

WHO DAMAGES, DISLOCATES OR DISTURBS THOSE UNDERGROUND FACILITIES, SHALL BE DEEMED NEGLIGENT AND SHALL BE SUBJECT TO A CIVIL PENALTY UP TO \$1,000 FOR THE FIRST OFFENSE AND \$1,000 FOR EACH SUBSEQUENT OFFENSE, OR TEN TIMES THE COST OF REPAIRING THE DAMAGE TO THE UNDERGROUND FACILITY. [[, OR TEN TIMES THE AMOUNT OF ADDITIONAL EXCAVATION COSTS WHICH THE PERSON WOULD HAVE INCURRED BY COMPLYING WITH THIS SECTION, WHICHEVER IS GREATER.]] ACTIONS TO RECOVER THE CIVIL PENALTIES PROVIDED FOR IN THIS SECTION SHALL BE BROUGHT EITHER BY THE PUBLIC SERVICE COMPANY WHOSE UNDERGROUND FACILITIES WERE DAMAGED OR BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE IN THIS STATE, IN A COURT OF COMPETENT JURISDICTION IN BALTIMORE CITY OR THE COUNTY IN WHICH THE DAMAGE OCCURRED. ALL PENALTIES RECOVERED FROM SUCH ACTION, INCLUDING REASONABLE ATTORNEY'S FEES, SHALL BE PAID INTO THE GENERAL FUND OF THE STATE TREASURY.

(H) IF ANY PERSON IS ENGAGING IN EXCAVATION IN A NEGLIGENT OR UNSAFE MANNER WHICH HAS RESULTED IN OR IS LIKELY TO RESULT IN DAMAGE TO AN UNDERGROUND FACILITY OR IF ANY PERSON IS PROPOSING TO USE PROCEDURES FOR EXCAVATION WHICH ARE LIKELY TO RESULT IN DAMAGE TO AN UNDERGROUND FACILITY, THE OWNER OF SUCH FACILITY OR THE ATTORNEY GENERAL MAY COMMENCE AN ACTION [[, EITHER BY MANDAMUS OR INJUNCTION,]] IN A COURT OF COMPETENT JURISDICTION IN BALTIMORE CITY OR THE COUNTY IN WHICH THE EXCAVATION IS OCCURRING OR IS TO OCCUR, OR IN WHICH THE PERSON COMPLAINED OF HAS HIS OR ITS PRINCIPAL PLACE OF BUSINESS OR RESIDES, FOR THE PURPOSE OF HAVING SUCH NEGLIGENT OR UNSAFE EXCAVATION STOPPED AND PREVENTED, EITHER BY MANDAMUS OR INJUNCTION. THE COURT MAY JOIN AS PARTIES ANY PERSONS NECESSARY OR PROPER TO MAKE ITS JUDGMENT OR PROCESSES EFFECTIVE AND SHALL MAKE A FINAL ORDER, GRANTING SUCH RELIEF, IF APPROPRIATE.

(I) THE PROVISIONS OF THIS SECTION, WITH THE EXCEPTION OF (5) (F), SHALL NOT APPLY WHEN MAKING AN EXCAVATION AT TIMES OF EMERGENCY INVOLVING DANGER TO LIFE, HEALTH OR PROPERTY, PROVIDED ALL REASONABLE PRECAUTIONS [[HAS]] HAVE BEEN TAKEN TO PROTECT THE UNDERGROUND FACILITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of this Act which can be given effect without the invalid provisions or application, and to this end all the provisions of this Act are declared to be severable.