

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.

(j) If any person or contractor 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 or contractor 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 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 or contractor 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.

(k) (1) After an owner has marked its underground facility in accordance with the provisions of subsection (c) of this section, the person or contractor is solely responsible for the maintenance of a designated marker.

(2) If a marker is obliterated, destroyed, or removed, the owner shall remark the location of its facility not more than 48 hours (excluding Saturdays, Sundays, and legal holidays) after receipt of a request to remark the location.

(l) A political subdivision or municipality may charge, assess, or collect from a contractor a ONE TIME INITIAL MARKING fee ~~OF NOT TO EXCEED \$25.00~~ \$35 for reimbursement of any expense which the political subdivision or municipality incurs by reason of compliance with the provisions of this section. IF REMARKING IS REQUESTED, OR IS REQUIRED UNDER SUBSECTION (E)(2) OF THIS SECTION, A POLITICAL SUBDIVISION OR MUNICIPALITY MAY CHARGE, ASSESS, OR COLLECT FROM A CONTRACTOR A REMARKING FEE NOT TO EXCEED \$15 FOR REIMBURSEMENT OF ANY EXPENSE WHICH THE POLITICAL SUBDIVISION OR MUNICIPALITY INCURS BY REASON OF THE REMARKING IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

(m) (1) A person or contractor who performs an emergency excavation involving danger to life, health, or property shall:

(i) Take all reasonable precautions to protect underground facilities in and near the excavation area; and

(ii) Notify the owner of the underground facility promptly.

(2) In case of an emergency excavation involving danger to life, health, or property, except for subsection (h) of this section, the provisions of subsections (c) through (l) of this section shall not apply provided all reasonable precautions have been taken to protect underground facilities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1994.