

Annotated Code of Maryland  
(1969 Replacement Volume and 1977 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 16C of Article 78A - Public Works, of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That section(s) of the Annotated Code of Maryland be repealed, amended, or enacted to read as follows:

Article 78A - Public Works

16C.

(A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) THE STATE IS A UNIQUE BODY BECAUSE IT IS A SOVEREIGN POLITICAL ENTITY ESTABLISHED DIRECTLY BY THE PEOPLE FOR THE SOLE PURPOSE OF PROVIDING FOR THEIR GOVERNMENT AND BECAUSE ITS REVENUE SOURCES ARE DERIVED PRINCIPALLY FROM TAXES ON THE PEOPLE RATHER THAN FROM COMMERCIAL ENTERPRISE.

(2) STATE OFFICERS AND STATE EMPLOYEES, WHEN ACTING WITHIN THE SCOPE OF THEIR PUBLIC DUTIES AND RESPONSIBILITIES, ARE IMPLEMENTING GOVERNMENTAL PROGRAMS AUTHORIZED BY OR PURSUANT TO LAW. AS A RESULT, THEY ALSO ARE DISCHARGING IN SOME DEGREE A PORTION OF THE PURPOSE AND SOVEREIGNTY OF THE STATE.

(3) RECENT COURT DECISIONS THROUGHOUT THE COUNTRY HAVE CREATED NEW GROUNDS OF PERSONAL LIABILITY OF PUBLIC OFFICERS AND EMPLOYEES ACCRUING FROM THE DISCHARGE OF THEIR PUBLIC DUTIES. AS A RESULT IT IS BECOMING INCREASINGLY DIFFICULT TO RECRUIT AND RETAIN QUALIFIED PERSONNEL TO SERVE IN PUBLIC POSITIONS THAT INVOLVE EITHER THE EXERCISE OF DISCRETION OR DEALING WITH THE PUBLIC AT LARGE; AND IT HAS ALSO BECOME INCREASINGLY DIFFICULT AND EXPENSIVE TO PROTECT SUCH OFFICERS AND EMPLOYEES THROUGH PUBLIC LIABILITY INSURANCE.

(4) AS A MATTER OF STATE POLICY, IT IS ESSENTIAL TO PROTECT STATE OFFICERS AND EMPLOYEES, WHEN ACTING WITHIN THE SCOPE OF THEIR PUBLIC DUTIES AND RESPONSIBILITIES, FROM LIABILITY EXCEPT FOR INSTANCES OF MALICIOUS CONDUCT OR GROSS NEGLIGENCE.

(5) THE IMMUNITIES OR DEFENSES AVAILABLE TO AN INDIVIDUAL STATE OFFICER OR EMPLOYEE FOR HIS ACTIONS SHALL REMAIN UNAFFECTED BY THE PROVISIONS OF THIS SECTION.

(B) (1) THE BOARD OF PUBLIC WORKS MAY GRANT FROM THE GENERAL EMERGENCY FUND, OR FROM FUNDS PROVIDED THEREFOR BY THE GOVERNOR IN THE BUDGET BILL, OR FROM FUNDS APPROPRIATED THEREFOR TO THE STATE INSURANCE TRUST FUND, A SUM TO SATISFY ALL OR PART OF ANY JUDGMENT OR ANY SETTLEMENT