of State Police under subsection (b)(1) of this section shall be paid and funded in accordance with the benefits provided under § 1-202 of the Public Safety Article.

(2) Any benefit awarded by the Secretary of Budget and Management under subsection (b)(2) of this section shall be paid and funded in accordance with the benefits provided under § 10-404 of the State Personnel and Pensions Article.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply only to all policies and contracts for life insurance coverage issued on or renewed by the State Employee and Retiree Health and Welfare Benefits Program on or after October 1, 2009.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2009. Section 2 of this Act shall remain effective for a period of 6 months and, at the end of December 31, 2009, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 7, 2009.

Chapter 308

(Senate Bill 761)

AN ACT concerning

Department of Health and Mental Hygiene - ~~Federal Waiver~~ Waiver for Medicaid Coordinated Long Term Care Program Long-Term Care Supports and Services - Report

FOR the purpose of requiring the ~~Department~~ Secretary of Health and Mental Hygiene to ~~apply for a certain waiver under the federal Social Security Act on or before a certain date; requiring a certain waiver to include certain goals and objectives; requiring a certain waiver to include certain benefits and consumer protections regarding the choice of certain long term care facilities; requiring certain coordinated care organizations to reimburse certain facilities at certain rates; requiring certain coordinated care organizations to meet certain certification requirements; requiring the Department to report annually on the status of a certain program; defining certain terms; and generally relating to long term care eligibility requirements and waiver services in the Maryland Medical Assistance Program~~ submit certain reports to the General Assembly on or before certain dates; providing for the purpose of a certain program; requiring the Secretary to convene a certain stakeholder group and provide for a certain stakeholder process; providing for the membership of a certain stakeholder group; requiring the Department to submit a federal waiver on or before a certain date under certain circumstances; and generally relating to the Department of Health and Mental Hygiene and a report on long-term care supports and services.

~~BY adding to~~

~~Article — Health — General~~

~~Section 15-141.1~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2008 Supplement)~~

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

(a) On or before September 1, 2009, the Secretary of Health and Mental Hygiene shall submit an interim report, and on or before December 1, 2010, shall submit a final report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the feasibility of creating a coordinated care program to reform the provision of long-term care services under the Medical Assistance program in a manner that improves and integrates the care of individuals, including health care services, designed as necessary to meet the differing needs of seniors and adults with disabilities in the State.

(b) The purpose of the program created under subsection (a) of this section is to:

(1) deliver high-quality long-term care supports and services in a coordinated and integrated manner;

(2) deliver long-term care supports and services in the most appropriate care setting to meet the needs and preferences of eligible individuals;

(3) remove systemic and individual barriers to receiving care in home- and community-based settings, as preferred by the individual; and

(4) ensure that, if the State plans to manage long-term care through at-risk contracts, the carve-out of mental health services and hospice services are implemented as required by Chapter 4 of the Acts of the General Assembly of the 2004 Special Session.

(c) In developing the reports required under subsection (a) of this section, the Secretary shall convene a group of stakeholders both public and private and representatives of interested and affected parties, to evaluate and make recommendations consistent with the requirements of this section.

(d) The stakeholder group required under subsection (c) of this section shall include:

(1) legislators;

(2) affected State agencies;

(3) providers with experience in dementia, geriatrics, end-of-life care, and mental health, and disabilities in younger adults;

(4) long-term care providers;

(5) managed care organizations;

(6) acute care providers;

(7) lay care providers;

(8) advocates for individuals receiving long-term care or community services; and

(9) consumers.

(e) The stakeholder process to develop recommendations for a coordinated care program consistent with the purpose of this section shall include a review of:

(1) long-term plans, consensus reports, experiences, and best practices in the State and in other states, relating to the management and coordination of long-term care supports and services, including mental health and behavioral health supports and services for individuals outside of the public mental health system, under the Medical Assistance program, including programs that have carved out nursing home services, programs or plans that are administered within a State agency or by an independent entity, and the CommunityChoice Advisory Group's consensus recommendations; and

(2) the Department's plan for evaluating the existing home- and community-based services infrastructure, including:

(i) identifying the projected need and cost for additional services adequate to support the needs of the population, including strategies to encourage the development of the additional services;

(ii) utilizing funds from the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), to the extent practicable;

(iii) considering whether to pursue a pilot or statewide program;

(iv) identifying any other areas in which the service needs of seniors and adults with disabilities in the State that should be addressed, including streamlined electronic eligibility determinations and electronic billing components; and

(v) whether a federal waiver is necessary to create a coordinated care program and, if so, the type of waiver that should be sought.

(f) The Department shall:

(1) include in the interim report required under subsection (a) of this section a timeline and work plan for the stakeholder process required under subsection (e) of this section; and

(2) include in the final report required under subsection (a) of this section draft legislation for approval by the General Assembly that would enact the consensus recommendations developed through the stakeholder process.

(g) If the General Assembly enacts legislation that requires the submission of a federal waiver, the Department shall submit the waiver on or before June 1, 2011.

Preamble

~~WHEREAS, The General Assembly required the Department of Health and Mental Hygiene to submit to the Center for Medicare and Medicaid Services a waiver to implement the "Community Choice Program" by passage of Senate Bill 819 of 2004, which was vetoed by the Governor; and~~

~~WHEREAS, On December 28, 2004, the Governor called the General Assembly into Special Session and the General Assembly overrode the Governor's veto of Senate Bill 819 of 2004 to ensure the implementation of the Community Choice Program; and~~

~~WHEREAS, Some of the goals and objectives of the Community Choice Program were to enhance the quality of care and quality of life of recipients of long-term care services in the State and to utilize State health care dollars effectively; and~~

~~WHEREAS, There was significant stakeholder involvement in the development of the draft waiver authorized by Senate Bill 819 of 2004; and~~

~~WHEREAS, The Community Choice Program has not been implemented as required; and~~

~~WHEREAS, According to the Department of Health and Mental Hygiene the current system of delivering Medicaid benefits to recipients of long-term care services is not well coordinated, does not meet consumers' needs, and requires better coordination and integration to improve quality outcomes and save money at the same time; now, therefore,~~

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

Article Health General

~~15-141.1.~~

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

~~(2) "COORDINATED CARE ORGANIZATION" MEANS AN ORGANIZATION APPROVED BY THE DEPARTMENT THAT ARRANGES FOR HEALTH CARE SERVICES WITH THE GOAL OF PROMOTING THE DELIVERY OF SERVICES IN THE MOST APPROPRIATE, COST-EFFECTIVE SETTING.~~

~~(3) "COORDINATED LONG TERM CARE PROGRAM" MEANS A PROGRAM THAT DELIVERS SERVICES IN ACCORDANCE WITH THE WAIVER DEVELOPED UNDER THIS SECTION.~~

~~(B) (1) ON OR BEFORE DECEMBER 1, 2009, THE DEPARTMENT SHALL APPLY FOR A WAIVER UNDER THE FEDERAL SOCIAL SECURITY ACT.~~

~~(2) AS PERMITTED BY FEDERAL LAW OR WAIVER, THE SECRETARY MAY ESTABLISH A PROGRAM UNDER WHICH MARYLAND MEDICAL ASSISTANCE PROGRAM RECIPIENTS ARE REQUIRED TO ENROLL IN A COORDINATED LONG TERM CARE PROGRAM.~~

~~(C) (1) ANY WAIVER DEVELOPED UNDER THIS SECTION SHALL INCLUDE THE SAME GOALS AND OBJECTIVES SET FORTH IN § 15-141(C) OF THIS SUBTITLE.~~

~~(2) ANY WAIVER DEVELOPED UNDER THIS SECTION SHALL INCLUDE THE SAME BENEFITS AND CONSUMER PROTECTIONS CONSISTENT WITH § 15-141 OF THIS SUBTITLE, INCLUDING:~~

~~(i) EACH ENROLLEE RECEIVING SERVICES IN A NURSING HOME, AN ASSISTED LIVING FACILITY, AN ADULT DAY CARE FACILITY, A PSYCHIATRIC REHABILITATION PROGRAM, OR A RESIDENTIAL REHABILITATION PROGRAM SHALL HAVE THE OPTION OF REMAINING IN THE NURSING HOME, AN ASSISTED LIVING FACILITY, AN ADULT DAY CARE FACILITY, A PSYCHIATRIC REHABILITATION PROGRAM, OR A RESIDENTIAL REHABILITATION PROGRAM; AND~~

~~(ii) TO THE EXTENT PRACTICABLE, ALLOW WAIVER ENROLLEES WHO MEET THE NURSING HOME LEVEL OF CARE TO SELECT A NURSING HOME, AN ASSISTED LIVING FACILITY, OR AN ADULT DAY CARE FACILITY PROVIDED THAT:~~

~~1. THE NURSING HOME, ASSISTED LIVING FACILITY, OR ADULT DAY CARE FACILITY IS LICENSED BY THE DEPARTMENT; AND~~

~~2. THE PROVIDER MEETS THE DEPARTMENT APPROVED CREDENTIALING REQUIREMENTS OF THE LONG TERM CARE ENTITY.~~

~~(D) IN ARRANGING FOR THE BENEFITS REQUIRED UNDER THE WAIVER PROGRAM, THE COORDINATED CARE ORGANIZATION SHALL:~~

~~(1) (i) REIMBURSE NURSING HOMES NOT LESS THAN THE MEDICAID ESTABLISHED RATE BASED ON THE WAIVER RECIPIENT'S MEDICAL CONDITION PLUS ALLOWABLE ANCILLARY SERVICES, AS ESTABLISHED BY THE DEPARTMENT BASED ON ITS NURSING HOME MEDICAID RATE SETTING METHODOLOGY; OR~~

~~(ii) FOR WAIVER RECIPIENTS THAT WOULD HAVE BEEN PAID BY THE MEDICARE PROGRAM FOR SERVICES PROVIDED, REIMBURSE NURSING HOMES NOT LESS THAN THE APPLICABLE REIMBURSEMENT RATE PAYABLE BY MEDICARE FOR THAT WAIVER RECIPIENT;~~

~~(2) REIMBURSE NURSING HOMES IN ACCORDANCE WITH THE DEPARTMENT'S POLICY ON LEAVE OF ABSENCE AS PROVIDED UNDER § 15-117 OF THIS SUBTITLE; AND~~

~~(3) REIMBURSE ADULT DAY CARE FACILITIES NOT LESS THAN THE RATE DETERMINED BY THE DEPARTMENT FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM.~~

~~(E) EACH COORDINATED CARE ORGANIZATION SHALL MEET THE SAME REQUIREMENTS FOR CERTIFICATION AS SET FORTH IN § 15-141 OF THIS SUBTITLE.~~

~~(F) BEGINNING ON DECEMBER 1, 2009, THE DEPARTMENT SHALL ANNUALLY REPORT TO, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE STATUS OF THE PROGRAM DEVELOPED UNDER THIS SECTION.~~

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

Approved by the Governor, May 7, 2009.

Chapter 309**(Senate Bill 762)**

AN ACT concerning

**Department of Labor, Licensing, and Regulation – Workforce Development
and Adult Learning – Administration**

FOR the purpose of altering the membership of the Institutional Educator Pay Plan Advisory Committee; providing that the State Board of Education is the sole State agency responsible for administering a certain federal act; altering the name of a certain division within the Department of Labor, Licensing, and Regulation; altering the duties of the division; providing that certain personnel who transfer from a certain school system or certain library system to the Department shall be given certain service credit; repealing the authority of the State Board to waive certain residence and withdrawal requirements for a certain examination under certain circumstances; authorizing the Secretary of Labor, Licensing, and Regulation to waive certain residence and withdrawal requirements for a certain examination under certain circumstances; requiring the Department to offer certain examinations a certain number of times per year rather than requiring certain individuals to take a certain examination a certain number of times per year; altering the membership of the Education and Workforce Training Coordinating Council for correctional institutions; requiring a certain council to meet a certain number of times per year; repealing the requirement for the Secretary to appoint a certain director; requiring the Secretary to appoint a certain director; clarifying the title and duties of a certain director; authorizing the use of certain funds for certain programs at a certain correctional institution; providing that certain employees have satisfied certain requirements under certain circumstances; altering a certain defined term; and generally relating to the administration of workforce development and adult learning services in the Department of Labor, Licensing, and Regulation.

BY repealing and reenacting, without amendments,

Article – Education
Section 6–303(a)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education
Section 6–303(b)(1), 21–201, and 21–202
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 11–102, 11–103, 11–801, 11–808(a) and (b), 11–901(b) and (d), 11–903, and 11–906(a)

Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to

Article – Labor and Employment

Section 11–104

Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Labor and Employment

Section 11–901(a)

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

6–303.

(a) There is an Institutional Educator Pay Plan Advisory Committee.

(b) (1) The Advisory Committee shall consist of:

(i) ~~Four~~ **FIVE** employee educators whose positions are included in the Institutional Educator Pay Plan established under § 6–302 of this subtitle from each of the following units:

1. The Division of ~~[Correctional Education]~~ **WORKFORCE DEVELOPMENT AND ADULT LEARNING** in the Department of ~~[Education]~~ **LABOR, LICENSING, AND REGULATION**;

2. The Division of Rehabilitative Services in the Department of Education;

3. The Department of Juvenile Services; ~~[and]~~

4. The Department of Health and Mental Hygiene; and

5. THE JUVENILE SERVICES EDUCATION PROGRAM IN THE DEPARTMENT OF EDUCATION; AND

(ii) Any additional agency representatives appointed by the Secretary of Budget and Management.

21-201.

In this subtitle, "federal acts" means:

- (1) The Smith-Hughes Act;
- (2) The George-Barden Act;
- (3) The Carl D. Perkins [Vocational] **CAREER** and Technical Education Act;
- (4) [The Adult Education and Family Literacy Act;
- (5) The Workforce Investment Act] **THE VOCATIONAL EDUCATION ACT OF 1963**;
- [(6)] **(5)** Any other career and technology education act of the United States Congress; and
- [(7)] **(6)** Any amendments to any of these acts.

21-202.

- (a) The State of Maryland assents to the federal acts.
- (b) The State Treasurer shall:
 - (1) Be the custodian of any money received under the federal acts; and
 - (2) Disburse this money in accordance with the federal acts.
- (c) The State Board of Education [and the Department of Labor, Licensing, and Regulation, as appropriate,] shall:
 - (1) Cooperate with the appropriate federal agencies in administering the federal acts;
 - (2) Do anything necessary to secure the benefits of the federal acts;
 - (3) Facilitate the transfer of federal funds to the appropriate operational entity **INCLUDING THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION**; and

(4) Represent this State in all matters relating to the administration of the federal acts.

(D) THE STATE BOARD OF EDUCATION SHALL BE THE SOLE STATE AGENCY RESPONSIBLE FOR THE ADMINISTRATION OF THE CARL D. PERKINS CAREER AND TECHNICAL EDUCATION ACT.

Article – Labor and Employment

11–102.

(a) There is a Division of Workforce Development **AND ADULT LEARNING** within the Department of Labor, Licensing, and Regulation.

(b) The Division has the powers, duties, responsibilities, and functions provided in the laws of this State.

(c) The Division has the general purpose of advancing the economic welfare of the people by coordinating the State's public and private resources for **ADULT LEARNING**, employment, and job training.

11–103.

(a) The Division shall:

(1) promote apprenticeship and training programs;

(2) administer job training, placement, and service programs;

(3) implement the provisions of the Workforce Investment Act;

(4) ADMINISTER ADULT EDUCATION AND LITERACY SERVICES PROGRAMS;

(5) CONDUCT EDUCATIONAL AND JOB SKILLS TRAINING PROGRAMS IN ADULT CORRECTIONAL FACILITIES;

[(4)] (6) oversee any other units established pursuant to State or federal employment, training, or manpower statutes; and

[(5)] (7) administer those programs assigned to the Division by law or designated by the Secretary.

(b) The Division shall meet and confer on a regular basis with representatives of the State's community colleges, appointed by the Maryland

Association of Community Colleges, **AND THE ADULT EDUCATION COMMUNITY, APPOINTED BY THE MARYLAND ASSOCIATION FOR ADULT CONTINUING AND COMMUNITY EDUCATION,** to assure that **ADULT EDUCATION AND LITERACY SERVICES AND** job training activities and resources are effectively coordinated.

11-104.

FOR THE PURPOSE OF ESTABLISHING COMPENSATION RATES AND BASIC RATES FOR VACATION AND SICK LEAVE CREDIT EARNINGS, PROFESSIONAL PERSONNEL WHO WERE EMPLOYED BY A COUNTY SCHOOL SYSTEM OR THE PUBLIC LIBRARY SYSTEM IN THE STATE AND WHO ARE SUBSEQUENTLY APPOINTED TO POSITIONS IN THE DEPARTMENT TO PROVIDE SERVICES IN ACCORDANCE WITH SUBTITLES 8 AND 9 OF THIS TITLE SHALL BE GIVEN CREDIT AS EMPLOYEES OF THE DEPARTMENT FOR THEIR YEARS OF SERVICE AS EMPLOYEES OF THE COUNTY SCHOOL SYSTEM OR THE PUBLIC LIBRARY SYSTEM FROM WHICH THEY TRANSFERRED.

11-801.

(a) There is an Adult Education and Literacy Services Office in the Division of Workforce Development **AND ADULT LEARNING** of the Department.

(b) The Adult Education and Literacy Services Office shall be the sole agency in the State responsible for administering and supervising policy and funding for adult education and literacy.

11-808.

(a) An individual may obtain a high school diploma by examination as provided in this section if the individual:

(1) has not obtained a high school diploma;

(2) has resided in this State or on a federal reservation in this State for at least 3 months, provided that the [State Board of Education] **SECRETARY** may waive the residence requirement if the [State Board] **SECRETARY** considers the waiver justified;

(3) is 16 years old or older; and

(4) has withdrawn from a regular full-time public or private school program for at least 3 months, provided that the [State Board of Education] **SECRETARY** may waive the withdrawal requirement if the [State Board] **SECRETARY** considers the waiver justified.

(b) The Department shall [require] **OFFER EXAMINATIONS TO** individuals who are pursuing a high school diploma under this subtitle [to take an examination] at least twice each year at places throughout the State that are reasonably convenient for the applicants.

11-901.

(a) There is an Education and Workforce Training Coordinating Council for Correctional Institutions under the jurisdiction of the Department of Public Safety and Correctional Services and the Department.

(b) (1) The Council consists of [seven] **14** members.

(2) [One] **FOUR** of the members of the Council shall be [a resident] **RESIDENTS** of this State appointed by the Governor for a term of 4 years who **EACH** shall serve until a successor is appointed and qualifies **AS FOLLOWS:**

(I) **TWO REPRESENTING THE BUSINESS COMMUNITY;**

(II) **A FORMER OFFENDER; AND**

(III) **ONE MEMBER OF THE GENERAL PUBLIC.**

(3) The following officials shall serve ex officio:

(i) the Secretary of Public Safety and Correctional Services;

(ii) the Secretary of Labor, Licensing, and Regulation;

(iii) the State Superintendent of Schools;

(iv) the Secretary of Higher Education;

(v) **THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT;**

(vi) **THE PRESIDENT OF A COMMUNITY COLLEGE IN THE STATE;**

(vii) **THE CHAIR OF THE GOVERNOR'S WORKFORCE INVESTMENT BOARD;**

(viii) **THE DIRECTOR OF EDUCATION AND WORKFORCE SKILLS TRAINING FOR CORRECTIONAL INSTITUTIONS;**

[(v)] (IX) an official from a local correctional facility; and

[(vi)] (X) the county superintendent of schools from a county where a correctional institution of the Division of Correction is located, who shall be selected by the State Superintendent.

(d) (1) The Secretary of Public Safety and Correctional Services and the Secretary shall serve as cochairs of the Council.

(2) The Council:

(I) **SHALL MEET AT LEAST FOUR TIMES PER YEAR;**

(II) shall designate the time and place of its meetings; and

(III) may adopt rules for the conduct of its meetings.

(3) The Council shall be within the Department for administrative and budgetary purposes.

(4) The Department shall provide technical and clerical assistance and support to the Council.

11-903.

(a) The Department is responsible for the provision of education and workforce skills training programs in the adult correctional institutions in the State.

(b) The Secretary shall appoint a [Director of educational programs and a Director of workforce skills training for correctional institutions] **DIRECTOR OF EDUCATION AND WORKFORCE SKILLS TRAINING FOR CORRECTIONAL INSTITUTIONS.**

(c) [Each] **THE** Director shall receive the salary provided in the budget of the Department.

(d) The [Directors] **DIRECTOR** shall:

(1) implement and operate the educational and workforce skills training programs developed by the Council in the correctional institutions;

(2) meet with and advise the Council about the programs; and

(3) consult with the Commissioner of Correction and the warden of each institution about the operation of the programs.

11-906.

(a) Notwithstanding any other provision of law, Patuxent Institution is a correctional institution within the Division of Correction and under the jurisdiction of the Education and Workforce Training and Coordinating Council for correctional institutions for the funding of educational **AND WORKFORCE SKILLS TRAINING** programs only.

SECTION 2. AND BE IT FURTHER ENACTED, That all employees in the Adult Education and Literacy Branch and the Correctional Education Program of the State Department of Education who are transferred to the Department of Labor, Licensing, and Regulation have satisfied the minimum qualification requirements of their classification in the State personnel management system and shall be transferred into the system without any further selection process.

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

Approved by the Governor, May 7, 2009.

Chapter 310

(Senate Bill 776)

AN ACT concerning

Health Services Cost Review Commission – Financial Assistance and Debt Collection Policies

FOR the purpose of requiring ~~each hospital~~ the Health Services Cost Review Commission to require certain hospitals in the State to develop a financial assistance policy for providing free care and reduced-cost care to certain patients; requiring a hospital to post a certain notice in its billing office; requiring each hospital to develop an information sheet that meets certain requirements; requiring the ~~Health Services Cost Review~~ Commission to establish uniform requirements for the information sheet and review each hospital's implementation of and compliance with certain requirements; requiring each hospital to ensure the availability of staff with certain training; altering requirements for each hospital's submission of a policy on debt collection; requiring the policy to meet certain requirements; requiring the Commission to review each hospital's implementation of and compliance with the policy and requirements; authorizing the Commission to impose a certain fine under certain circumstances and to consider certain items before imposing a fine; altering the requirements for regulations establishing alternative methods for financing certain costs of care; requiring the Commission to

establish a workgroup on patient financial assistance and debt collection for ~~a certain purpose~~ certain purposes; requiring the workgroup to report certain findings and recommendations on or before a certain date; requiring the Commission to study, make recommendations, and report on incentives for hospitals to provide free and reduced-cost care to certain patients; ~~requiring the Judiciary to study, make recommendations, and report on the legal rate of interest on a judgment for a certain hospital bill;~~ and generally relating to the Health Services Cost Review Commission and hospital financial assistance and debt collection policies.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–214(b) and 19–214.1

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Health – General

Section 19–214.2 and 19–214.3

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–214.

(b) The Commission may adopt regulations establishing alternative methods for financing the reasonable total costs of hospital uncompensated care provided that the alternative methods:

- (1) Are in the public interest;
- (2) Will equitably distribute the reasonable costs of uncompensated care;
- (3) Will fairly determine the cost of reasonable uncompensated care included in hospital rates;
- (4) Will continue incentives for hospitals to adopt **FAIR**, efficient, and effective credit and collection policies; and
- (5) Will not result in significantly increasing costs to Medicare or the loss of Maryland's Medicare Waiver under § 1814(b) of the Social Security Act.

19-214.1.

~~(a) Each hospital in the State shall develop a financial assistance policy for providing [free and reduced cost care to low income] TO patients who lack health care coverage OR WHOSE HEALTH CARE COVERAGE DOES NOT PAY THE FULL COST OF THE HOSPITAL BILL;~~

(A) (1) THE COMMISSION SHALL REQUIRE EACH ACUTE CARE HOSPITAL IN THE STATE TO DEVELOP A FINANCIAL ASSISTANCE POLICY FOR PROVIDING FREE AND REDUCED-COST CARE TO PATIENTS WHO LACK HEALTH CARE COVERAGE OR WHOSE HEALTH CARE COVERAGE DOES NOT PAY THE FULL COST OF THE HOSPITAL BILL.

(2) THE FINANCIAL ASSISTANCE POLICY SHALL PROVIDE, AT A MINIMUM:

~~(1)~~ **(I) FREE MEDICALLY NECESSARY CARE TO PATIENTS WITH FAMILY INCOME AT OR BELOW 150% OF THE FEDERAL POVERTY LEVEL; AND**

~~(2)~~ **(II) REDUCED-COST MEDICALLY NECESSARY CARE TO LOW-INCOME PATIENTS WITH FAMILY INCOME ABOVE 150% OF THE FEDERAL POVERTY LEVEL, IN ACCORDANCE WITH THE MISSION AND SERVICE AREA OF THE HOSPITAL.**

(3) (I) THE COMMISSION BY REGULATION MAY ESTABLISH INCOME THRESHOLDS HIGHER THAN THOSE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(II) IN ESTABLISHING INCOME THRESHOLDS THAT ARE HIGHER THAN THOSE UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR A HOSPITAL, THE COMMISSION SHALL TAKE INTO ACCOUNT:

- 1. THE PATIENT MIX OF THE HOSPITAL;**
- 2. THE FINANCIAL CONDITION OF THE HOSPITAL;**
- 3. THE LEVEL OF BAD DEBT EXPERIENCED BY THE HOSPITAL; AND**
- 4. THE AMOUNT OF CHARITY CARE PROVIDED BY THE HOSPITAL.**

(b) A hospital shall post a notice in conspicuous places throughout the hospital, **INCLUDING THE BILLING OFFICE**, describing the financial assistance policy and how to apply for free and reduced-cost care.

(c) The Commission shall:

(1) Develop a uniform financial assistance application; and

(2) Require each hospital to use the uniform financial assistance application to determine eligibility for free and reduced-cost care under the hospital's financial assistance policy.

(d) The uniform financial assistance application:

(1) Shall be written in simplified language; and

(2) May not require documentation that presents an undue barrier to a patient's receipt of financial assistance.

(e) **(1) Each hospital shall [establish a mechanism to provide the uniform financial assistance application to patients who do not indicate public or private health care coverage] DEVELOP AN INFORMATION SHEET THAT:**

(I) DESCRIBES THE HOSPITAL'S FINANCIAL ASSISTANCE POLICY;

(II) DESCRIBES A PATIENT'S RIGHTS AND OBLIGATIONS WITH REGARD TO HOSPITAL BILLING AND COLLECTION UNDER THE LAW;

(III) PROVIDES CONTACT INFORMATION FOR THE INDIVIDUAL OR OFFICE AT THE HOSPITAL THAT IS AVAILABLE TO ASSIST THE PATIENT, THE PATIENT'S FAMILY, OR THE PATIENT'S AUTHORIZED REPRESENTATIVE IN ORDER TO UNDERSTAND:

1. THE PATIENT'S HOSPITAL BILL;

2. THE PATIENT'S RIGHTS AND OBLIGATIONS WITH REGARD TO THE HOSPITAL BILL;

3. HOW TO APPLY FOR FREE AND REDUCED-COST CARE; AND

4. HOW TO APPLY FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND ANY OTHER PROGRAMS THAT MAY HELP PAY THE BILL; ~~AND~~

(IV) PROVIDES CONTACT INFORMATION FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM; AND

(V) INCLUDES A STATEMENT THAT PHYSICIAN CHARGES ARE NOT INCLUDED IN THE HOSPITAL BILL AND ARE BILLED SEPARATELY.

(2) THE INFORMATION SHEET SHALL BE PROVIDED TO THE PATIENT, THE PATIENT'S FAMILY, OR THE PATIENT'S AUTHORIZED REPRESENTATIVE:

~~(I) AT THE TIME THE PATIENT SUBMITS INFORMATION TO THE HOSPITAL REGARDING FINANCIAL RESPONSIBILITY FOR CARE THAT IS PROVIDED BY THE HOSPITAL~~ BEFORE DISCHARGE;

(II) WITH THE HOSPITAL BILL; AND

(III) ON REQUEST.

(3) THE HOSPITAL BILL SHALL INCLUDE A REFERENCE TO THE INFORMATION SHEET.

(4) THE COMMISSION SHALL:

(I) ESTABLISH UNIFORM REQUIREMENTS FOR THE INFORMATION SHEET; AND

(II) REVIEW EACH HOSPITAL'S IMPLEMENTATION OF AND COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBSECTION.

[(f) (1) Each hospital shall submit to the Commission the hospital's policy on the collection of debts owed by patients who qualify for reduced-cost care under the hospital's financial assistance policy.

(2) On or before July 1, 2006, the Commission shall report, in accordance with § 2-1246 of the State Government Article, to the House Health and Government Operations Committee and the Senate Finance Committee on the details of the policies submitted to the Commission under paragraph (1) of this subsection.]

(F) EACH HOSPITAL SHALL ENSURE THE AVAILABILITY OF STAFF WHO ARE TRAINED TO WORK WITH THE PATIENT, THE PATIENT'S FAMILY, AND THE PATIENT'S AUTHORIZED REPRESENTATIVE IN ORDER TO UNDERSTAND:

(1) THE PATIENT'S HOSPITAL BILL;

(2) THE PATIENT'S RIGHTS AND OBLIGATIONS WITH REGARD TO THE HOSPITAL BILL;

(3) HOW TO APPLY FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND ANY OTHER PROGRAMS THAT MAY HELP PAY THE HOSPITAL BILL; AND

(4) HOW TO CONTACT THE HOSPITAL FOR ADDITIONAL ASSISTANCE.

19-214.2.

(A) EACH HOSPITAL SHALL SUBMIT TO THE COMMISSION, AT TIMES PRESCRIBED BY THE COMMISSION, THE HOSPITAL'S POLICY ON THE COLLECTION OF DEBTS OWED BY PATIENTS.

(B) THE POLICY SHALL:

(1) PROVIDE FOR ACTIVE OVERSIGHT BY THE HOSPITAL OF ANY CONTRACT FOR COLLECTION OF DEBTS ON BEHALF OF THE HOSPITAL;

(2) ~~PROVIDE THAT THE HOSPITAL NOT SELL~~ PROHIBIT THE HOSPITAL FROM SELLING ANY DEBT;

(3) ~~PROVIDE THAT THE HOSPITAL NOT PLACE A LIEN ON A PRIMARY RESIDENCE;~~

(4) ~~PROVIDE THAT ANY RATE OF INTEREST PLACED ON A DEBT COMPLY WITH LIMITATIONS IMPOSED BY THE COMMISSION IN REGULATION;~~

(3) PROHIBIT THE CHARGING OF INTEREST ON BILLS INCURRED BY SELF-PAY PATIENTS BEFORE A COURT JUDGMENT IS OBTAINED;

~~(5)~~ (4) DESCRIBE IN DETAIL THE CONSIDERATION BY THE HOSPITAL OF PATIENT INCOME, ASSETS, AND OTHER CRITERIA;

~~(6)~~ (5) DESCRIBE THE HOSPITAL'S PROCEDURES FOR COLLECTING A DEBT; AND

~~(7)~~ (6) DESCRIBE THE CIRCUMSTANCES IN WHICH THE HOSPITAL WILL SEEK A JUDGMENT AGAINST A PATIENT.

(C) THE COMMISSION SHALL REVIEW EACH HOSPITAL'S IMPLEMENTATION OF AND COMPLIANCE WITH THE HOSPITAL'S POLICY AND THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

19-214.3.

(A) IF A HOSPITAL KNOWINGLY VIOLATES ANY PROVISION OF § 19-214.1 OR § 19-214.2 OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE COMMISSION MAY IMPOSE A FINE NOT TO EXCEED \$50,000 PER VIOLATION.

(B) BEFORE IMPOSING A FINE, THE COMMISSION SHALL CONSIDER THE APPROPRIATENESS OF THE FINE IN RELATION TO THE SEVERITY OF THE VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Health Services Cost Review Commission shall establish a workgroup on patient financial assistance and debt collection. The workgroup shall review:

(1) ~~the need for uniform policies among hospitals relating to patient financial assistance and debt collection and shall consider the following elements for inclusion in~~ collection, including as elements within any uniform policies:

- ~~(1)~~ (i) income thresholds and any special treatment of disability and pension income;
- ~~(2)~~ (ii) asset thresholds and treatment of various types of assets;
- ~~(3)~~ (iii) use of liens to enforce collection of a debt;
- ~~(4)~~ (iv) collection procedures;
- ~~(5)~~ (v) establishment of guardianship;
- ~~(6)~~ (vi) use of judgments to collect debts; and
- ~~(7)~~ (vii) patient education and outreach to inform patients of the availability of financial assistance with their bills;

(2) the desirability of applying any uniform policies to private psychiatric and chronic care hospitals; and

(3) the desirability of altering the legal rate of interest on a judgment to collect a hospital debt.

(b) The workgroup shall report its findings and recommendations, including recommendations for legislation, to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on or before October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Health Services Cost Review Commission shall study and make recommendations on incentives for hospitals to provide free and reduced-cost care to patients without the means to pay their hospital bills.

(b) The Commission shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on or before October 1, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That:

~~(a) The Judiciary shall study and make recommendations on the legal rate of interest on a judgment for a hospital bill of a patient without health insurance.~~

~~(b) The Judiciary shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on or before October 1, 2009.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That~~ this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 311

(House Bill 1069)

AN ACT concerning

Health Services Cost Review Commission – Financial Assistance and Debt Collection Policies

FOR the purpose of requiring ~~each hospital~~ the Health Services Cost Review Commission to require certain hospitals in the State to develop a financial assistance policy for providing free care and reduced-cost care to certain patients; requiring a hospital to post a certain notice in its billing office; requiring each hospital to develop an information sheet that meets certain requirements; requiring the ~~Health Services Cost Review~~ Commission to establish uniform requirements for the information sheet and review each

hospital's implementation of and compliance with certain requirements; requiring each hospital to ensure the availability of staff with certain training; altering requirements for each hospital's submission of a policy on debt collection; requiring the policy to meet certain requirements; requiring the Commission to review each hospital's implementation of and compliance with the policy and requirements; authorizing the Commission to impose a certain fine under certain circumstances and to consider certain items before imposing a fine; altering the requirements for regulations establishing alternative methods for financing certain costs of care; requiring the Commission to establish a workgroup on patient financial assistance and debt collection for ~~a certain purpose~~ certain purposes; requiring the workgroup to report certain findings and recommendations on or before a certain date; requiring the Commission to study, make recommendations, and report on incentives for hospitals to provide free and reduced-cost care to certain patients; ~~requiring the Office of the Attorney General, in consultation with certain entities and persons, to study, make recommendations, and report on the use of liens and the legal rate of interest on judgments for certain hospital bills;~~ and generally relating to the Health Services Cost Review Commission and hospital financial assistance and debt collection policies.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–214(b) and 19–214.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 19–214.2 and 19–214.3
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–214.

(b) The Commission may adopt regulations establishing alternative methods for financing the reasonable total costs of hospital uncompensated care provided that the alternative methods:

- (1) Are in the public interest;
- (2) Will equitably distribute the reasonable costs of uncompensated care;

(3) Will fairly determine the cost of reasonable uncompensated care included in hospital rates;

(4) Will continue incentives for hospitals to adopt **FAIR**, efficient, and effective credit and collection policies; and

(5) Will not result in significantly increasing costs to Medicare or the loss of Maryland's Medicare Waiver under § 1814(b) of the Social Security Act.

19-214.1.

~~(a) Each hospital in the State shall develop a financial assistance policy for providing [free and reduced cost care to low income] TO patients who lack health care coverage OR WHOSE HEALTH CARE COVERAGE DOES NOT PAY THE FULL COST OF THE HOSPITAL BILL;~~

(A) (1) THE COMMISSION SHALL REQUIRE EACH ACUTE CARE HOSPITAL IN THE STATE TO DEVELOP A FINANCIAL ASSISTANCE POLICY FOR PROVIDING FREE AND REDUCED-COST CARE TO PATIENTS WHO LACK HEALTH CARE COVERAGE OR WHOSE HEALTH CARE COVERAGE DOES NOT PAY THE FULL COST OF THE HOSPITAL BILL.

(2) THE FINANCIAL ASSISTANCE POLICY SHALL PROVIDE, AT A MINIMUM:

~~(1)~~ **(I) FREE MEDICALLY NECESSARY CARE TO PATIENTS WITH FAMILY INCOME AT OR BELOW 150% OF THE FEDERAL POVERTY LEVEL; AND**

~~(2)~~ **(II) REDUCED-COST MEDICALLY NECESSARY CARE TO LOW-INCOME PATIENTS WITH FAMILY INCOME ABOVE 150% OF THE FEDERAL POVERTY LEVEL, IN ACCORDANCE WITH THE MISSION AND SERVICE AREA OF THE HOSPITAL.**

(3) (I) THE COMMISSION BY REGULATION MAY ESTABLISH INCOME THRESHOLDS HIGHER THAN THOSE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(II) IN ESTABLISHING INCOME THRESHOLDS THAT ARE HIGHER THAN THOSE UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR A HOSPITAL, THE COMMISSION SHALL TAKE INTO ACCOUNT:

1. THE PATIENT MIX OF THE HOSPITAL;

2. THE FINANCIAL CONDITION OF THE HOSPITAL;

3. THE LEVEL OF BAD DEBT EXPERIENCED BY THE HOSPITAL; AND

4. THE AMOUNT OF CHARITY CARE PROVIDED BY THE HOSPITAL.

(b) A hospital shall post a notice in conspicuous places throughout the hospital, **INCLUDING THE BILLING OFFICE**, describing the financial assistance policy and how to apply for free and reduced-cost care.

(c) The Commission shall:

(1) Develop a uniform financial assistance application; and

(2) Require each hospital to use the uniform financial assistance application to determine eligibility for free and reduced-cost care under the hospital's financial assistance policy.

(d) The uniform financial assistance application:

(1) Shall be written in simplified language; and

(2) May not require documentation that presents an undue barrier to a patient's receipt of financial assistance.

(e) **(1) Each hospital shall [establish a mechanism to provide the uniform financial assistance application to patients who do not indicate public or private health care coverage] DEVELOP AN INFORMATION SHEET THAT:**

(I) DESCRIBES THE HOSPITAL'S FINANCIAL ASSISTANCE POLICY;

(II) DESCRIBES A PATIENT'S RIGHTS AND OBLIGATIONS WITH REGARD TO HOSPITAL BILLING AND COLLECTION UNDER THE LAW;

(III) PROVIDES CONTACT INFORMATION FOR THE INDIVIDUAL OR OFFICE AT THE HOSPITAL THAT IS AVAILABLE TO ASSIST THE PATIENT, THE PATIENT'S FAMILY, OR THE PATIENT'S AUTHORIZED REPRESENTATIVE IN ORDER TO UNDERSTAND:

1. THE PATIENT'S HOSPITAL BILL;

2. THE PATIENT'S RIGHTS AND OBLIGATIONS WITH REGARD TO THE HOSPITAL BILL;

3. HOW TO APPLY FOR FREE AND REDUCED-COST CARE; AND

4. HOW TO APPLY FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND ANY OTHER PROGRAMS THAT MAY HELP PAY THE BILL;

(IV) PROVIDES CONTACT INFORMATION FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM; AND

(V) INCLUDES A STATEMENT THAT PHYSICIAN CHARGES ARE NOT INCLUDED IN THE HOSPITAL BILL AND ARE BILLED SEPARATELY.

(2) THE INFORMATION SHEET SHALL BE PROVIDED TO THE PATIENT, THE PATIENT'S FAMILY, OR THE PATIENT'S AUTHORIZED REPRESENTATIVE:

(I) BEFORE DISCHARGE;

(II) WITH THE HOSPITAL BILL; AND

(III) ON REQUEST.

(3) THE HOSPITAL BILL SHALL INCLUDE A REFERENCE TO THE INFORMATION SHEET.

(4) THE COMMISSION SHALL:

(I) ESTABLISH UNIFORM REQUIREMENTS FOR THE INFORMATION SHEET; AND

(II) REVIEW EACH HOSPITAL'S IMPLEMENTATION OF AND COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBSECTION.

[(f) (1) Each hospital shall submit to the Commission the hospital's policy on the collection of debts owed by patients who qualify for reduced-cost care under the hospital's financial assistance policy.

(2) On or before July 1, 2006, the Commission shall report, in accordance with § 2-1246 of the State Government Article, to the House Health and Government Operations Committee and the Senate Finance Committee on the details of the policies submitted to the Commission under paragraph (1) of this subsection.]

(F) EACH HOSPITAL SHALL ENSURE THE AVAILABILITY OF STAFF WHO ARE TRAINED TO WORK WITH THE PATIENT, THE PATIENT'S FAMILY, AND THE PATIENT'S AUTHORIZED REPRESENTATIVE IN ORDER TO UNDERSTAND:

- (1) THE PATIENT'S HOSPITAL BILL;
- (2) THE PATIENT'S RIGHTS AND OBLIGATIONS WITH REGARD TO THE HOSPITAL BILL;
- (3) HOW TO APPLY FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM AND ANY OTHER PROGRAMS THAT MAY HELP PAY THE HOSPITAL BILL; AND
- (4) HOW TO CONTACT THE HOSPITAL FOR ADDITIONAL ASSISTANCE.

19-214.2.

(A) EACH HOSPITAL SHALL SUBMIT TO THE COMMISSION, AT TIMES PRESCRIBED BY THE COMMISSION, THE HOSPITAL'S POLICY ON THE COLLECTION OF DEBTS OWED BY PATIENTS.

(B) THE POLICY SHALL:

- (1) PROVIDE FOR ACTIVE OVERSIGHT BY THE HOSPITAL OF ANY CONTRACT FOR COLLECTION OF DEBTS ON BEHALF OF THE HOSPITAL;
- (2) PROHIBIT THE HOSPITAL FROM SELLING ANY DEBT;
- ~~(3) PROHIBIT THE HOSPITAL FROM PLACING A LIEN ON A PRIMARY RESIDENCE;~~
- ~~(4)~~ (3) PROHIBIT THE CHARGING OF INTEREST ON ~~OVERDUE BILLS~~ BILLS INCURRED BY SELF-PAY PATIENTS BEFORE A COURT JUDGMENT IS OBTAINED;
- ~~(5)~~ (4) DESCRIBE IN DETAIL THE CONSIDERATION BY THE HOSPITAL OF PATIENT INCOME, ASSETS, AND OTHER CRITERIA;
- ~~(6)~~ (5) DESCRIBE THE HOSPITAL'S PROCEDURES FOR COLLECTING A DEBT; AND
- ~~(7)~~ (6) DESCRIBE THE CIRCUMSTANCES IN WHICH THE HOSPITAL WILL SEEK A JUDGMENT AGAINST A PATIENT.

(C) THE COMMISSION SHALL REVIEW EACH HOSPITAL'S IMPLEMENTATION OF AND COMPLIANCE WITH THE HOSPITAL'S POLICY AND THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

19-214.3.

(A) IF A HOSPITAL KNOWINGLY VIOLATES ANY PROVISION OF § 19-214.1 OR § 19-214.2 OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE COMMISSION MAY IMPOSE A FINE NOT TO EXCEED \$50,000 PER VIOLATION.

(B) BEFORE IMPOSING A FINE, THE COMMISSION SHALL CONSIDER THE APPROPRIATENESS OF THE FINE IN RELATION TO THE SEVERITY OF THE VIOLATION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Health Services Cost Review Commission shall establish a workgroup on patient financial assistance and debt collection. The workgroup shall review:

~~(1) the need for uniform policies among hospitals relating to patient financial assistance and debt collection and shall consider the following elements for inclusion in~~ (1) the need for uniform policies among hospitals relating to patient financial assistance and debt collection, including as elements within any uniform policies:

~~(1)~~ (i) income thresholds and any special treatment of disability and pension income;

~~(2)~~ (ii) asset thresholds and treatment of various types of assets;

(iii) use of liens to enforce collection of a debt;

~~(3)~~ (iv) collection procedures;

~~(4)~~ (v) establishment of guardianship;

~~(5)~~ (vi) use of judgments to collect debts; and

~~(6)~~ (vii) patient education and outreach to inform patients of the availability of financial assistance with their bills;

(2) the desirability of applying any uniform policies to private psychiatric and chronic care hospitals; and

(3) the desirability of altering the legal rate of interest on a judgment to collect a hospital debt.

(b) The workgroup shall report its findings and recommendations, including recommendations for legislation, to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on or before October 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Health Services Cost Review Commission shall study and make recommendations on incentives for hospitals to provide free and reduced-cost care to patients without the means to pay their hospital bills.

(b) The Commission shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on or before October 1, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That:

~~(a) The Office of the Attorney General, in consultation with the American Bar Association, Legal Aid, the University of Maryland Law School, and other interested persons, shall study and make recommendations on the use of liens and the legal rate of interest on a judgment for a hospital bill of a patient without health insurance. The study shall take into account the use of liens and the legal rate of interest on other types of debt.~~

~~(b) The Judiciary shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on or before October 1, 2009.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.~~

Approved by the Governor, May 7, 2009.

Chapter 312

(Senate Bill 789)

AN ACT concerning

**State Board of Chiropractic and Massage Therapy Examiners - ~~Massage~~
~~Therapy Advisory Committee~~ Terms of Members**

FOR the purpose of ~~reestablishing the Massage Therapy Advisory Committee under the State Board of Chiropractic and Massage Therapy Examiners; specifying the membership and duties of the Advisory Committee; altering the terms of certain members of the Massage Therapy Advisory Committee; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the reestablishment~~ altering the terms of members of the Massage Therapy Advisory Committee.

~~BY repealing~~

~~Article — Health Occupations~~

~~Section 3-5A-04~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2008 Supplement)~~

~~BY adding to~~

~~Article — Health Occupations~~

~~Section 3-5A-04~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Health Occupations~~

~~Section 3-5A-05~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, with amendments,

Chapter 242 of the Acts of the General Assembly of 2008

Section 2

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

~~Article — Health Occupations~~

~~[3-5A-04.~~

~~Except as otherwise provided in this subtitle, an individual shall be:~~

~~(1) Licensed by the Board before the individual may practice massage therapy in this State; or~~

~~(2) Registered by the Board before the individual may practice nontherapeutic massage in this State.]~~

~~3-5A-04.~~

~~(A) (1) THERE IS A MESSAGE THERAPY ADVISORY COMMITTEE WITHIN THE BOARD.~~

~~(2) THE ADVISORY COMMITTEE SHALL CONSIST OF SIX MEMBERS APPOINTED BY THE BOARD.~~

~~(3) OF THE SIX MEMBERS:~~

~~(I) TWO SHALL BE LICENSED CHIROPRACTORS; AND~~

~~(II) FOUR SHALL BE LICENSED OR CERTIFIED MASSAGE THERAPISTS.~~

~~(B) IN ADDITION TO THE POWERS AND DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE, THE ADVISORY COMMITTEE SHALL:~~

~~(1) DEVELOP AND RECOMMEND TO THE BOARD REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE;~~

~~(2) DEVELOP AND RECOMMEND TO THE BOARD A CODE OF ETHICS FOR THE PRACTICE OF MASSAGE THERAPY FOR ADOPTION BY THE BOARD;~~

~~(3) DEVELOP AND RECOMMEND TO THE BOARD THE REQUIREMENTS FOR:~~

~~(I) LICENSURE AS A MASSAGE THERAPIST; AND~~

~~(II) REGISTRATION AS A MASSAGE PRACTITIONER;~~

~~(4) EVALUATE THE CREDENTIALS OF APPLICANTS AND RECOMMEND TO THE BOARD LICENSURE OR CERTIFICATION OF APPLICANTS WHO FULFILL THE REQUIREMENTS FOR:~~

~~(I) A LICENSE TO PRACTICE MASSAGE THERAPY; OR~~

~~(II) A REGISTRATION TO PRACTICE NONTHERAPEUTIC MASSAGE;~~

~~(5) CONSIDER COMPLAINTS BROUGHT TO THE BOARD INVOLVING LICENSED MASSAGE THERAPISTS OR REGISTERED MASSAGE PRACTITIONERS AND RECOMMEND TO THE BOARD THE APPROPRIATE DISCIPLINARY ACTION;~~

~~(6) EVALUATE EDUCATION PROGRAMS IN MASSAGE THERAPY FOR APPROVAL BY THE BOARD;~~

~~(7) KEEP A RECORD OF ITS PROCEEDINGS; AND~~

~~(8) SUBMIT A REPORT TO THE BOARD.~~

~~3-5A-05.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL SHALL BE:~~

~~(1) LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE MASSAGE THERAPY IN THIS STATE; OR~~

~~(2) REGISTERED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE NONTHERAPEUTIC MASSAGE IN THIS STATE.~~

~~(B) This subtitle does not apply to:~~

~~(1) A student enrolled in an approved education program as determined by the Board while practicing massage therapy in that program;~~

~~(2) An individual permitted to practice massage therapy under regulations adopted by the Board, if the individual otherwise has qualified to practice massage therapy in any other state or country that has substantially similar requirements for authorization to practice massage therapy and the individual is in this State for no more than 7 days;~~

~~(3) A family member practicing massage therapy on another family member;~~

~~(4) An athletic trainer while functioning in the course of the athletic trainer's professional capacity;~~

~~(5) An individual employed by the federal government to practice massage therapy while practicing within the scope of the individual's employment; or~~

~~(6) An individual working in a beauty salon:~~

~~(i) For which the person who operates the beauty salon has obtained a permit from the State Board of Cosmetology as required under § 5-501 of the Business Occupations and Professions Article; and~~

~~(ii) In which the individual is providing cosmetology and esthetic services, including the application and removal of skin or skin care products.~~

Chapter 242 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall appoint one chiropractor member and three massage therapist members to the State Board of Chiropractic and Massage Therapy Examiners in accordance with § 3-202 of the Health Occupations Article, as enacted by Section 1 of this Act. The terms of the members are as follows:

(1) the one chiropractor member and one massage therapist member shall serve for a term of 2 years AND 2 MONTHS which shall begin on [July 1, 2009] MAY 1, 2009, and shall terminate at the end of June 30, 2011, and the members shall serve until a successor is appointed and qualifies; and

(2) the two massage therapist members shall serve for a term of 4 years AND 2 MONTHS which shall begin on [July 1, 2009] MAY 1, 2009, and shall terminate at the end of June 30, 2013, and the members shall serve until a successor is appointed and qualifies.

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 ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. ~~It shall remain effective through July 1, 2009, and, at the end of July 1, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 7, 2009.

Chapter 313

(House Bill 1460)

AN ACT concerning

State Board of Chiropractic and Massage Therapy Examiners - ~~Massage Therapy Advisory Committee~~ Terms of Members

FOR the purpose of ~~reestablishing the Massage Therapy Advisory Committee under the State Board of Chiropractic and Massage Therapy Examiners; specifying the membership and duties of the Advisory Committee; altering the terms of certain members of the Massage Therapy Advisory Committee; making this Act an emergency measure; providing for the termination of this Act;~~ and generally relating to ~~the reestablishment~~ altering the terms of members of the Massage Therapy Advisory Committee.

~~BY repealing~~

~~Article — Health Occupations
Section 3-5A-04
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

~~BY adding to~~

~~Article — Health Occupations
Section 3-5A-04
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Health Occupations
Section 3-5A-05
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, with amendments,

Chapter 242 of the Acts of the General Assembly of 2008
Section 2

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

~~**Article — Health Occupations**~~

~~[3-5A-04.~~

~~Except as otherwise provided in this subtitle, an individual shall be:~~

~~(1) Licensed by the Board before the individual may practice massage therapy in this State; or~~

~~(2) Registered by the Board before the individual may practice nontherapeutic massage in this State.]~~

~~**3-5A-04.**~~

~~**(A) (1) THERE IS A MASSAGE THERAPY ADVISORY COMMITTEE WITHIN THE BOARD.**~~

~~**(2) THE ADVISORY COMMITTEE SHALL CONSIST OF SIX MEMBERS APPOINTED BY THE BOARD.**~~

~~(3) OF THE SIX MEMBERS:~~

~~(I) TWO SHALL BE LICENSED CHIROPRACTORS; AND~~

~~(II) FOUR SHALL BE LICENSED OR CERTIFIED MASSAGE THERAPISTS.~~

~~(B) IN ADDITION TO THE POWERS AND DUTIES SET FORTH ELSEWHERE IN THIS SUBTITLE, THE ADVISORY COMMITTEE SHALL:~~

~~(1) DEVELOP AND RECOMMEND TO THE BOARD REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE;~~

~~(2) DEVELOP AND RECOMMEND TO THE BOARD A CODE OF ETHICS FOR THE PRACTICE OF MASSAGE THERAPY FOR ADOPTION BY THE BOARD;~~

~~(3) DEVELOP AND RECOMMEND TO THE BOARD THE REQUIREMENTS FOR:~~

~~(I) LICENSURE AS A MASSAGE THERAPIST; AND~~

~~(II) REGISTRATION AS A MASSAGE PRACTITIONER;~~

~~(4) EVALUATE THE CREDENTIALS OF APPLICANTS AND RECOMMEND TO THE BOARD LICENSURE OR CERTIFICATION OF APPLICANTS WHO FULFILL THE REQUIREMENTS FOR:~~

~~(I) A LICENSE TO PRACTICE MASSAGE THERAPY; OR~~

~~(II) A REGISTRATION TO PRACTICE NONTHERAPEUTIC MASSAGE;~~

~~(5) CONSIDER COMPLAINTS BROUGHT TO THE BOARD INVOLVING LICENSED MASSAGE THERAPISTS OR REGISTERED MASSAGE PRACTITIONERS AND RECOMMEND TO THE BOARD THE APPROPRIATE DISCIPLINARY ACTION;~~

~~(6) EVALUATE EDUCATION PROGRAMS IN MASSAGE THERAPY FOR APPROVAL BY THE BOARD;~~

~~(7) KEEP A RECORD OF ITS PROCEEDINGS; AND~~

~~(8) SUBMIT A REPORT TO THE BOARD.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL SHALL BE:~~

~~(1) LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE MASSAGE THERAPY IN THIS STATE; OR~~

~~(2) REGISTERED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE NONTHERAPEUTIC MASSAGE IN THIS STATE.~~

~~(B) This subtitle does not apply to:~~

~~(1) A student enrolled in an approved education program as determined by the Board while practicing massage therapy in that program;~~

~~(2) An individual permitted to practice massage therapy under regulations adopted by the Board, if the individual otherwise has qualified to practice massage therapy in any other state or country that has substantially similar requirements for authorization to practice massage therapy and the individual is in this State for no more than 7 days;~~

~~(3) A family member practicing massage therapy on another family member;~~

~~(4) An athletic trainer while functioning in the course of the athletic trainer's professional capacity;~~

~~(5) An individual employed by the federal government to practice massage therapy while practicing within the scope of the individual's employment; or~~

~~(6) An individual working in a beauty salon:~~

~~(i) For which the person who operates the beauty salon has obtained a permit from the State Board of Cosmetology as required under § 5-501 of the Business Occupations and Professions Article; and~~

~~(ii) In which the individual is providing cosmetology and esthetic services, including the application and removal of skin or skin care products.~~

Chapter 242 of the Acts of 2008

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall appoint one chiropractor member and three massage therapist members to the State Board of Chiropractic and Massage Therapy Examiners in accordance with § 3-202 of the Health Occupations Article, as enacted by Section 1 of this Act. The terms of the members are as follows:

(1) the one chiropractor member and one massage therapist member shall serve for a term of 2 years AND 2 MONTHS which shall begin on [July 1, 2009] MAY 1, 2009, and shall terminate at the end of June 30, 2011, and the members shall serve until a successor is appointed and qualifies; and

(2) the two massage therapist members shall serve for a term of 4 years AND 2 MONTHS which shall begin on [July 1, 2009] MAY 1, 2009, and shall terminate at the end of June 30, 2013, and the members shall serve until a successor is appointed and qualifies.

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 ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. ~~It shall remain effective through July 1, 2009, and, at the end of July 1, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 7, 2009.

Chapter 314

(Senate Bill 791)

AN ACT concerning

Group Model Health Maintenance Organizations – Drug Therapy Management

FOR the purpose of requiring certain physicians and certain pharmacists who provide certain drug therapy management to certain patients to have certain physician-pharmacist agreements approved by the State Board of Pharmacy and the State Board of Physicians; authorizing certain drug therapy management to be provided under certain circumstances; authorizing certain pharmacists to enter into certain agreements; requiring certain agreements to prohibit certain substitutions of certain drug products, subject to certain exceptions; prohibiting the Boards from approving a physician-pharmacist agreement under certain circumstances; providing for the duration and renewal of a physician-pharmacist agreement; authorizing certain patients to decline to participate or withdraw from certain drug therapy management at certain times; requiring certain physicians and certain pharmacists to make certain disclosures to certain patients and to obtain certain consent from certain patients following certain disclosures; defining certain terms; altering a certain definition; requiring the Board of Pharmacy and the Board of Physicians to

~~submit a certain report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act;~~ and generally relating to drug therapy management of patients in group model health maintenance organizations.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–701(g)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 19–713.6
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 12–101(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~12–6A–01~~ 12–101(s)(1), 12–6A–01, and 12–6A–02
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–701.

(g) “Health maintenance organization” means any person, including a profit or nonprofit corporation organized under the laws of any state or country, that:

(1) Operates or proposes to operate in this State;

(2) Except as provided in § 19–703(b) and (f) of this subtitle, provides or otherwise makes available to its members health care services that include at least physician, hospitalization, laboratory, X–ray, emergency, and preventive services, out–of–area coverage, and any other health care services that the Commissioner determines to be available generally on an insured or prepaid basis in the area

serviced by the health maintenance organization, and, at the option of the health maintenance organization, may provide additional coverage;

(3) Except for any copayment or deductible arrangement, is compensated only on a predetermined periodic rate basis for providing to members the minimum services that are specified in item (2) of this subsection;

(4) Assures its subscribers and members, the Commissioner, and the Department that one clearly specified legal and administrative focal point or element of the health maintenance organization has the responsibility of providing the availability, accessibility, quality, and effective use of comprehensive health care services; and

(5) Primarily provides services of physicians:

(i) Directly through physicians who are either employees or partners of the health maintenance organization; or

(ii) Under arrangements with one or more groups of physicians, who are organized on a group practice or individual practice basis, under which each group:

1. Is compensated for its services primarily on the basis of an aggregate fixed sum or on a per capita basis; and

2. Is provided with an effective incentive to avoid unnecessary inpatient use, whether the individual physician members of the group are paid on a fee-for-service or other basis.

19-713.6.

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

(2) "DOCUMENTED INFORMED CONSENT" MEANS:

(I) A WRITTEN CONSENT FORM SIGNED BY A PATIENT; OR

(II) VERBAL OR OTHERWISE COMMUNICATED CONSENT SIGNIFIED BY A NOTATION IN A PATIENT'S ELECTRONIC MEDICAL RECORD MAINTAINED BY A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.

(3) "DRUG THERAPY MANAGEMENT" MEANS TREATMENT OF A PATIENT USING DRUG THERAPY, LABORATORY TESTS, OR MEDICAL DEVICES UNDER CONDITIONS OR LIMITATIONS SET FORTH IN A PROTOCOL SPECIFIED IN

A PHYSICIAN-PHARMACIST AGREEMENT FOR THE PURPOSE OF IMPROVING PATIENT OUTCOME.

(4) **“GROUP MODEL HEALTH MAINTENANCE ORGANIZATION”** MEANS A HEALTH MAINTENANCE ORGANIZATION THAT ~~PROVIDES FOR THE DELIVERY OF COVERED SERVICES TO ITS MEMBERS BY PHYSICIANS WHO ARE MEMBERS OF ONE OR MORE GROUP PRACTICES UNDER CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION TO PROVIDE HEALTH CARE SERVICES TO THE MEMBERS OF THE HEALTH MAINTENANCE ORGANIZATION AT MEDICAL FACILITIES OWNED AND OPERATED BY THE HEALTH MAINTENANCE ORGANIZATION;~~

(I) CONTRACTS WITH ONE MULTISPECIALTY GROUP OF PHYSICIANS WHO ARE EMPLOYED BY AND SHAREHOLDERS OF THE MULTISPECIALTY GROUP; AND

(II) PROVIDES AND ARRANGES FOR THE PROVISION OF PHYSICIAN SERVICES TO PATIENTS AT MEDICAL FACILITIES OPERATED BY THE HEALTH MAINTENANCE ORGANIZATION.

(5) **“LICENSED PHARMACIST”** MEANS AN INDIVIDUAL WHO IS LICENSED TO PRACTICE PHARMACY UNDER TITLE 12 OF THE HEALTH OCCUPATIONS ARTICLE.

(6) **“LICENSED PHYSICIAN”** MEANS AN INDIVIDUAL WHO IS LICENSED TO PRACTICE MEDICINE UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE.

(7) **“PATIENT”** ~~MEANS A~~ MEANS:

(I) A PATIENT WHO IS A MEMBER OF A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION; OR

(II) AN INDIVIDUAL TO WHOM THE GROUP MODEL HEALTH MAINTENANCE ORGANIZATION IS CONTRACTUALLY OR LEGALLY OBLIGATED TO PROVIDE, OR ARRANGE TO PROVIDE, HEALTH CARE SERVICES.

(8) **“PHYSICIAN-PHARMACIST AGREEMENT”** MEANS AN APPROVED AGREEMENT BETWEEN A LICENSED PHYSICIAN AND A LICENSED PHARMACIST THAT IS DISEASE-STATE SPECIFIC AND SPECIFIES THE PROTOCOLS THAT MAY BE USED.

(9) **“PROTOCOL”** MEANS A COURSE OF TREATMENT PREDETERMINED BY THE LICENSED PHYSICIAN AND LICENSED PHARMACIST

ACCORDING TO GENERALLY ACCEPTED MEDICAL PRACTICE FOR THE PROPER COMPLETION OF A PARTICULAR THERAPEUTIC OR DIAGNOSTIC INTERVENTION.

(B) (1) IN A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION, A LICENSED PHYSICIAN AND A LICENSED PHARMACIST WHO WISH TO PROVIDE DRUG THERAPY MANAGEMENT TO PATIENTS SHALL HAVE A PHYSICIAN-PHARMACIST AGREEMENT THAT IS APPROVED BY THE STATE BOARD OF PHARMACY AND THE STATE BOARD OF PHYSICIANS.

(2) DRUG THERAPY MANAGEMENT SHALL BE PROVIDED UNDER THIS SECTION ONLY:

(I) IN ACCORDANCE WITH A PHYSICIAN-PHARMACIST AGREEMENT; AND

(II) THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.

(C) A LICENSED PHARMACIST IS AUTHORIZED TO ENTER INTO A PHYSICIAN-PHARMACIST AGREEMENT IF THE LICENSED PHARMACIST:

(1) HAS A DOCTOR OF PHARMACY DEGREE OR EQUIVALENT TRAINING AS ESTABLISHED IN REGULATIONS ADOPTED BY THE STATE BOARD OF PHARMACY;

(2) IS APPROVED BY THE STATE BOARD OF PHARMACY TO ENTER INTO A PHYSICIAN-PHARMACIST AGREEMENT WITH A LICENSED PHYSICIAN; AND

(3) MEETS ANY OTHER REQUIREMENTS ESTABLISHED BY REGULATION BY THE STATE BOARD OF PHARMACY.

(D) A PHYSICIAN-PHARMACIST AGREEMENT SHALL PROHIBIT THE SUBSTITUTION OF A CHEMICALLY DISSIMILAR DRUG PRODUCT BY THE PHARMACIST FOR THE PRODUCT PRESCRIBED BY THE PHYSICIAN, UNLESS PERMITTED IN THE PROTOCOL SPECIFIED IN THE PHYSICIAN-PHARMACIST AGREEMENT.

(E) THE BOARD OF PHYSICIANS AND THE BOARD OF PHARMACY MAY NOT APPROVE A PHYSICIAN-PHARMACIST AGREEMENT IF THE BOARDS FIND THAT THERE IS:

(1) INADEQUATE TRAINING, EXPERIENCE, OR EDUCATION OF THE PHYSICIANS OR PHARMACISTS TO IMPLEMENT THE PROTOCOL OR PROTOCOLS SPECIFIED IN THE PHYSICIAN-PHARMACIST AGREEMENT; OR

(2) A FAILURE TO SATISFY THE REQUIREMENTS OF:

(I) THIS SECTION OR TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE; OR

(II) ANY REGULATIONS ADOPTED BY THE BOARD OF PHYSICIANS AND THE BOARD OF PHARMACY UNDER THIS SECTION.

(F) A PHYSICIAN-PHARMACIST AGREEMENT UNDER THIS SECTION SHALL BE VALID FOR 2 YEARS FROM THE DATE OF ITS FINAL APPROVAL BY THE BOARD OF PHYSICIANS AND THE BOARD OF PHARMACY AND MAY BE RENEWED FOR ADDITIONAL 2-YEAR TERMS WITH APPROVAL FROM THE BOARD OF PHYSICIANS AND THE BOARD OF PHARMACY.

~~(E)~~ (G) A PATIENT MAY DECLINE TO PARTICIPATE OR WITHDRAW FROM PARTICIPATING IN DRUG THERAPY MANAGEMENT IN A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION AT ANY TIME.

~~(F)~~ (H) A LICENSED PHYSICIAN OR LICENSED PHARMACIST OR BOTH SHALL INFORM A PATIENT:

(1) REGARDING THE PROCEDURES THAT WILL BE UTILIZED FOR DRUG THERAPY MANAGEMENT UNDER THE ASSOCIATED PROTOCOLS;

(2) THAT THE PATIENT MAY DECLINE TO PARTICIPATE OR WITHDRAW FROM PARTICIPATING IN THE DRUG THERAPY MANAGEMENT AT ANY TIME; AND

(3) THAT NEITHER THE PHYSICIAN NOR THE PHARMACIST HAS BEEN COERCED, GIVEN ECONOMIC INCENTIVES, EXCLUDING NORMAL REIMBURSEMENT FOR SERVICES RENDERED, OR INVOLUNTARILY REQUIRED TO PARTICIPATE.

~~(G)~~ (I) A LICENSED PHYSICIAN OR A LICENSED PHARMACIST OR BOTH SHALL OBTAIN DOCUMENTED INFORMED CONSENT FROM A PATIENT AFTER DISCLOSING THE INFORMATION REQUIRED TO BE DISCLOSED UNDER SUBSECTION ~~(F)~~ (H) OF THIS SECTION.

12-101.

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

(s) (1) “Practice pharmacy” means to engage in any of the following activities:

(i) Providing pharmaceutical care;

(ii) Compounding, dispensing, or distributing prescription drugs or devices;

(iii) Compounding or dispensing nonprescription drugs or devices;

(iv) Monitoring prescriptions for prescription and nonprescription drugs or devices;

(v) Providing information, explanation, or recommendations to patients and health care practitioners about the safe and effective use of prescription or nonprescription drugs or devices;

(vi) Identifying and appraising problems concerning the use or monitoring of therapy with drugs or devices;

(vii) Acting within the parameters of a therapy management contract, as provided under Subtitle 6A of this title;

(viii) Administering an influenza vaccination in accordance with § 12-508 of this title;

(ix) Delegating a pharmacy act to a registered pharmacy technician, pharmacy student, or an individual engaged in a Board approved pharmacy technician training program; [or]

(x) Supervising a delegated pharmacy act performed by a registered pharmacy technician, pharmacy student, or an individual engaged in a Board approved pharmacy technician training program; OR

(XI) PROVIDING DRUG THERAPY MANAGEMENT IN ACCORDANCE WITH § 19-713.6 OF THE HEALTH – GENERAL ARTICLE.

12-6A-01.

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

~~(B) "GROUP MODEL HEALTH MAINTENANCE ORGANIZATION" MEANS A HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES FOR THE DELIVERY OF COVERED SERVICES TO ITS MEMBERS BY PHYSICIANS WHO ARE MEMBERS OF ONE OR MORE GROUP PRACTICES UNDER CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION TO PROVIDE HEALTH CARE SERVICES TO THE MEMBERS OF THE HEALTH MAINTENANCE ORGANIZATION AT MEDICAL FACILITIES OWNED AND OPERATED BY THE HEALTH MAINTENANCE ORGANIZATION HAS THE MEANING STATED IN § 19-713.6 OF THE HEALTH - GENERAL ARTICLE.~~

(C) "HEALTH MAINTENANCE ORGANIZATION" HAS THE MEANING STATED IN § 19-701(G) OF THE HEALTH - GENERAL ARTICLE.

[(b)] (D) (1) "Institutional facility" means a facility other than a nursing home whose primary purpose is to provide a physical environment for patients to obtain inpatient or emergency care.

(2) "Institutional facility" does not include an urgent care facility that is not part of a facility.

[(c)] (E) "Licensed physician" means an individual who is licensed to practice medicine under Title 14 of this article.

[(d)] (F) "Physician-pharmacist agreement" means an approved agreement between a licensed physician and a licensed pharmacist that is disease-state specific and specifies the protocols that may be used.

[(e)] (G) "Protocol" means a course of treatment predetermined by the licensed physician and licensed pharmacist according to generally accepted medical practice for the proper completion of a particular therapeutic or diagnostic intervention.

[(f)] (H) (1) "Therapy management contract" means a voluntary, written arrangement that is disease-state specific signed by each party to the arrangement between:

(i) One licensed pharmacist and the licensed pharmacist's designated alternate licensed pharmacists;

(ii) One licensed physician and alternate designated licensed physicians involved directly in patient care; and

(iii) One patient receiving care from a licensed physician and a licensed pharmacist pursuant to a physician-pharmacist agreement and protocol under this subtitle.

(2) A therapy management contract shall be related to treatment using drug therapy, laboratory tests, or medical devices, under defined conditions or limitations for the purpose of improving patient outcomes.

12-6A-02.

A therapy management contract is not required for the management of patients in an institutional facility **OR IN A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~On or before December 1, 2012, the Board of Pharmacy and the Board of Physicians shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:~~

~~(1) the effect of this Act and any recommendations for legislative or regulatory action; and~~

~~(2) the outcomes achieved by drug therapy management as provided for under this Act.~~

SECTION ~~2. 3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009. ~~It shall remain in effect for a period of 4 years and, at the end of September 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, May 7, 2009.

Chapter 315

(House Bill 725)

AN ACT concerning

**Group Model Health Maintenance Organizations – Drug Therapy
Management**

FOR the purpose of requiring certain physicians and certain pharmacists who provide certain drug therapy management to certain patients to have certain physician-pharmacist agreements approved by the State Board of Pharmacy and the State Board of Physicians; authorizing certain drug therapy management to be provided under certain circumstances; authorizing certain pharmacists to enter into certain agreements; requiring certain agreements to prohibit certain substitutions of certain drug products, subject to certain

exceptions; prohibiting the Boards from approving a physician–pharmacist agreement under certain circumstances; providing for the duration and renewal of a physician–pharmacist agreement; authorizing certain patients to decline to participate or withdraw from certain drug therapy management at certain times; requiring certain physicians and certain pharmacists to make certain disclosures to certain patients and to obtain certain consent from certain patients following certain disclosures; defining certain terms; altering a certain definition; and generally relating to drug therapy management of patients in group model health maintenance organizations.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–701(g)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 19–713.6
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 12–101(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~12–6A–01~~ 12–101(s)(1), 12–6A–01, and 12–6A–02
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

19–701.

(g) “Health maintenance organization” means any person, including a profit or nonprofit corporation organized under the laws of any state or country, that:

(1) Operates or proposes to operate in this State;

(2) Except as provided in § 19–703(b) and (f) of this subtitle, provides or otherwise makes available to its members health care services that include at least physician, hospitalization, laboratory, X–ray, emergency, and preventive services, out–of–area coverage, and any other health care services that the Commissioner determines to be available generally on an insured or prepaid basis in the area serviced by the health maintenance organization, and, at the option of the health maintenance organization, may provide additional coverage;

(3) Except for any copayment or deductible arrangement, is compensated only on a predetermined periodic rate basis for providing to members the minimum services that are specified in item (2) of this subsection;

(4) Assures its subscribers and members, the Commissioner, and the Department that one clearly specified legal and administrative focal point or element of the health maintenance organization has the responsibility of providing the availability, accessibility, quality, and effective use of comprehensive health care services; and

(5) Primarily provides services of physicians:

(i) Directly through physicians who are either employees or partners of the health maintenance organization; or

(ii) Under arrangements with one or more groups of physicians, who are organized on a group practice or individual practice basis, under which each group:

1. Is compensated for its services primarily on the basis of an aggregate fixed sum or on a per capita basis; and

2. Is provided with an effective incentive to avoid unnecessary inpatient use, whether the individual physician members of the group are paid on a fee–for–service or other basis.

19–713.6.

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

(2) “DOCUMENTED INFORMED CONSENT” MEANS:

(I) A WRITTEN CONSENT FORM SIGNED BY A PATIENT; OR

(II) VERBAL OR OTHERWISE COMMUNICATED CONSENT SIGNIFIED BY A NOTATION IN A PATIENT’S ELECTRONIC MEDICAL RECORD MAINTAINED BY A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.

(3) “DRUG THERAPY MANAGEMENT” MEANS TREATMENT OF A PATIENT USING DRUG THERAPY, LABORATORY TESTS, OR MEDICAL DEVICES UNDER CONDITIONS OR LIMITATIONS SET FORTH IN A PROTOCOL SPECIFIED IN A PHYSICIAN–PHARMACIST AGREEMENT FOR THE PURPOSE OF IMPROVING PATIENT OUTCOME.

(4) “GROUP MODEL HEALTH MAINTENANCE ORGANIZATION” MEANS A HEALTH MAINTENANCE ORGANIZATION THAT ~~PROVIDES FOR THE DELIVERY OF COVERED SERVICES TO ITS MEMBERS BY PHYSICIANS WHO ARE MEMBERS OF ONE OR MORE GROUP PRACTICES UNDER CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION TO PROVIDE HEALTH CARE SERVICES TO THE MEMBERS OF THE HEALTH MAINTENANCE ORGANIZATION AT MEDICAL FACILITIES OWNED AND OPERATED BY THE HEALTH MAINTENANCE ORGANIZATION;~~

(I) CONTRACTS WITH ONE MULTISPECIALTY GROUP OF PHYSICIANS WHO ARE EMPLOYED BY AND SHAREHOLDERS OF THE MULTISPECIALTY GROUP; AND

(II) PROVIDES AND ARRANGES FOR THE PROVISION OF PHYSICIAN SERVICES TO PATIENTS AT MEDICAL FACILITIES OPERATED BY THE HEALTH MAINTENANCE ORGANIZATION.

(5) “LICENSED PHARMACIST” MEANS AN INDIVIDUAL WHO IS LICENSED TO PRACTICE PHARMACY UNDER TITLE 12 OF THE HEALTH OCCUPATIONS ARTICLE.

(6) “LICENSED PHYSICIAN” MEANS AN INDIVIDUAL WHO IS LICENSED TO PRACTICE MEDICINE UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE.

(7) “PATIENT” ~~MEANS A~~ MEANS:

(I) A PATIENT WHO IS A MEMBER OF A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION; OR

(II) AN INDIVIDUAL TO WHOM THE GROUP MODEL HEALTH MAINTENANCE ORGANIZATION IS CONTRACTUALLY OR LEGALLY OBLIGATED TO PROVIDE, OR ARRANGE TO PROVIDE, HEALTH CARE SERVICES.

(8) “PHYSICIAN–PHARMACIST AGREEMENT” MEANS AN APPROVED AGREEMENT BETWEEN A LICENSED PHYSICIAN AND A LICENSED

PHARMACIST THAT IS DISEASE-STATE SPECIFIC AND SPECIFIES THE PROTOCOLS THAT MAY BE USED.

(9) "PROTOCOL" MEANS A COURSE OF TREATMENT PREDETERMINED BY THE LICENSED PHYSICIAN AND LICENSED PHARMACIST ACCORDING TO GENERALLY ACCEPTED MEDICAL PRACTICE FOR THE PROPER COMPLETION OF A PARTICULAR THERAPEUTIC OR DIAGNOSTIC INTERVENTION.

(B) (1) IN A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION, A LICENSED PHYSICIAN AND A LICENSED PHARMACIST WHO WISH TO PROVIDE DRUG THERAPY MANAGEMENT TO PATIENTS SHALL HAVE A PHYSICIAN-PHARMACIST AGREEMENT THAT IS APPROVED BY THE STATE BOARD OF PHARMACY AND THE STATE BOARD OF PHYSICIANS.

(2) DRUG THERAPY MANAGEMENT SHALL BE PROVIDED UNDER THIS SECTION ONLY:

(I) IN ACCORDANCE WITH A PHYSICIAN-PHARMACIST AGREEMENT; AND

(II) THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.

(C) A LICENSED PHARMACIST IS AUTHORIZED TO ENTER INTO A PHYSICIAN-PHARMACIST AGREEMENT IF THE LICENSED PHARMACIST:

(1) HAS A DOCTOR OF PHARMACY DEGREE OR EQUIVALENT TRAINING AS ESTABLISHED IN REGULATIONS ADOPTED BY THE STATE BOARD OF PHARMACY;

(2) IS APPROVED BY THE STATE BOARD OF PHARMACY TO ENTER INTO A PHYSICIAN-PHARMACIST AGREEMENT WITH A LICENSED PHYSICIAN; AND

(3) MEETS ANY OTHER REQUIREMENTS ESTABLISHED BY REGULATION BY THE STATE BOARD OF PHARMACY.

(D) A PHYSICIAN-PHARMACIST AGREEMENT SHALL PROHIBIT THE SUBSTITUTION OF A CHEMICALLY DISSIMILAR DRUG PRODUCT BY THE PHARMACIST FOR THE PRODUCT PRESCRIBED BY THE PHYSICIAN, UNLESS PERMITTED IN THE PROTOCOL SPECIFIED IN THE PHYSICIAN-PHARMACIST AGREEMENT.

(E) THE BOARD OF PHYSICIANS AND THE BOARD OF PHARMACY MAY NOT APPROVE A PHYSICIAN-PHARMACIST AGREEMENT IF THE BOARDS FIND THAT THERE IS:

(1) INADEQUATE TRAINING, EXPERIENCE, OR EDUCATION OF THE PHYSICIANS OR PHARMACISTS TO IMPLEMENT THE PROTOCOL OR PROTOCOLS SPECIFIED IN THE PHYSICIAN-PHARMACIST AGREEMENT; OR

(2) A FAILURE TO SATISFY THE REQUIREMENTS OF:

(I) THIS SECTION OR TITLE 14 OF THE ~~HEALTH~~ OCCUPATIONS HEALTH OCCUPATIONS ARTICLE; OR

(II) ANY REGULATIONS ADOPTED BY THE BOARD OF PHYSICIANS AND THE BOARD OF PHARMACY UNDER THIS SECTION.

(F) A PHYSICIAN-PHARMACIST AGREEMENT UNDER THIS SECTION SHALL BE VALID FOR 2 YEARS FROM THE DATE OF ITS FINAL APPROVAL BY THE BOARD OF PHYSICIANS AND THE BOARD OF PHARMACY AND MAY BE RENEWED FOR ADDITIONAL 2-YEAR TERMS WITH APPROVAL FROM THE BOARD OF PHYSICIANS AND THE BOARD OF PHARMACY.

~~(E)~~ (G) A PATIENT MAY DECLINE TO PARTICIPATE OR WITHDRAW FROM PARTICIPATING IN DRUG THERAPY MANAGEMENT IN A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION AT ANY TIME.

~~(F)~~ (H) A LICENSED PHYSICIAN OR LICENSED PHARMACIST OR BOTH SHALL INFORM A PATIENT:

(1) REGARDING THE PROCEDURES THAT WILL BE UTILIZED FOR DRUG THERAPY MANAGEMENT UNDER THE ASSOCIATED PROTOCOLS;

(2) THAT THE PATIENT MAY DECLINE TO PARTICIPATE OR WITHDRAW FROM PARTICIPATING IN THE DRUG THERAPY MANAGEMENT AT ANY TIME; AND

(3) THAT NEITHER THE PHYSICIAN NOR THE PHARMACIST HAS BEEN COERCED, GIVEN ECONOMIC INCENTIVES, EXCLUDING NORMAL REIMBURSEMENT FOR SERVICES RENDERED, OR INVOLUNTARILY REQUIRED TO PARTICIPATE.

~~(G)~~ (I) A LICENSED PHYSICIAN OR A LICENSED PHARMACIST OR BOTH SHALL OBTAIN DOCUMENTED INFORMED CONSENT FROM A PATIENT

AFTER DISCLOSING THE INFORMATION REQUIRED TO BE DISCLOSED UNDER SUBSECTION ~~(F)~~ (H) OF THIS SECTION.

Article – Health Occupations

12-101.

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

(s) (1) “Practice pharmacy” means to engage in any of the following activities:

(i) Providing pharmaceutical care;

(ii) Compounding, dispensing, or distributing prescription drugs or devices;

(iii) Compounding or dispensing nonprescription drugs or devices;

(iv) Monitoring prescriptions for prescription and nonprescription drugs or devices;

(v) Providing information, explanation, or recommendations to patients and health care practitioners about the safe and effective use of prescription or nonprescription drugs or devices;

(vi) Identifying and appraising problems concerning the use or monitoring of therapy with drugs or devices;

(vii) Acting within the parameters of a therapy management contract, as provided under Subtitle 6A of this title;

(viii) Administering an influenza vaccination in accordance with § 12-508 of this title;

(ix) Delegating a pharmacy act to a registered pharmacy technician, pharmacy student, or an individual engaged in a Board approved pharmacy technician training program; [or]

(x) Supervising a delegated pharmacy act performed by a registered pharmacy technician, pharmacy student, or an individual engaged in a Board approved pharmacy technician training program; OR

(XI) PROVIDING DRUG THERAPY MANAGEMENT IN ACCORDANCE WITH § 19-713.6 OF THE HEALTH – GENERAL ARTICLE.

12-6A-01.

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

(B) ~~“GROUP MODEL HEALTH MAINTENANCE ORGANIZATION” MEANS A HEALTH MAINTENANCE ORGANIZATION THAT PROVIDES FOR THE DELIVERY OF COVERED SERVICES TO ITS MEMBERS BY PHYSICIANS WHO ARE MEMBERS OF ONE OR MORE GROUP PRACTICES UNDER CONTRACT WITH THE HEALTH MAINTENANCE ORGANIZATION TO PROVIDE HEALTH CARE SERVICES TO THE MEMBERS OF THE HEALTH MAINTENANCE ORGANIZATION AT MEDICAL FACILITIES OWNED AND OPERATED BY THE HEALTH MAINTENANCE ORGANIZATION~~ HAS THE MEANING STATED IN § 19-713.6 OF THE HEALTH - GENERAL ARTICLE.

(C) “HEALTH MAINTENANCE ORGANIZATION” HAS THE MEANING STATED IN § 19-701(G) OF THE HEALTH - GENERAL ARTICLE.

[(b)] (D) (1) “Institutional facility” means a facility other than a nursing home whose primary purpose is to provide a physical environment for patients to obtain inpatient or emergency care.

(2) “Institutional facility” does not include an urgent care facility that is not part of a facility.

[(c)] (E) “Licensed physician” means an individual who is licensed to practice medicine under Title 14 of this article.

[(d)] (F) “Physician-pharmacist agreement” means an approved agreement between a licensed physician and a licensed pharmacist that is disease-state specific and specifies the protocols that may be used.

[(e)] (G) “Protocol” means a course of treatment predetermined by the licensed physician and licensed pharmacist according to generally accepted medical practice for the proper completion of a particular therapeutic or diagnostic intervention.

[(f)] (H) (1) “Therapy management contract” means a voluntary, written arrangement that is disease-state specific signed by each party to the arrangement between:

(i) One licensed pharmacist and the licensed pharmacist’s designated alternate licensed pharmacists;

(ii) One licensed physician and alternate designated licensed physicians involved directly in patient care; and

(iii) One patient receiving care from a licensed physician and a licensed pharmacist pursuant to a physician–pharmacist agreement and protocol under this subtitle.

(2) A therapy management contract shall be related to treatment using drug therapy, laboratory tests, or medical devices, under defined conditions or limitations for the purpose of improving patient outcomes.

12–6A–02.

A therapy management contract is not required for the management of patients in an institutional facility **OR IN A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION.**

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

Approved by the Governor, May 7, 2009.

Chapter 316

(Senate Bill 792)

AN ACT concerning

Property and Casualty Insurance – Portable Electronics Insurance – Regulation

FOR the purpose of ~~prohibiting the issuance of portable electronics insurance unless~~ establishing a limited lines license to sell coverage under a policy of portable electronics insurance subject to the jurisdiction of the Maryland Insurance Commissioner; providing that the limited lines license authorizes certain employees and authorized representatives of a vendor of portable electronics to sell certain portable electronics insurance under certain circumstances; deeming the acts of certain employees and authorized representatives to be the acts of the vendor for certain purposes; providing for the billing, collection, and maintenance of certain premiums by certain persons; establishing certain limitations on the compensation of certain employees and authorized representatives who sell portable electronics insurance on behalf of a vendor; providing for the issuance and renewal of a limited lines license to sell coverage under a policy of portable electronics insurance subject to certain requirements and procedures; providing for the scope of authority of the limited lines license; requiring the prior filing and approval of certain portable electronics insurance policies; requiring a vendor to hold certain appointments from certain

authorized insurers; requiring certain materials are available disclosures to be provided to prospective customers at a certain location and in a certain manner; providing for the materials disclosures to include a certain summary of coverage, a certain disclosure statement about other insurance coverage, a certain statement about required enrollment in purchase of coverage, a certain description of the process for filing a claim, a certain disclosure about employees evaluating certain insurance coverage, and a certain statement about cancelling the insurance; authorizing the offering of portable electronics insurance on a periodic basis as a certain commercial inland marine policy; authorizing vendors of portable electronics and their employees and authorized representatives to offer enrollment in policies of portable electronics insurance without licensure as insurance producers under certain circumstances; requiring an insurer that offers portable electronics insurance to appoint a certain supervising agency for certain purposes; providing that coverage under a policy of portable electronics insurance is primary to certain other coverage; authorizing the Commissioner to suspend, revoke, or refuse to renew a limited lines license under certain circumstances; prohibiting a vendor and the employees and authorized representatives of the vendor from advertising, representing, or otherwise holding themselves out as a certain insurer or insurance producer; authorizing the Commissioner to adopt certain regulations; requiring the development of a certain training program for employees and authorized representatives; authorizing vendors to bill and collect charges for portable electronics insurance in a certain manner; authorizing the Maryland Insurance Commissioner to impose certain fines in certain amounts and impose certain penalties for certain violations; authorizing the issuance of portable electronics insurance on a month-to-month or other periodic basis as a certain commercial inland marine policy; requiring the establishment of certain eligibility and underwriting standards; prohibiting an insurer from terminating or changing the terms and conditions of a policy of portable electronics insurance unless the insurer provides at least a certain number of days of notice, with certain exceptions; requiring an insurer that makes certain changes to a policy to provide certain revised policies or endorsements to certain persons; providing that coverage continues under the policy under certain circumstances if the insurer does not provide timely notice; providing that covered customers are eligible for reinstatement of coverage under certain circumstances; requiring a vendor that terminates a policy to give certain notice to covered customers in a certain manner; providing certain circumstances under which notice of termination to covered customers is not required; establishing that certain required notice is to be given in a certain manner; defining certain terms; providing for a delayed effective date; and generally relating to the regulation of portable electronics insurance.

BY adding to

Article – Insurance

Section 10-701 through 10-708 to be under the new subtitle “Subtitle 7. Portable Electronics Vendors”; and 19-901 through 19-904 19-903 to be under the new subtitle “Subtitle 9. Portable Electronics Insurance”

Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Insurance

SUBTITLE ~~9~~ 7. PORTABLE ELECTRONICS ~~INSURANCE~~ VENDORS.

~~19-901~~ 10-701.

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

(B) “COVERED CUSTOMER” MEANS A CUSTOMER WHO ELECTS TO ~~ENROLL IN~~ PURCHASE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE ISSUED TO A VENDOR.

(C) “CUSTOMER” MEANS A PERSON WHO PURCHASES OR LEASES PORTABLE ELECTRONICS OR PURCHASES SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS.

(D) (1) “PORTABLE ELECTRONICS” MEANS: ~~ELECTRONIC DEVICES THAT ARE PORTABLE IN NATURE.~~

~~(2) “PORTABLE ELECTRONICS” INCLUDES:~~

~~(I) ACCESSORIES RELATED TO THE ELECTRONIC DEVICES;~~

~~AND~~

~~(II) SERVICES RELATED TO THE USE OF THE ELECTRONIC~~

~~DEVICES~~

(I) HANDSETS, PAGERS, PERSONAL DIGITAL ASSISTANTS, PORTABLE COMPUTERS, CELLULAR TELEPHONES, BATTERIES, AND OTHER DEVICES OR ACCESSORIES USED TO ORIGINATE OR RECEIVE COMMUNICATIONS SIGNALS OR SERVICES; AND

(II) ANY OTHER ELECTRONIC DEVICE THAT IS PORTABLE IN NATURE THAT THE COMMISSIONER APPROVES.

(2) “PORTABLE ELECTRONICS” DOES NOT INCLUDE TELECOMMUNICATIONS SWITCHING EQUIPMENT, TRANSMISSION WIRES, CELL SITE TRANSCIVER EQUIPMENT, OR OTHER EQUIPMENT AND SYSTEMS USED BY

TELECOMMUNICATIONS COMPANIES TO PROVIDE TELECOMMUNICATIONS SERVICE TO CONSUMERS.

(E) (1) “PORTABLE ELECTRONICS INSURANCE” MEANS INSURANCE THAT PROVIDES COVERAGE FOR THE REPAIR OR REPLACEMENT OF PORTABLE ELECTRONICS, INCLUDING COVERAGE AGAINST ONE OR MORE OF THE FOLLOWING CAUSES OF LOSS:

(I) LOSS BY DISAPPEARANCE;

(II) THEFT;

(III) MECHANICAL FAILURE;

(IV) MALFUNCTION;

(V) DAMAGE; AND

(VI) ANY OTHER APPLICABLE PERIL, AS APPROVED BY THE COMMISSIONER.

(2) “PORTABLE ELECTRONICS INSURANCE” DOES NOT INCLUDE:

(I) A SERVICE CONTRACT GOVERNED BY TITLE 14, SUBTITLE 4 OF THE COMMERCIAL LAW ARTICLE THAT DOES NOT INCLUDE COVERAGE FOR LOSS BY DISAPPEARANCE OR THEFT;

(II) A POLICY OF INSURANCE COVERING A SELLER’S OR A MANUFACTURER’S OBLIGATIONS UNDER A WARRANTY; OR

(III) A HOMEOWNER’S, RENTER’S, PRIVATE PASSENGER AUTOMOBILE, OR SIMILAR POLICY THAT COVERS LOSS OR THEFT OF PORTABLE ELECTRONICS.

~~**(F) “SUPERVISING AGENCY” MEANS A BUSINESS ENTITY THAT IS A LICENSED INSURANCE PRODUCER.**~~

(F) “PORTABLE ELECTRONICS TRANSACTION” MEANS:

(1) THE SALE OR LEASE OF PORTABLE ELECTRONICS BY A VENDOR TO A CUSTOMER; OR

(2) THE SALE OF SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS BY A VENDOR TO A CUSTOMER.

(G) “VENDOR” MEANS A PERSON IN THE BUSINESS OF LEASING, SELLING, OR PROVIDING PORTABLE ELECTRONICS, OR SELLING OR PROVIDING SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS, TO CUSTOMERS IN THE STATE.

10-702.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A SERVICE CONTRACT GOVERNED BY TITLE 14, SUBTITLE 4 OF THE COMMERCIAL LAW ARTICLE THAT DOES NOT INCLUDE COVERAGE FOR LOSS BY DISAPPEARANCE OR THEFT;

(2) A POLICY OF INSURANCE COVERING A SELLER’S OR A MANUFACTURER’S OBLIGATIONS UNDER A WARRANTY; OR

(3) A HOMEOWNER’S, RENTER’S, PRIVATE PASSENGER AUTOMOBILE, OR SIMILAR POLICY THAT COVERS LOSS OR THEFT OF PORTABLE ELECTRONICS.

~~19-902.~~

~~(A) PORTABLE ELECTRONICS INSURANCE MAY NOT BE ISSUED UNLESS, AT EACH LOCATION WHERE THE PORTABLE ELECTRONICS INSURANCE IS OFFERED TO PROSPECTIVE CUSTOMERS, BROCHURES OR OTHER WRITTEN MATERIALS ARE READILY AVAILABLE TO PROSPECTIVE CUSTOMERS THAT:~~

10-703.

(A) A VENDOR SHALL HOLD A LIMITED LINES LICENSE TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION WITH A CUSTOMER BEFORE THE VENDOR OR THE EMPLOYEES OF OR AUTHORIZED REPRESENTATIVES OF THE VENDOR MAY SELL OR OFFER TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER.

(B) A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE SHALL ALSO AUTHORIZE ANY SALARIED OR HOURLY EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF THE VENDOR TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION ONLY IF THE EMPLOYEE OR AUTHORIZED REPRESENTATIVE IS:

(1) TRAINED UNDER § 10-705 OF THIS SUBTITLE TO ACT ON BEHALF OF THE VENDOR; AND

(2) ACTING UNDER THE SUPERVISION OF THE VENDOR.

(C) THE ACTS OF AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OFFERING TO SELL OR SELLING COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE DEEMED THE ACTS OF THE VENDOR FOR THE PURPOSES OF THIS SUBTITLE.

(D) (1) A VENDOR MAY BILL AND COLLECT PREMIUMS FROM COVERED CUSTOMERS FOR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(2) A VENDOR THAT BILLS AND COLLECTS PREMIUMS UNDER THIS SECTION IS NOT REQUIRED TO MAINTAIN THE PREMIUMS COLLECTED IN A SEGREGATED ACCOUNT IF:

(I) THE VENDOR'S APPOINTING INSURER AGREES IN WRITING THAT SEGREGATION OF FUNDS IS NOT REQUIRED; AND

(II) THE VENDOR REMITS THE FUNDS COLLECTED TO THE APPOINTING INSURER OR THAT INSURER'S APPOINTED INSURANCE PRODUCER WITHIN 60 DAYS AFTER RECEIPT.

(3) THE PREMIUMS FOR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE SEPARATELY ITEMIZED FROM THE CHARGES FOR THE PURCHASE OR LEASE OF THE PORTABLE ELECTRONICS.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VENDOR AND THE EMPLOYEES OR AUTHORIZED REPRESENTATIVES OF THE VENDOR MAY NOT RECEIVE COMPENSATION FOR THE SALE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(2) A VENDOR MAY RECEIVE COMPENSATION FOR BILLING AND COLLECTION SERVICES UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(3) NOTHING IN THIS SUBSECTION SHALL AFFECT THE ABILITY OF A VENDOR OR AN AUTHORIZED REPRESENTATIVE OF THE VENDOR TO COMPENSATE THE EMPLOYEES OF THE VENDOR OR OF THE AUTHORIZED

REPRESENTATIVE IN A MANNER THAT DOES NOT DEPEND ON THE SALE OF PORTABLE ELECTRONICS INSURANCE.

10-704.

(A) THE COMMISSIONER SHALL ISSUE TO A VENDOR A LIMITED LINES LICENSE AUTHORIZING THE VENDOR TO SELL OR OFFER TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION IF THE VENDOR:

(1) MEETS THE REQUIREMENTS OF § 10-705 OF THIS SUBTITLE;

(2) PAYS THE FEES FOR INSURANCE PRODUCERS REQUIRED UNDER § 2-112 OF THIS ARTICLE THAT ARE APPLICABLE TO AN INSURANCE PRODUCER LICENSE; AND

(3) SUBMITS TO THE COMMISSIONER ANY ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE COMMISSIONER REQUIRES, INCLUDING ANY INFORMATION OR DOCUMENTATION NEEDED TO DETERMINE THE PROFESSIONAL COMPETENCE, GOOD CHARACTER, AND TRUSTWORTHINESS OF THE VENDOR.

(B) A LIMITED LINES LICENSE UNDER THIS SUBTITLE IS SUBJECT TO THE SAME TERM AND RENEWAL CONDITIONS THAT ARE SPECIFIED FOR AN INSURANCE PRODUCER LICENSE UNDER § 10-115 OF THIS TITLE.

10-705.

(A) A LIMITED LINES LICENSE TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER ISSUED UNDER THIS SUBTITLE AUTHORIZES A VENDOR OR AN AUTHORIZED REPRESENTATIVE OF THE VENDOR TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO CUSTOMERS IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION AT EACH LOCATION AT WHICH THE VENDOR ENGAGES IN PORTABLE ELECTRONICS TRANSACTIONS IN THE STATE IF:

(1) THE PORTABLE ELECTRONICS INSURANCE POLICIES HAVE BEEN FILED WITH AND APPROVED BY THE COMMISSIONER;

(2) THE VENDOR HOLDS AN APPOINTMENT UNDER § 10-118 OF THIS TITLE WITH EACH AUTHORIZED INSURER THAT THE VENDOR INTENDS TO REPRESENT;

(3) AT EACH LOCATION WHERE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS OFFERED OR SOLD TO CUSTOMERS, THE VENDOR PROVIDES TO THE CUSTOMERS DISCLOSURES APPROVED BY THE COMMISSIONER THAT:

(1) (I) SUMMARIZE, CLEARLY AND CORRECTLY, THE MATERIAL TERMS OF THE COVERAGE UNDER THE POLICY OF PORTABLE ELECTRONICS INSURANCE INCLUDING:

(i) 1. THE IDENTITY OF THE INSURER;

(ii) ~~THE IDENTITY OF THE SUPERVISING AGENCY;~~

(iii) 2. THE PREMIUM TO BE PAID;

(iv) 3. ANY APPLICABLE DEDUCTIBLE;

(v) 4. THE MAJOR FEATURES OF THE BENEFITS OF THE COVERAGE; AND

(vi) 5. THE MAJOR FEATURES OF ANY EXCLUSIONS, CONDITIONS, OR OTHER LIMITATIONS OF COVERAGE INCLUDING WHETHER THE PORTABLE ELECTRONICS MAY BE REPAIRED OR REPLACED WITH SIMILAR MAKE AND MODEL RECONDITIONED OR NONORIGINAL MANUFACTURER PARTS OR EQUIPMENT;

(2) (II) 1. DISCLOSE STATE THAT PORTABLE ELECTRONICS INSURANCE MAY DUPLICATE INSURANCE COVERAGE ALREADY PROVIDED BY A CUSTOMER'S HOMEOWNER'S INSURANCE POLICY, RENTER'S INSURANCE POLICY, OR OTHER SOURCE OF INSURANCE COVERAGE; AND

2. STATE THAT THE PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE WOULD MAKE THIS COVERAGE PRIMARY TO ANY OTHER COVERAGE, INCLUDING DUPLICATE COVERAGE;

(3) ~~STATE THAT ENROLLMENT BY THE CUSTOMER IN COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS NOT REQUIRED IN ORDER TO PURCHASE OR LEASE THE PORTABLE ELECTRONICS;~~

(III) STATE THAT THE PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS NOT REQUIRED IN ORDER TO ENTER INTO THE PORTABLE ELECTRONICS TRANSACTION;

~~(4)~~ (IV) DESCRIBE THE PROCESS FOR FILING A CLAIM IF THE CUSTOMER ELECTS TO ~~ENROLL IN~~ PURCHASE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE INCLUDING A DESCRIPTION OF:

~~(I)~~ 1. ANY REQUIREMENT TO PAY A DEDUCTIBLE;

~~(II)~~ 2. ANY REQUIREMENT TO RETURN PORTABLE ELECTRONICS;

~~(III)~~ 3. THE MAXIMUM FEE APPLICABLE IF THE CUSTOMER FAILS TO COMPLY WITH A RETURN REQUIREMENT; AND

~~(IV)~~ 4. ANY REQUIREMENT TO FILE A PROOF OF LOSS;

~~(5)~~ ~~STATE THE PRICE, DEDUCTIBLE, BENEFITS, EXCLUSIONS, CONDITIONS, OR OTHER LIMITATIONS OF POLICIES OF PORTABLE ELECTRONICS INSURANCE;~~

~~(6)~~ ~~DISCLOSE THAT THE EMPLOYEE OF THE VENDOR IS NOT QUALIFIED OR AUTHORIZED TO EVALUATE THE ADEQUACY OF THE CUSTOMER'S EXISTING INSURANCE COVERAGE, UNLESS OTHERWISE LICENSED UNDER THIS ARTICLE; AND~~

~~(7)~~ (V) STATE THAT:

~~(I)~~ 1. THE CUSTOMER MAY CANCEL COVERAGE UNDER THE PORTABLE ELECTRONICS INSURANCE AT ANY TIME; AND

~~(II)~~ 2. IF THE CUSTOMER CANCELS COVERAGE UNDER THE PORTABLE ELECTRONICS INSURANCE, ANY UNEARNED PREMIUM WILL BE REFUNDED IN ACCORDANCE WITH APPLICABLE LAW; AND

(VI) PROVIDE THE TOLL-FREE CONSUMER HOTLINE TELEPHONE NUMBER OF THE ADMINISTRATION; AND

(4) (I) THE VENDOR PROVIDES A TRAINING PROGRAM, APPROVED BY THE COMMISSIONER, FOR ANY EMPLOYEE OR AUTHORIZED REPRESENTATIVE WHO SELLS COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO CUSTOMERS UNDER THIS SUBTITLE THAT INCLUDES INSTRUCTION:

1. ABOUT THE PORTABLE ELECTRONICS INSURANCE OFFERED TO CUSTOMERS OF THE VENDOR;

2. THAT THE EMPLOYEE OR AUTHORIZED REPRESENTATIVE MAY NOT REPRESENT OR IMPLY TO A CUSTOMER THAT PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS REQUIRED IN ORDER TO PURCHASE PORTABLE ELECTRONICS;

3. THAT PORTABLE ELECTRONICS INSURANCE MAY DUPLICATE INSURANCE COVERAGE ALREADY PROVIDED BY A CUSTOMER'S HOMEOWNER'S INSURANCE POLICY, RENTER'S INSURANCE POLICY, OR OTHER SOURCE OF INSURANCE COVERAGE; AND

4. ABOUT THE OTHER DISCLOSURES REQUIRED BY ITEM (3) OF THIS SUBSECTION.

(B) THE TRAINING REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION MAY BE PROVIDED IN ELECTRONIC FORM.

~~(B) PORTABLE ELECTRONICS INSURANCE MAY BE OFFERED ON A MONTH TO MONTH OR OTHER PERIODIC BASIS AS A GROUP OR MASTER COMMERCIAL INLAND MARINE POLICY ISSUED TO A VENDOR UNDER WHICH INDIVIDUAL CUSTOMERS MAY ELECT TO ENROLL IN COVERAGE UNDER THE POLICY.~~

~~(C) ELIGIBILITY AND UNDERWRITING STANDARDS FOR CUSTOMERS ENROLLING IN COVERAGE SHALL BE ESTABLISHED FOR EACH PORTABLE ELECTRONICS INSURANCE POLICY.~~

~~19-903.~~

~~(A) VENDORS OF PORTABLE ELECTRONICS AND THEIR EMPLOYEES AND AUTHORIZED REPRESENTATIVES MAY PROVIDE INFORMATION TO AND COLLECT INFORMATION FROM CUSTOMERS FOR THE PURPOSE OF OFFERING ENROLLMENT IN COVERAGE UNDER POLICIES OF PORTABLE ELECTRONICS INSURANCE.~~

~~(B) VENDORS AND THEIR EMPLOYEES AND AUTHORIZED REPRESENTATIVES ACTING IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION ARE NOT SUBJECT TO LICENSURE AS INSURANCE PRODUCERS UNDER THIS ARTICLE IF:~~

~~(1) EACH INSURER THAT OFFERS PORTABLE ELECTRONICS INSURANCE APPOINTS A SUPERVISING AGENCY TO:~~

~~(I) SUPERVISE THE OFFERING OF COVERAGE BY THE EMPLOYEES AND AUTHORIZED REPRESENTATIVES; AND~~

~~(H) DEVELOP A TRAINING PROGRAM FOR THE EMPLOYEES AND AUTHORIZED REPRESENTATIVES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION;~~

10-706.

COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SOLD IN CONNECTION WITH A PORTABLE ELECTRONICS TRANSACTION UNDER THIS SUBTITLE IS PRIMARY TO ANY OTHER VALID AND COLLECTIBLE COVERAGE.

10-707.

(A) THE COMMISSIONER MAY SUSPEND, REVOKE, OR REFUSE TO RENEW A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE AFTER NOTICE AND OPPORTUNITY FOR A HEARING UNDER TITLE 2, SUBTITLE 2 OF THIS ARTICLE IF THE VENDOR OR AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF THE VENDOR HAS:

(1) WILLFULLY VIOLATED THIS ARTICLE OR ANOTHER LAW OF THE STATE THAT RELATES TO INSURANCE;

(2) OPERATED WITHOUT A LIMITED LINES LICENSE AS REQUIRED UNDER THIS SUBTITLE;

(3) FAILED TO PROVIDE THE DISCLOSURES REQUIRED UNDER § 10-705 OF THIS SUBTITLE;

(4) OFFERED OR SOLD UNAPPROVED INSURANCE PRODUCTS;

(5) FAILED TO HOLD AN APPOINTMENT WITH AN INSURER;

(6) FAILED TO TRAIN EMPLOYEES OR AUTHORIZED REPRESENTATIVES AS REQUIRED UNDER § 10-705 OF THIS SUBTITLE; OR

(7) MISREPRESENTED PERTINENT FACTS OR POLICY PROVISIONS CONCERNING A POLICY OF PORTABLE ELECTRONICS INSURANCE.

~~(2)-(B) THE A VENDOR AND THE EMPLOYEES AND AUTHORIZED REPRESENTATIVES DO OF THE VENDOR MAY NOT ADVERTISE, REPRESENT, OR OTHERWISE HOLD THEMSELVES OUT AS LICENSED INSURANCE PRODUCERS;~~

~~AND AN AUTHORIZED INSURER OR AS AN INSURANCE PRODUCER FOR ANY KIND OR SUBDIVISION OF INSURANCE, EXCEPT AS PROVIDED IN THIS SUBTITLE.~~

(C) INSTEAD OF, OR IN ADDITION TO, SUSPENDING OR REVOKING A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE, THE COMMISSIONER MAY:

(1) IMPOSE ON THE VENDOR A PENALTY OF NOT MORE THAN \$2,500 FOR EACH VIOLATION OF THIS SUBTITLE; AND

(2) REQUIRE THAT RESTITUTION BE MADE TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF A VIOLATION OF THIS SUBTITLE.

10-708.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE, INCLUDING REGULATIONS:

(1) CONCERNING THE FORM AND CONTENT OF REQUIRED DISCLOSURES TO CUSTOMERS;

(2) THE TRAINING REQUIREMENTS FOR EMPLOYEES AND AUTHORIZED REPRESENTATIVES OF VENDORS; AND

(3) THE QUALIFICATIONS OF THE INDIVIDUALS WHO PROVIDE TRAINING.

~~(3) THE EMPLOYEES AND AUTHORIZED REPRESENTATIVES ARE NOT COMPENSATED BASED PRIMARILY ON THE NUMBER OF CUSTOMERS ENROLLED IN PORTABLE ELECTRONICS INSURANCE COVERAGE.~~

~~(C) (1) THE TRAINING REQUIRED BY SUBSECTION (B)(1)(H) OF THIS SECTION SHALL:~~

~~(I) BE DELIVERED TO ALL EMPLOYEES AND AUTHORIZED REPRESENTATIVES OF VENDORS THAT OFFER PORTABLE ELECTRONICS INSURANCE TO THEIR CUSTOMERS; AND~~

~~(II) INCLUDE BASIC INSTRUCTION ABOUT:~~

~~1. THE PORTABLE ELECTRONICS INSURANCE OFFERED TO CUSTOMERS OF THE VENDOR; AND~~

~~2. THE DISCLOSURES REQUIRED BY § 19-902 OF THIS SUBTITLE.~~

~~(2) THE TRAINING MAY BE PROVIDED IN ELECTRONIC FORM.~~

~~(D) (1) VENDORS MAY BILL AND COLLECT THE CHARGES FOR PORTABLE ELECTRONICS INSURANCE COVERAGE.~~

~~(2) IF BILLED AND COLLECTED BY VENDORS, THE CHARGES SHALL BE SEPARATELY ITEMIZED FROM THE CHARGES FOR THE PURCHASE OR LEASE OF THE PORTABLE ELECTRONICS.~~

~~(3) VENDORS THAT BILL AND COLLECT CHARGES FOR PORTABLE ELECTRONICS INSURANCE COVERAGE ARE NOT REQUIRED TO MAINTAIN THE FUNDS COLLECTED IN A SEGREGATED ACCOUNT IF THE VENDORS REMIT THE FUNDS COLLECTED TO THE SUPERVISING AGENCY WITHIN 60 DAYS AFTER RECEIPT.~~

~~(4) VENDORS MAY RECEIVE COMPENSATION FOR BILLING AND COLLECTION SERVICES.~~

~~(E) IF A VENDOR OR ITS EMPLOYEE OR AUTHORIZED REPRESENTATIVE VIOLATES ANY PROVISION OF THIS SECTION, THE COMMISSIONER MAY, AFTER NOTICE AND HEARING:~~

~~(1) IMPOSE FINES NOT EXCEEDING \$500 PER VIOLATION OR \$5,000 IN THE AGGREGATE FOR THE CONDUCT; AND~~

~~(2) IMPOSE OTHER PENALTIES THAT THE COMMISSIONER CONSIDERS NECESSARY AND REASONABLE TO CARRY OUT THE PURPOSE OF THIS ARTICLE, INCLUDING:~~

~~(I) SUSPENDING THE PRIVILEGE OF OFFERING PORTABLE ELECTRONICS INSURANCE COVERAGE IN ACCORDANCE WITH THIS SECTION AT SPECIFIC BUSINESS LOCATIONS WHERE VIOLATIONS HAVE OCCURRED; AND~~

~~(II) SUSPENDING THE ABILITY OF INDIVIDUAL EMPLOYEES OR AUTHORIZED REPRESENTATIVES TO OFFER PORTABLE ELECTRONICS INSURANCE COVERAGE.~~

~~19-904.~~

SUBTITLE 9. PORTABLE ELECTRONICS INSURANCE.

19-901.

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

(B) "COVERED CUSTOMER" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(C) "CUSTOMER" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(D) "PORTABLE ELECTRONICS" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(E) "PORTABLE ELECTRONICS INSURANCE" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(F) "VENDOR" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

19-902.

(A) PORTABLE ELECTRONICS INSURANCE MAY BE OFFERED ON A MONTH-TO-MONTH OR OTHER PERIODIC BASIS AS A GROUP OR MASTER COMMERCIAL INLAND MARINE POLICY ISSUED TO A VENDOR UNDER WHICH INDIVIDUAL CUSTOMERS MAY ELECT TO PURCHASE COVERAGE UNDER THE POLICY.

(B) ELIGIBILITY AND UNDERWRITING STANDARDS FOR CUSTOMERS PURCHASING COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE ESTABLISHED FOR EACH PORTABLE ELECTRONICS INSURANCE POLICY.

19-903.

(A) ~~EXCEPT~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INSURER MAY NOT TERMINATE OR OTHERWISE CHANGE THE TERMS AND CONDITIONS OF A POLICY OF PORTABLE ELECTRONICS INSURANCE UNLESS THE INSURER PROVIDES THE POLICYHOLDER AND COVERED CUSTOMERS WITH AT LEAST 60 DAYS' NOTICE.

(B) IF THE INSURER CHANGES THE TERMS AND CONDITIONS OF A POLICY OF PORTABLE ELECTRONICS INSURANCE ~~POLICY~~ IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, ~~THEN~~ THE INSURER SHALL:

(1) PROVIDE THE POLICYHOLDER WITH A REVISED POLICY OR ENDORSEMENT; AND

(2) PROVIDE EACH COVERED CUSTOMER WITH:

(I) A REVISED CERTIFICATE, ENDORSEMENT, UPDATED BROCHURE, OR OTHER EVIDENCE THAT INDICATES THAT A CHANGE IN THE TERMS AND CONDITIONS OF THE POLICY HAS OCCURRED; AND

(II) A SUMMARY OF MATERIAL CHANGES.

(C) AN INSURER MAY TERMINATE COVERAGE OF A COVERED CUSTOMER UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE:

(1) AFTER ~~15~~ 45 DAYS' NOTICE FOR DISCOVERY OF FRAUD OR MATERIAL MISREPRESENTATION IN OBTAINING COVERAGE OR IN THE PRESENTATION OF A CLAIM UNDER THE POLICY; OR

(2) AFTER 10 DAYS' NOTICE FOR NONPAYMENT OF PREMIUM.

(D) (1) AN INSURER MAY AUTOMATICALLY TERMINATE COVERAGE OF A COVERED CUSTOMER UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE:

(I) IF THE COVERED CUSTOMER CEASES TO HAVE ACTIVE ~~TELECOMMUNICATIONS SERVICE WITH THE VENDOR;~~ SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS WITH THE VENDOR; OR

(II) IF:

1. THE COVERED CUSTOMER EXHAUSTS THE AGGREGATE LIMIT OF LIABILITY, IF ANY, UNDER THE TERMS OF THE POLICY OF PORTABLE ELECTRONICS INSURANCE ~~AND;~~ AND

2. THE INSURER SENDS NOTICE OF TERMINATION TO THE COVERED CUSTOMER WITHIN 15 BUSINESS DAYS AFTER EXHAUSTION OF THE LIMIT, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION; ~~OR~~

~~(III) FOR NONPAYMENT OF PREMIUM.~~

(2) IF THE INSURER DOES NOT SEND TIMELY NOTICE IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS SUBSECTION, COVERAGE SHALL CONTINUE UNDER THE POLICY OF PORTABLE ELECTRONICS INSURANCE

NOTWITHSTANDING THE AGGREGATE LIMIT OF LIABILITY UNTIL THE INSURER SENDS NOTICE OF TERMINATION TO THE COVERED CUSTOMER.

(E) NOTWITHSTANDING SUBSECTION (D)(1)(II) OF THIS SECTION, ON REQUEST OF A COVERED CUSTOMER, THE COVERED CUSTOMER SHALL BE ELIGIBLE FOR REINSTATEMENT OF COVERAGE NOT MORE THAN 12 MONTHS AFTER THE DATE OF EXHAUSTION OF THE COVERAGE LIMIT IN ACCORDANCE WITH THE TERMS OF THE POLICY AND SUBJECT TO THE ENROLLMENT CRITERIA THEN APPLICABLE TO PROSPECTIVE CUSTOMERS GENERALLY.

(F) IF A VENDOR TERMINATES A POLICY OF PORTABLE ELECTRONICS INSURANCE, THE VENDOR SHALL MAIL OR DELIVER, AT LEAST ~~30~~ 45 DAYS BEFORE TERMINATION, WRITTEN NOTICE TO EACH COVERED CUSTOMER THAT ADVISES THE COVERED CUSTOMER OF THE TERMINATION OF THE POLICY AND THE EFFECTIVE DATE OF TERMINATION.

(G) (1) AN INSURER IS NOT REQUIRED TO GIVE NOTICE OF TERMINATION TO A COVERED CUSTOMER IF THE INSURER HAS BEEN ADVISED BY EITHER THE VENDOR OR ANOTHER INSURER THAT SUBSTANTIALLY SIMILAR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE HAS BEEN OBTAINED FROM ANOTHER INSURER WITHOUT LAPSE OF COVERAGE.

(2) A VENDOR IS NOT REQUIRED TO GIVE NOTICE OF TERMINATION TO A COVERED CUSTOMER IF SUBSTANTIALLY SIMILAR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE HAS BEEN OBTAINED FROM ANOTHER INSURER WITHOUT LAPSE OF COVERAGE.

(H) (1) WHENEVER NOTICE IS REQUIRED IN ACCORDANCE WITH THIS SECTION, THE NOTICE SHALL BE IN WRITING AND ~~MAILED OR DELIVERED~~ SENT BY CERTIFICATE OF MAIL TO THE VENDOR AT THE VENDOR'S MAILING ADDRESS AND ITS AFFECTED CUSTOMERS' LAST KNOWN MAILING ADDRESSES ON FILE WITH THE INSURER.

(2) THE INSURER OR VENDOR, AS THE CASE MAY BE, SHALL MAINTAIN PROOF OF MAILING IN A FORM AUTHORIZED OR ACCEPTED BY THE UNITED STATES POSTAL SERVICE ~~OR OTHER COMMERCIAL MAIL DELIVERY SERVICE~~.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July 1, 2009~~ January 1, 2010.

Approved by the Governor, May 7, 2009.

Chapter 317

(House Bill 868)

AN ACT concerning

Property and Casualty Insurance – Portable Electronics Insurance – Regulation

FOR the purpose of ~~prohibiting the issuance of portable electronics insurance unless~~ establishing a limited lines license to sell coverage under a policy of portable electronics insurance subject to the jurisdiction of the Maryland Insurance Commissioner; providing that the limited lines license authorizes certain employees and authorized representatives of a vendor of portable electronics to sell certain portable electronics insurance under certain circumstances; deeming the acts of certain employees and authorized representatives to be the acts of the vendor for certain purposes; providing for the billing, collection, and maintenance of certain premiums by certain persons; establishing certain limitations on the compensation of certain employees and authorized representatives who sell portable electronics insurance on behalf of a vendor; providing for the issuance and renewal of a limited lines license to sell coverage under a policy of portable electronics insurance subject to certain requirements and procedures; providing for the scope of authority of the limited lines license; requiring the prior filing and approval of certain portable electronics insurance policies; requiring a vendor to hold certain appointments from certain authorized insurers; requiring certain ~~materials are available~~ disclosures to be provided to prospective customers at a certain location and in a certain manner; providing for the ~~materials~~ disclosures to include a certain summary of coverage, a certain ~~disclosure~~ statement about other insurance coverage, a certain statement about required ~~enrollment in purchase of coverage~~, a certain description of the process for filing a claim, ~~a certain disclosure about employees evaluating certain insurance coverage~~, and a certain statement about cancelling the insurance; ~~authorizing the offering of portable electronics insurance on a periodic basis as a certain commercial inland marine policy; authorizing vendors of portable electronics and their employees and authorized representatives to offer enrollment in policies of portable electronics insurance without licensure as insurance producers under certain circumstances; requiring an insurer that offers portable electronics insurance to appoint a certain supervising agency for certain purposes; providing that coverage under a policy of portable electronics insurance is primary to certain other coverage; authorizing the Commissioner to suspend, revoke, or refuse to renew a limited lines license under certain circumstances; prohibiting a vendor and the employees and authorized representatives of the vendor from advertising, representing, or otherwise holding themselves out as a certain insurer or insurance producer; authorizing the Commissioner to adopt certain regulations; requiring the development of a certain training program for employees and authorized representatives;~~

~~authorizing vendors to bill and collect charges for portable electronics insurance in a certain manner;~~ authorizing the ~~Maryland Insurance~~ Commissioner to impose certain fines in certain amounts and impose certain penalties for certain violations; authorizing the issuance of portable electronics insurance on a month-to-month or other periodic basis as a certain commercial inland marine policy; requiring the establishment of certain eligibility and underwriting standards; prohibiting an insurer from terminating or changing the terms and conditions of a policy of portable electronics insurance unless the insurer provides at least a certain number of days of notice, with certain exceptions; requiring an insurer that makes certain changes to a policy to provide certain revised policies or endorsements to certain persons; providing that coverage continues under the policy under certain circumstances if the insurer does not provide timely notice; providing that covered customers are eligible for reinstatement of coverage under certain circumstances; requiring a vendor that terminates a policy to give certain notice to covered customers in a certain manner; providing certain circumstances under which notice of termination to covered customers is not required; establishing that certain required notice is to be given in a certain manner; defining certain terms; providing for a delayed effective date; and generally relating to the regulation of portable electronics insurance.

BY adding to

Article – Insurance

Section 10-701 through 10-708 to be under the new subtitle “Subtitle 7. Portable Electronics Vendors”; and 19-901 through 19-904 19-903 to be under the new subtitle “Subtitle 9. Portable Electronics Insurance”

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

Article – Insurance

SUBTITLE ~~9.~~ 7. PORTABLE ELECTRONICS ~~INSURANCE~~ VENDORS.

~~19-901.~~ 10-701.

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

(B) “COVERED CUSTOMER” MEANS A CUSTOMER WHO ELECTS TO ~~ENROLL IN~~ PURCHASE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE ISSUED TO A VENDOR.

(C) **“CUSTOMER” MEANS A PERSON WHO PURCHASES OR LEASES PORTABLE ELECTRONICS OR PURCHASES SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS.**

(D) (1) **“PORTABLE ELECTRONICS” MEANS: ~~ELECTRONIC DEVICES THAT ARE PORTABLE IN NATURE.~~**

~~(2) “PORTABLE ELECTRONICS” INCLUDES:~~

~~(I) ACCESSORIES RELATED TO THE ELECTRONIC DEVICES;~~
AND

~~(H) SERVICES RELATED TO THE USE OF THE ELECTRONIC DEVICES~~

(I) HANDSETS, PAGERS, PERSONAL DIGITAL ASSISTANTS, PORTABLE COMPUTERS, CELLULAR TELEPHONES, BATTERIES, AND OTHER DEVICES OR ACCESSORIES USED TO ORIGINATE OR RECEIVE COMMUNICATIONS SIGNALS OR SERVICES; AND

(II) ANY OTHER ELECTRONIC DEVICE THAT IS PORTABLE IN NATURE THAT THE COMMISSIONER APPROVES.

(2) “PORTABLE ELECTRONICS” DOES NOT INCLUDE TELECOMMUNICATIONS SWITCHING EQUIPMENT, TRANSMISSION WIRES, CELL SITE TRANSCEIVER EQUIPMENT, OR OTHER EQUIPMENT AND SYSTEMS USED BY TELECOMMUNICATIONS COMPANIES TO PROVIDE TELECOMMUNICATIONS SERVICE TO CONSUMERS.

(E) (1) **“PORTABLE ELECTRONICS INSURANCE” MEANS INSURANCE THAT PROVIDES COVERAGE FOR THE REPAIR OR REPLACEMENT OF PORTABLE ELECTRONICS, INCLUDING COVERAGE AGAINST ONE OR MORE OF THE FOLLOWING CAUSES OF LOSS:**

(I) LOSS BY DISAPPEARANCE;

(II) THEFT;

(III) MECHANICAL FAILURE;

(IV) MALFUNCTION;

(V) DAMAGE; AND

(VI) ANY OTHER APPLICABLE PERIL, AS APPROVED BY THE COMMISSIONER.

(2) **“PORTABLE ELECTRONICS INSURANCE” DOES NOT INCLUDE:**

(I) A SERVICE CONTRACT GOVERNED BY TITLE 14, SUBTITLE 4 OF THE COMMERCIAL LAW ARTICLE THAT DOES NOT INCLUDE COVERAGE FOR LOSS BY DISAPPEARANCE OR THEFT;

(II) A POLICY OF INSURANCE COVERING A SELLER’S OR A MANUFACTURER’S OBLIGATIONS UNDER A WARRANTY; OR

(III) A HOMEOWNER’S, RENTER’S, PRIVATE PASSENGER AUTOMOBILE, OR SIMILAR POLICY THAT COVERS LOSS OR THEFT OF PORTABLE ELECTRONICS.

~~(F) “SUPERVISING AGENCY” MEANS A BUSINESS ENTITY THAT IS A LICENSED INSURANCE PRODUCER.~~

(F) **“PORTABLE ELECTRONICS TRANSACTION” MEANS:**

(1) THE SALE OR LEASE OF PORTABLE ELECTRONICS BY A VENDOR TO A CUSTOMER; OR

(2) THE SALE OF SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS BY A VENDOR TO A CUSTOMER.

(G) **“VENDOR” MEANS A PERSON IN THE BUSINESS OF LEASING, SELLING, OR PROVIDING PORTABLE ELECTRONICS, OR SELLING OR PROVIDING SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS, TO CUSTOMERS IN THE STATE.**

10-702.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A SERVICE CONTRACT GOVERNED BY TITLE 14, SUBTITLE 4 OF THE COMMERCIAL LAW ARTICLE THAT DOES NOT INCLUDE COVERAGE FOR LOSS BY DISAPPEARANCE OR THEFT;

(2) A POLICY OF INSURANCE COVERING A SELLER’S OR A MANUFACTURER’S OBLIGATIONS UNDER A WARRANTY; OR

(3) A HOMEOWNER'S, RENTER'S, PRIVATE PASSENGER AUTOMOBILE, OR SIMILAR POLICY THAT COVERS LOSS OR THEFT OF PORTABLE ELECTRONICS.

~~19-902.~~

~~(A) PORTABLE ELECTRONICS INSURANCE MAY NOT BE ISSUED UNLESS, AT EACH LOCATION WHERE THE PORTABLE ELECTRONICS INSURANCE IS OFFERED TO PROSPECTIVE CUSTOMERS, BROCHURES OR OTHER WRITTEN MATERIALS ARE READILY AVAILABLE TO PROSPECTIVE CUSTOMERS THAT:~~

10-703.

(A) A VENDOR SHALL HOLD A LIMITED LINES LICENSE TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION WITH A CUSTOMER BEFORE THE VENDOR OR THE EMPLOYEES OF OR AUTHORIZED REPRESENTATIVES OF THE VENDOR MAY SELL OR OFFER TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER.

(B) A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE SHALL ALSO AUTHORIZE ANY SALARIED OR HOURLY EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF THE VENDOR TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION ONLY IF THE EMPLOYEE OR AUTHORIZED REPRESENTATIVE IS:

(1) TRAINED UNDER § 10-705 OF THIS SUBTITLE TO ACT ON BEHALF OF THE VENDOR; AND

(2) ACTING UNDER THE SUPERVISION OF THE VENDOR.

(C) THE ACTS OF AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OFFERING TO SELL OR SELLING COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE DEEMED THE ACTS OF THE VENDOR FOR THE PURPOSES OF THIS SUBTITLE.

(D) (1) A VENDOR MAY BILL AND COLLECT PREMIUMS FROM COVERED CUSTOMERS FOR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(2) A VENDOR THAT BILLS AND COLLECTS PREMIUMS UNDER THIS SECTION IS NOT REQUIRED TO MAINTAIN THE PREMIUMS COLLECTED IN A SEGREGATED ACCOUNT IF:

(I) THE VENDOR'S APPOINTING INSURER AGREES IN WRITING THAT SEGREGATION OF FUNDS IS NOT REQUIRED; AND

(II) THE VENDOR REMITS THE FUNDS COLLECTED TO THE APPOINTING INSURER OR THAT INSURER'S APPOINTED INSURANCE PRODUCER WITHIN 60 DAYS AFTER RECEIPT.

(3) THE PREMIUMS FOR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE SEPARATELY ITEMIZED FROM THE CHARGES FOR THE PURCHASE OR LEASE OF THE PORTABLE ELECTRONICS.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VENDOR AND THE EMPLOYEES OR AUTHORIZED REPRESENTATIVES OF THE VENDOR MAY NOT RECEIVE COMPENSATION FOR THE SALE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(2) A VENDOR MAY RECEIVE COMPENSATION FOR BILLING AND COLLECTION SERVICES UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE.

(3) NOTHING IN THIS SUBSECTION SHALL AFFECT THE ABILITY OF A VENDOR OR AN AUTHORIZED REPRESENTATIVE OF THE VENDOR TO COMPENSATE THE EMPLOYEES OF THE VENDOR OR OF THE AUTHORIZED REPRESENTATIVE IN A MANNER THAT DOES NOT DEPEND ON THE SALE OF PORTABLE ELECTRONICS INSURANCE.

10-704.

(A) THE COMMISSIONER SHALL ISSUE TO A VENDOR A LIMITED LINES LICENSE AUTHORIZING THE VENDOR TO SELL OR OFFER TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION IF THE VENDOR:

(1) MEETS THE REQUIREMENTS OF § 10-705 OF THIS SUBTITLE;

(2) PAYS THE FEES FOR INSURANCE PRODUCERS REQUIRED UNDER § 2-112 OF THIS ARTICLE THAT ARE APPLICABLE TO AN INSURANCE PRODUCER LICENSE; AND

(3) SUBMITS TO THE COMMISSIONER ANY ADDITIONAL INFORMATION OR DOCUMENTATION THAT THE COMMISSIONER REQUIRES, INCLUDING ANY INFORMATION OR DOCUMENTATION NEEDED TO DETERMINE THE PROFESSIONAL COMPETENCE, GOOD CHARACTER, AND TRUSTWORTHINESS OF THE VENDOR.

(B) A LIMITED LINES LICENSE UNDER THIS SUBTITLE IS SUBJECT TO THE SAME TERM AND RENEWAL CONDITIONS THAT ARE SPECIFIED FOR AN INSURANCE PRODUCER LICENSE UNDER § 10-115 OF THIS TITLE.

10-705.

(A) A LIMITED LINES LICENSE TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO A CUSTOMER ISSUED UNDER THIS SUBTITLE AUTHORIZES A VENDOR OR AN AUTHORIZED REPRESENTATIVE OF THE VENDOR TO SELL COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO CUSTOMERS IN CONNECTION WITH, AND INCIDENTAL TO, A PORTABLE ELECTRONICS TRANSACTION AT EACH LOCATION AT WHICH THE VENDOR ENGAGES IN PORTABLE ELECTRONICS TRANSACTIONS IN THE STATE IF:

(1) THE PORTABLE ELECTRONICS INSURANCE POLICIES HAVE BEEN FILED WITH AND APPROVED BY THE COMMISSIONER;

(2) THE VENDOR HOLDS AN APPOINTMENT UNDER § 10-118 OF THIS TITLE WITH EACH AUTHORIZED INSURER THAT THE VENDOR INTENDS TO REPRESENT;

(3) AT EACH LOCATION WHERE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS OFFERED OR SOLD TO CUSTOMERS, THE VENDOR PROVIDES TO THE CUSTOMERS DISCLOSURES APPROVED BY THE COMMISSIONER THAT:

~~(I)~~ (I) SUMMARIZE, ~~CLEARLY AND CORRECTLY,~~ THE MATERIAL TERMS OF THE COVERAGE UNDER THE POLICY OF PORTABLE ELECTRONICS INSURANCE INCLUDING:

~~(I)~~ 1. THE IDENTITY OF THE INSURER;

~~(II)~~ ~~THE IDENTITY OF THE SUPERVISING AGENCY;~~

~~(III)~~ 2. THE PREMIUM TO BE PAID;

~~(IV)~~ 3. ANY APPLICABLE DEDUCTIBLE;

~~(V)~~ 4. THE MAJOR FEATURES OF THE BENEFITS OF THE COVERAGE; AND

~~(VI)~~ 5. THE MAJOR FEATURES OF ANY EXCLUSIONS, CONDITIONS, OR OTHER LIMITATIONS OF COVERAGE INCLUDING WHETHER THE PORTABLE ELECTRONICS MAY BE REPAIRED OR REPLACED WITH SIMILAR MAKE AND MODEL RECONDITIONED OR NONORIGINAL MANUFACTURER PARTS OR EQUIPMENT;

~~(2)~~ (II) 1. ~~DISCLOSE STATE~~ THAT PORTABLE ELECTRONICS INSURANCE MAY DUPLICATE INSURANCE COVERAGE ALREADY PROVIDED BY A CUSTOMER'S HOMEOWNER'S INSURANCE POLICY, RENTER'S INSURANCE POLICY, OR OTHER SOURCE OF INSURANCE COVERAGE; AND

2. STATE THAT THE PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE WOULD MAKE THIS COVERAGE PRIMARY TO ANY OTHER COVERAGE, INCLUDING DUPLICATE COVERAGE;

~~(3)~~ ~~STATE THAT ENROLLMENT BY THE CUSTOMER IN COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS NOT REQUIRED IN ORDER TO PURCHASE OR LEASE THE PORTABLE ELECTRONICS;~~

(III) STATE THAT THE PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS NOT REQUIRED IN ORDER TO ENTER INTO THE PORTABLE ELECTRONICS TRANSACTION;

~~(4)~~ (IV) DESCRIBE THE PROCESS FOR FILING A CLAIM IF THE CUSTOMER ELECTS TO ~~ENROLL IN~~ PURCHASE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE INCLUDING A DESCRIPTION OF:

~~(I)~~ 1. ANY REQUIREMENT TO PAY A DEDUCTIBLE;

~~(II)~~ 2. ANY REQUIREMENT TO RETURN PORTABLE ELECTRONICS;

~~(III)~~ 3. THE MAXIMUM FEE APPLICABLE IF THE CUSTOMER FAILS TO COMPLY WITH A RETURN REQUIREMENT; AND

~~(IV)~~ 4. ANY REQUIREMENT TO FILE A PROOF OF LOSS;

~~(5) STATE THE PRICE, DEDUCTIBLE, BENEFITS, EXCLUSIONS, CONDITIONS, OR OTHER LIMITATIONS OF POLICIES OF PORTABLE ELECTRONICS INSURANCE;~~

~~(6) DISCLOSE THAT THE EMPLOYEE OF THE VENDOR IS NOT QUALIFIED OR AUTHORIZED TO EVALUATE THE ADEQUACY OF THE CUSTOMER'S EXISTING INSURANCE COVERAGE, UNLESS OTHERWISE LICENSED UNDER THIS ARTICLE; AND~~

~~(7) (V) STATE THAT:~~

~~(H) 1. THE CUSTOMER MAY CANCEL COVERAGE UNDER THE PORTABLE ELECTRONICS INSURANCE AT ANY TIME; AND~~

~~(H) 2. IF THE CUSTOMER CANCELS COVERAGE UNDER THE PORTABLE ELECTRONICS INSURANCE, ANY UNEARNED PREMIUM WILL BE REFUNDED IN ACCORDANCE WITH APPLICABLE LAW; AND~~

~~(VI) PROVIDE THE TOLL-FREE CONSUMER HOTLINE TELEPHONE NUMBER OF THE ADMINISTRATION; AND~~

~~(4) (I) THE VENDOR PROVIDES A TRAINING PROGRAM, APPROVED BY THE COMMISSIONER, FOR ANY EMPLOYEE OR AUTHORIZED REPRESENTATIVE WHO SELLS COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE TO CUSTOMERS UNDER THIS SUBTITLE THAT INCLUDES INSTRUCTION:~~

~~1. ABOUT THE PORTABLE ELECTRONICS INSURANCE OFFERED TO CUSTOMERS OF THE VENDOR;~~

~~2. THAT THE EMPLOYEE OR AUTHORIZED REPRESENTATIVE MAY NOT REPRESENT OR IMPLY TO A CUSTOMER THAT PURCHASE OF COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS REQUIRED IN ORDER TO PURCHASE PORTABLE ELECTRONICS;~~

~~3. THAT PORTABLE ELECTRONICS INSURANCE MAY DUPLICATE INSURANCE COVERAGE ALREADY PROVIDED BY A CUSTOMER'S HOMEOWNER'S INSURANCE POLICY, RENTER'S INSURANCE POLICY, OR OTHER SOURCE OF INSURANCE COVERAGE; AND~~

~~4. ABOUT THE OTHER DISCLOSURES REQUIRED BY ITEM (3) OF THIS SUBSECTION.~~

(B) THE TRAINING REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION MAY BE PROVIDED IN ELECTRONIC FORM.

~~(B) PORTABLE ELECTRONICS INSURANCE MAY BE OFFERED ON A MONTH TO MONTH OR OTHER PERIODIC BASIS AS A GROUP OR MASTER COMMERCIAL INLAND MARINE POLICY ISSUED TO A VENDOR UNDER WHICH INDIVIDUAL CUSTOMERS MAY ELECT TO ENROLL IN COVERAGE UNDER THE POLICY.~~

~~(C) ELIGIBILITY AND UNDERWRITING STANDARDS FOR CUSTOMERS ENROLLING IN COVERAGE SHALL BE ESTABLISHED FOR EACH PORTABLE ELECTRONICS INSURANCE POLICY.~~

~~19-903.~~

~~(A) VENDORS OF PORTABLE ELECTRONICS AND THEIR EMPLOYEES AND AUTHORIZED REPRESENTATIVES MAY PROVIDE INFORMATION TO AND COLLECT INFORMATION FROM CUSTOMERS FOR THE PURPOSE OF OFFERING ENROLLMENT IN COVERAGE UNDER POLICIES OF PORTABLE ELECTRONICS INSURANCE.~~

~~(B) VENDORS AND THEIR EMPLOYEES AND AUTHORIZED REPRESENTATIVES ACTING IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION ARE NOT SUBJECT TO LICENSURE AS INSURANCE PRODUCERS UNDER THIS ARTICLE IF:~~

~~(1) EACH INSURER THAT OFFERS PORTABLE ELECTRONICS INSURANCE APPOINTS A SUPERVISING AGENCY TO:~~

~~(I) SUPERVISE THE OFFERING OF COVERAGE BY THE EMPLOYEES AND AUTHORIZED REPRESENTATIVES; AND~~

~~(II) DEVELOP A TRAINING PROGRAM FOR THE EMPLOYEES AND AUTHORIZED REPRESENTATIVES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION;~~

~~10-706.~~

COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SOLD IN CONNECTION WITH A PORTABLE ELECTRONICS TRANSACTION UNDER THIS SUBTITLE IS PRIMARY TO ANY OTHER VALID AND COLLECTIBLE COVERAGE.

~~10-707.~~

(A) THE COMMISSIONER MAY SUSPEND, REVOKE, OR REFUSE TO RENEW A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE AFTER NOTICE AND OPPORTUNITY FOR A HEARING UNDER TITLE 2, SUBTITLE 2 OF THIS ARTICLE IF THE VENDOR OR AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF THE VENDOR HAS:

(1) WILLFULLY VIOLATED THIS ARTICLE OR ANOTHER LAW OF THE STATE THAT RELATES TO INSURANCE;

(2) OPERATED WITHOUT A LIMITED LINES LICENSE AS REQUIRED UNDER THIS SUBTITLE;

(3) FAILED TO PROVIDE THE DISCLOSURES REQUIRED UNDER § 10-705 OF THIS SUBTITLE;

(4) OFFERED OR SOLD UNAPPROVED INSURANCE PRODUCTS;

(5) FAILED TO HOLD AN APPOINTMENT WITH AN INSURER;

(6) FAILED TO TRAIN EMPLOYEES OR AUTHORIZED REPRESENTATIVES AS REQUIRED UNDER § 10-705 OF THIS SUBTITLE; OR

(7) MISREPRESENTED PERTINENT FACTS OR POLICY PROVISIONS CONCERNING A POLICY OF PORTABLE ELECTRONICS INSURANCE.

~~(2)~~ (B) THE A VENDOR AND THE EMPLOYEES AND AUTHORIZED REPRESENTATIVES OF THE VENDOR MAY NOT ADVERTISE, REPRESENT, OR OTHERWISE HOLD THEMSELVES OUT AS LICENSED INSURANCE PRODUCERS; AND AN AUTHORIZED INSURER OR AS AN INSURANCE PRODUCER FOR ANY KIND OR SUBDIVISION OF INSURANCE, EXCEPT AS PROVIDED IN THIS SUBTITLE.

(C) INSTEAD OF, OR IN ADDITION TO, SUSPENDING OR REVOKING A LIMITED LINES LICENSE ISSUED UNDER THIS SUBTITLE, THE COMMISSIONER MAY:

(1) IMPOSE ON THE VENDOR A PENALTY OF NOT MORE THAN \$2,500 FOR EACH VIOLATION OF THIS SUBTITLE; AND

(2) REQUIRE THAT RESTITUTION BE MADE TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF A VIOLATION OF THIS SUBTITLE.

10-708.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE, INCLUDING REGULATIONS:

(1) CONCERNING THE FORM AND CONTENT OF REQUIRED DISCLOSURES TO CUSTOMERS;

(2) THE TRAINING REQUIREMENTS FOR EMPLOYEES AND AUTHORIZED REPRESENTATIVES OF VENDORS; AND

(3) THE QUALIFICATIONS OF THE INDIVIDUALS WHO PROVIDE TRAINING.

~~(3) THE EMPLOYEES AND AUTHORIZED REPRESENTATIVES ARE NOT COMPENSATED BASED PRIMARILY ON THE NUMBER OF CUSTOMERS ENROLLED IN PORTABLE ELECTRONICS INSURANCE COVERAGE.~~

~~(C) (1) THE TRAINING REQUIRED BY SUBSECTION (B)(1)(II) OF THIS SECTION SHALL:~~

~~(I) BE DELIVERED TO ALL EMPLOYEES AND AUTHORIZED REPRESENTATIVES OF VENDORS THAT OFFER PORTABLE ELECTRONICS INSURANCE TO THEIR CUSTOMERS; AND~~

~~(II) INCLUDE BASIC INSTRUCTION ABOUT:~~

~~1. THE PORTABLE ELECTRONICS INSURANCE OFFERED TO CUSTOMERS OF THE VENDOR; AND~~

~~2. THE DISCLOSURES REQUIRED BY § 19-902 OF THIS SUBTITLE.~~

~~(2) THE TRAINING MAY BE PROVIDED IN ELECTRONIC FORM.~~

~~(D) (1) VENDORS MAY BILL AND COLLECT THE CHARGES FOR PORTABLE ELECTRONICS INSURANCE COVERAGE.~~

~~(2) IF BILLED AND COLLECTED BY VENDORS, THE CHARGES SHALL BE SEPARATELY ITEMIZED FROM THE CHARGES FOR THE PURCHASE OR LEASE OF THE PORTABLE ELECTRONICS.~~

~~(3) VENDORS THAT BILL AND COLLECT CHARGES FOR PORTABLE ELECTRONICS INSURANCE COVERAGE ARE NOT REQUIRED TO MAINTAIN THE FUNDS COLLECTED IN A SEGREGATED ACCOUNT IF THE VENDORS REMIT THE~~

~~FUNDS COLLECTED TO THE SUPERVISING AGENCY WITHIN 60 DAYS AFTER RECEIPT.~~

~~(4) VENDORS MAY RECEIVE COMPENSATION FOR BILLING AND COLLECTION SERVICES.~~

~~(E) IF A VENDOR OR ITS EMPLOYEE OR AUTHORIZED REPRESENTATIVE VIOLATES ANY PROVISION OF THIS SECTION, THE COMMISSIONER MAY, AFTER NOTICE AND HEARING:~~

~~(1) IMPOSE FINES NOT EXCEEDING \$500 PER VIOLATION OR \$5,000 IN THE AGGREGATE FOR THE CONDUCT; AND~~

~~(2) IMPOSE OTHER PENALTIES THAT THE COMMISSIONER CONSIDERS NECESSARY AND REASONABLE TO CARRY OUT THE PURPOSE OF THIS ARTICLE, INCLUDING:~~

~~(I) SUSPENDING THE PRIVILEGE OF OFFERING PORTABLE ELECTRONICS INSURANCE COVERAGE IN ACCORDANCE WITH THIS SECTION AT SPECIFIC BUSINESS LOCATIONS WHERE VIOLATIONS HAVE OCCURRED; AND~~

~~(II) SUSPENDING THE ABILITY OF INDIVIDUAL EMPLOYEES OR AUTHORIZED REPRESENTATIVES TO OFFER PORTABLE ELECTRONICS INSURANCE COVERAGE.~~

~~19-904.~~

SUBTITLE 9. PORTABLE ELECTRONICS INSURANCE.

19-901.

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

(B) "COVERED CUSTOMER" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(C) "CUSTOMER" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(D) "PORTABLE ELECTRONICS" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(E) "PORTABLE ELECTRONICS INSURANCE" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

(F) "VENDOR" HAS THE MEANING STATED IN § 10-701 OF THIS ARTICLE.

19-902.

(A) PORTABLE ELECTRONICS INSURANCE MAY BE OFFERED ON A MONTH-TO-MONTH OR OTHER PERIODIC BASIS AS A GROUP OR MASTER COMMERCIAL INLAND MARINE POLICY ISSUED TO A VENDOR UNDER WHICH INDIVIDUAL CUSTOMERS MAY ELECT TO PURCHASE COVERAGE UNDER THE POLICY.

(B) ELIGIBILITY AND UNDERWRITING STANDARDS FOR CUSTOMERS PURCHASING COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE SHALL BE ESTABLISHED FOR EACH PORTABLE ELECTRONICS INSURANCE POLICY.

19-903.

(A) ~~EXCEPT~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INSURER MAY NOT TERMINATE OR OTHERWISE CHANGE THE TERMS AND CONDITIONS OF A POLICY OF PORTABLE ELECTRONICS INSURANCE UNLESS THE INSURER PROVIDES THE POLICYHOLDER AND COVERED CUSTOMERS WITH AT LEAST 60 DAYS' NOTICE.

(B) IF THE INSURER CHANGES THE TERMS AND CONDITIONS OF A POLICY OF PORTABLE ELECTRONICS INSURANCE ~~POLICY~~ IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, ~~THEN~~ THE INSURER SHALL:

(1) PROVIDE THE POLICYHOLDER WITH A REVISED POLICY OR ENDORSEMENT; AND

(2) PROVIDE EACH COVERED CUSTOMER WITH:

(I) A REVISED CERTIFICATE, ENDORSEMENT, UPDATED BROCHURE, OR OTHER EVIDENCE THAT INDICATES THAT A CHANGE IN THE TERMS AND CONDITIONS OF THE POLICY HAS OCCURRED; AND

(II) A SUMMARY OF MATERIAL CHANGES.

(C) AN INSURER MAY TERMINATE COVERAGE OF A COVERED CUSTOMER UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE:

(1) AFTER ~~15~~ 45 DAYS' NOTICE FOR DISCOVERY OF FRAUD OR MATERIAL MISREPRESENTATION IN OBTAINING COVERAGE OR IN THE PRESENTATION OF A CLAIM UNDER THE POLICY; OR

(2) AFTER 10 DAYS' NOTICE FOR NONPAYMENT OF PREMIUM.

(D) (1) AN INSURER MAY AUTOMATICALLY TERMINATE COVERAGE OF A COVERED CUSTOMER UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE:

(I) IF THE COVERED CUSTOMER CEASES TO HAVE ACTIVE TELECOMMUNICATIONS SERVICE WITH THE VENDOR; SERVICE RELATED TO THE USE OF PORTABLE ELECTRONICS WITH THE VENDOR; OR

(II) IF:

1. THE COVERED CUSTOMER EXHAUSTS THE AGGREGATE LIMIT OF LIABILITY, IF ANY, UNDER THE TERMS OF THE POLICY OF PORTABLE ELECTRONICS INSURANCE ~~AND~~; AND

2. THE INSURER SENDS NOTICE OF TERMINATION TO THE COVERED CUSTOMER WITHIN 15 BUSINESS DAYS AFTER EXHAUSTION OF THE LIMIT, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION; ~~OR~~

~~(III) FOR NONPAYMENT OF PREMIUM.~~

(2) IF THE INSURER DOES NOT SEND TIMELY NOTICE IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS SUBSECTION, COVERAGE SHALL CONTINUE UNDER THE POLICY OF PORTABLE ELECTRONICS INSURANCE NOTWITHSTANDING THE AGGREGATE LIMIT OF LIABILITY UNTIL THE INSURER SENDS NOTICE OF TERMINATION TO THE COVERED CUSTOMER.

(E) NOTWITHSTANDING SUBSECTION (D)(1)(II) OF THIS SECTION, ON REQUEST OF A COVERED CUSTOMER, THE COVERED CUSTOMER SHALL BE ELIGIBLE FOR REINSTATEMENT OF COVERAGE NOT MORE THAN 12 MONTHS AFTER THE DATE OF EXHAUSTION OF THE COVERAGE LIMIT IN ACCORDANCE WITH THE TERMS OF THE POLICY AND SUBJECT TO THE ENROLLMENT CRITERIA THEN APPLICABLE TO PROSPECTIVE CUSTOMERS GENERALLY.

(F) IF A VENDOR TERMINATES A POLICY OF PORTABLE ELECTRONICS INSURANCE, THE VENDOR SHALL MAIL OR DELIVER, AT LEAST ~~30~~ 45 DAYS

BEFORE TERMINATION, WRITTEN NOTICE TO EACH COVERED CUSTOMER THAT ADVISES THE COVERED CUSTOMER OF THE TERMINATION OF THE POLICY AND THE EFFECTIVE DATE OF TERMINATION.

(G) (1) AN INSURER IS NOT REQUIRED TO GIVE NOTICE OF TERMINATION TO A COVERED CUSTOMER IF THE INSURER HAS BEEN ADVISED BY EITHER THE VENDOR OR ANOTHER INSURER THAT SUBSTANTIALLY SIMILAR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE HAS BEEN OBTAINED FROM ANOTHER INSURER WITHOUT LAPSE OF COVERAGE.

(2) A VENDOR IS NOT REQUIRED TO GIVE NOTICE OF TERMINATION TO A COVERED CUSTOMER IF SUBSTANTIALLY SIMILAR COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE HAS BEEN OBTAINED FROM ANOTHER INSURER WITHOUT LAPSE OF COVERAGE.

(H) (1) WHENEVER NOTICE IS REQUIRED IN ACCORDANCE WITH THIS SECTION, THE NOTICE SHALL BE IN WRITING AND ~~MAILED OR DELIVERED~~ SENT BY CERTIFICATE OF MAIL TO THE VENDOR AT THE VENDOR'S MAILING ADDRESS AND ITS AFFECTED CUSTOMERS' LAST KNOWN MAILING ADDRESSES ON FILE WITH THE INSURER.

(2) THE INSURER OR VENDOR, AS THE CASE MAY BE, SHALL MAINTAIN PROOF OF MAILING IN A FORM AUTHORIZED OR ACCEPTED BY THE UNITED STATES POSTAL SERVICE ~~OR OTHER COMMERCIAL MAIL DELIVERY SERVICE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July 1, 2009~~ January 1, 2010.

Approved by the Governor, May 7, 2009.

Chapter 318

(Senate Bill 810)

AN ACT concerning

Natural Resources – Oyster Shell Purchase Program – Fair Market Value

FOR the purpose of requiring certain dealers to reserve oyster shells for a certain period after the opening of each annual public shellfish fishery season; altering the conditions under which a certain dealer shall reserve certain oyster shells; requiring the Department of Natural Resources to set, in consultation with the

Oyster Advisory Commission and the Tidal Fisheries Advisory Commission, the annual fair market value the Department will pay for certain oyster shells and for the transport and placement of certain oyster shells under the Oyster Shell Purchase Program; requiring the Department to adopt certain regulations; repealing a certain oyster shell price ceiling under the Program; and generally relating to the Oyster Shell Purchase Program.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 4–1019.2

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

4–1019.2.

(a) This section does not apply to:

(1) An individual who takes or uses oysters for personal use or consumption purposes; or

(2) Old oyster shells that are dredged from the Chesapeake Bay or its tributaries.

(b) Except as provided in subsection (c) of this section, any licensed oyster dealer shall reserve for 8 months after the opening of each annual ~~harvest~~ **PUBLIC SHELLFISH FISHERY** season all shells of oysters harvested from the Chesapeake Bay or its tributaries and commercially shucked in the State for purchase by the Department for ~~replanting on public oyster areas unless the dealer plants these oyster shells~~ **OYSTER RESTORATION, UNLESS THE DEALER PLANTS OR PROVIDES THE SHELLS FOR PLANTING:**

~~(1) On private leased ground or riparian bottom for the propagation of oysters; or~~

~~(2) On public oyster areas designated by the Department~~

(1) IN AN AREA PRIVATELY LEASED FOR AQUACULTURE PURPOSES;

(2) ON RIPARIAN BOTTOM AS PROVIDED IN § 4-11A-16 OF THIS TITLE FOR THE PROPAGATION OF OYSTERS; OR

(3) ON PUBLIC SHELLFISH FISHERY AREAS DESIGNATED BY THE DEPARTMENT.

(c) (1) The Department shall determine whether sufficient funds are available for the Oyster Shell Purchase Program under this section.

(2) The Department shall notify every licensed oyster dealer not later than September 1 of each year whether the Oyster Shell Purchase Program will be carried out during the ensuing license year.

(3) If the Department does not notify licensed oyster dealers that the Oyster Shell Purchase Program will be carried out during the ensuing license year, a licensed oyster dealer may sell or dispose of fresh oyster shell at any time to any person for any lawful purpose.

(4) The Department shall:

(i) Establish procedures for the expeditious notice, payment, and removal of shells purchased; and

(ii) Provide for the transportation, storage, and placement on public oyster bars in State waters.

(d) All existing contracts executed prior to July 1, 1988 concerning the purchase of oyster shell shall be valid and exempt from the provisions of this section for the length of time for which the contract covers.

(e) Unless permission has been obtained from the Department, it shall be unlawful for any person to take or catch oysters or shell in any of the waters of the State for the purpose of converting the oysters or shell into lime, chickenmeal, or road construction materials.

(f) (1) In consultation with the [Maryland oyster packers,] **OYSTER ADVISORY COMMISSION AND THE TIDAL FISHERIES ADVISORY COMMISSION**, the Department shall determine annually the fair market value that the Department pays for:

(I) [fresh] **FRESH** oyster shells; AND

(II) **TRANSPORTATION AND PLACEMENT OF FRESH OYSTER SHELLS.**

(2) [However, the Department shall pay not more than 25 cents per bushel of oyster shells to the holder of the shells at the site where the shells are kept.]

THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENT SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 319

(House Bill 177)

AN ACT concerning

Natural Resources – Oyster Shell Purchase Program – Fair Market Value

FOR the purpose of requiring certain dealers to reserve oyster shells for a certain period after the opening of each annual public shellfish fishery season; altering the conditions under which a certain dealer shall reserve certain oyster shells; requiring the Department of Natural Resources to set, in consultation with the Oyster Advisory Commission and the Tidal Fisheries Advisory Commission, the annual fair market value the Department will pay for certain oyster shells and for the transport and placement of certain oyster shells under the Oyster Shell Purchase Program; requiring the Department to adopt certain regulations; repealing a certain oyster shell price ceiling under the Program; and generally relating to the Oyster Shell Purchase Program.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–1019.2
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

4–1019.2.

(a) This section does not apply to:

(1) An individual who takes or uses oysters for personal use or consumption purposes; or

(2) Old oyster shells that are dredged from the Chesapeake Bay or its tributaries.

(b) Except as provided in subsection (c) of this section, any licensed oyster dealer shall reserve for 8 months after the opening of each annual ~~harvest~~ **PUBLIC SHELLFISH FISHERY** season all shells of oysters harvested from the Chesapeake Bay or its tributaries and commercially shucked in the State for purchase by the Department for ~~replanting on public oyster areas unless the dealer plants these oyster shells~~ **OYSTER RESTORATION, UNLESS THE DEALER PLANTS OR PROVIDES THE SHELLS FOR PLANTING:**

~~(1) On private leased ground or riparian bottom for the propagation of oysters; or~~

~~(2) On public oyster areas designated by the Department~~

(1) IN AN AREA PRIVATELY LEASED FOR AQUACULTURE PURPOSES;

(2) ON RIPARIAN BOTTOM AS PROVIDED IN § 4-11A-16 OF THIS TITLE FOR THE PROPAGATION OF OYSTERS; OR

(3) ON PUBLIC SHELLFISH FISHERY AREAS DESIGNATED BY THE DEPARTMENT.

(c) (1) The Department shall determine whether sufficient funds are available for the Oyster Shell Purchase Program under this section.

(2) The Department shall notify every licensed oyster dealer not later than September 1 of each year whether the Oyster Shell Purchase Program will be carried out during the ensuing license year.

(3) If the Department does not notify licensed oyster dealers that the Oyster Shell Purchase Program will be carried out during the ensuing license year, a licensed oyster dealer may sell or dispose of fresh oyster shell at any time to any person for any lawful purpose.

(4) The Department shall:

(i) Establish procedures for the expeditious notice, payment, and removal of shells purchased; and

(ii) Provide for the transportation, storage, and placement on public oyster bars in State waters.

(d) All existing contracts executed prior to July 1, 1988 concerning the purchase of oyster shell shall be valid and exempt from the provisions of this section for the length of time for which the contract covers.

(e) Unless permission has been obtained from the Department, it shall be unlawful for any person to take or catch oysters or shell in any of the waters of the State for the purpose of converting the oysters or shell into lime, chickenmeal, or road construction materials.

(f) (1) In consultation with the [Maryland oyster packers,] **OYSTER ADVISORY COMMISSION AND THE TIDAL FISHERIES ADVISORY COMMISSION**, the Department shall determine annually the fair market value that the Department pays for:

(I) [fresh] **FRESH** oyster shells; AND

(II) **TRANSPORTATION AND PLACEMENT OF FRESH OYSTER SHELLS.**

(2) [However, the Department shall pay not more than 25 cents per bushel of oyster shells to the holder of the shells at the site where the shells are kept.] **THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENT SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.**

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

Approved by the Governor, May 7, 2009.

Chapter 320

(Senate Bill 850)

AN ACT concerning

Public Safety – Electronic Control Devices – Requirements

FOR the purpose of prohibiting a person from possessing or using a certain electronic control device unless the person meets certain requirements; prohibiting a certain electronic control device from being sold, ~~possessed, or used~~ *and activated* in the State unless ~~the electronic control device meets~~ certain requirements *are met*; requiring a certain manufacturer to provide a certain law enforcement agency with prompt access to certain records; establishing penalties for a violation of this Act; providing for the construction of this Act;

requiring the Police Training Commission to require that certain curriculum and minimum courses of study include certain training for certain officers; requiring the Correctional Training Commission to require that certain curriculum include certain training for certain officers ~~and to establish certain standards~~; requiring the Governor's Office of Crime Control and Prevention to submit a certain report to certain committees on or before a certain date; defining ~~a certain term~~ certain terms; providing for the application of this Act; and generally relating to electronic control devices.

BY adding to

Article – Criminal Law
Section 4–109
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety
Section 3–207
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Correctional Services
Section 8–208(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Criminal Law

4–109.

~~(A) (1) IN THIS SECTION, “ELECTRONIC CONTROL DEVICE” MEANS A~~

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

(2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14–101 OF THIS ARTICLE.

(3) “ELECTRONIC CONTROL DEVICE” MEANS A PORTABLE DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR INFLICTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL CURRENT.

~~(2) "ELECTRONIC CONTROL DEVICE" INCLUDES A STUN GUN AND A TASER.~~

(B) A PERSON MAY NOT POSSESS OR USE AN ELECTRONIC CONTROL DEVICE UNLESS THE PERSON:

(1) HAS ATTAINED THE AGE OF 18 YEARS; AND

(2) HAS NEVER BEEN CONVICTED OF A ~~FELONY~~ CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE; OR A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-613, OR § 5-614 OF THIS ARTICLE.

~~(3) HAS REGISTERED THE ELECTRONIC CONTROL DEVICE WITH THE MANUFACTURER; AND~~

~~(4) HAS RECEIVED ADEQUATE TRAINING IN THE USE OF THE ELECTRONIC CONTROL DEVICE FROM THE MANUFACTURER OR AN AGENT OF THE MANUFACTURER COMPLETED AN ELECTRONIC CONTROL DEVICE SAFETY TRAINING COURSE THAT MEETS THE STANDARDS ESTABLISHED BY THE POLICE TRAINING COMMISSION UNDER § 3-207 OF THE PUBLIC SAFETY ARTICLE.~~

(C) AN ELECTRONIC CONTROL DEVICE MAY NOT BE SOLD, ~~POSSESSED, OR USED~~ AND ACTIVATED IN THE STATE UNLESS:

(1) ~~THE ELECTRONIC CONTROL DEVICE AND ANY CARTRIDGE ATTACHED TO THE ELECTRONIC CONTROL DEVICE EACH DISPLAY A SERIAL NUMBER; AND~~ AN INSTRUCTIONAL MANUAL OR AUDIO OR AUDIOVISUAL INSTRUCTIONS ARE PROVIDED TO THE PURCHASER;

(2) ~~THE ELECTRONIC CONTROL DEVICE HAS A TRACKING SYSTEM THAT ALLOWS LAW ENFORCEMENT TO FIND~~ THE MANUFACTURER MAINTAINS A RECORD OF THE ORIGINAL OWNER OF THE ELECTRONIC CONTROL DEVICE; AND

(3) THE MANUFACTURER OR SELLER HAS OBTAINED A STATE AND FEDERAL CRIMINAL HISTORY RECORDS CHECK OF THE ORIGINAL OWNER TO ENSURE COMPLIANCE WITH SUBSECTION (B)(2) OF THIS SECTION.

(D) A MANUFACTURER OF ELECTRONIC CONTROL DEVICES SHALL PROVIDE AN INVESTIGATING LAW ENFORCEMENT AGENCY WITH PROMPT ACCESS TO THE MANUFACTURER'S RECORDS ON ELECTRONIC CONTROL DEVICES AND CARTRIDGES SOLD IN THE STATE.

(E) (1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO

IMPRISONMENT NOT EXCEEDING 2 MONTHS OR A FINE NOT EXCEEDING \$500 OR BOTH.

(2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION WHILE COMMITTING A SEPARATE CRIME THAT IS A ~~FELONY~~ CRIME OF VIOLENCE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

(F) THIS SECTION DOES NOT PROHIBIT A LOCAL GOVERNMENT FROM ADOPTING A RESTRICTION OR REQUIREMENT CONCERNING THE POSSESSION OF AN ELECTRONIC CONTROL DEVICE THAT IS MORE STRINGENT THAN THE REQUIREMENTS OF THIS SECTION.

Article – Public Safety

3–207.

Subject to the authority of the Secretary, the Commission has the following powers and duties:

- (1) to establish standards for the approval and continuation of approval of schools that conduct police entrance–level and in–service training courses required by the Commission, including State, regional, county, and municipal training schools;
- (2) to approve and issue certificates of approval to police training schools;
- (3) to inspect police training schools;
- (4) to revoke, for cause, the approval or certificate of approval issued to a police training school;
- (5) to establish the following for police training schools:
 - (i) curriculum;
 - (ii) minimum courses of study;
 - (iii) attendance requirements;
 - (iv) eligibility requirements;
 - (v) equipment and facilities;
 - (vi) standards of operation; and

(vii) minimum qualifications for instructors;

(6) to require, for entrance-level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of the criminal laws concerning rape and sexual offenses, including:

(i) the sexual abuse of children;

(ii) related evidentiary procedures; and

(iii) the contact with and treatment of victims of these crimes;

(7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;

(8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;

(9) to conduct and operate police training schools authorized by the Commission to offer police training programs;

(10) to make a continuous study of entrance-level and in-service training methods and procedures;

(11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;

(12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;

(13) to consult and cooperate with other agencies and units of the State concerned with police training;

(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008; [and]

(15) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT

THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE, FOR POLICE OFFICERS WHO ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A LAW ENFORCEMENT AGENCY, SPECIAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS; ~~AND AND~~

~~(16) TO ESTABLISH STANDARDS FOR AN ELECTRONIC CONTROL DEVICE SAFETY TRAINING COURSE THAT MUST BE COMPLETED UNDER § 4-109 OF THE CRIMINAL LAW ARTICLE; AND~~

[(15)] ~~(16)~~ ~~(17)~~ (16) to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.

Article – Correctional Services

8-208.

(a) Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to prescribe standards for the approval and continuation of approval of schools that conduct correctional, parole, or probation entrance level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to correctional training schools;

(3) to inspect correctional training schools;

(4) to revoke, for cause, any approval or certificate of approval issued to a correctional training school;

(5) to prescribe the following for correctional training schools:

(i) curriculum, **INCLUDING ENTRANCE-LEVEL AND ANNUAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, FOR POLICE CORRECTIONAL OFFICERS WHO ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A LAW ENFORCEMENT AGENCY, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE CORRECTIONAL UNIT,** CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS;

- (ii) courses of study;
 - (iii) attendance requirements;
 - (iv) eligibility requirements;
 - (v) equipment and facilities;
 - (vi) standards of operation; and
 - (vii) minimum qualifications for instructors;
- (6) to certify and issue appropriate certificates to qualified instructors for approved correctional training schools;
- (7) to certify and issue appropriate certificates to correctional officers who have satisfactorily completed training programs;
- (8) to conduct and operate approved correctional training schools;
- (9) to adopt regulations necessary to carry out this subtitle, including regulations that establish and enforce standards for prior substance abuse by individuals applying for certification as a correctional officer;
- (10) to make a continuous study of correctional training methods and procedures for all correctional training schools;
- (11) to consult with and accept the cooperation of any recognized federal, State, or municipal correctional agency or educational institution;
- (12) to consult and cooperate with universities, colleges, and institutions to develop all general and specialized courses of study for correctional officers;
- (13) to consult and cooperate with other units of the State concerned with correctional training;
- (14) subject to subsection (b) of this section, to develop and implement specific program design and appropriate course curriculum and training for Department of Juvenile Services employees; and
- (15) to perform any other act that is necessary or appropriate to carry out this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2011, the Governor's Office of Crime Control and Prevention shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee, in

accordance with § 2-1246 of the State Government Article, on the compliance by electronic control device manufacturers with the relevant requirements and provisions of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any electronic control device sold or purchased before the effective date of this Act.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 321

(House Bill 539)

AN ACT concerning

Public Safety – Electronic Control Devices – Requirements

FOR the purpose of prohibiting a person from possessing or using a certain electronic control device unless the person meets certain requirements; prohibiting a certain electronic control device from being sold and activated, ~~possessed, or used~~ in the State unless ~~the electronic control device meets~~ certain requirements are met; requiring a certain manufacturer to provide a certain law enforcement agency with prompt access to certain records; establishing penalties for a violation of this Act; providing for the construction of this Act; requiring the Police Training Commission to require that certain curriculum and minimum courses of study include certain training for certain officers; requiring the Correctional Training Commission to require that certain curriculum include certain training for certain officers; requiring the Governor's Office of Crime Control and Prevention to submit a certain report to certain committees on or before a certain date; ~~requiring the Police Training Commission to require that certain curriculum and minimum courses of study include certain training; requiring the Correctional Training Commission to require that certain curriculum include certain training; requiring the Governor's Office of Crime Control and Prevention to submit a certain report to certain committees on or before a certain date;~~ defining a ~~certain term~~ certain terms; providing for the application of this Act; and generally relating to electronic control devices.

BY adding to

Article – Criminal Law
Section 4-109

Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 3–207
Annotated Code of Maryland
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 8–208(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

~~*BY repealing and reenacting, with amendments,*~~
~~*Article – Public Safety*~~
~~*Section 3–207*~~
~~*Annotated Code of Maryland*~~
~~*(2003 Volume and 2008 Supplement)*~~

~~*BY repealing and reenacting, with amendments,*~~
~~*Article – Correctional Services*~~
~~*Section 8–208(a)*~~
~~*Annotated Code of Maryland*~~
~~*(2008 Replacement Volume and 2008 Supplement)*~~

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

Article – Criminal Law

4–109.

~~(A) (1) IN THIS SECTION, “ELECTRONIC CONTROL DEVICE” MEANS A~~

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

(2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14–101 OF THIS ARTICLE.

~~(2) (3)~~ “ELECTRONIC CONTROL DEVICE” MEANS A PORTABLE DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR INFLECTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL CURRENT.

~~(2) "ELECTRONIC CONTROL DEVICE" INCLUDES A STUN GUN AND A TASER.~~

~~(3) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN § 14-101 OF THIS ARTICLE.~~

(B) A PERSON MAY NOT POSSESS OR USE AN ELECTRONIC CONTROL DEVICE UNLESS THE PERSON:

(1) HAS ATTAINED THE AGE OF 18 YEARS; AND

(2) HAS NEVER BEEN CONVICTED OF A ~~FELONY~~; CRIME OF VIOLENCE OR A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-613, OR § 5-614 OF THIS ARTICLE; AND

~~(3) HAS REGISTERED THE ELECTRONIC CONTROL DEVICE WITH THE MANUFACTURER; AND.~~

~~(4) HAS RECEIVED ADEQUATE TRAINING IN THE USE OF THE ELECTRONIC CONTROL DEVICE FROM THE MANUFACTURER OR AN AGENT OF THE MANUFACTURER.~~

(C) AN ELECTRONIC CONTROL DEVICE MAY NOT BE SOLD AND ACTIVATED, ~~POSSESSED, OR USED~~ IN THE STATE UNLESS:

(1) ~~THE ELECTRONIC CONTROL DEVICE AND ANY CARTRIDGE ATTACHED TO THE ELECTRONIC CONTROL DEVICE EACH DISPLAY A SERIAL NUMBER; AND~~ AN INSTRUCTIONAL MANUAL OR AUDIO OR AUDIOVISUAL INSTRUCTIONS ARE PROVIDED TO THE PURCHASER;

(2) ~~THE ELECTRONIC CONTROL DEVICE HAS A TRACKING SYSTEM THAT ALLOWS LAW ENFORCEMENT TO FIND THE~~ THE MANUFACTURER MAINTAINS A RECORD OF THE ORIGINAL OWNER OF THE ELECTRONIC CONTROL DEVICE; AND

(3) THE MANUFACTURER OR SELLER HAS OBTAINED A STATE AND FEDERAL CRIMINAL HISTORY RECORDS CHECK REGARDING THE PURCHASER OF THE ORIGINAL OWNER TO ENSURE COMPLIANCE WITH SUBSECTION (B)(2) OF THIS SECTION.

(D) A MANUFACTURER OF ELECTRONIC CONTROL DEVICES SHALL PROVIDE AN INVESTIGATING LAW ENFORCEMENT AGENCY WITH PROMPT

ACCESS TO THE MANUFACTURER'S RECORDS ON ELECTRONIC CONTROL DEVICES AND CARTRIDGES SOLD IN THE STATE.

(E) (1) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 MONTHS OR A FINE NOT EXCEEDING \$500 OR BOTH.

(2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION WHILE COMMITTING A SEPARATE CRIME THAT IS A ~~FELONY~~ CRIME OF VIOLENCE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

(F) THIS SECTION DOES NOT PROHIBIT A LOCAL GOVERNMENT FROM ADOPTING A RESTRICTION OR REQUIREMENT CONCERNING THE POSSESSION OF AN ELECTRONIC CONTROL DEVICE THAT IS MORE STRINGENT THAN THE REQUIREMENTS OF THIS SECTION.

Article – Public Safety

3-207.

Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance-level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to police training schools;

(3) to inspect police training schools;

(4) to revoke, for cause, the approval or certificate of approval issued to a police training school;

(5) to establish the following for police training schools:

(i) curriculum;

(ii) minimum courses of study;

(iii) attendance requirements;

- (iv) eligibility requirements;
- (v) equipment and facilities;
- (vi) standards of operation; and
- (vii) minimum qualifications for instructors;

(6) to require, for entrance-level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of the criminal laws concerning rape and sexual offenses, including:

- (i) the sexual abuse of children;
- (ii) related evidentiary procedures; and
- (iii) the contact with and treatment of victims of these crimes;

(7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;

(8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;

(9) to conduct and operate police training schools authorized by the Commission to offer police training programs;

(10) to make a continuous study of entrance-level and in-service training methods and procedures;

(11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;

(12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;

(13) to consult and cooperate with other agencies and units of the State concerned with police training;

(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008; [and]

(15) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE, FOR POLICE OFFICERS WHO ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A LAW ENFORCEMENT AGENCY, SPECIAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS; AND

[(15)] (16) to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.

Article - Correctional Services

8-208.

(a) Subject to the authority of the Secretary, the Commission has the following powers and duties:

(1) to prescribe standards for the approval and continuation of approval of schools that conduct correctional, parole, or probation entrance level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to correctional training schools;

(3) to inspect correctional training schools;

(4) to revoke, for cause, any approval or certificate of approval issued to a correctional training school;

(5) to prescribe the following for correctional training schools:

(i) curriculum, INCLUDING ENTRANCE-LEVEL AND ANNUAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, FOR CORRECTIONAL OFFICERS WHO ARE ISSUED AN ELECTRONIC CONTROL DEVICE BY A CORRECTIONAL UNIT, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS;

(ii) courses of study;

(iii) attendance requirements;

- (iv) eligibility requirements;
 - (v) equipment and facilities;
 - (vi) standards of operation; and
 - (vii) minimum qualifications for instructors;
- (6) to certify and issue appropriate certificates to qualified instructors for approved correctional training schools;
- (7) to certify and issue appropriate certificates to correctional officers who have satisfactorily completed training programs;
- (8) to conduct and operate approved correctional training schools;
- (9) to adopt regulations necessary to carry out this subtitle, including regulations that establish and enforce standards for prior substance abuse by individuals applying for certification as a correctional officer;
- (10) to make a continuous study of correctional training methods and procedures for all correctional training schools;
- (11) to consult with and accept the cooperation of any recognized federal, State, or municipal correctional agency or educational institution;
- (12) to consult and cooperate with universities, colleges, and institutions to develop all general and specialized courses of study for correctional officers;
- (13) to consult and cooperate with other units of the State concerned with correctional training;
- (14) subject to subsection (b) of this section, to develop and implement specific program design and appropriate course curriculum and training for Department of Juvenile Services employees; and
- (15) to perform any other act that is necessary or appropriate to carry out this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2011, the Governor's Office of Crime Control and Prevention shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee, in accordance with § 2-1246 of the State Government Article, on the compliance by electronic control device manufacturers with the relevant requirements and provisions of this Act.

~~Article Public Safety~~~~3-207.~~

~~Subject to the authority of the Secretary, the Commission has the following powers and duties:~~

~~(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;~~

~~(2) to approve and issue certificates of approval to police training schools;~~

~~(3) to inspect police training schools;~~

~~(4) to revoke, for cause, the approval or certificate of approval issued to a police training school;~~

~~(5) to establish the following for police training schools:~~

~~(i) curriculum;~~

~~(ii) minimum courses of study;~~

~~(iii) attendance requirements;~~

~~(iv) eligibility requirements;~~

~~(v) equipment and facilities;~~

~~(vi) standards of operation; and~~

~~(vii) minimum qualifications for instructors;~~

~~(6) to require, for entrance level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of the criminal laws concerning rape and sexual offenses, including:~~

~~(i) the sexual abuse of children;~~

~~(ii) related evidentiary procedures; and~~

~~(iii) the contact with and treatment of victims of these crimes;~~

~~(7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;~~

~~(8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;~~

~~(9) to conduct and operate police training schools authorized by the Commission to offer police training programs;~~

~~(10) to make a continuous study of entrance level and in-service training methods and procedures;~~

~~(11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;~~

~~(12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;~~

~~(13) to consult and cooperate with other agencies and units of the State concerned with police training;~~

~~(14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008; [and]~~

~~(15) TO REQUIRE, FOR ENTRANCE LEVEL POLICE TRAINING AND ANNUALLY FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE SPECIAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS; AND~~

~~[(15)] (16) to perform any other act that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle.~~

~~Article — Correctional Services~~

~~(a) Subject to the authority of the Secretary, the Commission has the following powers and duties:~~

~~(1) to prescribe standards for the approval and continuation of approval of schools that conduct correctional, parole, or probation entrance level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;~~

~~(2) to approve and issue certificates of approval to correctional training schools;~~

~~(3) to inspect correctional training schools;~~

~~(4) to revoke, for cause, any approval or certificate of approval issued to a correctional training school;~~

~~(5) to prescribe the following for correctional training schools:~~

~~(i) curriculum, **INCLUDING ENTRANCE LEVEL AND ANNUAL TRAINING IN THE PROPER USE OF ELECTRONIC CONTROL DEVICES, AS DEFINED IN § 4-109 OF THE CRIMINAL LAW ARTICLE, CONSISTENT WITH ESTABLISHED LAW ENFORCEMENT STANDARDS AND FEDERAL AND STATE CONSTITUTIONAL PROVISIONS;**~~

~~(ii) courses of study;~~

~~(iii) attendance requirements;~~

~~(iv) eligibility requirements;~~

~~(v) equipment and facilities;~~

~~(vi) standards of operation; and~~

~~(vii) minimum qualifications for instructors;~~

~~(6) to certify and issue appropriate certificates to qualified instructors for approved correctional training schools;~~

~~(7) to certify and issue appropriate certificates to correctional officers who have satisfactorily completed training programs;~~

~~(8) to conduct and operate approved correctional training schools;~~

~~(9) to adopt regulations necessary to carry out this subtitle, including regulations that establish and enforce standards for prior substance abuse by individuals applying for certification as a correctional officer;~~

~~(10) to make a continuous study of correctional training methods and procedures for all correctional training schools;~~

~~(11) to consult with and accept the cooperation of any recognized federal, State, or municipal correctional agency or educational institution;~~

~~(12) to consult and cooperate with universities, colleges, and institutions to develop all general and specialized courses of study for correctional officers;~~

~~(13) to consult and cooperate with other units of the State concerned with correctional training;~~

~~(14) subject to subsection (b) of this section, to develop and implement specific program design and appropriate course curriculum and training for Department of Juvenile Services employees; and~~

~~(15) to perform any other act that is necessary or appropriate to carry out this subtitle.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2011, the Governor's Office of Crime Control and Prevention shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee, in accordance with § 2-1246 of the State Government Article, on the compliance by electronic control device manufacturers with the relevant requirements and provisions of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any electronic control device sold or purchased before the effective date of this Act.

~~SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.~~

Approved by the Governor, May 7, 2009.

Chapter 322

(Senate Bill 859)

AN ACT concerning

Vehicle Laws – Advertising Practices – Prohibited Acts

FOR the purpose of prohibiting a vehicle dealer or an agent or employee of a dealer from stating the purchase price of a vehicle in an advertisement unless ~~the purchase price is printed in the largest font in the advertisement, the advertisement identifies certain attributes of the vehicle, and the vehicle is currently available for sale at the price stated in the advertisement; requiring the price stated in an advertisement to be~~ the price is the full delivered purchase price of the vehicle, excluding certain taxes and fees, and including certain charges; requiring an advertisement that states specific purchase prices for a list of vehicles to state the purchase price in the appropriate column or space for each vehicle listed taxes, fees, and charges; requiring the full delivered purchase price in a vehicle advertisement to be printed using a certain font type; repealing a provision of law that provides that an advertisement that is subject to and complies with certain provisions of federal law is not false, deceptive, or misleading under certain provisions of law; and generally relating to the advertising practices of vehicle dealers.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 15–313
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

15–313.

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

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

~~(c) Any advertisement that is subject to and complies with the rules and regulations of and statutes administered by the Federal Trade Commission is not false, deceptive, or misleading under this section.~~

~~(d)~~ ~~(1)~~ **A DEALER OR AN AGENT OR EMPLOYEE OF A DEALER MAY:**

(1) MAY NOT STATE THE PURCHASE PRICE OF A VEHICLE IN AN ADVERTISEMENT UNLESS:

~~**(I) THE PURCHASE PRICE IS PRINTED IN THE LARGEST FONT USED IN THE ADVERTISEMENT;**~~

~~**(II) THE ADVERTISEMENT CLEARLY IDENTIFIES THE VEHICLE, INCLUDING MAKE, YEAR, MODEL, AND SPECIAL EQUIPMENT; AND**~~

~~**(III) THE VEHICLE IS CURRENTLY AVAILABLE FOR SALE AT THE ADVERTISED PURCHASE PRICE.**~~

~~**(2) THE PRICE STATED IN AN ADVERTISEMENT SHALL:**~~

~~**(I) BE THE PRICE IS THE FULL DELIVERED PURCHASE PRICE OF THE VEHICLE, EXCLUDING TAXES AND TITLE FEES; AND**~~

~~**(II) IN THE CASE OF A NEW VEHICLE, INCLUDE ANY DEALER PROCESSING CHARGE AND FREIGHT CHARGE, UNLESS THE DEALER CLEARLY AND CONSPICUOUSLY DISCLOSES THE AMOUNT OF THESE CHARGES IN THE ADVERTISEMENT AS REQUIRED BY § 15-311.1 OF THIS SUBTITLE.**~~

~~**(3) IF AN ADVERTISEMENT STATES SPECIFIC PURCHASE PRICES FOR A LIST OF VEHICLES, THE PURCHASE PRICE SHALL BE STATED IN THE APPROPRIATE COLUMN OR SPACE FOR EACH VEHICLE LISTED ONLY TAXES, TITLE FEES, AND ANY FREIGHT OR DEALER PROCESSING CHARGE DISCLOSED IN ACCORDANCE WITH § 15-311.1 OF THIS SUBTITLE; AND**~~

~~**(2) SHALL PRINT THE FULL DELIVERED PURCHASE PRICE IN A VEHICLE ADVERTISEMENT IN THE LARGEST FONT USED IN THE ADVERTISEMENT TO PROVIDE ANY INFORMATION RELATED TO THE PRICE OF THE VEHICLE.**~~

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

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

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

(2) A dealer or an agent or employee of a dealer may enter into an agreement with a buyer of a vehicle to compensate the buyer in exchange for the

buyer's consent to the placement on the vehicle of an insignia, logo, or other plate that advertises the name of the dealer.

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

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

Approved by the Governor, May 7, 2009.

Chapter 323

(House Bill 547)

AN ACT concerning

Vehicle Laws – Advertising Practices – Prohibited Acts

FOR the purpose of prohibiting a vehicle dealer or an agent or employee of a dealer from stating the purchase price of a vehicle in an advertisement unless ~~the purchase price is printed in the largest font in the advertisement, the advertisement identifies certain attributes of the vehicle, and the vehicle is currently available for sale at the price stated in the advertisement; requiring the price stated in an advertisement to be the price is the full delivered purchase price of the vehicle, excluding certain taxes and fees, and including certain charges; requiring an advertisement that states specific purchase prices for a list of vehicles to state the purchase price in the appropriate column or space for each vehicle listed~~ taxes, fees, and charges; requiring the full delivered purchase price in a vehicle advertisement to be printed using a certain font type; repealing a provision of law that provides that an advertisement that is subject to and complies with certain provisions of federal law is not false, deceptive, or misleading under certain provisions of law; and generally relating to the advertising practices of vehicle dealers.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 15–313
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

15-313.

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

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

~~(c) Any advertisement that is subject to and complies with the rules and regulations of and statutes administered by the Federal Trade Commission is not false, deceptive, or misleading under this section.~~

~~(d) (1) A DEALER OR AN AGENT OR EMPLOYEE OF A DEALER MAY DEALER:~~

~~(1) MAY NOT STATE THE PURCHASE PRICE OF A VEHICLE IN AN ADVERTISEMENT UNLESS:~~

~~(i) THE PURCHASE PRICE IS PRINTED IN THE LARGEST FONT USED IN THE ADVERTISEMENT;~~

~~(ii) THE ADVERTISEMENT CLEARLY IDENTIFIES THE VEHICLE, INCLUDING MAKE, YEAR, MODEL, AND SPECIAL EQUIPMENT; AND~~

~~(iii) THE VEHICLE IS CURRENTLY AVAILABLE FOR SALE AT THE ADVERTISED PURCHASE PRICE.~~

~~(2) THE PRICE STATED IN AN ADVERTISEMENT SHALL:~~

~~(i) BE THE PRICE IS THE FULL DELIVERED PURCHASE PRICE OF THE VEHICLE, EXCLUDING TAXES AND TITLE FEES; AND ONLY TAXES, TITLE FEES, AND ANY FREIGHT OR DEALER PROCESSING CHARGE DISCLOSED IN ACCORDANCE WITH § 15-311.1 OF THIS SUBTITLE; AND~~

~~(2) SHALL PRINT THE FULL DELIVERED PURCHASE PRICE IN A VEHICLE ADVERTISEMENT IN THE LARGEST FONT USED IN THE ADVERTISEMENT TO PROVIDE ANY INFORMATION RELATED TO THE PRICE OF THE VEHICLE.~~

~~(H) IN THE CASE OF A NEW VEHICLE, INCLUDE ANY DEALER PROCESSING CHARGE AND FREIGHT CHARGE, UNLESS THE DEALER CLEARLY AND CONSPICUOUSLY DISCLOSES THE AMOUNT OF THESE CHARGES IN THE ADVERTISEMENT AS REQUIRED BY § 15-311.1 OF THIS SUBTITLE.~~

~~(3) IF AN ADVERTISEMENT STATES SPECIFIC PURCHASE PRICES FOR A LIST OF VEHICLES, THE PURCHASE PRICE SHALL BE STATED IN THE APPROPRIATE COLUMN OR SPACE FOR EACH VEHICLE LISTED.~~

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

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

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

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

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

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

Approved by the Governor, May 7, 2009.

Chapter 324

(Senate Bill 870)

AN ACT concerning

Marriage Ceremonies – Performance by Tax Court Judges

FOR the purpose of authorizing a judge of the United States Tax Court ~~who is a resident of this State~~ to perform a marriage ceremony in this State; altering a certain definition; and generally relating to marriage ceremonies.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 2–406(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

2–406.

(a) (1) In this subsection, “judge” means:

(i) a judge of the District Court, a circuit court, the Court of Special Appeals, or the Court of Appeals;

(ii) a judge approved under Article IV, § 3A of the Maryland Constitution and § 1–302 of the Courts Article for recall and assignment to the District Court, a circuit court, the Court of Special Appeals, or the Court of Appeals;

(iii) a judge of a United States District Court [or], a United States Court of Appeals, ~~OR, IF THE JUDGE IS A RESIDENT OF THIS STATE, THE UNITED STATES TAX COURT;~~ or

(iv) a judge of a state court if the judge is active or retired but eligible for recall.

(2) A marriage ceremony may be performed in this State by:

(i) any official of a religious order or body authorized by the rules and customs of that order or body to perform a marriage ceremony;

(ii) any clerk;

(iii) any deputy clerk designated by the county administrative judge of the circuit court for the county; or

(iv) a judge.

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

Approved by the Governor, May 7, 2009.

Chapter 325

(Senate Bill 886)

AN ACT concerning

**Prince George's County – Laurel Commons – Alcoholic Beverages
– Additional Class B Licenses**

FOR the purpose of adding Laurel Commons to a list of areas designated as underserved in Prince George's County in which a licensee may hold or have an interest in an additional Class B beer, wine and liquor license for a restaurant; specifying that certain exceptions to the maximum number of alcoholic beverages licenses that a license holder may hold in certain areas do not apply in Laurel Commons; and generally relating to alcoholic beverages for restaurants in Prince George's County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 9–217(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–217(f)(5)(ii) and (iii)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

9–217.

(a) This section applies only in Prince George's County.

(f) (5) (ii) Notwithstanding any other provision of this article, the Board of License Commissioners may allow an individual, partnership, corporation, unincorporated association, or limited liability company to hold or have an interest in

more than one Class B beer, wine and liquor license, if the restaurant for which the license is sought is located within:

1. Any of the following areas that are underserved by restaurants:

A. Suitland business district, consisting of properties fronting on or having access to Silver Hill Road between Suitland Parkway and Sunset Lane, and on Suitland Road between Arnold Road and Eastern Lane;

B. Part of the Port Towns business district, consisting of properties fronting on or having access to Rhode Island Avenue, Bladensburg Road, Annapolis Road, or 38th Street, in legislative district 22; [or]

C. Largo area, consisting of properties within the area bounded by the Capital Beltway (I-495) on the west, Central Avenue and Landover Road on the south and southeast, Campus Way North on the east and Route 214 and Landover Road on the north and northwest; or

D. LAUREL COMMONS, CONSISTING OF THE PROPERTIES WITHIN THE AREA BOUNDED ON THE SOUTH BY CHERRY LANE, ON THE EAST BY BALTIMORE AVENUE (U.S. ROUTE 1), ON THE WEST BY 4TH STREET, AND ON THE NORTH BY A LINE APPROXIMATELY 1,450 FEET NORTH OF CHERRY HILL ROAD BETWEEN BALTIMORE AVENUE (U.S. ROUTE 1) AND 4TH STREET; OR

2. A. A waterfront entertainment retail complex as defined by a county zoning ordinance; or

B. A commercial establishment on 100 or more acres that is designated by the County Executive as a recreational, destination, or entertainment attraction.

(iii) 1. Except as provided in sub-subparagraph 2 and 3 of this subparagraph, a license holder may not hold more than 4 Class B beer, wine and liquor licenses within all of the underserved areas described in subparagraph (ii)1 of this paragraph.

2. A. THIS SUB-SUBPARAGRAPH DOES NOT APPLY IN LAUREL COMMONS.

B. A license holder may be issued or transferred a fifth Class B beer, wine and liquor license only if the date of the application for the fifth license is at least 1 year after the date the license holder was issued or transferred the fourth license.

3. A. THIS SUB-SUBPARAGRAPH DOES NOT APPLY IN LAUREL COMMONS.

B. A license holder may be issued or transferred a sixth Class B beer, wine and liquor license only if the date of the application for the sixth license is at least 1 year after the date the license holder was issued or transferred the fifth license.

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

Approved by the Governor, May 7, 2009.

Chapter 326

(Senate Bill 940)

AN ACT concerning

Education – Commission on Civic Literacy – Membership

FOR the purpose of adding a certain member to the membership of the Commission on Civic Literacy; and generally relating to the membership of the Commission on Civic Literacy.

BY repealing and reenacting, without amendments,

Article – Education
Section 24–601(a)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education
Section 24–601(b)(27) and (28)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to

Article – Education
Section 24–601(b)(29)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

24–601.

- (a) There is a Commission on Civic Literacy.
- (b) The Commission consists of the following members:

(27) Two students enrolled in public high schools in Maryland, appointed by the Maryland Association of Student Councils; [and]

(28) Two teachers who teach in public high schools in Maryland, appointed by the Maryland State Teachers Association; **AND**

(29) ONE MEMBER OF THE JUDICIARY OF THE STATE, APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS.

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

Approved by the Governor, May 7, 2009.

Chapter 327

(Senate Bill 946)

AN ACT concerning

Minority Business Enterprise Program – Report to Joint Committee on Fair Practices

FOR the purpose of requiring each unit of the State to submit a certain report regarding the Minority Business Enterprise Program to the Joint Committee on Fair Practices within a certain number of days after the end of the fiscal year; and generally relating to the Minority Business Enterprise Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–305
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

14–305.

(a) (1) Within 90 days after the end of the fiscal year, each unit shall report to the Governor's Office of Minority Affairs [and], the certification agency, **AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE JOINT COMMITTEE ON FAIR PRACTICES.**

(2) A report under this subsection shall for the preceding fiscal year:

(i) state the total number and value of procurement contracts between the unit and certified minority business enterprises, by specific category of minority business enterprise;

(ii) indicate the percentage that those procurement contracts represent, by specific category of minority business enterprise, of the total number and value of procurement contracts; and

(iii) contain other such information as required by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(3) A report under this subsection shall be in a form prescribed by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(b) (1) On or before December 31 of each year, the Governor's Office of Minority Affairs shall submit to the Board of Public Works and, subject to § 2–1246 of the State Government Article, to the Legislative Policy Committee a report summarizing the information the Office receives under subsection (a) of this section.

(2) This report may be prepared in conjunction with the annual report required under § 9–306 of the State Government Article.

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

Approved by the Governor, May 7, 2009.

Chapter 328**(House Bill 1336)**

AN ACT concerning

Minority Business Enterprise Program – Report to Joint Committee on Fair Practices

FOR the purpose of requiring each unit of the State to submit a certain report regarding the Minority Business Enterprise Program to the Joint Committee on Fair Practices within a certain number of days after the end of the fiscal year; and generally relating to the Minority Business Enterprise Program.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–305
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – State Finance and Procurement

14–305.

(a) (1) Within 90 days after the end of the fiscal year, each unit shall report to the Governor's Office of Minority Affairs [and], the certification agency, **AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE JOINT COMMITTEE ON FAIR PRACTICES.**

(2) A report under this subsection shall for the preceding fiscal year:

(i) state the total number and value of procurement contracts between the unit and certified minority business enterprises, by specific category of minority business enterprise;

(ii) indicate the percentage that those procurement contracts represent, by specific category of minority business enterprise, of the total number and value of procurement contracts; and

(iii) contain other such information as required by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(3) A report under this subsection shall be in a form prescribed by the Governor's Office of Minority Affairs and the certification agency and approved by the Board.

(b) (1) On or before December 31 of each year, the Governor's Office of Minority Affairs shall submit to the Board of Public Works and, subject to § 2-1246 of the State Government Article, to the Legislative Policy Committee a report summarizing the information the Office receives under subsection (a) of this section.

(2) This report may be prepared in conjunction with the annual report required under § 9-306 of the State Government Article.

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

Approved by the Governor, May 7, 2009.

Chapter 329

(Senate Bill 951)

AN ACT concerning

Health Occupations – License to Practice Psychology – Doctoral Degree in Psychology

FOR the purpose of clarifying certain qualifications of applicants for a license to practice psychology; altering the definition of a certain term; and generally relating to the definition of “doctoral degree in psychology” and applicants for a license to practice psychology in the State.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 18-101(c) and 18-302
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health Occupations

18-101.

(c) (1) “Doctoral degree in psychology” means:

(i) A degree received from a program that at the time the degree was awarded:

1. Is accredited by the American Psychological Association **OR THE CANADIAN PSYCHOLOGICAL ASSOCIATION**; or

2. Is listed in the designated doctoral programs in psychology published by[:

A. The Association of State and Provincial Psychology Boards; and

B. The] **THE** Council for the National Register of Health Service Providers in Psychology; or

(ii) A doctoral degree in psychology that **THE COUNCIL FOR THE NATIONAL REGISTER OF HEALTH SERVICE PROVIDERS IN PSYCHOLOGY DETERMINES** meets [the] **ITS** criteria for a doctoral degree in psychology [published in 1977 by the Council], **IF THE DEGREE WAS RECEIVED FROM A DOCTORAL PROGRAM IN PSYCHOLOGY THAT:**

1. **IS LOCATED OUTSIDE THE UNITED STATES AND CANADA;**

2. **IS CURRENTLY ACCREDITED OR DESIGNATED IN ACCORDANCE WITH PARAGRAPH (1)(I) OF THIS SUBSECTION, BUT WAS NOT ACCREDITED OR DESIGNATED AT THE TIME THE DEGREE WAS AWARDED;**

3. **WAS COMPLETED PRIOR TO 1981 FOR UNITED STATES PROGRAMS;**

4. **WAS COMPLETED PRIOR TO 1988 FOR CANADIAN PROGRAMS; OR**

5. **IS NO LONGER IN EXISTENCE.**

(2) (i) A determination by the Council under paragraph (1)(ii) of this subsection that a doctoral degree in psychology meets its criteria shall be considered by the Board as prima facie evidence that the degree meets those criteria.

(ii) In determining whether the degree in psychology meets the criteria described in paragraph (1)(ii) of this subsection and subparagraph (i) of this paragraph, the Board may consider the completion of postdoctoral course work in psychology, not to exceed 9 semester hours.

18-302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall have a doctoral degree in psychology **AS DEFINED IN § 18-101(C) OF THIS TITLE.**

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

(f) The applicant shall have at least 2 years of professional supervised experience in psychology that is approved by the Board ***IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.*** ~~At least 1 year of this required experience shall have occurred after the doctoral degree is awarded.~~

(g) (1) Except as provided in this subsection, an applicant shall reside or practice, or intend to reside or practice, in this State.

(2) The Board may issue a license to an applicant who is neither a resident of this State nor practicing in this State if the applicant shows that issuing the license would be in the interest of the citizens or government of this State.

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

Approved by the Governor, May 7, 2009.

Chapter 330

(House Bill 654)

AN ACT concerning

Health Occupations – License to Practice Psychology – Doctoral Degree in Psychology

FOR the purpose of clarifying certain qualifications of applicants for a license to practice psychology; altering the definition of a certain term; and generally relating to the definition of “doctoral degree in psychology” and applicants for a license to practice psychology in the State.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 18–101(c) and 18–302
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health Occupations

18–101.

(c) (1) “Doctoral degree in psychology” means:

(i) A degree received from a program that at the time the degree was awarded:

1. Is accredited by the American Psychological Association **OR THE CANADIAN PSYCHOLOGICAL ASSOCIATION**; or

2. Is listed in the designated doctoral programs in psychology published by[:

A. The Association of State and Provincial Psychology Boards; and

B. The] **THE** Council for the National Register of Health Service Providers in Psychology; or

(ii) A doctoral degree in psychology that **THE COUNCIL FOR THE NATIONAL REGISTER OF HEALTH SERVICE PROVIDERS IN PSYCHOLOGY DETERMINES** meets [the] **ITS** criteria for a doctoral degree in psychology [published in 1977 by the Council], **IF THE DEGREE WAS RECEIVED FROM A DOCTORAL PROGRAM IN PSYCHOLOGY THAT:**

1. **IS LOCATED OUTSIDE THE UNITED STATES AND CANADA;**

2. IS CURRENTLY ACCREDITED OR DESIGNATED IN ACCORDANCE WITH PARAGRAPH (1)(I) OF THIS SUBSECTION, BUT WAS NOT ACCREDITED OR DESIGNATED AT THE TIME THE DEGREE WAS AWARDED;

3. WAS COMPLETED PRIOR TO 1981 FOR UNITED STATES PROGRAMS;

4. WAS COMPLETED PRIOR TO 1988 FOR CANADIAN PROGRAMS; OR

5. IS NO LONGER IN EXISTENCE.

(2) (i) A determination by the Council under paragraph (1)(ii) of this subsection that a doctoral degree in psychology meets its criteria shall be considered by the Board as prima facie evidence that the degree meets those criteria.

(ii) In determining whether the degree in psychology meets the criteria described in paragraph (1)(ii) of this subsection and subparagraph (i) of this paragraph, the Board may consider the completion of postdoctoral course work in psychology, not to exceed 9 semester hours.

18-302.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall have a doctoral degree in psychology **AS DEFINED IN § 18-101(C) OF THIS TITLE.**

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

(f) The applicant shall have at least 2 years of professional supervised experience in psychology that is approved by the Board **IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.** [At least 1 year of this required experience shall have occurred after the doctoral degree is awarded.]

(g) (1) Except as provided in this subsection, an applicant shall reside or practice, or intend to reside or practice, in this State.

(2) The Board may issue a license to an applicant who is neither a resident of this State nor practicing in this State if the applicant shows that issuing the license would be in the interest of the citizens or government of this State.

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

Approved by the Governor, May 7, 2009.

Chapter 331

(Senate Bill 952)

AN ACT concerning

Maryland Medical Assistance Program – Substance Abuse Services

FOR the purpose of requiring that individuals receiving certain Maryland Medical Assistance Program benefits receive certain substance abuse benefits; requiring the Governor to provide certain funding in certain fiscal years to provide certain substance abuse benefits; requiring managed care organizations to submit certain data to the Department of Health and Mental Hygiene at least semiannually; requiring the Department and certain managed care organizations to establish a certain process and certain criteria to qualify certified addiction treatment programs as paneled providers; authorizing the Governor to transfer by budget amendment in a certain fiscal year certain funding for a certain substance abuse benefit and to increase certain fees; providing that it is the intent of the General Assembly that the Governor is not required to make a certain transfer of funds under certain circumstances; providing for a delayed effective date; and generally relating to the Maryland Medical Assistance Program and substance abuse services.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–103(a)(2)(ix) and (b)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–103(a)(3) and (b)(9)(ii)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Health – General
Section 15–103(a)(4)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

15–103.

(a) (2) The Program:

(ix) Beginning on July 1, 2008, shall provide, subject to the limitations of the State budget, and as permitted by federal law, comprehensive medical care and other health care services for all parents and caretaker relatives:

1. Who have a dependent child living in the parents' or caretaker relatives' home; and

2. Whose annual household income is at or below 116 percent of the poverty level;

(3) Subject to restrictions in federal law or waivers, the Department may:

(i) Impose cost-sharing on Program recipients; and

(ii) For adults who do not meet requirements for a federal category of eligibility for Medicaid:

1. Cap enrollment; and

2. Limit the benefit package, **EXCEPT THAT SUBSTANCE ABUSE SERVICES SHALL BE PROVIDED THAT ARE AT LEAST EQUIVALENT TO THE SUBSTANCE ABUSE SERVICES PROVIDED TO ADULTS UNDER PARAGRAPH (2)(IX) OF THIS SUBSECTION.**

(4) IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET FUNDING SUFFICIENT TO PROVIDE THE SUBSTANCE ABUSE BENEFITS REQUIRED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION.

(b) (1) As permitted by federal law or waiver, the Secretary may establish a program under which Program recipients are required to enroll in managed care organizations.

(9) Each managed care organization shall:

(ii) Submit to the Department:

1. Service-specific data by service type in a format to be established by the Department; [and]

2. Utilization and outcome reports, such as the Health Plan Employer Data and Information Set (HEDIS), as directed by the Department; AND

3. AT LEAST SEMIANNUALLY, AGGREGATE DATA THAT INCLUDES:

A. THE NUMBER OF ENROLLEES PROVIDED WITH SUBSTANCE ABUSE TREATMENT SERVICES; AND

B. THE AMOUNT OF MONEY SPENT ON SUBSTANCE ABUSE TREATMENT;

SECTION 2. AND BE IT FURTHER ENACTED, That in fiscal year 2010, the Governor may transfer by budget amendment ~~\$6,700,000~~ \$3,343,418 in general or special funds from the Alcohol and Drug Abuse Administration (Program M00K02.01) to the Medical Care Programs Administration (Program M00Q01.03) to fund the substance abuse benefit provided under § 15-103(a)(3) of the Health – General Article, as enacted by Section 1 of this Act, and to increase the rates paid to providers for substance abuse services provided through the Primary Adult Care Program and the Maryland Medical Assistance Program.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly, that if the Governor funds comprehensive medical care and other health care services for adults as required under § 15-103(a)(2)(x) of the Health – General Article through the Medical Care Programs Administration and includes substance abuse services, the Governor is not required to transfer funds from the Alcohol and Drug Abuse Administration as required under Section 2 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall collaborate with the managed care organizations that are participating in the Medical Assistance Program to establish a transparent process and objective criteria to qualify certified addiction treatment programs as paneled providers.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June 1, 2009~~ January 1, 2010.

Approved by the Governor, May 7, 2009.

Chapter 332

(House Bill 739)

AN ACT concerning

Maryland Medical Assistance Program – Substance Abuse Services

FOR the purpose of requiring that individuals receiving certain Maryland Medical Assistance Program benefits receive certain substance abuse benefits; requiring the Governor to provide certain funding in certain fiscal years to provide certain substance abuse benefits; requiring managed care organizations to submit certain data to the Department of Health and Mental Hygiene at least semiannually; requiring the Department and certain managed care organizations to establish a certain process and certain criteria to qualify certified addiction treatment programs as paneled providers; authorizing the Governor to transfer by budget amendment in a certain fiscal year certain funding for a certain substance abuse benefit and to increase certain fees; providing that it is the intent of the General Assembly that the Governor is not required to make a certain transfer of funds under certain circumstances; providing for a delayed effective date; and generally relating to the Maryland Medical Assistance Program and substance abuse services.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–103(a)(2)(ix) and (b)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–103(a)(3) and (b)(9)(ii)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY adding to
Article – Health – General
Section 15–103(a)(4)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

15–103.

(a) (2) The Program:

(ix) Beginning on July 1, 2008, shall provide, subject to the limitations of the State budget, and as permitted by federal law, comprehensive medical care and other health care services for all parents and caretaker relatives:

1. Who have a dependent child living in the parents' or caretaker relatives' home; and

2. Whose annual household income is at or below 116 percent of the poverty level;

(3) Subject to restrictions in federal law or waivers, the Department may:

(i) Impose cost-sharing on Program recipients; and

(ii) For adults who do not meet requirements for a federal category of eligibility for Medicaid:

1. Cap enrollment; and

2. Limit the benefit package, **EXCEPT THAT SUBSTANCE ABUSE SERVICES SHALL BE PROVIDED THAT ARE AT LEAST EQUIVALENT TO THE SUBSTANCE ABUSE SERVICES PROVIDED TO ADULTS UNDER PARAGRAPH (2)(IX) OF THIS SUBSECTION.**

(4) IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET FUNDING SUFFICIENT TO PROVIDE THE SUBSTANCE ABUSE BENEFITS REQUIRED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION.

(b) (1) As permitted by federal law or waiver, the Secretary may establish a program under which Program recipients are required to enroll in managed care organizations.

(9) Each managed care organization shall:

(ii) Submit to the Department:

1. Service-specific data by service type in a format to be established by the Department; [and]

2. Utilization and outcome reports, such as the Health Plan Employer Data and Information Set (HEDIS), as directed by the Department; AND

3. AT LEAST SEMIANNUALLY, AGGREGATE DATA THAT INCLUDES:

A. THE NUMBER OF ENROLLEES PROVIDED WITH SUBSTANCE ABUSE TREATMENT SERVICES; AND

B. THE AMOUNT OF MONEY SPENT ON SUBSTANCE ABUSE TREATMENT;

SECTION 2. AND BE IT FURTHER ENACTED, That in fiscal year 2010, the Governor may transfer by budget amendment ~~\$6,700,000~~ \$3,343,418 in general or special funds from the Alcohol and Drug Abuse Administration (Program M00K02.01) to the Medical Care Programs Administration (Program M00Q01.03) to fund the substance abuse benefit provided under § 15-103(a)(3) of the Health – General Article, as enacted by Section 1 of this Act, and to increase the rates paid to providers for substance abuse services provided through the Primary Adult Care Program and the Maryland Medical Assistance Program.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly, that if the Governor funds comprehensive medical care and other health care services for adults as required under § 15-103(a)(2)(x) of the Health – General Article through the Medical Care Programs Administration and includes substance abuse services, the Governor is not required to transfer funds from the Alcohol and Drug Abuse Administration as required under Section 2 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall collaborate with the managed care organizations that are participating in the Medical Assistance Program to establish a transparent process and objective criteria to qualify certified addiction treatment programs as paneled providers.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~June 1, 2009~~ January 1, 2010.

Approved by the Governor, May 7, 2009.

Chapter 333**(Senate Bill 955)**

AN ACT concerning

Public Utility Companies – Energy Efficiency, Conservation, and Demand Response Programs – Selection of HVAC Service Providers

FOR the purpose of requiring an electric company under certain circumstances to include procedures for the competitive selection of heating, ventilation, air conditioning, or refrigeration service providers in a certain plan to achieve certain electricity savings and demand reduction targets; authorizing the Public Service Commission to waive a certain requirement under certain circumstances on a request by an electric company; requiring a certain plan and any updates to include a certain certification or recertification; prohibiting an affiliate of an electric company from providing heating, ventilation, air conditioning, or refrigeration services in connection with a certain program or service unless the Public Service Commission verifies requiring an electric company that enters into a contract or obligation with an affiliate of the electric company to provide certain services to notify the Commission within a certain time that the electric company has entered into a certain contract or obligation and certifies that the electric company's regulated service customers ~~are~~ will not subsidizing subsidize the operations of the affiliate; ~~requiring each electric company to submit to the Commission a certain updated plan or a certain statement on or before a certain date;~~ providing that nothing in this Act shall impair a certain obligation or contract right; defining certain terms; and generally relating to electric companies.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7-211(a), (h), and (i)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7-211(g)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Public Utility Companies

7-211.

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

(2) **“AFFILIATE” HAS THE MEANING STATED IN § 7-501 OF THIS TITLE.**

(3) “Demand response program” means a program established by an electric company that promotes changes in electric usage by customers from their normal consumption patterns in response to:

(i) changes in the price of electricity over time; or

(ii) incentives designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized.

[(3)] (4) “Electricity consumption” and “electricity consumed” mean the sum of retail electricity sales to all customers and reported electricity losses within the electric distribution system.

[(4)] (5) “Peak demand” means the highest level of electricity demand in the State measured in megawatts during the period from May 1 to September 30 on a weather-normalized basis.

[(5)] (6) “Per capita electricity consumption” means the result calculated by dividing the total gigawatt-hours of electricity consumed by electricity customers in the State as of December 31 of a year, as determined by the Commission, by the population of the State as of December 31 of that year, as determined by the Department of Planning.

[(6)] (7) “Plan” means an electricity savings and demand reduction plan and cost recovery proposal.

(8) **“PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES” HAS THE MEANING STATED IN § 9A-101 OF THE BUSINESS REGULATION ARTICLE.**

(g) Except as provided in subsection (e) of this section, on or before December 31, 2008, by regulation or order, the Commission shall:

(1) to the extent that the Commission determines that cost-effective energy efficiency and conservation programs and services are available, for each affected class, require each electric company to procure or provide for its electricity customers cost-effective energy efficiency and conservation programs and services with projected and verifiable electricity savings that are designed to achieve a targeted

reduction of at least 5% by the end of 2011 and 10% by the end of 2015 of per capita electricity consumed in the electric company's service territory during 2007; and

(2) require each electric company to implement a cost-effective demand response program in the electric company's service territory that is designed to achieve a targeted reduction of at least 5% by the end of 2011, 10% by the end of 2013, and 15% by the end of 2015, in per capita peak demand of electricity consumed in the electric company's service territory during 2007.

(h) (1) (i) On or before July 1, 2008, and every 3 years thereafter, each electric company shall consult with the Maryland Energy Administration regarding the design and adequacy of the electric company's plan to achieve the electricity savings and demand reduction targets specified in subsection (g) of this section.

(ii) An electric company shall provide the Maryland Energy Administration with any additional information regarding the plan, as requested.

(2) On or before September 1, 2008, and every 3 years thereafter, an electric company shall submit its plan to the Commission that details the electric company's proposals for achieving the electricity savings and demand reduction targets specified in subsection (g) of this section for the 3 subsequent calendar years.

(3) The Commission shall consider any written findings provided by the Maryland Energy Administration regarding the design and adequacy of the plan.

(4) Each electric company shall provide annual updates to the Commission and the Maryland Energy Administration on plan implementation and progress towards achieving the electricity savings and demand reduction targets specified in subsection (g) of this section.

(5) (i) The plan shall include a description of the proposed energy efficiency and conservation programs and services and the proposed demand response program, anticipated costs, projected electricity savings, and any other information requested by the Commission.

(ii) The plan shall address residential, commercial, and industrial sectors as appropriate, including low-income communities and low- to moderate-income communities.

(III) 1. IF, IN CONNECTION WITH A PROGRAM OR SERVICE, THE ELECTRIC COMPANY PROPOSES TO PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES FOR ITS CUSTOMERS, THE PLAN SHALL INCLUDE PROCEDURES FOR THE COMPETITIVE SELECTION OF HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICE PROVIDERS.

2. ON REQUEST BY THE ELECTRIC COMPANY AND FOR GOOD CAUSE SHOWN, THE COMMISSION MAY WAIVE THE REQUIREMENT THAT THE ELECTRIC COMPANY COMPETITIVELY SELECT HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION PROVIDERS UNDER ITEM 1 OF THIS SUBPARAGRAPH.

(6) THE PLAN AND ANY UPDATES SHALL INCLUDE A CERTIFICATION OR RECERTIFICATION BY THE ELECTRIC COMPANY THAT, IF AN AFFILIATE OF THE ELECTRIC COMPANY PROVIDES HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES THROUGH ANY EXISTING CONTRACT OR OBLIGATION IN CONNECTION WITH A PROGRAM OR SERVICE, THE CUSTOMERS OF THE ELECTRIC COMPANY'S REGULATED SERVICES WILL NOT SUBSIDIZE THE OPERATIONS OF THE AFFILIATE.

~~(6)~~ (7) The Commission shall review each electric company's plan to determine if the plan is adequate and cost-effective in achieving the electricity savings and demand reduction targets specified in subsection (g) of this section.

(i) (1) In determining whether a program or service encourages and promotes the efficient use and conservation of energy, the Commission shall consider the:

- (i) cost-effectiveness;
- (ii) impact on rates of each ratepayer class;
- (iii) impact on jobs; and
- (iv) impact on the environment.

(2) The Commission shall monitor and analyze the impact of each program and service to ensure that the outcome of each program and service provides the best possible results.

(3) In monitoring and analyzing the impact of a program or service under paragraph (2) of this subsection, if the Commission finds that the outcome of the program or services may not be providing the best possible results, the Commission shall direct the electric company to include in its annual update under subsection (h)(4) of this section specific measures to address the findings.

~~(4) AN AFFILIATE OF THE ELECTRIC COMPANY MAY NOT PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES IN CONNECTION WITH A PROGRAM OR SERVICE UNLESS THE COMMISSION VERIFIES THAT THE CUSTOMERS OF THE ELECTRIC COMPANY'S REGULATED SERVICES ARE NOT SUBSIDIZING THE OPERATIONS OF THE AFFILIATE AN~~

ELECTRIC COMPANY THAT ENTERS INTO A CONTRACT OR OBLIGATION WITH AN AFFILIATE OF THE ELECTRIC COMPANY TO PROVIDE HEATING, VENTILATION, AIR CONDITIONING, OR REFRIGERATION SERVICES IN CONNECTION WITH A PROGRAM OR SERVICE SHALL NOTIFY THE COMMISSION WITHIN 30 DAYS AFTER ENTERING INTO THE CONTRACT OR OBLIGATION THAT THE ELECTRIC COMPANY:

1. HAS ENTERED INTO A CONTRACT OR OBLIGATION WITH AN AFFILIATE OF THE ELECTRIC COMPANY; AND

2. CERTIFIES THAT THE CUSTOMERS OF THE ELECTRIC COMPANY'S REGULATED SERVICES WILL NOT SUBSIDIZE THE OPERATIONS OF THE AFFILIATE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2009, each electric company shall submit to the Public Service Commission:~~

~~(1) an updated demand reduction plan and cost recovery proposal that includes the competitive selection procedures required by this Act; or~~

~~(2) a statement that the electric company does not propose to provide heating, ventilation, air conditioning, or refrigeration services for its customers under its demand reduction plan and cost recovery proposal.~~

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall impair any obligation or contract right in existence as of the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 334

(Senate Bill 958)

AN ACT concerning

Construction Permits – Expiration Dates

FOR the purpose of requiring the running of the period of approval for certain permits issued by the State to be tolled for a certain period; requiring the running of the period of approval for certain permits issued by a county or municipality to be tolled for a certain period; requiring a certain person who was issued a certain

permit by the State, a county, or a municipality that will expire during a certain time period to pay any applicable renewal fees; requiring the Department of Planning to report to certain persons on certain matters; authorizing the State, a county, or a municipality to cancel a certain permit under certain circumstances; making certain conforming changes; defining certain terms; declaring the intent of the General Assembly; providing for the application of this Act; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the expiration of construction and development permits.

BY repealing and reenacting, with amendments,

Article – State Government

Section 11–103(a)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article – State Government

Section 11–201 and 11–202 to be under the new subtitle “Subtitle 2. Permit Extensions”

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 23–101 and 23–102 to be under the new title “Title 23. Construction and Development Permits”

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, There exists a state of national recession, which has drastically affected various segments of the Maryland economy, but none as severely as the State’s banking, real estate, and construction sectors; and

WHEREAS, The real estate finance sector of the economy is in severe decline due to the subprime mortgage problem and the resultant widening mortgage finance crisis; and

WHEREAS, The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets; and

WHEREAS, As a result of the crisis in the real estate finance sector of the economy, real estate developers, homebuilders, and commercial, office, and industrial developers have experienced an industry-wide decline, including reduced demand,

canceled orders, declining sales, rental price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans; and

WHEREAS, The process of obtaining planning board and zoning board approvals for subdivisions, site plans, and variances can be difficult, time consuming, and expensive both for private applicants and government bodies; and

WHEREAS, The process of obtaining other government approvals required pursuant to legislative enactments and their implementing rules and regulations can also be difficult and expensive; and

WHEREAS, Permits and approvals can be impossible to renew or reobtain if expired or lapsed; and

WHEREAS, County and municipal governments obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities that may expire or lapse without implementation due to the state of the economy; and

WHEREAS, The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry; and

WHEREAS, The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would, if not addressed, exacerbate those losses; and

WHEREAS, Financial institutions that lend money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State; and

WHEREAS, Due to the current inability of builders and their purchasers to obtain financing, under existing economic conditions, more and more once-approved permits are expiring or lapsing and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default; and

WHEREAS, As a result of the continued downturn of the economy, and the continued expiration of approvals which were granted by State and local governments,

it is possible that thousands of government actions will be undone by the passage of time; and

WHEREAS, Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be costly in terms of time and financial resources, with the costs falling on the public as well as the private sector; and

WHEREAS, Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions may be insufficient to cope with the extent of the present financial situation; ~~and~~

~~WHEREAS, It is the purpose of this Act to prevent the wholesale abandonment of approved projects and activities due to the present unfavorable economic conditions, by tolling the term of these approvals for a period of time, thereby preventing a waste of public and private resources; now, therefore,~~

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

Article – State Government

11-103.

(a) **EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE, THIS TITLE:**

(1) ~~[This] EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE, THIS~~ title applies only to a development project and only through the completion of a final action under § 11-520 of this title; **AND**

(2) ~~This title~~ does not apply to an application for a renewal, amendment, or extension of a development permit.

SUBTITLE 2. PERMIT EXTENSIONS.

11-201.

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

(B) **“PERMIT” INCLUDES A DEVELOPMENT PERMIT, AS DEFINED UNDER § 11-101(D) OF THIS TITLE.**

11-202.

(A) THIS SUBTITLE APPLIES TO A PERMIT ISSUED BY A COUNTY OR MUNICIPALITY FOR A PROPOSED CONSTRUCTION OR DEVELOPMENT.

(B) THIS SUBTITLE DOES NOT APPLY TO:

(1) ANY PERMIT OR APPROVAL ISSUED BY THE UNITED STATES GOVERNMENT OR ANY FEDERAL AGENCY;

(2) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY THE UNITED STATES GOVERNMENT AND A COUNTY OR A MUNICIPALITY;

(3) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY ANY FEDERAL AGENCY AND A COUNTY OR A MUNICIPALITY;

(4) ANY PERMIT OR APPROVAL THAT HAS AN EXPIRATION DATE ESTABLISHED UNDER A LAW OR REGULATION OF THE FEDERAL GOVERNMENT; OR

(5) ANY PERMIT, LICENSE, OR APPROVAL ISSUED UNDER TITLE 4, SUBTITLE 1 OR SUBTITLE 2 OF THE ENVIRONMENT ARTICLE.

(C) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT ISSUED BY A COUNTY OR MUNICIPALITY SHALL BE TOLLED BEGINNING ON JANUARY 1, 2008, AND ENDING ON ~~DECEMBER 31, 2012~~ JUNE 30, 2010.

(D) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A PERSON WHO WAS ISSUED A PERMIT BY A COUNTY OR MUNICIPALITY THAT WILL EXPIRE DURING THE PERIOD BEGINNING ON JANUARY 1, 2008, AND ENDING ON JUNE 30, 2010, IS REQUIRED TO PAY ANY APPLICABLE RENEWAL FEES.

Article 24 – Political Subdivisions – Miscellaneous Provisions

TITLE 23. CONSTRUCTION AND DEVELOPMENT PERMITS.

23-101.

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

(B) “PERMIT” INCLUDES A DEVELOPMENT PERMIT, AS DEFINED UNDER § 11-101(D) OF THE STATE GOVERNMENT ARTICLE.

23-102.

(A) THIS TITLE APPLIES TO A PERMIT ISSUED BY THE STATE FOR A PROPOSED CONSTRUCTION OR DEVELOPMENT.

(B) THIS TITLE DOES NOT APPLY TO:

(1) ANY PERMIT OR APPROVAL ISSUED BY THE UNITED STATES GOVERNMENT OR ANY FEDERAL AGENCY;

(2) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY THE UNITED STATES GOVERNMENT AND A COUNTY OR A MUNICIPALITY;

(3) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY ANY FEDERAL AGENCY AND A COUNTY OR A MUNICIPALITY;

(4) ANY PERMIT OR APPROVAL THAT HAS AN EXPIRATION DATE ESTABLISHED UNDER A LAW OR REGULATION OF THE FEDERAL GOVERNMENT; OR

(5) ANY PERMIT, LICENSE, OR APPROVAL ISSUED UNDER THE FOLLOWING PROVISIONS OF THE ENVIRONMENT ARTICLE:

(I) TITLE 4, SUBTITLE 1 OR SUBTITLE 2;

(II) TITLE 5, SUBTITLE 5; OR

(III) TITLE 9.

(C) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT ISSUED BY THE STATE SHALL BE TOLLED BEGINNING ON JANUARY 1, 2008, AND ENDING ON ~~DECEMBER 31, 2012~~ JUNE 30, 2010.

(D) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A PERSON WHO WAS ISSUED A PERMIT BY THE STATE THAT WILL EXPIRE DURING THE PERIOD BEGINNING ON JANUARY 1, 2008, AND ENDING ON JUNE 30, 2010, IS REQUIRED TO PAY ANY APPLICABLE RENEWAL FEES.

~~SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall be interpreted to affect any permit or approval issued by the government of the United States or any federal agency, or any permit or approval that has an expiration date established pursuant to law or regulation of the federal government.~~

SECTION ~~2.~~ 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall affect the authority of the State or any county or municipality to revoke or modify a permit. The State or any county or municipality may cancel a permit affected

by the provisions of this Act if the State or the county or municipality determines that the permit presents a threat to the public health, safety, or welfare of its citizens.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That, *except as otherwise provided in this Act*, this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any permit for construction or development issued by the State or any county or municipality on or after January 1, 2008, and on or before June 30, 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 31, 2009, the Maryland Department of Planning shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the impact of this Act, whether the toll period should be extended, and what other alternatives might be available to the State and local jurisdictions in light of the current economic downturn.

SECTION 5. AND BE IT FURTHER ENACTED, That, ~~except as otherwise provided in this Act~~, this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through ~~December 31, 2012~~ June 30, 2010, and, at the end of ~~December 31, 2012~~ June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 7, 2009.

Chapter 335

(House Bill 921)

AN ACT concerning

Construction Permits – Expiration Dates

FOR the purpose of requiring the running of the period of approval for certain permits issued by the State to be tolled for a certain period; requiring the running of the period of approval for certain permits issued by a county or municipality to be tolled for a certain period; requiring a certain person who was issued a certain permit by the State, a county, or a municipality that will expire during a certain time period to pay any applicable renewal fees; requiring the Department of Planning to report to certain persons on certain matters; authorizing the State, a county, or a municipality to cancel a certain permit under certain circumstances; making certain conforming changes; defining certain terms; declaring the intent of the General Assembly; providing for the application of this Act; making this Act an emergency measure; providing for the termination

of this Act; and generally relating to the expiration of construction and development permits.

BY repealing and reenacting, with amendments,
Article – State Government
Section 11–103(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Government
Section 11–201 and 11–202 to be under the new subtitle “Subtitle 2. Permit Extensions”
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 23–101 and 23–102 to be under the new title “Title 23. Construction and Development Permits”
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, There exists a state of national recession, which has drastically affected various segments of the Maryland economy, but none as severely as the State’s banking, real estate, and construction sectors; and

WHEREAS, The real estate finance sector of the economy is in severe decline due to the subprime mortgage problem and the resultant widening mortgage finance crisis; and

WHEREAS, The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets; and

WHEREAS, As a result of the crisis in the real estate finance sector of the economy, real estate developers, homebuilders, and commercial, office, and industrial developers have experienced an industry-wide decline, including reduced demand, canceled orders, declining sales, rental price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans; and

WHEREAS, The process of obtaining planning board and zoning board approvals for subdivisions, site plans, and variances can be difficult, time consuming, and expensive both for private applicants and government bodies; and

WHEREAS, The process of obtaining other government approvals required pursuant to legislative enactments and their implementing rules and regulations can also be difficult and expensive; and

WHEREAS, Permits and approvals can be impossible to renew or reobtain if expired or lapsed; and

WHEREAS, County and municipal governments obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities that may expire or lapse without implementation due to the state of the economy; and

WHEREAS, The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry; and

WHEREAS, The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would, if not addressed, exacerbate those losses; and

WHEREAS, Financial institutions that lend money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State; and

WHEREAS, Due to the current inability of builders and their purchasers to obtain financing, under existing economic conditions, more and more once-approved permits are expiring or lapsing and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default; and

WHEREAS, As a result of the continued downturn of the economy, and the continued expiration of approvals which were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time; and

WHEREAS, Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be costly in terms of time and financial resources, with the costs falling on the public as well as the private sector; and

WHEREAS, Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions may be insufficient to cope with the extent of the present financial situation; ~~and~~

~~WHEREAS, It is the purpose of this Act to prevent the wholesale abandonment of approved projects and activities due to the present unfavorable economic conditions, by tolling the term of these approvals for a period of time, thereby preventing a waste of public and private resources; now, therefore,~~

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

Article - State Government

11-103.

(a) **EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE, THIS TITLE:**

(1) ~~[This] EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE,~~ **THIS title** applies only to a development project and only through the completion of a final action under § 11-520 of this title; **AND**

(2) ~~This title~~ does not apply to an application for a renewal, amendment, or extension of a development permit.

SUBTITLE 2. PERMIT EXTENSIONS.

11-201.

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

(B) "PERMIT" INCLUDES A DEVELOPMENT PERMIT, AS DEFINED UNDER § 11-101(D) OF THIS TITLE.

11-202.

(A) THIS SUBTITLE APPLIES TO A PERMIT ISSUED BY A COUNTY OR MUNICIPALITY FOR A PROPOSED CONSTRUCTION OR DEVELOPMENT.

(B) **THIS SUBTITLE DOES NOT APPLY TO:**

(1) **ANY PERMIT OR APPROVAL ISSUED BY THE UNITED STATES GOVERNMENT OR ANY FEDERAL AGENCY;**

(2) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY THE UNITED STATES GOVERNMENT AND A COUNTY OR A MUNICIPALITY;

(3) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY ANY FEDERAL AGENCY AND A COUNTY OR A MUNICIPALITY;

**(4) ANY PERMIT OR APPROVAL THAT HAS AN EXPIRATION DATE ESTABLISHED UNDER A LAW OR REGULATION OF THE FEDERAL GOVERNMENT;
OR**

(5) ANY PERMIT, LICENSE, OR APPROVAL ISSUED UNDER TITLE 4, SUBTITLE 1 OR SUBTITLE 2 OF THE ENVIRONMENT ARTICLE.

(C) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT ISSUED BY A COUNTY OR MUNICIPALITY SHALL BE TOLLED BEGINNING ON JANUARY 1, 2008, AND ENDING ON ~~DECEMBER 31, 2012~~ JUNE 30, 2010.

(D) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A PERSON WHO WAS ISSUED A PERMIT BY A COUNTY OR MUNICIPALITY THAT WILL EXPIRE DURING THE PERIOD BEGINNING ON JANUARY 1, 2008, AND ENDING ON JUNE 30, 2010, IS REQUIRED TO PAY ANY APPLICABLE RENEWAL FEES.

Article 24 – Political Subdivisions – Miscellaneous Provisions

TITLE 23. CONSTRUCTION AND DEVELOPMENT PERMITS.

23-101.

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

(B) “PERMIT” INCLUDES A DEVELOPMENT PERMIT, AS DEFINED UNDER § 11-101(D) OF THE STATE GOVERNMENT ARTICLE.

23-102.

(A) THIS TITLE APPLIES TO A PERMIT ISSUED BY THE STATE FOR A PROPOSED CONSTRUCTION OR DEVELOPMENT.

(B) THIS TITLE DOES NOT APPLY TO:

(1) ANY PERMIT OR APPROVAL ISSUED BY THE UNITED STATES GOVERNMENT OR ANY FEDERAL AGENCY;

(2) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY THE UNITED STATES GOVERNMENT AND A COUNTY OR A MUNICIPALITY;

(3) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY ANY FEDERAL AGENCY AND A COUNTY OR A MUNICIPALITY;

(4) ANY PERMIT OR APPROVAL THAT HAS AN EXPIRATION DATE ESTABLISHED UNDER A LAW OR REGULATION OF THE FEDERAL GOVERNMENT;
OR

(5) ANY PERMIT, LICENSE, OR APPROVAL ISSUED UNDER THE FOLLOWING PROVISIONS OF THE ENVIRONMENT ARTICLE:

(I) TITLE 4, SUBTITLE 1 OR SUBTITLE 2;

(II) TITLE 5, SUBTITLE 5; OR

(III) TITLE 9.

(C) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT ISSUED BY THE STATE SHALL BE TOLLED BEGINNING ON JANUARY 1, 2008, AND ENDING ON ~~DECEMBER 31, 2012~~ JUNE 30, 2010.

(D) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A PERSON WHO WAS ISSUED A PERMIT BY THE STATE THAT WILL EXPIRE DURING THE PERIOD BEGINNING ON JANUARY 1, 2008, AND ENDING ON JUNE 30, 2010, IS REQUIRED TO PAY ANY APPLICABLE RENEWAL FEES.

~~SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall be interpreted to affect any permit or approval issued by the government of the United States or any federal agency, or any permit or approval that has an expiration date established pursuant to law or regulation of the federal government.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall affect the authority of the State or any county or municipality to revoke or modify a permit. The State or any county or municipality may cancel a permit affected by the provisions of this Act if the State or the county or municipality determines that the permit presents a threat to the public health, safety, or welfare of its citizens.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That, except as otherwise provided in this Act, this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any permit for construction or development issued by the State or any county or municipality on or after January 1, 2008, and on or before June 30, 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 31, 2009, the Maryland Department of Planning shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the impact of this Act, whether the toll period should be extended, and what other alternatives might be available to the State and local jurisdictions in light of the current economic downturn.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through ~~December 31, 2012~~ June 30, 2010, and, at the end of ~~December 31, 2012~~ June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 7, 2009.

Chapter 336

(Senate Bill 959)

AN ACT concerning

Injured Workers' Insurance Fund - Regulation and Status

FOR the purpose of requiring the Injured Workers' Insurance Fund to ~~be operate in a manner similar to an authorized domestic workers' compensation insurer under certain provisions of the Insurance Article; requiring the Maryland Insurance Commissioner to issue and renew certain certificates of authority to the Fund in accordance with certain provisions of law;~~ be operate in a manner similar to an authorized domestic workers' compensation insurer under certain provisions of the Insurance Article; requiring the Maryland Insurance Commissioner to issue and renew certain certificates of authority to the Fund in accordance with certain provisions of law; providing that the Fund is subject to certain provisions of law to the same extent as certain insurers and must be regulated in a certain manner; ~~providing that certain provisions of law control in the event of a certain conflict; requiring the Fund to operate as an authorized domestic insurer;~~ providing that certain provisions of law control in the event of a certain conflict; requiring the Fund to operate as an authorized domestic insurer; specifying the role and mission of the Fund; altering the requirement that the Fund keep certain reserves and surplus; specifying that members of the Board for the Fund are entitled to reimbursement for certain reasonable expenses; altering the frequency for payment of Board members; altering the manner in which the Board may carry out certain provisions of law; repealing certain obsolete provisions of law; requiring the Maryland Insurance Commissioner, as part of a certain examination, to determine whether certain rate making practices produce actuarially sound rates; altering the requirement that the Board for the Fund adopt a certain schedule of premium rates in a certain manner; making certain conforming changes; providing that certain provisions of law do not apply to certain employees of the Fund hired on or

before a certain date; and generally relating to the regulation and status of the Injured Workers' Insurance Fund.

BY renumbering

Article – Labor and Employment
Section 10–105 and 10–106, respectively
to be Section 10–107 and 10–108, respectively
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 10–101 and 10–104
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment
Section ~~10–104~~, 10–112(d), 10–114(a), 10–121, 10–122, 10–125, and 10–130
10–130, 10–131, and 10–133(a)
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to

Article – Labor and Employment
Section 10–105 and 10–106
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing

Article – Labor and Employment
Section 10–123
Annotated Code of Maryland
(2008 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10–105 and 10–106, respectively, of Article – Labor and Employment of the Annotated Code of Maryland be renumbered to be Section(s) 10–107 and 10–108, respectively.

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

Article – Labor and Employment

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) "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.

10-104.

~~(A)~~ There is an Injured Workers' Insurance Fund.

~~(B) (1) THE FUND SHALL BE AN AUTHORIZED INSURER UNDER TITLE 4 OF THE INSURANCE ARTICLE.~~

~~(2) IN ACCORDANCE WITH TITLE 4, SUBTITLE 1 OF THE INSURANCE ARTICLE, THE COMMISSIONER SHALL ISSUE AND RENEW CERTIFICATES OF AUTHORITY TO THE FUND TO WRITE WORKERS' COMPENSATION INSURANCE.~~

~~(3) THE FUND HAS ALL THE POWERS, PRIVILEGES, DUTIES, AND RESPONSIBILITIES IMPOSED ON AND GRANTED TO AUTHORIZED INSURERS.~~

10-105.

(A) EXCEPT FOR TITLE 3, SUBTITLE 1, TITLE 6, SUBTITLE 1, TITLE 8, SUBTITLE 3, AND TITLE 11 OF THE INSURANCE ARTICLE AND AS OTHERWISE PROVIDED BY LAW, THE FUND:

~~(1) EXCEPT FOR TITLE 6, SUBTITLE 1 AND TITLE 11 OF THE INSURANCE ARTICLE,~~ IS SUBJECT TO THE INSURANCE ARTICLE TO THE SAME EXTENT AS ~~ANY OTHER~~ AN AUTHORIZED DOMESTIC WORKERS' COMPENSATION INSURER, ~~AND~~

~~(2) SHALL BE REGULATED IN THE SAME MANNER AS AN AUTHORIZED STOCK INSURER.~~

~~(B) IN THE EVENT OF A CONFLICT BETWEEN THIS ARTICLE AND THE INSURANCE ARTICLE OR ANOTHER LAW OF THIS STATE APPLICABLE TO A NONLIFE INSURANCE COMPANY, THIS ARTICLE CONTROLS.~~

(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) THE SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE FUND SHALL OPERATE AS IN A MANNER SIMILAR TO AN AUTHORIZED DOMESTIC WORKERS' COMPENSATION INSURER. ~~AND~~

(B) THE FUND SHALL:

(1) SERVE AS A COMPETITIVE ~~FORCE~~ INSURER IN THE MARKETPLACE;

(2) GUARANTEE THE AVAILABILITY OF WORKERS' COMPENSATION INSURANCE IN THE STATE; ~~AND~~

(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.

10-112.

(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 [under the Standard State Travel Regulations,]:

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 [semimonthly] BIWEEKLY.

10-114.

(a) The Board may adopt any [regulation] POLICY to carry out this subtitle.

10-121.

The Board shall keep[:

(1) a catastrophe surplus sufficient to cover catastrophic hazards for which the Fund writes coverage; and

(2) reserves sufficient to:

(i) meet anticipated losses of the Fund; and

(ii) carry to maturity policies that the Fund issues] **RESERVES AND SURPLUS IN ACCORDANCE WITH THE INSURANCE ARTICLE.**

10-122.

(a) [If, at any time, the amount of money in the Fund exceeds the amount that the Board considers necessary for immediate use, the excess shall be invested in any investment authorized under Title 5, Subtitle 6 of the Insurance Article for insurance companies.

(b) ~~(b)~~ [(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, the Board shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

[(ii)] ~~(2)~~ **(B)** For purposes of this [subsection] **SECTION**, brokerage and investment management services shall include services relating to all allocated asset classes.

[(2) (i)] ~~(B)~~ **(C)** **(1)** To assist it in achieving the goal described under [paragraph (1)] **SUBSECTION (A)** of this [subsection] **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.

[(ii)] **(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.

[(3)] ~~(C)~~ **(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.

[(4)] ~~(D)~~ **(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:

[(i)] **(1)** the identity of the minority business enterprise brokerage and investment management services firms used by the Board in the immediately preceding fiscal year;

[(ii)] **(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

[(iii)] **(3)** the measures the Board undertook in the immediately preceding fiscal year in accordance with [paragraph (2)(ii)] **SUBSECTION ~~(B)~~(2) (C)(2)** of this [subsection] **SECTION**.

[10-123.

If the Board determines that the financial condition of the Fund warrants a dividend declaration, the Board may declare for policyholders a dividend in the form of a cash refund or a credit.]

10-125.

(a) The Fund shall be[:

(1)] examined by the Commissioner in accordance with Title 2, Subtitle 2 (Enforcement) of the Insurance Article[]; and

(2) subject to the following provisions of the Insurance Article:

(i) Title 4, Subtitle 3 (Risk Based Capital Standards for Insurers) as provided in subsection (d) of this section;

(ii) Title 5, Subtitles 1, 2, 4, and 9 (Assets and Liabilities, Reserves, Valuation of Assets and Reinsurance);

(iii) Title 9 (Impaired Entities); and

(iv) §§ 3–124 (Bulk Reinsurance – Stock Insurers), 4–115 (Home Office; Location of Accounting Records and Assets), 4–116 (Annual and Interim Statements; Audited Financial Reports), and 4–118 (Qualified Independent Certified Public Accountants)].

[(b) (1) The Commissioner may enforce any provision of the Insurance Article to which the Fund is subject under subsections (a) and (c) of this section.

(2) Any order issued under this subsection:

(i) may not include a requirement that the Fund increase rates;
and

(ii) shall be subject to Title 2, Subtitle 2 of the Insurance Article.

(3) The Commissioner shall report to the Board on the results of any examination conducted under subsection (a)(1) of this section.

(c) (1) The Commissioner may examine or review the Fund for compliance with:

(i) Title 12, Subtitle 1 of the Insurance Article (Policy Forms and Provisions);

(ii) except for § 19–403 (Setting Premium Rates), Title 19, Subtitle 4 of the Insurance Article (Workers' Compensation Insurance); and

(iii) Title 27 of the Insurance Article (Unfair Trade Practices and Other Prohibited Practices).

(2) The Commissioner shall report to the Board on the results of any examination or review conducted under this subsection.

(d) With respect to any risk based capital calculation under Title 4, Subtitle 3 of the Insurance Article, the Fund shall be subject to the following reductions:

(1) for calendar year 2001, the required risk based capital for the Fund shall be 50% of the requirement for each action level set forth in §§ 4-305 through 4-308 of the Insurance Article;

(2) for calendar year 2002, the required risk based capital for the Fund shall be 60% of the requirement for each action level set forth in §§ 4-305 through 4-308 of the Insurance Article;

(3) for calendar year 2003, the required risk based capital for the Fund shall be 70% of the requirement for each action level set forth in §§ 4-305 through 4-308 of the Insurance Article;

(4) for calendar year 2004, the required risk based capital for the Fund shall be 85% of the requirement for each action level set forth in §§ 4-305 through 4-308 of the Insurance Article; and

(5) for calendar year 2005, the required risk based capital for the Fund shall be 100% of the requirement for each action level set forth in §§ 4-305 through 4-308 of the Insurance Article.

(e) For calendar years 2002 through 2005:

(1) if the Fund's risk based capital does not equal or exceed the phase-in level required under subsection (b) of this section, the provisions of §§ 4-305 through 4-308 of the Insurance Article applicable to that level shall apply;

(2) (i) if the Fund's risk based capital equals or exceeds the phase-in level required under subsection (b) of this section, but is less than 100% of the company action level required under Title 4, Subtitle 3 of the Insurance Article, the Fund shall file a status report concerning the Fund's November 2, 2001 risk based capital plan; and

(ii) the status report shall state whether the annual results meet or exceed the results projected in the risk based capital plan and shall describe any appropriate modification or adjustment to the plan; and

(3) if the Fund's risk based capital equals or exceeds 100% of the company action level required under Title 4, Subtitle 3 of the Insurance Article, the Fund may not be required to file a risk based capital plan for that year.]

(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.

10-130.

(a) The Board shall adopt[, by regulation,] a schedule of premium rates[, as provided in this section] **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.

[(b)] (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.

[(c)] (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.

[(d)] (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 (b)(2) of this section and to reflect changes in levels of hazards.

[(e)] (1) Except as provided in paragraph (2) of this subsection, the Board may not increase the policy rate of an employer on renewal of a policy by more than 20% unless the Board notifies the employer in writing at least 45 days before the effective date of the policy rate increase.

(2) This subsection does not apply to an increase based on the experience of the employer.]

10-131.

An employer shall apply for insurance under this subtitle in accordance with the [regulations] POLICIES of the Board.

10-133.

(a) The Board shall adopt [regulations] POLICIES that provide procedures and standards for the payment of premiums.

SECTION 3. AND BE IT FURTHER ENACTED, That the requirements of Title 10 of the Insurance Article do not apply to employees of the Fund who were hired on or before January 1, 1990.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 337

(Senate Bill 963)

AN ACT concerning

Health – Maryland Commission on Autism

FOR the purpose of establishing the Maryland Commission on Autism; providing for the membership of the Commission; requiring the membership of the Commission to consist of broad representation of the State's citizens; designating the chair of the Commission; establishing a quorum requirement; requiring the Commission to meet a certain number of times per year; requiring the Commission to meet a certain number of times before a certain date; authorizing the Commission to hold meetings in a certain manner; prohibiting a member of the Commission from receiving compensation; authorizing a member of the Commission to receive certain reimbursement; ~~requiring a certain person to designate~~ requiring the Department of Health and Mental Hygiene and the Maryland State Department of Education to provide certain staff for the Commission; requiring the Commission to make certain recommendations; requiring the Commission to make a certain evaluation; requiring the Commission to carry out certain tasks in preparing a certain plan; authorizing the Commission to undertake certain responsibilities; requiring the Commission to report to the General Assembly on or before certain dates; defining a certain term; providing for the termination of this Act; and generally relating to autism awareness.

BY adding to

Article – Health – General

Section 13–2801 through 13–2806 to be under the new subtitle “Subtitle 28. Maryland Commission on Autism”

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

SUBTITLE 28. MARYLAND COMMISSION ON AUTISM.

13–2801.

THERE IS A MARYLAND COMMISSION ON AUTISM.

13–2802.

IN THIS SUBTITLE, “COMMISSION” MEANS THE MARYLAND COMMISSION ON AUTISM.

13–2803.

(A) THE COMMISSION CONSISTS OF:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH AND DISABILITIES, OR THE DEPUTY SECRETARY'S DESIGNEE;

(4) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;

(5) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE; ~~AND~~

(6) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE;

(7) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE; AND

~~(6)~~ (8) THE FOLLOWING ~~17~~ MEMBERS, TO BE APPOINTED BY THE GOVERNOR:

(I) TWO REPRESENTATIVES FROM DIFFERENT INSTITUTIONS OF HIGHER LEARNING LOCATED IN THE STATE WHO HAVE CLINICAL AND RESEARCH EXPERTISE RELATING TO BOTH CHILDREN AND ADULTS WITH AUTISM;

(II) AN INDIVIDUAL EMPLOYED AS A DIRECTOR OF SPECIAL EDUCATION AT A SCHOOL DISTRICT LOCATED IN THE STATE;

~~(III) A SPEECH LANGUAGE PATHOLOGIST;~~

~~(IV)~~ (III) A DIAGNOSTICIAN;

~~(V) A MENTAL HEALTH PROVIDER;~~

(IV) A SCHOOL PSYCHOLOGIST;

~~(VI)~~ (V) A ~~PRIMARY CARE PHYSICIAN~~ PHYSICIAN SPECIALIZING IN PEDIATRICS WHO PRACTICES IN THE STATE;

~~(VII)~~ (VI) ~~THREE TWO THREE~~ PARENTS OF INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS, INCLUDING ~~TWO PARENTS A PARENT TWO PARENTS~~ OF AN INDIVIDUAL UNDER THE AGE OF ~~18 21~~ YEARS AND ~~ONE A ONE~~ PARENT OF ~~AN INDIVIDUAL AT LEAST 18 YEARS OLD~~ A TRANSITIONING YOUTH WITH AUTISM;

~~(VIII)~~ (VII) ~~TWO INDIVIDUALS~~ ADULTS WITH AUTISM SPECTRUM DISORDERS;

~~(IX)~~ ~~A REPRESENTATIVE FROM AN INDEPENDENT PRIVATE PROVIDER OR NONPROFIT PROVIDER;~~

(VIII) A REPRESENTATIVE FROM AN ASSOCIATION OF PROVIDERS OF SERVICES TO INDIVIDUALS WITH AUTISM AND OTHER DEVELOPMENTAL DISABILITIES;

~~(X)~~ (IX) ~~THREE TWO~~ MEMBERS OF NONPROFIT ORGANIZATIONS IN THE STATE WHO PROVIDE SERVICES TO INDIVIDUALS OR FAMILIES LIVING WITH AUTISM SPECTRUM DISORDERS AND WHO TOGETHER REPRESENT THE PROVISION OF LIFESPAN SERVICES; AND

~~(XI)~~ ~~A REPRESENTATIVE FROM THE MARYLAND HOSPITAL ASSOCIATION;~~

(X) A REPRESENTATIVE OF THE MARYLAND DEVELOPMENTAL DISABILITIES COUNCIL;

(XI) A PHYSICAL THERAPIST LICENSED BY THE STATE BOARD OF PHYSICAL THERAPY EXAMINERS;

(XII) AN OCCUPATIONAL THERAPIST LICENSED BY THE STATE BOARD OF OCCUPATIONAL THERAPY PRACTICE;

~~(XIII) A REPRESENTATIVE OF A NONPROFIT HEALTH SERVICE PLAN THAT DOES BUSINESS IN THE STATE; AND~~

~~(XIV) A REPRESENTATIVE OF A FOR-PROFIT HEALTH INSURER THAT DOES BUSINESS IN THE STATE.~~

(XIII) A REPRESENTATIVE OF A LABOR ORGANIZATION THAT REPRESENTS EMPLOYEES WHO PROVIDE SERVICES TO INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS; AND

(XIV) A REPRESENTATIVE OF A HEALTH INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION THAT DOES BUSINESS IN THE STATE.

(B) (1) MEMBERS OF THE COMMISSION SHALL CONSIST OF A BROAD REPRESENTATION OF MARYLAND CITIZENS, BOTH URBAN AND RURAL, WHO ARE CONCERNED WITH THE HEALTH AND QUALITY OF LIFE FOR INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS.

(2) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE COMMISSION SHALL REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.

(C) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH AND DISABILITIES OR THE DEPUTY SECRETARY'S DESIGNEE SHALL BE THE CHAIR OF THE COMMISSION.

13-2804.

(A) A MAJORITY OF THE MEMBERS SERVING ON THE COMMISSION IS A QUORUM.

(B) THE COMMISSION SHALL MEET AT LEAST FOUR TIMES A YEAR, INCLUDING AT LEAST TWO TIMES BEFORE JUNE 1, 2010.

(C) THE COMMISSION MAY HOLD MEETINGS IN PERSON OR BY TELEPHONE OR VIDEO CONFERENCE.

(D) 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.

~~(E) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH AND DISABILITIES SHALL DESIGNATE~~ THE DEPARTMENT AND THE MARYLAND STATE DEPARTMENT OF EDUCATION SHALL PROVIDE THE STAFF NECESSARY TO CARRY OUT THIS SUBTITLE.

13-2805.

(A) THE COMMISSION SHALL:

(1) ADVISE AND MAKE RECOMMENDATIONS TO THE GOVERNOR, GENERAL ASSEMBLY, AND RELEVANT STATE AGENCIES REGARDING MATTERS CONCERNING SERVICES FOR INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS AT ALL STATE LEVELS, INCLUDING HEALTH CARE, EDUCATION, AND OTHER ADULT AND ADOLESCENT SERVICES;

(2) DEVELOP A COMPREHENSIVE STATEWIDE PLAN FOR AN INTEGRATED SYSTEM OF TRAINING, TREATMENT, AND SERVICES FOR INDIVIDUALS OF ALL AGES WITH AUTISM SPECTRUM DISORDERS; ~~AND~~

(3) EVALUATE WAYS TO PROMOTE AUTISM SPECTRUM DISORDER AWARENESS; AND

~~(4) DEVELOP A RECOMMENDATION REGARDING THE DESIRABILITY OF AMENDING STATE LAW TO REQUIRE MORE EXTENSIVE INSURANCE COVERAGE OF AUTISM DIAGNOSIS AND TREATMENT SERVICES, INCLUDING APPLIED BEHAVIOR ANALYSIS~~ REVIEW THE FINDINGS OF ANY SUMMIT OR CONFERENCE CONVENED BY THE STATE REGARDING AUTISM SPECTRUM DISORDERS.

(B) IN DEVELOPING THE STATEWIDE PLAN UNDER SUBSECTION (A)(2) OF THIS SECTION, THE COMMISSION SHALL:

(1) STUDY AND REPORT ON THE MEANS FOR DEVELOPING A COMPREHENSIVE, COORDINATED SYSTEM OF CARE DELIVERY ACROSS THE STATE AND ENSURING THAT RESOURCES ARE CREATED, WELL-UTILIZED, AND APPROPRIATELY DISTRIBUTED ACROSS THE STATE;

(2) DETERMINE THE NEED FOR THE CREATION OF SERVICES IN DESIGNATED AREAS OF THE STATE;

(3) PLAN FOR EFFECTIVELY EVALUATING REGIONAL SERVICE AREAS THROUGHOUT THE STATE AND THE CAPACITY OF THE AREAS, INCLUDING OUTLINING PERSONNEL AND SKILLS THAT EXIST WITHIN THE SERVICE AREA, OTHER CAPABILITIES THAT EXIST, AND RESOURCE NEEDS THAT MAY BE UNMET;

(4) ASSESS THE NEED FOR ADDITIONAL BEHAVIORAL INTERVENTION CAPABILITIES AND, AS NECESSARY, THE MEANS FOR EXPANDING THOSE CAPABILITIES IN A REGIONAL SERVICE AREA;

~~(5) DEVELOP RECOMMENDATIONS FOR EXPANDING SERVICES IN CONJUNCTION WITH HOSPITALS AFTER CONSIDERING THE RESOURCES THAT EXIST IN TERMS OF SPECIALTY CLINICS, HOSPITALS, AND HOSPITAL INPATIENT CARE;~~

(5) DEVELOP RECOMMENDATIONS TO ADDRESS THE TRANSITION OF CHILDREN AGING OUT OF THE AUTISM MEDICAID WAIVER;

(6) CONDUCT AN ASSESSMENT OF THE NEED FOR COORDINATED, ENHANCED, AND TARGETED SPECIAL EDUCATION TAILORED TOWARD AUTISM SPECTRUM DISORDERS WITHIN EACH REGION OF THE STATE; ~~AND~~

(7) DEVELOP A RECOMMENDATION FOR ENLISTING APPROPRIATE UNIVERSITIES AND COLLEGES TO ENSURE SUPPORT AND COLLABORATION IN DEVELOPING CERTIFICATION OR DEGREE PROGRAMS FOR STUDENTS SPECIALIZING IN AUTISM SPECTRUM DISORDER INTERVENTION;

(8) EVALUATE PROGRAMS THAT CURRENTLY EXIST IN OTHER STATES TO DETERMINE HOW SIMILAR PROGRAMS IN THE STATE COULD BENEFIT INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS; AND

(9) DEVELOP RECOMMENDATIONS FOR FACILITATING THE COORDINATION OF RESEARCH OPPORTUNITIES BETWEEN INSTITUTIONS AND EDUCATION AND HEALTH AGENCIES TO SUPPORT RESEARCH IN ALL AREAS OF AUTISM.

(c) THE COMMISSION MAY:

(1) PROVIDE RECOMMENDATIONS REGARDING TRAINING PROGRAMS AND THE CONTENT OF TRAINING PROGRAMS BEING DEVELOPED;

(2) EVALUATE THE PILOT PROGRAM TO STUDY AND IMPROVE SCREENING PRACTICES FOR AUTISM DISORDERS AND MAKE RECOMMENDATIONS ON WHETHER A SIMILAR PROGRAM SHOULD BE IMPLEMENTED STATEWIDE;

~~(2)~~ (3) RECOMMEND INDIVIDUALS TO PARTICIPATE IN A COMMITTEE OF MAJOR STAKEHOLDERS CHARGED WITH DEVELOPING SCREENING, DIAGNOSTIC, ASSESSMENT, ~~AND TREATMENT~~ TREATMENT, AND SERVICE STANDARDS FOR THE STATE;

~~(3)~~ (4) PARTICIPATE IN RECOMMENDING A PANEL OF QUALIFIED PROFESSIONALS AND EXPERTS TO REVIEW EXISTING MODELS OF

EVIDENCE-BASED EDUCATIONAL PRACTICES FOR ADAPTATION SPECIFIC TO THE STATE PUBLIC, AND PRIVATE SERVICE PROVIDERS; ~~AND~~

~~(4)~~ (5) EXAMINE THE BARRIERS TO ACCURATE INFORMATION OF THE PREVALENCE OF INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS ACROSS THE STATE AND RECOMMEND A PROCESS FOR ACCURATE REPORTING OF DEMOGRAPHIC DATA; AND

(6) STUDY AND MAKE RECOMMENDATIONS RELATED TO ANY ISSUE RELATED TO AUTISM SPECTRUM DISORDERS THAT IS CONSIDERED NECESSARY BY THE COMMISSION.

13-2806.

THE COMMISSION SHALL ISSUE A REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE:

~~(1) ON OR BEFORE JANUARY 1, 2010, ON THE COMMISSION'S RECOMMENDATION REGARDING THE DESIRABILITY OF AMENDING STATE LAW TO REQUIRE MORE EXTENSIVE INSURANCE COVERAGE OF AUTISM DIAGNOSIS AND TREATMENT SERVICES, INCLUDING APPLIED BEHAVIOR ANALYSIS;~~

~~(1)~~ ~~(2)~~ (1) ON OR BEFORE JUNE 1, 2011, ON THE COMMISSION'S PRELIMINARY FINDINGS AND RECOMMENDATIONS REGARDING THE DEVELOPMENT OF A COMPREHENSIVE STATEWIDE PLAN UNDER § 13-2805 OF THIS SUBTITLE; AND

~~(2)~~ ~~(3)~~ (2) ON OR BEFORE SEPTEMBER 30, 2012, ON THE COMMISSION'S FINAL FINDINGS AND RECOMMENDATIONS REGARDING THE DEVELOPMENT OF A COMPREHENSIVE STATEWIDE PLAN UNDER § 13-2805 OF THIS SUBTITLE.

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

Approved by the Governor, May 7, 2009.

Chapter 338

(House Bill 503)

AN ACT concerning

Health – Maryland Commission on Autism

FOR the purpose of establishing the Maryland Commission on Autism; providing for the membership of the Commission; requiring the membership of the Commission to consist of broad representation of the State's citizens; designating the chair of the Commission; establishing a quorum requirement; requiring the Commission to meet a certain number of times per year; requiring the Commission to meet a certain number of times before a certain date; authorizing the Commission to hold meetings in a certain manner; prohibiting a member of the Commission from receiving compensation; authorizing a member of the Commission to receive certain reimbursement; ~~requiring a certain person to designate~~ requiring the Department of Health and Mental Hygiene and the State Department of Education to provide certain staff for the Commission; requiring the Commission to make certain recommendations; requiring the Commission to make a certain evaluation; requiring the Commission to carry out certain tasks in preparing a certain plan; authorizing the Commission to undertake certain responsibilities; requiring the Commission to report to the General Assembly on or before certain dates; defining a certain term; providing for the termination of this Act; and generally relating to autism awareness.

BY adding to

Article – Health – General

Section 13–2801 through 13–2806 to be under the new subtitle “Subtitle 28.
Maryland Commission on Autism”

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article – Health – General

SUBTITLE 28. MARYLAND COMMISSION ON AUTISM.

13–2801.

THERE IS A MARYLAND COMMISSION ON AUTISM.

13–2802.

IN THIS SUBTITLE, “COMMISSION” MEANS THE MARYLAND COMMISSION ON AUTISM.

13–2803.

(A) THE COMMISSION CONSISTS OF:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH AND DISABILITIES, OR THE DEPUTY SECRETARY'S DESIGNEE;

(4) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;

(5) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE; ~~AND~~

(6) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE;

(7) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE; AND

~~(6)~~ (8) THE FOLLOWING ~~17~~ MEMBERS, TO BE APPOINTED BY THE GOVERNOR:

(I) TWO REPRESENTATIVES FROM DIFFERENT INSTITUTIONS OF HIGHER LEARNING LOCATED IN THE STATE WHO HAVE CLINICAL AND RESEARCH EXPERTISE RELATING TO BOTH CHILDREN AND ADULTS WITH AUTISM;

(II) AN INDIVIDUAL EMPLOYED AS A DIRECTOR OF SPECIAL EDUCATION AT A SCHOOL DISTRICT LOCATED IN THE STATE;

~~(III) A SPEECH-LANGUAGE PATHOLOGIST;~~

~~(IV)~~ (III) A DIAGNOSTICIAN;

~~(V) A MENTAL HEALTH PROVIDER;~~

(IV) A SCHOOL PSYCHOLOGIST;

~~(VI)~~ (V) A ~~PRIMARY CARE PHYSICIAN~~ PHYSICIAN SPECIALIZING IN PEDIATRICS WHO PRACTICES IN THE STATE;

~~(VII)~~ (VI) THREE PARENTS OF INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS, INCLUDING TWO PARENTS OF AN INDIVIDUAL UNDER THE AGE OF ~~18~~ 21 YEARS AND ONE PARENT OF ~~AN INDIVIDUAL AT LEAST 18 YEARS OLD~~ A TRANSITIONING YOUTH WITH AUTISM;

~~(VIII)~~ (VII) TWO ~~INDIVIDUALS~~ ADULTS WITH AUTISM SPECTRUM DISORDERS;

~~(IX) A REPRESENTATIVE FROM AN INDEPENDENT PRIVATE PROVIDER OR NONPROFIT PROVIDER;~~

(VIII) A REPRESENTATIVE FROM AN ASSOCIATION OF PROVIDERS OF SERVICES TO INDIVIDUALS WITH AUTISM AND OTHER DEVELOPMENTAL DISABILITIES;

~~(X)~~ (IX) ~~THREE~~ TWO MEMBERS OF NONPROFIT ORGANIZATIONS IN THE STATE WHO PROVIDE SERVICES TO INDIVIDUALS OR FAMILIES LIVING WITH AUTISM SPECTRUM DISORDERS AND WHO TOGETHER REPRESENT THE PROVISION OF LIFESPAN SERVICES; ~~AND~~

~~(XI) A REPRESENTATIVE FROM THE MARYLAND HOSPITAL ASSOCIATION;~~

(X) A REPRESENTATIVE OF THE MARYLAND DEVELOPMENTAL DISABILITIES COUNCIL;

(XI) A PHYSICAL THERAPIST LICENSED BY THE STATE BOARD OF PHYSICAL THERAPY EXAMINERS;

(XII) AN OCCUPATIONAL THERAPIST LICENSED BY THE STATE BOARD OF OCCUPATIONAL THERAPY PRACTICE;

(XIII) A REPRESENTATIVE OF A LABOR ORGANIZATION THAT REPRESENTS EMPLOYEES WHO PROVIDE SERVICES TO INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS; AND

(XIV) A REPRESENTATIVE OF A HEALTH INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION THAT DOES BUSINESS IN THE STATE.

(B) (1) MEMBERS OF THE COMMISSION SHALL CONSIST OF A BROAD REPRESENTATION OF MARYLAND CITIZENS, BOTH URBAN AND RURAL, WHO ARE CONCERNED WITH THE HEALTH AND QUALITY OF LIFE FOR INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS.

(2) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE COMMISSION SHALL REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.

(C) THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH AND DISABILITIES OR THE DEPUTY SECRETARY'S DESIGNEE SHALL BE THE CHAIR OF THE COMMISSION.

13-2804.

(A) A MAJORITY OF THE MEMBERS SERVING ON THE COMMISSION IS A QUORUM.

(B) THE COMMISSION SHALL MEET AT LEAST FOUR TIMES A YEAR, INCLUDING AT LEAST TWO TIMES BEFORE JUNE 1, 2010.

(C) THE COMMISSION MAY HOLD MEETINGS IN PERSON OR BY TELEPHONE OR VIDEO CONFERENCE.

(D) 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.

(E) ~~THE DEPUTY SECRETARY OF BEHAVIORAL HEALTH AND DISABILITIES SHALL DESIGNATE~~ THE DEPARTMENT AND THE STATE DEPARTMENT OF EDUCATION SHALL PROVIDE THE STAFF NECESSARY TO CARRY OUT THIS SUBTITLE.

13-2805.

(A) THE COMMISSION SHALL:

(1) ADVISE AND MAKE RECOMMENDATIONS TO THE GOVERNOR, GENERAL ASSEMBLY, AND RELEVANT STATE AGENCIES REGARDING MATTERS

CONCERNING SERVICES FOR INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS AT ALL STATE LEVELS, INCLUDING HEALTH CARE, EDUCATION, AND OTHER ADULT AND ADOLESCENT SERVICES;

(2) DEVELOP A COMPREHENSIVE STATEWIDE PLAN FOR AN INTEGRATED SYSTEM OF TRAINING, TREATMENT, AND SERVICES FOR INDIVIDUALS OF ALL AGES WITH AUTISM SPECTRUM DISORDERS; ~~AND~~

(3) EVALUATE WAYS TO PROMOTE AUTISM SPECTRUM DISORDER AWARENESS; AND

(4) REVIEW THE FINDINGS OF ANY SUMMIT OR CONFERENCE CONVENED BY THE STATE REGARDING AUTISM SPECTRUM DISORDERS.

(B) IN DEVELOPING THE STATEWIDE PLAN UNDER SUBSECTION (A)(2) OF THIS SECTION, THE COMMISSION SHALL:

(1) STUDY AND REPORT ON THE MEANS FOR DEVELOPING A COMPREHENSIVE, COORDINATED SYSTEM OF CARE DELIVERY ACROSS THE STATE AND ENSURING THAT RESOURCES ARE CREATED, WELL-UTILIZED, AND APPROPRIATELY DISTRIBUTED ACROSS THE STATE;

(2) DETERMINE THE NEED FOR THE CREATION OF SERVICES IN DESIGNATED AREAS OF THE STATE;

(3) PLAN FOR EFFECTIVELY EVALUATING REGIONAL SERVICE AREAS THROUGHOUT THE STATE AND THE CAPACITY OF THE AREAS, INCLUDING OUTLINING PERSONNEL AND SKILLS THAT EXIST WITHIN THE SERVICE AREA, OTHER CAPABILITIES THAT EXIST, AND RESOURCE NEEDS THAT MAY BE UNMET;

(4) ASSESS THE NEED FOR ADDITIONAL BEHAVIORAL INTERVENTION CAPABILITIES AND, AS NECESSARY, THE MEANS FOR EXPANDING THOSE CAPABILITIES IN A REGIONAL SERVICE AREA;

~~(5) DEVELOP RECOMMENDATIONS FOR EXPANDING SERVICES IN CONJUNCTION WITH HOSPITALS AFTER CONSIDERING THE RESOURCES THAT EXIST IN TERMS OF SPECIALTY CLINICS, HOSPITALS, AND HOSPITAL INPATIENT CARE;~~

(5) DEVELOP RECOMMENDATIONS TO ADDRESS THE TRANSITION OF CHILDREN AGING OUT OF THE AUTISM MEDICAID WAIVER;

(6) CONDUCT AN ASSESSMENT OF THE NEED FOR COORDINATED, ENHANCED, AND TARGETED SPECIAL EDUCATION TAILORED TOWARD AUTISM SPECTRUM DISORDERS WITHIN EACH REGION OF THE STATE; ~~AND~~

(7) DEVELOP A RECOMMENDATION FOR ENLISTING APPROPRIATE UNIVERSITIES AND COLLEGES TO ENSURE SUPPORT AND COLLABORATION IN DEVELOPING CERTIFICATION OR DEGREE PROGRAMS FOR STUDENTS SPECIALIZING IN AUTISM SPECTRUM DISORDER INTERVENTION;

(8) EVALUATE PROGRAMS THAT CURRENTLY EXIST IN OTHER STATES TO DETERMINE HOW SIMILAR PROGRAMS IN THE STATE COULD BENEFIT INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS; AND

(9) DEVELOP RECOMMENDATIONS FOR FACILITATING THE COORDINATION OF RESEARCH OPPORTUNITIES BETWEEN INSTITUTIONS AND EDUCATION AND HEALTH AGENCIES TO SUPPORT RESEARCH IN ALL AREAS OF AUTISM.

(C) THE COMMISSION MAY:

(1) PROVIDE RECOMMENDATIONS REGARDING TRAINING PROGRAMS AND THE CONTENT OF TRAINING PROGRAMS BEING DEVELOPED;

(2) EVALUATE THE PILOT PROGRAM TO STUDY AND IMPROVE SCREENING PRACTICES FOR AUTISM DISORDERS AND MAKE RECOMMENDATIONS ON WHETHER A SIMILAR PROGRAM SHOULD BE IMPLEMENTED STATEWIDE;

~~(2)~~ (3) RECOMMEND INDIVIDUALS TO PARTICIPATE IN A COMMITTEE OF MAJOR STAKEHOLDERS CHARGED WITH DEVELOPING SCREENING, DIAGNOSTIC, ASSESSMENT, ~~AND TREATMENT~~ TREATMENT, AND SERVICE STANDARDS FOR THE STATE;

~~(3)~~ (4) PARTICIPATE IN RECOMMENDING A PANEL OF QUALIFIED PROFESSIONALS AND EXPERTS TO REVIEW EXISTING MODELS OF EVIDENCE-BASED EDUCATIONAL PRACTICES FOR ADAPTATION SPECIFIC TO THE ~~STATE~~ STATE'S PUBLIC, AND PRIVATE SERVICE PROVIDERS; ~~AND~~

~~(4)~~ (5) EXAMINE THE BARRIERS TO ACCURATE INFORMATION OF THE PREVALENCE OF INDIVIDUALS WITH AUTISM SPECTRUM DISORDERS ACROSS THE STATE AND RECOMMEND A PROCESS FOR ACCURATE REPORTING OF DEMOGRAPHIC DATA; AND

(6) STUDY AND MAKE RECOMMENDATIONS RELATED TO ANY ISSUE RELATED TO AUTISM SPECTRUM DISORDERS THAT IS CONSIDERED NECESSARY BY THE COMMISSION.

13-2806.

THE COMMISSION SHALL ISSUE A REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE:

(1) ON OR BEFORE JUNE 1, 2011, ON THE COMMISSION'S PRELIMINARY FINDINGS AND RECOMMENDATIONS REGARDING THE DEVELOPMENT OF A COMPREHENSIVE STATEWIDE PLAN UNDER § 13-2805 OF THIS SUBTITLE; AND

(2) ON OR BEFORE SEPTEMBER 30, 2012, ON THE COMMISSION'S FINAL FINDINGS AND RECOMMENDATIONS REGARDING THE DEVELOPMENT OF A COMPREHENSIVE STATEWIDE PLAN UNDER § 13-2805 OF THIS SUBTITLE.

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

Approved by the Governor, May 7, 2009.

Chapter 339

(Senate Bill 965)

AN ACT concerning

Caroline County – School Buses – Length of Operation

FOR the purpose of altering the length of time a school bus may be operated in Caroline County; 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 length of time a school bus may be operated in Caroline County.

BY repealing and reenacting, with amendments,

Article – Education

Section 7-804

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education

Section 7–804

Annotated Code of Maryland

(2008 Replacement Volume)

(As enacted by Chapters 637 and 638 of the Acts of the General Assembly of 2008)

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

Article – Education

7–804.

(a) In this section, “school vehicle” has the meaning stated in § 11–154 of the Transportation Article.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 12 years.

(2) (i) In **CAROLINE**, Dorchester, Somerset, Wicomico, and Worcester counties, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 15 years.

(ii) A school vehicle operating under subparagraph (i) of this paragraph shall be maintained as provided in subsection (c) of this section.

(3) Any school vehicle in operation or accepted before July 1, 2004, or under contract to be purchased before July 1, 2004, that meets the specifications of the Department and of the Motor Vehicle Administration for transit style school vehicles may be operated for 15 years.

(c) Notwithstanding the 12–year limitation in subsection (b)(1) of this section, a school vehicle may be operated for additional years if:

(1) The school vehicle is maintained under a preventive maintenance plan approved by the Motor Vehicle Administration and the Automotive Safety Enforcement Division of the Department of State Police that includes an inspection at the end of the 12th year and a minimum of 2 inspections by the Motor Vehicle Administration each year thereafter;

(2) Any structural repairs to the school vehicle necessitated by accident, metal fatigue, or any other cause are certified by an independent expert approved by the Motor Vehicle Administration to meet or exceed the manufacturer’s original manufacturing standards;

- (3) The school vehicle is equipped with:
- (i) The body originally placed on the chassis by the manufacturer;
 - (ii) An 8 light warning system;
 - (iii) A left side stop arm;
 - (iv) A fire-retardant driver's seat;
 - (v) Fire-retardant barriers in the case of a school vehicle with a front engine; and
 - (vi) A fire-retardant rear seating area in the case of a school vehicle with a rear engine; and
- (4) The State Superintendent grants approval.

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

Article - Education

7-804.

(a) In this section, "school vehicle" has the meaning stated in § 11-154 of the Transportation Article.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 12 years.

(2) (i) In **CAROLINE**, Somerset, Wicomico, and Worcester counties, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 15 years.

(ii) A school vehicle operating under subparagraph (i) of this paragraph shall be maintained as provided in subsection (c) of this section.

(3) Any school vehicle in operation or accepted before July 1, 2004, or under contract to be purchased before July 1, 2004, that meets the specifications of the Department and of the Motor Vehicle Administration for transit style school vehicles may be operated for 15 years.

(c) Notwithstanding the 12-year limitation in subsection (b)(1) of this section, a school vehicle may be operated for additional years if:

(1) The school vehicle is maintained under a preventive maintenance plan approved by the Motor Vehicle Administration and the Automotive Safety Enforcement Division of the Department of State Police that includes an inspection at the end of the 12th year and a minimum of 2 inspections by the Motor Vehicle Administration each year thereafter;

(2) Any structural repairs to the school vehicle necessitated by accident, metal fatigue, or any other cause are certified by an independent expert approved by the Motor Vehicle Administration to meet or exceed the manufacturer's original manufacturing standards;

(3) The school vehicle is equipped with:

(i) The body originally placed on the chassis by the manufacturer;

(ii) An 8 light warning system;

(iii) A left side stop arm;

(iv) A fire-retardant driver's seat;

(v) Fire-retardant barriers in the case of a school vehicle with a front engine; and

(vi) A fire-retardant rear seating area in the case of a school vehicle with a rear engine; and

(4) The State Superintendent grants approval.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of the termination provision specified in Section 2 of Chapters 637 and 638 of the Acts of the General Assembly of 2008. If that termination provision takes effect, Section 1 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 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 340**(House Bill 727)**

AN ACT concerning

Caroline County – School Buses – Length of Operation

FOR the purpose of altering the length of time a school bus may be operated in Caroline County; 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 length of time a school bus may be operated in Caroline County.

BY repealing and reenacting, with amendments,

Article – Education

Section 7–804

Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Education

Section 7–804

Annotated Code of Maryland
(2008 Replacement Volume)

(As enacted by Chapters 637 and 638 of the Acts of the General Assembly of
2008)

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

Article – Education

7–804.

(a) In this section, “school vehicle” has the meaning stated in § 11–154 of the Transportation Article.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 12 years.

(2) (i) In **CAROLINE**, Dorchester, Somerset, Wicomico, and Worcester counties, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 15 years.

(ii) A school vehicle operating under subparagraph (i) of this paragraph shall be maintained as provided in subsection (c) of this section.

(3) Any school vehicle in operation or accepted before July 1, 2004, or under contract to be purchased before July 1, 2004, that meets the specifications of the Department and of the Motor Vehicle Administration for transit style school vehicles may be operated for 15 years.

(c) Notwithstanding the 12-year limitation in subsection (b)(1) of this section, a school vehicle may be operated for additional years if:

(1) The school vehicle is maintained under a preventive maintenance plan approved by the Motor Vehicle Administration and the Automotive Safety Enforcement Division of the Department of State Police that includes an inspection at the end of the 12th year and a minimum of 2 inspections by the Motor Vehicle Administration each year thereafter;

(2) Any structural repairs to the school vehicle necessitated by accident, metal fatigue, or any other cause are certified by an independent expert approved by the Motor Vehicle Administration to meet or exceed the manufacturer's original manufacturing standards;

(3) The school vehicle is equipped with:

(i) The body originally placed on the chassis by the manufacturer;

(ii) An 8 light warning system;

(iii) A left side stop arm;

(iv) A fire-retardant driver's seat;

(v) Fire-retardant barriers in the case of a school vehicle with a front engine; and

(vi) A fire-retardant rear seating area in the case of a school vehicle with a rear engine; and

(4) The State Superintendent grants approval.

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

Article - Education

(a) In this section, "school vehicle" has the meaning stated in § 11–154 of the Transportation Article.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 12 years.

(2) (i) In **CAROLINE**, Somerset, Wicomico, and Worcester counties, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 15 years.

(ii) A school vehicle operating under subparagraph (i) of this paragraph shall be maintained as provided in subsection (c) of this section.

(3) Any school vehicle in operation or accepted before July 1, 2004, or under contract to be purchased before July 1, 2004, that meets the specifications of the Department and of the Motor Vehicle Administration for transit style school vehicles may be operated for 15 years.

(c) Notwithstanding the 12–year limitation in subsection (b)(1) of this section, a school vehicle may be operated for additional years if:

(1) The school vehicle is maintained under a preventive maintenance plan approved by the Motor Vehicle Administration and the Automotive Safety Enforcement Division of the Department of State Police that includes an inspection at the end of the 12th year and a minimum of 2 inspections by the Motor Vehicle Administration each year thereafter;

(2) Any structural repairs to the school vehicle necessitated by accident, metal fatigue, or any other cause are certified by an independent expert approved by the Motor Vehicle Administration to meet or exceed the manufacturer's original manufacturing standards;

(3) The school vehicle is equipped with:

(i) The body originally placed on the chassis by the manufacturer;

(ii) An 8 light warning system;

(iii) A left side stop arm;

(iv) A fire–retardant driver's seat;

(v) Fire–retardant barriers in the case of a school vehicle with a front engine; and

(vi) A fire-retardant rear seating area in the case of a school vehicle with a rear engine; and

(4) The State Superintendent grants approval.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of the termination provision specified in Section 2 of Chapters 637 and 638 of the Acts of the General Assembly of 2008. If that termination provision takes effect, Section 1 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 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 341

(Senate Bill 981)

AN ACT concerning

Public Service Companies – Net Energy Metering

FOR the purpose of altering a certain definition of eligible customer-generator; and generally relating to net energy metering.

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

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7-306(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2008 Supplement)

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

Article – Public Utility Companies

7-306.

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

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

(3) "Eligible customer-generator" means a customer that ~~owns and operates or, leases and operates~~ **USES, OR CONTRACTS WITH A THIRD PARTY THAT OWNS AND OPERATES** a biomass, solar, or wind electric generating facility that:

(i) is located on the customer's premises **OR CONTIGUOUS PROPERTY**;

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

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

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

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

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

Approved by the Governor, May 7, 2009.

Chapter 342

(Senate Bill 983)

AN ACT concerning

**Baltimore City - ~~43rd Legislative District~~ - Alcoholic Beverages - Beer, Wine,
and Liquor Tasting License**

FOR the purpose of establishing a Class BWLT beer, wine, and liquor tasting license in ~~a certain part~~ parts of ~~the 41st Legislative District and District,~~ the 43rd Legislative District, and the 44th Legislative District of Baltimore City; establishing fees for Class BWLT licenses; authorizing a Class BWLT license holder to allow the consumption of certain alcoholic beverages for tasting or sampling; requiring a Class A license holder to apply for a Class BWLT license in a certain manner; requiring a Class BWLT license holder to dispose of any unconsumed alcoholic beverages remaining in a container that was opened for tasting or sampling; and generally relating to alcoholic beverages licenses in Baltimore City.

BY adding to

Article 2B – Alcoholic Beverages

Section 8–403.2

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

Article 2B – Alcoholic Beverages

8–403.2.

(A) **THIS SECTION APPLIES ONLY IN:**

(1) WARD 27, PRECINCT 42 OF THE 41ST LEGISLATIVE DISTRICT OF BALTIMORE CITY; AND

(2) ~~WARD~~ WARD 27, PRECINCT ~~32~~ 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.

(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 SHALL SPECIFY THE DATE OR DATES ON WHICH THE TASTING IS REQUESTED TO OCCUR.

(3) THE APPLICATION AND PAYMENT FOR THE DAILY LICENSE 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.

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

Approved by the Governor, May 7, 2009.

Chapter 343

(Senate Bill 1035)

AN ACT concerning

Education – Prince George's Community College Board of Trustees

FOR the purpose of altering the number of members on the Prince George's Community College Board of Trustees; requiring a certain number of the members of the Board to be appointed by the Governor, with the advice and consent of the Senate and a certain number from each of the legislative districts in the county; and generally relating to the membership of the Prince George's Community College Board of Trustees.

BY repealing and reenacting, with amendments,
Article – Education
Section 16-414

Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

16–414.

(a) (1) The Board of Community College Trustees for Prince George's County consists of [~~eight~~] **NINE** members.

(2) Each member shall be a resident of Prince George's County.

(3) Except as provided in subsection (b)(2) of this section:

(i) The term of a member is 5 years; and

(ii) A member may not serve for more than 2 consecutive terms.

(b) (1) [~~Seven~~] **EIGHT** of the members shall be appointed by the Governor, with the advice and consent of the Senate, **ONE FROM EACH LEGISLATIVE DISTRICT IN PRINCE GEORGE'S COUNTY**.

(2) One of the members shall be a regularly enrolled student in good standing at Prince George's Community College. The student member shall:

(i) Be elected by the student body of the Community College in the same manner as other student government officers are elected;

(ii) Have the qualifications required to be student body president of Prince George's Community College; and

(iii) Serve for a term of 1 year beginning July 1 and ending June 30 and if a vacancy occurs during this period, a special election shall be held to elect a successor for the remainder of that term.

(c) The cost of any election shall be paid by the student government.

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

Approved by the Governor, May 7, 2009.

Chapter 344

(Senate Bill 1049)

AN ACT concerning

~~Domestic Violence Education~~ – ~~Tween/Teen Dating Violence Education and Awareness~~

FOR the purpose of requiring the State Board of Education to ~~develop and implement in the public schools a program~~ encourage county boards of education to incorporate certain lessons on dating violence into ~~certain~~ *the county boards' health education curriculum courses in order to educate students about dating violence*; requiring the program to include education on services provided to victims of dating violence; requiring the program to be started in each public school before a certain grade; altering the definition of "victim of domestic violence" for purposes of certain provisions of law to include a certain person; requiring the Governor annually to proclaim the second week in October "Statewide Tween/Teen Dating Violence Education and Awareness Week"; and generally relating to dating violence.

BY adding to

Article – Education
Section 7-411.1
Annotated Code of Maryland
(2008 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article – Family Law
Section 4-513
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)~~

~~BY adding to~~

~~Article – State Government
Section 13-601 to be under the new subtitle "Subtitle 6. Commemorative Weeks"
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)~~

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

Article – Education

7-411.1.

~~(A) THE STATE BOARD SHALL DEVELOP AND IMPLEMENT A PROGRAM IN THE PUBLIC SCHOOLS ENCOURAGE THE COUNTY BOARDS TO INCORPORATE AGE-APPROPRIATE LESSONS ON DATING VIOLENCE INTO THE COUNTY BOARDS' HEALTH EDUCATION CURRICULUM COURSES THAT INCLUDE DISCUSSIONS ON HEALTH, FAMILY, AND HUMAN GROWTH AND DEVELOPMENT TO EDUCATE STUDENTS ABOUT DATING VIOLENCE.~~

~~(B) A PROGRAM DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE EDUCATION ON SERVICES PROVIDED TO VICTIMS OF DATING VIOLENCE.~~

~~(C) THE PROGRAM SHALL BE STARTED IN EACH PUBLIC SCHOOL BEFORE THE SIXTH GRADE.~~

~~Article – Family Law~~

~~4-513.~~

~~In this Part III and in Part IV of this subtitle, “victim of domestic violence” means an individual who has received deliberate, severe, and demonstrable physical injury, or is in fear of imminent deliberate, severe, and demonstrable physical injury from a current or former spouse, [or] a current or former cohabitant, as defined in § 4-501 of this subtitle, OR A PERSON WITH WHOM THE INDIVIDUAL HAS OR HAS HAD A DATING RELATIONSHIP.~~

~~Article – State Government~~

~~SUBTITLE 6. COMMEMORATIVE WEEKS.~~

~~13-601.~~

~~THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND WEEK IN OCTOBER AS TWEEN/TEEN DATING VIOLENCE EDUCATION AND AWARENESS WEEK.~~

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

Approved by the Governor, May 7, 2009.

Chapter 345

(Senate Bill 1057)

AN ACT concerning

Public Service Companies – Termination of Electric and Gas Service – Extreme Temperatures

FOR the purpose of prohibiting a public service company from terminating electric or gas service to a residential customer in a certain area because of nonpayment on a day for which the forecasted high temperature in the area is at or below a certain temperature; prohibiting a public service company from terminating electric service to a residential customer in a certain area because of nonpayment on ~~certain days~~ if a day for which the forecasted ~~heat index~~ temperature in the area is at or above a certain level; temperature; requiring the Public Service Commission to require certain public service companies to designate certain weather station areas for certain purposes; providing for the construction of this Act; requiring the ~~Public Service~~ Commission to adopt regulations to carry out this Act; and generally relating to public service companies and the termination of electric and gas service to residential customers.

BY adding to

Article – Public Utility Companies

Section 7–307.1

Annotated Code of Maryland

(2008 Replacement Volume and 2008 Supplement)

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

Article – Public Utility Companies

7–307.1.

(A) A PUBLIC SERVICE COMPANY MAY NOT TERMINATE ELECTRIC OR GAS SERVICE TO A RESIDENTIAL CUSTOMER IN A DESIGNATED WEATHER STATION AREA BECAUSE OF NONPAYMENT ON A DAY FOR WHICH THE FORECASTED HIGH TEMPERATURE IS 32 DEGREES FAHRENHEIT OR BELOW IN THAT WEATHER STATION AREA.

(B) A PUBLIC SERVICE COMPANY MAY NOT TERMINATE ELECTRIC SERVICE TO A RESIDENTIAL CUSTOMER IN A DESIGNATED WEATHER STATION AREA BECAUSE OF NONPAYMENT‡

~~(1)~~ ON A DAY FOR WHICH THE FORECASTED ~~HEAT INDEX~~ TEMPERATURE IS 95 DEGREES FAHRENHEIT OR ABOVE IN THAT WEATHER STATION AREA; ~~OR~~

~~(2)~~ ON THE DAY IMMEDIATELY PRECEDING A DAY FOR WHICH THE FORECASTED HEAT INDEX IS 95 DEGREES FAHRENHEIT OR ABOVE.

(C) THE COMMISSION SHALL REQUIRE EACH PUBLIC SERVICE COMPANY THAT PROVIDES ELECTRIC OR GAS SERVICE TO DESIGNATE AND FILE WITH THE COMMISSION DESIGNATED WEATHER STATION AREAS WITHIN ITS SERVICE TERRITORY FOR USE IN ADMINISTERING THE RESTRICTIONS ON WEATHER-RELATED TERMINATIONS UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.

(D) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE AUTHORITY OF THE COMMISSION TO ADOPT, BY REGULATION OR ORDER, ADDITIONAL LIMITATIONS AND CONDITIONS ON TERMINATION OF ELECTRIC OR GAS SERVICE THAT ARE MORE PROTECTIVE OF CONSUMERS.

~~(E)~~ (E) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 346

(House Bill 453)

AN ACT concerning

Public Service Companies - Termination of Electric and Gas Service - Extreme Temperatures

FOR the purpose of prohibiting a public service company from terminating electric or gas service to a residential customer in a certain area because of nonpayment on a day for which the forecasted high temperature in the area is at or below a certain temperature; prohibiting a public service company from terminating electric service to a residential customer in a certain area because of nonpayment on ~~certain days~~ if a day for which the forecasted ~~heat index~~ temperature in the area is at or above a certain level; temperature; requiring

the Public Service Commission to require certain public service companies to designate certain weather station areas for certain purposes; providing for the construction of this Act; requiring the ~~Public Service~~ Commission to adopt regulations to carry out this Act; and generally relating to public service companies and the termination of electric and gas service to residential customers.

BY adding to

Article – Public Utility Companies

Section 7–307.1

Annotated Code of Maryland

(2008 Replacement Volume and 2008 Supplement)

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

Article – Public Utility Companies

7–307.1.

(A) A PUBLIC SERVICE COMPANY MAY NOT TERMINATE ELECTRIC OR GAS SERVICE TO A RESIDENTIAL CUSTOMER IN A DESIGNATED WEATHER STATION AREA BECAUSE OF NONPAYMENT ON A DAY FOR WHICH THE FORECASTED HIGH TEMPERATURE IS 32 DEGREES FAHRENHEIT OR BELOW IN THAT WEATHER STATION AREA.

(B) A PUBLIC SERVICE COMPANY MAY NOT TERMINATE ELECTRIC SERVICE TO A RESIDENTIAL CUSTOMER IN A DESIGNATED WEATHER STATION AREA BECAUSE OF NONPAYMENT:

~~(1) ON A DAY FOR WHICH THE FORECASTED ~~HEAT INDEX~~ TEMPERATURE IS 95 DEGREES FAHRENHEIT OR ABOVE IN THAT WEATHER STATION AREA; OR~~

~~(2) ON THE DAY IMMEDIATELY PRECEDING A DAY FOR WHICH THE FORECASTED HEAT INDEX IS 95 DEGREES FAHRENHEIT OR ABOVE.~~

(C) THE COMMISSION SHALL REQUIRE EACH PUBLIC SERVICE COMPANY THAT PROVIDES ELECTRIC OR GAS SERVICE TO DESIGNATE AND FILE WITH THE COMMISSION DESIGNATED WEATHER STATION AREAS WITHIN ITS SERVICE TERRITORY FOR USE IN ADMINISTERING THE RESTRICTIONS ON WEATHER-RELATED TERMINATIONS UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.

(D) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE AUTHORITY OF THE COMMISSION TO ADOPT, BY REGULATION OR ORDER, ADDITIONAL LIMITATIONS AND CONDITIONS ON TERMINATION OF ELECTRIC OR GAS SERVICE THAT ARE MORE PROTECTIVE OF CONSUMERS.

~~(C)~~ (E) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

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

Approved by the Governor, May 7, 2009.

Chapter 347

(Senate Bill 1059)

AN ACT concerning

Cigarette Business Licenses – Cigarette Manufacturers – Definitions and Scope of License

FOR the purpose of altering the definition of “manufacturer” in connection with the licensing of cigarette businesses and certain cigarette safety standards to include certain persons who operate cigarette manufacturing plants outside the United States and certain participating manufacturers; providing that a cigarette manufacturer license authorizes the licensee to sell certain unstamped cigarettes to certain cigarette wholesalers located outside of Maryland under certain circumstances; defining a certain term; and generally relating to cigarette manufacturers and the licensing of cigarette businesses.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 16–201, 16–206(a), and 16–601(d)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Business Regulation

16–201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “License” means:
- (1) a license issued by the Comptroller under § 16–205(a) of this subtitle to:
- (i) act as a manufacturer;
 - (ii) act as a subwholesaler;
 - (iii) act as a vending machine operator;
 - (iv) act as a wholesaler; or
 - (v) act as a storage warehouse; or
- (2) a license issued by the clerk under § 16–205(b) of this subtitle to act as a retailer.
- (c) “Licensed manufacturer” means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a manufacturer.
- (d) “Licensed retailer” means a person licensed by the clerk under § 16–205(b) of this subtitle to act as a retailer.
- (e) “Licensed storage warehouse” means a facility licensed by the Comptroller under § 16–205(a) of this subtitle to act as a storage warehouse.
- (f) “Licensed subwholesaler” means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a subwholesaler.
- (g) “Licensed vending machine operator” means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a vending machine operator.
- (h) “Licensed wholesaler” means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a wholesaler.
- (i) “Manufacturer” means a person who:
- (1) **(I)** operates one or more cigarette manufacturing plants [within the United States]; **OR**
 - (II) IS A PARTICIPATING MANUFACTURER;** and

(2) (i) sells unstamped cigarettes to a licensed cigarette wholesaler located in Maryland;

(ii) **SELLS UNSTAMPED CIGARETTES THAT MAY LAWFULLY BE SOLD IN MARYLAND TO A LICENSED CIGARETTE WHOLESALER LOCATED OUTSIDE OF MARYLAND;**

(iii) (III) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample cigarettes to consumers located in Maryland; or

(iii) (IV) stores unstamped cigarettes in a cigarette storage warehouse in Maryland for subsequent shipment to licensed wholesalers, federal reservations, or persons out of state.

(J) “PARTICIPATING MANUFACTURER” HAS THE MEANING STATED IN § 16-501 OF THIS TITLE.

[(j)] (K) “Retailer” means a person who:

(1) sells cigarettes to consumers through vending machines on fewer than 40 premises;

(2) otherwise sells cigarettes to consumers; or

(3) holds cigarettes for sale to consumers.

[(k)] (L) “Stamped cigarettes” means a package of cigarettes to which tobacco tax stamps are affixed in the amount and manner required by § 12-304 of the Tax – General Article.

[(l)] (M) “Storage warehouse” means a storage facility in Maryland operated for the purpose of storing unstamped cigarettes on behalf of a licensed cigarette manufacturer.

[(m)] (N) (1) “Subwholesaler” means a person who:

(i) holds stamped cigarettes for sale to another person for resale; or

(ii) sells stamped cigarettes to another person for resale.

(2) “Subwholesaler” does not include a person who sells unstamped cigarettes or holds unstamped cigarettes for sale.

[(n)] (O) “Unstamped cigarettes” means a package of cigarettes to which tobacco tax stamps are not affixed in the amount and manner required by § 12–304 of the Tax – General Article.

[(o)] (P) “Vending machine operator” means a person who:

- (1) holds cigarettes for sale to consumers through vending machines on 40 or more premises; or
- (2) sells cigarettes to consumers through vending machines on 40 or more premises.

[(p)] (Q) “Wholesaler” means a person who:

- (1) holds cigarettes for sale to another person for resale; or
- (2) sells cigarettes to another person for resale.

16–206.

(a) A manufacturer license authorizes the licensee to:

(1) sell unstamped cigarettes to:

(I) a licensed cigarette wholesaler located in Maryland; **AND**

(II) **A LICENSED CIGARETTE WHOLESALER LOCATED OUTSIDE OF MARYLAND IF THE UNSTAMPED CIGARETTES MAY LAWFULLY BE SOLD IN MARYLAND;**

(2) except as otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distribute sample cigarettes to consumers located in Maryland;

(3) store unstamped cigarettes in a licensed cigarette storage warehouse for subsequent shipment to licensed wholesalers, federal reservations, or persons out of state; and

(4) upon approval of the Comptroller, act as an agent of a Maryland licensed wholesaler for stamping and distribution of cigarettes.

16–601.

(d) “Manufacturer” [means:

(1) a person that manufactures or otherwise produces, or causes to be manufactured or produced, cigarettes intended for sale in this State, including cigarettes intended for sale in the United States through an importer;

(2) the first purchaser anywhere that intends to resell in the United States cigarettes that the original manufacturer or maker does not intend for sale in the United States; or

(3) a person that is a successor of a person listed in item (1) or (2) of this subsection] **HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.**

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

Approved by the Governor, May 7, 2009.

Chapter 348

(Senate Bill 1070)

AN ACT concerning

Nonprofit Health Service Plans – Hearing and Order – Impact of Law by Another State

FOR the purpose of authorizing the Maryland Insurance Commissioner to hold a certain hearing to review and evaluate a certain impact, if another state enacts a law that requires a nonprofit health service plan operating in this State to provide a certain program or benefits; requiring the Commissioner, based on the review and evaluation, to make a certain determination; requiring the Commissioner to issue a certain order for a certain purpose, under certain circumstances; authorizing the order to include a prohibition on the nonprofit health service plan subsidizing the program or benefits in a certain manner; and generally relating to a hearing and order by the Maryland Insurance Commissioner on the impact of a law by another state on a nonprofit health service plan in this State.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 1-101(mm)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance

Section 14-124
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Insurance

1-101.

(mm) Except as otherwise expressly provided in this article, “state” means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

14-124.

(a) (1) The Commissioner may conduct any investigation or hearing that the Commissioner considers necessary to enforce this subtitle.

(2) In conducting a hearing or investigation under this section, the Commissioner has the same powers with respect to nonprofit health service plans as are granted to the Commissioner under Titles 2 and 4 of this article with respect to any other activity regulated under this article.

(3) IF ANOTHER STATE ENACTS A LAW THAT REQUIRES A NONPROFIT HEALTH SERVICE PLAN OPERATING IN THIS STATE TO PROVIDE A PROGRAM OR BENEFITS FOR THE RESIDENTS OF THE OTHER STATE, THE COMMISSIONER MAY HOLD A QUASI-LEGISLATIVE HEARING OR A HEARING UNDER TITLE 2 OF THIS ARTICLE TO REVIEW AND EVALUATE THE IMPACT OF THE LAW ON THE NONPROFIT HEALTH SERVICE PLAN, INCLUDING THE IMPACT ON:

(I) SURPLUS;

(II) PREMIUM RATES FOR POLICIES ISSUED OR DELIVERED IN THIS STATE; AND

(III) SOLVENCY.

(4) BASED ON THE REVIEW AND EVALUATION UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE COMMISSIONER SHALL DETERMINE WHETHER

THE IMPACT ON THE NONPROFIT HEALTH SERVICE PLAN IS HARMFUL TO THE INTERESTS OF SUBSCRIBERS COVERED BY POLICIES ISSUED OR DELIVERED IN THIS STATE.

(5) (I) IF THE COMMISSIONER DETERMINES THE PROGRAM OR BENEFITS FOR THE RESIDENTS OF ANOTHER STATE HAVE AN IMPACT ON THE NONPROFIT HEALTH SERVICE PLAN THAT IS HARMFUL TO THE INTERESTS OF SUBSCRIBERS COVERED BY POLICIES ISSUED OR DELIVERED IN THIS STATE, THE COMMISSIONER SHALL ISSUE AN APPROPRIATE ORDER TO PROTECT THE SUBSCRIBERS.

(II) THE ORDER ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY INCLUDE A PROHIBITION ON THE NONPROFIT HEALTH SERVICE PLAN SUBSIDIZING THE PROGRAM OR BENEFITS FOR THE RESIDENTS OF ANOTHER STATE THROUGH:

1. PREMIUMS CHARGED TO SUBSCRIBERS UNDER POLICIES ISSUED OR DELIVERED IN THIS STATE; OR

2. USE OF ANY SURPLUS EARNED THROUGH POLICIES ISSUED OR DELIVERED IN THIS STATE.

(b) The Commissioner may adopt regulations to carry out this subtitle.

(c) The Commissioner may commence a delinquency proceeding against a corporation operating under this subtitle for any of the reasons set forth in § 9-211(a) and (b) of this article.

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

Approved by the Governor, May 7, 2009.

Chapter 349

(House Bill 1534)

AN ACT concerning

Nonprofit Health Service Plans – Hearing and Order – Impact of Law by Another State

FOR the purpose of authorizing the Maryland Insurance Commissioner to hold a certain hearing to review and evaluate a certain impact, if another state enacts a law that requires a nonprofit health service plan operating in this State to provide a certain program or benefits; requiring the Commissioner, based on the review and evaluation, to make a certain determination; requiring the Commissioner to issue a certain order for a certain purpose, under certain circumstances; authorizing the order to include a prohibition on the nonprofit health service plan subsidizing the program or benefits in a certain manner; and generally relating to a hearing and order by the Maryland Insurance Commissioner on the impact of a law by another state on a nonprofit health service plan in this State.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 1–101(mm)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 14–124
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Insurance

1–101.

(mm) Except as otherwise expressly provided in this article, “state” means:

- (1) a state, possession, territory, or commonwealth of the United States; or
- (2) the District of Columbia.

14–124.

(a) (1) The Commissioner may conduct any investigation or hearing that the Commissioner considers necessary to enforce this subtitle.

(2) In conducting a hearing or investigation under this section, the Commissioner has the same powers with respect to nonprofit health service plans as are granted to the Commissioner under Titles 2 and 4 of this article with respect to any other activity regulated under this article.

(3) IF ANOTHER STATE ENACTS A LAW THAT REQUIRES A NONPROFIT HEALTH SERVICE PLAN OPERATING IN THIS STATE TO PROVIDE A PROGRAM OR BENEFITS FOR THE RESIDENTS OF THE OTHER STATE, THE COMMISSIONER MAY HOLD A QUASI-LEGISLATIVE HEARING OR A HEARING UNDER TITLE 2 OF THIS ARTICLE TO REVIEW AND EVALUATE THE IMPACT OF THE LAW ON THE NONPROFIT HEALTH SERVICE PLAN, INCLUDING THE IMPACT ON:

(I) SURPLUS;

(II) PREMIUM RATES FOR POLICIES ISSUED OR DELIVERED IN THIS STATE; AND

(III) SOLVENCY.

(4) BASED ON THE REVIEW AND EVALUATION UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE COMMISSIONER SHALL DETERMINE WHETHER THE IMPACT ON THE NONPROFIT HEALTH SERVICE PLAN IS HARMFUL TO THE INTERESTS OF SUBSCRIBERS COVERED BY POLICIES ISSUED OR DELIVERED IN THIS STATE.

(5) (I) IF THE COMMISSIONER DETERMINES THE PROGRAM OR BENEFITS FOR THE RESIDENTS OF ANOTHER STATE HAVE AN IMPACT ON THE NONPROFIT HEALTH SERVICE PLAN THAT IS HARMFUL TO THE INTERESTS OF SUBSCRIBERS COVERED BY POLICIES ISSUED OR DELIVERED IN THIS STATE, THE COMMISSIONER SHALL ISSUE AN APPROPRIATE ORDER TO PROTECT THE SUBSCRIBERS.

(II) THE ORDER ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY INCLUDE A PROHIBITION ON THE NONPROFIT HEALTH SERVICE PLAN SUBSIDIZING THE PROGRAM OR BENEFITS FOR THE RESIDENTS OF ANOTHER STATE THROUGH:

1. PREMIUMS CHARGED TO SUBSCRIBERS UNDER POLICIES ISSUED OR DELIVERED IN THIS STATE; OR

2. USE OF ANY SURPLUS EARNED THROUGH POLICIES ISSUED OR DELIVERED IN THIS STATE.

(b) The Commissioner may adopt regulations to carry out this subtitle.

(c) The Commissioner may commence a delinquency proceeding against a corporation operating under this subtitle for any of the reasons set forth in § 9–211(a) and (b) of this article.

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

Approved by the Governor, May 7, 2009.

Chapter 350

(Senate Bill 58)

AN ACT concerning

Family Law – Termination of Parental Rights

FOR the purpose of requiring that, before a juvenile court may grant guardianship of a child in a certain guardianship proceeding without certain consent and over the child's objection, the juvenile court must find by clear and convincing evidence that a parent is unfit to remain in a parental relationship with the child or that certain exceptional circumstances exist such that terminating the rights of the parent is in the child's best interests; providing for the application of this Act; and generally relating to guardianship of a child and termination of parental rights.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–323
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Family Law

5–323.

(a) In this section, “drug” means cocaine, heroin, methamphetamine, or a derivative of cocaine, heroin, or methamphetamine.

(b) If, after consideration of factors as required in this section, a juvenile court finds by clear and convincing evidence that A PARENT IS UNFIT TO REMAIN IN A PARENTAL RELATIONSHIP WITH THE CHILD OR THAT EXCEPTIONAL

CIRCUMSTANCES EXIST THAT WOULD MAKE A CONTINUATION OF THE PARENTAL RELATIONSHIP DETRIMENTAL TO THE BEST INTERESTS OF THE CHILD SUCH THAT terminating the rights of [a] THE parent is in a child's best interests, the juvenile court may grant guardianship of the child without consent otherwise required under this subtitle and over the child's objection.

(c) A juvenile court need not consider any factor listed in subsection (d) of this section in determining a child's best interests if, after a thorough investigation by a local department, the juvenile court finds that:

(1) the identities of the child's parents are unknown; and

(2) during the 60 days immediately after the child's adjudication as a child in need of assistance, no one has claimed to be the child's parent.

(d) Except as provided in subsection (c) of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, including:

(1) (i) all services offered to the parent before the child's placement, whether offered by a local department, another agency, or a professional;

(ii) the extent, nature, and timeliness of services offered by a local department to facilitate reunion of the child and parent; and

(iii) the extent to which a local department and parent have fulfilled their obligations under a social services agreement, if any;

(2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:

(i) the extent to which the parent has maintained regular contact with:

1. the child;

2. the local department to which the child is committed;

and

3. if feasible, the child's caregiver;

(ii) the parent's contribution to a reasonable part of the child's care and support, if the parent is financially able to do so;

(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and

(iv) whether additional services would be likely to bring about a lasting parental adjustment so that the child could be returned to the parent within an ascertainable time not to exceed 18 months from the date of placement unless the juvenile court makes a specific finding that it is in the child's best interests to extend the time for a specified period;

(3) whether:

(i) the parent has abused or neglected the child or a minor and the seriousness of the abuse or neglect;

(ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or

B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and

2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5-1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;

(iii) the parent subjected the child to:

1. chronic abuse;

2. chronic and life-threatening neglect;

3. sexual abuse; or

4. torture;

(iv) the parent has been convicted, in any state or any court of the United States, of:

1. a crime of violence against:

A. a minor offspring of the parent;

B. the child; or

C. another parent of the child; or

2. aiding or abetting, conspiring, or soliciting to commit a crime described in subitem 1 of this item; and

(v) the parent has involuntarily lost parental rights to a sibling of the child; and

(4) (i) the child's emotional ties with and feelings toward the child's parents, the child's siblings, and others who may affect the child's best interests significantly;

(ii) the child's adjustment to:

1. community;

2. home;

3. placement; and

4. school;

(iii) the child's feelings about severance of the parent-child relationship; and

(iv) the likely impact of terminating parental rights on the child's well-being.

(e) (1) A juvenile court shall consider the evidence under subsection (d)(3)(i) and (ii) of this section as to a continuing or serious act or condition and may waive a local department's obligations for services described in subsection (d)(1) of this section if, after appropriate evaluation of efforts made and services offered, the juvenile court finds by clear and convincing evidence that a waiver is in the child's best interests.

(2) A juvenile court may waive a local department's obligations for services described in subsection (d)(1) of this section if the juvenile court finds by clear and convincing evidence that one or more of the acts or circumstances listed in subsection (d)(3)(iii), (iv), or (v) of this section exists.

(3) If a juvenile court waives reunification efforts under § 3-812(d) of the Courts Article, the juvenile court may not consider any factor under subsection (d)(1) of this section.

(f) If a juvenile court finds that an act or circumstance listed in subsection (d)(3)(iii), (iv), or (v) of this section exists, the juvenile court shall make a specific finding, based on facts in the record, whether return of the child to a parent's custody poses an unacceptable risk to the child's future safety.

(g) If a parent has consented to guardianship in accordance with § 5-320(a)(1)(iii)1 of this subtitle, the loss of parental rights shall be considered voluntary.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to petitions for guardianship pending on or filed on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 351

(Senate Bill 61)

AN ACT concerning

Maryland Port Administration – Jurisdiction, Powers, and Duties

FOR the purpose of expanding the Maryland Port Administration's jurisdiction to include certain inland properties or facilities; authorizing the Administration to exercise its powers and duties at certain inland properties or facilities; and generally relating to the jurisdiction, powers, and duties of the Maryland Port Administration.

BY repealing and reenacting, with amendments,

Article – Transportation
Section 6-103(a)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Transportation

6-103.

(a) Except as otherwise provided in this title, the Administration has jurisdiction and may exercise its powers and duties in or near any of the navigable waters of this State **OR AT INLAND PROPERTIES OR FACILITIES ACQUIRED, LEASED, OR OPERATED BY THE ADMINISTRATION FOR THE TRANSPORT OR STORAGE OF CARGO AND EQUIPMENT.**

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

Approved by the Governor, May 7, 2009.

Chapter 352

(Senate Bill 63)

AN ACT concerning

Oral Health Safety Net Program – Sunset Repeal

FOR the purpose of repealing the termination provision for the Oral Health Safety Net Program in the Department of Health and Mental Hygiene; and generally relating to the Oral Health Safety Net Program.

BY repealing and reenacting, with amendments,
Chapter 527 of the Acts of the General Assembly of 2007
Section 3

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

Chapter 527 of the Acts of 2007

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. [It shall remain effective for a period of 4 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and no further force and effect.]

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

Approved by the Governor, May 7, 2009.

Chapter 353

(Senate Bill 64)

AN ACT concerning

Alcoholic Beverage Tax – Assessment and Appeals – Tax Procedures and Penalties

FOR the purpose of establishing a certain administrative appeals process for persons or governmental units against which an assessment of alcoholic beverage tax has been made by the Comptroller; authorizing the Comptroller or the Comptroller's designee to issue an order decreasing or abating an alcoholic beverage tax assessment under certain circumstances; altering a certain penalty for failure to pay alcoholic beverage tax when due; and generally relating to alcoholic beverage tax assessments and appeals.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 13–508(a) and (c), 13–509(a), and 13–701(b)(1)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 13–701(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

13–508.

(a) Within 30 days after the date on which a notice of assessment of the admissions and amusement tax, **ALCOHOLIC BEVERAGE TAX**, boxing and wrestling tax, income tax, motor carrier tax, motor fuel tax, public service company franchise tax, financial institution franchise tax, sales and use tax, or tobacco tax is mailed, a person or governmental unit against which the assessment is made may submit to the tax collector:

(1) an application for revision of the assessment; or

(2) except for the public service company franchise tax, if the assessment is paid, a claim for refund.

(c) The Comptroller or an employee of the Comptroller's office expressly designated by the Comptroller promptly:

(1) (i) shall hold an informal hearing on a person's or governmental unit's admissions and amusement tax, **ALCOHOLIC BEVERAGE TAX**,

boxing and wrestling tax, income tax, motor carrier tax, motor fuel tax, sales and use tax, or tobacco tax application for revision or claim for refund under subsection (a) of this section; and

(ii) after the hearing:

1. shall act on the application for revision; and

2. may assess any additional tax, penalty, and interest

due; and

(2) shall mail to the person or governmental unit a notice of final determination.

13-509.

(a) Notwithstanding a person's failure to file a timely application for revision or claim for refund of an assessment of the admissions and amusement tax, **ALCOHOLIC BEVERAGE TAX**, boxing and wrestling tax, income tax, motor carrier tax, motor fuel tax, sales and use tax, or tobacco tax under § 13-508(a) of this subtitle, the Comptroller or the Comptroller's designee may issue an order decreasing or abating an assessment to correct an erroneous assessment.

13-701.

(a) Except as otherwise provided in this subtitle, if a person or governmental unit fails to pay a tax when due under this article, the tax collector shall assess a penalty not exceeding 10% of the unpaid tax.

(b) (1) If a person fails to pay **ALCOHOLIC BEVERAGE TAX**, financial institution franchise tax, income tax, or tobacco tax when required under this article, the tax collector shall assess a penalty not exceeding 25% of the unpaid tax.

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

Approved by the Governor, May 7, 2009.

Chapter 354

(Senate Bill 66)

AN ACT concerning

**Supplemental Retirement Plans and Optional Retirement Program –
Employing Institutions – Community Colleges**

FOR the purpose of designating certain community colleges or certain regional community colleges as employing institutions for certain employees participating in supplemental retirement plans and the Optional Retirement Program; requiring certain employing institutions to select one or more designated companies under certain circumstances that may offer supplemental retirement accounts to their employees and to administer the participation of those employees in the supplemental retirement plan under certain circumstances; requiring certain employing institutions to select one or more companies under certain circumstances that may offer supplemental retirement accounts to their employees and to administer the participation of those employees in the supplemental retirement plan under certain circumstances; requiring a certain company to provide indemnification under certain circumstances; declaring the intent of the General Assembly; providing for the application of this Act; and generally relating to employing institutions' supplemental retirement plans and the Optional Retirement Program.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 30–101(a) and (c)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 30–101(e) and (j), 30–210, and 30–212
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 30–401 to be under the new subtitle “Subtitle 4. Supplemental Retirement Plans”
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

30–101.

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

(c) “Designated company” means an entity that:

(1) on or before March 1, 1993, was designated by the governing board of an employing institution to offer annuity contracts under the program; or

(2) is designated by the Board of Trustees.

(e) “Employing institution” means:

(1) the University System of Maryland;

(2) Morgan State University;

(3) St. Mary’s College; [and]

(4) the Maryland Higher Education Commission with respect to eligible employees of the Commission [or]; **AND**

(5) any community college or regional community college established under Title 16 of the Education Article.

(j) “Supplemental retirement plans” means plans established pursuant to [§ 30–210] **§ 30–401** of this title.

30–210.

[(a)] With respect to a participating employee who is employed by an employing institution or an institution over which the employing institution has administrative authority, the employing institution shall administer the participating employee’s enrollment, termination, or retirement under the program.

[(b) (1) An employing institution may:

(i) establish supplemental retirement plans that provide supplemental retirement accounts offered by a designated company in accordance with § 401(a), § 403(b), or § 457 of the Internal Revenue Code, or any other provision of federal law that authorizes supplemental retirement accounts; and

(ii) authorize its employees or the employees of an institution over which it has administrative authority to participate in one or more of the supplemental retirement plans.

(2) If an employing institution authorizes its employees or the employees of an institution over which it has administrative authority to participate in a supplemental retirement plan, the employing institution shall designate the companies that may offer supplemental retirement accounts to those employees and

shall administer the participation of those employees in the supplemental retirement plan.

(3) Contributions authorized under this subsection to a supplemental retirement account on behalf of an employee may be made by payroll deduction, a reduction in salary, or deferral in compensation in accordance with § 403(b), § 457, or § 414(h) of the Internal Revenue Code.

(4) 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.

(5) An employee of an employing institution with discretionary authority over the management or administration of any of the supplemental retirement plans or the management or disposition of the assets of any of the supplemental retirement plans is entitled to indemnification and insurance as provided under § 30-210.1 of this subtitle.]

30-212.

A designated company **OR A COMPANY AUTHORIZED TO PROVIDE SUPPLEMENTAL RETIREMENT ACCOUNTS UNDER § 30-401 OF THIS TITLE** shall hold harmless and indemnify the State, the Board of Trustees, employing institutions, and the officers, agents, and employees of the State, the Board of Trustees, and employing institutions from any claims or demands arising from any act or omission on the part of the designated company **OR A COMPANY AUTHORIZED TO PROVIDE SUPPLEMENTAL RETIREMENT ACCOUNTS UNDER § 30-401 OF THIS TITLE** or its officers, agents, or employees, including any claim or demand for payment of benefits or damages arising from the formation, execution, performance, or termination of an annuity contract.

SUBTITLE 4. SUPPLEMENTAL RETIREMENT PLANS.

30-401.

(A) AN EMPLOYING INSTITUTION MAY:

(1) ESTABLISH SUPPLEMENTAL RETIREMENT PLANS THAT PROVIDE SUPPLEMENTAL RETIREMENT ACCOUNTS OFFERED BY A DESIGNATED COMPANY IN ACCORDANCE WITH § 401(A), § 403(B), OR § 457 OF THE INTERNAL REVENUE CODE, OR ANY OTHER PROVISION OF FEDERAL LAW THAT AUTHORIZES SUPPLEMENTAL RETIREMENT ACCOUNTS; AND

(2) AUTHORIZE ITS EMPLOYEES OR THE EMPLOYEES OF AN INSTITUTION OVER WHICH IT HAS ADMINISTRATIVE AUTHORITY TO PARTICIPATE IN ONE OR MORE OF THE SUPPLEMENTAL RETIREMENT PLANS.

(B) ~~IF (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF AN EMPLOYING INSTITUTION AUTHORIZES ITS EMPLOYEES OR THE EMPLOYEES OF AN INSTITUTION OVER WHICH IT HAS ADMINISTRATIVE AUTHORITY TO PARTICIPATE IN A SUPPLEMENTAL RETIREMENT PLAN, THE EMPLOYING INSTITUTION SHALL DESIGNATE THE COMPANIES~~ SELECT ONE OR MORE OF THE DESIGNATED COMPANIES UNDER § 30-202 OF THIS TITLE THAT MAY OFFER SUPPLEMENTAL RETIREMENT ACCOUNTS TO THOSE EMPLOYEES AND SHALL ADMINISTER THE PARTICIPATION OF THOSE EMPLOYEES IN THE SUPPLEMENTAL RETIREMENT PLAN.

(2) WITH RESPECT TO A COMMUNITY OR REGIONAL COLLEGE ESTABLISHED UNDER TITLE 16 OF THE EDUCATION ARTICLE, OTHER THAN A COMMUNITY COLLEGE ESTABLISHED UNDER TITLE 16, SUBTITLE 5 OF THE EDUCATION ARTICLE, IF AN EMPLOYING INSTITUTION AUTHORIZES ITS EMPLOYEES OR THE EMPLOYEES OF AN INSTITUTION OVER WHICH IT HAS ADMINISTRATIVE AUTHORITY TO PARTICIPATE IN A SUPPLEMENTAL RETIREMENT PLAN, THE EMPLOYING INSTITUTION SHALL SELECT ONE OR MORE COMPANIES THAT MAY OFFER SUPPLEMENTAL RETIREMENT ACCOUNTS TO THOSE EMPLOYEES AND SHALL ADMINISTER THE PARTICIPATION OF THOSE EMPLOYEES IN THE SUPPLEMENTAL RETIREMENT PLAN.

(C) CONTRIBUTIONS AUTHORIZED UNDER THIS ~~SUBSECTION~~ SECTION TO A SUPPLEMENTAL RETIREMENT ACCOUNT ON BEHALF OF AN EMPLOYEE MAY BE MADE BY PAYROLL DEDUCTION, A REDUCTION IN SALARY, OR DEFERRAL IN COMPENSATION IN ACCORDANCE WITH § 403(B), § 457, OR § 414(H) OF THE INTERNAL REVENUE CODE.

(D) 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.

(E) AN EMPLOYEE OF AN EMPLOYING INSTITUTION WITH DISCRETIONARY AUTHORITY OVER THE MANAGEMENT OR ADMINISTRATION OF ANY OF THE SUPPLEMENTAL RETIREMENT PLANS OR THE MANAGEMENT OR DISPOSITION OF THE ASSETS OF ANY OF THE SUPPLEMENTAL RETIREMENT PLANS IS ENTITLED TO INDEMNIFICATION AND INSURANCE AS PROVIDED UNDER § 30-210.1 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act may not be construed to limit, expand, or alter the eligibility of employees to participate in the supplemental plans offered by the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans established under the State Personnel and Pensions Article.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act may not be construed to diminish in any way the State's contribution to the funding of community college employees' Optional Retirement Program.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect supplemental retirement accounts authorized and supplemental annuity contributions made after December 31, 2008.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 355

(Senate Bill 67)

AN ACT concerning

Corporations and Associations – Proof of Good Standing for Foreign Business Entities

FOR the purpose of requiring certain foreign business entities that are required to register or qualify to do business in Maryland to provide the State Department of Assessments and Taxation certain proof of good standing in the jurisdictions where the foreign business entities currently are organized; and generally relating to registration and qualification requirements for foreign business entities.

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 4A-1002, 7-202, 7-203, 9A-1101, and 10-902
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Corporations and Associations

4A-1002.

(a) Before doing any interstate, intrastate, or foreign business in this State, a foreign limited liability company shall register with the Department.

(b) In order to register, a foreign limited liability company shall submit to the Department an application for registration as a foreign limited liability company executed by an authorized person and setting forth:

(1) The name of the foreign limited liability company and, if different, the name under which it proposes to register and do business in this State;

(2) The state under whose laws it was formed and the date of its formation;

(3) The general character of the business it proposes to transact in this State;

(4) The name and address of its resident agent in this State;

(5) A statement that the Department is appointed as the resident agent of the foreign limited liability company if no resident agent has been appointed under paragraph (4) of this subsection or, if appointed, the resident agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence; [and]

(6) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited liability company; **AND**

(7) PROOF ACCEPTABLE TO THE DEPARTMENT OF GOOD STANDING IN THE JURISDICTION WHERE IT CURRENTLY IS ORGANIZED.

7-202.

(a) Unless it is qualified to do business under § 7-203 of this subtitle, before doing any interstate or foreign business in this State, a foreign corporation shall register with the Department.

(b) To register, the corporation shall [certify]:

(1) **CERTIFY** to the Department:

[(1)] (I) The address of the corporation; and

[(2)] (II) The name and address of its resident agent in this State;

AND

(2) **PROVIDE PROOF ACCEPTABLE TO THE DEPARTMENT OF GOOD STANDING IN THE JURISDICTION WHERE IT CURRENTLY IS ORGANIZED.**

(c) Unless terminated by the corporation, the registration is effective as long as the corporation has a resident agent in this State.

7-203.

(a) Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department.

(b) To qualify, the corporation shall [certify]:

(1) **CERTIFY** to the Department:

[(1)] (I) The address of the corporation; and

[(2)] (II) The name and address of its resident agent in this State;

AND

(2) **PROVIDE PROOF ACCEPTABLE TO THE DEPARTMENT OF GOOD STANDING IN THE JURISDICTION WHERE IT CURRENTLY IS ORGANIZED.**

(c) Unless terminated by the corporation, the qualification is effective as long as:

(1) The corporation has a resident agent in this State;

(2) The corporation does not forfeit its right to do intrastate business under the laws of this State; and

(3) If the corporation qualifies or changes its name after June 1, 1951, the name of the corporation complies with the requirements of Title 1, Subtitle 5 of this article.

9A-1101.

(a) Before doing any interstate, intrastate, or foreign business in this State, a foreign limited liability partnership shall register with the Department.

(b) In order to register, a foreign limited liability partnership shall submit to the Department an application for registration as a foreign limited liability partnership executed by an authorized person and setting forth:

(1) The name of the foreign limited liability partnership and, if different, the name under which it proposes to register and do business in this State;

(2) The state under whose laws it was formed and the date of its formation;

(3) The general character of the business it proposes to transact in this State;

(4) The name and address of its resident agent in this State;

(5) A statement that the Department is appointed as the resident agent of the foreign limited liability partnership if no resident agent has been appointed under paragraph (4) of this subsection or, if appointed, the resident agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence; [and]

(6) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited liability partnership; **AND**

(7) PROOF ACCEPTABLE TO THE DEPARTMENT OF GOOD STANDING IN THE JURISDICTION WHERE IT CURRENTLY IS ORGANIZED.

10-902.

Before doing any interstate, intrastate, or foreign business in this State, a foreign limited partnership shall register with the Department. In order to register, a foreign limited partnership shall submit to the Department an application for registration as a foreign limited partnership, executed by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and do business in this State;

(2) The state or country under whose laws it was formed and the date of its formation;

(3) The general character of the business it proposes to transact in this State;

(4) The name and address of its resident agent in this State;

(5) A statement that the Department is appointed the resident agent of the foreign limited partnership if no resident agent has been appointed under paragraph (4) or, if appointed, the resident agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

(6) The address of the office required to be maintained in the state or country of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign limited partnership; [and]

(7) The name and business, residence, or mailing address of each of the general partners; **AND**

(8) PROOF ACCEPTABLE TO THE DEPARTMENT OF GOOD STANDING IN THE JURISDICTION WHERE IT CURRENTLY IS ORGANIZED.

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

Approved by the Governor, May 7, 2009.

Chapter 356

(Senate Bill 69)

AN ACT concerning

Vehicle Laws – Air-Conditioning Equipment Specifications and Requirements

FOR the purpose of repealing a certain prohibition against motor vehicle air-conditioning equipment containing a refrigerant that is toxic or flammable; limiting the refrigerants that may be used in motor vehicle air-conditioning equipment beginning with motor vehicles of a certain model year; providing for consultation with the Department of the Environment in the adoption of certain regulations by the Motor Vehicle Administrator; altering the application of a certain prohibition concerning the sale or equipping of motor vehicles with certain air-conditioning equipment; repealing a certain prohibition against the use of a motor vehicle with certain air-conditioning equipment; clarifying language; defining certain terms; making stylistic changes; and generally relating to motor vehicle air-conditioning equipment.

BY repealing and reenacting, with amendments,

Article – Transportation
Section 22–410
Annotated Code of Maryland
(2006 Replacement Volume and 2008 Supplement)

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

Article – Transportation

22–410.

(a) (1) In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) [“air conditioning”] **“AIR–CONDITIONING equipment”** means mechanical vapor compression refrigeration equipment used to cool the driver’s or passenger compartment of any motor vehicle.

(3) **“OZONE–DEPLETING REFRIGERANT” MEANS A REFRIGERANT USED IN AIR–CONDITIONING EQUIPMENT THAT CONTAINS A SUBSTANCE IDENTIFIED IN 42 U.S.C. § 7671A(A) OR (B).**

(b) [Air conditioning] **AIR–CONDITIONING** equipment shall be manufactured, **INSTALLED, AND MAINTAINED** with due regard for the safety of the occupants of the vehicle and the public [and may not contain any refrigerant that is toxic to persons or is flammable].

(c) [Air conditioning equipment shall be installed with due regard for the safety of the occupants of the vehicle and the public and may not contain any refrigerant that is toxic to persons or is flammable] **IN A MOTOR VEHICLE OF MODEL YEAR ~~2010~~ 2011, OR ANY MODEL YEAR THEREAFTER, THE AIR–CONDITIONING EQUIPMENT MAY CONTAIN ONLY A REFRIGERANT THAT:**

(1) **IS NOT AN OZONE–DEPLETING REFRIGERANT; OR**

(2) **IS INCLUDED IN THE LIST PUBLISHED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS A SAFE ALTERNATIVE TO CHLOROFLUOROCARBON–12, PURSUANT TO 42 U.S.C. § 7671K(C).**

(d) [Air conditioning equipment shall be maintained with due regard for the safety of the occupants of the vehicle and the public and may not contain any refrigerant that is toxic to persons or is flammable.

(e)] The Administrator, **IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT**, may adopt and enforce safety requirements, regulations, and specifications for [air conditioning] **AIR-CONDITIONING** equipment consistent with the requirements of this section.

[(f)] **(E)** A person may not have for sale, offer for sale, sell, or equip any motor vehicle, **OF MODEL YEAR 2010 2011 OR THEREAFTER**, with any [air conditioning] **AIR-CONDITIONING** equipment unless [it] **THE AIR-CONDITIONING EQUIPMENT** complies with the requirements of this section.

[(g)] A person may not drive on any highway any motor vehicle equipped with any air conditioning equipment unless the equipment complies with the requirements of this section.]

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

Approved by the Governor, May 7, 2009.

Chapter 357

(Senate Bill 75)

AN ACT concerning

Public Information Act – ~~Maryland Port Administration~~ – Confidentiality of Security-Related Documents and Records

FOR the purpose of adding certain documents and records concerning ports to the list of certain security-related documentation that may be exempt from disclosure under the Public Information Act; specifying the intent of this Act regarding certain inspections by certain exclusive representatives of records of the Maryland Port Administration or the Maryland Aviation Administration; requiring the exclusive representative, before inspecting certain records under this Act, to enter into a certain nondisclosure agreement; and generally relating to public inspection of certain port security-related documents and records.

BY repealing and reenacting, with amendments,
Article – State Government
Section 10-618(j)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Government

10–618.

(j) (1) Subject to paragraphs (2), (3), and (4) of this subsection, a custodian may deny inspection of:

(i) response procedures or plans prepared to prevent or respond to emergency situations, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures, or specific security procedures;

(ii) 1. building plans, blueprints, schematic drawings, diagrams, operational manuals, or other records of **PORTS AND** airports and other mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are stored, arenas, stadiums, waste and water systems, and any other building, structure, or facility, the disclosure of which would reveal the building's, structure's or facility's internal layout, specific location, life, safety, and support systems, structural elements, surveillance techniques, alarm or security systems or technologies, operational and transportation plans or protocols, or personnel deployments; or

2. records of any other building, structure, or facility, the disclosure of which would reveal the building's, structure's, or facility's life, safety, and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments; or

(iii) records prepared to prevent or respond to emergency situations identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories.

(2) The custodian may deny inspection of a part of a public record under paragraph (1) of this subsection only to the extent that the inspection would:

(i) jeopardize the security of any building, structure, or facility;

(ii) facilitate the planning of a terrorist attack; or

(iii) endanger the life or physical safety of an individual.

(3) (i) Subject to subparagraph (ii) of this paragraph, a custodian may not deny inspection of a public record under paragraph (1) or (2) of this subsection

that relates to a building, structure, or facility that has been subjected to a catastrophic event, including a fire, explosion, or natural disaster.

(ii) This paragraph does not apply to the records of any building, structure, or facility owned or operated by the State or any of its political subdivisions.

(4) (i) Subject to paragraphs (1) and (2) of this subsection and subparagraph (ii) of this paragraph, a custodian may not deny inspection of a public record that relates to an inspection of or issuance of a citation concerning a building, structure, or facility by an agency of the State or any political subdivision.

(ii) This paragraph does not apply to the records of any building, structure, or facility owned or operated by the State or any of its political subdivisions.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is not intended to limit inspection by the exclusive representative, as defined in § 3-101(e) of the State Personnel and Pensions Article, of records of the Maryland Port Administration or the Maryland Aviation Administration whose inspection is authorized under § 10-618(j)(1)(ii) of the State Government Article, as enacted by Section 1 of this Act, that would otherwise be available to the exclusive representative pursuant to the Health and Safety Article Provisions of the 2008 Memorandum of Understanding or any identical article of a successor memorandum between the State and the exclusive representatives and that are authorized to be inspected under federal law. Before the inspection of a public record under this Act in accordance with this section, the exclusive representative shall enter into a nondisclosure agreement for any documents inspected to ensure the confidentiality of the information provided.

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

Approved by the Governor, May 7, 2009.

Chapter 358

(Senate Bill 76)

AN ACT concerning

Baltimore City Community College – Term of Student Trustee

FOR the purpose of altering the beginning and ending days of the term of the student member of the Baltimore City Community College Board of Trustees.

BY repealing and reenacting, with amendments,
Article – Education

Section 16-504(c)(1)
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article - Education

16-504.

(c) (1) The student member shall have a term of 1 year beginning [June] **JULY 1** and ending on [May 31] **JUNE 30**.

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

Approved by the Governor, May 7, 2009.

Chapter 359

(Senate Bill 81)

AN ACT concerning

State Personnel - Maryland Whistleblower Law - Confidentiality of Information Obtained During Investigations of Complaints

FOR the purpose of establishing that information obtained during investigations of complaints conducted under the Maryland Whistleblower Law is confidential within the meaning of certain provisions of law; providing for the application of this Act; and generally relating to the Maryland Whistleblower Law in the Executive Branch of State government.

BY adding to

Article - State Personnel and Pensions
Section 5-314
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article - State Personnel and Pensions

5-314.

INFORMATION OBTAINED AS PART OF AN INVESTIGATION CONDUCTED UNDER THIS SUBTITLE IS CONFIDENTIAL WITHIN THE MEANING OF TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any information obtained as part of an investigation of a complaint conducted under Title 5, Subtitle 3 of the State Personnel and Pensions Article that was initiated or completed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.

Chapter 360

(Senate Bill 83)

AN ACT concerning

Human Services – Child Welfare Workforce

FOR the purpose of altering certain provisions relating to the training and testing of certain child welfare caseworkers; and generally relating to the child welfare workforce.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 4-301
Annotated Code of Maryland
(2007 Volume and 2008 Supplement)

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

Article – Human Services

4-301.

(a) The Secretary shall implement a comprehensive plan to recruit, train, and retain child welfare caseworkers and casework supervisors who meet the requirements of this section.

(b) (1) The Secretary shall hire as caseworkers only human services professionals, such as:

(i) social workers licensed in accordance with Title 19 of the Health Occupations Article;

(ii) psychologists licensed in accordance with Title 18 of the Health Occupations Article;

(iii) professional counselors certified in accordance with Title 17 of the Health Occupations Article;

(iv) nurses licensed in accordance with Title 8 of the Health Occupations Article;

(v) school psychologists certified in accordance with regulations adopted under Title 6, Subtitle 7 of the Education Article; and

(vi) human service workers who:

1. have a degree in an appropriate behavioral science;
2. have completed the mandatory preservice training and competency test; and
3. are supervised by licensed social workers.

(2) The Secretary may retain permanent employees employed on or before December 31, 1998 who do not have the qualifications specified in paragraph (1) of this subsection if the Secretary finds that the employees are performing their duties satisfactorily.

(c) The Secretary shall:

(1) implement a preservice training program and competency test for newly employed caseworkers;

(2) require that all new casework staff:

(i) be hired provisionally;

(ii) **EXCEPT FOR STAFF DESCRIBED IN ITEM (4) OF THIS SUBSECTION**, complete a 40-hour preservice training program; and

(iii) pass a competency test before being granted permanent employment status; [and]

(3) implement mandatory standards for continuing education for all caseworkers and casework supervisors that require that employees who fail to obtain the required continuing education credits be subject to disciplinary action, including demotion, suspension, and dismissal;

(4) DEVELOP AND IMPLEMENT MANDATORY STANDARDS THAT EXEMPT NEWLY HIRED INDIVIDUALS WHO HAVE DOCUMENTED AND VERIFIED PUBLIC CASEWORK EXPERIENCE OR HOLD APPROPRIATE STATE LICENSURE FROM THE 40-HOUR PRESERVICE TRAINING PROGRAM SPECIFIED IN ITEM (2)(II) OF THIS SUBSECTION; AND

(5) REQUIRE CASEWORKERS WHO ARE EXEMPT FROM THE PRESERVICE TRAINING PROGRAM SPECIFIED IN ITEM (2)(II) OF THIS SUBSECTION AND FAIL THE COMPETENCY TEST TO PARTICIPATE IN THE PRESERVICE TRAINING PROGRAM AND TO TAKE AND PASS THE COMPETENCY TEST BEFORE BEING GRANTED PERMANENT EMPLOYMENT STATUS.

(d) (1) The Secretary may not employ human services professionals on a contractual basis as caseworkers or casework supervisors, except as required to meet an unanticipated need resulting from:

(i) a significant and unexpected increase in reports of child abuse or neglect, or both; or

(ii) a significant and unexpected increase in the foster care or kinship care caseload, or both.

(2) A caseworker or casework supervisor contractual position may not exist longer than 1 year.

(e) Whenever the Secretary contracts with an outside entity for casework services, the Secretary shall require the contractor to comply with the employment qualifications, training curriculum, preservice and in-service training, and competency testing required under this section.

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

Approved by the Governor, May 7, 2009.

Chapter 361**(Senate Bill 86)**

AN ACT concerning

Title Insurance Producers – Regulation and Requirements

FOR the purpose of specifying that, with certain exceptions, only a licensed title insurance producer may ~~have~~ exercise control over ~~or custody of~~ certain money; increasing the amount of a certain fidelity bond and a certain surety bond or letter of credit that certain applicants for a license to act as a title insurance producer must file with the Maryland Insurance Commissioner; making certain conforming changes; ~~requiring the Commissioner to adopt certain regulations~~ requiring the Commission to Study the Title Insurance Industry in Maryland to examine the adequacy of a certain blanket surety bond or letter of credit and to make a certain determination under certain circumstances; defining a certain term; providing for the effective dates of this Act; providing for the application of certain provisions of this Act; and generally relating to title insurance producers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–121
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–121(e) and (f)
Annotated Code of Maryland
(2003 Replacement Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,
Chapter 356 of the Acts of the General Assembly of 2008
Section 1(g)

BY repealing and reenacting, with amendments,
Chapter 357 of the Acts of the General Assembly of 2008
Section 1(g)

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

Article – Insurance

10-121.

(A) (1) IN THIS SUBSECTION, "TRUST MONEY" MEANS A DEPOSIT, PAYMENT, OR OTHER MONEY THAT A PERSON ENTRUSTS TO ANOTHER PERSON A LICENSED TITLE INSURANCE PRODUCER IN CONNECTION WITH THE PROVISION OF ESCROW, CLOSING, OR REAL ESTATE SETTLEMENT SERVICES.

(2) ~~ONLY~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, ONLY A LICENSED TITLE INSURANCE PRODUCER MAY ~~HAVE~~ EXERCISE CONTROL OVER ~~OR CUSTODY OF MONEY RECEIVED OR HELD IN ESCROW OR IN TRUST MONEY.~~

(3) THIS SUBSECTION DOES NOT APPLY TO TRUST MONEY THAT IS ENTRUSTED TO:

(I) A LAW FIRM AS DEFINED IN § 10-125 OF THIS SUBTITLE;
OR

(II) A TITLE INSURER.

[(a)] (B) A title insurance producer may not convert or misappropriate money received or held in escrow or trust while:

- (1) acting as a title insurance producer; or
- (2) providing any escrow, closing, or settlement services.

[(b)] (C) (1) If an applicant for a license is a partnership, each partner must hold a license to act as a title insurance producer and, if applicable, an appointment with a title insurer.

(2) (i) If an applicant for a license is a corporation, each controlling owner and each officer must hold a license to act as a title insurance producer and, if applicable, an appointment with a title insurer.

(ii) For purposes of subparagraph (i) of this paragraph, a person is not considered a controlling owner of a corporation if the person:

1. is a stockholder of the corporation;
2. does not manage or have day-to-day control over the operation of the corporation; and
3. is not an officer, director, or employee of the corporation who in any other way renders services for the corporation for which the person is compensated by the corporation.

(3) If an applicant for a license is a limited liability company, each individual who has direct control over its fiscal management and each manager and officer must hold a license to act as a title insurance producer and, if applicable, an appointment with a title insurer.

[(c)] (D) (1) When the application of a partnership for a license as a title insurance producer is submitted, the Commissioner shall investigate the character of each partner of the partnership applicant.

(2) When the application of a corporation for a license as a title insurance producer is submitted, the Commissioner shall investigate the character of each controlling owner and each officer and director of the corporate applicant.

(3) When the application of a limited liability company for a license is submitted, the Commissioner shall investigate the character of each individual who has direct control over its fiscal management and each member, manager, officer, and director of the limited liability company applicant.

[(d)] (E) (1) In addition to meeting any of the applicable requirements for a license to act as an insurance producer under this subtitle, a sole proprietor, a limited liability company, a partnership, or a corporate applicant for a license as a title insurance producer shall file with the Commissioner:

(i) a blanket fidelity bond covering appropriate employees and title insurance producer independent contractors; and

(ii) 1. a blanket surety bond; or

2. a letter of credit.

(2) Unless the Commissioner approves a lesser amount, each bond or letter of credit shall be for ~~[\$100,000]~~ **\$250,000**.

(3) The Commissioner may adopt regulations that specify when it is appropriate for a bond or letter of credit to be less than ~~[\$100,000]~~ **\$250,000**.

(4) Notwithstanding paragraph (2) of this subsection, the Commissioner may waive the requirement for a bond or letter of credit if the Commissioner finds that bonds are not generally available or reasonably affordable.

(5) The Commissioner shall make a specific finding that states the reason for accepting a bond or letter of credit for less than ~~[\$100,000]~~ **\$250,000**.

[(e)] (F) (1) The surety bond or letter of credit shall be for the benefit of any person that suffers a loss if the title insurance producer converts or misappropriates money received or held in escrow or trust while:

- (i) acting as a title insurance producer; or
- (ii) providing any escrow, closing, or settlement services.

(2) The fidelity bond shall be for the benefit of the employer of the title insurance producer who suffers any loss as described in paragraph (1) of this subsection.

(3) The total liability of the surety insurer under each bond or letter of credit may not exceed ~~[\$100,000]~~ **\$250,000**.

[(f)] (G) The title insurance producer shall file the bond or letter of credit with the Commissioner:

- (1) after the Commissioner notifies the title insurance producer of the approval of the application for a license; and
- (2) before the Commissioner issues the license.

[(g)] (H) (1) Each bond or letter of credit shall remain in force until:

- (i) the surety insurer is released from liability by the Commissioner; or
- (ii) the bond or letter of credit is canceled by the surety insurer.

(2) A surety insurer shall notify the title insurance producer and the Commissioner at least 30 days before canceling a bond or letter of credit.

(3) If a surety insurer fails to notify the title insurance producer and the Commissioner as required by paragraph (2) of this subsection, the bond or letter of credit remains in effect until the surety insurer notifies the title insurance producer and the Commissioner.

(4) A cancellation under this subsection does not affect any liability that occurred during the life of the bond or letter of credit and before the date of cancellation.

[(h)] (I) Before the Commissioner renews the license of a title insurance producer, the title insurance producer shall submit satisfactory evidence of compliance with this section.

[(i)] (J) (1) If a title insurance producer has been charged with a violation of this section or this article that could result in suspension or revocation of the license of the title insurance producer, the Commissioner may seek an immediate restraining order from a circuit court to prohibit the title insurance producer from providing title insurance, escrow, closing, or settlement services.

(2) A restraining order issued by a court under this subsection is effective until:

- (i) the court lifts the restraining order; or
- (ii) the charges are dismissed or adjudicated.

[(j)] (K) (1) (i) Except as provided in paragraph (5) of this subsection, the title insurer shall during each calendar year conduct an on-site review of the underwriting, claims, and escrow practices of each title insurance producer appointed by the insurer as a principal agent as designated in the title insurance agency contract between the insurer and the producer.

(ii) The on-site review shall include a review of the title insurance producer's or agency's policy blank inventory and processing operations.

(iii) If the title insurance producer or agency does not maintain separate bank or trust accounts for each title insurer it represents, the title insurer shall verify that the funds held on its behalf are reasonably ascertainable from the books of account and records of the title insurance producer or agency.

(2) A written report setting forth the results of the on-site review shall be prepared by the title insurer and is subject to examination under § 2-205 of this article.

(3) If, as a result of the examination, a title insurer has reasonable cause to believe that a title insurance producer or agency has engaged in any of the prohibited activities set forth in § 10-126 of this subtitle, the title insurer shall report in writing the suspected violation to the Commissioner and submit a copy of the examination.

(4) The examination required under this section is in addition to any examination conducted by the Commissioner to determine compliance with the accounts maintained for the benefit of the Maryland Affordable Housing Trust under § 22-103 of this article.

(5) The title insurer is not required to perform the on-site review of a title insurance producer for the calendar year during which the title insurance producer is initially appointed if the appointment is made on or after June 30 of that calendar year.

[(k)] (L) (1) A title insurance producer shall notify any title insurer with whom the title insurance producer holds an appointment whenever a person licensed under this subtitle becomes employed by, or associated with, the title insurance producer.

(2) The bonding requirements of this subtitle relating to title insurance producers do not apply to an employee or officer of an authorized title insurer.

[(l)] (M) (1) A title insurance producer shall notify the Commissioner, and any insurer with whom the title insurance producer holds an appointment, if an individual licensed under this subtitle leaves the employment of or ends an association with the title insurance producer.

(2) The title insurance producer required to provide notice under this subsection shall notify the Commissioner within 5 working days after the day the individual leaves employment or ends the association.

(3) The notice required under this subsection shall be in writing and by certified mail.

[(m)] (N) In addition to any requirements under Title 10, Subtitle 1 of this article, title insurance producers shall comply with this section.

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

Article - Insurance

10-121.

(e) (1) In addition to meeting any of the applicable requirements for a license to act as an insurance producer under this subtitle, a sole proprietor, a limited liability company, a partnership, or a corporate applicant for a license as a title insurance producer shall file with the Commissioner:

(i) a blanket fidelity bond covering appropriate employees and title insurance producer independent contractors; and

(ii) 1. a blanket surety bond; or

2. a letter of credit.

(2) Unless the Commissioner approves a lesser amount, each bond or letter of credit shall be for ~~[\$100,000]~~ **\$150,000.**

(3) The Commissioner may adopt regulations that specify when it is appropriate for a bond or letter of credit to be less than [\$100,000] \$150,000.

(4) Notwithstanding paragraph (2) of this subsection, the Commissioner may waive the requirement for a bond or letter of credit if the Commissioner finds that bonds are not generally available or reasonably affordable.

(5) The Commissioner shall make a specific finding that states the reason for accepting a bond or letter of credit for less than [\$100,000] \$150,000.

(f) (1) The surety bond or letter of credit shall be for the benefit of any person that suffers a loss if the title insurance producer converts or misappropriates money received or held in escrow or trust while:

(i) acting as a title insurance producer; or

(ii) providing any escrow, closing, or settlement services.

(2) The fidelity bond shall be for the benefit of the employer of the title insurance producer who suffers any loss as described in paragraph (1) of this subsection.

(3) The total liability of the surety insurer under each bond or letter of credit may not exceed [\$100,000] \$150,000.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 356 of the Acts of 2008

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

(g) In order to develop recommendations, the Commission shall:

(1) review State laws relating to the title insurance industry;

(2) review the mechanisms available to enforce State laws relating to the title insurance industry and the effectiveness of those mechanisms;

(3) identify title insurance industry issues that affect consumers in Maryland;

(4) examine the rate-setting factors for title insurance premiums;

(5) examine how rates and services in a title plant state compare to those in Maryland;

(6) identify ways to improve consumer education about the title insurance industry;

(7) study whether mechanics' liens on properties scheduled for settlement have an impact on the timeliness of settlements or on title insurance premium rates;

(8) review the time limits, subsequent to closing, for the issuance of title insurance policies;

(9) study affiliated business arrangements among title insurance producers, builders, title insurance companies, realtors, lenders, and other businesses involved with the settlement of real estate transactions to determine the impact of these arrangements on title insurance premium rates; [and]

(10) (I) EXAMINE THE ADEQUACY OF THE BLANKET SURETY BOND OR LETTER OF CREDIT REQUIRED UNDER § 10-121(E) OF THE INSURANCE ARTICLE TO PROTECT CONSUMERS WHO SUFFER A LOSS FROM THE CONVERSION OR MISAPPROPRIATION BY A TITLE INSURANCE PRODUCER OF MONEY RECEIVED OR HELD IN ESCROW OR TRUST; AND

(II) IF THE COMMISSION FINDS THAT AN INCREASE IN THE AMOUNT OF THE BLANKET SURETY BOND OR LETTER OF CREDIT IS WARRANTED, DETERMINE THE IMPACT OF THE ADDITIONAL COST ON TITLE INSURANCE PRODUCERS; AND

[(10)] (11) study any other issue with significant impact on the title insurance industry.

Chapter 357 of the Acts of 2008

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

(g) In order to develop recommendations, the Commission shall:

(1) review State laws relating to the title insurance industry;

(2) review the mechanisms available to enforce State laws relating to the title insurance industry and the effectiveness of those mechanisms;

(3) identify title insurance industry issues that affect consumers in Maryland;

(4) examine the rate-setting factors for title insurance premiums;

(5) examine how rates and services in a title plant state compare to those in Maryland;

(6) identify ways to improve consumer education about the title insurance industry;

(7) study whether mechanics' liens on properties scheduled for settlement have an impact on the timeliness of settlements or on title insurance premium rates;

(8) review the time limits, subsequent to closing, for the issuance of title insurance policies;

(9) study affiliated business arrangements among title insurance producers, builders, title insurance companies, realtors, lenders, and other businesses involved with the settlement of real estate transactions to determine the impact of these arrangements on title insurance premium rates; [and]

(10) (I) EXAMINE THE ADEQUACY OF THE BLANKET SURETY BOND OR LETTER OF CREDIT REQUIRED UNDER § 10-121(E) OF THE INSURANCE ARTICLE TO PROTECT CONSUMERS WHO SUFFER A LOSS FROM THE CONVERSION OR MISAPPROPRIATION BY A TITLE INSURANCE PRODUCER OF MONEY RECEIVED OR HELD IN ESCROW OR TRUST; AND

(II) IF THE COMMISSION FINDS THAT AN INCREASE IN THE AMOUNT OF THE BLANKET SURETY BOND OR LETTER OF CREDIT IS WARRANTED, DETERMINE THE IMPACT OF THE ADDITIONAL COST ON TITLE INSURANCE PRODUCERS; AND

[(10)] (11) study any other issue with significant impact on the title insurance industry.

SECTION 4. AND BE IT FURTHER ENACTED, That the increase in the amount of the fidelity bond and the blanket surety bond or letter of credit required for licensing as a title insurance producer under § 10-121(e) of the Insurance Article, as enacted by Section 2 of this Act, shall apply to all title insurance producer licenses issued or renewed on or after October 1, 2009.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2009.

SECTION ~~2~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect June 1, 2009.

Approved by the Governor, May 7, 2009.