

decided that it would be ill-advised to repeal any part of the sections -- lest, for loss of context, the extant provisions become too difficult to understand. The Commission, therefore, decided to transfer the 3 sections, in their entirety, to the Session Laws. See Ch. ____, Acts of 1985. This decision cautiously preserves the extant rights and duties under those sections while extracting from the Code transitory provisions, which have limited practical application.

Article 41, § 318 was enacted by Ch. 757, Acts of 1959. That chapter abolished the Tax Commission and created in its stead the Department and the Maryland Tax Court.

Except for the last sentence, former Art. 41, § 318(2) described the powers and duties of the Department in terms of those nonquasi-judicial powers and duties previously assigned to the Tax Commission, together with those powers and duties subsequently conferred on the Department by law.

The Commission to Revise the Annotated Code doubts that any of the provisions of former Art. 41, § 318(2) -- save the last sentence -- added anything to the powers and duties that are stated expressly in this title. However, rather than repeal these provisions, the Commission elected to transfer them to the Session Laws. This serves to remove what appear to be unnecessary provisions from this title, while exercising the caution that, to the extent the provisions might add to the Department's express powers and duties, that authority is preserved. See Ch. ____, Acts of 1985.

While the last sentence of former Art. 41, § 318(2) is included in this transfer, the substance of that sentence is also repeated as a codified provision under § 2-206 of this subtitle.

III. Repealed sections.

Former Art. 81, § 232A prohibited, subject to criminal penalty, the unauthorized sale or other transfer for profit of tax maps and the reproduction of any of the specified maps for unauthorized sale and is deleted. In 1968, the Court of Appeals, in State's Attorney v. Sekuler, 249 Md. 499 (1968), found that section to be in conflict with the federal Copyright Law and, therefore, in violation of the Supremacy Clause of the United States Constitution. On that basis, the Court found Art. 81, § 232A to be invalid. Although the section subsequently was amended by Ch. 331, Acts of 1977 to insert an exception at the beginning of the section, that amendment did nothing to correct the fundamental defect found by the Court and, hence, can only be viewed as a meaningless amendment to an invalid section.

Since 1968, the Department is aware of no attempt to enforce former Art. 81, § 232A, and it now submits the referenced maps to the procedures necessary to avail itself of the protection of the Copyright Law.