

follows: (1) 1 on February 1, 1992; (2) 1 on February 1, 1993; (3) 1 on August 1, 1993; (4) 1 on February 1, 1994; (5) 2 on July 1, 1994; (6) 2 on February 1, 2001; (7) 1 on February 1, 2002; and (8) 1 on February 1, 2003.

In subsection (a) of this section, the former requirements that 1 member be "chairman" and 9 members be "associate commissioners" are deleted as unnecessary in light of § 9-303 of this subtitle, which provides for a chairman. Former Art. 101 did not confer any unique responsibilities on associate commissioners.

In subsection (b)(1)(i) of this section, the former prohibition against appointment to the Commission of an individual 70 years of age or older is deleted. Similarly, former Art. 101, § 1(e), which required a member to retire either on the day on which the member turns 70 or on the first day of the next month, is deleted. These former provisions were inconsistent with the federal Age Discrimination in Employment Act (ADEA), which prohibits arbitrary discrimination in employment against job applicants and workers 40 years old and older. ADEA defines "employer" to include "a State ... and any agency or instrumentality of a State" 29 U.S.C. § 630(b). "Employee" is defined, in part, as "an individual employed by any employer except ... [it does] not include any person elected to public office in any state ... or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office" 29 U.S.C. § 630(f). Under the Supremacy Clause of the United States Constitution, age restrictions may not be given effect if they conflict with federal law. U.S. Const. Art. VI, cl. 2. See 71 Op. Att'y Gen. 181 (1986) [Op. No. 86-068 (Dec. 29, 1986)], in which ADEA was applied to District Court judges. The Supreme Court has upheld the application of ADEA to states as a valid exercise of Congressional power under the Commerce Clause and held that the law does not violate the 10th Amendment of the U.S. Constitution. EEOC v. Wyoming, 460 U.S. 226 (1983).

In subsection (b)(2)(i) of this section, the former phrase "during their respective terms on the Commission" is deleted as unnecessary and, to the extent that the former phrase implied that the other qualifications are not continuing in nature, as misleading. Generally, a statutory qualification for appointment to an office applies throughout the term. See, e.g., Dorf v. Skolnik, 280 Md. 101, 115 (1977).

In subsection (c) of this section, the specific reference to "Article I, § 9 of the Maryland Constitution" is substituted for the former reference to the "constitutional oath of office", for clarity and conformity to similar provisions in other revised articles.