

# Vetoed Bills and Messages from the Governor of Maryland

A total of 74 bills were vetoed by the Governor following the 2013 Regular Session of the General Assembly. Of these vetoed bills, 15 originated in the Senate and 59 of them originated in the House of Delegates. Pursuant to the provisions of Article II, Section 17 of the Maryland Constitution, these bills will be returned to the General Assembly immediately after the Legislature has organized at the next Regular or Special Session to be reconsidered in order to determine whether the veto is sustained or overridden.

2013 Session

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## Contents

List of Senate Bills Vetoed .....	1
List of House Bills Vetoed .....	3
Vetoed Senate Bills and Messages.....	7
Vetoed House Bills and Messages.....	161



## List of Senate Bills Vetoed

(Bill numbers in **bold** indicate policy vetoes. Bill numbers in *italics* indicate technical vetoes. All other vetoes are duplicative.)

<b>Bill No.</b>	<b>Subject</b>	<b>Page</b>
SB 16	Anne Arundel County – Alcoholic Beverages – Refillable Container License.....	7
SB 24	Queen Anne’s County – Deer Hunting on Private Property – Sundays.....	11
SB 98	Business Regulation – Other Tobacco Products – Wholesalers – License Fee Exception for Cigarette Subwholesalers .....	14
SB 164	Queen Anne’s County – Property Tax Credit – Commercial Investment and Economic Development .....	15
SB 258	Correctional Services – Inmate Earnings – Compensation for Victims of Crime.....	17
SB 463	State Board of Morticians and Funeral Directors – Apprentice Sponsors, Funeral Establishment Licenses, and Supervising Morticians .....	22
SB 573	County Property Tax – Personal Property Rate .....	31
SB 593	Health Occupations Boards – License Renewal, Investigation of Alleged Violations, and Immunity from Liability .....	33
SB 672	State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation .....	49
SB 696	Manufactured Homes – Affixation to Real Property – Liens .....	124
SB 751	State Police Retirement System – Reemployment of Retirees .....	129
SB 761	Health Occupations – State Board of Pharmacy – Waivers – Pharmacies That Only Dispense Devices.....	133
SB 766	Business Occupations – Oil and Gas Land Professionals – Registration .....	139
SB 767	Garrett County – Alcoholic Beverages – Licenses, Permits, and Other Authorizations .....	143
SB 888	Task Force to Study Temporary Disability Insurance Programs and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services.....	157



## List of House Bills Vetoed

(Bill numbers in **bold** indicate policy vetoes. Bill numbers in *italics* indicate technical vetoes. All other vetoes are duplicative.)

<b>Bill No.</b>	<b>Subject</b>	<b>Page</b>
HB 1	Criminal Law – Cannabimimetic Agents – Prohibition.....	161
HB 8	Estates and Trusts – Guardianship Accounts – Form and Limits	166
HB 43	Income Tax Credit for Qualifying Employees – Sunset Repeal....	168
HB 75	Utility Service Protection Program – Annual Report – Deadline..	173
HB 83	Judgeships – Court of Special Appeals, Circuit Courts, and District Court .....	175
HB 88	Real Property – Refinance Mortgage – Priority over Junior Liens .....	179
HB 127	Labor and Employment – Payment of Overtime Wages .....	182
HB 129	Task Force to Study Implementing a Civil Right to Counsel in Maryland .....	186
HB 151	Task Force on the Implementation of Tax Benefits for Emergency Preparedness Equipment.....	188
HB 183	Correctional Training Commission – Members.....	192
HB 206	Health Occupations – Sunset Extension and Program Evaluation .....	195
HB 209	State Board of Public Accountancy – Sunset Extension and Program Evaluation.....	200
HB 231	Alcoholic Beverages – Class 7 Limited Beer Wholesaler’s License.....	203
HB 270	Electrical Inspectors and Plumbing Inspectors – Master License Required .....	209
HB 277	Children in Need of Assistance – Review Hearings .....	215
HB 278	Children in Need of Assistance – Rights of Preadoptive Parents, Foster Parents, and Caregivers of Child.....	217
HB 285	St. Mary’s County – Alcoholic Beverages – Micro–Brewery License.....	220
HB 293	State Finance and Procurement – Retention of Percentage of Contract – Security .....	226
HB 306	Natural Resources – Aquaculture – Shellfish Nursery Permits....	229
HB 327	State Government – Health, Education, and Social Services – Submission of Documents in Electronic Form.....	232
HB 343	Harford County – Alcoholic Beverages – Hours of Sale for Class B Licensees.....	236
HB 345	Harford County Liquor Control Board – Reserve Account .....	238
HB 373	Hospitals – Outpatient Services – Off–Site Facility – Rate Regulation .....	242

<b>Bill No.</b>	<b>Subject</b>	<b>Page</b>
HB 374	Vehicle Laws – Registration Plates for Motorcycles – Individuals with Disabilities .....	245
HB 391	State Employee and Retiree Health and Welfare Benefits Program – Wellness Program.....	247
HB 448	State Government – Notary Public – Appointment .....	251
HB 452	Garrett County – Bonds for Garrett County Memorial Hospital ..	253
HB 459	Somerset County – Alcoholic Beverages – Beer and Wine Tasting License .....	259
HB 465	Somerset County – Emergency Burning Ban – Adoption and Enforcement .....	262
HB 466	Somerset County – Sale of Small Boat Harbor Dock .....	264
HB 470	Somerset County – County Treasurer – Abolishment and Transfer of Functions to the County Supervisor of Tax Collection.....	266
HB 521	Baltimore City – Extinguishment or Redemption of Ground Rents.....	278
HB 542	Criminal Law – Aggravated Animal Cruelty – Baiting .....	284
HB 546	Washington County – Public Facilities Bonds .....	286
HB 588	Baltimore City – Children – Records Access .....	292
HB 626	Register of Wills – Salary .....	304
HB 718	State Retirement and Pension System – Service Credit for Unused Sick Leave.....	306
HB 725	Vehicle Laws – Title and Registration – Transfer to Surviving Spouse.....	311
HB 730	Election Law – Polling Places – Electioneering.....	315
HB 777	Criminal Procedure – Bail Bonds – Cash Bail .....	319
HB 785	Commercial Law – Maryland Credit Services Businesses Act – Scope .....	323
HB 802	Calvert County – Public Facilities Bonds .....	325
HB 846	Carroll County – Public Facilities Bonds.....	330
HB 863	Higher Education Fair Share Act .....	336
HB 889	Vehicles Laws – Emergency Vehicles – Motorcades and Escorts ..	338
HB 890	Health – Overdose Response Program – Establishment .....	342
HB 905	Health Occupations – Funeral Establishments – Preparation and Holding Rooms .....	349
HB 977	Motor Vehicle Registration – Special Vintage Reproduction Registration Plate .....	351
HB 999	Worcester County – Alcoholic Beverages.....	353
HB 1024	Employees’ Pension System – Elected or Appointed Officials – Membership.....	359



<b>Bill No.</b>	<b>Subject</b>	<b>Page</b>
HB 1042	Hospitals – Credentialing and Privileging Process – Telemedicine .....	364
HB 1124	Public Safety – Gas Pipelines – Implementation of Federal Pipeline Safety Laws .....	368
HB 1166	Insurance – Ceding Insurers and Reinsurance .....	374
HB 1168	Education – Minority Teacher Recruitment – Study and Report..	396
HB 1194	Baltimore County – Property Tax Credit – Bowerman–Loreley Beach Community Association, Inc.....	398
HB 1237	Health Care Practitioners – Prescription Drug or Device Dispensing – Medical Facilities or Clinics That Specialize in Treatment Reimbursable Through Workers’ Compensation Insurance.....	399
HB 1253	Natural Resources – Commercial Fishing – Licensing .....	401
HB 1328	Estates and Trusts – Special and Supplemental Needs Trusts – Regulations by State Agencies .....	421
HB 1360	Maryland Income Tax Refund – Anne Arundel County Warrant Intercept Program – Extension .....	424



## Vetoed Senate Bills and Messages

May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 16 – *Anne Arundel County – Alcoholic Beverages – Refillable Container License*.

This bill creates a refillable container license in Anne Arundel County and authorizes the Board of License Commissioners to issue the license to a holder of a Class A license, a Class B license, or a Class D license and specifies that a holder of the license may sell draft beer for consumption off the licensed premises in a specified refillable container. The bill requires a refillable container to meet specified requirements and an applicant for the license to complete a form and pay a fee.

House Bill 18, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 16.

Sincerely,

Governor Martin O'Malley

### Senate Bill 16

AN ACT concerning

#### **Anne Arundel County – Alcoholic Beverages – Refillable Container License**

FOR the purpose of creating in Anne Arundel County a refillable container license; authorizing the Board of License Commissioners to issue the license to a holder of certain classes of alcoholic beverages license issued by the Board; specifying that a holder of the license may sell draft beer for consumption off the licensed premises in a certain refillable container; requiring a refillable container to meet certain requirements; requiring an applicant for the license to complete a certain form and pay a certain fee; requiring that certain applicants meet certain advertising, posting of notice, and public hearing requirements; specifying the term of the license; specifying the hours of sale for the license; allowing a holder of the license to refill only a refillable container that was branded by ~~the~~ a license holder; requiring the Board to adopt certain

regulations; and generally relating to alcoholic beverages in Anne Arundel County.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 8–202(a) and (b)  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

BY adding to  
Article 2B – Alcoholic Beverages  
Section 8–202(l)  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article 2B – Alcoholic Beverages**

8–202.

- (a) This section applies only in Anne Arundel County.
- (b) (1) In this section the following words have the meanings indicated.
  - (2) “Board” means the Board of License Commissioners.
  - (3) “License” means a license for the sale of alcoholic beverages that is issued by the Board.

**(L) (1) THERE IS A REFILLABLE CONTAINER LICENSE.**

**(2) THE BOARD MAY ISSUE A REFILLABLE CONTAINER LICENSE TO A HOLDER OF A CLASS A LICENSE, A CLASS B LICENSE, OR A CLASS D LICENSE.**

**(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A REFILLABLE CONTAINER LICENSE ENTITLES THE LICENSE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER WITH A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN ~~182~~ 128 OUNCES.**

**(4) TO BE USED AS A REFILLABLE CONTAINER UNDER PARAGRAPH (3) OF THIS SUBSECTION, A CONTAINER SHALL:**

- (I) BE SEALABLE;
- (II) BE BRANDED WITH AN IDENTIFYING MARK OF ~~THE~~ A LICENSE HOLDER;
- (III) BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 27 C.F.R. 16.21;
- (IV) DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND
- (V) BEAR A LABEL STATING THAT:
  - 1. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND
  - 2. THE CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.
- (5) BEFORE THE BOARD ISSUES A REFILLABLE CONTAINER LICENSE:
  - (I) THE APPLICANT SHALL:
    - 1. COMPLETE THE FORM THAT THE BOARD PROVIDES; AND
    - 2. PAY AN ANNUAL LICENSE FEE OF:
      - A. \$500 FOR AN APPLICANT WHOSE ALCOHOLIC BEVERAGES LICENSE DOES NOT HAVE AN OFF-SALE PRIVILEGE; OR
      - B. \$50 FOR AN APPLICANT WHOSE ALCOHOLIC BEVERAGES LICENSE HAS AN OFF-SALE PRIVILEGE; AND
  - (II) AN APPLICANT WHO HOLDS A LICENSE WITHOUT AN OFF-SALE PRIVILEGE SHALL MEET THE SAME ADVERTISING, POSTING OF NOTICE, AND PUBLIC HEARING REQUIREMENTS AS THOSE FOR THE LICENSE THAT THE APPLICANT HOLDS.

(6) THE TERM OF A REFILLABLE CONTAINER LICENSE ISSUED TO A SUCCESSFUL APPLICANT IS THE SAME AS THAT OF THE LICENSE THAT THE APPLICANT HOLDS.

(7) THE HOURS OF SALE FOR A REFILLABLE CONTAINER LICENSE:

(I) BEGIN AT THE SAME TIME AS THOSE FOR THE LICENSE ALREADY HELD BY THE PERSON TO WHOM THE REFILLABLE CONTAINER LICENSE IS ISSUED; AND

(II) END AT MIDNIGHT.

(8) A LICENSE HOLDER MAY REFILL ONLY A REFILLABLE CONTAINER THAT WAS BRANDED BY ~~THE~~ A LICENSE HOLDER.

(9) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 24 – *Queen Anne’s County – Deer Hunting on Private Property – Sundays*.

This bill authorizes a person to hunt deer on private property in Queen Anne’s County using specified hunting equipment on specified Sundays during specified hunting seasons.

House Bill 214, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 24.

Sincerely,

Governor Martin O'Malley

**Senate Bill 24**

AN ACT concerning

**Queen Anne's County – Deer Hunting on Private Property – Sundays**

FOR the purpose of authorizing a person to hunt deer on private property in Queen Anne's County using certain hunting equipment on certain Sundays during certain hunting seasons; and generally relating to deer hunting on private property on Sundays.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 10–410(a)  
Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Natural Resources**

10–410.

(a) (1) Except as provided in paragraphs (2), (3), (4), and (6) of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen-reared game birds:

- A. Pheasants;
- B. Bobwhite quail;
- C. Chukar partridge;
- D. Hungarian partridge;
- E. Tower released flighted mallard ducks; and
- F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Allegany, Calvert, Caroline, Carroll, Charles, Dorchester, Frederick, Garrett, Harford, **QUEEN ANNE’S**, St. Mary’s, Somerset, Talbot, Washington, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow or crossbow during open season on the last three Sundays in October and the second Sunday in November;

(v) Except on Easter Sunday, in Allegany County and Garrett County, a person hunting turkey on the last Sunday in April and the first Sunday in May; and

(vi) In Calvert County, Caroline County, Charles County, Dorchester County, and St. Mary’s County, a person hunting turkey on private property on any Sunday during the spring turkey hunting season.

(3) Subject to the provisions of § 10–415 of this subtitle, in Calvert County, Caroline County, Charles County, Harford County, **QUEEN ANNE’S COUNTY**, St. Mary’s County, Somerset County, and Worcester County, a person may hunt deer on private property on:

(i) The first Sunday of the bow hunting season in November;

and

(ii) Each Sunday in the deer firearms season.

(4) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (5) of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

(i) The bow hunting season in November; and



(ii) The deer firearms season.

(5) The Sunday deer hunting provisions under paragraph (4) of this subsection do not apply:

(i) In Baltimore, Howard, and Prince George's counties; and

(ii) In Baltimore City.

(6) A person who is 16 years of age or younger may hunt deer with a firearm on a Sunday through participation in the junior deer hunt established under § 10-405(a) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 98 – *Business Regulation – Other Tobacco Products – Wholesalers – License Fee Exception for Cigarette Subwholesalers*.

This bill exempts a person who is licensed under a specified provision of law to act as a cigarette subwholesaler from the requirement that an applicant for a license to act as an other tobacco products wholesaler pay a specified license fee.

House Bill 182, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 98.

Sincerely,

Governor Martin O'Malley

Senate Bill 98

AN ACT concerning

**Business Regulation – Other Tobacco Products – Wholesalers – License Fee  
Exception for Cigarette Subwholesalers**

FOR the purpose of exempting a person who is licensed under a certain provision of law to act as a cigarette subwholesaler from the requirement that an applicant for a license to act as an other tobacco products wholesaler pay a certain license fee; and generally relating to license fee requirements for other tobacco products wholesalers.

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 16.5–203(d)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Business Regulation**

16.5–203.

(d) (1) An applicant for a license to act as an other tobacco products wholesaler shall:

(i) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(ii) except as provided in paragraph (2) of this subsection, pay to the Comptroller a fee of \$250.

(2) A person who has a license issued under Title 16 of this article to act as a cigarette wholesaler **OR TO ACT AS A CIGARETTE SUBWHOLESALE**R is not required to pay the license fee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 164 – *Queen Anne's County – Property Tax Credit – Commercial Investment and Economic Development*.

This bill decreases from 25 to 12 the number of new employees that a business must employ in order to qualify for a property tax credit against the Queen Anne's County property tax imposed on businesses that make specified real property improvements.

House Bill 201, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 164.

Sincerely,

Governor Martin O'Malley

### **Senate Bill 164**

AN ACT concerning

#### **Queen Anne's County – Property Tax Credit – Commercial Investment and Economic Development**

FOR the purpose of altering the minimum number of new employees that a certain business must employ in order to qualify for a certain property tax credit against the Queen Anne's County property tax imposed on certain property; and generally relating to county property tax credits for certain businesses in Queen Anne's County.

BY repealing and reenacting, with amendments,  
Article – Tax – Property  
Section 9-319(d)(1)  
Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Tax – Property**

9–319.

(d) (1) The governing body of Queen Anne’s County may grant, by law, a property tax credit under this section against the county property tax imposed on real property owned by a business that:

(i) makes significant real property improvements in the county, including construction, reconstruction, rehabilitation, or expansion of a nonresidential structure; and

(ii) employs at least [25] 12 new additional full-time employees.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H–107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 258 – *Correctional Services – Inmate Earnings – Compensation for Victims of Crime*.

This bill requires the Department of Public Safety and Correctional Services to withhold 20% of the earnings of an inmate in the Private Sector/Prison Industry Enhancement Certification Program of the U.S. Department of Justice, Bureau of Justice Assistance for compensation for victims of crime and requires the Department to allocate earnings that are withheld in a specified manner.

House Bill 921, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 258.

Sincerely,

Governor Martin O'Malley

**Senate Bill 258**

AN ACT concerning

**Correctional Services – Inmate Earnings – Compensation for Victims of Crime**

FOR the purpose of adding a requirement that the Department of Public Safety and Correctional Services pay compensation for victims of crime in accordance with certain provisions to a list of deductions that the Department is required to withhold from an inmate's earnings; requiring the Department to withhold a certain amount of the earnings of an inmate in a certain program for compensation for victims of crime; requiring the Department to allocate earnings that are withheld in a certain manner; requiring the ~~State Board of Victim Services~~ Criminal Injuries Compensation Board to distribute certain amounts to a certain person or governmental unit; establishing that compliance with a judgment of restitution is a required condition of work release if work release is allowed; applying certain provisions relating to responsibility for the administration of payments of restitution to the Department instead of to the Division of Parole and Probation; requiring the Department to submit a certain report by a certain date; altering the purpose of the ~~State Victims of Crime~~ Criminal Injuries Compensation Fund to include distribution of certain restitution payments; and generally relating to compensation for victims of crime.

BY repealing and reenacting, with amendments,  
Article – Correctional Services  
Section 11-604  
Annotated Code of Maryland  
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 11-607 and ~~11-916~~ 11-819(b)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Correctional Services**

11-604.

- (a) The Department shall collect an inmate's earnings.

(b) From an inmate's earnings, the Department shall:

(1) reimburse the county or State for the cost of providing food, lodging, and clothing to the inmate in a local correctional facility;

(2) pay court ordered payments for support of dependents; [and]

(3) pay court ordered payments for restitution; AND

(4) PAY COMPENSATION FOR VICTIMS OF CRIME IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

(c) (1) OF THE EARNINGS OF AN INMATE IN THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM OF THE UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, THE DEPARTMENT SHALL WITHHOLD 20% FOR COMPENSATION FOR VICTIMS OF CRIME, IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROGRAM.

(2) (i) IF A COURT IN A CRIMINAL OR JUVENILE DELINQUENCY PROCEEDING HAS ORDERED THE INMATE TO PAY RESTITUTION, THE DEPARTMENT SHALL FORWARD THE 20% WITHHELD UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE ~~STATE VICTIMS OF CRIME~~ CRIMINAL INJURIES COMPENSATION FUND ESTABLISHED UNDER ~~§ 11-916~~ § 11-819 OF THE CRIMINAL PROCEDURE ARTICLE.

(ii) ~~THE STATE BOARD OF VICTIM SERVICES~~ CRIMINAL INJURIES COMPENSATION BOARD SHALL DISTRIBUTE FROM THE ~~STATE VICTIMS OF CRIME~~ CRIMINAL INJURIES COMPENSATION FUND ANY AMOUNT RECEIVED UNDER THIS PARAGRAPH TO THE PERSON OR GOVERNMENTAL UNIT SPECIFIED IN THE JUDGMENT OF RESTITUTION TO PAY THE RESTITUTION AS REQUIRED UNDER § 11-607(B)(2) OF THE CRIMINAL PROCEDURE ARTICLE.

(3) IF THE INMATE IS NOT SUBJECT TO A JUDGMENT OF RESTITUTION OR THE JUDGMENT OF RESTITUTION IS SATISFIED, OF THE MONEY WITHHELD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL PAY:

(i) 50% INTO THE CRIMINAL INJURIES COMPENSATION FUND ESTABLISHED UNDER § 11-819 OF THE CRIMINAL PROCEDURE ARTICLE; AND

(ii) 50% INTO THE STATE VICTIMS OF CRIME FUND ESTABLISHED UNDER § 11-916 OF THE CRIMINAL PROCEDURE ARTICLE.

**[(c)] (D)** The Department shall:

(1) credit to the inmate's account any balance that remains after paying the items in subsection (b)(1) through (3) of this section; and

(2) pay the balance in the inmate's account to the inmate within 15 days after the inmate is released.

### **Article – Criminal Procedure**

11–607.

(a) (1) When a judgment of restitution has been entered under § 11–603 of this subtitle, compliance with the judgment of restitution:

(i) may be a requirement in the judgment of conviction or disposition in a juvenile delinquency proceeding;

(ii) if work release is ordered **OR ALLOWED**, shall be a condition of work release;

(iii) if probation is ordered, shall be a condition of probation:

1. in addition to a sentence or disposition; or
2. instead of a sentence if the probation is ordered before judgment under § 6–220 of this article.

(2) Subject to federal law, the Department or the Department of Juvenile Services shall obtain the Social Security number of the restitution obligor to facilitate the collection of restitution.

(b) (1) The restitution obligor shall make restitution to the **[Division] DEPARTMENT** or the Department of Juvenile Services under the terms and conditions of the judgment of restitution.

(2) The **[Division] DEPARTMENT** or the Department of Juvenile Services:

(i) shall keep records of payments or return of property in satisfaction of the judgment of restitution;

(ii) shall forward property or payments in accordance with the judgment of restitution and Part I of this subtitle to the person or governmental unit specified in the judgment of restitution; and

(iii) may require the restitution obligor to pay additional fees not exceeding 2% of the amount of the judgment of restitution to pay for the administrative costs of collecting payments or property.

(c) (1) Whenever an obligor's restitution payment, as ordered by the court or established by the [Division] DEPARTMENT, is overdue, the [Division] DEPARTMENT or the Department of Juvenile Services shall:

(i) notify the court; and

(ii) if an earnings withholding order is not in effect and the restitution obligor is employed, request an earnings withholding order.

(2) The court may hold a hearing to determine whether the restitution obligor is in contempt of court or has violated the terms of the probation.

(3) If the court finds that the restitution obligor intentionally became impoverished to avoid payment of the restitution, the court may find the restitution obligor in contempt of court or in violation of probation.

~~11-916.~~

~~(a) There is a State Victims of Crime Fund.~~

~~(b) (1) The Fund shall be used to pay for:~~

~~(i) carrying out Article 47 of the Maryland Declaration of Rights;~~

~~(ii) carrying out the guidelines for the treatment and assistance for victims and witnesses of crimes and delinquent acts provided in §§ 11-1002 and 11-1003 of this title;~~

~~(iii) carrying out any laws enacted to benefit victims and witnesses of crimes and delinquent acts; [and]~~

~~(iv) supporting child advocacy centers established under § 11-923(h) of this subtitle; AND~~

~~(v) DISTRIBUTING RESTITUTION PAYMENTS FORWARDED TO THE FUND UNDER § 11-604 OF THE CORRECTIONAL SERVICES ARTICLE.~~

~~(2) The Fund may pay for the administrative costs of the Fund.~~

~~(c) The Board shall administer the Fund.~~



~~(d) Grants awarded by the Board shall be equitably distributed among all purposes of the Fund described in subsection (b) of this section.~~

11-819.

(b) The Criminal Injuries Compensation Fund:

(1) shall be used to:

(I) carry out the provisions of this subtitle; and

(II) DISTRIBUTE RESTITUTION PAYMENTS FORWARDED TO THE FUND UNDER § 11-604 OF THE CORRECTIONAL SERVICES ARTICLE; AND

(2) may be used for:

(i) any award given under this subtitle; and

(ii) the costs of carrying out this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public Safety and Correctional Services, in accordance with § 2-1246 of the State Government Article, shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee on or before December 1, 2013, on the payment of restitution by inmates under its jurisdiction, addressing how the Department could increase the collection of restitution, including by having additional inmates pay toward restitution obligations through an annual transfer or other periodic transfer of earnings.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 463 – *State Board of Morticians and Funeral Directors – Apprentice Sponsors, Funeral Establishment Licenses, and Supervising Morticians*.

This bill clarifies the requirements for specified apprentice sponsors and a specified process for seeking approval by the State Board of Morticians and Funeral Directors for an apprentice license and requires specified evidence and death certificates to be submitted to the Board as proof of the completion of specified apprentice requirements.

House Bill 529, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 463.

Sincerely,

Governor Martin O'Malley

### Senate Bill 463

AN ACT concerning

#### **State Board of Morticians and Funeral Directors – Apprentice Sponsors, Funeral Establishment Licenses, and Supervising Morticians**

FOR the purpose of ~~requiring that a licensed mortician or licensed funeral director have certain approval by the State Board of Morticians and Funeral Directors before an apprenticeship begins;~~ clarifying the requirements for certain apprentice sponsors and a certain process for seeking approval by the State Board of Morticians and Funeral Directors for an apprentice license; requiring certain evidence and death certificates to be submitted to the Board as proof of the completion of certain apprentice requirements; altering certain practical experience requirements for an apprentice; altering the qualifications that must be met for issuance of a funeral establishment license; requiring certain licensed funeral establishments to have a supervising mortician; providing for the qualifications, ~~approval process~~ registration, responsibilities, and scope of supervising authority for certain supervising morticians; altering a certain definition; and generally relating to the State Board of Morticians and Funeral Directors, apprentice sponsors, funeral establishments, and supervising morticians.

BY repealing and reenacting, without amendments,  
Article – Health Occupations  
Section 7–101(a), (b), (d), (j), (k), and (m) through (u)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Health Occupations  
 Section 7–101(c), 7–306, and 7–310  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health Occupations**

7–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Apprentice” means an individual licensed by the Board who assists a licensed mortician or funeral director in the practice of mortuary science or funeral direction, under direct supervision of a licensed mortician or funeral director.
- (c) “Apprentice sponsor” means [a person] **AN INDIVIDUAL** who:
- (1) Is a licensed mortician or funeral director [practicing] **WHOSE LICENSE IS IN GOOD STANDING WITH THE BOARD;**
  - (2) **HAS PRACTICED** mortuary science as a licensed mortician or funeral director in Maryland at least 1 year immediately prior to accepting the applicant as an apprentice; ~~and~~
  - ~~(3) THE BOARD HAS APPROVED IN ACCORDANCE WITH § 7-306 OF THIS SUBTITLE; AND~~
- [(2)] ~~(4)~~ **(3)** Provides direct supervision to an apprentice.
- (d) “Board” means the Maryland State Board of Morticians and Funeral Directors.
- (j) “Funeral director” means an individual who is licensed by the Board to practice all aspects of mortuary science except for embalming.
- (k) “Funeral establishment” means any building, structure, or premises from which the business of practicing mortuary science is conducted.
- (m) (1) “License” means, unless the context requires otherwise, a license issued by the Board.
- (2) “License” includes, unless otherwise indicated:

- (i) A mortician license;
- (ii) An apprentice license;
- (iii) A funeral director license;
- (iv) A surviving spouse license;
- (v) A corporation license;
- (vi) A funeral establishment license; and
- (vii) A courtesy card.

(n) “Licensed apprentice” means, unless the context requires otherwise, an apprentice who is licensed by the Board to assist a licensed mortician or funeral director in the practice of mortuary science or funeral direction.

(o) “Licensed funeral director” means, unless the context requires otherwise, a funeral director who is licensed by the Board to practice funeral direction.

(p) “Licensed funeral establishment” means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

(q) “Licensed mortician” means, unless the context requires otherwise, a mortician who is licensed by the Board under this title to practice mortuary science.

(r) “Licensee” means an individual or entity licensed by the Board to practice mortuary science to the extent determined by the Board.

(s) “Mortician” means an individual who practices mortuary science.

(t) (1) “Practice funeral direction” means:

- (i) To operate a funeral establishment;
- (ii) For compensation, to prepare a dead human body for disposition; or
- (iii) For compensation, to arrange for or make final disposition of a dead human body.

(2) “Practice funeral direction” does not include:

(i) For compensation, disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection or any other type of preservation; or

(ii) The business of operating a crematory.

(u) (1) "Practice mortuary science" means:

(i) To operate a funeral establishment;

(ii) For compensation, to prepare a dead human body for disposition; or

(iii) For compensation, to arrange for or make final disposition of a dead human body.

(2) "Practice mortuary science" includes:

(i) The practice of funeral direction; and

(ii) Disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection.

(3) "Practice mortuary science" does not include:

(i) The pickup, removal, or transportation of a dead human body, if the unlicensed individual is acting under the direction of a licensed mortician or funeral director; or

(ii) The business of operating a crematory.

7-306.

(a) An individual shall obtain an apprentice license from the Board ~~AND A LICENSED MORTICIAN OR LICENSED FUNERAL DIRECTOR SHALL BE APPROVED BY THE BOARD AS AN APPRENTICE SPONSOR FOR THE INDIVIDUAL~~ before ~~beginning~~ an apprenticeship ~~BEGINS~~ in this State.

(b) (1) [An applicant for a] **A** mortician apprentice [license] shall have [a] **AN APPRENTICE** sponsor [with] **WHO:**

**(I) ~~WITH a current mortician license THAT IS A LICENSED MORTICIAN WHOSE LICENSE IS IN GOOD STANDING WITH THE BOARD; AND~~**

(II) ~~WHO HAS BEEN APPROVED BY THE BOARD IS EMPLOYED BY THE SAME FUNERAL ESTABLISHMENT THAT EMPLOYS THE APPRENTICE.~~

(2) [An applicant for a] A funeral director [license] APPRENTICE shall have [a] AN APPRENTICE sponsor [with a] WHO HAS:

(I) ~~A current mortician or funeral director license THAT IS A LICENSED MORTICIAN OR FUNERAL DIRECTOR WHOSE LICENSE IS IN GOOD STANDING WITH THE BOARD; AND~~

~~(II) BEEN APPROVED BY THE BOARD IS EMPLOYED BY THE SAME FUNERAL ESTABLISHMENT THAT EMPLOYS THE APPRENTICE.~~

(3) AN APPRENTICE MAY HAVE MORE THAN ONE APPRENTICE SPONSOR.

(c) An applicant for an apprentice license shall pay to the Board a fee set by the Board.

(d) (1) Prior to an individual appearing before the Board for approval of an apprentice license, the individual must complete two-thirds of the academic credits for a mortuary science program at a school accredited by the American Board of Funeral Service or approved by the Board, with a 2.0 grade point average or higher that is verified with a certified copy of the college transcript.

(2) The applicant AND A LICENSED MORTICIAN OR LICENSED FUNERAL DIRECTOR shall appear before the Board [with the applicant's sponsor] TO SEEK THE BOARD'S APPROVAL FOR:

~~(I) AN AN APPRENTICE LICENSE FOR THE APPLICANT; AND~~

~~(II) THE LICENSED MORTICIAN OR LICENSED FUNERAL DIRECTOR TO BECOME THE APPRENTICE SPONSOR FOR THE APPLICANT.~~

~~(3) [The] TO BE APPROVED AS AN APPRENTICE sponsor, A LICENSED MORTICIAN OR LICENSED FUNERAL DIRECTOR shall [hold];~~

~~(I) HOLD a current valid mortician OR FUNERAL DIRECTOR license in Maryland THAT IS IN GOOD STANDING WITH THE BOARD; and~~

~~(II) [shall be] BE employed by the same funeral [home] ESTABLISHMENT that employs the apprentice.~~

~~(4)~~ **(3)** ON TERMINATION OF THE SPONSOR-APPRENTICE RELATIONSHIP, BOTH THE SPONSOR AND THE APPRENTICE SHALL INDEPENDENTLY NOTIFY THE BOARD IN WRITING OF:

**(I) THE DATE OF TERMINATION;**

**(II) THE NAME, DATE OF DEATH, DATE OF SERVICE, AND EVIDENCE OF THE SERVICE FOR EACH DECEDENT FOR WHOM A FUNERAL SERVICE WAS CONDUCTED UNDER SUBSECTION (E)(1)(I) OF THIS SECTION IN WHICH THE APPRENTICE PARTICIPATED; AND**

**(III) THE NAME, DATE OF DEATH, DATE OF THE PREPARATION FOR DISPOSITION, AND A COPY OF THE DECEDENT'S FILED DEATH CERTIFICATE FOR EACH DECEDENT FOR WHOM THE APPRENTICE ASSISTED IN ACCORDANCE WITH SUBSECTION (E)(1)(II) OF THIS SECTION.**

~~(5)~~ **(4)** PRIOR APPROVAL MUST BE GRANTED BY THE BOARD BEFORE A CHANGE OF SPONSORSHIP OCCURS.

**[(3)] (E) (1)** The practical experience of an apprentice shall include:

(i) Participation in at least 20 funerals;

(ii) Except as provided in paragraph **[(4)](2)** of this subsection, assistance in the preparation AND EMBALMING of at least 20 dead human bodies for final disposition; and

(iii) Completion of 1,000 working hours in a licensed funeral establishment under the direct supervision of [a licensed mortician or funeral director. Supervision may include instruction by other licensed morticians or funeral directors employed or supervised by the sponsor] **THE APPRENTICE SPONSOR.**

**[(4)] (2)** For an apprentice funeral director, the practical experience under paragraph **[(3)(ii)] (1)(II)** of this subsection may not include embalming.

**(3) FOR PURPOSES OF PARAGRAPH (1)(III) OF THIS SUBSECTION, DIRECT SUPERVISION MAY INCLUDE INSTRUCTION BY A LICENSED MORTICIAN OR FUNERAL DIRECTOR EMPLOYED OR SUPERVISED BY THE APPRENTICE SPONSOR THAT IS OBSERVED IN PERSON BY THE APPRENTICE SPONSOR.**

**[(5)]** On termination of the sponsor-apprentice relationship, both the sponsor and the apprentice shall independently notify the Board in writing of:

(i) The date of termination;

(ii) The name, date of death, and date of service for each decedent for whom a funeral service was conducted under paragraph (3)(i) of this subsection in which the apprentice participated; and

(iii) The name, date of death, and date of the preparation for disposition of each decedent for whom the apprentice assisted in accordance with paragraph (3)(ii) of this subsection.

(6) Prior approval must be granted by the Board before a change of sponsorship occurs.]

~~[(e)]~~ (F) While the license is effective, an apprentice license authorizes the licensee to assist a licensed mortician or funeral director in the practice of mortuary science or funeral direction only as part of a training program to become a licensed mortician or funeral director.

7–310.

(a) (1) A funeral establishment shall be licensed by the Board before the establishment may be used for the preparation of the remains, viewing, ~~[and]~~ **OR** conducting of services.

(2) The licensee may be restricted to operations as determined by the Board.

(b) (1) To apply for a funeral establishment license, an applicant shall:

(i) Submit an application to the Board on the form that the Board requires; and

(ii) Pay to the Board:

1. An application fee set by the Board; and

2. The fee established under § 7–4A–05(a) of this title.

(2) An application for a funeral establishment license shall be signed by a licensed individual who is not an apprentice but is the owner or co-owner of the establishment to be licensed.

(c) The Board shall issue a funeral establishment license to a funeral establishment that:

(1) Has complied with all applicable State and local laws; **AND**



(2) Will be owned and operated in accordance with this title by at least one [licensed]:

- (I) LICENSED mortician [or one licensed];
- (II) LICENSED funeral director[, or a holder];
- (III) HOLDER of a surviving spouse LICENSE; ~~or~~
- (IV) HOLDER OF A corporation license[; and]; OR
- (V) HOLDER OF AN EXECUTOR LICENSE.

[ (3) Will be held responsible for any and all activities performed on the premises.]

(d) Signs and advertisements of a funeral establishment shall display the name that appears on the establishment license.

(E) (1) EACH LICENSED FUNERAL ESTABLISHMENT SHALL HAVE A SUPERVISING MORTICIAN.

(2) A LICENSED FUNERAL ESTABLISHMENT SHALL DESIGNATE A LICENSED MORTICIAN WHOSE LICENSE IS IN GOOD STANDING WITH THE BOARD TO BE THE SUPERVISING MORTICIAN FOR THE FUNERAL ESTABLISHMENT.  
~~SHALL BE A LICENSED MORTICIAN WHO:~~

~~(I) HAS A LICENSE IN GOOD STANDING WITH THE BOARD;~~  
AND

~~(II) HAS BEEN APPROVED BY THE BOARD TO BE A SUPERVISING MORTICIAN.~~

(3) ~~TO BECOME APPROVED AS A SUPERVISING MORTICIAN, A~~ A  
LICENSED MORTICIAN:

~~(I) SHALL~~ DESIGNATED TO BE THE SUPERVISING MORTICIAN FOR A FUNERAL ESTABLISHMENT SHALL COMPLETE THE APPLICATION REGISTRATION REQUIRED BY THE BOARD; AND

~~(II) MAY BE REQUIRED TO APPEAR BEFORE THE BOARD.~~

(4) ~~THE BOARD MAY NOT APPROVE AS A SUPERVISING MORTICIAN A LICENSED~~ A MORTICIAN:

~~(I) WHOSE WHOSE LICENSE IS NOT IN GOOD STANDING IN THE STATE OR ANY OTHER JURISDICTION MAY NOT BE A SUPERVISING MORTICIAN; OR~~

~~(II) WHOM THE BOARD HAD PREVIOUSLY DISCIPLINED AND WHO CONTINUES TO POSE A RISK TO PUBLIC WELFARE IN THE STATE.~~

(5) THE SUPERVISING MORTICIAN FOR A FUNERAL ESTABLISHMENT SHALL BE:

(I) HELD RESPONSIBLE FOR ALL ACTIVITIES PERFORMED ON BEHALF OF THE FUNERAL ESTABLISHMENT WITH THE KNOWLEDGE OR AT THE DIRECTION OF THE SUPERVISING MORTICIAN; AND

(II) ~~LIMITED~~ EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, LIMITED TO SUPERVISING:

1. ONE FUNERAL ESTABLISHMENT WITH AN EMBALMING FACILITY; ~~OR~~ AND

2. ~~Two~~ NO MORE THAN THREE FUNERAL ESTABLISHMENTS TOTAL THAT ARE WITHIN CLOSE ENOUGH PROXIMITY TO EACH OTHER TO ALLOW FOR OVERSIGHT OF EACH FUNERAL ESTABLISHMENT.

(6) THE LIMITS ON THE NUMBER OF FUNERAL ESTABLISHMENTS A SUPERVISING MORTICIAN MAY SUPERVISE AS PROVIDED FOR IN PARAGRAPH (5)(II) OF THIS SUBSECTION DO NOT APPLY IF A FUNERAL ESTABLISHMENT PREPARES FOR THE DISPOSITION OF LESS THAN 75 BODIES IN A CALENDAR YEAR.

~~(6)~~ (7) IF A SUPERVISING MORTICIAN FOR A FUNERAL ESTABLISHMENT RELINQUISHES THE SUPERVISING MORTICIAN'S RESPONSIBILITY UNDER PARAGRAPH (5)(I) OF THIS SUBSECTION FOR ANY REASON;

~~(I)~~ THE, THE FUNERAL ESTABLISHMENT SHALL NAME AN INTERIM SUPERVISING MORTICIAN WHO SHALL BE HELD RESPONSIBLE FOR ALL ACTIVITIES PERFORMED ON BEHALF OF THE FUNERAL ESTABLISHMENT, WITH THE KNOWLEDGE OR AT THE DIRECTION OF THE INTERIM SUPERVISING MORTICIAN, UNTIL A NEW SUPERVISING MORTICIAN FOR THE FUNERAL ESTABLISHMENT ~~IS APPROVED BY~~ REGISTERS WITH THE BOARD; ~~AND~~

~~(H) THE INTERIM SUPERVISING MORTICIAN OR ANOTHER LICENSED MORTICIAN IMMEDIATELY SHALL APPLY TO THE BOARD TO BECOME THE NEW SUPERVISING MORTICIAN FOR THE FUNERAL ESTABLISHMENT.~~

~~(7) THE BOARD SHALL EXPEDITE THE APPLICATION OF A NEW SUPERVISING MORTICIAN WHO APPLIES IN ACCORDANCE WITH PARAGRAPH (6)(H) OF THIS SUBSECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
 President of the Senate  
 H-107 State House  
 Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 573 – *County Property Tax – Personal Property Rate*.

This bill authorizes the Mayor and City Council of Baltimore City or the governing body of each county to set the tax rate applicable to personal property and specified operating real property at no more than 2.5 times the rate for real property and applies the Act to taxable years beginning after June 30, 2013.

House Bill 1190, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 573.

Sincerely,

Governor Martin O'Malley

**Senate Bill 573**

AN ACT concerning

**County Property Tax – Personal Property Rate**

FOR the purpose of authorizing the Mayor and City Council of Baltimore City or the governing body of a county to set a tax rate for personal property and certain operating real property of less than a certain amount; repealing an obsolete provision; providing for the application of this Act; and generally relating to setting the county tax rate for personal property and certain operating real property.

BY repealing and reenacting, with amendments,

Article – Tax – Property  
Section 6–302(b)(1)  
Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Tax – Property**

6–302.

(b) (1) Except as provided in subsection (c) of this section, §§ 6–305 and 6–306 of this subtitle and § 6–203 of this title:

(i) there shall be a single county property tax rate for all real property subject to county property tax except for operating real property described in § 8–109(c) of this article; and

(ii) the county tax rate applicable to personal property and the operating real property described in § 8–109(c) of this article [for taxable years beginning after June 30, 2001] shall be **NO MORE THAN 2.5** times the rate for real property.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013, and shall be applicable to all taxable years beginning after June 30, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H–107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 593 – *Health Occupations Boards – License Renewal, Investigation of Alleged Violations, and Immunity from Liability*.

This bill authorizes specified health occupations boards within the Department of Health and Mental Hygiene to establish an electronic system to distribute specified licenses, permits, certifications, or registrations. This bill requires specified boards to discontinue sending by first-class mail specified renewal notices and a renewed license, permit, certificate, or registration. The bill also requires specified boards to continue to send by first-class mail specified renewal notices, licenses, permits, certifications, or registrations.

House Bill 1115, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 593.

Sincerely,

Governor Martin O'Malley

### Senate Bill 593

AN ACT concerning

#### **Health Occupations Boards – License Renewal, Investigation of Alleged Violations, and Immunity from Liability**

FOR the purpose of authorizing certain health occupations boards within the Department of Health and Mental Hygiene to establish a certain electronic system for the purpose of distributing certain licenses, permits, certifications, or registrations; requiring the system to meet certain requirements; requiring certain boards to discontinue sending by first-class mail certain renewal notices and a renewed license, permit, certificate, or registration, ~~subject to a certain exception~~; requiring certain boards to send by electronic means certain renewal notices and a renewed license, permit, certification, or registration; requiring certain boards to continue to send by first-class mail ~~an initial license, permit, certification, or registration~~ certain renewal notices, licenses, permits, certifications, or registrations under certain circumstances; requiring certain health occupations boards to investigate certain violations of law; providing immunity from liability for certain persons who provide certain information to certain health occupations boards or participate in certain activities; authorizing certain health occupations boards to send a certain notice by electronic means or first-class mail; providing that certain individuals who act in good faith and within the scope of jurisdiction of certain boards are not civilly liable for providing certain information or for participating in certain activities;

defining certain terms; altering certain definitions; making certain conforming and stylistic changes; and generally relating to the health occupations boards and license renewal, investigation of alleged violations, and immunity from liability.

BY adding to

Article – Health Occupations  
Section 1–220, 1A–207, 5–207, 17–207, and 20–208  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations  
Section 1A–205, 1A–306(b), 2–308(b), 3–308(b), 3–5A–10(b), 4–309, 4–505,  
5–205, 5–308(b), 7–314(b), 9–311(b), 10–205, 10–311(b), 11–205,  
11–308(b), 13–206, 16–307(b), 17–504(b), 19–205, and 20–310(b)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations  
Section 1A–306(a), 2–308(a), 3–308(a), 3–5A–10(a), 5–308(a), 7–314(a),  
9–311(a), 10–311(a), 11–308(a), 16–307(a), 17–504(a), and 20–310(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings  
Section 5–702, 5–703, 5–706, 5–707, and 5–719  
Annotated Code of Maryland  
(2006 Replacement Volume and 2012 Supplement)

BY adding to

Article – Courts and Judicial Proceedings  
Section 5–722 through 5–724  
Annotated Code of Maryland  
(2006 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article – Health Occupations**

**1–220.**

**(A) EACH HEALTH OCCUPATION BOARD MAY DEVELOP A SECURE ELECTRONIC SYSTEM FOR THE DISTRIBUTION OF A RENEWED LICENSE, PERMIT,**

CERTIFICATION, OR REGISTRATION REQUIRED TO BE ISSUED UNDER THIS TITLE.

(B) THE SYSTEM SHALL:

(1) BE ACCESSIBLE TO THE PUBLIC FOR THE PURPOSE OF VERIFICATION OF A CURRENT LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; AND

(2) PROVIDE THE LICENSEE, PERMIT HOLDER, CERTIFICATE HOLDER, OR REGISTRANT THE OPTION OF PRINTING A VERIFICATION OF THE STATUS OF THEIR LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION.

(C) EXCEPT AS OTHERWISE PROVIDED BY LAW, A BOARD THAT DEVELOPS AND IMPLEMENTS A SYSTEM AUTHORIZED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) ~~DISCONTINUE EXCEPT AS PROVIDED IN PARAGRAPH (3)(H) OF THIS SUBSECTION, DISCONTINUE~~ DISCONTINUE TO SEND BY FIRST-CLASS MAIL:

(I) A RENEWAL NOTICE FOR A LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; AND

(II) A RENEWED LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION;

(2) SEND BY ELECTRONIC MEANS:

(I) A RENEWAL NOTICE FOR A LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; AND

(II) A RENEWED LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; AND

(3) CONTINUE TO SEND BY FIRST-CLASS MAIL:

~~(H) AN AN AN~~ AN INITIAL LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION; ~~AND~~

~~(H) A RENEWAL NOTICE FOR A LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION IF THE LICENSEE, PERMIT HOLDER, CERTIFICATED INDIVIDUAL, OR REGISTRANT REQUESTS FIRST-CLASS MAIL.~~

**(D) IF A BOARD CHOOSES TO SEND RENEWAL NOTICES OR RENEWED LICENSES, PERMITS, CERTIFICATIONS, OR REGISTRATIONS EXCLUSIVELY BY ELECTRONIC MAIL UNDER SUBSECTION (C) OF THIS SECTION, THE BOARD SHALL, ON REQUEST OF THE LICENSEE, PERMIT HOLDER, CERTIFICATE HOLDER, OR REGISTRANT, SEND BY FIRST-CLASS MAIL:**

**(1) THE RENEWAL NOTICE; OR**

**(2) THE RENEWED LICENSE, PERMIT, CERTIFICATION, OR REGISTRATION.**

1A-205.

(a) In addition to the powers set forth elsewhere in this title, the Board may adopt:

- (1) Regulations to carry out the provisions of this title; and
- (2) A code of ethics for licensees.

(b) In addition to the duties set forth elsewhere in this title, the Board shall keep:

- (1) Records and minutes necessary for the orderly conduct of business; and
- (2) A list of each currently licensed acupuncturist.

**(C) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS TITLE, THE BOARD SHALL INVESTIGATE ANY ALLEGED VIOLATION OF THIS TITLE.**

1A-207.

**A PERSON SHALL HAVE IMMUNITY FROM THE LIABILITY DESCRIBED UNDER § 5-724 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.**

1A-306.

(a) (1) The Board shall provide for the term and renewal of licenses under this section.

(2) The term of a license may not be more than 3 years.

(3) A license expires at the end of its term, unless the license is renewed for a term as provided by the Board.



(b) At least 1 month before the license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

2-308.

(a) Except as provided for a limited license in §§ 2-310 through 2-310.3 of this subtitle, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 2 months before the license expires, the Board shall contact the licensee **BY ELECTRONIC MEANS OR FIRST-CLASS MAIL** at the last known **ELECTRONIC OR PHYSICAL** address provided by the licensee and advise the licensee of:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

3-308.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term of longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to each licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal form and a renewal notice that states:

(1) The date on which the current license expires;

(2) That the renewal application and fee must be received by the Board on or before the license expiration date; and

- (3) The amount of the renewal fee.

3–5A–10.

(a) (1) A license or registration expires on the date set by the Board, unless the license or registration is renewed for a 1–year term as provided in this section.

(2) A license or registration may not be renewed for a term of longer than 2 years.

(b) At least 1 month before the license or registration expires, the Board shall send to the licensee or registration holder, by **ELECTRONIC MEANS OR** first–class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee or registration holder, a renewal notice that states:

- (1) The date on which the current license or registration expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license or registration expires; and

- (3) The amount of the renewal fee.

4–309.

(a) (1) Except as otherwise provided in this subsection, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(2) Except as provided in § 4–303.1 of this subtitle, a limited license to practice dentistry expires on the first anniversary of its effective date.

(3) A teacher’s license to practice dentistry or a teacher’s license to practice dental hygiene expires on the earlier of:

(i) The date set by the Board, unless the license is renewed for an additional term as provided in this section; or

(ii) The date when the licensee ceases to be a full–time or part–time faculty member at the institution named on the license.

(b) If a teacher’s license to practice dentistry expires because the licensee no longer is a full–time or part–time faculty member at the institution named on the license, the licensee shall surrender the license to the Board secretary within 30 days.

**(C) AT LEAST 1 MONTH BEFORE A LICENSE EXPIRES, THE BOARD SHALL SEND TO THE LICENSEE, BY ELECTRONIC MEANS OR FIRST-CLASS MAIL TO THE LAST KNOWN ELECTRONIC OR PHYSICAL ADDRESS OF THE LICENSEE, A RENEWAL NOTICE THAT STATES:**

**(1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;**

**(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE LICENSE EXPIRES; AND**

**(3) THE AMOUNT OF THE RENEWAL FEE.**

4-505.

(a) The Board of Dental Examiners shall:

(1) Define, for the purpose of this section, the terms “dental radiation technologist” and “practice dental radiation technology”;

(2) Adopt rules and regulations concerning qualifications, training, certification, monitoring of, and enforcement requirements for a dental radiation technologist; and

(3) Provide for a requirement to ensure competency in new safety and technological advances.

(b) The qualifications required of applicants for Board certification as a dental radiation technologist shall include requirements established by:

(1) The American Dental Association; or

(2) Any applicable federal standards for training and certification.

(c) After July 1, 1988, an individual must be certified by the Board as a dental radiation technologist before a licensed dentist may employ the individual to practice dental radiation technology.

(d) After July 1, 1988, an individual may not practice dental radiation technology unless certified by the Board.

**(E) AT LEAST 1 MONTH BEFORE A CERTIFICATE EXPIRES, THE BOARD SHALL SEND TO EACH CERTIFICATE HOLDER, BY ELECTRONIC MEANS OR FIRST-CLASS MAIL TO THE LAST KNOWN ELECTRONIC OR PHYSICAL ADDRESS OF THE CERTIFICATE HOLDER, A RENEWAL NOTICE THAT STATES:**

(1) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE CERTIFICATE EXPIRES; AND

(3) THE AMOUNT OF THE RENEWAL FEE.

5–205.

(a) In addition to the powers set forth elsewhere in this subtitle, the Board may:

(1) Adopt regulations to carry out the provisions of this subtitle;

(2) Sue to enforce any provision of this subtitle by injunction; and

(3) Issue subpoenas, summon witnesses, administer oaths, take affidavits, and take testimony about matters that relate to the jurisdiction of the Board.

(b) In addition to the duties set forth elsewhere in this subtitle, the Board shall:

(1) Keep a list of all dietitian–nutritionists who are currently licensed;

(2) Keep a record of its proceedings; [and]

(3) Submit an annual report of its transactions for the previous fiscal year to the Governor by September 30 of each year; AND

(4) INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.

5–207.

**A PERSON SHALL HAVE IMMUNITY FROM THE LIABILITY DESCRIBED UNDER § 5–719 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.**

5–308.

(a) (1) Unless the license is renewed for an additional term as provided in this section, a license expires on the date set by the Board.

(2) A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) The date by which the Board must receive the renewal application for the renewal to be issued and mailed before the license expires; and
- (3) The amount of the renewal fee.

7-314.

(a) A license issued under this title expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and
- (3) The amount of the renewal fee.

9-311.

(a) A license expires on the second anniversary of its effective date, unless the license is renewed for a 2-year term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and
- (3) The amount of the renewal fee.

10-205.

(a) In addition to the powers set forth elsewhere in this title, the Board may adopt:

(1) Rules and regulations to carry out the provisions of this title;

(2) A code of ethics for licensees; and

(3) In consultation with the State Board of Physical Therapy Examiners and the Board of Chiropractic Examiners, regulations that recognize occupational therapists and occupational therapy assistants who have acquired advanced practice skills.

(b) In addition to the duties set forth elsewhere in this title, the Board shall [keep]:

(1) [Records] **KEEP RECORDS** and minutes necessary for the orderly conduct of business; [and]

(2) [A] **KEEP A** list of each currently licensed occupational therapist and occupational therapy assistant; **AND**

**(3) INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.**

10–311.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

11–205.

(a) In addition to the powers set forth elsewhere in this title, the Board has the following powers:

(1) Each member of the Board may administer oaths and take affidavits for any matter under the jurisdiction of the Board; and

(2) The Board may adopt rules and regulations to carry out the provisions of this title.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(1) Keep a current list showing all:

(i) Licensed optometrists;

(ii) Optometrists who are on inactive status;

(iii) Diagnostically certified optometrists;

(iv) Therapeutically certified optometrists; and

(v) Optometrists against whom action has been taken under § 11-313 of this title;

(2) Keep a full record of its proceedings; [and]

(3) Adopt an official seal; **AND**

(4) **INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.**

11-308.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

13-206.

(a) In addition to the powers set forth elsewhere in this title, the Board may:

- (1) Adopt rules and regulations to carry out the provisions of this title;
  - (2) Adopt standards of practice and a code of ethics for the practice of physical therapy and limited physical therapy; and
  - (3) Pay, in accordance with the State budget, any necessary expense that relates to the referral of an alleged violation of the criminal provisions of this title.
- (b) In addition to the duties set forth elsewhere in this title, the Board shall:
- (1) Keep a list of the name and address of each licensed physical therapist and licensed physical therapist assistant;
  - (2) Present evidence of any alleged violation of this title to the State's Attorney of the county where the alleged violation occurred; [and]
  - (3) Adopt rules and regulations that govern the use of a physical therapy aide by a licensed physical therapist; **AND**
  - (4) **INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.**

16–307.

(a) Except as provided for a limited license in § 16–317 of this subtitle, a license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and
- (3) The amount of the renewal fee.

17–207.

**A PERSON SHALL HAVE IMMUNITY FROM THE LIABILITY DESCRIBED UNDER § 5–722 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.**



17-504.

(a) (1) A license or certificate expires on the date set by the Board, unless the license or certificate is renewed for an additional term as provided in this section.

(2) A license or certificate may not be renewed for a term longer than 2 years.

(b) At least 1 month before the license or certificate expires, the Board shall send to the licensee or certificate holder, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the licensee or certificate holder, a renewal notice that states:

(1) The date on which the current license or certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license or certificate expires; and

(3) The amount of the renewal fee.

19-205.

In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(1) To adopt rules and regulations to carry out the provisions of this title;

(2) To adopt a code of ethics;

(3) To adopt an official seal;

(4) To hold hearings and keep records and minutes necessary for the orderly conduct of business; [and]

(5) To issue a list annually of all currently licensed social workers and all social workers disciplined by the Board in the past year in accordance with § 10-617(h) of the State Government Article; **AND**

**(6) TO INVESTIGATE AN ALLEGED VIOLATION OF THIS TITLE.**

**20-208.**

A PERSON SHALL HAVE IMMUNITY FROM THE LIABILITY DESCRIBED UNDER § ~~5-722~~ 5-723 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.

20-310.

(a) (1) A certificate expires on a date set by the Board, unless the certificate is renewed for an additional term as provided in this section.

(2) A certificate may not be renewed for a term longer than 2 years.

(b) At least 1 month before the certificate expires, the Board shall send to the certified program administrator or certified residential child and youth care practitioner, by **ELECTRONIC MEANS OR** first-class mail to the last known **ELECTRONIC OR PHYSICAL** address of the certified program administrator or certified residential child and youth care practitioner, a renewal notice that states:

(1) The date on which the current certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(3) The amount of the renewal fee.

#### **Article – Courts and Judicial Proceedings**

5-702.

(a) In this section, “Board” means the State Board of Environmental [Sanitarian Registration] **HEALTH SPECIALISTS**.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

5-703.

(a) In this section, “Board” means the State Board of Examiners for Audiologists, **HEARING AID DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS** in the Department of Health and Mental Hygiene.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

5-706.

(a) In this section, ["Board"] **"COMMITTEE"** means the [State Board of Electrologists] **ELECTROLOGY PRACTICE COMMITTEE**.

(b) A person who acts in good faith and within the scope of the jurisdiction of the [Board] **COMMITTEE** is not civilly liable for giving information to the [Board] **COMMITTEE** or otherwise participating in its activities.

5-707.

(a) In this section, "Board" means the Maryland State Board of Morticians **AND FUNERAL DIRECTORS**.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

5-719.

(a) In this section, "Board" means the State Board of [Examiners for Speech-Language Pathologists] **DIETETIC PRACTICE**.

(b) A person who acts in good faith and within the scope of the jurisdiction of the Board is not civilly liable for giving information to the Board or otherwise participating in its activities.

5-722.

**(A) IN THIS SECTION, "BOARD" MEANS THE STATE BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS.**

**(B) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE JURISDICTION OF THE BOARD IS NOT CIVILLY LIABLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.**

5-723.

**(A) IN THIS SECTION, "BOARD" MEANS THE STATE BOARD FOR CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM PROFESSIONALS.**

**(B) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE JURISDICTION OF THE BOARD IS NOT CIVILLY LIABLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ITS ACTIVITIES.**

5-724.

(A) IN THIS SECTION, “BOARD” MEANS THE STATE BOARD OF ACUPUNCTURE.

(B) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF THE JURISDICTION OF THE BOARD IS NOT CIVILLY LIABLE FOR GIVING INFORMATION TO THE BOARD OR OTHERWISE PARTICIPATING IN ACTIVITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 672 – *State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation*.

This bill continues the State Board of Physicians and allied health advisory committees in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to July 1, 2018, the termination provisions relating to the statutory and regulatory authority of the Board and committees. The bill requires the Board to adopt regulations to allow a licensee to receive up to a specified number of credit hours for providing specified services and establishes disciplinary panels through which allegations are to be resolved.

House Bill 1096, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 672.

Sincerely,

Governor Martin O'Malley

**Senate Bill 672**

AN ACT concerning

**State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation**

FOR the purpose of continuing the State Board of Physicians and certain allied health advisory committees in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board and the committees; requiring that an evaluation of the Board and the related allied health advisory committees and the statutes and regulations of the Board and the related allied health advisory committees be performed on or before a certain date; altering to a certain date the termination provision related to the Perfusion Advisory Committee; stating the policy of the State regarding the regulation and control of health occupations in the State; stating that the health occupation boards are created to function in a certain way with a certain intent; altering the membership of the Board; altering the powers and duties of the Board; repealing a certain provision of law regarding entry onto private premises for a certain purpose; authorizing the Board's executive director to apply for a certain search warrant under certain circumstances; requiring the application for the warrant to meet certain requirements; authorizing a judge who receives a certain search warrant application to issue a warrant under certain circumstances; requiring a certain search warrant to include certain information and be executed and returned to a certain individual within a certain period of time; clarifying that certain fees charged by the Board, which must be set so as to approximate the cost of maintaining the Board, include the cost of providing a certain rehabilitation program; requiring the Board to adopt certain regulations to allow a certain licensee to receive up to a certain number of credit hours for providing certain services; establishing certain disciplinary panels through which certain allegations must be resolved; requiring the chair of the Board to assign each member of the Board to one of the disciplinary panels; providing for the composition and chairs of the disciplinary panels; authorizing the chair of the Board to serve as an ex-officio member of a certain disciplinary panel; specifying the quorum of a disciplinary panel; authorizing a disciplinary panel to conduct a certain investigation; requiring a disciplinary panel to determine the final disposition of a complaint against a physician or an allied health professional, except under certain circumstances; providing that each disciplinary panel has the independent authority to make a final determination regarding a certain matter; prohibiting the Board from voting to approve or disapprove an action of a disciplinary panel; requiring a disciplinary panel to consult with the chair of a certain allied health advisory committee, or the chair's designee, under certain circumstances; requiring a complaint to be assigned to a disciplinary panel after the completion of a certain investigation by the Board; authorizing a disciplinary panel to enter into a consent order with a physician or an allied

health professional after conducting a certain meeting; requiring the chair of a certain disciplinary panel to refer a complaint to the other disciplinary panel under certain circumstances; prohibiting a certain disciplinary panel, or its members, from continuing to handle or participating in disciplinary proceedings regarding a complaint under certain circumstances; authorizing a disciplinary panel, instead of the Board, to take certain action regarding a complaint or come to a certain agreement with a licensee; requiring a disciplinary panel, instead of the Board, to refer certain allegations to a certain entity for peer review; requiring a disciplinary panel, instead of the Board, to obtain a certain number of peer review reports for certain allegations; repealing certain obsolete language regarding a certain request for proposals; repealing the requirement that the Board, under certain circumstances, provide direct rehabilitation services for physicians; requiring a disciplinary panel, instead of the Board, to offer certain complainants and licensees an opportunity to mediate certain disputes; authorizing a disciplinary panel, instead of the Board, to determine, for certain allegations, that an agreement for corrective action is warranted; requiring a disciplinary panel, instead of the Board, to notify certain licensees of identified deficiencies and enter into a certain corrective action; prohibiting a disciplinary panel, instead of the Board, from entering into an agreement for corrective action under certain circumstances; requiring a disciplinary panel, instead of the Board, to evaluate licensees with whom the disciplinary panel has entered into an agreement for corrective action and to take certain action under certain circumstances; requiring a disciplinary panel to provide certain individuals an opportunity to appear before the disciplinary panel under certain circumstances; authorizing a disciplinary panel, instead of the Board, to take certain disciplinary action against a physician or allied health professional under certain circumstances; clarifying that an affirmative vote of the majority of the quorum of the Board or of the quorum of a disciplinary panel is required before the Board or the disciplinary panel takes certain action; requiring a disciplinary panel, instead of the Board, to take certain disciplinary action against a certain physician or allied health professional under certain circumstances; prohibiting a disciplinary panel, instead of the Board, from taking disciplinary action against a certain physician under certain circumstances; requiring a disciplinary panel, instead of the Board, to give a certain individual an opportunity for a certain hearing; requiring a disciplinary panel, instead of the Board, to pass an order under certain circumstances; authorizing a disciplinary panel, instead of the Board, to reinstate certain licenses under certain circumstances; requiring a disciplinary panel to notify the Board of certain license reinstatements; providing that proceedings, records, and files of a disciplinary panel are not discoverable or admissible in certain actions except under certain circumstances; prohibiting a disciplinary panel from disclosing information in a record except under certain circumstances; requiring the Board to disclose the filing of charges and initial denials of licensure on the Board's Web site; requiring a disciplinary panel to disclose certain information in a record under certain circumstances; requiring certain licensee profiles to include a summary of charges filed against the licensee, including a copy of the charging document, under certain circumstances;

requiring that licensee profiles include a certain disclaimer; requiring the Board to include certain information on a licensee's profile within a certain time period; ~~requiring that a certain report that certain entities are required to file with the Board include a certain statement under certain circumstances;~~ requiring the Board, in consultation with certain interested parties, to adopt regulations to define certain circumstances under which certain reporting is required by hospitals, related institutions, and alternative health systems; authorizing the Board to impose a certain civil penalty on an alternative health system that fails to file a certain report; requiring the Board to remit a certain penalty to the General Fund of the State; repealing the requirement that a circuit court of the State impose a civil penalty on an alternative health system that fails to file a certain report; ~~requiring a certain court reporting requirement to be enforced by the imposition of a certain civil penalty;~~ authorizing a disciplinary panel, instead of the Board, to take certain action against a physician who performs acupuncture under certain circumstances; requiring the chairs of certain committees, or the chairs' designees, to serve in an advisory capacity to the Board; requiring certain committees to submit an annual report to the Board; requiring the Board to consider all recommendations of certain committees and annually provide a certain report to the committees; requiring the Board to create and maintain a certain profile on certain licensees; requiring the profiles to contain certain information; requiring the Board to forward a written copy of certain profiles to a person under certain circumstances; requiring the Board to maintain certain profiles on the Board's Web site; requiring the Board to provide a mechanism for correcting factual inaccuracies in certain profiles; requiring the Polysomnography Professional Standards Committee to elect a chair every certain number of years; repealing the requirement that the Board provide a certain explanation to the Physician Assistant Advisory Committee; repealing the requirement that the Board assess a certain fee under certain circumstances; requiring the Board to submit a certain report to certain committees of the General Assembly and the Department of Legislative Services on or before a certain date and annually thereafter for a certain period of time; exempting the Board and the related allied health advisory committees from certain provisions of law requiring a certain preliminary evaluation; making this Act an emergency measure; defining certain terms; making certain conforming, stylistic, and technical changes; and generally relating to the State Board of Physicians and the related allied health advisory committees.

BY adding to

Article – Health Occupations

Section 1-102, 14-101(a-1) and (c-1), 14-206.1, 14-401, 14-416, 14-5A-18.1, 14-5B-15.1, 14-5C-06(d), 14-5C-18.1, 14-5D-16.1, 14-5E-18.1, 15-101(i-1), and 15-316.1

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations  
 Section 14–101(a) and 15–101(a)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations  
 Section 14–101(m), 14–202(a), 14–205, 14–206(d)(1), 14–207(b), 14–316, 14–401, 14–403 through 14–405.1, 14–406, 14–407(a), 14–408, 14–409(a), 14–410, 14–411(a), (b), (d)(1)(ii), (i), (j)(2)(i), (l)(2), (m), (r), and (s), 14–411.1(b), (c)(2), and (f), 14–413, 14–414, 14–504(g), 14–506(b)(2), 14–5A–04(a), 14–5A–06(d), 14–5A–07, 14–5A–16, 14–5A–17, 14–5A–17.1, 14–5A–18(f), 14–5A–19, 14–5A–25, 14–5B–04(a), 14–5B–05(c), 14–5B–06, 14–5B–13, 14–5B–14, 14–5B–14.1, 14–5B–15(f), 14–5B–16, 14–5B–21, 14–5C–04(a), 14–5C–07, 14–5C–16, 14–5C–17, 14–5C–18(f), 14–5C–19, 14–5C–25, 14–5D–03(a), 14–5D–05(e), 14–5D–06, 14–5D–14, 14–5D–15, 14–5D–16, 14–5D–20, 14–5E–04(a), 14–5E–06(d), 14–5E–07, 14–5E–15, 14–5E–16, 14–5E–18(f), 14–5E–19, 14–5E–25, 14–603, 14–702, 15–103(h), 15–202(d) and (e), 15–205, 15–206(a), 15–302(g), 15–312, 15–314 through 15–316, and 15–502

Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

BY repealing

Article – Health Occupations  
 Section 15–310(e)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government  
 Section 8–403(b)(6), (45), (48), (49), (53), (59), and (63)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health Occupations**

**1–102.**

**(A) IT IS THE POLICY OF THE STATE THAT HEALTH OCCUPATIONS SHOULD BE REGULATED AND CONTROLLED AS PROVIDED IN THIS ARTICLE TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC.**



**(B) THE HEALTH OCCUPATIONS BOARDS ESTABLISHED BY THIS ARTICLE, THE MAJORITY OF WHOSE MEMBERS ARE LICENSED OR CERTIFIED UNDER THIS ARTICLE, ARE CREATED TO FUNCTION AS INDEPENDENT BOARDS, WITH THE INTENT THAT A PEER GROUP IS BEST QUALIFIED TO REGULATE, CONTROL, AND OTHERWISE DISCIPLINE IN A FAIR AND UNBIASED MANNER THE LICENSEES OR CERTIFICATE HOLDERS WHO PRACTICE IN THE STATE.**

14-101.

(a) In this title the following words have the meanings indicated.

**(A-1) “ALLIED HEALTH PROFESSIONAL” MEANS AN INDIVIDUAL LICENSED BY THE BOARD UNDER SUBTITLE 5A, 5B, 5C, 5D, OR 5E OF THIS TITLE OR TITLE 15 OF THIS ARTICLE.**

**(C-1) “DISCIPLINARY PANEL” MEANS A DISCIPLINARY PANEL OF THE BOARD ESTABLISHED UNDER § 14-401 OF THIS TITLE.**

(m) “Physician Rehabilitation Program” means the program of the Board or the nonprofit entity with which the Board contracts under [§ 14-401(g)] **§ 14-401.1(G)** of this title that evaluates and provides assistance to impaired physicians and other health professionals regulated by the Board who are directed by the Board to receive treatment and rehabilitation for alcoholism, chemical dependency, or other physical, emotional, or mental conditions.

14-202.

(a) (1) The Board shall consist of [21] **22** members appointed by the Governor with the advice of the Secretary and the advice and consent of the Senate.

(2) Of the [21] **22** members:

(i) 11 shall be practicing licensed physicians, at least one of whom shall be a doctor of osteopathy, appointed as provided in subsections (d) and (e) of this section;

(ii) 1 shall be a practicing licensed physician appointed at the Governor’s discretion;

(iii) 1 shall be a representative of the Department nominated by the Secretary;

(iv) 1 shall be a [certified] **LICENSED** physician assistant appointed at the Governor’s discretion as provided in subsections (f) and (g) of this section;

(v) [1] 2 shall be [a] practicing licensed [physician] PHYSICIANS with [a] full-time faculty [appointment] APPOINTMENTS appointed to serve as [a representative] REPRESENTATIVES of [an] academic medical [institution] INSTITUTIONS in [this] THE State [appointed from a list containing] AND OF WHOM:

1. 1 SHALL BE APPOINTED FROM A LIST CONTAINING 3 names submitted by the Johns Hopkins University School of Medicine; and

2. 1 SHALL BE APPOINTED FROM A LIST CONTAINING 3 names submitted by the University of Maryland School of Medicine;

(vi) 5 shall be consumer members; and

(vii) 1 shall be a public member knowledgeable in risk management or quality assurance matters appointed from a list submitted by the Maryland Hospital Association.

14–205.

(a) IN ADDITION TO THE POWERS AND DUTIES SET FORTH IN THIS TITLE AND IN TITLE 15 OF THIS ARTICLE, THE BOARD SHALL:

(1) ENFORCE THIS TITLE AND TITLE 15 OF THIS ARTICLE;

(2) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS TITLE AND TITLE 15 OF THIS ARTICLE;

(3) ESTABLISH POLICIES FOR BOARD OPERATIONS;

(4) MAINTAIN THE RULES, REGULATIONS, AND POLICIES OF THE BOARD SO THAT THE RULES, REGULATIONS, AND POLICIES REFLECT THE CURRENT PRACTICES OF THE BOARD;

(5) OVERSEE:

(I) THE LICENSING REQUIREMENTS FOR PHYSICIANS AND THE ALLIED HEALTH PROFESSIONALS; AND

(II) THE ISSUANCE AND RENEWAL OF LICENSES;

(6) MAINTAIN SECURE AND COMPLETE RECORDS;

(7) REVIEW AND PRELIMINARILY INVESTIGATE COMPLAINTS, INCLUDING ACKNOWLEDGING RECEIPT OF COMPLAINTS AND INFORMING COMPLAINANTS OF THE FINAL DISPOSITION OF COMPLAINTS;

~~(8) ESTABLISH MECHANISMS FOR IDENTIFYING AND MONITORING THE TREATMENT OF LICENSEES WHO ARE DEPENDENT ON ALCOHOL OR OTHER ADDICTIVE SUBSTANCES AND FOR THE VOLUNTARY SELF-REPORTING OF SUBSTANCE ABUSE ISSUES BY LICENSEES;~~

~~(9)~~ (8) DEVELOP AND IMPLEMENT METHODS TO:

~~(I) IDENTIFY INCOMPETENT LICENSEES WHO FAIL TO MEET ACCEPTABLE STANDARDS OF CARE;~~

~~(II)~~ (I) ASSESS AND IMPROVE LICENSEE PRACTICES; AND

~~(III)~~ (II) ENSURE THE ONGOING COMPETENCE OF LICENSEES;

~~(10)~~ (9) ENSURE THAT AN OPPORTUNITY FOR A HEARING IS PROVIDED TO AN INDIVIDUAL, IN ACCORDANCE WITH LAW, BEFORE ANY ACTION IS TAKEN AGAINST THE INDIVIDUAL;

~~(11)~~ (10) ADJUDICATE NONDISCIPLINARY MATTERS WITHIN THE BOARD'S JURISDICTION;

~~(12)~~ (11) REPORT ON ALL DISCIPLINARY ACTIONS, LICENSE DENIALS, AND LICENSE SURRENDERS;

~~(13)~~ (12) ESTABLISH APPROPRIATE FEES THAT ARE ADEQUATE TO FUND THE EFFECTIVE REGULATION OF PHYSICIANS AND ALLIED HEALTH PROFESSIONALS;

~~(14)~~ (13) MAKE RECOMMENDATIONS THAT BENEFIT THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC;

~~(15)~~ (14) PROVIDE ONGOING EDUCATION AND TRAINING FOR BOARD MEMBERS TO ENSURE THAT THE BOARD MEMBERS CAN COMPETENTLY DISCHARGE THEIR DUTIES;

~~(16)~~ (15) DIRECT EDUCATIONAL OUTREACH TO AND COMMUNICATE WITH LICENSEES AND THE PUBLIC;

~~(17)~~ (16) DEVELOP AND ADOPT A BUDGET THAT REFLECTS REVENUES AND SUPPORTS THE COSTS ASSOCIATED WITH EACH ALLIED HEALTH PROFESSION REGULATED BY THE BOARD;

~~(18)~~ (17) DEVELOP AND APPROVE AN ANNUAL REPORT AND OTHER REQUIRED REPORTS FOR SUBMISSION TO THE SECRETARY, THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE PUBLIC;

~~(19)~~ (18) APPROVE CONTRACTS AS NEEDED AND WITHIN BUDGETARY LIMITS;

~~(20)~~ (19) APPOINT STANDING AND AD HOC COMMITTEES FROM AMONG BOARD MEMBERS AS NECESSARY;

~~(21)~~ (20) DELEGATE TO THE EXECUTIVE DIRECTOR OF THE BOARD THE AUTHORITY TO DISCHARGE BOARD DUTIES, AS DEEMED APPROPRIATE AND NECESSARY BY THE BOARD, AND HOLD THE EXECUTIVE DIRECTOR ACCOUNTABLE TO THE BOARD; AND

~~(22)~~ (21) APPOINT MEMBERS OF THE DISCIPLINARY PANELS.

(B) (1) In addition to the powers set forth elsewhere in this title, the Board may:

(i) Adopt [rules and] regulations to[:

1. Carry out the provisions of this title; or

2. Regulate] **REGULATE** the performance of acupuncture, but only to the extent authorized by § 14–504 of this title;

(ii) After consulting with the State Board of Pharmacy, adopt rules and regulations regarding the dispensing of prescription drugs by a licensed physician;

(iii) Subject to the Administrative Procedure Act, deny a license to an applicant or, **IF AN APPLICANT HAS FAILED TO RENEW THE APPLICANT'S LICENSE**, refuse to renew or reinstate an applicant's license for any of the reasons that are grounds for action under § 14–404 of this title;

(iv) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician or acupuncturist, other than an office of a physician or acupuncturist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions; and

(v) Contract with others for the purchase of administrative and examination services to carry out the provisions of this title.

(2) The Board **OR A DISCIPLINARY PANEL** may investigate an alleged violation of this title.

**[(b)] (C)** (1) In addition to the duties set forth elsewhere in this title, the Board shall:

(i) Submit an annual report to the Faculty and to the Secretary;

(ii) Issue, for use in other jurisdictions, a certificate of professional standing to any licensed physician; and

(iii) Keep a list of all license applicants.

(2) (i) The Board shall keep a list of all physicians who are currently licensed.

(ii) The list shall include each physician's designated public address.

(iii) A physician's designated public address may be a post office box only if the physician provides to the Board a nonpublic address, under paragraph (3) of this subsection, that is not a post office box.

(iv) Each list prepared under this paragraph shall be kept as a permanent record of the Board.

(v) The list of currently licensed physicians is a public record.

(3) (i) The Board shall maintain on file a physician's designated nonpublic address, if provided by the physician, to facilitate communication between the physician and the Board.

(ii) The Board shall offer a physician the opportunity to designate a nonpublic address, in addition to the physician's public address, at the time of initial licensure and license renewal.

(iii) A physician shall designate an address where the Board may send the physician mail.

(iv) A physician's designated nonpublic address is not a public record and may not be released by the Board.

(d) (1) If the entry is necessary to carry out a duty under this title, the Board's executive director or other duly authorized agent or investigator of the Board may enter at any reasonable hour:

(i) A place of business of a licensed physician; OR

(ii) [Private premises where the Board suspects that a person who is not licensed by the Board is practicing, attempting to practice, or offering to practice medicine, based on a formal complaint; or

(iii)] Public premises.

#### 14-206.1.

**(A) BASED ON A COMPLAINT RECEIVED BY THE BOARD, THE EXECUTIVE DIRECTOR OF THE BOARD MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR A SEARCH WARRANT TO ENTER PRIVATE PREMISES WHERE THE BOARD OR A DISCIPLINARY PANEL SUSPECTS THAT A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE.**

**(B) AN APPLICATION FOR A SEARCH WARRANT SHALL:**

**(1) BE IN WRITING;**

**(2) BE VERIFIED BY THE APPLICANT; AND**

**(3) DESCRIBE THE PREMISES TO BE SEARCHED AND THE NATURE, SCOPE, AND PURPOSE OF THE SEARCH.**

**(C) A JUDGE WHO RECEIVES AN APPLICATION FOR A SEARCH WARRANT MAY ISSUE A WARRANT ON A FINDING THAT:**

**(1) THE SCOPE OF THE PROPOSED SEARCH IS REASONABLE;**

**(2) THE REQUEST FOR A SEARCH WARRANT IS BASED ON A COMPLAINT RECEIVED BY THE BOARD; AND**

**(3) OBTAINING CONSENT TO ENTER THE PREMISES MAY JEOPARDIZE THE ATTEMPT TO DETERMINE WHETHER A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE.**

**(D) (1) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL SPECIFY THE LOCATION OF THE PREMISES TO BE SEARCHED.**

**(2) A SEARCH CONDUCTED IN ACCORDANCE WITH A SEARCH WARRANT ISSUED UNDER THIS SECTION MAY NOT EXCEED THE LIMITS SPECIFIED IN THE WARRANT.**

**(E) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE EXECUTED AND RETURNED TO THE ISSUING JUDGE:**

**(1) WITHIN THE PERIOD SPECIFIED IN THE WARRANT, WHICH MAY NOT EXCEED 30 DAYS AFTER THE DATE OF ISSUANCE; OR**

**(2) WITHIN 15 DAYS AFTER THE DATE OF ISSUANCE, IF NO PERIOD IS SPECIFIED IN THE WARRANT.**

14-207.

(b) (1) The Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) The fees charged shall be set so as to approximate the cost of maintaining the Board, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PHYSICIANS UNDER § 14-401.1(G) OF THIS TITLE.**

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

14-316.

(d) (1) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

(2) In establishing these requirements, the Board shall evaluate existing methods, devices, and programs in use among the various medical specialties and other recognized medical groups.

**(3) THE BOARD SHALL ADOPT REGULATIONS THAT ALLOW A LICENSEE SEEKING RENEWAL TO RECEIVE UP TO 5 CONTINUING EDUCATION CREDITS PER RENEWAL PERIOD FOR PROVIDING UNCOMPENSATED, VOLUNTARY MEDICAL SERVICES DURING EACH RENEWAL PERIOD.**

~~[(3)] (4)~~ The Board may not establish or enforce these requirements if they would so reduce the number of physicians in a community as to jeopardize the availability of adequate medical care in that community.

~~[(4)] (5)~~ The Board may impose a civil penalty of up to \$100 per continuing medical education credit in lieu of a sanction under § 14–404 of this title, for a first offense, for the failure of a licensee to obtain the continuing medical education credits required by the Board.

**14–401.**

**(A) THERE ARE TWO DISCIPLINARY PANELS THROUGH WHICH ALLEGATIONS OF GROUNDS FOR DISCIPLINARY ACTION AGAINST A LICENSED PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL SHALL BE RESOLVED.**

**(B) (1) THE CHAIR OF THE BOARD SHALL ASSIGN EACH MEMBER OF THE BOARD TO ONE OF THE DISCIPLINARY PANELS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.**

**(2) EACH DISCIPLINARY PANEL SHALL CONSIST OF 11 BOARD MEMBERS.**

**(3) OF THE 11 MEMBERS ON A DISCIPLINARY PANEL:**

**(I) 6 SHALL BE PRACTICING LICENSED PHYSICIANS;**

**(II) 1 SHALL BE A PRACTICING LICENSED PHYSICIAN WITH A FULL–TIME FACULTY APPOINTMENT;**

**(III) 1 SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OR A LICENSED PHYSICIAN ASSISTANT; AND**

**(IV) 3 SHALL BE MEMBERS OF THE PUBLIC.**

**(4) THE CHAIR OF THE BOARD MAY SERVE AS AN EX–OFFICIO MEMBER OF THE DISCIPLINARY PANEL TO WHICH THE CHAIR WAS NOT ASSIGNED AS A MEMBER UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

**(5) THE CHAIR OF THE BOARD SHALL SELECT A MEMBER OF EACH DISCIPLINARY PANEL TO BE THE CHAIR OF THE DISCIPLINARY PANEL.**

**(6) A QUORUM OF A DISCIPLINARY PANEL CONSISTS OF ~~6~~ 7 MEMBERS.**

[14–401.] **14–401.1.**



(a) (1) The Board shall perform any necessary preliminary investigation REGARDING AN ALLEGATION OF GROUNDS FOR DISCIPLINARY OR OTHER ACTION BROUGHT TO THE BOARD'S ATTENTION before [the Board refers] THE ALLEGATION IS ASSIGNED to [an investigatory body an allegation of grounds for disciplinary or other action brought to its attention] A DISCIPLINARY PANEL.

(2) (I) AFTER THE COMPLETION OF ANY NECESSARY PRELIMINARY INVESTIGATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, A COMPLAINT SHALL BE ASSIGNED TO A DISCIPLINARY PANEL.

(II) SUBJECT TO THE PROVISIONS OF THIS SECTION, A DISCIPLINARY PANEL:

1. SHALL DETERMINE THE FINAL DISPOSITION OF A COMPLAINT AGAINST A PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL; AND

2. HAS THE INDEPENDENT AUTHORITY TO MAKE A DETERMINATION REGARDING THE FINAL DISPOSITION OF A COMPLAINT.

(III) THE BOARD MAY NOT VOTE TO APPROVE OR DISAPPROVE ANY ACTION TAKEN BY A DISCIPLINARY PANEL, INCLUDING THE FINAL DISPOSITION OF A COMPLAINT.

(3) A DISCIPLINARY PANEL THAT IS ASSIGNED A COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION MAY:

(I) CONDUCT ANY ADDITIONAL INVESTIGATION INTO A COMPLAINT THAT IS DEEMED NECESSARY TO DETERMINE WHETHER A VIOLATION OF THIS TITLE OR TITLE 15 OF THIS ARTICLE HAS OCCURRED; AND

(II) ENTER INTO A CONSENT ORDER WITH A PHYSICIAN OR AN ALLIED HEALTH PROFESSIONAL AFTER CONDUCTING A MEETING BETWEEN THE DISCIPLINARY PANEL AND THE PHYSICIAN OR ALLIED HEALTH PROFESSIONAL TO DISCUSS ANY PROPOSED DISPOSITION OF THE COMPLAINT.

(4) A DISCIPLINARY PANEL THAT IS ASSIGNED A COMPLAINT AGAINST AN ALLIED HEALTH PROFESSIONAL UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL CONSULT WITH THE CHAIR OF THE APPROPRIATE ALLIED HEALTH ADVISORY COMMITTEE, OR THE CHAIR'S DESIGNEE, BEFORE TAKING DISCIPLINARY ACTION AGAINST THE ALLIED HEALTH PROFESSIONAL.

(5) (I) IF A COMPLAINT PROCEEDS TO A HEARING UNDER § 14-405, § 14-5A-17, § 14-5B-14, § 14-5C-17, § 14-5D-15, OR § 14-5E-16 OF

**THIS TITLE OR § 15–315 OF THIS ARTICLE, THE CHAIR OF THE DISCIPLINARY PANEL THAT WAS ASSIGNED THE COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL REFER THE COMPLAINT TO THE OTHER DISCIPLINARY PANEL.**

**(II) IF THE COMPLAINT PROCEEDS TO A HEARING AND IS REFERRED TO THE OTHER DISCIPLINARY PANEL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DISCIPLINARY PANEL THAT WAS ASSIGNED THE COMPLAINT UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, OR ANY OF ITS MEMBERS, MAY NOT:**

- 1. CONTINUE TO HANDLE THE COMPLAINT;**
- 2. PARTICIPATE IN ANY DISCIPLINARY PROCEEDINGS REGARDING THE COMPLAINT; OR**
- 3. DETERMINE THE FINAL DISPOSITION OF THE COMPLAINT.**

(b) If an allegation of grounds for disciplinary or other action is made by a patient or a family member of a patient based on § 14–404(a)(22) of this subtitle and a full investigation results from that allegation, the full investigation shall include an offer of an interview with the patient or a family member of the patient who was present on or about the time that the incident that gave rise to the allegation occurred.

(c) (1) Except as otherwise provided in this subsection, after [performing any necessary preliminary investigation of an allegation of grounds for disciplinary or other action] **BEING ASSIGNED A COMPLAINT UNDER SUBSECTION (A) OF THIS SECTION**, the [Board] **DISCIPLINARY PANEL** may:

- (i) Refer [the] **AN** allegation for further investigation to the entity that has contracted with the Board under subsection (e) of this section;
- (ii) Take any appropriate and immediate action as necessary; or
- (iii) Come to an agreement for corrective action with a licensee pursuant to paragraph (4) of this subsection.

(2) **(I)** After [performing any necessary preliminary investigation of an allegation of grounds for disciplinary or other action] **BEING ASSIGNED A COMPLAINT**, the [Board] **DISCIPLINARY PANEL** shall refer any allegation **IN THE COMPLAINT** based on § 14–404(a)(22) of this subtitle to the entity or entities that have contracted with the Board under subsection (e) of this section for further investigation and physician peer review within the involved medical specialty or specialties.

**(II) A DISCIPLINARY PANEL SHALL OBTAIN TWO PEER REVIEW REPORTS FROM THE ENTITY OR INDIVIDUAL WITH WHOM THE BOARD CONTRACTED UNDER SUBSECTION (E) OF THIS SECTION FOR EACH ALLEGATION THE DISCIPLINARY PANEL REFERS FOR PEER REVIEW.**

(3) If, after [performing any necessary preliminary investigation] **BEING ASSIGNED A COMPLAINT**, the [Board] **DISCIPLINARY PANEL** determines that an allegation involving fees for professional or ancillary services does not constitute grounds for disciplinary or other action, the [Board] **DISCIPLINARY PANEL** shall offer the complainant and the licensee an opportunity to mediate the dispute.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, if an allegation is based on § 14-404(a)(40) of this subtitle, [the Board] **A DISCIPLINARY PANEL**:

1. May determine that an agreement for corrective action is warranted; and

2. Shall notify the licensee of the identified deficiencies and enter into an agreement for corrective action with the licensee as provided in this paragraph.

(ii) [The Board] **A DISCIPLINARY PANEL** may not enter into an agreement for corrective action with a licensee if patient safety is an issue.

(iii) The [Board] **DISCIPLINARY PANEL** shall subsequently evaluate the licensee and shall:

1. Terminate the corrective action if the [Board] **DISCIPLINARY PANEL** is satisfied that the licensee is in compliance with the agreement for corrective action and has corrected the deficiencies; or

2. Pursue disciplinary action under § 14-404 of this subtitle if the deficiencies persist or the licensee has failed to comply with the agreement for corrective action.

(iv) An agreement for corrective action under this paragraph may not be made public or considered a disciplinary action under this title.

(v) The Board shall provide a summary of [the] **EACH DISCIPLINARY PANEL'S** corrective action agreements in the executive director's report of Board activities.

(d) County medical societies shall refer to the Board all complaints that set forth allegations of grounds for disciplinary action under § 14-404 of this subtitle.

(e) (1) [(i)] In accordance with subsection (f) of this section, the Board shall enter into a written contract with an entity or individual for confidential physician peer review of allegations based on § 14–404(a)(22) of this subtitle.

[(ii) The Board shall obtain two peer review reports for each allegation it refers for peer review.]

(2) A peer reviewer shall:

- (i) Be Board certified;
- (ii) Have special qualifications to judge the matter at hand;
- (iii) Have received a specified amount of medical experience and training;
- (iv) Have no formal actions against the peer reviewer's own license;
- (v) Receive training in peer review;
- (vi) Have a standard format for peer review reports; and
- (vii) To the extent practicable, be licensed and engaged in the practice of medicine in the State.

(3) The Board may consult with the appropriate specialty health care provider societies in the State to obtain a list of physicians qualified to provide peer review services.

(4) For purposes of peer review, the Board may use sole source procurement under § 13–107 of the State Finance and Procurement Article.

(5) The hearing of charges may not be stayed or challenged because of the selection of peer reviewers under this subsection before the filing of charges.

(f) (1) The entity or individual peer reviewer with which the Board contracts under subsection (e) of this section shall have 90 days for completion of peer review.

(2) The entity or individual peer reviewer may apply to the Board for an extension of up to 30 days to the time limit imposed under paragraph (1) of this subsection.

(3) If an extension is not granted, and 90 days have elapsed, the Board may contract with any other entity or individual who meets the requirements of subsection (e)(2) of this section for the services of peer review.

(4) If an extension has been granted, and 120 days have elapsed, the Board may contract with any other entity or individual who meets the requirements of subsection (e)(2) of this section for the services of peer review.

(g) ~~(1) Except as provided in paragraph (2) of this subsection, on or before January 1, 2008, the~~ **THE** Board shall issue a request for proposals and enter into a written contract with a nonprofit entity to provide rehabilitation services for physicians or other allied health professionals directed by the Board to receive rehabilitation services.

~~(2) If the Board does not receive a responsive proposal under paragraph (1) of this subsection or is not able to contract with a nonprofit entity, the Board shall provide directly rehabilitation services for physicians.~~

(h) (1) To facilitate the investigation and prosecution of disciplinary matters and the mediation of fee disputes coming before it, the Board may contract with an entity or entities for the purchase of investigatory, mediation, and related services.

(2) Services that may be contracted for under this subsection include the services of:

- (i) Investigators;
- (ii) Attorneys;
- (iii) Accountants;
- (iv) Expert witnesses;
- (v) Consultants; and
- (vi) Mediators.

(i) The Board **OR A DISCIPLINARY PANEL** may issue subpoenas and administer oaths in connection with any investigation under this section and any hearing or proceeding before it.

(j) Those individuals not licensed under this title but covered under § 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of § 14-405 of this subtitle.

(k) (1) It is the intent of this section that the disposition of every complaint against a licensee that sets forth allegations of grounds for disciplinary action filed with the Board shall be completed as expeditiously as possible and, in any event, within 18 months after the complaint was received by the Board.

(2) If [the Board] **A DISCIPLINARY PANEL** is unable to complete the disposition of a complaint within 1 year, the Board shall include in the record of that complaint a detailed explanation of the reason for the delay.

**(L) A DISCIPLINARY PANEL, IN CONDUCTING A MEETING WITH A PHYSICIAN OR ALLIED HEALTH PROFESSIONAL TO DISCUSS THE PROPOSED DISPOSITION OF A COMPLAINT, SHALL PROVIDE AN OPPORTUNITY TO APPEAR BEFORE THE DISCIPLINARY PANEL TO BOTH THE LICENSEE WHO HAS BEEN CHARGED AND THE INDIVIDUAL WHO HAS FILED THE COMPLAINT AGAINST THE LICENSEE GIVING RISE TO THE CHARGE.**

14–403.

(a) Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, certification, or registration of an individual the Board regulates, the individual may not surrender the license, certification, or registration nor may the license, certification, or registration lapse by operation of law while the individual is under investigation or while charges are pending.

(b) [The Board] **A DISCIPLINARY PANEL** may set conditions on its agreement to accept surrender of a license, certification, or registration.

14–404.

(a) Subject to the hearing provisions of § 14–405 of this subtitle, [the Board] **A DISCIPLINARY PANEL**, on the affirmative vote of a majority of the quorum **OF THE DISCIPLINARY PANEL**, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) Fraudulently or deceptively uses a license;

(3) Is guilty of:

(i) Immoral conduct in the practice of medicine; or

(ii) Unprofessional conduct in the practice of medicine;

(4) Is professionally, physically, or mentally incompetent;

- (5) Solicits or advertises in violation of § 14–503 of this title;
- (6) Abandons a patient;
- (7) Habitually is intoxicated;
- (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (9) Provides professional services:
  - (i) While under the influence of alcohol; or
  - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (10) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (11) Willfully makes or files a false report or record in the practice of medicine;
- (12) Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article, fails to provide details of a patient's medical record to the patient, another physician, or hospital;
- (14) Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician;
- (15) Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient;
- (16) Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient, unless the licensed physician discloses on the bill to the patient or third-party payor:
  - (i) The name of the laboratory;
  - (ii) The amount paid to the laboratory for the test or test series;

and

(iii) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken;

(17) Makes a willful misrepresentation in treatment;

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;

(19) Grossly overutilizes health care services;

(20) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

(22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

(23) Willfully submits false statements to collect fees for which services are not provided;

(24) Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee:

(i) Surrendered the license issued by the state or country to the state or country; or

(ii) Allowed the license issued by the state or country to expire or lapse;

(25) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(26) Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by § 20–113 of the Health – General Article;

(27) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(28) Fails to comply with the provisions of § 12–102 of this article;



(29) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(30) Except as to an association that has remained in continuous existence since July 1, 1963:

(i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy;

(ii) Employs a pharmacist for the purpose of operating a pharmacy; or

(iii) Contracts with a pharmacist for the purpose of operating a pharmacy;

(31) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(32) Fails to display the notice required under § 14-415 of this subtitle;

(33) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**;

(34) Is convicted of insurance fraud as defined in § 27-801 of the Insurance Article;

(35) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the licensee's medical education;

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine;

(37) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold or change testimony in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(38) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board **OR A DISCIPLINARY PANEL** in furtherance of any investigation of the Board **OR A DISCIPLINARY PANEL**;

(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(40) Fails to keep adequate medical records as determined by appropriate peer review; or

(41) Performs a cosmetic surgical procedure in an office or a facility that is not:

(i) Accredited by:

1. The American Association for Accreditation of Ambulatory Surgical Facilities;

2. The Accreditation Association for Ambulatory Health Care; or

3. The Joint Commission on the Accreditation of Health Care Organizations; or

(ii) Certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

(c) (1) Except as provided in paragraph (2) of this subsection, [the Board] **A DISCIPLINARY PANEL** may not reprimand, place on probation, or suspend or revoke a license of a licensee for providing a patient with a written statement, medical records, or testimony that, in the licensee's professional opinion, the patient is likely to receive therapeutic or palliative relief from marijuana.

(2) Nothing in this subsection shall be deemed to release a licensee from the duty to exercise a professional standard of care when evaluating a patient's medical condition.

14-405.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board **OR A DISCIPLINARY PANEL** takes any action under § 14-404(a) of this subtitle or § 14-5A-17(a) of this title, it shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(b) (1) The hearing officer shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(2) Factual findings shall be supported by a preponderance of the evidence.

(c) The individual may be represented at the hearing by counsel.

(d) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the hearing officer may hear and refer the matter to the Board **OR A DISCIPLINARY PANEL** for disposition.

(e) After performing any necessary hearing under this section, the hearing officer shall refer proposed factual findings to the Board **OR A DISCIPLINARY PANEL** for the Board's **OR DISCIPLINARY PANEL'S** disposition.

(f) The Board may adopt regulations to govern the taking of depositions and discovery in the hearing of charges.

(g) The hearing of charges may not be stayed or challenged by any procedural defects alleged to have occurred prior to the filing of charges.

14-405.1.

(a) If after a hearing under § 14-405 of this subtitle [the Board] **A DISCIPLINARY PANEL** finds that there are grounds under § 14-404 of this subtitle to suspend or revoke a license to practice medicine or osteopathy, or to reprimand a licensed physician or osteopath, the [Board] **DISCIPLINARY PANEL** may impose a fine subject to the Board's regulations:

(1) Instead of suspending the license; or

(2) In addition to suspending or revoking the license or reprimanding the licensee.

(b) The Board shall pay any fines collected under this section into the General Fund.

14-406.

(a) Following the filing of charges, if a majority of the quorum of [the Board] **A DISCIPLINARY PANEL** finds that there are grounds for action under § 14–404 of this subtitle, the [Board] **DISCIPLINARY PANEL** shall pass an order in accordance with the Administrative Procedure Act.

(b) After the charges are filed, if [the Board] **A DISCIPLINARY PANEL** finds, on an affirmative vote of a majority of its quorum, that there are no grounds for action under § 14–404 of this subtitle, the [Board] **DISCIPLINARY PANEL**:

(1) Immediately shall dismiss the charges and exonerate the licensee;

(2) (i) Except as provided in item (ii) of this [paragraph] **ITEM**, shall expunge all records of the charges 3 years after the charges are dismissed; or

(ii) If the physician executes a document releasing the Board from any liability related to the charges, shall immediately expunge all records of the charges; and

(3) May not take any further action on the charges.

14–407.

(a) An order of suspension or revocation is effective, in accordance with its terms and conditions, as soon as [the Board] **A DISCIPLINARY PANEL** files it under this title.

14–408.

(a) Except as provided in this section for an action under § 14–404 of this subtitle or § 14–5A–17 of this title, any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** in a contested case, as defined in the Administrative Procedure Act, may:

(1) Appeal that decision to the Board of Review; and

(2) Then take any further appeal allowed by the Administrative Procedure Act.

(b) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under § 14–404 of this subtitle or § 14–5A–17 of this title may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(c) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(d) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL.**

14-409.

(a) **(1)** Except as provided in subsection (b) of this section, [the Board] **A DISCIPLINARY PANEL** may reinstate the license of an individual whose license has been suspended or revoked under this title only in accordance with:

**[(1)] (I)** The terms and conditions of the order of suspension or revocation;

**[(2)] (II)** An order of reinstatement issued by the [Board] **DISCIPLINARY PANEL**; or

**[(3)] (III)** A final judgment in any proceeding for review.

**(2) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.**

14-410.

(a) Except by the express stipulation and consent of all parties to a proceeding before the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies, in a civil or criminal action:

(1) The proceedings, records, or files of the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies are not discoverable and are not admissible in evidence; and

(2) Any order passed by the Board **OR DISCIPLINARY PANEL** is not admissible in evidence.

(b) This section does not apply to a civil action brought by a party to a proceeding before the Board **OR A DISCIPLINARY PANEL** who claims to be aggrieved by the decision of the Board **OR THE DISCIPLINARY PANEL.**

(c) If any medical or hospital record or any other exhibit is subpoenaed and otherwise is admissible in evidence, the use of that record or exhibit in a proceeding before the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies does not prevent its production in any other proceeding.

14–411.

(a) In this section, “record” means the proceedings, records, or files of the Board **OR A DISCIPLINARY PANEL**.

(b) Except as otherwise expressly provided in this section and § 14–411.1 of this subtitle, the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies may not disclose any information contained in a record.

(d) The Board shall disclose any information contained in a record to:

(1) A committee of a hospital, health maintenance organization, or related institution if:

(ii) **[The Board] A DISCIPLINARY PANEL** has issued an order as to a licensed physician on whom the information is requested; and

(i) Following the filing of charges or notice of initial denial of license application, the Board shall disclose the filing to the public **ON THE BOARD’S WEB SITE**.

(j) The Board may disclose any information contained in a record to a licensing or disciplinary authority of another state if:

(2) The disclosure of any information is limited to the pendency of an allegation of a ground for disciplinary or other action by **[the Board] A DISCIPLINARY PANEL** until:

(i) The **[Board] DISCIPLINARY PANEL** has passed an order under § 14–406 of this subtitle; or

(l) The Board may disclose any information contained in a record to the State Medical Assistance Compliance Administration, the Secretary of the U.S. Department of Health and Human Services or the Secretary’s designee, or any health occupational regulatory board if:

(2) (i) **[The Board] A DISCIPLINARY PANEL** has issued an order under § 14–406 of this subtitle; or

(ii) An allegation is pending before the Board **OR A DISCIPLINARY PANEL**; and

(m) If the Board **OR A DISCIPLINARY PANEL** determines that the information contained in a record concerns possible criminal activity, the Board **OR**

**THE DISCIPLINARY PANEL** shall disclose the information to a law enforcement or prosecutorial official.

(r) This section does not apply to:

(1) Any disclosure of a record by the Board to **A DISCIPLINARY PANEL OR** any of its **OTHER** investigatory bodies; or

(2) A licensee, certificate holder, or registration holder who has been charged under this title or a party to a proceeding before the Board **OR A DISCIPLINARY PANEL** who claims to be aggrieved by the decision of the Board **OR THE DISCIPLINARY PANEL**.

(s) If any information contained in any medical or hospital document or any other exhibit is otherwise open for disclosure under law, the use of that document or exhibit in any record of the Board, **A DISCIPLINARY PANEL**, or any of its **OTHER** investigatory bodies does not prevent its disclosure in any other proceeding.

14-411.1.

(b) The Board shall create and maintain a public individual profile on each licensee that includes the following information:

(1) **A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-404 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES.**

(2) A description of any disciplinary action taken by the Board **OR A DISCIPLINARY PANEL** against the licensee within the most recent 10-year period that includes a copy of the public order;

[(2)] (3) A description in summary form of any final disciplinary action taken by a licensing board in any other state or jurisdiction against the licensee within the most recent 10-year period;

[(3)] (4) The number of medical malpractice final court judgments and arbitration awards against the licensee within the most recent 10-year period for which all appeals have been exhausted as reported to the Board;

[(4)] (5) A description of a conviction or entry of a plea of guilty or nolo contendere by the licensee for a crime involving moral turpitude reported to the Board under [§ 14-413(b)] **§ 14-416** of this subtitle; and

**[(5)] (6)** Medical education and practice information about the licensee including:

(i) The name of any medical school that the licensee attended and the date on which the licensee graduated from the school;

(ii) A description of any internship and residency training;

(iii) A description of any specialty board certification by a recognized board of the American Board of Medical Specialties or the American Osteopathic Association;

(iv) The name of any hospital where the licensee has medical privileges as reported to the Board under § 14–413 of this subtitle;

(v) The location of the licensee’s primary practice setting; and

(vi) Whether the licensee participates in the Maryland Medical Assistance Program.

(c) In addition to the requirements of subsection (b) of this section, the Board shall:

(2) Include a statement on each licensee’s profile of information to be taken into consideration by a consumer when viewing a licensee’s profile, including factors to consider when evaluating a licensee’s malpractice data, **AND A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL**; and

(f) The Board shall include information relating to **[a] CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY** final disciplinary action taken by **[the Board] A DISCIPLINARY PANEL** against a licensee in the licensee’s profile within 10 days after **THE CHARGES ARE FILED OR** the action becomes final.

14–413.

(a) (1) Every 6 months, each hospital and related institution shall file with the Board a report that:

(i) Contains the name of each licensed physician who, during the 6 months preceding the report:

1. Is employed by the hospital or related institution;

2. Has privileges with the hospital or related institution;

and



3. Has applied for privileges with the hospital or related institution; ~~and~~

(ii) States whether, as to each licensed physician, during the 6 months preceding the report:

1. The hospital or related institution denied the application of a physician for staff privileges or limited, reduced, otherwise changed, or terminated the staff privileges of a physician, or the physician resigned whether or not under formal accusation, if the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle;

2. The hospital or related institution took any disciplinary action against a salaried, licensed physician without staff privileges, including termination of employment, suspension, or probation, for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle;

3. The hospital or related institution took any disciplinary action against an individual in a postgraduate medical training program, including removal from the training program, suspension, or probation for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle;

4. A licensed physician or an individual in a postgraduate training program voluntarily resigned from the staff, employ, or training program of the hospital or related institution for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; or

5. The hospital or related institution placed any other restrictions or conditions on any of the licensed physicians as listed in items 1 through 4 of this subparagraph for any reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; ~~AND~~

~~(III) STATES THAT NO ACTION WAS TAKEN AGAINST THE LICENSED PHYSICIAN IF THE HOSPITAL OR RELATED INSTITUTION DID NOT TAKE ACTION AGAINST THE LICENSED PHYSICIAN DURING THE PERIOD COVERED BY THE REPORT.~~

(2) The hospital or related institution shall:

(i) Submit the report within 10 days of any action described in paragraph (1)(ii) of this subsection; and

(ii) State in the report the reasons for its action or the nature of the formal accusation pending when the physician resigned.

(3) The Board may extend the reporting time under this subsection for good cause shown.

(4) The minutes or notes taken in the course of determining the denial, limitation, reduction, or termination of the staff privileges of any physician in a hospital or related institution are not subject to review or discovery by any person.

**(5) THE BOARD, IN CONSULTATION WITH ALL INTERESTED PARTIES, MAY ADOPT REGULATIONS TO DEFINE:**

**(I) CHANGES IN EMPLOYMENT OR PRIVILEGES THAT REQUIRE REPORTING UNDER THIS SECTION; AND**

**(II) ACTIONS BY LICENSEES THAT ARE GROUNDS FOR DISCIPLINE AND THAT REQUIRE REPORTING UNDER THIS SECTION.**

[(b) (1) Each court shall report to the Board each conviction of or entry of a plea of guilty or nolo contendere by a physician for any crime involving moral turpitude.

(2) The court shall submit the report within 10 days of the conviction or entry of the plea.]

[(c) (B) The Board may enforce this section by subpoena.

[(d) (C) Any person shall have the immunity from liability described under § 5–715(d) of the Courts and Judicial Proceedings Article for giving any of the information required by this section.

[(e) (D) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board OR A DISCIPLINARY PANEL under this title.

[(f) (E) (1) The Board may impose a civil penalty of up to \$5,000 for failure to report under this section.

(2) The Board shall remit any penalty collected under this subsection into the General Fund of the State.

14–414.

(a) (1) Every 6 months, each alternative health system as defined in § 1–401 of this article shall file with the Board a report that:

(i) Contains the name of each licensed physician who, during the 6 months preceding the report:

1. Is employed by the alternative health system;
2. Is under contract with the alternative health system;

and

3. Has completed a formal application process to become under contract with the alternative health system; ~~and~~

(ii) States whether, as to each licensed physician, during the 6 months preceding the report:

1. The alternative health system denied the formal application of a physician to contract with the alternative health system or limited, reduced, otherwise changed, or terminated the contract of a physician, or the physician resigned whether or not under formal accusation, if the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; or

2. The alternative health system placed any other restrictions or conditions on any licensed physician for any reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; ~~AND~~

~~(iii) STATES THAT NO ACTION WAS TAKEN AGAINST THE LICENSED PHYSICIAN IF THE ALTERNATIVE HEALTH SYSTEM DID NOT TAKE ACTION AGAINST THE LICENSED PHYSICIAN DURING THE PERIOD COVERED BY THE REPORT.~~

(2) The alternative health system shall:

(i) Submit the report within 10 days of any action described in paragraph (1)(ii) of this subsection; and

(ii) State in the report the reasons for its action or the nature of the formal accusation pending when the physician resigned.

(3) The Board may extend the reporting time under this subsection for good cause shown.

(4) The minutes or notes taken in the course of determining the denial, limitation, reduction, or termination of the employment contract of any physician in an alternative health system are not subject to review or discovery by any person.

**(5) THE BOARD, IN CONSULTATION WITH ALL INTERESTED PARTIES, MAY ADOPT REGULATIONS TO DEFINE:**

**(I) CHANGES IN EMPLOYMENT OR PRIVILEGES THAT REQUIRE REPORTING UNDER THIS SECTION; AND**

**(II) ACTIONS BY LICENSEES THAT ARE GROUNDS FOR DISCIPLINE AND REQUIRE REPORTING UNDER THIS SECTION.**

[(b) (1) Each court shall report to the Board each conviction of or entry of a plea of guilty or nolo contendere by a physician for any crime involving moral turpitude.

(2) The court shall submit the report within 10 days of the conviction or entry of the plea.]

[(c) (B) The Board may enforce this section by subpoena.

[(d) (C) Any person shall have the immunity from liability described under § 5–715(d) of the Courts and Judicial Proceedings Article for giving any of the information required by this section.

[(e) (D) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board OR A DISCIPLINARY PANEL under this title.

[(f) (E) (1) [Failure to report pursuant to the requirements of this section shall result in imposition of a civil penalty of up to \$5,000 by a circuit court of this State] **THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$5,000 FOR FAILURE TO REPORT UNDER THIS SECTION.**

**(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

14–416.

**(A) ~~(1)~~ EACH COURT SHALL REPORT TO THE BOARD EACH CONVICTION OF OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY A PHYSICIAN FOR ANY CRIME INVOLVING MORAL TURPITUDE.**

**~~(2)~~ (B) THE COURT SHALL SUBMIT THE REPORT WITHIN 10 DAYS AFTER THE CONVICTION OR ENTRY OF THE PLEA.**

~~(B) FAILURE TO REPORT UNDER THIS SECTION SHALL RESULT IN IMPOSITION OF A CIVIL PENALTY OF UP TO \$5,000 BY A CIRCUIT COURT OF THE STATE.~~

14-504.

(g) Subject to the hearing provisions of § 14-405 of this title, [the Board] A **DISCIPLINARY PANEL**, on the affirmative vote of a majority of its quorum, may reprimand or place a physician who performs acupuncture on probation or suspend or revoke the registration of a physician for:

(1) Any conduct prohibited under the provisions of this section or prohibited under any regulation adopted pursuant to the provisions of this section;

(2) Except in an emergency life-threatening situation where it is not feasible or practicable, failing to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions; or

(3) Failing to display the notice required under subsection (h) of this section.

14-506.

(b) The following records and other information are confidential records:

(2) Any record of a proceeding or transaction before the entity or individual that contracts with the Board or one of its committees that relates to any investigation or report under [§ 14-401] **§ 14-401.1** of this title as to an allegation of grounds for disciplinary or other action.

14-5A-04.

(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and the other services it provides to respiratory care practitioners.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to respiratory care practitioners, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR RESPIRATORY CARE PRACTITIONERS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5A-06.

(d) **(1)** From among its members, the Committee shall elect a chair once every 2 years.

**(2) THE CHAIR, OR THE CHAIR’S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.**

14-5A-07.

**(A)** In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;

(2) Develop and recommend to the Board a code of ethics for the practice of respiratory care for adoption by the Board;

(3) If requested, develop and recommend to the Board standards of care for the practice of respiratory care;

(4) Develop and recommend to the Board the requirements for licensure as a respiratory care practitioner;

(5) Evaluate the credentials of applicants as necessary and recommend licensure of applicants who fulfill the requirements for a license to practice respiratory care;

(6) Develop and recommend to the Board continuing education requirements for license renewal;

(7) Provide the Board with recommendations concerning the practice of respiratory care;

(8) Develop and recommend to the Board criteria related to the practice of respiratory care in the home setting; [and]

(9) Keep a record of its proceedings; **AND**

**(10) SUBMIT AN ANNUAL REPORT TO THE BOARD.**

**(B) THE BOARD SHALL:**

**(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;**  
**AND**

**(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

14-5A-16.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed respiratory care practitioner may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5A-17.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of a quorum **OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL, MAY** reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) Provides professional services while:
  - (i) Under the influence of alcohol; or
  - (ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of respiratory care;

(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;

(12) Breaches patient confidentiality;

(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;

(14) Knowingly makes a misrepresentation while practicing respiratory care;

(15) Knowingly practices respiratory care with an unauthorized individual or aids an unauthorized individual in the practice of respiratory care;

(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State;

(19) Knowingly submits false statements to collect fees for which services are not provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) **[The licensed individual] HAS:**

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;



(21) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(23) Practices or attempts to practice beyond the authorized scope of practice;

(24) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(25) Practices or attempts to practice a respiratory care procedure or uses or attempts to use respiratory care equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**; or

(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician.

(b) Except as otherwise provided in the Administrative Procedure Act, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14–405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14–5A–17.1.

(a) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(b) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(c) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL.**

14-5A-18.

(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

14-5A-18.1.

**(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF A LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.**

**(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:**

**(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5A-17 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;**

**(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;**

**(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD IF THE BOARD KNOWS ABOUT THE DISCIPLINARY ACTION;**

**(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5A-17(C) OF THIS SUBTITLE; AND**

**(5) THE PUBLIC ADDRESS OF THE LICENSEE.**

**(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.**

**(D) THE BOARD:**

**(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND**

**(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.**

**(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.**

**(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.**

14-5A-19.

**(A) On the application of an individual whose license has been revoked, [the Board] A DISCIPLINARY PANEL, on the affirmative vote of a majority of the quorum OF THE DISCIPLINARY PANEL, may reinstate a revoked license.**

**(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.**

14-5A-25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] **2018**.

14-5B-04.

(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to licensees and holders of temporary licenses.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to licensees and holders of temporary licenses, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR LICENSEES AND HOLDERS OF TEMPORARY LICENSES UNDER § 14-401.1(G) OF THIS TITLE.**

14-5B-05.

(c) (1) From among its members, the Committee shall elect a chair once every 2 years.

(2) **THE CHAIR, OR THE CHAIR'S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.**

14-5B-06.

(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Make recommendations to the Board on regulations necessary to carry out the provisions of this subtitle;

(2) Make recommendations to the Board on a code of ethics for the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and the practice of radiology assistance for adoption by the Board;

(3) On request, make recommendations to the Board on standards of care for the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and the practice of radiology assistance;

(4) Make recommendations to the Board on the requirements for licensure as a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant;

(5) On request, review applications for licensure as a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant and make recommendations to the Board;

(6) Develop and recommend to the Board continuing education requirements for license renewal;

(7) Advise the Board on matters related to the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and the practice of radiology assistance; [and]

(8) Keep a record of its proceedings; **AND**

**(9) SUBMIT AN ANNUAL REPORT TO THE BOARD.**

**(B) THE BOARD SHALL:**

**(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;**  
**AND**

**(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

14-5B-13.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license or temporary license, a licensee or holder of a temporary license may not surrender the license or temporary license and the license or temporary license may not lapse by operation of law while the licensee or holder of a temporary license is under investigation or while charges are pending against the licensee or holder of a temporary license.

14-5B-14.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, on the affirmative vote of a majority of the quorum **OF THE BOARD**, may deny a license or temporary license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE DISCIPLINARY PANEL, MAY** reprimand any licensee or holder of a temporary license, place any licensee or holder of a temporary license on probation, or suspend or revoke a license, if the applicant licensee or holder of a temporary license:

(1) Fraudulently or deceptively obtains or attempts to obtain a license or temporary license for the applicant, licensed individual, holder of a temporary license, or for another;

(2) Fraudulently or deceptively uses a license or temporary license;

(3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (8) Provides professional services while:
  - (i) Under the influence of alcohol; or
  - (ii) Using any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance;
- (15) Knowingly practices radiation therapy, radiography, nuclear medicine technology, or radiology assistance with an unauthorized individual or aids an unauthorized individual in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;
- (16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(18) Fails to meet appropriate standards for the delivery of quality radiation therapy, radiography, nuclear medicine technology, or radiology assistance care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in this State;

(19) Knowingly submits false statements to collect fees for which services are not provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) **[The licensed individual] HAS:**

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;

(21) Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article;

(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(23) Practices or attempts to practice beyond the authorized scope of practice;

(24) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee or holder of a temporary license is licensed and qualified to render because the individual is HIV positive;

(25) Practices or attempts to practice a radiation therapy, radiography, nuclear medicine technology, or radiology assistance procedure or uses radiation therapy, radiography, nuclear medicine technology, or radiology assistance equipment if the applicant or licensee or holder of a temporary license has not received education, internship, training, or experience in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**; or

(27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician.

(b) Except as otherwise provided in the Administrative Procedure Act, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14–405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a licensee or holder of a temporary license if the licensee or holder of a temporary license is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license or temporary license on the certification by the Office of the Attorney General.

14–5B–14.1.

(a) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(b) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(c) The Board may appeal from any decision that reverses or modifies [its] **THE order OF THE BOARD OR A DISCIPLINARY PANEL**.

14–5B–15.

(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

14–5B–15.1.



(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.

(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5B-14 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5B-14(C) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

**(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.**

**(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.**

**(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.**

14-5B-16.

**(A) On the application of an individual whose license has been revoked, [the Board] A DISCIPLINARY PANEL may reinstate a revoked license.**

**(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.**

14-5B-21.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, and subject to the termination of this title under § 14-702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] **2018**.

14-5C-04.

**(a) (1) The Board shall set reasonable fees for the issuance of and renewal of licenses and other services it provides to polysomnographic technologists.**

**(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to polysomnographic technologists, INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR POLYSOMNOGRAPHIC TECHNOLOGISTS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5C-06.

**(D) (1) FROM AMONG ITS MEMBERS, THE COMMITTEE SHALL ELECT A CHAIR ONCE EVERY 2 YEARS.**

**(2) THE CHAIR, OR THE CHAIR'S DESIGNEE, SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.**

14-5C-07.

**(A)** In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;

(2) Develop and recommend to the Board a code of ethics for the practice of polysomnography for adoption by the Board;

(3) Develop and recommend to the Board standards of care for the practice of polysomnography;

(4) Develop and recommend to the Board the requirements for licensure as a polysomnographic technologist, including:

(i) Criteria for the educational and clinical training of licensed polysomnographic technologists; and

(ii) Criteria for a professional competency examination and testing of applicants for a license to practice polysomnography;

(5) Develop and recommend to the Board criteria for licensed polysomnographic technologists who are licensed in other states to practice in this State;

(6) Evaluate the accreditation status of education programs in polysomnography for approval by the Board;

(7) Evaluate the credentials of applicants and recommend licensure of applicants who fulfill the requirements for a license to practice polysomnography;

(8) Develop and recommend to the Board continuing education requirements for license renewal;

(9) Provide the Board with recommendations concerning the practice of polysomnography;

(10) Develop and recommend to the Board criteria for the direction of students in clinical education programs by licensed polysomnographic technologists and licensed physicians;

- (11) Keep a record of its proceedings; and
- (12) Submit an annual report to the Board.

**(B) THE BOARD SHALL:**

**(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;**  
**AND**

**(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

14-5C-16.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed polysomnographic technologist may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5C-17.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL**, MAY reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of polysomnography;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;

- (8) Provides professional services while:
  - (i) Under the influence of alcohol; or
  - (ii) Using any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of polysomnography;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing polysomnography;
- (15) Knowingly practices polysomnography with an unauthorized individual or aids an unauthorized individual in the practice of polysomnography;
- (16) Knowingly delegates a polysomnographic duty to an unlicensed individual;
- (17) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;
- (18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (19) Fails to meet appropriate standards for the delivery of polysomnographic services performed in a hospital sleep laboratory or a stand-alone sleep center;

(20) Knowingly submits false statements to collect fees for which services are not provided;

(21) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) Has:

1. Surrendered the license, if any, issued by the state or country; or

2. Allowed the license, if any, issued by the state or country to expire or lapse;

(22) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(24) Practices or attempts to practice beyond the authorized scope of practice;

(25) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(26) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive; or

(27) Practices or attempts to practice a polysomnography procedure or uses or attempts to use polysomnography equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment.

(b) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14–405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere

with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5C-18.

(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

**14-5C-18.1.**

**(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.**

**(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:**

**(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5C-17 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;**

**(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;**

**(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;**

**(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5C-17(C) OF THIS SUBTITLE; AND**

**(5) THE PUBLIC ADDRESS OF THE LICENSEE.**

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.

(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.

(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

14-5C-19.

(A) On the application of an individual whose license has been revoked, [the Board] A DISCIPLINARY PANEL, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.

(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.

14-5C-25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] 2018.

14-5D-03.



(a) (1) The Board shall set reasonable fees for the issuance and renewal of licenses and the other services it provides to athletic trainers.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to athletic trainers, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR ATHLETIC TRAINERS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5D-05.

(e) (1) From among its members, the Committee shall elect a chair every 2 years.

(2) **THE CHAIR SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.**

14-5D-06.

(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board regulations to carry out this subtitle;

(2) Develop and recommend to the Board continuing education requirements for license renewal;

(3) Provide the Board with recommendations concerning the practice of athletic training;

(4) Develop and recommend to the Board an evaluation and treatment protocol for use by an athletic trainer and the physician with whom the athletic trainer practices;

(5) Provide advice and recommendations to the Board on individual evaluation and treatment protocols when requested; [and]

(6) Keep a record of its proceedings; **AND**

(7) **SUBMIT AN ANNUAL REPORT TO THE BOARD.**

(B) **THE BOARD SHALL:**

(1) **CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;**

**AND**

**(2) PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

14-5D-14.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE DISCIPLINARY PANEL, MAY** reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of athletic training;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Habitually is intoxicated;
- (7) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) Provides professional services while:
  - (i) Under the influence of alcohol; or
  - (ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article, or any other drug that is in excess of therapeutic amounts or without valid medical indication;
- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of athletic training;

(11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(12) Breaches patient confidentiality;

(13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any individual for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;

(14) Knowingly makes a misrepresentation while practicing athletic training;

(15) Knowingly practices athletic training with an unauthorized individual or aids an unauthorized individual in the practice of athletic trainer services;

(16) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(17) Is disciplined by a licensing, certifying, or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section;

(18) Fails to meet appropriate standards for the delivery of athletic training services;

(19) Knowingly submits false statements to collect fees for which services have not been provided;

(20) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and

(ii) **[The licensed individual] HAS:**

1. Surrendered the license issued by the state or country; or

2. Allowed the license issued by the state or country to expire or lapse;

(21) Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article;

(22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(23) Practices or attempts to practice beyond the authorized scope of practice;

(24) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(25) Practices or attempts to practice an athletic training procedure or uses or attempts to use athletic training equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment;

(26) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**;

(27) Fails to practice under the supervision of a physician or violates the approved evaluation and treatment protocol; or

(28) Violates an order of the Board **OR A DISCIPLINARY PANEL**, including any condition of probation.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process, if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5D-15.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under § 14-5D-14 of this subtitle, [it] **THE BOARD OR THE DISCIPLINARY PANEL** shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(2) The hearing officer shall give notice and hold the hearing in accordance with Title 10, Subtitle 2[, ] of the State Government Article.

(3) The Board **OR A DISCIPLINARY PANEL** may administer oaths in connection with any proceedings under this section.

(4) At least 14 days before the hearing, a hearing notice shall be sent by certified mail to the last known address of the individual.

(b) (1) Any person aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(c) An order of the Board **OR A DISCIPLINARY PANEL** may not be stayed pending review.

(d) The Board may appeal from any decision that reverses or modifies [its] **AN order OF THE BOARD OR A DISCIPLINARY PANEL.**

14-5D-16.

(A) On the application of an individual whose license has been revoked, [the Board] **A DISCIPLINARY PANEL** may reinstate a revoked license.

(B) **IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.**

14-5D-16.1.

(A) **FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.**

(B) **THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:**

(1) **A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5D-14 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;**

(2) **A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;**

**(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD IF THE BOARD KNOWS OF THE DISCIPLINARY ACTION;**

**(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5D-14(B) OF THIS SUBTITLE; AND**

**(5) THE PUBLIC ADDRESS OF THE LICENSEE.**

**(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.**

**(D) THE BOARD:**

**(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND**

**(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.**

**(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.**

**(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.**

14-5D-20.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of

this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] **2018**.

14-5E-04.

(a) (1) The Board shall set reasonable fees for the issuance and renewal of licenses and other services it provides to perfusionists.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the licensure program and the other services provided to perfusionists, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PERFUSIONISTS UNDER § 14-401.1(G) OF THIS TITLE.**

14-5E-06.

(d) (1) From among its members, the Committee shall elect a chair every 2 years.

(2) **THE CHAIR SHALL SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE.**

14-5E-07.

(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(1) Develop and recommend to the Board:

(i) Regulations to carry out the provisions of this subtitle;

(ii) A code of ethics for the practice of perfusion for adoption by the Board;

(iii) Recommendations concerning the practice of perfusion, including standards of care for the practice of perfusion; and

(iv) Continuing education requirements for license renewal;

[and]

(2) Keep a record of its proceedings; **AND**

(3) **SUBMIT AN ANNUAL REPORT TO THE BOARD.**

(B) **THE BOARD SHALL:**

(1) **CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE;**  
AND

(2) **PROVIDE TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

14-5E-15.

Unless [the Board] **A DISCIPLINARY PANEL** agrees to accept the surrender of a license, a licensed perfusionist may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

14-5E-16.

(a) Subject to the hearing provisions of § 14-405 of this title, the Board, **ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE BOARD**, may deny a license to any applicant, **OR A DISCIPLINARY PANEL, ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE QUORUM OF THE DISCIPLINARY PANEL, MAY** reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is guilty of unprofessional or immoral conduct in the practice of perfusion;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Abandons a patient;
- (6) Is habitually intoxicated;
- (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- (8) Provides professional services while:
  - (i) Under the influence of alcohol; or
  - (ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication;



- (9) Promotes the sale of services, drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (10) Willfully makes or files a false report or record in the practice of perfusion;
- (11) Willfully fails to file or record any report as required under law, willfully impedes or obstructs the filing or recording of a report, or induces another to fail to file or record a report;
- (12) Breaches patient confidentiality;
- (13) Pays or agrees to pay any sum or provide any form of remuneration or material benefit to any person for bringing or referring a patient or accepts or agrees to accept any sum or any form of remuneration or material benefit from an individual for bringing or referring a patient;
- (14) Knowingly makes a misrepresentation while practicing perfusion;
- (15) Knowingly practices perfusion with an unauthorized individual or aids an unauthorized individual in the practice of perfusion;
- (16) Knowingly delegates a perfusion duty to an unlicensed individual;
- (17) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;
- (18) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the U.S. Department of Veterans Affairs for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (19) Fails to meet appropriate standards for the delivery of perfusion services;
- (20) Knowingly submits false statements to collect fees for which services are not provided;
- (21) (i) Has been subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; and
- (ii) Has:

1. Surrendered the license, if any, issued by the state or country; or

2. Allowed the license, if any, issued by the state or country to expire or lapse;

(22) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(23) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(24) Practices or attempts to practice beyond the authorized scope of practice;

(25) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(26) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;

(27) Practices or attempts to practice a perfusion procedure or uses or attempts to use perfusion equipment if the applicant or licensee has not received education and training in the performance of the procedure or the use of the equipment; or

(28) Fails to cooperate with a lawful investigation of the Board **OR A DISCIPLINARY PANEL**.

(b) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board **OR A DISCIPLINARY PANEL** takes any action under subsection (a) of this section, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board **OR THE DISCIPLINARY PANEL** in accordance with the hearing requirements of § 14–405 of this title.

(c) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving

moral turpitude, [the Board] A DISCIPLINARY PANEL shall order the revocation of a license on the certification by the Office of the Attorney General.

14-5E-18.

(f) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board OR A DISCIPLINARY PANEL under this title.

14-5E-18.1.

(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.

(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:

(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 14-5E-16 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 14-5E-16(C) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER

STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

**(D) THE BOARD:**

**(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND**

**(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.**

**(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.**

**(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.**

14-5E-19.

**(A) On the application of an individual whose license has been revoked, [the Board] A DISCIPLINARY PANEL, on the affirmative vote of a majority of its full authorized membership, may reinstate a revoked license.**

**(B) IF A DISCIPLINARY PANEL REINSTATES A LICENSE UNDER SUBSECTION (A) OF THIS SECTION, THE DISCIPLINARY PANEL SHALL NOTIFY THE BOARD OF THE REINSTATEMENT.**

14-5E-25.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2022] **2018**.

14-603.

A person may not make any false statement, report, or representation to the Board **OR A DISCIPLINARY PANEL**.

14-702.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, [2013] **2018**.

15-101.

(a) In this title the following words have the meanings indicated.

**(I-1) "DISCIPLINARY PANEL" MEANS A DISCIPLINARY PANEL OF THE BOARD ESTABLISHED UNDER § 14-401 OF THIS ARTICLE.**

15-103.

(h) A report under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board **OR A DISCIPLINARY PANEL** under this title.

15-202.

(d) A Committee [chairperson] **CHAIR** and a secretary shall be selected every 2 years by a majority vote of the membership of the Committee.

(e) The [chairperson] **CHAIR, OR THE CHAIR'S DESIGNEE**, shall serve in an advisory capacity to the Board as a representative of the Committee.

15-205.

(a) In addition to the powers set forth elsewhere in this title, the Committee, on its initiative or on the Board's request, may:

(1) Recommend to the Board regulations for carrying out the provisions of this title;

(2) Recommend to the Board approval, modification, or disapproval of an application for licensure or a delegation agreement;

(3) Report to the Board any conduct of a supervising physician or a physician assistant that may be cause for disciplinary action under this title or under § 14-404 of this article; and

(4) Report to the Board any alleged unauthorized practice of a physician assistant.

**(B) THE COMMITTEE SHALL SUBMIT AN ANNUAL REPORT TO THE BOARD.**

**[(b)] (C)** (1) In addition to the duties set forth elsewhere in this title, the Board shall adopt regulations to carry out the provisions of this title.

(2) The Board shall:

(i) Consider all recommendations of the Committee; and

(ii) Provide [a written explanation of the Board's reasons for rejecting or modifying the Committee's recommendations] **TO THE COMMITTEE AN ANNUAL REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.**

(3) The Board may:

(i) Investigate any alleged unauthorized practice of a physician assistant;

(ii) Investigate any conduct that may be cause for disciplinary action under this title; and

(iii) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician assistant, other than an office of a physician assistant in a hospital, related institution, freestanding medical facility, or freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions.

(4) If the entry is necessary to carry out a duty under this subtitle, including an investigation or determination of compliance as provided under paragraph (3) of this subsection and an audit to determine compliance with the Board's requirements with respect to physician assistant practice, the Executive Director of the Board or other duly authorized agent or investigator may enter at any reasonable hour a place of business of a licensed physician or a licensed physician assistant or public premises.

(5) (i) A person may not deny or interfere with an entry under this subsection.

(ii) A person who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

15–206.

(a) The Board shall set reasonable fees for:

(1) The issuance and renewal of licenses; and

(2) The other services rendered by the Board in connection with physician assistants, **INCLUDING THE COST OF PROVIDING A REHABILITATION PROGRAM FOR PHYSICIAN ASSISTANTS UNDER § 14-401.1(G) OF THIS ARTICLE.**

15-302.

(g) If the Board determines that a primary or alternate supervising physician or physician assistant is practicing in a manner inconsistent with the requirements of this title or Title 14 of this article, the Board on its own initiative or on the recommendation of the Committee may demand modification of the practice, withdraw the approval of the delegation agreement, or **[take] REFER THE MATTER TO A DISCIPLINARY PANEL FOR THE PURPOSE OF TAKING** other disciplinary action under § 14-404 or § 15-314 of this article.

15-310.

**[(e) The Board shall assess each applicant for a license or the renewal of a license to practice as a physician assistant, a fee set by the Board sufficient to fund the activities of the Board's rehabilitation program under § 14-401(g) of this article in conducting a physician assistant rehabilitation program.]**

15-312.

(a) Unless **[the Board] A DISCIPLINARY PANEL** agrees to accept the surrender of a license of a physician assistant, the physician assistant may not surrender the license nor may the licensure lapse by operation of law while the physician assistant is under investigation or while charges are pending.

(b) **[The Board] A DISCIPLINARY PANEL** may set conditions on its agreement to accept surrender of a license.

15-314.

(a) Subject to the hearing provisions of § 15-315 of this subtitle, **[the Board] A DISCIPLINARY PANEL**, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;

(2) Fraudulently or deceptively uses a license;

- (3) Is guilty of:
  - (i) Immoral conduct in the practice of medicine; or
  - (ii) Unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically, or mentally incompetent;
- (5) Solicits or advertises in violation of § 14–503 of this article;
- (6) Abandons a patient;
- (7) Habitually is intoxicated;
- (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5–101 of the Criminal Law Article;
- (9) Provides professional services:
  - (i) While under the influence of alcohol; or
  - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (10) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (11) Willfully makes or files a false report or record in the practice of medicine;
- (12) Willfully fails to file or record any medical report as required under law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article, fails to provide details of a patient’s medical record to the patient, another physician, or hospital;
- (14) Solicits professional patronage through an agent or other person or profits from the acts of a person who is represented as an agent of the physician;
- (15) Pays or agrees to pay any sum to any person for bringing or referring a patient or accepts or agrees to accept any sum from any person for bringing or referring a patient;



(16) Agrees with a clinical or bioanalytical laboratory to make payments to the laboratory for a test or test series for a patient, unless the licensed physician assistant discloses on the bill to the patient or third-party payor:

(i) The name of the laboratory;

(ii) The amount paid to the laboratory for the test or test series;

and

(iii) The amount of procurement or processing charge of the licensed physician, if any, for each specimen taken;

(17) Makes a willful misrepresentation in treatment;

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;

(19) Grossly overutilizes health care services;

(20) Offers, undertakes, or agrees to cure or treat disease by a secret method, treatment, or medicine;

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

(22) Fails to meet appropriate standards for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

(23) Willfully submits false statements to collect fees for which services are not provided;

(24) Was subject to investigation or disciplinary action by a licensing or disciplinary authority or by a court of any state or country for an act that would be grounds for disciplinary action under this section and the licensee:

(i) Surrendered the license issued by the state or country to the state or country; or

(ii) Allowed the license issued by the state or country to expire or lapse;

(25) Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article;

(26) Fails to educate a patient being treated for breast cancer of alternative methods of treatment as required by § 20–113 of the Health – General Article;

(27) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes;

(28) Fails to comply with the provisions of § 12–102 of this article;

(29) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the physician assistant is licensed and qualified to render because the individual is HIV positive;

(30) Except as to an association that has remained in continuous existence since July 1, 1963:

(i) Associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy;

(ii) Employs a pharmacist for the purpose of operating a pharmacy; or

(iii) Contracts with a pharmacist for the purpose of operating a pharmacy;

(31) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions;

(32) Fails to display the notice required under § 14–415 of this article;

(33) Fails to cooperate with a lawful investigation conducted by the Board **OR A DISCIPLINARY PANEL**;

(34) Is convicted of insurance fraud as defined in § 27–801 of the Insurance Article;

(35) Is in breach of a service obligation resulting from the applicant's or licensee's receipt of State or federal funding for the physician assistant's medical education;

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine;

(37) By corrupt means, threats, or force, intimidates or influences, or attempts to intimidate or influence, for the purpose of causing any person to withhold

or change testimony in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(38) By corrupt means, threats, or force, hinders, prevents, or otherwise delays any person from making information available to the Board **OR A DISCIPLINARY PANEL** in furtherance of any investigation of the Board **OR A DISCIPLINARY PANEL**;

(39) Intentionally misrepresents credentials for the purpose of testifying or rendering an expert opinion in hearings or proceedings before the Board **OR A DISCIPLINARY PANEL** or those otherwise delegated to the Office of Administrative Hearings;

(40) Fails to keep adequate medical records;

(41) Performs delegated medical acts beyond the scope of the delegation agreement filed with the Board or after notification from the Board that an advanced duty has been disapproved; or

(42) Performs delegated medical acts without the supervision of a physician.

(b) (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, [the Board] **A DISCIPLINARY PANEL** shall order the suspension of a license if the physician assistant is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, [the Board] **A DISCIPLINARY PANEL** shall order the revocation of a license on the certification by the Office of the Attorney General.

15-315.

(a) (1) Except as otherwise provided under § 10-226 of the State Government Article, before [the Board] **A DISCIPLINARY PANEL** takes any action under § 15-314(a) of this subtitle, the [Board] **DISCIPLINARY PANEL** shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

(2) The hearing officer shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(3) [The Board] **A DISCIPLINARY PANEL** may administer oaths in connection with any proceeding under this section.

(4) At least 14 days before the hearing, the hearing notice required under this subtitle shall be sent by certified mail to the last known address of the individual.

(b) (1) Any licensee who is aggrieved by a final decision of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not appeal to the Board of Review but may take a direct judicial appeal.

(2) The appeal shall be as provided for judicial review of the final decision in Title 10, Subtitle 2 of the State Government Article.

(c) An order of the Board **OR A DISCIPLINARY PANEL** under this subtitle may not be stayed pending review.

(d) All of the findings and orders of the Board **OR A DISCIPLINARY PANEL** that relate to physician assistants are subject to the provisions of Title 14, Subtitle 4 of this article.

15–316.

(a) If, after a hearing under § 15–315 of this subtitle, [the Board] **A DISCIPLINARY PANEL** finds that there are grounds for discipline under § 15–314(a) of this subtitle to suspend or revoke a license of a physician assistant [or to deny a license to an applicant] or to reprimand a licensed physician assistant, the [Board] **DISCIPLINARY PANEL** may impose a fine subject to the Board’s regulations instead of or in addition to suspending or revoking the license or reprimanding the licensee.

(b) The Board shall pay any fines collected under this section into the General Fund of the State.

**15–316.1.**

**(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD’S WEB SITE.**

**(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:**

**(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE, INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL A DISCIPLINARY PANEL HAS TAKEN ACTION UNDER § 15–314 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;**

(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD OR A DISCIPLINARY PANEL AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;

(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;

(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE THAT IS THE BASIS FOR DISCIPLINARY ACTION TAKEN UNDER § 15-314(B) OF THIS SUBTITLE; AND

(5) THE PUBLIC ADDRESS OF THE LICENSEE.

(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE ON EACH LICENSEE'S PROFILE A STATEMENT OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A DISCIPLINARY PANEL.

(D) THE BOARD:

(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND

(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.

(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.

(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY A DISCIPLINARY PANEL AND ANY FINAL DISCIPLINARY ACTION TAKEN BY A DISCIPLINARY PANEL AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2013] **2018**.

### Article – State Government

8–403.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(6) Athletic Training Advisory Committee (§ 14–5D–04 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(45) Perfusion Advisory Committee (§ 14–5E–05 of the Health Occupations Article: [July 1, 2021] **OCTOBER 30, 2016**);

(48) Physician Assistant Advisory Committee (§ 15–201 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(49) Physicians, State Board of (§ 14–201 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(53) Polysomnography Professional Standards Committee (§ 14–5C–05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(59) Radiation Oncology/Therapy Technologists, Medical Radiation Technologists, and Nuclear Medicine Technologists Advisory Committee (§ 14–5B–05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

(63) Respiratory Care Professional Standards Committee, State (§ 14–5A–05 of the Health Occupations Article: [July 1, 2012] **OCTOBER 30, 2016**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, and annually thereafter for the next 5 years, the State Board of Physicians shall submit a report, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee. The report shall provide an update on:

(1) any changes to the Board’s discipline process that have been implemented and the effect of those changes on the complaint backlog and complaint resolution times;

- (2) the progress of the Board in procuring and implementing a new information technology system to improve data management;
- (3) a long-term financial plan;
- (4) financial data for the preceding fiscal year; and
- (5) the progress of the Board in implementing the recommendations made by the Department of Legislative Services in the November 2011 publication "Sunset Review: Evaluation of the State Board of Physicians and the Related Allied Health Advisory Committees" and any statutory changes affecting the Board.

SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of § 8-404 of the State Government Article requiring a preliminary evaluation do not apply to the State Board of Physicians or the related allied health advisory committees prior to the evaluation required on or before October 30, 2016.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 696 – *Manufactured Homes – Affixation to Real Property – Liens*.

This bill alters specified lien information that must be included in specified statements that accompany the recordation of an affidavit of affixation for a manufactured home under specified circumstances.

House Bill 794, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 696.

Sincerely,

Governor Martin O'Malley

**Senate Bill 696**

AN ACT concerning

**Manufactured Homes – Affixation to Real Property – Liens**

FOR the purpose of altering certain lien information that must be included in certain statements that accompany the recordation of an affidavit of affixation for a manufactured home under certain circumstances; making stylistic changes; defining a certain term; and generally relating to the affixation to real property of manufactured homes.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 8B–101, 8B–102(a), and 8B–202(b) and (c)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Real Property**

8B–101.

- (a) In this title the following words have the meanings indicated.
- (b) “Attached to a permanent foundation” means anchored to real property by attachment to a permanent foundation and connected to utilities, including water, gas, electricity, or sewer or septic service.
- (c) “Certificate of origin” has the meaning stated in § 13–101 of the Transportation Article.
- (d) “Certificate of title” means a title issued by the Motor Vehicle Administration for a manufactured home under Title 13 of the Transportation Article.
- (e) “Convert” means to make a manufactured home that is attached to a permanent foundation considered as permanently affixed to a parcel of real property and treated as an integral part of the parcel.



(f) (1) **“LIEN” MEANS AN INTEREST IN A MANUFACTURED HOME, WHETHER AS PERSONAL PROPERTY OR REAL PROPERTY, OR IN THE PARCEL OF REAL PROPERTY TO WHICH THE MANUFACTURED HOME IS OR WILL BE AFFIXED, THAT SECURES PAYMENT OF A DEBT OR PERFORMANCE OF AN OBLIGATION.**

(2) **“LIEN” INCLUDES:**

(I) **A MORTGAGE, DEED OF TRUST, SECURITY AGREEMENT, OR OTHER INSTRUMENT CREATING AN ENCUMBRANCE ON THE PROPERTY; OR**

(II) **AN ENCUMBRANCE ARISING BY OPERATION OF LAW.**

(G) “Manufactured home” has the meaning stated in § 9–102(a) of the Commercial Law Article.

[(g)] (H) “Owner” means a person that has an ownership interest in a manufactured home.

[(h)] (I) “Sever” means to separate a manufactured home that has been converted to real property from the parcel of real property to which it has been affixed.

8B–102.

(a) Except as provided in subsection (b) of this section, on satisfaction of the requirements of Subtitle 2 of this title:

(1) A manufactured home shall be:

(i) Converted to real property; and

(ii) Governed by the laws applicable to real property and not subject to Title 13 of the Transportation Article;

(2) Any [mortgage, deed of trust, lien, or security interest] **LIEN** that can attach to real property shall attach in the same manner to a manufactured home that is converted to real property as to the parcel of real property to which the manufactured home has been affixed; and

(3) The title and all rights to a manufactured home shall be transferred by deed with the transfer of the parcel of real property to which the manufactured home has been affixed.

8B–202.

(b) (1) Except as provided in paragraph (2) of this subsection, an affidavit of affixation shall be accompanied by:

(i) An original certificate of title issued by the Motor Vehicle Administration for the manufactured home that:

1. Has the word “surrendered” clearly written on its face; and

2. If the certificate of title indicates that there is a [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home, is accompanied by a release from each party that [has a security interest in] **IS INDICATED TO HAVE A LIEN ON** the manufactured home; or

(ii) A manufacturer’s certificate of origin for the manufactured home that:

1. Has the word “surrendered” clearly written on its face; and

2. If the manufacturer’s certificate of origin indicates that there is a [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home, is accompanied by a release from each party that [has a security interest in] **IS INDICATED TO HAVE A LIEN ON** the manufactured home.

(2) If the owner is unable to locate an original certificate of title or a manufacturer’s certificate of origin, the affidavit of affixation shall be accompanied by a report prepared and acknowledged by an attorney licensed to practice in the State or a title insurance producer licensed to do business in the State that:

(i) Identifies the party preparing the report;

(ii) States that a search has been conducted of:

1. The land records of the county in which the parcel of real property to which the manufactured home is or will be affixed is located; and

2. The records maintained by the Motor Vehicle Administration; and

(iii) [States that no lien, encumbrance, or other security interest has been found for the manufactured home] **IDENTIFIES ALL LIENS ON THE MANUFACTURED HOME, INCLUDING FOR EACH LIEN:**

1. **THE NAME OF THE LIEN HOLDER;**

2. **THE NATURE OF THE LIEN;**

**3. THE DATE THE LIEN WAS CREATED; AND****4. THE AMOUNT OF THE LIEN.**

(c) (1) If an affidavit of affixation is accompanied by an original certificate of title, the affidavit shall be accompanied by:

(i) A statement that it is the intent of the owner to surrender the certificate of title; and

(ii) A statement that:

1. There is no [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home; or

2. Any [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home has been satisfied and the appropriate releases are attached and made a part of the affidavit of affixation.

(2) If an affidavit of affixation is accompanied by a manufacturer's certificate of origin, the affidavit shall be accompanied by:

(i) A statement that a certificate of title has not been issued for the manufactured home;

(ii) A statement that it is the intent of the owner to surrender the manufacturer's certificate of origin; and

(iii) A statement that:

1. There is no [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home; or

2. Any [lien, encumbrance, or other security interest for] **LIEN ON** the manufactured home has been satisfied and the appropriate releases are attached and made a part of the affidavit of affixation.

(3) If an affidavit of affixation is accompanied by a statement from an attorney or title insurance producer, the affidavit also shall be accompanied by:

(i) A statement that the owner is unable to locate a certificate of title or a manufacturer's certificate of origin for the manufactured home; and

(ii) A statement [that:

1. There is no lien, encumbrance, or other security interest for the manufactured home; or

2. Any lien, encumbrance, or other security interest for the manufactured home has been satisfied and the appropriate releases are attached and made a part of the affidavit of affixation] **THAT IDENTIFIES ALL LIENS ON THE MANUFACTURED HOME, INCLUDING FOR EACH LIEN:**

- 1. THE NAME OF THE LIEN HOLDER;**
- 2. THE NATURE OF THE LIEN;**
- 3. THE DATE THE LIEN WAS CREATED; AND**
- 4. THE AMOUNT OF THE LIEN.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 751 – *State Police Retirement System – Reemployment of Retirees*.

This bill clarifies the applicability of specified requirements for an offset from specified retirement allowances from the State Police Retirement System for specified individuals who accept employment with specified participating employers. This bill also extends a termination provision that applies to specified provisions that relate to the reemployment of retirees of the State Police Retirement System.

House Bill 902, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 751.

Sincerely,

Governor Martin O'Malley

**Senate Bill 751**

AN ACT concerning

**State Police Retirement System – Reemployment of Retirees**

FOR the purpose of clarifying the applicability of certain requirements for an offset from certain retirement allowances from the State Police Retirement System for certain individuals who accept employment with certain participating employers; extending a certain termination provision that applies to certain provisions that relate to the reemployment of retirees of the State Police Retirement System; providing for the termination of certain provisions of this Act; and generally relating to the reemployment of retirees of the State Police Retirement System.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 24–405  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 644 of the Acts of the General Assembly of 2009  
Section 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – State Personnel and Pensions**

24–405.

(a) Except as provided in § 24–405.1 of this subtitle and subject to subsections (b), (c), and (d) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer **ON A CONTRACTUAL BASIS AS A POLICE EMPLOYEE, AS DEFINED IN § 2–101 OF THE PUBLIC SAFETY ARTICLE, AT A RANK OF TROOPER FIRST CLASS OR** on a temporary [or contractual] basis, if:

- (1) the employment is not in a regularly allocated position; and
- (2) the individual immediately notifies the Board of Trustees:
  - (i) of the individual's intention to accept the employment; and

(ii) of the compensation that the individual will receive.

(b) (1) **[The] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

(i) the individual's current employer is any unit of State government; and

(ii) the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(2) (i) Subject to subparagraph (ii) of this paragraph, the reduction under paragraph (1) of this subsection shall equal the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

(ii) 1. Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for the retiree's monthly State-approved medical insurance premiums.

2. If a reduction for a calendar year taken under subparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subparagraph 1 of this subparagraph.

(3) The reduction under paragraph (1) of this subsection does not apply to:

(i) an individual who has been retired for 5 years, beginning on January 1, after the date the individual retires;

(ii) an individual who participates in the Deferred Retirement Option Program established under § 24-401.1 of this subtitle; or

(iii) a retiree of the State Police Retirement System who is reemployed by the Department of State Police on a contractual basis as a police employee, as defined in § 2-101 of the Public Safety Article, at a rank of trooper first class.

(c) For purposes of this section, employment is not on a temporary basis if, in any 12-month period, an individual works:

(1) full time for more than 6 months; or

(2) part time for the equivalent of more than 6 months of full-time work.

(d) Prior to commencing reemployment under subsection (b)(3)(iii) of this section, a retiree shall terminate participation in the Deferred Retirement Option Program and receive any lump sum payment associated with the retiree's participation in the Deferred Retirement Option Program as provided under § 24-401.1(i) of this subtitle.

(e) (1) Subject to paragraph (2) of this subsection, a retiree reemployed under subsection (b)(3)(iii) of this section may not be reemployed for more than 4 years.

(2) A retiree reemployed under subsection (b)(3)(iii) of this section may not be reemployed after becoming 60 years old.

(f) An individual who is receiving a service retirement allowance or a vested allowance and who is reemployed by a participating employer may not receive creditable service or eligibility service during the period of reemployment.

(g) The individual's compensation during the period of reemployment may not be subject to the employer pickup provisions of § 21-303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes.

(h) The State Retirement Agency shall institute appropriate reporting procedures with the affected payroll systems to ensure compliance with this section.

(i) (1) Immediately on the employment of a retiree who is rehired under subsection (b)(3)(iii) of this section, the Department of State Police shall notify the State Retirement Agency of the type of employment and the anticipated earnings of the individual.

(2) At least once each year, in a format specified by the State Retirement Agency, the Department of State Police shall provide the State Retirement Agency with a list of all employees included on any payroll of the employer, the Social Security numbers of the employees, and their earnings for that year.

(j) On or before September 1 of each year, the Secretary of State Police shall submit a report in accordance with § 2-1246 of the State Government Article to the Joint Committee on Pensions that provides:

(1) the number of rehired retirees under subsection (b)(3)(iii) of this section;

- (2) the annual salary of each rehired retiree at the time of retirement and the current annual salary of each rehired retiree;
- (3) the number of police employees hired who are not retirees; and
- (4) the annual salary of each police employee who is hired.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

#### Chapter 644 of the Acts of 2009

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009. It shall remain effective for a period of [5] 9 years and, at the end of June 30, [2014] 2018, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. Section 1 of this Act shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter 644 of the Acts of the General Assembly of 2009. If that termination provision takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 761 – *Health Occupations – State Board of Pharmacy – Waivers – Pharmacies That Only Dispense Devices*.

This bill authorizes the State Board of Pharmacy to waive specified requirements for specified pharmacies that only dispense devices in accordance with specified rules and regulations.

House Bill 868, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 761.



Sincerely,

Governor Martin O'Malley

**Senate Bill 761**

AN ACT concerning

**Health Occupations – State Board of Pharmacy – Waivers – Pharmacies That Only Dispense Devices**

FOR the purpose of authorizing the State Board of Pharmacy to waive certain requirements for certain pharmacies that only dispense devices in accordance with certain rules and regulations; making certain technical changes; making this Act an emergency measure; and generally relating to the State Board of Pharmacy and waivers for pharmacies that only dispense devices.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 12–403  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health Occupations**

12–403.

(a) This section does not require a nonresident pharmacy to violate the laws or regulations of the state in which it is located.

(b) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

(1) Shall be operated in compliance with the law and with the rules and regulations of the Board;

(2) Shall be located and equipped so that the pharmacy may be operated without endangering the public health or safety;

(3) Shall ensure that a licensed pharmacist be immediately available on the premises to provide pharmacy services at all times the pharmacy is in operation;

(4) Shall be supervised by a licensed pharmacist who is responsible for the operations of the pharmacy at all times the pharmacy is in operation;

(5) Shall provide complete pharmaceutical service by preparing and dispensing all prescriptions that reasonably may be expected of a pharmacist;

(6) Shall provide services to the general public and may not restrict or limit its services to any group of individuals unless granted a waiver from this requirement by the Board;

(7) May not offer pharmaceutical services under any term or condition that tends to interfere with or impair the free and complete exercise of professional pharmaceutical judgment or skill;

(8) May not make any agreement that denies a patient a free choice of pharmacist or pharmacy services;

(9) May not participate in any activity that is a ground for Board action against a licensed pharmacist under § 12–313 or a registered pharmacy technician under § 12–6B–09 of this title;

(10) (i) Shall maintain at all times a current reference library that is appropriate to meet the needs of:

1. The practice specialty of that pharmacy; and
2. The consumers the pharmacy serves; and

(ii) Shall comply with any regulations adopted by the Board establishing the types of texts required to be included in the reference libraries in each of the various practice specialty pharmacies;

(11) (i) Shall maintain at all times the minimum professional and technical equipment and sanitary appliances that are necessary in a pharmacy:

1. To prepare and dispense prescriptions properly; and
2. To otherwise operate a pharmacy; and

(ii) Shall:

1. Be equipped with the minimum equipment and appliances specified by the Board under this section; and
2. Be kept in a clean and orderly manner;

(12) Shall store all prescription or nonprescription drugs or devices properly and safely subject to the rules and regulations adopted by the Board;

(13) Shall:

(i) Make and keep on file for at least 5 years a record of each prescription prepared or dispensed in the pharmacy;

(ii) Disclose the records and files maintained of prescriptions for drugs or devices that identify or may be readily associated with the identity of a patient only in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article; and

(iii) Keep additional records as required by the rules and regulations adopted by the Board;

(14) Except as otherwise provided under federal law, shall establish and maintain mechanisms to ensure that all prescription drugs or devices used within institutions that provide acute, subacute, or long-term care, or within their related corporate subsidiaries, but stored outside a pharmacy, are stored properly and safely, subject to rules and regulations adopted by the Board and policies established by the institution;

(15) Shall provide such personnel, automation, and technology as are necessary to allow the licensed pharmacist employee sufficient time to utilize the pharmacist's knowledge and training and to perform competently the functions of a licensed pharmacist as required by law;

(16) Shall provide such personnel, automation, and technology as are necessary to [allow the licensed pharmacist employee or registered pharmacy technician to] comply with the labeling requirements specified in § 12–505 of this title;

(17) With regard to a prescription drug that is delivered in this State by the United States mail, a common carrier, or a delivery service and is not personally hand delivered directly to a patient or to the agent of the patient at the residence of the patient or at another location designated by the patient, shall:

(i) Provide a general written notice in each shipment of a prescription drug that alerts a consumer that, under certain circumstances, a medication's effectiveness may be affected by exposure to extremes of heat, cold, or humidity; and

(ii) Provide a specific written notice in each shipment of a prescription drug that provides a consumer with a toll-free or local consumer access telephone number accessible during regular hours of operation, which is designed to respond to consumer questions pertaining to medications;

(18) (i) May maintain a record log of any prescription that is requested to be filled or refilled by a patient in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article;

(ii) If the prescription record of a patient includes the patient's Social Security number, shall keep the Social Security number confidential;

(iii) May not list in the record log the type of illness, disability, or condition that is the basis of any dispensing or distribution of a drug by a pharmacist; and

(iv) May not list a patient's Social Security number, illness, disability, or condition, or the name and type of drug received in the record log if the log is available to other pharmacy customers;

(19) May not allow an unauthorized individual to represent that the individual is a pharmacist or registered pharmacy technician;

(20) Shall provide information regarding the process for resolving incorrectly filled prescriptions in accordance with existing regulations by:

(i) Posting a sign that is conspicuously positioned and readable by consumers at the point where prescription drugs are dispensed to consumers; or

(ii) Including written information regarding the process with each prescription dispensed; and

(21) Shall dispense or dispose of prescription drugs or medical supplies in accordance with Title 15, Subtitle 6 of the Health – General Article.

(c) (1) The Board may waive any of the requirements of this section for the University of Maryland School of Pharmacy, for nuclear pharmacy and dental pharmacy experimental and teaching programs.

(2) The Board may waive the requirements of subsection (b)(5) and (6) of this section for pharmacies that are engaged in pharmaceutical specialties which are recognized by the Board under rules and regulations adopted by the Board.

**(3) THE BOARD MAY WAIVE THE REQUIREMENTS OF SUBSECTION (B)(3) THROUGH (6) AND (15) OF THIS SECTION FOR PHARMACIES THAT ONLY DISPENSE DEVICES IN ACCORDANCE WITH RULES AND REGULATIONS ADOPTED BY THE BOARD.**

**[(3)](4)** The Board shall waive the requirements of subsection (b)(20) of this section for a pharmacy owned and operated by a hospital, nursing facility, or

clinic to which the public does not have access to purchase pharmaceuticals on a retail basis.

(d) A nonresident pharmacy shall:

(1) Hold a pharmacy permit issued by the Board; and

(2) Have a pharmacist on staff who is:

(i) Licensed by the Board; and

(ii) Designated as the pharmacist responsible for providing pharmaceutical services to patients in the State.

(e) (1) In order to obtain a pharmacy permit from the Board, a nonresident pharmacy shall:

(i) Submit an application to the Board on the form that the Board requires;

(ii) Pay to the Board an application fee set by the Board;

(iii) Submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the nonresident pharmacy is located; and

(iv) On the required permit application, identify the name and current address of an agent located in this State officially designated to accept service of process.

(2) A nonresident pharmacy shall report a change in the name or address of the resident agent in writing to the Board 30 days prior to the change.

(f) Notwithstanding subsection (a) of this section, a nonresident pharmacy shall:

(1) Comply with the requirements of subsection (b)(2), (7) through (12), and (19) **OF THIS SECTION** when:

(i) Dispensing prescription drugs or prescription devices to a patient in this State; or

(ii) Otherwise engaging in the practice of pharmacy in this State;

(2) On an annual basis and within 30 days after a change of office, corporate officer, or pharmacist, disclose to the Board the location, names, and titles of

all principal corporate officers and all pharmacists who are dispensing prescriptions for drugs or devices to persons in this State;

(3) Comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is located and all requests for information made by the Board pursuant to this section;

(4) Maintain at all times a valid, unexpired permit to conduct a pharmacy in compliance with the laws of the state in which it is located;

(5) Maintain its records of prescription drugs or devices dispensed to patients in this State so that the records are readily retrievable;

(6) During its regular hours of operation, but not less than 6 days a week, and for a minimum of 40 hours per week, provide toll-free telephone service to facilitate communication between patients in this State and a pharmacist **OR AN INDIVIDUAL** who:

(i) Has access to the patient's prescription records; and

(ii) Is required to refer patients in the State to the responsible pharmacist licensed in the State, as appropriate;

(7) Disclose its toll-free telephone number on a label affixed to each container of drugs or devices;

(8) Comply with the laws of this State relating to the confidentiality of prescription records if there are no laws relating to the confidentiality of prescription records in the state in which the nonresident pharmacy is located; and

(9) Comply with the requirements of subsection (b)(17) and (20) of this section.

(g) Subject to the hearing provisions of § 12-411 of this subtitle, if a pharmacy or a nonresident pharmacy is operated in violation of this section, the Board may suspend the applicable pharmacy permit until the pharmacy complies with this section.

**(H) THE BOARD MAY WAIVE THE FOLLOWING REQUIREMENTS FOR NONRESIDENT PHARMACIES THAT ONLY DISPENSE DEVICES IN ACCORDANCE WITH RULES AND REGULATIONS ADOPTED BY THE BOARD:**

**(1) SUBSECTIONS (D)(2) AND (F)(6)(II) OF THIS SECTION; AND**

**(2) IF NOT APPLICABLE, SUBSECTIONS (E)(1)(III) AND (F)(4) OF THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 766 – *Business Occupations – Oil and Gas Land Professionals – Registration*.

This bill prohibits a person from operating as an oil or gas land professional in the State unless the person registers with and obtains a registration certificate from the Department of Labor, Licensing, and Regulation. The bill requires a person to register as a land professional in a specified manner and the Department to assign a registration number and issue a registration certificate to a specified person. This bill also requires a land professional to provide specified proof to a property owner before obtaining specified mineral rights.

House Bill 828, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 766.

Sincerely,

Governor Martin O'Malley

**Senate Bill 766**

AN ACT concerning

**Business Occupations – Oil and Gas Land Professionals – Registration**

FOR the purpose of prohibiting a person from operating as an oil or gas land professional in the State unless the person registers with and obtains a registration certificate from the Department of Labor, Licensing, and Regulation; requiring a person to register as a land professional by submitting a certain form and a certain fee to the Department; requiring the Department to assign a registration number and issue a registration certificate to a certain person; providing for the expiration and renewal of a certain registration; requiring a land professional to provide certain proof to a property owner before obtaining any mineral rights in oil or gas from the property owner; requiring the Department to adopt certain regulations to implement this Act; requiring the Department to develop a means for providing public access to certain information; establishing certain penalties; defining certain terms; and generally relating to the registration of oil and gas land professionals in the State.

BY adding to

Article – Business Occupations and Professions

Section 10.5–101 through 10.5–107 to be under the new title “Title 10.5. Oil and Gas Land Professionals”

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Business Occupations and Professions**

**TITLE 10.5. OIL AND GAS LAND PROFESSIONALS.**

**10.5–101.**

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “LAND PROFESSIONAL” MEANS A PERSON THAT, ACTING ON THE PERSON’S OWN BEHALF OR ON BEHALF OF A PROSPECTIVE LESSEE OR BUYER, NEGOTIATES WITH A PROPERTY OWNER FOR THE ACQUISITION OF MINERAL RIGHTS IN OIL OR GAS IN THE STATE.

(2) “LAND PROFESSIONAL” DOES NOT INCLUDE A PERSON THAT NEGOTIATES FOR THE ACQUISITION OR DIVESTITURE OF A LESSEE’S INTEREST IN AN EXISTING LEASE FOR MINERAL RIGHTS IN OIL OR GAS.

(C) (1) “MINERAL RIGHTS IN OIL OR GAS” MEANS PROPERTY RIGHTS THAT ALLOW THE HOLDER OF THE RIGHTS TO ENTER ONTO OR UNDER THE



PROPERTY OF ANOTHER PERSON FOR THE EXTRACTION OF CRUDE OIL, NATURAL GAS, OR THE CONSTITUENTS OF CRUDE OIL OR NATURAL GAS.

(2) "MINERAL RIGHTS IN OIL OR GAS" INCLUDES AN OIL OR GAS LEASE.

**10.5-102.**

A PERSON MAY NOT OPERATE AS A LAND PROFESSIONAL IN THE STATE UNLESS THE PERSON REGISTERS WITH THE DEPARTMENT AND IS ISSUED A REGISTRATION CERTIFICATE UNDER THIS TITLE.

**10.5-103.**

(A) A PERSON SHALL REGISTER AS A LAND PROFESSIONAL BY SUBMITTING TO THE DEPARTMENT:

(1) AN INITIAL REGISTRATION APPLICATION ON THE FORM REQUIRED BY THE DEPARTMENT; AND

(2) AN INITIAL REGISTRATION FEE SET BY THE DEPARTMENT.

(B) THE DEPARTMENT SHALL ASSIGN A REGISTRATION NUMBER AND ISSUE A REGISTRATION CERTIFICATE TO EACH PERSON THAT MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

(C) A REGISTRATION UNDER THIS TITLE IS VALID FOR 2 YEARS FROM THE EFFECTIVE DATE OF THE REGISTRATION AND MAY BE RENEWED BY SUBMITTING TO THE DEPARTMENT:

(1) A REGISTRATION RENEWAL APPLICATION ON THE FORM REQUIRED BY THE DEPARTMENT; AND

(2) A REGISTRATION RENEWAL FEE SET BY THE DEPARTMENT.

**10.5-104.**

BEFORE OBTAINING ANY MINERAL RIGHTS IN OIL OR GAS FROM A PROPERTY OWNER, A LAND PROFESSIONAL SHALL PROVIDE TO THE PROPERTY OWNER PROOF THAT THE LAND PROFESSIONAL IS REGISTERED UNDER THIS TITLE.

**10.5-105.**

**THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:**

**(1) ESTABLISH A REGISTRATION FORM FOR THE INITIAL AND RENEWAL REGISTRATION OF A LAND PROFESSIONAL;**

**(2) SET FEES FOR THE ISSUANCE OF AN INITIAL REGISTRATION AND FOR A REGISTRATION RENEWAL;**

**(3) PROVIDE FOR THE ASSIGNMENT OF A REGISTRATION NUMBER AND THE ISSUANCE OF A REGISTRATION CERTIFICATE TO EACH REGISTERED LAND PROFESSIONAL; AND**

**(4) ESTABLISH ANY OTHER REQUIREMENTS AND PROCEDURES NECESSARY TO IMPLEMENT THIS TITLE.**

**10.5–106.**

**THE DEPARTMENT SHALL DEVELOP A MEANS FOR PROVIDING PUBLIC ACCESS TO RELEVANT INFORMATION RELATING TO EACH PERSON REGISTERED UNDER THIS TITLE.**

**10.5–107.**

**(A) A PERSON THAT VIOLATES ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:**

**(1) FOR A FIRST VIOLATION, A FINE OF NOT LESS THAN \$500 BUT NOT EXCEEDING \$1,000; AND**

**(2) FOR A SECOND OR SUBSEQUENT VIOLATION, A FINE OF NOT LESS THAN \$1,000 BUT NOT EXCEEDING \$2,000.**

**(B) ANY FINES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 767 – *Garrett County – Alcoholic Beverages – Licenses, Permits, and Other Authorizations*.

This bill authorizes the Board of License Commissioners in Garrett County to grant specified license holders a privilege at no charge to sell specified alcoholic beverages at catered events in commemorative or special event bottles under specified circumstances. The bill also establishes a Class BDR beer and wine license for a deluxe restaurant, establishes a refillable container permit for specified draft beer license holders, and authorizes the Board to issue annually not more than two beer festival licenses.

House Bill 749, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 767.

Sincerely,

Governor Martin O'Malley

### **Senate Bill 767**

AN ACT concerning

### **Garrett County – Alcoholic Beverages – Licenses, Permits, and Other Authorizations**

FOR the purpose of authorizing the Board of License Commissioners in Garrett County to grant certain license holders a privilege at no charge to sell certain alcoholic beverages at catered events in commemorative or special event bottles for consumption off the licensed premises under certain circumstances; establishing a Class BDR beer and wine license for a deluxe restaurant that has a certain minimum seating capacity and a certain minimum capital investment; specifying certain privileges, issuing fees, and annual fees for certain licenses with or without a catering option; providing for the days and hours of sale for certain licenses; authorizing the Board to adopt certain regulations; establishing a refillable container permit; authorizing the Board to issue the permit to certain draft beer license holders; requiring a container to meet

certain specifications to be used as a refillable container ~~permit~~; specifying the time when sales may begin on Sunday for a wine festival license issued for use in a certain location; authorizing certain Sunday sales to be made under certain circumstances; establishing beer festival licenses; authorizing the Board to issue annually a certain number of beer festival licenses; requiring that a beer festival license be issued to a holder of a certain license; authorizing a holder of a beer festival license to display and sell beer under certain circumstances; requiring the Board to perform certain activities; requiring a product to be displayed and sold at a beer festival to be invoiced in a certain manner and to be delivered to the beer festival from the licensed premises of the wholesaler; authorizing certain license holders to enter into a certain agreement under certain circumstances; authorizing Sunday sales under certain circumstances; requiring the Board to adopt certain regulations; adding an establishment for which a certain license is issued to the list of establishments in which an individual under certain circumstances may consume wine not purchased from or provided by the license holder; and generally relating to alcoholic beverages in Garrett County.

BY adding to

Article 2B – Alcoholic Beverages

Section 5–201(m–1) and (m–2), 6–201(m)(6), 6–401(m)(4), and 8–807

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 5–401(m), 6–201(m)(5)(iii), 6–401(m)(2)(ii), 7–101(p), 8–212, 8–308.3(h),  
and 12–107(b)(10)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 5–401(a)(1) and 8–308.3(b)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article 2B – Alcoholic Beverages**

5–201.

**(M–1) (1) THIS SUBSECTION APPLIES ONLY IN GARRETT COUNTY.**

**(2) THERE IS A CLASS BDR (DELUXE RESTAURANT) BEER AND WINE (ON-SALE) LICENSE, WHICH IS A SPECIAL CLASS B LICENSE.**

**(3) A CLASS BDR LICENSE MAY BE ISSUED FOR A DELUXE RESTAURANT AS DEFINED IN THE REGULATIONS OF THE BOARD OF LICENSE COMMISSIONERS.**

**(4) NOTWITHSTANDING § 9-102(A) OF THIS ARTICLE, A CLASS BDR LICENSE MAY BE ISSUED TO AN APPLICANT THAT HOLDS A CLASS B BEER AND WINE LICENSE OR A CLASS B BEER, WINE AND LIQUOR LICENSE.**

**(5) A CLASS BDR LICENSE MAY BE ISSUED FOR THE USE OF A RESTAURANT THAT:**

**(I) HAS A MINIMUM FACILITY SEATING CAPACITY OF 20 PERSONS; AND**

**(II) A MINIMUM CAPITAL INVESTMENT OF \$25,000 FOR THE RESTAURANT FACILITIES, NOT INCLUDING THE COST OF LAND OR BUILDINGS.**

**(6) IF THE APPLICANT PURCHASES OR LEASES AN EXISTING BUILDING, THE CAPITAL INVESTMENT ATTRIBUTABLE TO THE COST OF THE LAND AND IMPROVEMENTS SHALL BE BASED ON THE ASSESSED VALUE OF THE LAND AND IMPROVEMENTS IN ACCORDANCE WITH THE RECORDS OF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AT THE TIME OF PURCHASE.**

**(7) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS BDR LICENSE WITHOUT OR WITH A CATERING OPTION.**

**(8) A HOLDER OF A CLASS BDR LICENSE WITHOUT A CATERING OPTION MAY SELL:**

**(I) BEER AND LIGHT WINE FOR CONSUMPTION ON THE LICENSED PREMISES; AND**

**(II) BREWED BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES.**

**(9) (I) IN ADDITION TO EXERCISING THE PRIVILEGES STATED IN PARAGRAPH (8) OF THIS SUBSECTION, A HOLDER OF A CLASS BDR LICENSE WITH A CATERING OPTION MAY KEEP FOR SALE AND SELL BEER AND LIGHT WINE FOR CONSUMPTION AT EVENTS THAT THE HOLDER CATERS OFF THE LICENSED PREMISES.**

(II) TO EXERCISE THE CATERING OPTION, A HOLDER OF A CLASS BDR LICENSE:

1. SHALL PROVIDE FOOD IF THE HOLDER PROVIDES ALCOHOLIC BEVERAGES AT A CATERED EVENT OFF THE LICENSED PREMISES; AND

2. MAY EXERCISE THE CATERING OPTION ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED BY THE BOARD OF LICENSE COMMISSIONERS.

(10) FOR A LICENSE WITHOUT A CATERING OPTION:

(I) THE ISSUING FEE FOR A NEW LICENSE IS \$500; AND

(II) THE ANNUAL FEE IS \$500.

(11) FOR A LICENSE WITH A CATERING OPTION:

(I) THE ISSUING FEE FOR A NEW LICENSE IS \$625; AND

(II) THE ISSUING FEE IS \$625.

(12) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.

(M-2) IN GARRETT COUNTY, THE BOARD MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL BEER OR WINE FOR CONSUMPTION OFF THE LICENSED PREMISES AT A CATERED EVENT IF:

(1) THE BEER OR WINE IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;

(2) THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND

(3) THE BEER OR WINE WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.

5-401.

(a) (1) A Class D beer and light wine license shall be issued by the license issuing authority of the county in which the place of business is located. The license authorizes its holder to keep for sale and to sell beer and light wines at retail, at the

place described in the license, for consumption on the premises or elsewhere. The license may not be issued for any drugstore.

(m) (1) [In Garrett County the annual license fee is \$350] **THIS SUBSECTION APPLIES ONLY IN GARRETT COUNTY.**

(2) [The issuing fee for a new license, in addition to the annual fee, is \$350] **THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS D BEER AND LIGHT WINE LICENSE WITHOUT OR WITH A CATERING OPTION.**

(3) **A HOLDER OF A CLASS D BEER AND LIGHT WINE LICENSE WITHOUT A CATERING OPTION MAY SELL:**

~~(I) **BEER AND LIGHT WINE FOR CONSUMPTION ON THE LICENSED PREMISES; AND**~~

~~(II) **BREWED BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES**~~ **BEER AND LIGHT WINE FOR CONSUMPTION ON THE LICENSED PREMISES OR ELSEWHERE.**

(4) (I) **IN ADDITION TO EXERCISING THE PRIVILEGES STATED IN PARAGRAPH (3) OF THIS SUBSECTION, A HOLDER OF A CLASS D BEER AND LIGHT WINE LICENSE WITH A CATERING OPTION MAY KEEP FOR SALE AND SELL BEER AND LIGHT WINE FOR CONSUMPTION AT EVENTS THAT THE HOLDER CATERS OFF THE LICENSED PREMISES.**

(II) **TO EXERCISE THE CATERING OPTION, A HOLDER OF A CLASS D BEER AND LIGHT WINE LICENSE:**

1. **SHALL PROVIDE FOOD IF THE HOLDER PROVIDES ALCOHOLIC BEVERAGES AT A CATERED EVENT OFF THE LICENSED PREMISES; AND**

2. **MAY EXERCISE THE CATERING OPTION ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED BY THE BOARD OF LICENSE COMMISSIONERS.**

(5) **FOR A LICENSE WITHOUT A CATERING OPTION:**

(I) **THE ISSUING FEE FOR A NEW LICENSE IS \$350; AND**

(II) **THE ANNUAL FEE IS \$350.**

(6) **FOR A LICENSE WITH A CATERING OPTION:**

(I) THE ISSUING FEE FOR A NEW LICENSE IS \$475; AND

(II) ~~THE ISSUING~~ ANNUAL FEE IS \$475.

**(7) THE BOARD MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL BEER OR LIGHT WINE FOR CONSUMPTION OFF THE LICENSED PREMISES AT A CATERED EVENT IF:**

**(I) THE BEER OR LIGHT WINE IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;**

**(II) THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND**

**(III) THE BEER OR WINE WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.**

6–201.

(m) (5) (iii) Notwithstanding § 9–102(a) of this article, a Class BDR license may be issued to an applicant who already holds a Class B (on–sale) beer, wine and liquor license, A **CLASS B (ON–SALE) BEER AND LIGHT WINE LICENSE** or a Class B Resort (on–sale) beer, wine and liquor license.

**(6) THE BOARD MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL BEER, WINE, OR LIQUOR FOR CONSUMPTION OFF THE LICENSED PREMISES AT A CATERED EVENT IF:**

**(I) THE BEER, WINE, OR LIQUOR IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;**

**(II) THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND**

**(III) THE BEER, WINE, OR LIQUOR WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.**

6–401.

(m) (2) (ii) 1. A Class D (on–sale) license for beer, wine and liquor sales shall be issued to establishments whose total beer, wine and liquor sales constitute at least 75 percent on–premises consumption and up to 25 percent off–premises consumption.



2. [A. The annual license fee is \$1,500.

B. The issuing fee for a new license is \$1,500, in addition to the annual fee] **THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS D BEER ~~AND LIGHT WINE~~, WINE AND LIQUOR LICENSE WITHOUT OR WITH A CATERING OPTION.**

3. **A HOLDER OF A CLASS D BEER, WINE AND LIQUOR ~~WINE~~ LICENSE WITHOUT A CATERING OPTION MAY SELL:**

~~**A. BEER AND LIGHT WINE FOR CONSUMPTION ON THE LICENSED PREMISES; AND**~~

~~**B. BREWED BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES**~~ **BEER, WINE AND LIQUOR FOR CONSUMPTION ON THE LICENSED PREMISES OR ELSEWHERE.**

4. **IN ADDITION TO EXERCISING THE PRIVILEGES STATED IN SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, A HOLDER OF A CLASS D BEER, WINE AND LIQUOR LICENSE WITH A CATERING OPTION MAY KEEP FOR SALE AND SELL BEER, WINE, AND LIQUOR FOR CONSUMPTION AT EVENTS THAT THE HOLDER CATERS OFF THE LICENSED PREMISES.**

5. **TO EXERCISE THE CATERING OPTION, A HOLDER OF A CLASS D BEER, WINE AND LIQUOR LICENSE:**

**A. SHALL PROVIDE FOOD IF THE HOLDER PROVIDES ALCOHOLIC BEVERAGES AT A CATERED EVENT OFF THE LICENSED PREMISES; AND**

**B. MAY EXERCISE THE CATERING OPTION ONLY DURING THE HOURS AND DAYS THAT ARE ALLOWED BY THE BOARD OF LICENSE COMMISSIONERS.**

6. **FOR A LICENSE WITHOUT A CATERING OPTION:**

**A. THE ISSUING FEE FOR A NEW LICENSE IS \$1,500;**  
AND

**B. THE ANNUAL FEE IS \$1,500.**

7. **FOR A LICENSE WITH A CATERING OPTION:**

**A. THE ISSUING FEE FOR A NEW LICENSE IS \$2,000;**  
AND

**B. THE ~~ISSUING~~ ANNUAL FEE IS \$2,000.**

**(4) THE BOARD MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL BEER, WINE, OR LIQUOR FOR CONSUMPTION OFF THE LICENSED PREMISES AT A CATERED EVENT IF:**

**(I) THE BEER, WINE, OR LIQUOR IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;**

**(II) THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND**

**(III) THE BEER, WINE, OR LIQUOR WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.**

7-101.

**(p) (1)** In Garrett County, there are 4 types of special Class C beer, beer and wine, or beer, wine and liquor licenses available, as follows:

**[(1)] (I)** A special 2-day Class C license for a fee of \$50;

**[(2)] (II)** A special 6-day Class C license for a fee of \$150;

**[(3)] (III)** A special 12-day Class C license for a fee of \$300; or

**[(4)] (IV)** A special multiple event Class C license under the following conditions:

**[(i)] 1.** The Board of License Commissioners may issue a special multiple event license to an organization that otherwise qualifies for a special Class C license;

**[(ii)] 2.** The annual fee for a special multiple event license is as follows:

**[1.] A.** \$125 for up to 5 events per year;

**[2.] B.** \$250 for up to 12 events per year;

**[3.] C.** \$375 for up to 18 events per year; and

[4.] D. \$500 for up to 24 events per year;

[(iii)] 3. The Board may not issue more than 1 special multiple event license to an organization in a license year;

[(iv)] 4. A special multiple event licensee shall notify the Board in writing at least 7 days before an event; and

[(v)] 5. The Board shall publish a notice for application for a special multiple event license one time at least 7 days before the hearing on the license.

**(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE GARRETT COUNTY BOARD OF LICENSE COMMISSIONERS MAY GRANT A LICENSE HOLDER A PRIVILEGE AT NO CHARGE TO SELL FOR CONSUMPTION OFF THE LICENSED PREMISES AN ALCOHOLIC BEVERAGE AUTHORIZED BY THE LICENSE IF:**

**1. THE ALCOHOLIC BEVERAGE IS BOTTLED IN COMMEMORATIVE OR SPECIAL EVENT BOTTLES AND SOLD AT A SPECIAL EVENT;**

**2. THE BOARD APPROVES THE COMMEMORATIVE OR SPECIAL EVENT BOTTLES BEFORE THE EVENT OCCURS; AND**

**3. THE ALCOHOLIC BEVERAGE WILL BE SOLD AT THE EVENT ONLY ON THE DAYS AND HOURS ALLOWED BY THE BOARD.**

**(II) A HOLDER OF A LICENSE IS ENTITLED TO BE GRANTED THE PRIVILEGE DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE LICENSE IS A:**

**1. SPECIAL 2-DAY CLASS C LICENSE;**

**2. SPECIAL 6-DAY CLASS C LICENSE;**

**3. SPECIAL 12-DAY CLASS C LICENSE; OR**

**4. SPECIAL MULTI-EVENT CLASS C LICENSE.**

8-212.

(a) This section applies only in Garrett County.

(b) (1) To sell draft beer, any establishment regularly licensed to sell beer shall obtain a special license from the Board of License Commissioners and the fee for

the license is \$75. The issuing fee for new licenses, in addition to the annual fee, is \$75.

(2) (i) To sell draft beer, a licensee who holds a Class B–resort license shall obtain a special license from the Board of License Commissioners.

(ii) The annual license fees are:

1. Two facilities, \$150; and
2. Each additional facility, \$75.

(iii) The Board of License Commissioners shall charge an issuing fee for new licenses in an amount equal to the annual license fee.

**(C) (1) THERE IS A REFILLABLE CONTAINER PERMIT.**

**(2) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A REFILLABLE CONTAINER PERMIT TO A DRAFT BEER LICENSE HOLDER WHO ALSO HOLDS ANY ALCOHOLIC BEVERAGES LICENSE ISSUED BY THE BOARD EXCEPT A CLASS C LICENSE OR A CLASS A LICENSE.**

**(3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A REFILLABLE CONTAINER ~~LICENSE~~ PERMIT ENTITLES THE HOLDER TO SELL DRAFT BEER FOR CONSUMPTION OFF THE LICENSED PREMISES IN A REFILLABLE CONTAINER WITH A CAPACITY OF NOT LESS THAN 32 OUNCES AND NOT MORE THAN 128 OUNCES.**

**(4) TO BE USED AS A REFILLABLE CONTAINER ~~LICENSE~~, A CONTAINER SHALL:**

**(I) BE SEALABLE;**

**(II) BE BRANDED WITH AN IDENTIFYING MARK OF THE LICENSE HOLDER;**

**(III) BEAR THE FEDERAL HEALTH WARNING STATEMENT REQUIRED FOR CONTAINERS OF ALCOHOLIC BEVERAGES UNDER 21 C.F.R. 16.21;**

**(IV) DISPLAY INSTRUCTIONS FOR CLEANING THE CONTAINER; AND**

**(V) BEAR A LABEL STATING THAT:**

**1. CLEANING THE CONTAINER IS THE RESPONSIBILITY OF THE CONSUMER; AND**

**2. THE CONTENTS OF THE CONTAINER ARE PERISHABLE AND SHOULD BE REFRIGERATED IMMEDIATELY AND CONSUMED WITHIN 48 HOURS AFTER PURCHASE.**

**(5) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.**

**[(c)] (D)** Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$5,000 or to imprisonment for not more than 1 year or both.

8-308.3.

(b) This section applies only in Garrett County.

(h) [Notwithstanding § 11-512(c) of this article, a] **A wine festival license issued [for use in election district 11 or 15] FOR USE IN A LOCATION WHERE SUNDAY SALES ARE ALLOWED UNDER § 11-512(C) OF THIS ARTICLE** authorizes Sunday sales:

(1) To begin at 10 a.m.; and

(2) To be made without a consumer placing an order for a meal simultaneously or before placing an order for an alcoholic beverage.

8-807.

**(A) IN THIS SECTION, "BOARD" MEANS THE GARRETT COUNTY BOARD OF LICENSE COMMISSIONERS.**

**(B) THIS SECTION APPLIES ONLY IN GARRETT COUNTY.**

**(C) THE BOARD MAY ISSUE ANNUALLY NOT MORE THAN TWO BEER FESTIVAL LICENSES.**

**(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN APPLICANT FOR A FESTIVAL LICENSE SHALL BE A HOLDER OF A:**

**(1) RETAIL ALCOHOLIC BEVERAGES LICENSE ISSUED BY THE BOARD;**

**(2) CLASS 5 BREWERY LICENSE;**

(3) CLASS 6 PUB-BREWERY LICENSE; OR

(4) CLASS 7 MICRO-BREWERY LICENSE.

(E) A HOLDER OF A BEER FESTIVAL LICENSE MAY:

(1) ONLY DISPLAY AND SELL BEER THAT IS:

(I) MANUFACTURED AND PROCESSED IN ~~A STATE~~ THE STATE; AND

(II) DISTRIBUTED IN THE STATE WHEN THE APPLICATION IS FILED; AND

(2) DISPLAY AND SELL BEER AT RETAIL FOR CONSUMPTION ON OR OFF THE LICENSED PREMISES ON THE DAYS AND FOR THE HOURS DESIGNATED FOR A BEER FESTIVAL.

(F) FOR A BEER FESTIVAL LICENSE, THE BOARD SHALL:

(1) ESTABLISH A FEE;

(2) APPROVE A FIXED PERIOD OF TIME FOR THE FESTIVAL OF UP TO 2 CONSECUTIVE DAYS, EXCLUDING SUNDAY; AND

(3) APPROVE A FESTIVAL LOCATION IN THE COUNTY FOR WHICH A LICENSE HAS NOT BEEN ISSUED.

(G) (1) A PRODUCT TO BE DISPLAYED AND SOLD AT A BEER FESTIVAL SHALL BE:

(I) INVOICED TO THE HOLDER OF THE BEER FESTIVAL LICENSE BY A LICENSED STATE WHOLESALER OR HOLDER OF A CLASS 5 BREWERY LICENSE, CLASS 6 PUB-BREWERY LICENSE OR CLASS 6 MICRO-BREWERY LICENSE; AND

(II) DELIVERED TO THE BEER FESTIVAL FROM THE LICENSED PREMISES OF THE WHOLESALER.

(2) WHEN A BEER FESTIVAL LICENSE IS ISSUED, A HOLDER OF A WHOLESALER'S LICENSE, A CLASS 5 BREWERY LICENSE, A CLASS 6 PUB-BREWERY LICENSE, OR A CLASS 7 MICRO-BREWERY LICENSE MAY ENTER INTO AN AGREEMENT WITH THE HOLDER OF THE BEER FESTIVAL LICENSE TO

**DELIVER BEER 2 DAYS BEFORE THE EFFECTIVE DATE OF THE BEER FESTIVAL LICENSE AND TO ACCEPT RETURNS NOT LATER THAN 2 DAYS AFTER THE EXPIRATION DATE OF THE BEER FESTIVAL LICENSE.**

**(H) A BEER FESTIVAL LICENSE ISSUED FOR A LOCATION AT WHICH SUNDAY SALES ARE ALLOWED UNDER § 11-512(C) OF THIS ARTICLE AUTHORIZES SUNDAY SALES:**

**(1) TO BEGIN AT 1 P.M.; AND**

**(2) TO BE MADE WITHOUT A CONSUMER PLACING AN ORDER FOR A MEAL SIMULTANEOUSLY OR BEFORE PLACING AN ORDER FOR AN ALCOHOLIC BEVERAGE.**

**(I) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

12-107.

**(b) (10) (i) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL IN:**

**1. A RESTAURANT, CLUB, OR HOTEL FOR WHICH A CLASS B OR CLASS C LICENSE ALLOWING THE SALE OF WINE IS ISSUED; OR**

**2. AN ESTABLISHMENT IN GARRETT COUNTY FOR WHICH A CLASS B-B&B (BED AND BREAKFAST) LICENSE IS ISSUED.**

**(II) An individual [in a restaurant, club, or hotel for which a Class B or Class C license allowing the sale of wine is issued] COVERED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH may consume wine not purchased from or provided by the license holder only if:**

**1. The wine is consumed with a meal during the hours of sale specified by the license;**

**2. The individual receives the approval of the license holder;**

**3. The wine is not available for sale on the license holder's wine list; and**

**4. The license holder obtains a permit from the local licensing board before allowing an individual the privilege of consuming wine not purchased from or provided by the license holder.**

[(ii)] (III) A local licensing board shall issue a permit at no charge to each license holder who seeks to allow an individual to consume wine under the conditions specified in subparagraph ~~(i)~~ (II) of this paragraph.

[(iii)] (IV) A license holder that allows an individual the privilege of consuming wine described under subparagraph ~~(i)~~ (II) of this paragraph may determine and charge the individual a fee for the privilege, on which a sales tax shall be imposed.

[(iv)] (V) Except as provided in subparagraph ~~(v)~~ (VI) of this paragraph, the license holder shall dispose of wine described under subparagraph ~~(i)~~ (II) of this paragraph that remains after the meal is finished.

[(v)] (VI) The individual may remove from the licensed premises a bottle of wine, the contents of which are only partially consumed with the meal, if the license holder or an employee of the license holder inserts a cork in or places a cap on the bottle.

[(vi)] (VII) A bottle of wine that is removed from the licensed premises under subparagraph ~~(v)~~ (VI) of this paragraph is an “open container” for purposes of § 10–125 of the Criminal Law Article.

[(vii)] (VIII) A license holder may not allow an individual who is under 21 years old or who is visibly under the influence of an alcoholic beverage the privilege of consuming wine described under subparagraph ~~(i)~~ (II) of this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate  
H-107 State House  
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 888 – *Task Force to Study Temporary Disability Insurance Programs and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services*.



This bill establishes the Task Force to Study Temporary Disability Insurance Programs and the Process for Assisting Individuals with Disabilities at local Departments of Social Services. The bill requires the Task Force to study and make recommendations regarding specified matters and to report its findings and recommendations to the Governor and the General Assembly on or before December 1, 2013.

House Bill 955, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 888.

Sincerely,

Governor Martin O'Malley

**Senate Bill 888**

AN ACT concerning

**Task Force to Study Temporary Disability Insurance Programs and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services**

FOR the purpose of establishing the Task Force to Study Temporary Disability Insurance Programs and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study Temporary Disability Insurance Programs and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Temporary Disability Insurance Programs and the Process for Assisting Individuals with Disabilities at Local Departments of Social Services.

(b) The Task Force consists of the following members:

(1) ~~three~~ two members of the Senate of Maryland, appointed by the President of the Senate;

(2) ~~three~~ two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Commissioner of the Maryland Insurance Administration, or the Commissioner's designee;

(4) the Secretary of Human Resources, or the Secretary's designee;

(5) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;

(6) the Secretary of Health and Mental Hygiene, or the Secretary's designee; and

(7) the following members, appointed by the Governor:

(i) one representative of the Workers' Compensation Commission;

(ii) one representative of ~~the American Cancer Society~~ All Shades of Pink;

(iii) one representative of the Cancer Support Foundation;

(iv) two representatives of Maryland labor organizations;

(v) one representative of the Leukemia and Lymphoma Society;

~~(vi)~~ (vi) ~~three~~ two members of the business community;

~~(vii)~~ (vii) two members of the insurance industry, including one member of the temporary disability insurance industry; ~~and~~

~~(viii)~~ (viii) one member of the public;

~~(ix)~~ (ix) one representative of a disability advocacy organization; and

~~(x)~~ (x) two representatives of local departments of social services;  
and

(xi) at least two representatives of cancer treatment centers in the State who perform patient navigation services.

- (c) The Governor shall designate the chair of the Task Force.
- (d) The Maryland Insurance Administration and the Department of Human Resources shall provide staff for the Task Force.
- (e) A member of the Task Force:
  - (1) may not receive compensation as a member of the Task Force; but
  - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (f) The Task Force shall:
  - (1) study the full complement of benefits available under State and federal law to workers and recently unemployed individuals in Maryland who are disabled;
  - (2) study the wage replacement benefits available to a worker or a recently unemployed individual in Maryland who becomes disabled due to nonwork-related illness or injury;
  - (3) study the availability and sufficiency of wage replacement benefits available to workers and recently unemployed individuals in Maryland who become disabled due to nonwork-related cancer;
  - (4) study the exclusivity and exhaustion of benefit standards that limit the level or extent of benefits that a worker or a recently unemployed individual in Maryland who is disabled may receive;
  - (5) study and compare temporary disability insurance programs in other jurisdictions in terms of:
    - (i) coverage;
    - (ii) eligibility requirements and limitations;
    - (iii) minimum and maximum benefit threshold amounts;
    - (iv) costs to employers, employees, and administrators;
    - (v) funding mechanisms;
    - (vi) administration; and
    - (vii) appeals processes;

(6) study and make recommendations regarding the adequacy of the application processes utilized by local departments of social services to assist individuals who become disabled due to nonwork-related illness or injury, including individuals undergoing treatment for cancer, and who apply for assistance, including food stamps, temporary cash assistance, energy assistance benefits, temporary disability assistance benefits, and medical assistance;

~~(6)~~ (7) make recommendations regarding potential costs and benefits to the State's workforce of establishing a temporary disability insurance program; and

~~(7)~~ (8) make recommendations regarding the potential structure, administration, eligibility standards, and funding mechanisms for a temporary disability insurance program in Maryland.

(g) On or before December 1, 2013, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. It shall remain effective for a period of 1 year and, at the end of May 31, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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## Vetoed House Bills and Messages

May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1 – *Criminal Law – Cannabimimetic Agents – Prohibition*.

This bill lists cannabimimetic agents on Schedule I for purposes of designating controlled dangerous substances that may not be legally used, possessed, or distributed and defines cannabimimetic agents.

Senate Bill 109, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1.

Sincerely,

Governor Martin O'Malley

### House Bill 1

AN ACT concerning

#### **Criminal Law – Cannabimimetic Agents – Prohibition**

FOR the purpose of listing cannabimimetic agents on Schedule I to designate controlled dangerous substances that may not be legally used, possessed, or distributed; defining a certain term; and generally relating to controlled dangerous substances.

BY renumbering

Article – Criminal Law  
Section 5-101(e) through (ee), respectively  
to be Section 5-101(f) through (ff), respectively  
Annotated Code of Maryland  
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Criminal Law  
Section 5-101(a)

Annotated Code of Maryland  
(2012 Replacement Volume and 2012 Supplement)

BY adding to  
Article – Criminal Law  
Section 5–101(e)  
Annotated Code of Maryland  
(2012 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 5–402(d)  
Annotated Code of Maryland  
(2012 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 5–101(e) through (ee), respectively, of Article – Criminal Law of the Annotated Code of Maryland be renumbered to be Section(s) 5–101(f) through (ff), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

### Article – Criminal Law

5–101.

(a) In this title the following words have the meanings indicated.

**(E) (1) “CANNABIMIMETIC AGENTS” MEANS SUBSTANCES THAT ARE CANNABINOID RECEPTOR TYPE 1 (CB1 RECEPTOR) AGONISTS AS DEMONSTRATED BY BINDING STUDIES AND FUNCTIONAL ASSAYS WITHIN ONE OF THE FOLLOWING STRUCTURAL CLASSES:**

**(I) 2–(3–HYDROXYCYCLOHEXYL)PHENOL WITH SUBSTITUTION AT THE 5–POSITION OF THE PHENOLIC RING BY ALKYL OR ALKENYL, WHETHER OR NOT SUBSTITUTED ON THE CYCLOHEXYL RING TO ANY EXTENT;**

**(II) 3–(1–NAPHTHOYL)INDOLE OR 3–(1–NAPHTHYLMETHANE)INDOLE BY SUBSTITUTION AT THE NITROGEN ATOM OF THE INDOLE RING, WHETHER OR NOT FURTHER SUBSTITUTED ON THE INDOLE RING TO ANY EXTENT AND WHETHER OR NOT SUBSTITUTED ON THE NAPHTHOYL OR NAPHTHYL RING TO ANY EXTENT;**

(III) 3-(1-NAPHTHOYL)PYRROLE BY SUBSTITUTION AT THE NITROGEN ATOM OF THE PYRROLE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN THE PYRROLE RING TO ANY EXTENT AND WHETHER OR NOT SUBSTITUTED ON THE NAPHTHOYL RING TO ANY EXTENT;

(IV) 1-(1-NAPHTHYLMETHYLENE)INDENE BY SUBSTITUTION OF THE 3-POSITION OF THE INDENE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN THE INDENE RING TO ANY EXTENT AND WHETHER OR NOT SUBSTITUTED ON THE NAPHTHYL RING TO ANY EXTENT; OR

(V) 3-PHENYLACETYLINDOLE OR 3-BENZOYLINDOLE BY SUBSTITUTION AT THE NITROGEN ATOM OF THE INDOLE RING, WHETHER OR NOT FURTHER SUBSTITUTED IN THE INDOLE RING TO ANY EXTENT AND WHETHER OR NOT SUBSTITUTED ON THE PHENYL RING TO ANY EXTENT.

(2) "CANNABIMIMETIC AGENTS" INCLUDES:

(I) 5-(1,1-DIMETHYLHEPTYL)-2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-PHENOL (CP-47,497);

(II) 5-(1,1-DIMETHYLOCTYL)-2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-PHENOL (CANNABICYCLOHEXANOL OR CP-47,497 C8-HOMOLOG);

(III) 1-PENTYL-3-(1-NAPHTHOYL)INDOLE (JWH-018 AND AM678);

(IV) 1-BUTYL-3-(1-NAPHTHOYL)INDOLE (JWH-073);

(V) 1-HEXYL-3-(1-NAPHTHOYL)INDOLE (JWH-019);

(VI) 1-[2-(4-MORPHOLINYL)ETHYL]-3-(1-NAPHTHOYL)INDOLE (JWH-200);

(VII) 1-PENTYL-3-(2-METHOXYPHENYLACETYL)INDOLE (JWH-250);

(VIII) 1-PENTYL-3-[1-(4-METHOXYNAPHTHOYL)]INDOLE (JWH-081);

(IX) 1-PENTYL-3-(4-METHYL-1-NAPHTHOYL)INDOLE (JWH-122);

(X) 1-PENTYL-3-(4-CHLORO-1-NAPHTHOYL)INDOLE  
(JWH-398);

(XI) 1-(5-FLUOROPENTYL)-3-(1-NAPHTHOYL)INDOLE  
(AM2201);

(XII) 1-(5-FLUOROPENTYL)-3-(2-iodobenzoYL)INDOLE  
(AM694);

(XIII) 1-PENTYL-3-[(4-METHOXY)-BENZOYL]INDOLE  
(SR-19 AND RCS-4);

(XIV) 1-CYCLOHEXYLETHYL-3-(2-METHOXYPHENYLACETYL)INDOLE (SR-18 AND RCS-8); AND

(XV) 1-PENTYL-3-(2-CHLOROPHENYLACETYL)INDOLE  
(JWH-203).

5-402.

(d) (1) A material, compound, mixture, or preparation that contains any of the following hallucinogenic or hallucinogenic-like substances is a substance listed in Schedule I:

- (i) bufotenine;
- (ii) diethyltryptamine;
- (iii) dimethyltryptamine;
- (iv) 4-methyl-2, 5-dimethoxyamphetamine;
- (v) ibogaine;
- (vi) lysergic acid diethylamide;
- (vii) marijuana;
- (viii) mescaline;
- (ix) peyote;
- (x) psilocybin;



- (xi) psilocyn;
- (xii) tetrahydrocannabinol;
- (xiii) thiophene analog of phencyclidine;
- (xiv) 2, 5-dimethoxyamphetamine;
- (xv) 4-bromo-2, 5-dimethoxyamphetamine;
- (xvi) 4-methoxyamphetamine;
- (xvii) 3, 4-methylenedioxyamphetamine;
- (xviii) 3, 4-methylenedioxymethamphetamine (MDMA);
- (xix) 5-methoxy-3, 4-methylenedioxyamphetamine;
- (xx) 3, 4, 5-trimethoxyamphetamine;
- (xxi) N-methyl-3-piperidyl benzilate;
- (xxii) N-ethyl-3-piperidyl benzilate;
- (xxiii) N-ethyl-1-phenylcyclohexylamine;
- (xxiv) 1-(1-phenylcyclohexyl)-pyrrolidine;
- (xxv) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- (xxvi) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);
- (xxvii) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine  
(PEPAP);
- (xxviii) 3, 4-methylenedioxymethcathinone (methydone);
- (xxix) 3, 4-methylenedioxypyrovalerone (MDPV);
- (xxx) 4-methylmethcathinone (mephedrone);
- (xxxi) 4-methoxymethcathinone (methedrone);
- (xxxii) 4-fluoromethcathinone (flephedrone); [and]
- (xxxiii) 3-fluoromethcathinone (3-FMC); AND

**(XXXIV) CANNABIMIMETIC AGENTS.**

(2) Unless specifically excepted under this subtitle, a salt, isomer, or salt of an isomer of a substance listed in this subsection is a substance listed in Schedule I if the existence of the salt, isomer, or salt of an isomer is possible within the specific chemical designation.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 8 – *Estates and Trusts – Guardianship Accounts – Form and Limits*.

This bill authorizes a guardian of the property of a minor or disabled person to petition the court to deposit cash belonging to the minor or disabled person in an amount not exceeding \$200,000 into a single restricted account. Amounts in excess of \$200,000 must be deposited into separate restricted accounts, each subject to the same \$200,000 limit. The bill also authorizes a deposit under the Act to be made into any type of account, including a certificate of deposit, in a specified financial institution or one that accepts deposits and is federally insured.

Senate Bill 168, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 8.

Sincerely,

Governor Martin O'Malley

**House Bill 8**

AN ACT concerning

**Estates and Trusts – Guardianship Accounts – Form and Limits**

FOR the purpose of authorizing a guardian of the property of a minor ~~in a certain proceeding or disabled person~~ to petition ~~an orphan's~~ the court to deposit certain cash not exceeding a certain amount into a single restricted account; requiring certain excess amounts to be deposited into additional restricted accounts not exceeding a certain amount; prohibiting the aggregate amount deposited in any financial institution from exceeding a certain amount; authorizing a deposit under this Act to be made into ~~a certain type of account~~ certain types of accounts in certain financial institutions; and generally relating to guardianship accounts.

BY adding to

Article – Estates and Trusts

Section 13-209.1

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Estates and Trusts**

**13-209.1.**

**(A) (1) ~~IN A PROCEEDING BEFORE AN ORPHANS' COURT~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A GUARDIAN OF THE PROPERTY OF A MINOR OR DISABLED PERSON MAY PETITION THE COURT TO DEPOSIT CASH BELONGING TO THE MINOR OR DISABLED PERSON IN AN AMOUNT NOT EXCEEDING \$200,000 INTO A SINGLE RESTRICTED ACCOUNT.**

**(2) (I) IF THE AMOUNT OF CASH BELONGING TO A MINOR OR DISABLED PERSON EXCEEDS \$200,000, ANY EXCESS AMOUNT SHALL BE DEPOSITED INTO ADDITIONAL RESTRICTED ACCOUNTS.**

**(II) THE AMOUNT DEPOSITED IN AN ADDITIONAL RESTRICTED ACCOUNT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT EXCEED \$200,000.**

**(III) THE AGGREGATE AMOUNT DEPOSITED IN ANY FINANCIAL INSTITUTION MAY NOT EXCEED \$200,000.**

**(B) A DEPOSIT UNDER SUBSECTION (A) OF THIS SECTION MAY BE MADE INTO ANY TYPE OF ACCOUNT ~~AT A FEDERALLY INSURED FINANCIAL INSTITUTION~~, INCLUDING A CERTIFICATE OF DEPOSIT, IN A FINANCIAL INSTITUTION THAT:**

**(1) ACCEPTS DEPOSITS; AND**

**(2) (I) IS FEDERALLY INSURED; OR**

**(II) IS REGULATED BY THE COMMISSIONER OF FINANCIAL REGULATION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 43 – *Income Tax Credit for Qualifying Employees – Sunset Repeal*.

This bill repeals termination provisions and alters dates of applicability for specified tax credits for employers that hire qualifying individuals with disabilities. This bill also declares that it is the intent of the General Assembly that the Department of Labor, Licensing, and Regulation, the Department of Disabilities, and the Department of Veterans Affairs make every effort to promote and market the Qualifying Employees with Disabilities Tax Credit to Maryland employers.

Senate Bill 124, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 43.

Sincerely,

Governor Martin O'Malley

**House Bill 43**

AN ACT concerning

**Income Tax Credit for Qualifying Employees – Sunset Repeal and Expansion**

FOR the purpose of repealing certain termination provisions and altering certain dates of applicability for certain tax credits allowed to employers that hire certain qualifying individuals with disabilities; ~~allowing an individual or corporation to claim a credit against the State income tax for certain wages paid to certain qualified veterans; providing for the application of this Act~~ declaring the intent of the General Assembly; and generally relating to a credit against the State income tax for certain qualified individuals with disabilities ~~and certain qualified veterans.~~

BY repealing and reenacting, with amendments,

Chapter 112 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, Chapter 394 of the Acts of the General Assembly of 2006, Chapter 370 of the Acts of the General Assembly of 2007, Chapter 658 of the Acts of the General Assembly of 2008, Chapter 290 of the Acts of the General Assembly of 2009, Chapter 252 of the Acts of the General Assembly of 2010, Chapter 558 of the Acts of the General Assembly of 2011, and Chapter 467 of the Acts of the General Assembly of 2012

Section 4 and 6

BY repealing and reenacting, with amendments,

Chapter 113 of the Acts of the General Assembly of 1997, as amended by Chapter 614 of the Acts of the General Assembly of 1998, Chapter 448 of the Acts of the General Assembly of 2000, Chapter 454 of the Acts of the General Assembly of 2003, Chapter 394 of the Acts of the General Assembly of 2006, Chapter 370 of the Acts of the General Assembly of 2007, Chapter 658 of the Acts of the General Assembly of 2008, Chapter 290 of the Acts of the General Assembly of 2009, Chapter 252 of the Acts of the General Assembly of 2010, Chapter 558 of the Acts of the General Assembly of 2011, and Chapter 467 of the Acts of the General Assembly of 2012

Section 4 and 6

~~BY repealing and reenacting, with amendments,~~

~~Article Tax General~~

~~Section 10-704.7~~

~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Chapter 112 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, Chapter**

**394 of the Acts of 2006, Chapter 370 of the Acts of 2007, Chapter 658 of the Acts of 2008, Chapter 290 of the Acts of 2009, Chapter 252 of the Acts of 2010, Chapter 558 of the Acts of 2011, and Chapter 467 of the Acts of 2012**

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 [but before January 1, 2016]; provided, however, that the tax credit under § 21–309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after October 1, 1997 [but before July 1, 2013; and provided further that any excess credits under § 21–309 of the Education Article may be carried forward and, subject to the limitations under § 21–309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, 2016].

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. [It shall remain in effect for a period of 15 years and 9 months and at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

**Chapter 113 of the Acts of 1997, as amended by Chapter 614 of the Acts of 1998, Chapter 448 of the Acts of 2000, Chapter 454 of the Acts of 2003, Chapter 394 of the Acts of 2006, Chapter 370 of the Acts of 2007, Chapter 658 of the Acts of 2008, Chapter 290 of the Acts of 2009, Chapter 252 of the Acts of 2010, Chapter 558 of the Acts of 2011, and Chapter 467 of the Acts of 2012**

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be applicable to all taxable years beginning after December 31, 1996 [but before January 1, 2016]; provided, however, that the tax credit under § 21–309 of the Education Article, as enacted under Section 1 of this Act, shall be allowed only for employees hired on or after October 1, 1997 [but before July 1, 2013; and provided further that any excess credits under § 21–309 of the Education Article may be carried forward and, subject to the limitations under § 21–309 of the Education Article, may be applied as a credit for taxable years beginning on or after January 1, 2016].

SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 4 of this Act, this Act shall take effect October 1, 1997. [It shall remain in effect for a period of 15 years and 9 months and at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article Tax General~~

~~(A) (1) IN THIS SECTION, "QUALIFIED VETERAN" MEANS AN INDIVIDUAL CERTIFIED BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION WHO:~~

~~(i) 1. SERVED ON ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES FOR AT LEAST 180 DAYS; OR~~

~~2. WAS DISCHARGED OR RELEASED FROM ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES FOR A SERVICE CONNECTED DISABILITY; AND~~

~~(ii) IS A MEMBER OF A FAMILY THAT RECEIVED SUPPLEMENTAL NUTRITION ASSISTANCE UNDER THE FEDERAL FOOD AND NUTRITION ACT OF 2008 FOR AT LEAST 3 MONTHS DURING THE 12 MONTH PERIOD PRIOR TO THE INDIVIDUAL'S HIRING DATE.~~

~~(2) "QUALIFIED VETERAN" INCLUDES A DISABLED VETERAN CERTIFIED BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION WHO IS ENTITLED TO COMPENSATION FOR A SERVICE CONNECTED DISABILITY AND:~~

~~(i) IS HIRED WITHIN 1 YEAR FROM THE DATE THE INDIVIDUAL WAS DISCHARGED OR RELEASED FROM ACTIVE DUTY IN THE ARMED FORCES OF THE UNITED STATES; OR~~

~~(ii) HAS BEEN UNEMPLOYED FOR AT LEAST 6 MONTHS DURING THE 12 MONTH PERIOD PRIOR TO THE INDIVIDUAL'S HIRING DATE.~~

~~[(a)] (B) An individual or a corporation may claim a credit against the income tax for:~~

~~(1) wages paid to a qualified employee with a disability; [and]~~

~~(2) (i) child care provided or paid for by a business entity for the children of a qualified employee with a disability as provided under § 21-309 of the Education Article; or~~

~~(ii) transportation provided or paid for by the business entity for a qualified employee with a disability as provided under § 21-309 of the Education Article; AND~~

~~(3) WAGES PAID TO A QUALIFIED VETERAN.~~

~~[(b)] (C)~~ (1) ~~An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section:~~

~~(i) as a credit against income tax due on unrelated business taxable income as provided under §§ 10-304 and 10-812 of this title; or~~

~~(ii) as a credit for the payment to the Comptroller of taxes that the organization:~~

~~1. is required to withhold from the wages of employees under § 10-908 of this title; and~~

~~2. is required to pay to the Comptroller under § 10-906(a) of this title.~~

~~(2) If the credit allowed under this subsection in any taxable year exceeds the sum of the State income tax otherwise payable by the organization for that taxable year and the taxes that the organization has withheld from the wages of employees and is required to pay to the Comptroller under § 10-906(a) of this title for the taxable year, the organization may apply the excess as a credit under paragraph (1)(i) or (ii) of this subsection in succeeding taxable years for the carryforward period provided in § 21-309 of the Education Article.~~

~~(3) The Comptroller shall adopt regulations to provide procedures for claiming and applying credits authorized under paragraph (1)(ii) of this subsection.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2013, and shall be applicable to all taxable years beginning after December 31, 2012.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Labor, Licensing, and Regulation, the Department of Disabilities, and the Department of Veterans Affairs make every effort to promote and market the Qualifying Employees with Disabilities Tax Credit to Maryland employers.

~~SECTION 4. 3. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2013.~~

May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House



H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 75 – *Utility Service Protection Program – Annual Report – Deadline*.

This bill alters from June 1 to September 1 the date by which the Public Service Commission must report each year to the General Assembly on terminations of gas or electric service occurring during the previous heating season.

Senate Bill 14, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 75.

Sincerely,

Governor Martin O'Malley

### **House Bill 75**

AN ACT concerning

#### **Utility Service Protection Program – Annual Report – Deadline**

FOR the purpose of altering the date by which the Public Service Commission must report each year to the General Assembly on terminations of gas or electric service occurring during the previous heating season; and generally relating to the Utility Service Protection Program.

BY repealing and reenacting, without amendments,  
Article – Public Utilities  
Section 7-307(a)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – Public Utilities  
Section 7-307(c)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Public Utilities**

7–307.

(a) In this section, “termination of service” means the termination, reduction, or refusal to reinstate gas or electric service, or any other action that has the effect of reducing or denying gas or electric service because of nonpayment.

(c) (1) In accordance with § 2–1246 of the State Government Article, on or before **[June 1] SEPTEMBER 1** of each year, the Commission shall report to the General Assembly on terminations of service by public service companies during the previous heating season.

(2) The report shall include information in sufficient detail to indicate the effect of the terminations of service on various categories of customers, including:

- (i) income levels;
- (ii) geographic areas;
- (iii) energy assistance recipients; and

(iv) any other category that the Commission determines is relevant to evaluate how the State may best address the problem of assuring adequate gas and electric service for low income residential customers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H–101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 83 – *Judgeships – Court of Special Appeals, Circuit Courts, and District Court*.

This bill increases the number of judges of the Court of Special Appeals from 13 to 15, increases the number of resident judges of the circuit court in Calvert, Carroll, Cecil,

Frederick, and Wicomico counties and increases the number of associate judges of the District Court in Baltimore City, and Charles, Montgomery, and Prince George's counties.

Senate Bill 239, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 83.

Sincerely,

Governor Martin O'Malley

### House Bill 83

AN ACT concerning

#### **Judgeships – Court of Special Appeals, Circuit Courts, and District Court**

FOR the purpose of altering the number of judges of the Court of Special Appeals; altering the number of resident judges of the circuit court in certain judicial circuits; altering the number of associate judges of the District Court in certain districts; altering the number of District Court judges to be appointed from a certain county; and generally relating to judgeships in certain courts.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 1–402, 1–503, and 1–603  
Annotated Code of Maryland  
(2006 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Courts and Judicial Proceedings**

1–402.

(a) The Court of Special Appeals consists of [13] 15 judges, one of whom shall be designated by the Governor as Chief Judge.

(b) Except as otherwise provided in this section, the judges of the Court of Special Appeals shall be selected, appointed, retained, removed from office, or retired as provided in Article IV of the Maryland Constitution with respect to judges of the Court of Appeals. One judge of the Court of Special Appeals shall be a resident respectively of each of the appellate judicial circuits defined in Article IV, § 14 of the Maryland Constitution. When election to judicial office is required by the Constitution, each of these judges shall be elected by the qualified voters of his circuit of residence.

The remaining judges of the Court of Special Appeals may be residents of any part of the State and, when election to judicial office is required by the Constitution, shall be elected by the qualified voters of the entire State. The term of a judge of the Court of Special Appeals begins on the date of his qualification for office.

1–503.

(a) In each county in the first seven judicial circuits there shall be the number of resident judges of the circuit court set forth below, including the judge or judges provided for by the Constitution:

(1)	Allegany .....	2
(2)	Anne Arundel.....	12
(3)	Baltimore County .....	18
(4)	Calvert.....	<b>[2] 3</b>
(5)	Caroline.....	1
(6)	Carroll .....	<b>[3] 4</b>
(7)	Charles .....	4
(8)	Cecil.....	<b>[3] 4</b>
(9)	Dorchester.....	1
(10)	Frederick.....	<b>[4] 5</b>
(11)	Garrett .....	1
(12)	Harford.....	5
(13)	Howard.....	5
(14)	Kent.....	1
(15)	Montgomery .....	22
(16)	Prince George’s .....	23
(17)	Queen Anne’s .....	1
(18)	St. Mary’s .....	3

(19) Somerset..... 1

(20) Talbot ..... 1

(21) Washington ..... 5

(22) Wicomico ..... [3] 4

(23) Worcester ..... 3

(b) In Baltimore City there shall be 33 resident judges of the Circuit Court for Baltimore City.

1-603.

(a) The court is composed of a Chief Judge and the number of associate judges provided for in subsection (b) of this section. If the Chief Judge is relieved of the Judge's duties as Chief Judge but not removed from office as a judge of the District Court, the Chief Judge shall serve for the remainder of the Judge's term of office as a District Court judge, as a resident judge of the Judge's district and county of residence, without reference to the maximum number of judges for that district prescribed in subsection (b) of this section.

(b) In each of the districts provided for in § 1-602 of this subtitle, there shall be the following number of associate judges of the District Court:

(1) District 1 — [27] **28**

(2) District 2 — 6, two to be appointed from Wicomico County and two to be appointed from Worcester County

(3) District 3 — 6, two to be appointed from Cecil County

(4) District 4 — [5] **6**, two to be appointed from Calvert County and [two] **THREE** to be appointed from Charles County

(5) District 5 — [15] **16**

(6) District 6 — [11] **12**

(7) District 7 — 9

(8) District 8 — 13

(9) District 9 — 4

(10) District 10 — 7, two to be appointed from Carroll County and five to be appointed from Howard County

(11) District 11 — 5, three to be appointed from Frederick County and two to be appointed from Washington County

(12) District 12 — 3, two to be appointed from Allegany County

(c) In each district comprising more than one county, there shall be at least one District Court judge resident and holding court in each county in the district.

(d) To assure that the services of the District Court are readily and practicably available in all areas of District 8 and to assure that these services are provided to all citizens of District 8 with a minimum of inconvenience and a maximum of availability, there shall be a court facility physically located in each of the following areas of that district, and at least one judge shall sit regularly in each location:

- (1) The Towson area;
- (2) The Catonsville area; and
- (3) The Essex area.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 88 – *Real Property – Refinance Mortgage – Priority over Junior Liens*.

This bill authorizes a mortgagor or grantor to refinance the indebtedness secured by a first mortgage or deed of trust without obtaining permission from the holder of a junior lien under specified circumstances. The bill provides that a refinance mortgage meeting the requirements of the Act shall have, on recordation, the same lien priority

as the mortgage or deed of trust it replaces and requires a specified statement to be included on a refinance mortgage.

Senate Bill 199, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 88.

Sincerely,

Governor Martin O'Malley

### House Bill 88

AN ACT concerning

#### **Real Property – Refinance Mortgage – Priority over Junior Liens**

FOR the purpose of authorizing a mortgagor or grantor to refinance the indebtedness secured by a first mortgage or deed of trust without obtaining permission from the holder of a certain junior lien under certain circumstances; providing that a certain refinance mortgage shall have, on recordation, the same lien priority as the first mortgage or deed of trust that ~~is~~ the refinance mortgage replaces; requiring a certain statement to be ~~printed~~ included on a refinance mortgage; defining certain terms; providing for the construction and application of this Act; and generally relating to lien priority and refinance mortgages.

BY repealing and reenacting, without amendments,  
Article – Real Property  
Section 3–203  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

BY adding to  
Article – Real Property  
Section 7–112  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Real Property**

3–203.

Every recorded deed or other instrument takes effect from its effective date as against the grantee of any deed executed and delivered subsequent to the effective date, unless the grantee of the subsequent deed has:

- (1) Accepted delivery of the deed or other instrument:
  - (i) In good faith;
  - (ii) Without constructive notice under § 3–202; and
  - (iii) For a good and valuable consideration; and
- (2) Recorded the deed first.

7–112.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “JUNIOR LIEN” MEANS A MORTGAGE, DEED OF TRUST, OR OTHER SECURITY ~~INTEREST IN REAL PROPERTY INSTRUMENT~~ THAT IS SUBORDINATE IN PRIORITY TO A FIRST MORTGAGE OR DEED OF TRUST UNDER § 3–203 OF THIS ARTICLE.

(II) “JUNIOR LIEN” DOES NOT INCLUDE:

1. A JUDGMENT LIEN; OR
2. A LIEN FILED UNDER THE MARYLAND CONTRACT LIEN ACT.

(3) “REFINANCE MORTGAGE” MEANS A MORTGAGE, DEED OF TRUST, OR OTHER SECURITY ~~INTEREST IN REAL PROPERTY INSTRUMENT~~ GIVEN TO SECURE THE REFINANCING OF INDEBTEDNESS SECURED BY A FIRST MORTGAGE OR DEED OF TRUST.

(4) “RESIDENTIAL PROPERTY” MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.

(B) A MORTGAGOR OR GRANTOR WHO REFINANCES IN FULL THE UNPAID INDEBTEDNESS SECURED BY A FIRST MORTGAGE OR DEED OF TRUST ENCUMBERING OR CONVEYING AN INTEREST IN RESIDENTIAL PROPERTY AT A AN INTEREST RATE LOWER THAN PROVIDED FOR IN THE EVIDENCE OF



**INDEBTEDNESS SECURED BY THE FIRST MORTGAGE OR DEED OF TRUST IS NOT REQUIRED TO OBTAIN PERMISSION FROM THE HOLDER OF A JUNIOR LIEN IF:**

**(1) THE PRINCIPAL AMOUNT SECURED BY THE JUNIOR LIEN DOES NOT EXCEED \$150,000; AND**

**(2) THE PRINCIPAL AMOUNT SECURED BY THE REFINANCE MORTGAGE DOES NOT EXCEED THE UNPAID OUTSTANDING PRINCIPAL BALANCE SECURED BY THE FIRST MORTGAGE OR DEED OF TRUST PLUS AN AMOUNT TO PAY CLOSING COSTS NOT EXCEEDING \$5,000.**

**(C) A REFINANCE MORTGAGE THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION SHALL HAVE, ON RECORDATION, THE SAME LIEN PRIORITY AS THE FIRST MORTGAGE OR DEED OF TRUST THAT THE REFINANCE MORTGAGE REPLACES.**

**(D) A REFINANCE MORTGAGE THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION SHALL INCLUDE ~~ON THE FIRST PAGE~~ THE FOLLOWING STATEMENT IN BOLD OR CAPITALIZED LETTERS: "THIS IS A REFINANCE OF A DEED OF TRUST/MORTGAGE/OTHER SECURITY ~~INTEREST INSTRUMENT~~ RECORDED AMONG THE LAND RECORDS OF ..... COUNTY/CITY, MARYLAND IN LIBER NO. .... FOLIO ....., IN THE ORIGINAL PRINCIPAL AMOUNT OF....., AND WITH THE UNPAID OUTSTANDING PRINCIPAL BALANCE OF..... . THE INTEREST RATE PROVIDED FOR IN THE EVIDENCE OF INDEBTEDNESS SECURED BY THIS REFINANCE MORTGAGE IS LOWER THAN THE APPLICABLE INTEREST RATE PROVIDED FOR IN THE EVIDENCE OF INDEBTEDNESS SECURED BY THE DEED OF TRUST/MORTGAGE/OTHER SECURITY INSTRUMENT BEING REFINANCED."**

**(E) THE PRIORITIES AMONG TWO OR MORE JUNIOR LIENS SHALL BE GOVERNED BY § 3-203 OF THIS ARTICLE.**

**(F) THIS SECTION MAY NOT BE CONSTRUED TO PREEMPT OR ABROGATE THE OPERATION OR EFFECT OF, OR ABILITY OF A COURT TO APPLY THE PRINCIPLES OF, EQUITABLE SUBROGATION OR EQUITABLE SUBORDINATION.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to a refinance mortgage recorded or having an effective date before the effective date of this Act.**

**SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.**

May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 127 – *Labor and Employment – Payment of Overtime Wages*.

This bill limits the applicability of an overtime wage provision of law to exclude, under specified circumstances, a specified employer that is subject to Title II of the federal Railway Labor Act.

Senate Bill 405, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 127.

Sincerely,

Governor Martin O'Malley

**House Bill 127**

AN ACT concerning

**Labor and Employment – Payment of Overtime Wages**

FOR the purpose of limiting the applicability of an overtime wage provision of law to exclude a certain employer that is subject to Title II of the federal Railway Labor Act, under certain circumstances; and generally relating to the payment of overtime wages.

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 3-415  
Annotated Code of Maryland  
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,  
Article – Labor and Employment  
Section 3-420

Annotated Code of Maryland  
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Labor and Employment**

3–415.

(a) Except as otherwise provided in this section, each employer shall pay an overtime wage of at least 1.5 times the usual hourly wage, computed in accordance with § 3–420 of this subtitle.

(b) This section does not apply to an employer that is:

- (1) subject to 49 U.S.C. § 10501;
- (2) an establishment that is a hotel or motel;
- (3) an establishment that is a restaurant;
- (4) considered a gasoline service station because the employer is engaged primarily in selling gasoline and lubricating oil, even if the employer sells other merchandise or performs minor repair work;
- (5) a bona fide private country club;
- (6) a not for profit entity and is engaged primarily in providing temporary at-home care services, such as companionship or delivery of prepared meals, to aged or sick individuals, individuals with disabilities, or individuals with a mental disorder;
- (7) a not for profit concert promoter, legitimate theater, music festival, music pavilion, or theatrical show; or
- (8) an amusement or recreational establishment, including a swimming pool, if the establishment:
  - (i) operates for no more than 7 months in a calendar year; or
  - (ii) for any 6 months during the preceding calendar year, has average receipts in excess of one-third of the average receipts for the other 6 months.

(c) This section does not apply to an employer with respect to:

(1) an employee for whom the United States Secretary of Transportation may set qualifications and maximum hours of service under 49 U.S.C. § 31502;

(2) a mechanic, partsperson, or salesperson who primarily sells or services automobiles, farm equipment, trailers, or trucks, if the employer is engaged primarily in selling those vehicles to ultimate buyers and is not a manufacturer; [or]

(3) a driver if the employer is engaged in the business of operating taxicabs; OR

**(4) UNLESS A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A LABOR ORGANIZATION PROVIDES OTHERWISE, AN EMPLOYEE OF THE EMPLOYER IF:**

**(I) THE EMPLOYER IS SUBJECT TO TITLE II OF THE FEDERAL RAILWAY LABOR ACT;**

**(II) THE EMPLOYER DOES NOT REQUIRE THE EMPLOYEE TO WORK MORE THAN 40 HOURS DURING 1 WORKWEEK; AND**

**(III) THE EMPLOYEE VOLUNTARILY ENTERS INTO AN AGREEMENT WITH ANOTHER EMPLOYEE TO TRADE SCHEDULED WORK HOURS AND AS A RESULT THE EMPLOYEE WORKS MORE THAN 40 HOURS DURING A SINGLE WORKWEEK.**

3–420.

(a) Except as otherwise provided in this section, an employer shall compute the wage for overtime under § 3–415 of this subtitle on the basis of each hour over 40 hours that an employee works during 1 workweek.

(b) Notwithstanding § 3–415(b)(8) of this subtitle, an employer that is not a not for profit organization and is a concert promoter, legitimate theater, music festival, music pavilion, or theatrical show shall pay overtime for a craft or trade employee as required in subsection (a) of this section.

(c) The wage for overtime may be computed on the basis of each hour over 60 hours that an employee works during 1 workweek for an employee who:

(1) is engaged in agriculture; and

(2) is exempt from the overtime provisions of the federal Act.

(d) The wage for overtime may be computed on the basis of each hour over 48 hours that an employee works during 1 workweek:

- (1) for an employee of a bowling establishment; and
- (2) for an employee of an institution that:
  - (i) is not a hospital; but
  - (ii) is engaged primarily in the care of individuals who:
    1. are aged, intellectually disabled, or sick or have a mental disorder; and
    2. reside at the institution.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 129 – *Task Force to Study Implementing a Civil Right to Counsel in Maryland*.

This bill establishes the Task Force to Study Implementing a Civil Right to Counsel in Maryland which provides for the composition, chair, and staffing of the Task Force. It requires the Task Force to study and make recommendations regarding specified matters and to report its findings and recommendations to specified public officials on or before October 1, 2014.

Senate Bill 262, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 129.

Sincerely,

Governor Martin O'Malley

**House Bill 129**

AN ACT concerning

**Task Force to Study Implementing a Civil Right to Counsel in Maryland**

FOR the purpose of establishing the Task Force to Study Implementing a Civil Right to Counsel in Maryland; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to certain public officials on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study Implementing a Civil Right to Counsel in Maryland.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

- (a) There is a Task Force to Study Implementing a Civil Right to Counsel in Maryland.
- (b) The Task Force consists of the following members:
  - (1) three members of the Senate of Maryland, appointed by the President of the Senate;
  - (2) three members of the House of Delegates, appointed by the Speaker of the House;
  - (3) three members appointed by the Governor, one of whom shall be an attorney who is a member of the Maryland State Bar Association and who is appointed after consultation with the President of the Maryland State Bar Association and one of whom shall be an attorney or a legal provider or both; and
  - (4) three members who are representatives of the Judiciary, appointed by the Chief Judge of the Court of Appeals.
- (c) The Chief Judge of the Court of Appeals shall designate the chair of the Task Force, who shall have a vote in the recommendations of the Task Force.
- (d) The Maryland Access to Justice Commission shall provide staff for the Task Force.
- (e) A member of the Task Force:

- (1) may not receive compensation as a member of the Task Force; but
- (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

- (1) study the current resources available to assist in providing counsel to low-income Marylanders compared to the depth of the unmet need, including the resulting burden on the court system and the stress on other public resources;

- (2) study whether low-income Marylanders should have the right to counsel at public expense in basic human needs cases, such as those involving shelter, sustenance, safety, health, or child custody, including review and analysis of the Maryland Access to Justice Commission's "Implementing a Civil Right to Counsel in Maryland" report and each other previous report by a task force, commission, or workgroup on this issue;

- (3) study alternatives regarding the currently underserved citizenry of the State and the operation of the court system;

- (4) study how the right to counsel might be implemented in Maryland;

- (5) study the costs to provide meaningful access to counsel and the savings to the court system and other public resources;

- (6) study the possible revenue sources; and

- (7) make recommendations regarding the matters described in this subsection.

(g) On or before October 1, 2014, the Task Force shall report its findings and recommendations to the Governor, the Chief Judge of the Court of Appeals, and, in accordance with § 2-1246 of the State Government Article, the President of the Senate, the Speaker of the House, the Senate Budget and Taxation Committee, the Senate Judicial Proceedings Committee, the House Appropriations Committee, and the House Judiciary Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of 1 year and, at the end of September 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 151 – *Task Force on the Implementation of Tax Benefits for Emergency Preparedness Equipment*.

This bill establishes the Task Force to Study the Implementation of Tax Benefits for Emergency Preparedness Equipment and provides for the composition, chair, and staffing of the Task Force. This bill requires the Task Force to study and make recommendations regarding which members of the population would benefit from the implementation of an income tax credit to purchase electric generators or a tax-free period for emergency preparedness equipment, and other matters, and also requires a report on or before December 1, 2013.

Senate Bill 481, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 151.

Sincerely,

Governor Martin O'Malley

### House Bill 151

AN ACT concerning

~~Sales and Use Tax – Tax-Free Period – Emergency Preparedness Equipment~~  
*Task Force on the Implementation of Tax Benefits for Emergency  
Preparedness Equipment*

FOR the purpose of ~~establishing a tax-free period each year during which a certain sales and use tax exemption for the sale of certain emergency preparedness items is provided; requiring the Comptroller of the Treasury to publish a certain list on or before a certain date; authorizing the Comptroller to amend a certain list under certain circumstances; defining a certain term; providing for the termination of this Act; and generally relating to sales and use tax exemptions~~ *establishing the Task Force to Study the Implementation of Tax Benefits for Emergency Preparedness Equipment; providing for the composition, chair, and staffing of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses;*



requiring the Task Force to study and make recommendations regarding certain matters; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study the Implementation of Tax Benefits for Emergency Preparedness Equipment.

BY adding to

~~Article — Tax — General~~

~~Section 11-228.1~~

~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2012 Supplement)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:~~

~~Article — Tax — General~~

~~11-228.1.~~

~~(A) IN THIS SECTION, “EMERGENCY PREPAREDNESS EQUIPMENT” INCLUDES PORTABLE GENERATORS AND OTHER ITEMS AS DEFINED BY THE COMPTROLLER BY REGULATION.~~

~~(B) (1) BEGINNING IN CALENDAR YEAR 2014, THE 7-DAY PERIOD FROM THE THIRD SUNDAY IN MAY THROUGH THE FOLLOWING SATURDAY SHALL BE A TAX-FREE PERIOD FOR EMERGENCY PREPAREDNESS EQUIPMENT SHOPPING IN MARYLAND DURING WHICH THE EXEMPTION UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL APPLY.~~

~~(2) DURING THE TAX-FREE PERIOD FOR EMERGENCY PREPAREDNESS EQUIPMENT SHOPPING ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF ANY EMERGENCY PREPAREDNESS EQUIPMENT IF THE TAXABLE PRICE OF THE ITEM IS \$1,500 OR LESS.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE JANUARY 1, 2014, THE COMPTROLLER SHALL PUBLISH ON THE COMPTROLLER’S WEB-SITE A LIST OF EMERGENCY PREPAREDNESS EQUIPMENT THAT IS EXEMPT FROM TAXATION DURING THE TAX-FREE PERIOD.~~

~~(2) AFTER THE COMPLETION OF THE TAX-FREE PERIOD IN CALENDAR YEAR 2014, THE COMPTROLLER MAY AMEND THE LIST OF EMERGENCY PREPAREDNESS EQUIPMENT THAT IS EXEMPT FROM TAXATION FOR EACH SUBSEQUENT TAX-FREE PERIOD.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. It shall remain effective for a period of 3 years and, at the end of June 30, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Tax Benefits for Emergency Preparedness Equipment.

(b) The Task Force consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Comptroller, or the Comptroller's designee;

(4) one representative from the Maryland chapter of AARP, designated by the Maryland AARP State president;

(5) the Chairman of the Public Service Commission, or the Chairman's designee;

(6) the Secretary of the Department of Health and Mental Hygiene, or the Secretary's designee;

(7) the Director of the Maryland Energy Administration, or the Director's designee;

(8) the Director of the Maryland Emergency Management Agency, or the Director's designee;

(9) the Director of the Governor's Office of Homeland Security, or the Director's designee; and

(10) the following members, appointed by the Governor:

(i) one member of the Maryland Retailers Association; and

(ii) one member of the public who is a customer of an electric utility.

(c) The Governor shall designate the chair of the Task Force.

(d) The Maryland Energy Administration, Maryland Emergency Management Agency, and Governor's Office of Homeland Security shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study which members of the population would benefit from the implementation of:

(i) an income tax credit to purchase electric generators; or

(ii) a tax-free period for emergency preparedness equipment;

(2) study how individuals with physical difficulties, elderly individuals, and other individuals who are dependent on a consistent supply of power for medical purposes would benefit from the implementation of:

(i) an income tax credit to purchase electric generators; or

(ii) a tax-free period for emergency preparedness equipment;

(3) study whether commercial establishments would also benefit from an income tax credit to purchase electric generators or a tax-free period for emergency preparedness equipment and the costs of establishing the credit or tax-free period; and

(4) make recommendations regarding the implementation of an income tax credit for the purchase of electric generators or a tax-free period for emergency preparedness equipment, including:

(i) qualifications for the credit;

(ii) the amount of the credit to be granted; and

(iii) the length of a tax-free period for emergency preparedness equipment.

(g) On or before December 1, 2013, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 183 – *Correctional Training Commission – Members*.

This bill alters the membership of the Correctional Training Commission.

Senate Bill 441, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 183.

Sincerely,

Governor Martin O'Malley

### House Bill 183

AN ACT concerning

#### **Correctional Training Commission – ~~Correctional Officer~~ Members**

FOR the purpose of ~~requiring that certain members~~ altering the membership of the Correctional Training Commission ~~be correctional officers only rather than correctional officers or officials of the State; requiring that certain members of the Commission be recommended by the exclusive representative for the correctional officers before appointment by the Governor;~~ and generally relating to membership of the Correctional Training Commission.

BY repealing and reenacting, with amendments,  
Article – Correctional Services

Section 8-204  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Correctional Services**

8-204.

(a) The Commission consists of the following ~~14~~ members:

(1) the Secretary of Public Safety and Correctional Services;

(2) the Secretary of Juvenile Services;

(3) a representative of the Department of Public Safety and Correctional Services, designated by the Secretary of Public Safety and Correctional Services;

**(4) A REPRESENTATIVE OF THE DEPARTMENT OF JUVENILE SERVICES, DESIGNATED BY THE SECRETARY OF JUVENILE SERVICES;**

~~(4)~~ **(5)** a Deputy Secretary of Public Safety and Correctional Services;

~~(5)~~ **(6)** the president of the Maryland Correctional Administrators Association;

~~(6)~~ **(7)** the president of the Maryland Sheriffs Association;

~~(7)~~ **(8)** the president of the Maryland Criminal Justice Association;

~~(8)~~ **(9)** a representative of the Federal Bureau of Prisons, designated by its Director;

~~(9)~~ **(10)** the Attorney General of the State;

~~(10)~~ **(11)** the president of a university or college in the State with a correctional education curriculum, appointed by the Maryland Higher Education Commission; ~~and~~

**(12) ONE CORRECTIONAL OFFICER OF THE STATE RECOMMENDED BY THE EXCLUSIVE REPRESENTATIVE FOR THE OFFICERS COVERED UNDER**

**TITLE 10, SUBTITLE 9 OF THIS ARTICLE AND APPOINTED BY THE GOVERNOR;  
AND**

~~(11)~~ **(13)** four correctional officers ~~for officials~~ of the State ~~RECOMMENDED BY THE EXCLUSIVE REPRESENTATIVE FOR THE OFFICERS COVERED UNDER TITLE 10, SUBTITLE 9 OF THIS ARTICLE AND~~ appointed under subsection (b) of this section.

(b) (1) The Governor shall appoint, with the advice and consent of the Senate, four correctional officers ~~for officials~~ to be members of the Commission, at least one of whom shall be a Department of Juvenile Services employee ~~for official~~.

(2) The four members appointed under paragraph (1) of this subsection shall represent different geographic areas of the State.

(3) The term of a member who is appointed under paragraph (1) of this subsection is 3 years.

(4) The terms of the members who are appointed under paragraph (1) of this subsection are staggered as required by the terms provided for members of the Commission on October 1, 1999.

(5) (i) At the end of a term, a member who was appointed under paragraph (1) of this subsection continues to serve until a successor is appointed and qualifies.

(ii) A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.

(c) Except for the four members appointed by the Governor under subsection (b) of this section, a member of the Commission may serve personally at a Commission meeting or designate a representative from the member's unit or association who may act at any meeting to the same effect as if the member were personally present.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House

Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 206 – *Health Occupations – Sunset Extension and Program Evaluation*.

This bill continues the State Acupuncture Board, the State Board of Dietetic Practice, and the State Board of Occupational Therapy Practice in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to July 1, 2025 the termination provisions relating to the statutory and regulatory authority of the boards.

Senate Bill 237, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 206.

Sincerely,

Governor Martin O'Malley

### House Bill 206

AN ACT concerning

#### **Health Occupations – Sunset Extension and Program Evaluation**

FOR the purpose of continuing the State Acupuncture Board, the State Board of Dietetic Practice, and the State Board of Occupational Therapy Practice in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the boards; requiring that an evaluation of certain boards and the statutes and regulations that relate to certain boards be performed on or before a certain date; requiring the State Acupuncture Board and the State Board of Dietetic Practice to submit certain reports to certain committees of the General Assembly on or before a certain date; making a technical correction to the period for renewal of certain permits under the sunset extension law that continued the State Board of Pharmacy; making technical changes; and generally relating to the ~~State Acupuncture Board, the State Board of Dietetic Practice, and the State Board of Occupational Therapy Practice~~ sunset extension of certain health occupation boards.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 1A-502, 5-101(i), 5-202(b), 5-302(d), 5-305, 5-502, and 10-502

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 8–403(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–403(b)(1), (16), and (43)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 658 of the Acts of the General Assembly of 2012  
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article – Health Occupations**

1A–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, [2015] **2025**.

5–101.

(i) “Registered dietitian” means an individual registered with the Commission on Dietetic Registration, the accrediting body of the [American Dietetic Association] **ACADEMY OF NUTRITION AND DIETETICS**.

5–202.

(b) (1) For each licensed dietitian–nutritionist vacancy, the Board shall compile a list of names to be submitted to the Secretary in accordance with this subsection, including at least three names for each of the vacancies.

(2) The Board shall notify all licensed dietitian–nutritionists in the State of the vacancy to solicit nominations to fill the vacancy.

(3) The [Maryland Dietetic Association] **MARYLAND ACADEMY OF NUTRITION AND DIETETICS** or the Maryland Nutritionists Association shall



nominate qualified individuals to fill the vacancy within 30 days after the notice required in paragraph (2) of this subsection is given.

(4) The [Maryland Dietetic Association] **MARYLAND ACADEMY OF NUTRITION AND DIETETICS** may comment on an individual nominated by the Maryland Nutritionists Association under paragraph (3) of this subsection within 30 days after the nomination and before the list is submitted to the Secretary.

(5) The Maryland Nutritionists Association may comment on an individual nominated by the [Maryland Dietetic Association] **MARYLAND ACADEMY OF NUTRITION AND DIETETICS** under paragraph (3) of this subsection within 30 days after the nomination and before the list is submitted to the Secretary.

5-302.

(d) The applicant for licensure as a dietitian–nutritionist shall:

(1) (i) 1. Have satisfactorily completed academic requirements for the field of dietetics as approved by the Board; and

2. Have received a baccalaureate degree from a college or university accredited by an educational accrediting association recognized by the Council on Higher Education and Accreditation; or

(ii) Have received a master's or doctoral degree from a college or university accredited by an educational accrediting association recognized by the Council on Higher Education and Accreditation in nutritional sciences (with emphasis in human nutrition), food and nutrition, dietetics, human nutrition, community nutrition, public health nutrition, or equivalent training approved by the Board;

(2) Have satisfactorily completed a program of supervised clinical experience approved by the Board; and

(3) (i) Submit to the Board proof of certification by the Certification Board for Nutritional Specialists; or

(ii) Submit to the Board proof of registration with the Commission on Dietetic Registration of the [American Dietetic Association] **ACADEMY OF NUTRITION AND DIETETICS**.

5-305.

(a) Subject to the provisions of this section, the Board may waive an examination requirement of this title for an individual who:

(1) Is licensed to practice dietetics in another state or country;

(2) Is registered to practice dietetics by the Commission on Dietetic Registration of the [American Dietetic Association] **ACADEMY OF NUTRITION AND DIETETICS**; or

(3) Is certified by the Certification Board for Nutrition Specialists.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee set by the Board under § 5–206 of this title; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this subtitle; and

(ii) 1. Became licensed in the other state or country after passing, in that state or country, an examination that the Board determines to be comparable to the examination for which the applicant is seeking the waiver;

2. Became registered by the Commission on Dietetic Registration of the [American Dietetic Association] **ACADEMY OF NUTRITION AND DIETETICS** after meeting the examination waiver requirements of that Commission or its predecessor; or

3. Became certified by the Certification Board for Nutrition Specialists after meeting the examination waiver requirements of that Certification Board or its predecessor.

5–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2015] **2025**.

10–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, [2015] **2025**.

#### Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(1) Acupuncture Board, State (§ 1A-201 of the Health Occupations Article: July 1, [2014] **2024**);

(16) Dietetic Practice, State Board of (§ 5-201 of the Health Occupations Article: July 1, [2014] **2024**);

(43) Occupational Therapy Practice, State Board of (§ 10-201 of the Health Occupations Article: July 1, [2014] **2024**);

### **Chapter 658 of the Acts of 2012**

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Pharmacy shall extend the renewal of permits required under §§ 12-407 and 12-6C-06 of the Health Occupations Article, as enacted by Section 1 of this Act, to [May 31, 2013, and May 31, 2014,] **MAY 31, 2014, AND MAY 31, 2013, respectively, for pharmacy permits and wholesale distributor permits expiring on [December 31, 2012, and December 31, 2013,] **DECEMBER 31, 2013, AND DECEMBER 31, 2012,** respectively, to accommodate the revised permit renewal date of May 31.**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Acupuncture Board shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, that:

(1) builds on the figures provided by the Board in its response to the 2012 Joint Chairmen's Report;

(2) addresses the options suggested by the Department of Legislative Services in the 2012 Preliminary Evaluation of the State Acupuncture Board to keep revenues and expenditures in balance; and

(3) includes any fee increases, changes to the executive director position, and any options for sharing additional resources or pooling funding with other boards and discusses how these changes would modify the Board's fund balance.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Board of Dietetic Practice shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, that recommends any legislative changes to clarify the practice of dietetics and any additional authority the Board needs to address complaints alleging the unlicensed practice of dietetics.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 209 – *State Board of Public Accountancy – Sunset Extension and Program Evaluation*.

This bill continues the State Board of Public Accountancy in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to July 1, 2025, the termination provisions relating to the statutory and regulatory authority of the Board; requires that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before July 1, 2024; and requires the Board to submit a specified report on or before October 1, 2013.

Senate Bill 238, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 209.

Sincerely,

Governor Martin O'Malley

**House Bill 209**

AN ACT concerning

**State Board of Public Accountancy – Sunset Extension and Program  
Evaluation**

FOR the purpose of continuing the State Board of Public Accountancy in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board of Public Accountancy.

BY repealing and reenacting, with amendments,  
Article – Business Occupations and Professions  
Section 2–702  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 8–403(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–403(b)(57)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Business Occupations and Professions**

2–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2015] **2025**.

**Article – State Government**

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a

preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(57) Public Accountancy, State Board of (§ 2–201 of the Business Occupations and Professions Article: July 1, [2014] **2024**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Board of Public Accountancy shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on:

(1) fund balances, changes to the target fund balances, and future plans to use any remaining surplus;

(2) findings and recommendations related to the outsourcing of exam application processing; and

(3) (i) the number of peer reviews conducted in each of the previous three calendar years;

(ii) the number of licensees and permit holders that failed, passed with deficiencies, or failed to take corrective action;

(iii) reasons why the board did not previously receive a vast majority of failed peer reviews;

(iv) steps taken by the board with respect to licensees and permit holders who previously failed a peer review; and

(v) actions taken to resolve the inconsistent reporting of failed peer reviews to the board.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch

Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 231 – *Alcoholic Beverages – Class 7 Limited Beer Wholesaler's License*.

This bill creates a Class 7 limited beer wholesaler's license that allows the license holder to sell, deliver, and distribute its own beer produced at the holder's premises to a retail license holder or permit holder in the State under specified circumstances. This bill authorizes the Office of the Comptroller to issue a nonresident brewery permit to a specified person licensed outside the State to sell and deliver beer in the State and provides for specified fees.

Senate Bill 223, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 231.

Sincerely,

Governor Martin O'Malley

### **House Bill 231**

AN ACT concerning

#### **Alcoholic Beverages – Class 7 Limited Beer Wholesaler's License**

FOR the purpose of creating a Class 7 limited beer wholesaler's license that allows the license holder to sell, deliver, and distribute its own beer produced at the holder's premises to a retail license holder or permit holder in the State under certain circumstances; repealing certain prohibitions against issuing a nonresident dealer's permit to a certain person; authorizing the Office of the Comptroller to issue a nonresident brewery permit to a certain person licensed outside the State to sell and deliver a certain amount of beer to a retail license holder or permit holder in the State under certain circumstances; authorizing certain holders of a Class 5 manufacturer's license or a Class 7 micro-brewery license to apply for and obtain a Class 7 limited beer wholesaler's license if certain requirements are met; specifying certain annual license fees for a Class 7 limited beer wholesaler's license and a nonresident brewery permit; authorizing a holder of a Class 7 limited beer wholesaler's license to use additional locations for certain purposes on the payment of a certain fee; allowing a Class 7 limited beer wholesaler's license to be issued only to certain persons; authorizing a holder of a Class 7 limited beer wholesaler's license to

distribute not more than a certain amount of its own beer annually; and generally relating to Class 7 beer wholesaler's licenses.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 2–101(i)(2) and (w)(3), 2–201(b), and 2–301(a) and (b)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 2–101(z)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article 2B – Alcoholic Beverages**

2–101.

(i) (2) A nonresident dealer's permit may not be issued to a person who:

(i) Holds a wholesaler or retailer license of any class issued under this article;

(ii) Has an interest in a wholesaler licensed under this article[, other than a disclosed legal, equity, or security interest of a malt beverage wholesaler]; or

(iii) Has an interest in a retailer licensed under this article.

(w) (3) A resident dealer's permit may not be issued to a person who:

(i) Holds a wholesaler or retailer license of any class issued under this article;

(ii) Has an interest in a wholesaler licensed under this article[, other than a disclosed legal, equity, or security interest of a malt beverage wholesaler]; or

(iii) Has an interest in a retailer licensed under this article.

**(Z) (1) THE OFFICE OF THE COMPTROLLER MAY ISSUE A NONRESIDENT BREWERY PERMIT TO A PERSON THAT:**



**(I) IS LICENSED OUTSIDE THE STATE TO ENGAGE IN THE MANUFACTURE OF BEER;**

**(II) PRODUCES IN THE AGGREGATE FROM ALL OF ITS LOCATIONS NOT MORE THAN 22,500 BARRELS OF BEER ANNUALLY; AND**

**(III) DOES NOT HOLD A NONRESIDENT DEALER'S PERMIT.**

**(2) A HOLDER OF A NONRESIDENT BREWERY PERMIT MAY SELL AND DELIVER NOT MORE THAN 3,000 BARRELS OF ITS OWN BEER ANNUALLY FROM A LOCATION OUTSIDE THE STATE TO A RETAIL LICENSE HOLDER OR PERMIT HOLDER IN THE STATE AUTHORIZED TO ACQUIRE THE BEER.**

**(3) A NONRESIDENT BREWERY PERMIT HOLDER SHALL COMPLY WITH ALL THE REQUIREMENTS OF THIS ARTICLE, THE TAX – GENERAL ARTICLE, AND THE REGULATIONS OF THE OFFICE OF THE COMPTROLLER THAT APPLY TO A HOLDER OF A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE.**

**(4) THE ANNUAL FEE FOR A NONRESIDENT BREWERY PERMIT IS \$50.**

2–201.

(b) (1) This subsection does not apply to a Class 6 pub–brewery license.

(2) The holder of a distillery, rectifying, winery, limited winery, or brewery license may apply for and obtain, under a different name, one or more additional distillery, rectifying, winery, limited winery, or brewery licenses for the same or another premises.

(3) Those licenses may be issued to different persons or under trade names used by persons occupying a part of or all of the same premises.

(4) A holder of a license listed in paragraph (2) of this subsection may hold additional licenses listed in paragraph (2) of this subsection of the same or of a different class.

(5) (i) The holder of a rectifying[,] OR winery[, or brewery] license may apply for and obtain a wholesaler's license of any class for the same premises or elsewhere as provided under this article.

(ii) The holder of a limited winery license may apply for and obtain a Class 6 limited wine wholesaler's license for the same premises or elsewhere as provided under this article.

(III) 1. THE HOLDER OF A CLASS 5 MANUFACTURER’S LICENSE OR CLASS 7 MICRO–BREWERY LICENSE MAY APPLY FOR AND OBTAIN A CLASS 7 LIMITED BEER WHOLESALER’S LICENSE IN ACCORDANCE WITH THIS SUBPARAGRAPH.

2. A HOLDER OF A CLASS 5 MANUFACTURER’S LICENSE THAT WAS SELLING THE HOLDER’S OWN BEER AT WHOLESALE IN THE STATE AS OF JANUARY 1, 2013, MAY OBTAIN A CLASS 7 LIMITED BEER WHOLESALER’S LICENSE TO CONTINUE TO SELL THE HOLDER’S OWN BEER AT WHOLESALE IN THE SAME LOCATION IN AN AMOUNT THAT IS NOT MORE THAN 3,000 BARRELS ANNUALLY.

3. A HOLDER OF A CLASS 5 MANUFACTURER’S LICENSE OR CLASS 7 MICRO–BREWERY LICENSE THAT PRODUCES IN AGGREGATE FROM ALL ITS LOCATIONS NOT MORE THAN 22,500 BARRELS OF BEER ANNUALLY MAY OBTAIN A CLASS 7 LIMITED BEER WHOLESALER’S LICENSE AND DISTRIBUTE NOT MORE THAN 3,000 BARRELS OF ITS OWN BEER ANNUALLY.

2–301.

(a) (1) The annual fees for the following classes of wholesaler’s licenses are:

Class 1	Beer, wine and liquor.....	\$ 2,000
Class 2	Wine and liquor.....	1,750
Class 3	Beer and wine .....	1,500
Class 4	Beer .....	1,250
Class 5	Wine.....	1,250
Class 6	Limited wine .....	50
<b>CLASS 7</b>	<b>LIMITED BEER.....</b>	<b>50</b>

(2) Upon approval of the application:

(i) A Class 1 wholesale licensee may use additional locations for the warehousing, sale and delivery of beer, wine and liquor upon the payment of an additional fee of \$2,000 for each additional location.

(ii) A Class 2 wholesale licensee may use additional locations for the warehousing, sale and delivery of wine and liquor upon the payment of an additional fee of \$1,750 for each additional location.

(iii) A Class 3 wholesale licensee may use additional locations for the warehousing, sale and delivery of beer and wine upon the payment of an additional fee of \$1,500 for each additional location.

(iv) A Class 4 wholesale licensee may use additional locations for the warehousing, sale and delivery of beer upon the payment of an additional fee of \$1,250 for each additional location.

(v) A Class 5 wholesale licensee may use additional locations for the warehousing, sale and delivery of wine upon the payment of an additional fee of \$1,250 for each additional location.

(vi) A Class 6 limited wine wholesale licensee may use additional locations for the warehousing, sale and delivery of wine upon the payment of an additional fee of \$50 for each additional location.

**(VII) A CLASS 7 LIMITED BEER WHOLESALE LICENSEE MAY USE ADDITIONAL LOCATIONS FOR THE WAREHOUSING, SALE, AND DELIVERY OF BEER ON THE PAYMENT OF AN ADDITIONAL FEE OF \$50 FOR EACH ADDITIONAL LOCATION.**

(b) (1) Except as otherwise provided in this subsection, a wholesaler's license issued in accordance with the fee paid entitles the holder to acquire the alcoholic beverages indicated on the license from licensees and holders of nonresident dealer's permits and resident dealer's permits authorized by this State to make the sales and deliveries. The license authorizes the sale and delivery of those alcoholic beverages from the licensed premises to licensees and permit holders in Maryland and to persons outside of this State.

(2) A Class 6 limited wine wholesaler's license shall be issued only to a wine manufacturer that:

(i) Produces not more than 27,500 gallons of its own wine annually; and

(ii) Holds a Class 4 limited winery manufacturer's license issued under this article.

(3) A person who holds a Class 6 limited wine wholesaler's license, on approval of the application and payment of the fee:

(i) May sell and deliver its own brand of wine produced at the licensee's premises to a retail licensee or permit holder in the State authorized to acquire the wine; and

(ii) May not sell its wine to a licensed wholesaler.

**(4) A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE SHALL BE ISSUED ONLY TO A PERSON THAT:**

**(I) PRODUCES IN AGGREGATE FROM ALL ITS LOCATIONS NOT MORE THAN 22,500 BARRELS OF BEER ANNUALLY; AND**

**(II) HOLDS A CLASS 5 MANUFACTURER'S LICENSE OR CLASS 7 MICRO-BREWERY LICENSE.**

**(5) ON APPROVAL OF THE APPLICATION AND PAYMENT OF THE FEE, A HOLDER OF A CLASS 7 LIMITED BEER WHOLESALER'S LICENSE MAY:**

**(I) SELL AND DELIVER ITS OWN BEER PRODUCED AT THE HOLDER'S PREMISES TO A RETAIL LICENSE HOLDER OR PERMIT HOLDER IN THE STATE AUTHORIZED TO ACQUIRE THE BEER; AND**

**(II) DISTRIBUTE NOT MORE THAN 3,000 BARRELS OF ITS OWN BEER ANNUALLY.**

**[(4)] (6)** In Allegany County the holder of a Class 1 or Class 2 wholesaler's license may not sell liquor in any size container smaller than 23 ounces or 680 milliliters to any holder of a special permit issued under § 7-101(h) of this article.

**[(5)] (7)** A wholesaler's license of the appropriate class authorizes the holder to directly import beer, wine, or distilled spirits from sources outside the continental limits and possessions of the United States. However, any wholesale licensee that imports for subsequent distribution in or outside the State of Maryland shall be:

**(i)** The brand owner;

**(ii)** A wholesale licensee that purchases directly from the brand owner or the authorized agent of the brand owner; or

**(iii)** A wholesale licensee that purchases from the authorized United States importer.

**[(6)] (8)** Paragraph **[(5)] (7)** of this subsection only applies if the wholesale licensee's jurisdiction and authority to sell has been submitted to the Comptroller by the brand owner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 270 – *Electrical Inspectors and Plumbing Inspectors – Master License Required*.

This bill requires a county or local government to employ as electrical inspectors only individuals who hold, or have previously held within the past 5 years under specified circumstances, a State or local license, as applicable, to provide electrical services as a master electrician or who are certified by specified entities. The bill also requires a county or local government to employ as plumbing inspectors only individuals who hold a master plumber license issued by specified entities.

Senate Bill 350, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 270.

Sincerely,

Governor Martin O'Malley

### House Bill 270

AN ACT concerning

#### **Electrical Inspectors and Plumbing Inspectors – Master License Required**

FOR the purpose of requiring a county or local government to employ as electrical inspectors only individuals who hold, or have previously held within a certain period of time under certain circumstances, a State license or local license, as applicable, to provide electrical services as a master electrician or who are certified by certain entities; requiring a county or local government to employ as plumbing inspectors only individuals who hold a master plumber license issued by certain entities; providing certain exceptions to certain requirements of this Act; providing for the scope of certain provisions of this Act; providing for the application of this Act; providing for a delayed effective date; and generally relating to licensing requirements for electrical inspectors and plumbing inspectors.

BY repealing and reenacting, without amendments,  
 Article – Business Occupations and Professions  
 Section 6–101(a), (g), (h), and (k) and 12–101(a) and (l)  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Business Occupations and Professions  
 Section 6–313, 12–103, and 12–503  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Business Occupations and Professions**

6–101.

(a) In this title the following words have the meanings indicated.

(g) “Local license” means, unless the context requires otherwise, a license that is issued by a local board to provide electrical services as a master electrician.

(h) “Master electrician” means an individual who has the experience, knowledge, and skill to provide electrical services in all aspects of the electrical trade, in a manner that complies with applicable plans, specifications, codes, or law.

(k) “State license” means a license that is issued by the State Board to a master electrician.

6–313.

**(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR LOCAL GOVERNMENT MAY EMPLOY AN INDIVIDUAL AS AN ELECTRICAL INSPECTOR ONLY IF THE INDIVIDUAL:**

**(I) HOLDS A STATE LICENSE OR LOCAL LICENSE, AS APPLICABLE;**

**(II) PREVIOUSLY HELD, WITHIN THE LAST 5 YEARS, A STATE LICENSE OR LOCAL LICENSE, AS APPLICABLE, THAT WAS NOT SUSPENDED OR REVOKED; OR**

**(III) IS CERTIFIED BY:**

**1. THE INTERNATIONAL CODE COUNCIL AS A COMBINATION INSPECTOR OR AS AN ELECTRICAL INSPECTOR FOR RESIDENTIAL OR COMMERCIAL BUILDINGS; ~~BY~~**

**2. THE NORTH AMERICAN BOARD OF CERTIFIED ENERGY PRACTITIONERS; OR**

**3. A CERTIFYING ENTITY THAT IS COMPARABLE TO THE ENTITY LISTED IN ITEM 1 OR 2 OF THIS ITEM.**

**(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A COUNTY OR LOCAL GOVERNMENT THAT USES CODE INSPECTORS OR COMBINATION BUILDING CODE INSPECTORS TO CONDUCT ~~CONCURRENT~~ TRADE-SPECIFIC INSPECTIONS ON RESIDENTIAL OR COMMERCIAL BUILDINGS TO DETERMINE COMPLIANCE WITH ADOPTED ELECTRICAL CODES ~~AND OR~~ RELATED BUILDING CODES.**

**[(a)] (B)** An individual may not have any financial interest in any electrical business while employed by the State, a county, or a local government as an electrical inspector.

**[(b)] (C)** (1) On appointment or employment as an electrical inspector, the individual:

(i) shall place the State license of the individual on inactive status; and

(ii) except for the renewal fee, shall meet the inactive status requirements of § 6-311 of this subtitle.

(2) The State Board may issue an electrical inspector identification card to an electrical inspector who has placed the State license on inactive status.

(3) The State Board may not charge a fee to issue the identification card.

**[(c)] (D)** The State Board may change the status of an electrical inspector to individual inactive status, if the electrical inspector:

(1) meets the inactive status requirements of § 6-311 of this subtitle; and

(2) pays an inactive status fee of \$50.

**[(d)] (E)** On termination of the appointment or employment of an individual as an electrical inspector, the State Board shall reactivate the State license of the individual who is on inactive status, without examination, if the individual meets the reactivation requirements for a State license under § 6–311(f) of this subtitle, including payment of the reactivation fee.

12–101.

(a) In this title the following words have the meanings indicated.

(1) (1) “Master plumber” means, unless the context requires otherwise, an individual who is licensed by the Board to provide plumbing services and natural gas services.

(2) “Master plumber” includes a master plumber gas fitter.

12–103.

(a) Except as expressly provided in §§ 12–305 **[and]**, 12–307, **AND 12–503(B)** of this title, this title does not apply to Baltimore County.

(b) Except as expressly provided in §§ 12–305 **[and]**, 12–307, **AND 12–503(B)** of this title, this title does not apply to areas of Montgomery and Prince George’s counties that are under the jurisdiction of the Washington Suburban Sanitary Commission.

12–503.

(a) Each individual whom the State, a county, or a local government appoints or employs as a plumbing inspector shall:

(1) each year attend a continuing education course that the Board or, with the approval of the Board, a county or local government conducts; and

(2) meet minimum standards that:

(i) adequately ensure that the plumbing inspector is qualified to inspect in accordance with the State Plumbing Code;

(ii) are established:

1. by the county or local government in consultation with the Board; or

2. if there is no standard established by the county or local government, by the Board; and



(iii) are administered:

1. for a county or local government inspector, by the county or local government that appoints or employs the inspector; and
2. for a State inspector, by the State.

**(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY OR LOCAL GOVERNMENT MAY EMPLOY AN INDIVIDUAL AS A PLUMBING INSPECTOR ONLY IF THE INDIVIDUAL HOLDS A MASTER PLUMBER LICENSE ISSUED BY THE BOARD, THE BALTIMORE COUNTY PLUMBING BOARD, OR THE WASHINGTON SUBURBAN SANITARY COMMISSION.**

**(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A COUNTY OR LOCAL GOVERNMENT THAT USES COMBINATION BUILDING CODE INSPECTORS TO CONDUCT CONCURRENT TRADE-SPECIFIC INSPECTIONS ON RESIDENTIAL OR COMMERCIAL BUILDINGS TO DETERMINE COMPLIANCE WITH ADOPTED PLUMBING CODES AND BUILDING CODES IF THE COMBINATION BUILDING CODE INSPECTOR, AS PART OF THE INSPECTOR'S TRAINING, HAS PASSED;**

**(I) A MASTER PLUMBER EXAMINATION GIVEN ~~IN THE STATE AS PART OF THE INSPECTOR'S TRAINING~~ BY THE BOARD, THE BALTIMORE COUNTY PLUMBING BOARD, OR THE WASHINGTON SUBURBAN SANITARY COMMISSION; OR**

**(II) THE PLUMBING INSPECTOR'S TEST ADMINISTERED BY THE BOARD.**

**[(b)] (C)** An individual may not have any financial interest in any plumbing business while employed by the State, a county, or any local government as a plumbing inspector.

**[(c)] (D) (1)** On appointment or employment, the individual shall place the master plumber license, journey plumber license, or limited license on inactive status.

**(2)** The Board may issue a plumbing inspector identification card to a plumbing inspector who has placed the appropriate license on inactive status.

**(3)** On termination of the appointment or employment of an individual as a plumbing inspector, the Board shall reactivate the master plumber license, journey plumber license, or limited license of an individual who is on inactive status, without examination, if the individual:

- (i) makes a written request to the Board; and
- (ii) pays to the Board a reactivation fee of:
  - 1. \$20, for a journey plumber or holder of a limited journey plumber license; or
  - 2. \$50, for a master plumber or holder of a limited master plumber license.

**[(d)] (E)** The Board may impose a reasonable fee to cover the costs of conducting the continuing education courses under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any electrical inspector or plumbing inspector employed by a county or local government before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 277 – *Children in Need of Assistance – Review Hearings*.

This bill requires the juvenile court to conduct specified hearings within specified periods of time to review the status of specified children under its jurisdiction. The bill also requires the juvenile court to take specified actions at a review hearing under the Act and establishes that a specified hearing to review a child's permanency plan satisfies the requirements for a review hearing under the Act.

Senate Bill 264, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 277.

Sincerely,

Governor Martin O'Malley

**House Bill 277**

AN ACT concerning

**Children in Need of Assistance – Review Hearings**

FOR the purpose of requiring the juvenile court to conduct certain hearings within certain periods of time to review the status of certain children under its jurisdiction; requiring the juvenile court to take certain actions at a review hearing under this Act; establishing that a certain hearing to review a child's permanency plan satisfies the requirements for a review hearing under this Act; and generally relating to children in need of assistance.

BY adding to

Article – Courts and Judicial Proceedings

Section 3–816.2

Annotated Code of Maryland

(2006 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Courts and Judicial Proceedings**

**3–816.2.**

**(A) (1) THE COURT SHALL CONDUCT A HEARING TO REVIEW THE STATUS OF EACH CHILD UNDER ITS JURISDICTION WITHIN 6 MONTHS AFTER THE FILING OF THE FIRST PETITION UNDER THIS SUBTITLE AND AT LEAST EVERY 6 MONTHS THEREAFTER.**

**(2) AT A REVIEW HEARING UNDER THIS SECTION, THE COURT SHALL:**

**(I) EVALUATE THE SAFETY OF THE CHILD;**

**(II) DETERMINE THE CONTINUING NECESSITY FOR AND APPROPRIATENESS OF ANY OUT-OF-HOME PLACEMENT;**

(III) DETERMINE THE APPROPRIATENESS OF AND EXTENT OF COMPLIANCE WITH THE CASE PLAN FOR THE CHILD;

(IV) DETERMINE THE EXTENT OF PROGRESS THAT HAS BEEN MADE TOWARD ALLEVIATING OR MITIGATING THE CAUSES NECESSITATING THE COURT’S JURISDICTION; AND

(V) PROJECT A REASONABLE DATE BY WHICH THE CHILD MAY BE RETURNED TO AND SAFELY MAINTAINED IN THE HOME OR PLACED FOR ADOPTION OR UNDER A LEGAL GUARDIANSHIP.

(B) IF A PERMANENCY PLAN FOR THE CHILD HAS BEEN DETERMINED UNDER § 3-823 OF THIS SUBTITLE, A REVIEW HEARING CONDUCTED BY THE COURT UNDER § 3-823(H) OF THIS SUBTITLE SHALL SATISFY THE REQUIREMENTS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 278 – *Children in Need of Assistance – Rights of Preadoptive Parents, Foster Parents, and Caregivers of Child*.

This bill expands the proceedings for which a local department of social services is required to provide specified notice to pre-adoptive parents and foster parents of a child under specified circumstances and at which pre-adoptive parents and foster parents have the right to be heard. The bill repeals a requirement that a local department of social services provide specified notice to specified relatives of a child and substitutes a requirement that the local department provide specified notice to caregivers of a child.

Senate Bill 265, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 278.

Sincerely,

Governor Martin O'Malley

### House Bill 278

AN ACT concerning

#### **Children in Need of Assistance – Rights of Preadoptive Parents, Foster Parents, and Caregivers of Child**

FOR the purpose of expanding the proceedings for which a local department of social services is required to provide certain notice to preadoptive parents and foster parents of a child under certain circumstances and at which preadoptive parents, foster parents, or their attorneys have the right to be heard; repealing a requirement that a local department of social services provide certain notice to certain relatives of a child and substituting a requirement that the local department provide certain notice to caregivers of a child; repealing the right of certain relatives or their attorneys to be heard in certain proceedings concerning the child and substituting the right of caregivers of a child or their attorneys to be heard in certain proceedings concerning the child; establishing that certain individuals may not be considered to be a party solely on the basis of certain rights; defining a certain term; and generally relating to the rights of preadoptive parents, foster parents, and caregivers of a child.

BY adding to

Article – Courts and Judicial Proceedings  
Section 3–816.2  
Annotated Code of Maryland  
(2006 Replacement Volume and 2012 Supplement)

BY repealing

Article – Courts and Judicial Proceedings  
Section 3–823(i)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings  
Section 3–823(j) and (k)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Courts and Judicial Proceedings**

**3–816.2.**

(A) IN THIS SECTION, “PREADOPTIVE PARENT” MEANS AN INDIVIDUAL WHOM A CHILD PLACEMENT AGENCY, AS DEFINED IN § 5–101 OF THE FAMILY LAW ARTICLE, APPROVES TO ADOPT A CHILD WHO HAS BEEN PLACED IN THE INDIVIDUAL’S HOME FOR ADOPTION BEFORE THE ORDER OF ADOPTION.

(B) UNLESS WAIVED FOR GOOD CAUSE, BEFORE ANY PROCEEDING CONCERNING A CHILD, THE LOCAL DEPARTMENT SHALL GIVE AT LEAST 10 DAYS’ NOTICE IN WRITING TO THE CHILD’S FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER OF THE DATE, TIME, AND PLACE OF THE PROCEEDING AND OF THE RIGHT TO BE HEARD AT THE PROCEEDING.

(C) THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR AN ATTORNEY FOR THE FOSTER PARENT, PREADOPTIVE PARENT, OR CAREGIVER SHALL BE GIVEN THE RIGHT TO BE HEARD AT THE PROCEEDING.

(D) THE FOSTER PARENT, PREADOPTIVE PARENT, CAREGIVER, OR ATTORNEY MAY NOT BE CONSIDERED TO BE A PARTY SOLELY ON THE BASIS OF THE RIGHT TO NOTICE AND THE RIGHT TO BE HEARD PROVIDED UNDER THIS SECTION.

**3–823.**

[(i) (1) In this subsection, “preadoptive parent” means an individual whom a child placement agency, as defined in § 5–101 of the Family Law Article, approves to adopt a child who has been placed in the individual’s home for adoption before the order of adoption.

(2) (i) If practicable, before any hearing conducted under this section, the local department shall give at least 10 days’ notice to the child’s foster parent, preadoptive parent, or relative providing care for the child of the date, time, and place of the hearing and of the right to be heard.

(ii) Unless waived for good cause, the notice shall be in writing.

(3) The foster parent, preadoptive parent, relative, or an attorney for the foster parent, preadoptive parent, or relative shall be given the right to be heard at the hearing.

(4) The foster parent, preadoptive parent, relative, or attorney may not be considered to be a party solely on the basis of the right to notice and the right to be heard provided under this subsection.]

[(j)] (I) At a review hearing under this section, the court shall consider any written report of a local out-of-home care review board required under § 5-545 of the Family Law Article.

[(k)] (J) (1) At least every 12 months at a hearing under this section, the court shall consult on the record with the child in an age-appropriate manner to obtain the child's views on permanency.

(2) (i) If, after a hearing or with the agreement of all parties, the court determines that the child is medically fragile and that it is detrimental to the child's physical or mental health to be transported to the courthouse, the court may, subject to subparagraph (ii) of this paragraph:

1. Visit the child at the child's placement and use appropriate technology to document the consultation for the record; or

2. Use video conferencing to consult with the child on the record during the hearing.

(ii) If the court visits the child at the child's placement under subparagraph (i)1 of this paragraph or uses video conferencing under subparagraph (i)2 of this paragraph, the court shall give each party notice and an opportunity to attend the visit or the video conferencing, unless the court determines that it is not in the best interest of the child for a party to attend the visit or the video conferencing.

(3) Subject to the provisions of paragraph (2)(ii) of this subsection, if the child's placement is outside the State and, after a hearing or with the agreement of all parties, the court determines that it is not in the best interest of the child to be transported to the court, the court may use video conferencing to consult with the child on the record during the hearing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House

Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 285 – *St. Mary’s County – Alcoholic Beverages – Micro-Brewery License*.

This bill adds St. Mary’s County to the list of counties in which a Class 7 micro-brewery license may be issued; adds St. Mary’s County to the list of counties in which the license holder may sell at retail beer brewed under the license for consumption off the licensed premises under specified conditions; and provides that a Class 7 micro-brewery license may be issued to a holder of a Class B beer, wine and liquor license.

House Bill 216, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 285.

Sincerely,

Governor Martin O’Malley

**House Bill 285**

AN ACT concerning

**St. Mary’s County – Alcoholic Beverages – Micro-Brewery License**

FOR the purpose of adding St. Mary’s County to the list of counties in which a Class 7 micro-brewery license may be issued; adding St. Mary’s County to the list of counties in which the license holder may sell at retail beer brewed under the license for consumption off the licensed premises under certain conditions; providing that a Class 7 micro-brewery license may be issued to a holder of a Class B beer, wine and liquor license in St. Mary’s County; providing for the hours and days for sale for a Class 7 micro-brewery license; and generally relating to alcoholic beverages in St. Mary’s County.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 2–208  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:



**Article 2B – Alcoholic Beverages**

2–208.

- (a) There is a Class 7 micro–brewery (on– and off–sale) license.
- (b) The license shall be issued:
  - (1) By the State Comptroller;
  - (2) Only in the following jurisdictions:
    - (i) Allegany County;
    - (ii) Baltimore City;
    - (iii) Baltimore County;
    - (iv) The City of Annapolis;
    - (v) Anne Arundel County;
    - (vi) Calvert County;
    - (vii) Carroll County;
    - (viii) Charles County;
    - (ix) Dorchester County;
    - (x) Frederick County;
    - (xi) Garrett County;
    - (xii) Harford County;
    - (xiii) Howard County;
    - (xiv) Kent County;
    - (xv) Montgomery County;
    - (xvi) Prince George’s County;
    - (xvii) **ST. MARY’S COUNTY;**
    - (XVIII) Talbot County;

[(xviii)] **(XIX)** Washington County;

[(xix)] **(XX)** Wicomico County; and

[(xx)] **(XXI)** Worcester County;

(3) (i) Only to a holder of a Class B beer, wine and liquor (on-sale) license that is issued for use on the premises of a restaurant located in a jurisdiction listed in paragraph (2) of this subsection;

(ii) To a holder of a Class D beer (off-sale) license that is issued for use on the premises of the existing Class D license if the premises are located in Kent County or the Town of Berlin in Worcester County; or

(iii) To a holder of a Class D alcoholic beverages license that is issued for use on the premises of the existing Class D license if the premises are located in:

1. The 22nd Alcoholic Beverages District of Prince George's County; or

2. Washington County; and

(4) In addition to item (3) of this subsection, in Montgomery County only to a holder of a Class H beer and light wine license that is issued for use on the premises of a restaurant located in the County.

(c) (1) A holder of a Class 7 micro-brewery license:

(i) May brew and bottle malt beverages at the license location;

(ii) May obtain a Class 2 rectifying license for a premises located within 1 mile of the existing Class 7 micro-brewery location to bottle malt beverages brewed at the micro-brewery location only;

(iii) May contract with the holder of a Class 5 brewery license, a Class 7 micro-brewery license, or a Class 2 rectifying license held under § 2-203 of this subtitle or the holder of a nonresident dealer's permit to brew and bottle malt beverages on their behalf;

(iv) May store the finished product under an individual storage permit or at a licensed public storage facility for subsequent sale and delivery to a licensed wholesaler, an authorized person outside this State, and for shipment back to the micro-brewery location for sale on the retail premises;

(v) May not collectively brew, bottle, or contract for more than 22,500 barrels of malt beverages each calendar year; and

(vi) May enter into a temporary delivery agreement with a distributor only for delivery of beer to a beer festival or wine and beer festival and the return of any unused beer if:

1. The beer festival or wine and beer festival is in a sales territory for which the holder does not have a franchise with a distributor under the Beer Franchise Fair Dealing Act; and

2. The temporary delivery agreement is in writing.

(2) A Class 7 licensee who wishes to produce more than the barrelage authorized under paragraph (1)(v) of this subsection shall divest of any Class B, D, or any other retail license and obtain a Class 5 manufacturer's license.

(3) For the purposes of determining the barrelage limitation under paragraph (1)(v) of this subsection, any salable beer produced under contractual arrangements accrues only to the Class 7 micro-brewery licensee who is the brand owner.

(4) In Allegany County only, the holder of a Class 7 license:

(i) May brew in one location and may contract for the bottling of the malt beverage in another location; and

(ii) Need not meet the hotel/motel requirements for a Class B beer, wine and liquor licensee but shall meet the requirements for those Class B restaurants.

(d) (1) The on-sale privilege authorizes the holder, each calendar year, to sell at retail up to 4,000 barrels of beer brewed under this license to customers for consumption on the licensed premises.

(2) The off-sale privilege authorizes the holder to sell and deliver beer brewed under this license to:

(i) Any wholesaler licensed under this article to sell beer in this State; or

(ii) Any person who is located in a state other than Maryland who is authorized under the laws of that state to receive brewed beverages.

(3) (i) This paragraph applies only in:

1. Allegany County;

2. The City of Annapolis;
3. Anne Arundel County;
4. Baltimore City;
5. Baltimore County;
6. Calvert County;
7. Carroll County;
8. Charles County;
9. Dorchester County;
10. Frederick County;
11. Garrett County;
12. Harford County;
13. Howard County;
14. Kent County;
15. Montgomery County;
16. Prince George's County;
17. **ST. MARY'S COUNTY;**
18. Talbot County;
- [18.] **19.** Washington County;
- [19.] **20.** Wicomico County; and
- [20.] **21.** Worcester County.

(ii) The holder may sell at retail beer brewed under this license to customers for consumption off the licensed premises in refillable containers that are sealed by the micro-brewery licensee at the time of each refill.

(e) A holder of a Class 7 micro-brewery license:

(1) May not own, operate or be affiliated with any other manufacturer of beer except for a Class 2 rectifying license authorized by subsection (c)(1)(ii) of this section; and

(2) Notwithstanding § 2-201(b) of this subtitle, may not be granted a wholesale alcoholic beverages license.

(f) (1) Except as provided in paragraph (2) of this subsection, the hours and days for consumer sales under a Class 7 micro-brewery license are as established for:

(i) A Class B license in the respective jurisdictions listed in subsection (b)(2) of this section, for a holder of a Class B beer, wine and liquor license;

(ii) A Class D beer license in Worcester County, for a holder of a Class D beer license in the Town of Berlin in Worcester County; or

(iii) A Class D license in Kent County.

(2) For Class D licensees in the 22nd Alcoholic Beverages District in Prince George's County only, the hours and days for consumer sales under this license are as established for a Class D license in Prince George's County.

(3) For Class D licensees in Washington County, the hours and days for consumer sales under this license are as established for a Class D license in Washington County.

(g) In Montgomery County, a holder of a Class 7 micro-brewery license shall enter into a written agreement with the Department of Liquor Control for Montgomery County for the sale and resale of malt beverages brewed under this license in accordance with this article.

(h) For Talbot County, the Office of the Comptroller of Maryland shall specify which local license is the equivalent of the Class B beer, wine and liquor license specified in subsection (b)(3) of this section.

(i) In Carroll County, the distance restriction requirement for micro-breweries is found in § 9-207 of this article.

(j) (1) This subsection applies only in Washington County.

(2) The Comptroller may not issue a Class 7 micro-brewery license for a premises on property that has been leased unless the landlord of the property presents to the Comptroller a receipt or certificate showing that there are no unpaid taxes due to the State, a county, or any local government from the landlord or any entity in which the landlord has a direct or indirect interest that:

- (i) Is proprietary; or
- (ii) Has been obtained by a loan, mortgage, or lien, or in any other manner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 293 – *State Finance and Procurement – Retention of Percentage of Contract – Security*.

This bill alters a specified percentage that may be retained by a public body under a specified contract under specified circumstances and repeals an authorization for a public body to retain a specified percentage of a specified contract under specified circumstances.

Senate Bill 140, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 293.

Sincerely,

Governor Martin O'Malley

**House Bill 293**

AN ACT concerning

~~Construction Contracts Awarded by Public Bodies – Retention of Percentage  
as Security~~  
*State Finance and Procurement – Retention of Percentage of Contract –  
Security*

FOR the purpose of altering ~~the cap on the percentage amount of a contract for construction awarded by a public body that may be specified in the contract as retainage for security; repealing the provision of law that limits the retainage to a certain percent of the contract except under certain circumstances~~ a certain percentage that may be retained by a public body under a certain contract under certain circumstances; repealing an authorization for a public body to retain a certain percentage of a certain contract under certain circumstances; providing for the application of this Act; making stylistic changes; and generally relating to the retention ~~as security~~ of a percentage of ~~the amount of a contract for construction awarded by a public body~~ contracts as security.

BY repealing and reenacting, with amendments,  
 Article – State Finance and Procurement  
 Section 17–110 *(a) and (b)*  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – State Finance and Procurement**

17–110.

(a) Subsections (b)(1)[,] **AND** (2), [and (3),] (c), and (d) of this section do not apply to an entity that is required to comply with the provisions of § 13–225 of this article.

(b) (1) If a contractor has furnished 100% payment security and 100% performance security in accordance with this subtitle under a contract for construction awarded by a public body, the percentage specified in the contract for retainage may not exceed [10%] **5%** of the total amount [for the first 50%] of the contract.

[(2) Unless a public body demonstrates the need to retain more than 5% to protect the public interest, after 50% of the contract is completed, a public body may retain only 5% of the total amount.]

[(3) (2) In addition to retainage, a public body may withhold from payments otherwise due a contractor any amount that the public body reasonably believes necessary to protect the public body's interest.

[(4) (3) Except as provided in paragraph [(5)] (4) of this subsection, within 120 days after satisfactory completion of a contract for construction, a public body shall release any retainage due to the contractor.

~~[(5)] (4)~~ If there is a dispute or contract claim between the contractor and the public body concerning the satisfactory completion of a contract for construction, the public body shall release the retainage to the contractor within 120 days after the resolution of the dispute or contract claim.

~~(c) (1) A contractor may not retain a percentage of payments due a subcontractor that exceeds the percentage of payments retained by the public body.~~

~~(2) Paragraph (1) of this subsection may not be construed to prohibit a contractor from withholding any amount in addition to retainage if the contractor determines that a subcontractor's performance under the subcontract provides reasonable grounds for withholding the additional amount.~~

~~(d) (1) A subcontractor may not retain a percentage of payments due a lower tier subcontractor that exceeds the percentage of payments retained from the subcontractor.~~

~~(2) Paragraph (1) of this subsection may not be construed to prohibit a subcontractor from withholding any amount in addition to retainage if the subcontractor determines that a lower tier subcontractor's performance under the subcontract provides reasonable grounds for withholding the additional amount.~~

~~(e) This section may not be construed to limit the application of the remaining provisions of this subtitle.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any *construction* contract entered into *awarded* before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:



In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 306 – *Natural Resources – Aquaculture – Shellfish Nursery Permits*.

This bill prohibits a person from engaging in the commercial rearing of shellfish seed outside specified leased areas without first obtaining a shellfish nursery permit from the Department of Natural Resources. This bill places limitations on the issuance and scope of a permit for land-based and in-water shellfish nursery operations and exempts shellfish nursery products from specified water quality classifications and restrictions.

Senate Bill 464, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 306.

Sincerely,

Governor Martin O'Malley

### House Bill 306

AN ACT concerning

#### Natural Resources – Aquaculture – Shellfish Nursery Permits

FOR the purpose of prohibiting a person from engaging in the commercial rearing of shellfish seed outside certain leased areas without first obtaining a shellfish nursery permit from the Department of Natural Resources; placing certain limitations on the issuance and scope of a permit for land-based and in-water shellfish nursery operations; ~~providing that certain water quality classifications and restrictions established by the Department of the Environment may not affect certain in-water shellfish nursery operations;~~ clarifying that a person is not required to obtain a water column lease or a submerged land lease for in-water shellfish nursery operations; exempting shellfish nursery products from certain water quality classifications and restrictions; establishing a certain application process and a certain application fee for permit applications; authorizing the Department of Natural Resources to deny a permit application for reasonable cause or to include conditions in a permit; establishing a certain term for a permit; authorizing the Department of Natural Resources to suspend or revoke a permit for certain reasons; requiring a permit holder to allow certain inspections by the Department of Natural Resources; authorizing the Department of Natural Resources to adopt regulations implementing this Act; defining a certain term; making this Act an emergency measure; and generally relating to shellfish nursery permits.

BY adding to

Article – Natural Resources  
Section 4-11A-23

Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Natural Resources**

**4-11A-23.**

(A) IN THIS SECTION, “PERMIT” MEANS A SHELLFISH NURSERY PERMIT.

(B) A PERSON MAY NOT ENGAGE IN THE COMMERCIAL REARING OF SHELLFISH SEED OUTSIDE AN AREA LEASED UNDER THIS SUBTITLE WITHOUT FIRST OBTAINING A PERMIT FROM THE DEPARTMENT.

(C) FOR A SHELLFISH NURSERY TO BE LOCATED ON LAND, THE DEPARTMENT MAY ISSUE A PERMIT ONLY TO THE OWNER OR LEGAL TENANT OF THE PROPERTY OR TO A PERSON WITH THE PERMISSION OF THE PROPERTY OWNER.

(D) (1) FOR A SHELLFISH NURSERY TO BE LOCATED IN WATERS OF THE STATE OUTSIDE A LEASED AREA, THE DEPARTMENT MAY ISSUE A PERMIT ONLY:

(I) TO THE OWNER OF A WHARF OR OTHER STRUCTURE CONSTRUCTED ON OR ABOUT THE WATER AND APPROVED BY THE U.S. ARMY CORPS OF ENGINEERS, OR TO A PERSON WITH THE PERMISSION OF THE OWNER OF THE WHARF OR OTHER STRUCTURE; AND

(II) FOR THE CULTIVATION OF SHELLFISH SEED WITHIN 20 FEET OF THE WHARF OR OTHER STRUCTURE, IN AN AREA OF WATER NOT EXCEEDING 200 SQUARE FEET.

(2) A PERSON IS NOT REQUIRED TO OBTAIN A WATER COLUMN LEASE OR A SUBMERGED LAND LEASE FOR A PERMITTED IN-WATER SHELLFISH NURSERY OPERATION.

(3) ~~WATER SHELLFISH NURSERY PRODUCTS ARE EXEMPT FROM WATER QUALITY CLASSIFICATIONS AND RESTRICTIONS ESTABLISHED BY THE DEPARTMENT OF THE ENVIRONMENT UNDER THE NATIONAL SHELLFISH SANITATION PROGRAM OR § 4-742 OF THIS TITLE MAY NOT AFFECT A PERMITTED IN-WATER SHELLFISH NURSERY OPERATION.~~

(E) (1) TO OBTAIN A PERMIT, A PERSON SHALL:

**(I) COMPLETE AND SUBMIT AN APPLICATION TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE DEPARTMENT; AND**

**(II) PAY A NONREFUNDABLE APPLICATION FEE ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH THE AQUACULTURE COORDINATING COUNCIL.**

**(2) THE APPLICATION FEE MAY NOT EXCEED THE COST OF PROCESSING THE PERMIT.**

**(F) THE DEPARTMENT MAY, AS IT CONSIDERS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE:**

**(1) DENY A PERMIT APPLICATION FOR REASONABLE CAUSE; OR**

**(2) INCLUDE CONDITIONS IN A PERMIT.**

**(G) (1) THE TERM OF A SHELLFISH NURSERY PERMIT IS 5 YEARS.**

**(2) THE DEPARTMENT MAY REVOKE OR SUSPEND A PERMIT ISSUED UNDER THIS SECTION AT ANY TIME FOR NONCOMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, REGULATIONS ADOPTED UNDER THIS SECTION, OR THE CONDITIONS OF THE PERMIT.**

**(H) A PERMIT HOLDER SHALL ALLOW THE DEPARTMENT TO INSPECT AT REASONABLE HOURS ANY FACILITIES, EQUIPMENT, OR SHELLFISH THAT ARE PART OF THE PERMIT HOLDER'S SHELLFISH NURSERY OPERATIONS.**

**(I) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

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May 16, 2013

The Honorable Michael E. Busch

Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 327 – *State Government – Health, Education, and Social Services – Submission of Documents in Electronic Form*.

This bill requires the Council for the Procurement of Health, Education, and Social Services to establish a workgroup to determine a process for specified entities to submit specified electronic documents to specified agencies. The bill also requires the Council to report to specified committees of the General Assembly on or before January 1, 2014.

Senate Bill 385, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 327.

Sincerely,

Governor Martin O'Malley

### House Bill 327

AN ACT concerning

#### **State Government – Health, Education, and Social Services ~~Provider Data Warehouse~~ – Submission of Documents in Electronic Form**

FOR the purpose of ~~requiring the State to authorize private sector development of a certain data warehouse for certain providers; authorizing a certain provider to store certain information in the data warehouse; prohibiting a certain provider from using the data warehouse for certain purposes; authorizing a certain provider to provide a State agency with certain information in a certain manner; requiring a State agency to accept a certain submission as the equivalent of certain documents; prohibiting a State agency from requiring a certain provider to use the data warehouse; requiring a provider that uses the data warehouse to ensure that the data is current and accessible to a certain State agency; authorizing a State agency to request additional or updated information from a certain provider under certain circumstances; requiring a provider to submit certain information to a certain State agency within a certain period of time after receiving a request from the agency; requiring access to the data warehouse to be provided to a State agency free of charge; defining certain terms; and generally relating to a health, education, and social services provider data warehouse~~ requiring the Council for the Procurement of

Health, Education, and Social Services to establish a workgroup to determine a process for certain entities to submit certain electronic documents to certain agencies; requiring the Council to report to certain committees of the General Assembly on or before a certain date; providing for the application of this Act; and generally relating to health, education, and social services and the electronic submission of documents.

~~BY adding to~~

~~Article — State Government~~

~~Section 10-645 to be under the new part “Part VI. Health, Education, and Social Services Provider Data Warehouse”~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2012 Supplement)~~

#### Preamble

WHEREAS, The Task Force to Study the Procurement of Health, Education, and Social Services by State Agencies recommended the development of an Internet-based data warehouse (document vault) eliminating duplicative and voluminous submissions to multiple agencies; and

WHEREAS, The State remains committed to identifying all means of environmentally sound communication methods; and

WHEREAS, Providers of health, education, and social services are committed to efficient and cost effective transmission and preservation of data; and

WHEREAS, Private providers of health, education, and social services are required to submit to State licensing agencies volumes of corporate, fiscal, and administrative documents on a recurring basis and are required to keep voluminous certification files on foster parents; and

WHEREAS, All State agencies, facilities, and programs are taking steps to support Governor O'Malley's Smart, Green, and Growing initiative, which includes encouraging State employees to view documents electronically instead of on paper whenever possible; now, therefore,

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:~~

~~Article — State Government~~

~~10-643. RESERVED.~~

~~10-644. RESERVED.~~

~~PART VI. HEALTH, EDUCATION, AND SOCIAL SERVICES PROVIDER DATA WAREHOUSE.~~

~~10-645.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(2) "DATA WAREHOUSE" MEANS AN INTERNET-BASED, SECURE, AND CONSOLIDATED DOCUMENT STORAGE AND RETRIEVAL SYSTEM FOR CORPORATE, FISCAL, AND ADMINISTRATIVE DATA NECESSARY FOR THE LICENSING AND PROCUREMENT OF HEALTH, EDUCATION, AND SOCIAL SERVICES AND MADE AVAILABLE TO STATE AGENCY PERSONNEL FOR THOSE PURPOSES.~~

~~(3) "PROVIDER" MEANS A HEALTH, EDUCATION, OR SOCIAL SERVICES PROVIDER.~~

~~(B) THE STATE SHALL AUTHORIZE PRIVATE SECTOR DEVELOPMENT AND IMPLEMENTATION OF A DATA WAREHOUSE FOR MAINTAINING CORPORATE, FISCAL, AND ADMINISTRATIVE RECORDS OF PRIVATE PROVIDERS.~~

~~(C) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PRIVATE PROVIDER MAY USE THE DATA WAREHOUSE TO STORE DOCUMENTS REQUIRED:~~

~~(1) FOR THE INITIAL LICENSURE AND RE-LICENSURE OF PRIVATE HEALTH, EDUCATION, AND SOCIAL SERVICES;~~

~~(2) FOR THE PERIODIC LICENSING AND CONTRACT COMPLIANCE MONITORING OF PROGRAMS SPECIFIED IN ITEM (1) OF THIS SUBSECTION;~~

~~(3) FOR THE CERTIFICATION AND RE-CERTIFICATION OF PRIVATE TREATMENT FOSTER PARENTS IN ACCORDANCE WITH COMAR 07.05.02; AND~~

~~(4) BY A STATE AGENCY FOR THE PROCUREMENT OF PRIVATE HEALTH, EDUCATION, AND SOCIAL SERVICES.~~

~~(D) A PRIVATE PROVIDER MAY NOT USE THE DATA WAREHOUSE FOR THE STORAGE OR TRANSMISSION OF CLIENT FILES OR RECORDS.~~

~~(E) IF A PRIVATE PROVIDER USES THE DATA WAREHOUSE:~~

~~(1) THE PRIVATE PROVIDER MAY PROVIDE A STATE AGENCY WITH THE NECESSARY INFORMATION TO ACCESS DOCUMENTS IN THE DATA WAREHOUSE INSTEAD OF SUBMITTING PAPER DOCUMENTS OR ELECTRONIC FILES; AND~~

~~(2) THE STATE AGENCY SHALL ACCEPT THE SUBMISSION AS THE EQUIVALENT OF PAPER DOCUMENTS OR ELECTRONIC FILES.~~

~~(F) A STATE AGENCY MAY NOT REQUIRE A PROVIDER TO USE THE DATA WAREHOUSE.~~

~~(G) A PROVIDER THAT USES THE DATA WAREHOUSE SHALL ENSURE THAT THE DATA STORED BY THE PROVIDER IS CURRENT AND ACCESSIBLE TO THE APPROPRIATE STATE AGENCY.~~

~~(H) (1) IF THE INFORMATION PROVIDED TO THE APPROPRIATE STATE AGENCY IS NOT CURRENT OR IS UNAVAILABLE FROM THE DATA WAREHOUSE, THE STATE AGENCY MAY REQUEST ADDITIONAL OR UPDATED INFORMATION FROM THE PROVIDER.~~

~~(2) A PROVIDER SHALL SUBMIT ANY ADDITIONAL OR UPDATED INFORMATION TO THE DATA WAREHOUSE WITHIN 10 BUSINESS DAYS AFTER RECEIVING A REQUEST FROM A STATE AGENCY.~~

~~(I) ACCESS TO THE DATA WAREHOUSE SHALL BE PROVIDED TO STATE AGENCIES WITHOUT CHARGE.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Council for the Procurement of Health, Education, and Social Services shall:

(a) establish a workgroup of Council members and appropriate staff from the State agencies that license health, education, or social services programs to determine a process for nongovernmental entities that provide health, education, or social services in the State to submit documents in an electronic form to the State agencies, by direct transmission or by posting to an online system for document storage, including:

- (1) naming and formatting documents;
- (2) submitting, updating, and retrieving documents;
- (3) security measures;

(4) standards necessary for the efficient and secure submission of electronic documents; and

(5) a recommended implementation date; and

(b) on or before January 1, 2014, report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the process determined under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed to limit any existing authority of a State agency to accept documents or information by electronic transmission.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 343 – *Harford County – Alcoholic Beverages – Hours of Sale for Class B Licensees*.

This bill alters the hours of sale for a Class B Cafe licensee in Harford County.

Senate Bill 128, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 343.

Sincerely,

Governor Martin O'Malley

**House Bill 343**

AN ACT concerning



**Harford County – Alcoholic Beverages – Hours of Sale for Class B Licensees**

FOR the purpose of altering the hours of sale for a Class B Cafe licensee in Harford County; and generally relating to the sale of alcoholic beverages in Harford County.

BY repealing and reenacting, with amendments,  
 Article 2B – Alcoholic Beverages  
 Section 11–513  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article 2B – Alcoholic Beverages**

11–513.

- (a) The provisions of this section apply in Harford County only.
- (b) (1) A licensee may sell, offer for sale, or dispense alcoholic beverages:
  - (i) On Monday through Sunday; and
  - (ii) Only between 8 a.m. and 2 a.m. the following morning.
- (2) [A Class B Cafe licensee may offer to sell beer and wine:
  - (i) On Monday through Saturday from 10 a.m. to 11 p.m.; and
  - (ii) On Sunday from 10 a.m. to 11 p.m.
- (3) During a baseball game only, a licensee who holds a stadium on-sale license under § 8–213.1 of this article may not sell alcoholic beverages:
  - (i) After the beginning of the eighth inning; or
  - (ii) During a doubleheader game, after the beginning of the sixth inning of the second game.
- (c) A licensee may not:
  - (1) Allow alcoholic beverages to be consumed on the licensee's premises after 2:15 a.m. or before 8:00 a.m. the same morning; or

(2) Allow alcoholic beverages glasses, bottles, or containers to remain on tables or serving counters after 2:30 a.m.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 345 – *Harford County Liquor Control Board – Reserve Account*.

This bill establishes a Reserve Account of the Harford County Liquor Control Board as a special, non-lapsing account. This bill also specifies the purpose of the Reserve Account and requires the Board to hold the Account separately and account for the Reserve Account. The bill specifies the contents of the Reserve Account and specifies a maximum amount that is payable annually into the Reserve Account. In addition, the bill requires that fines imposed or recognizances forfeited for specified violations be payable to the Board.

Senate Bill 131, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 345.

Sincerely,

Governor Martin O'Malley

**House Bill 345**

AN ACT concerning

**Harford County Liquor Control Board – Reserve Account**

FOR the purpose of establishing a Reserve Account of the Harford County Liquor Control Board as a special, nonlapsing account; specifying the purpose of the Reserve Account; requiring a designee of the Board to administer the Reserve

Account; requiring the Board to hold the Reserve Account separately and account for the Reserve Account; specifying the contents of the Reserve Account; specifying a certain maximum amount that is payable annually into the Reserve Account; specifying the circumstances under which expenditures from the Reserve Account may occur; stating a certain maximum amount that the Reserve Account may hold at any time; requiring that fines imposed or recognizances forfeited for certain violations be payable to the Board; defining certain terms; making certain stylistic changes; clarifying language; and generally relating to the Reserve Account of the Harford County Liquor Control Board.

BY repealing and reenacting, with amendments,  
 Article 2B – Alcoholic Beverages  
 Section 10–204(n) and 16–502(a)  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article 2B – Alcoholic Beverages**

10–204.

(n) **(1) (I) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(II) “BOARD” MEANS THE HARFORD COUNTY LIQUOR CONTROL BOARD.**

**(III) “RESERVE ACCOUNT” MEANS THE RESERVE ACCOUNT OF THE HARFORD COUNTY LIQUOR CONTROL BOARD.**

**[(1)] (2)** The provisions of this subsection apply only in Harford County.

**[(2)] (3)** **[The] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE** net proceeds of all funds received by the Board from the sale of licenses under the provisions of this article, outside of the corporate limits of the municipalities of Aberdeen, Bel Air and Havre de Grace, shall be paid to the Treasurer and credited to the general funds of the county.

**(4) (I) THERE IS A RESERVE ACCOUNT OF THE BOARD.**

**(II) THE PURPOSE OF THE RESERVE ACCOUNT IS TO ENSURE THAT ISSUANCE AND RENEWAL OF LICENSES, LICENSING**

**ENFORCEMENT, AND OTHER SERVICES THAT THE BOARD PROVIDES WILL CONTINUE TO BE MET IN THE FACE OF UNANTICIPATED FINANCIAL EVENTS OR CIRCUMSTANCES.**

**(III) A DESIGNEE OF THE BOARD SHALL ADMINISTER THE RESERVE ACCOUNT.**

**(IV) THE RESERVE ACCOUNT IS A SPECIAL, NONLAPSING ACCOUNT.**

**(V) THE BOARD SHALL HOLD THE RESERVE ACCOUNT SEPARATELY AND ACCOUNT FOR THE RESERVE ACCOUNT.**

**(VI) THE RESERVE ACCOUNT CONSISTS OF:**

**1. MONEY DISTRIBUTED TO THE BOARD FROM LICENSE FEES;**

**2. FINES IMPOSED FOR A VIOLATION OF THIS ARTICLE IN HARFORD COUNTY UNDER § 16-502(A)(3) OF THIS ARTICLE;**

**3. EXCEPT FOR BONDS FORFEITED UNDER § 14-101(C) OF THIS ARTICLE, RECOGNIZANCES FORFEITED FOR A VIOLATION OF THIS ARTICLE IN HARFORD COUNTY UNDER § 16-502(A)(3) OF THIS ARTICLE;**

**4. INTEREST OR OTHER INCOME EARNED FROM THE INVESTMENT OF ANY PORTION OF THE RESERVE ACCOUNT; AND**

**5. ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE RESERVE ACCOUNT.**

**(VII) EACH YEAR, THE AMOUNT PAYABLE INTO THE RESERVE ACCOUNT MAY NOT BE MORE THAN 20% OF THE AGGREGATE NET PROCEEDS RECEIVED BY THE BOARD.**

**(VIII) EXPENDITURES FROM THE RESERVE ACCOUNT MAY OCCUR IF THE BOARD DETERMINES THAT APPROPRIATIONS FOR THE CURRENT YEAR EXCEED EXPECTED REVENUES.**

**(IX) THE RESERVE ACCOUNT MAY NOT EXCEED \$100,000 AT ANY TIME.**

~~[(3)] (5)~~ The net proceeds of the funds derived from the sale of licenses within the corporate limits of the municipalities of Aberdeen, Bel Air and Havre de Grace, after the deduction of a proportionate part of the expenses incident to the proper administration and enforcement of this article, shall be paid by the Board to the treasurers of the respective towns, to be applied to the payment of the interest and the redemption of the principal of any bonded indebtedness.

~~[(4)] (6)~~ All expenses incident to the proper administration and enforcement of this article, including the salaries of the members of the Board, and the proper proportion of the salaries of any employees of the Board, whose duties include the handling of licenses, including the salaries of officers, inspectors, etc., shall be deducted proportionately from the shares of the license fees payable as set forth in this subsection, to the general funds of the county and the governing bodies of the three municipalities.

~~[(5)] (7)~~ (i) Prior to the beginning of each fiscal year, the Board shall submit an annual budget to the County Council and County Executive for review.

(ii) Except as provided under § 15–205(i)(3) of this article, the budget is not subject to approval by the County Council or County Executive.

(iii) The expenditure of license fees collected by the Board for the administration and enforcement of county liquor laws is a matter entirely within the sound discretion of the Board and the provisions of this subsection.

16–502.

(a) All fines imposed or recognizances forfeited for any violation of any provision of this article shall be payable to:

**(1) EXCEPT FOR HARFORD COUNTY,** the county in which the offense was committed[, or to];

**(2) Baltimore City,** if the offense was committed in [said city]  
**BALTIMORE CITY; OR**

**(3) THE HARFORD COUNTY LIQUOR CONTROL BOARD, IF THE OFFENSE WAS COMMITTED IN HARFORD COUNTY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 373 – *Hospitals – Outpatient Services – Off-Site Facility – Rate Regulation*.

This bill alters the hospital outpatient services for which the Maryland Medical Assistance Program must pay according to specified rates, under specified circumstances. The bill also alters the date by which a hospital must notify the Health Services Cost Review Commission that the hospital would like specified services to be subject to specified provisions of law. In addition, this bill alters the hospital outpatient services for which a hospital may elect to be subject to specified provisions of law.

Senate Bill 151, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 373.

Sincerely,

Governor Martin O'Malley

### **House Bill 373**

AN ACT concerning

#### **Hospitals – Outpatient Services – Off-Site Facility – Rate Regulation**

FOR the purpose of altering the hospital outpatient services for which the Maryland Medical Assistance Program must pay according to certain rates, under certain circumstances; altering the date by which a hospital must notify the Health Services Cost Review Commission that the hospital would like certain services to be subject to certain provisions of law; altering the hospital outpatient services for which a hospital may elect to be subject to certain provisions of law; requiring the University of Maryland Medical System to track utilization of certain services and submit certain reports to certain legislative committees; making certain clarifying and stylistic changes; making a certain technical change; making this Act an emergency measure; and generally relating to rates for hospital outpatient services at an off-site facility.

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 15–105(d)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
 Chapter 670 of the Acts of the General Assembly of 1999  
 Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health – General**

15–105.

(d) (1) The Department shall adopt regulations for the reimbursement of specialty outpatient treatment and diagnostic services rendered to Program recipients at a freestanding clinic owned and operated by a hospital that is under a capitation agreement approved by the Health Services Cost Review Commission.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the reimbursement rate under paragraph (1) of this subsection shall be set according to Medicare standards and principles for retrospective cost reimbursement as described in 42 C.F.R. Part 413 or on the basis of charges, whichever is less.

(ii) The reimbursement rate for [a] hospital [that has transferred] outpatient oncology, diagnostic, AND rehabilitative[, and digestive disease] services **THAT THE HOSPITAL TRANSFERRED** to an off–site facility prior to January 1, 1999, shall be set according to the rates approved by the Health Services Cost Review Commission if:

1. The transfer of services was due to zoning restrictions at the hospital campus;
2. The off–site facility is surveyed as part of the hospital for purposes of accreditation by the Joint Commission [on Accreditation of Healthcare Organizations]; and
3. The hospital notifies the Health Services Cost Review Commission in writing by [July 1, 1999] **JUNE 1, 2013**, that the hospital would like the services provided at the off–site facility **TO BE** subject to Title 19, Subtitle 2 of this article.

**Chapter 670 of the Acts of 1999**

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any provision of § 19–201 of the Health – General Article, a hospital that has transferred outpatient oncology, diagnostic, AND rehabilitative[, and digestive disease] services to an off–site facility prior to January 1, 1999, may elect to have these outpatient services **BE** subject to Title 19, Subtitle 2 of the Health – General Article if:

- (a) the transfer was due to zoning restrictions at the hospital campus;
- (b) the off–site facility is surveyed as part of the hospital for purposes of accreditation by the Joint Commission [on the Accreditation of Healthcare Organizations]; and
- (c) the hospital notifies the Health Services Cost Review Commission in writing by [July 1, 1999] **JUNE 1, 2013**, that the hospital would like the services provided at the off–site facility **TO BE** subject to Title 19, Subtitle 2 of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That the University of Maryland Medical System:

- (a) shall track utilization, including payer mix, of outpatient digestive disease services provided at on–site and off–site facilities within the Shore Health System before and after the sale or transfer of an off–site facility at which digestive disease services are provided; and
- (b) on or before January 1, 2014, and on or before January 1, 2015, shall submit a report, in accordance with § 2–1246 of the State Government Article, to the Senate Finance Committee and House Health and Government Operations Committee on the changes in utilization, including payer mix, of outpatient digestive disease services provided at on–site and off–site facilities within the Shore Health System before and after the sale or transfer of the off–site facility.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.



The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 374 – *Vehicle Laws – Registration Plates for Motorcycles – Individuals with Disabilities*.

This bill authorizes an individual to possess a specified number of special registration plates for individuals with disabilities for specified motorcycles in addition to the special registration plate and parking placards authorized under specified provisions of law.

Senate Bill 212, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 374.

Sincerely,

Governor Martin O'Malley

### **House Bill 374**

AN ACT concerning

#### **Vehicle Laws – Registration Plates for Motorcycles – Individuals with Disabilities**

FOR the purpose of authorizing an individual to possess a certain number of certain special registration plates for individuals with disabilities for certain motorcycles in addition to the special registration plate and parking placards authorized under certain provisions of law; and generally relating to special registration plates and parking placards for individuals with disabilities.

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 13–616(c) and 13–616.1(c)  
Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Transportation**

13–616.

(c) (1) Except as otherwise provided in subsection (b)(4) of this section, special registration and special registration plates may be issued under this section only if the applicant submits proof satisfactory to the Administration that the applicant is an individual with a disability described in subsection (b)(1) of this section.

(2) Except as provided by **PARAGRAPH (3) OF THIS SUBSECTION AND** subsection (b)(4) of this section, the Administration may not accept applications for special registration under this section from an applicant who, at the time of application:

(i) Possesses one valid special registration issued under this section; or

(ii) Possesses two parking placards issued under § 13–616.1 of this subtitle.

**(3) AN INDIVIDUAL MAY POSSESS TWO VALID SPECIAL REGISTRATIONS FOR CLASS D MOTORCYCLES IN ADDITION TO THE SPECIAL REGISTRATION AUTHORIZED UNDER ~~PARAGRAPH (2) OF THIS SUBSECTION~~ SUBSECTION (B) OF THIS SECTION AND THE PARKING PLACARDS AUTHORIZED UNDER § 13–616.1 OF THIS SUBTITLE.**

13–616.1.

(c) (1) **[The] EXCEPT AS PROVIDED IN § 13–616(C) OF THIS SUBTITLE, THE** Administration may not issue to an applicant:

(i) More than one placard if the applicant requests one set of special registration plates under § 13–616 of this subtitle; or

(ii) More than two placards if the applicant does not request a set of special registration plates under § 13–616 of this subtitle.

(2) **[The] EXCEPT AS PROVIDED IN § 13–616(C) OF THIS SUBTITLE, THE** Administration may not issue to a person issued special vehicle registration plates under § 13–616 of this subtitle a combination of special disability registration plates and placards exceeding two.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 391 – *State Employee and Retiree Health and Welfare Benefits Program – Wellness Program*.

This bill requires the Secretary of Budget and Management to include a specified wellness program in the State Employee and Retiree Health and Welfare Benefits Program and establishes requirements for the wellness program. The bill also requires the Secretary of Budget and Management to submit reports on implementation to the Governor and specified legislative committees on two specified dates, the latter being on or before February 1, 2016.

Senate Bill 224, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 391.

Sincerely,

Governor Martin O'Malley

### House Bill 391

AN ACT concerning

#### **State Employee and Retiree Health and Welfare Benefits Program – ~~Bona Fide Wellness Program and Wellness Promotion~~**

FOR the purpose of requiring the Secretary of Budget and Management, ~~in consultation with the Secretary of Health and Mental Hygiene, to develop and implement a certain bona fide wellness program for inclusion to include a certain wellness program~~ in the State Employee and Retiree Health and Welfare Benefits Program; establishing certain requirements for the ~~bona fide wellness program; authorizing the bona fide wellness program to include certain incentives for achieving health goals; requiring the Secretary of Budget and Management to consider certain actions to promote wellness among Program enrollees;~~ include a certain wellness program in the State Employee and Retiree Health and Welfare Benefits Program; establishing certain requirements for the ~~bona fide wellness program~~ certain wellness program; requiring the Secretary of Budget and Management to report to the

Governor and ~~the General Assembly~~ certain legislative committees on or before ~~a certain date~~ certain dates on the implementation of this Act; defining a certain term; and generally relating to a ~~bona fide~~ wellness program in the State Employee and Retiree Health and Welfare Benefits Program ~~and wellness promotion~~.

BY repealing and reenacting, without amendments,  
 Article – State Personnel and Pensions  
 Section 2–501(a) and (b)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

BY adding to  
Article – State Personnel and Pensions  
Section 2–501(d)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
 Article – State Personnel and Pensions  
 Section 2–503(b)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – State Personnel and Pensions**

2–501.

(a) In this subtitle the following terms have the meanings indicated.

(b) “Program” means the State Employee and Retiree Health and Welfare Benefits Program.

**(D) “WELLNESS PROGRAM” MEANS A PROGRAM THAT IS DESIGNED TO:**

**(1) PROMOTE HEALTH OR PREVENT OR DETECT DISEASE OR ILLNESS;**

**(2) IMPROVE CLINICAL OUTCOMES;**

**(3) PREVENT OR REDUCE ACUTE ADMISSIONS AND READMISSIONS TO HEALTH CARE FACILITIES;**

(4) IMPROVE TREATMENT COMPLIANCE FOR CHRONIC CONDITIONS;

(5) PROMOTE HEALTHY BEHAVIORS; OR

(6) PREVENT OR CONTROL INJURY.

2-503.

(b) (1) The Secretary may arrange as the Secretary considers appropriate any benefit option for inclusion in the Program.

(2) The Secretary shall include in the Program an option to purchase up to \$200,000 of additional life insurance coverage for employees who:

(i) fly in a helicopter in the course of their employment with the State;

(ii) scuba dive in the course of their employment with the State; or

(iii) as a result of their employment with the State, face a significant likelihood of receiving a less favorable life insurance rating than an individual employed in a nonhazardous position.

~~(3) (I) THE SECRETARY, IN CONSULTATION WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE, SHALL DEVELOP AND IMPLEMENT A BONA FIDE WELLNESS PROGRAM, AS DEFINED IN § 15-509 OF THE INSURANCE ARTICLE, FOR INCLUSION IN THE PROGRAM SHALL INCLUDE A WELLNESS PROGRAM IN THE PROGRAM.~~

~~(II) THE BONA FIDE WELLNESS PROGRAM SHALL:~~

~~1. INCLUDE A HEALTH RISK ASSESSMENT FOR ALL ENROLLEES IN THE PROGRAM BE DEVELOPED IN CONSULTATION WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE;~~

~~2. PROMOTE THE GOALS OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE STATE HEALTH IMPROVEMENT PLAN; PROCESS; AND~~

~~3. COMPLY WITH § 15-509 OF THE INSURANCE ARTICLE; AND~~

~~4. AIM TO ACHIEVE SAVINGS IN THE PROGRAM OVER TIME THAT EXCEED THE COSTS OF THE BONA FIDE WELLNESS PROGRAM.~~

~~(III) THE BONA FIDE WELLNESS PROGRAM MAY INCLUDE, AS INCENTIVES FOR ACHIEVING HEALTH GOALS:~~

- ~~1. DISCOUNTED PREMIUMS;~~
- ~~2. A WAIVER OF ALL OR PART OF A COST SHARING MECHANISM, SUCH AS DEDUCTIBLES, COPAYMENTS, OR COINSURANCE; AND~~
- ~~3. ADDITIONAL BENEFITS.~~

~~(IV) TO PROMOTE WELLNESS AMONG PROGRAM ENROLLEES, THE SECRETARY SHALL CONSIDER:~~

- ~~1. MERGING SICK LEAVE AND ANNUAL LEAVE INTO A SINGLE LEAVE BENEFIT FOR STATE EMPLOYEES; AND~~
- ~~2. INCLUDING A HIGH DEDUCTIBLE HEALTH PLAN WITH A HEALTH SAVINGS ACCOUNT AS A HEALTH BENEFIT PLAN OPTION IN THE PROGRAM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, ~~on or before January 1, 2014,~~ the Secretary of Budget and Management shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the ~~General Assembly~~ Senate Finance Committee, the House Appropriations Committee, and the House Health and Government Operations Committee on the implementation of Section 1 of this Act:

(1) within 60 calendar days after the date that the Department releases the request for proposals for administration of health care benefits under the State Employee and Retiree Health and Welfare Benefits Program; and

(2) on or before February 1, 2016.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

May 16, 2013

The Honorable Michael E. Busch

Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 448 – *State Government – Notary Public – Appointment*.

This bill authorizes a State Senator to delegate to the Secretary of State the Senator's authority to approve an applicant for notary public and authorizes the Governor to appoint and commission, under specified circumstances, an individual as a notary public on approval by the Secretary. This bill requires an application for notary public, under specified circumstances, to bear or be accompanied by the written approval of the Secretary.

Senate Bill 190, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 448.

Sincerely,

Governor Martin O'Malley

### **House Bill 448**

AN ACT concerning

#### **State Government – Notary Public – Appointment**

FOR the purpose of authorizing a State Senator to delegate the Senator's authority to approve an applicant for notary public to the Secretary of State; authorizing the Governor to appoint and commission, under certain circumstances, an individual as a notary public on the approval of the Secretary; requiring a certain application, under certain circumstances, to bear or be accompanied by the written approval of the Secretary; and generally relating to the appointment of a notary public.

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 18-101 and 18-103(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – State Government**

18–101.

(a) (1) **[The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Governor, on approval of the application by a Senator representing the senatorial district and subdistrict in which the applicant resides or on approval by any Senator if the senatorial office representing the senatorial district and subdistrict in which the applicant resides is vacant, may appoint and commission individuals as notaries public as provided in this title.

**(2) (I) A SENATOR MAY DELEGATE THE SENATOR’S AUTHORITY TO APPROVE APPLICANTS UNDER THIS SUBSECTION TO THE SECRETARY OF STATE.**

**(II) IF A SENATOR HAS DELEGATED APPROVAL AUTHORITY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE GOVERNOR MAY APPOINT AND COMMISSION AN INDIVIDUAL AS A NOTARY PUBLIC AS PROVIDED IN THIS TITLE ON APPROVAL OF THE APPLICATION BY THE SECRETARY OF STATE.**

(b) (1) The Governor, on approval of the application by the Secretary of State and a member of the Senate of Maryland, shall appoint and commission out-of-state individuals as notaries public as provided in this title.

(2) An out-of-state notary shall be deemed to have irrevocably appointed the Secretary of State as the notary’s agent upon whom may be served any summons, subpoena, subpoena duces tecum, or other process.

18–103.

(a) (1) An application for original appointment as a notary public shall be made on forms prepared by the Secretary of State and shall be sworn to by the applicant.

(2) (I) **[An] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN** application by a resident of the State shall bear or be accompanied by the written approval of a Senator representing the senatorial district and subdistrict in which the applicant resides or, if that office is vacant, by any Senator’s written approval.

**(II) IF A SENATOR HAS DELEGATED APPROVAL AUTHORITY UNDER § 18–101 OF THIS SUBTITLE, THE APPLICATION SHALL BEAR OR BE ACCOMPANIED BY THE WRITTEN APPROVAL OF THE SECRETARY OF STATE.**

(3) An application by an out-of-state individual shall bear or be accompanied by the written approval of a Maryland State Senator.



(4) Completed applications shall be filed with the Secretary of State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 452 – *Garrett County – Bonds for Garrett County Memorial Hospital*.

This bill authorizes and empowers the County Commissioners of Garrett County to borrow not more than \$15,000,000 in order to assist in the financing of the cost of hospital improvements at Garrett County Memorial Hospital.

Senate Bill 369, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 452.

Sincerely,

Governor Martin O'Malley

**House Bill 452**

AN ACT concerning

**Garrett County – Bonds for Garrett County Memorial Hospital**

FOR the purpose of authorizing and empowering the County Commissioners of Garrett County, from time to time, to borrow not more than \$15,000,000 in order to assist in the financing of the cost of certain hospital improvements in Garrett County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms,

conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County and directing the County to enter into an agreement with the Board of Governors of Garrett County Memorial Hospital for the payment of debt service requirements of the bonds from the revenues of the Garrett County Memorial Hospital; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That as used herein, the term “County” means the body politic and corporate of the State of Maryland known as the County Commissioners of Garrett County, and the term “hospital improvements” means the alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of the Garrett County Memorial Hospital, including, but not limited to, the hospital buildings and facilities, capital furnishings and equipment, and parking facilities, means of access and utility services, demolition, removal, and relocation of existing hospital facilities, the acquisition and development, as applicable, of land, structures, real or personal property, rights, rights-of-way, easements and other interests for such hospital facilities, together with any related financing charges, interest prior to and during construction (and, if deemed necessary by the County, for a limited period after completion of construction), interest and reserves for principal and interest and for extensions, enlargements, additions and improvements, architectural, engineering, financial and legal planning and other professional services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses necessary or incident to determining the feasibility or practicability of the hospital facilities and such other expenses as may be necessary or incident to the acquisition, construction, improvement, development, rehabilitation, repair, furnishing and equipping of the hospital facilities, the financing or refinancing of such acquisition, construction, improvement, development, rehabilitation, repair, furnishing and equipping of the hospital facilities.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to assist in the financing of the costs of the hospital facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate \$15,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at

one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the hospital improvements for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of § 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Garrett County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery of the bonds.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

In case any officer whose signature appears on any bond or on any coupon attached thereto ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as effective from time to time.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and

conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Garrett County or such other official of Garrett County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for financing the hospital improvements for which the bonds are sold and that the proceeds shall be loaned or otherwise paid by the County for the benefit of Garrett County Memorial Hospital as and when and under such terms, conditions, and documentation as the County directs, and secured by such collateral as the County directs in accordance with the terms and conditions of its agreement or agreements with Garrett County Memorial Hospital, of the resolutions of the County, and of this Act. If the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the hospital improvements described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to other hospital improvements.

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of this Act that the County be vested with full discretion and authority to determine what portion, if any, of the cost of any hospital improvements shall be paid from the proceeds of general obligation bonds authorized pursuant to this Act and that the County may provide or require such conditions for the loan of the proceeds of such bonds to the Garrett County Memorial Hospital, as the County deems necessary or appropriate, including (without limitation) provisions for the repayment from rates charged patients at the Hospital.

SECTION 6. AND BE IT FURTHER ENACTED, That the County may enter into an agreement or agreements with the Board of Governors of Garrett County Memorial Hospital pursuant to which the hospital shall be required to make periodic payments from the hospital's revenues or other assets (i) to the County at such times and in such amounts to assure the timely payment of the maturing principal of and interest on the bonds and any related expenses of the County; or (ii) directly to the purchaser or purchasers of the bonds at such times and in such amounts to assure the timely payment of the maturing of the principal of and interest on the bonds. However, the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and

when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source. If such funds are granted for the purpose of assisting the County or the hospital in financing the hospital improvements defined in this Act, the taxes that otherwise might be required to be levied under this Act may be reduced or need not be levied to the extent that any such funds are received or receivable in any fiscal year.

SECTION 7. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 8. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 9. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland.

Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 10. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Garrett County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 459 – *Somerset County – Alcoholic Beverages – Beer and Wine Tasting License*.

This bill establishes in Somerset County a beer and wine tasting (BWT) alcoholic beverages license for a holder of a beer, wine and liquor license or a beer and wine license. The bill specifies that a BWT license authorizes a holder to serve specified alcoholic beverages for tasting purposes only and for no consideration and requires the County Board of License Commissioners to regulate the quantity and number of bottles of specified alcoholic beverages to be served. The bill also specifies license and issuance fees.

Senate Bill 351, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 459.

Sincerely,

Governor Martin O'Malley

### **House Bill 459**

AN ACT concerning

#### **Somerset County – Alcoholic Beverages – Beer and Wine Tasting License**

FOR the purpose of establishing in Somerset County a beer and wine tasting (BWT) alcoholic beverages license for a holder of a beer, wine and liquor license or a beer and wine license; specifying that a BWT license authorizes a holder to serve certain alcoholic beverages for tasting purposes only and for no consideration; requiring the County Board of License Commissioners to regulate the quantity and number of bottles of certain alcoholic beverages to be served; specifying license and issuance fees; repealing certain provisions relating to a wine tasting license; prohibiting a holder from exercising the privileges of the BWT license during any festival event; authorizing the Board to adopt certain regulations; and generally relating to alcoholic beverages in Somerset County.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 8–410.2  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article 2B – Alcoholic Beverages**

8–410.2.

- (a) This section applies only in Somerset County.

(b) (1) The Board of License Commissioners may issue a **BEER AND** wine tasting [(WT)] **(BWT) ALCOHOLIC BEVERAGES** license [for wine tasting and sampling].

(2) [A WT license may be issued only to a holder of a Class A beer and wine (off-sale) license] **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BWT LICENSE TO A HOLDER OF A BEER, WINE AND LIQUOR LICENSE OR A BEER AND WINE LICENSE.**

**(3) A BWT LICENSE AUTHORIZES THE CONSUMPTION OF BEER OR WINE THAT MAY BE SOLD UNDER THE BEER, WINE AND LIQUOR LICENSE OR THE BEER AND WINE LICENSE FOR TASTING PURPOSES ONLY AND FOR WHICH NO CONSIDERATION MAY BE CHARGED.**

**(4) THE BOARD OF LICENSE COMMISSIONERS SHALL REGULATE:**

**(I) THE QUANTITY OF BEER OR WINE TO BE SERVED TO EACH PERSON; AND**

**(II) THE NUMBER OF BOTTLES OF BEER OR WINE FROM WHICH THIS QUANTITY IS BEING SERVED.**

(c) (1) [The] **IN ADDITION TO THE COST OF THE BEER, WINE AND LIQUOR LICENSE OR THE BEER AND WINE LICENSE, THE annual [(WT)] BWT** license fee is \$150.

**(2) IN ADDITION TO THE ANNUAL BWT LICENSE FEE, THE ISSUING FEE IS \$100.**

[(d) (1) An application for a WT license shall be made on a form that the Board of License Commissioners provides.

(2) A renewal of the WT license may be made at the time the Class A beer and wine (off-sale) license is renewed.

(3) The Board of License Commissioners may grant a WT license without a hearing.

(4) If application for a WT license is denied, the applicant may request a public hearing before the Board of License Commissioners.

(e) (1) A WT license holder may not serve to any person for sampling or tasting purposes more than 1 ounce from each brand.



(2) A maximum of six bottles may be opened at any one time at a wine sampling or tasting event.

(3) The total number of days during which wine sampling or tasting events are held may not exceed 15 in any period for which a WT license is in effect.

(4) A WT license holder shall notify the Board of License Commissioners in writing at least 5 days before a wine sampling or tasting event.

(5) Once opened, each bottle used for a wine sampling or tasting event shall be marked that it is to be used for that purpose only.

(6) The contents of each bottle may not be mixed with any other bottle, and all bottles shall be destroyed once they are empty.

(f) (1) A WT license is for on-premises consumption only.

(2) Wine sampling or tasting may not be conducted from a drive-through window.]

**(D) THE PRIVILEGES GRANTED BY THIS BWT LICENSE MAY NOT BE EXERCISED DURING A FESTIVAL EVENT.**

**(E) THE BOARD OF LICENSE COMMISSIONERS MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 465 – *Somerset County – Emergency Burning Ban – Adoption and Enforcement*.

This bill authorizes the County Commissioners of Somerset County to adopt an emergency burning ban and prohibits a person from starting or allowing any open air burning during an emergency burning ban subject to specified exceptions. This bill also authorizes the County Commissioners, by resolution, to set a fine for a violation of an emergency burning ban and authorizes the Sheriff and the Sheriff's deputies to assess a fine against any person believed to be in violation of an emergency burning ban.

Senate Bill 424, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 465.

Sincerely,

Governor Martin O'Malley

### **House Bill 465**

AN ACT concerning

#### **Somerset County – Emergency Burning Ban – Adoption and Enforcement**

FOR the purpose of authorizing the County Commissioners of Somerset County to adopt a certain emergency burning ban; prohibiting a person from starting or allowing any open air burning during an emergency burning ban; exempting certain ~~supervised~~ burning activities from a certain emergency burning ban; authorizing the County Commissioners, by resolution, to set a fine for a violation of a certain emergency burning ban; authorizing the Sheriff of Somerset County and the Sheriff's deputies to assess a certain fine against any person believed to be in violation of a certain emergency burning ban; defining certain terms; and generally relating to the adoption and enforcement of an emergency burning ban in Somerset County.

BY adding to

The Public Local Laws of Somerset County

Section 2–416

Article 20 – Public Local Laws of Maryland

(2003 Edition and 2009 Supplement, as amended)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article 20 – Somerset County**

**2–416.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "EMERGENCY BURNING BAN" MEANS A COMPLETE BAN ON ALL OPEN AIR BURNING THAT IS DECLARED BY THE COUNTY COMMISSIONERS DUE TO PROLONGED DROUGHT OR UNUSUAL CONDITIONS THAT ARE CONDUCTIVE TO THE EASY START AND SPREAD OF FIRE.

(3) "OPEN AIR BURNING" MEANS BURNING ANY MATERIAL IN THE OPEN OR IN A RECEPTACLE OTHER THAN A FURNACE, INCINERATOR, OR OTHER EQUIPMENT CONNECTED TO A STACK OR CHIMNEY.

(B) THE COUNTY COMMISSIONERS MAY ADOPT AN EMERGENCY BURNING BAN EFFECTIVE THROUGHOUT THE COUNTY.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT START OR ALLOW OPEN AIR BURNING DURING AN EMERGENCY BURNING BAN.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) OPEN AIR BURNING ON STATE-OWNED PROPERTY THAT IS CONDUCTED IN ACCORDANCE WITH STATE LAW;

~~(II)~~ (II) THE SUPERVISED BURNING OF BUILDINGS OR SOLID, LIQUID, OR GASEOUS FUELS CONDUCTED UNDER THE DIRECT CONTROL AND SUPERVISION OF QUALIFIED INSTRUCTORS AT A TRAINING CENTER OPERATED BY A FIRE DEPARTMENT; OR

~~(III)~~ (III) ANY OTHER SUPERVISED BURNING CONDUCTED UNDER THE DIRECT CONTROL AND SUPERVISION OF:

1. A QUALIFIED FIRE INSTRUCTOR; OR
2. A FIRE CHIEF, CAPTAIN, OR FIRE LINE OFFICER OF A FIRE DEPARTMENT THAT HAS JURISDICTION OVER THE AREA WHERE THE SUPERVISED BURNING OCCURS.

(D) THE COUNTY COMMISSIONERS, BY RESOLUTION, MAY SET A FINE FOR A VIOLATION OF AN EMERGENCY BURNING BAN ADOPTED UNDER SUBSECTION (B) OF THIS SECTION.

(E) THE SHERIFF AND THE SHERIFF'S DEPUTIES MAY ASSESS A FINE ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION AGAINST ANY PERSON

**BELIEVED TO BE IN VIOLATION OF AN EMERGENCY BURNING BAN ADOPTED UNDER SUBSECTION (B) OF THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 466 – *Somerset County – Sale of Small Boat Harbor Dock*.

This bill authorizes the County Commissioners of Somerset County to sell the Small Boat Harbor Dock to the City of Crisfield at private sale under specified terms. The bill requires the Small Boat Harbor Dock to revert to the County Commissioners under specified circumstances and exempts the sale of the Small Boat Harbor Dock from specified requirements.

Senate Bill 155, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 466.

Sincerely,

Governor Martin O'Malley

**House Bill 466**

AN ACT concerning

**Somerset County – Sale of Small Boat Harbor Dock**

FOR the purpose of authorizing the County Commissioners of Somerset County to sell the Small Boat Harbor Dock to the City of Crisfield at private sale under certain terms; requiring the Small Boat Harbor Dock to revert to the County Commissioners under certain circumstances; exempting the sale of the Small Boat Harbor Dock from certain requirements; making a technical change; and

generally relating to the sale of county property by the County Commissioners of Somerset County.

BY repealing and reenacting, with amendments,  
 The Public Local Laws of Somerset County  
 Section 2-414  
 Article 20 – Public Local Laws of Maryland  
 (2003 Edition and 2009 Supplement, as amended)  
 (As enacted by Chapters 544 and 545 of the Acts of the General Assembly of  
 2011)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article 20 – Somerset County**

2-414.

(a) Subject to subsection (b) of this section, the County Commissioners may sell at private sale the following properties to the City of Crisfield under any terms that the County Commissioners [considers] **CONSIDER** appropriate:

(1) The property located at County Tax Map 101, Grid 8, Parcel 335, Account #07-113854 and described as 50 feet in width and approximates 200 feet in depth on the west side of Brick Kiln Road, also known as Collins Road, leading to the Small Boat Harbor;

(2) The portion of the roadway known as Wellington Road located in the Crisfield Election District beginning at the intersection of Collins Street and Wellington Road in a westerly direction 317 feet, more or less, a uniform width of 16 feet, more or less; [and]

(3) The property known as the County Boat Ramp located at the Small Boat Harbor in the City of Crisfield, described as the land located in the Crisfield Election District being known as the County Boat Ramp Property fronting 36 feet on Brick Kiln Road extending to the Harbor 53 feet; **AND**

**(4) THE PROPERTY KNOWN AS THE SMALL BOAT HARBOR DOCK LOCATED AT THE SMALL BOAT HARBOR IN THE CITY OF CRISFIELD IN THE CRISFIELD ELECTION DISTRICT, FRONTING APPROXIMATELY 15 FEET ON BRICK KILN ROAD AND EXTENDING TO THE HARBOR APPROXIMATELY 63 FEET.**

(b) A sale under this section shall require that the property reverts to the County Commissioners if the City of Crisfield:

(1) Attempts to restrict the public use of the property;

- (2) Assesses any fees for the use of the property; or
- (3) Attempts to transfer the property to any other person.

(c) The provisions of Article 25, § 11A of the Annotated Code of Maryland do not apply to a sale authorized under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 470 – *Somerset County – County Treasurer – Abolishment and Transfer of Functions to the County Supervisor of Tax Collection*.

This bill abolishes the elected position of County Treasurer of Somerset County and transfers the duties and functions of the office of County Treasurer to the County Supervisor of Tax Collection, who shall work under the direction of the County Finance Director. The bill repeals provisions related to the appointment and salary of the deputy treasurer of Somerset County and provides that the Act does not affect the term of office of the incumbent County Treasurer.

Senate Bill 154, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 470.

Sincerely,

Governor Martin O'Malley

**House Bill 470**

AN ACT concerning

**Somerset County – County Treasurer – Abolishment and Transfer of  
Functions to the County Supervisor of Tax Collection**

FOR the purpose of abolishing the elected position of County Treasurer of Somerset County; transferring the duties and functions of the office of County Treasurer to the County Supervisor of Tax Collection, who shall work under the direction of the County Finance Director; repealing provisions related to the appointment and salary of the deputy treasurer of Somerset County; providing that the Supervisor of Tax Collection is subject to dismissal from office by the County Commissioners of Somerset County under certain circumstances and discipline or dismissal for a violation of certain rules and regulations; repealing provisions related to the removal of the County Treasurer; requiring the County Commissioners to provide an office for the Supervisor of Tax Collection to be open during certain hours on certain days of the week; requiring the Supervisor of Tax Collection to execute certain bonds for certain purposes to be paid for by the County Commissioners; providing for the appointment of Supervisors of Tax Collection in the event that a Supervisor of Tax Collection fails to execute a certain bond on or before a certain day; repealing provisions relating to a vacancy in the office of County Treasurer; repealing certain provisions relating to the documents of the County Treasurer's office; repealing provisions relating to the successor of the County Treasurer; providing that this Act does not ~~apply to the salary or compensation~~ affect the term of office of the incumbent County Treasurer; and generally relating to the abolishment of the elected position of County Treasurer of Somerset County and the transfer of the duties and functions of the office of County Treasurer to the County Supervisor of Tax Collection.

BY repealing

The Public Local Laws of Somerset County  
Section 7-101 through 7-103, 7-108, 7-111, and 7-113  
Article 20 – Public Local Laws of Maryland  
(2003 Edition and 2009 Supplement, as amended)

BY adding to

The Public Local Laws of Somerset County  
Section 7-101 and 7-102  
Article 20 – Public Local Laws of Maryland  
(2003 Edition and 2009 Supplement, as amended)

BY repealing and reenacting, with amendments,

The Public Local Laws of Somerset County  
Section 7-104 through 7-107, 7-109, 7-110, 7-112, 7-114 through  
7-118, 7-202 through 7-205, 7-302, and 9-103  
Article 20 – Public Local Laws of Maryland  
(2003 Edition and 2009 Supplement, as amended)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages  
 Section 10–202(p)  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

BY repealing

~~Article 25 – County Commissioners~~  
~~Section 51(r)~~  
~~Annotated Code of Maryland~~  
~~(2011 Replacement Volume and 2012 Supplement)~~  
Article – Local Government  
Section 16–204  
Annotated Code of Maryland  
(As enacted by Chapter (H.B. 472) of the Acts of the General Assembly of  
2013)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article 20 – Somerset County**

[7–101.

(a) There is a County Treasurer in Somerset County, who shall be elected for a 4–year term in accordance with the provisions of Article XVII of the Constitution of Maryland.

(b) The County Treasurer shall qualify on the first Tuesday in January after the election and hold office until a successor is duly elected and qualified.]

**7–101.**

**(A) NOTWITHSTANDING ANY OTHER LAW, THE DUTIES AND FUNCTIONS OF THE OFFICE OF COUNTY TREASURER ARE TRANSFERRED TO THE COUNTY SUPERVISOR OF TAX COLLECTION, WHO SHALL WORK UNDER THE DIRECTION OF THE FINANCE DIRECTOR.**

**(B) THE COUNTY COMMISSIONERS SHALL APPOINT A SUPERVISOR OF TAX COLLECTION, WHO SHALL WORK WITH THE TAX COLLECTION OFFICE AS PART OF THE FINANCE DEPARTMENT UNDER THE DIRECTION OF THE FINANCE DIRECTOR.**

[7–102.



(a) The Treasurer shall appoint a deputy and specify the deputy's duties. The Treasurer is responsible for the official conduct of the deputy treasurer, and the deputy shall act for the Treasurer during the Treasurer's absence.

(b) The deputy's annual salary shall be set by the County Commissioners.]

**7-102.**

**THE SUPERVISOR OF TAX COLLECTION SHALL BE SUBJECT TO:**

**(1) DISMISSAL FROM OFFICE AT ALL TIMES BY THE COUNTY COMMISSIONERS FOR WILLFUL NEGLECT OF DUTY, MISDEMEANOR, OR MALFEASANCE IN OFFICE; AND**

**(2) DISCIPLINE OR DISMISSAL FOR A VIOLATION OF THE RULES AND REGULATIONS AS PROVIDED IN THE SOMERSET COUNTY EMPLOYEES HANDBOOK OF GOVERNING RULES AND REGULATIONS.**

**[7-103.**

The County Treasurer may be removed from office by the Judges of the Circuit Court of Somerset County upon conviction for willful neglect of duty, misdemeanor, or malfeasance in office. The conviction shall be based upon presentment and indictment by the Grand Jury of Somerset County.]

**[7-104.] 7-103.**

(a) The County Commissioners shall provide an office for the [Treasurer] **SUPERVISOR OF TAX COLLECTION** for the transaction of official business.

(b) The [Treasurer's] **TAX COLLECTION** office shall be open between 8:30 a.m. and 4:30 p.m. weekdays. It shall be closed on Saturdays, Sundays, and State holidays.

**[7-105.] 7-104.**

(a) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall receive and collect all State and County taxes and all other money due to the County.

(b) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** has full power to enforce the payment of taxes by sale or otherwise and to convey title to any real or personal property sold by the [Treasurer] **SUPERVISOR OF TAX COLLECTION** for the payment of State and County taxes in the manner prescribed by this title.

**[7-106.] 7-105.**

(a) [Before entering upon the duties of the office, the Treasurer shall take an oath before the Clerk of the Circuit Court for Somerset County that he faithfully will perform the duties of the office.

(b) (1) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall execute two bonds, each in the amount of \$150,000, as follows:

[i] (1) To the State of Maryland; and

[ii] (2) To Somerset County.

[(2)] (B) (1) The bonds shall be executed for the faithful performance of the [Treasurer's] **SUPERVISOR OF TAX COLLECTION'S** duties as [Treasurer] **COUNTY TAX COLLECTOR**. The bonds shall be conditioned that the [Treasurer] **SUPERVISOR OF TAX COLLECTION** will well and truly account and be liable for any and all money coming into his possession as [Treasurer and] **TAX collector**, for which the [Treasurer] **SUPERVISOR OF TAX COLLECTION** is answerable by law.

(2) The bonds shall be secured by a fidelity or security company qualified to act as surety or guarantor under the laws of Maryland.

(3) [They] **THE BONDS** shall be recorded in the office of the Clerk of the Circuit Court for the County and the premium on the bonds shall be paid by the County Commissioners.

[7-107.] **7-106.**

(A) Upon failure of [any Treasurer] **THE SUPERVISOR OF TAX COLLECTION** to execute the bond required on or before the day on which the [Treasurer] **SUPERVISOR OF TAX COLLECTION** is to enter on the duties of the office, the County Commissioners shall appoint [some qualified] **A COMPETENT PERSON WHO IS A voter of Somerset County as [Treasurer and collector] SUPERVISOR OF TAX COLLECTION** during that term in the place of the one who failed to qualify.

(B) In case of the new [Treasurer's] **SUPERVISOR OF TAX COLLECTION'S** failure to qualify within 30 days, the County Commissioners shall appoint another **COMPETENT** person, **IN 30 days' intervals**, until a [Treasurer] **SUPERVISOR OF TAX COLLECTION** is duly qualified.

(C) **EACH SUPERVISOR OF TAX COLLECTION SHALL BE SUBJECT TO THE PROVISIONS OF THIS TITLE.**

[7-108.

Within 30 days after a vacancy occurs in the office of Treasurer, the County Commissioners shall appoint a Treasurer and collector for the unexpired term who shall take the oath, give the bond, and perform all the duties of the office prescribed by law.]

[7-109.] **7-107.**

The [County Treasurer] **SUPERVISOR OF TAX COLLECTION** or the Clerk to the County Commissioners may administer an oath or affirmation to any account to any person who presents a claim against Somerset County, without charge for the oath or affirmation.

[7-110.] **7-108.**

(A) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall keep a full and fair cash account, showing all sums of money received by him, so as to indicate the source from which the money was received.

(B) The account shall show the money paid out by him either to the County Commissioners or to the State Treasurer.

[7-111.

All books, documents, and papers pertaining to the County Treasurer's office are the property and records of Somerset County, and shall be kept in the County-designated office for the County Treasurer. At any time, the County Commissioners, the Grand Jury of Somerset County, or any County taxpayer may examine them. All books, documents and papers, accounts, credits, and deposits belonging to the Treasurer's office or in the custody of the Treasurer shall be transferred to his successor in office when that successor is duly elected and qualified.]

[7-112.] **7-109.**

(a) (1) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall deposit in the manner required by this title all County taxes and all money due the County which the [Treasurer] **SUPERVISOR OF TAX COLLECTION** has collected.

(2) When the County taxes for any year have been collected in full, the [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall deliver to the County Commissioners a statement of deposits that show the collections in full.

(b) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall pay into the Treasury of the State of Maryland, according to law, all the State taxes levied and collected in the County.

(c) (1) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall be allowed 2 years from the date of each levy placed in his hands for collection to complete that collection and to make his final settlement with the County Commissioners and with the Treasurer of Maryland.

(2) Immediately after the expiration of the 2 years the County Commissioners shall bring suit on the bond of the [Treasurer] **SUPERVISOR OF TAX COLLECTION** for all County taxes in his hands uncollected or unaccounted for to the County Commissioners.

[7–113.

The County Commissioners, at any time after the expiration of the term of any County Treasurer, or at the time of the final settlement for which provision is made in this subtitle, may require the Treasurer to deliver over to the Treasurer's successor in office all collectible taxes due upon the levies with which the Treasurer was charged. The Treasurer shall deliver over the notices, schedules, and other proceedings had for the enforcement of payment of the taxes. In that case the successor, or newly elected or qualified Treasurer, upon the delivery to him of the bills for the taxes, shall enforce the payment of the taxes in the same manner as his predecessor could have done. The Treasurer has all the power and authority in law with which his predecessor was clothed for the purpose. In that case the bond of the newly elected or succeeding Treasurer is responsible for the proper collection and distribution of the taxes, and the bond of the preceding Treasurer shall be held responsible for whatever taxes remain uncollected from the preceding Treasurer's fault or negligence.]

[7–114.] 7–110.

If the bond of [any Treasurer] **THE SUPERVISOR OF TAX COLLECTION** becomes liable to Somerset County or to the State of Maryland for any unpaid or uncollected taxes, the sureties on the bond may enforce the payment of the taxes in the manner as the [Treasurer] **SUPERVISOR OF TAX COLLECTION** could have done.

[7–115.] 7–111.

(A) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** or his designee shall be present and available in the [office of the Treasurer] **TAX COLLECTION OFFICE** during regular office hours to collect taxes.

(B) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** may collect taxes at other locations within Somerset County after giving a 2–week public notice in local newspapers of the time and place of the temporary collection points.

[7–116.] 7–112.

(a) Upon request and payment of a fee of 50 cents, the [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall issue a certified statement, over his signature, of all taxes assessed since the first day of January, 1908, that are due and unpaid at the time of making the certificate and are a lien upon any particular piece of real estate located in Somerset County and on any tax sale affecting that piece of property since that date.

(b) (1) The certificate is a bar to the collection or recovery from any purchaser of real estate after the issue of the certificate of any tax or assessment omitted from the certificate and which is a lien on the real estate mentioned in it.

(2) The certificate does not affect the liability for the tax of the person who owned the real estate at the time the tax was levied, or at any time after the levy and before the issue of the certificate.

(c) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** is responsible to the County for any loss of taxes that arises from an error in the certificate.

**[7-117.] 7-113.**

(A) At least once in each year, the [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall correct the list of transfers on the tax books of the County in accordance with the list furnished by the local office of the State Department of Assessments and Taxation.

(B) This correction shall be made not more than 30 days before the time set for the making of the annual levy.

**[7-118.] 7-114.**

(A) The provisions of the Code of Public General Laws of Maryland that are applicable to collectors of State and county taxes, except when they are repealed by or inconsistent with the provisions of this subtitle, apply to the [County Treasurer] **SUPERVISOR OF TAX COLLECTION**.

(B) As to the power, rights, duties, and liabilities, both civil and criminal, and those affecting the [Treasurer's] **SUPERVISOR OF TAX COLLECTION'S** bond or bondsmen, the [County Treasurer] **SUPERVISOR OF TAX COLLECTION** is in all respects in the same position as State and county collectors of taxes, except as provided in this title.

**7-202.**

(a) Immediately after the levy, the County Commissioners shall give notice of it by advertisement inserted once in a newspaper of general circulation.

(b) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall prepare the tax bills of each taxpayer and forward them by mail or deliver them to the person or persons, or corporate institutions, or to the agent of the person or persons, or corporate institutions to whom the property included in the tax bills is assessed, so far as their residence or post office address may be ascertained by the [Treasurer] **SUPERVISOR OF TAX COLLECTION**.

(c) The tax bills shall contain a notice to that effect that if the taxes are not paid on or before the next January 1, with the interest due on them after October 1, the taxes will be collected by process of law.

7-203.

(a) On October 1 following the levy, unpaid taxes are in arrears.

(b) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall enforce the payment of all taxes on real property that are unpaid on the following January 1 in the manner provided in State law.

7-204.

(a) **(1)** At least once in each week the [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall deposit in a national or State bank in Somerset County all taxes received or collected by the [Treasurer] **SUPERVISOR OF TAX COLLECTION** up to the date of the deposit.

**(2)** The portion due the State shall be deposited to the [Treasurer's] **SUPERVISOR OF TAX COLLECTION'S** credit as collector of State taxes, and the portion due Somerset County shall be deposited to the credit of the County Commissioners.

(b) Once a month, the [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall forward to the State Treasurer a check for the amount of State taxes to the State Treasurer's credit in the bank.

(c) The [County Treasurer] **SUPERVISOR OF TAX COLLECTION** shall receive from the bank a certificate of deposit for each deposit to the credit of the County Commissioners, which the [County Treasurer] **SUPERVISOR OF TAX COLLECTION** shall deliver to them at their next regular meeting, and for which they shall give to the [County Treasurer] **SUPERVISOR OF TAX COLLECTION** a proper receipt or voucher.

(d) Funds shall be drawn only from the bank upon the check of the President of the County Commissioners, countersigned by the [Treasurer] **SUPERVISOR OF TAX COLLECTION**:

(1) In payment of debts and accounts due by Somerset County, duly approved and passed by the County Commissioners and ordered by them to be paid; or

(2) For the investment of excess County funds.

(e) County funds may not be invested for terms that would cause a shortage of cash flow.

(f) Excess funds may be invested by the [Treasurer] **SUPERVISOR OF TAX COLLECTION** in:

(1) Treasury bills;

(2) The local government investment pool established in Article 95, § 22G of the Code; and

(3) State and national banks.

(g) The [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall maintain evidence that all invested funds are protected from any losses, through collateralized securities, FDIC insured accounts, or the full faith and credit of the federal government.

7-205.

(a) All claims for erroneous, insolvent, or uncollectible tax bills for which the [Treasurer] **SUPERVISOR OF TAX COLLECTION** claims a credit shall be presented to the County Commissioners before or at the time specified for the final settlement.

(b) The County Commissioners may not allow credit for erroneous, insolvent, or uncollectible taxes, unless satisfactory proof is produced under oath that they cannot be collected.

7-302.

(a) Whenever it is necessary to enforce the payment of taxes by a sale of personal property, the [Treasurer] **SUPERVISOR OF TAX COLLECTION** shall make out a bill for the taxes in the usual form, with an order at the bottom of the bill directing the County Sheriff to levy upon the personal property of the delinquent and to sell it to satisfy and pay the taxes that are due.

(b) The Sheriff, upon receiving the tax bill and order, shall levy upon and sell the personal property of the delinquent in the same manner and upon the same notice.

(c) The Sheriff is entitled to the same fees as if the Sheriff were proceeding under an execution from a judge of the District Court.

(d) Immediately after the sale, the Sheriff shall pay over to the [Treasurer] **SUPERVISOR OF TAX COLLECTION** the amount due on the tax bill, and any surplus which remains after the payment of the taxes, interest, and cost shall be paid by the Sheriff to the delinquent taxpayer.

(e) The Sheriff's bond is liable for all of the tax bills that are placed in the Sheriff's hands by the [Treasurer] **SUPERVISOR OF TAX COLLECTION** to the same extent and in the same manner that the bond is liable for execution claims issued to him.

9–103.

(a) At the time of making their annual levy, the County Commissioners shall levy an amount annually that is necessary:

(1) For building, repairing, reconstruction, maintenance, and regulation of the use of the public roads, bridges, drains, water courses, public landings, culverts, and curbs and gutters along them in Somerset County, and

(2) For the purchase and maintenance of equipment and for the purchase or rental of land or buildings to be used for that purpose.

(b) The money levied shall be designated "For construction, reconstruction, and maintenance of County roads, bridges, drains, water courses, public landings, culverts, curbs, and gutters and purchasing and renting of equipment, land, and buildings in connection with them". The money may not be earmarked by the County Commissioners for specific purposes; all authority to earmark is vested in the County Roads Board.

(c) All levied and received money shall be deposited by the [County Treasurer] **SUPERVISOR OF TAX COLLECTION** in a special fund for that purpose and paid out of that fund by the [County Treasurer] **SUPERVISOR OF TAX COLLECTION** on requisition of the County Roads Board. Any unexpected surplus remaining in this account at the end of any year may be carried over and used by the County Roads Board in future years to carry out the purposes of this title or may be used on account of the costs of the succeeding year's roads program.

(d) Title to land, buildings, or equipment purchased by the County Commissioners or by the County Roads Board remains in the County Commissioners.

### Article 2B – Alcoholic Beverages

10–202.

(p) In Somerset County:



(1) Notice of each application for a license shall be published once a week for 2 consecutive weeks in at least one newspaper published in the municipal corporation or unincorporated area in which, or nearest to which, the applicant's proposed place of business is to be located;

(2) The applicant for the license shall pay the Board of License Commissioners a fee of \$350 to cover the costs of the advertising required by paragraph (1) of this subsection and the costs of processing the application; and

(3) After the Board of License Commissioners has approved the application for a license, the County ~~[Treasurer]~~ **SUPERVISOR OF TAX COLLECTION** shall issue the license on payment of the fee required for the license and the fee required by ~~[paragraph (1)]~~ **ITEM (2)** of this subsection.

~~Article 25 – County Commissioners~~

~~51.~~

~~[(r) The annual salary of the County Treasurer of Somerset County is \$60,000.]~~

Article – Local Government

[16-204.

The annual salary of the County Treasurer of Somerset County is \$60,000.]

SECTION 2. AND BE IT FURTHER ENACTED, That, nothing in this Act affects the term of office of the incumbent County Treasurer of Somerset County. The individual who is serving as County Treasurer on the effective date of this Act shall remain County Treasurer for the balance of the term to which elected unless the County Treasurer dies, resigns, or is removed under provisions of law before the expiration of the term.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House

H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 521 – *Baltimore City – Extinguishment or Redemption of Ground Rents*.

This bill alters the scope of a specified procedure in law that authorizes Baltimore City to apply to a specified State agency in order to extinguish or redeem a ground rent on property acquired by Baltimore City under specified circumstances. This bill also alters the contents of a specified affidavit required in the procedure to extinguish or redeem a ground rent on property acquired by Baltimore City under specified circumstances.

Senate Bill 366, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 521.

Sincerely,

Governor Martin O'Malley

### **House Bill 521**

AN ACT concerning

#### **Baltimore City – Extinguishment or Redemption of Ground Rents**

FOR the purpose of altering the scope of a certain procedure in law that authorizes Baltimore City to apply to the State Department of Assessments and Taxation in order to extinguish or redeem a ground rent on property acquired by Baltimore City under certain circumstances; altering the contents of a certain affidavit required in a certain procedure to extinguish or redeem a ground rent on property acquired by Baltimore City under certain circumstances; altering the scope of a certain procedure to authorize a landlord of abandoned or distressed property acquired by Baltimore City to collect a certain redemption amount under certain circumstances; and generally relating to ground rents in Baltimore City.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 8–110  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Real Property**

8–110.

(a) (1) This section does not apply to leases of property leased for business, commercial, manufacturing, mercantile, or industrial purposes or any other purpose which is not primarily residential, where the term of the lease, including all renewals provided for, does not exceed 99 years. A lease of the entire property improved or to be improved by any apartment, condominium, cooperative, or other building for multiple–family use on the property constitutes a business and not a residential purpose. The term “multiple–family use” does not apply to any duplex or single–family structure converted to a multiple–dwelling unit.

(2) Except as provided in subsection (f) of this section, this section does not apply to irredeemable leases executed before April 9, 1884.

(3) This section does not apply to leases of the ground or site upon which dwellings or mobile homes are erected or placed in a mobile home development or mobile home park.

(4) This section does not apply to an affordable housing land trust agreement executed under Title 14, Subtitle 5 of this article.

(b) (1) Except for apartment and cooperative leases, any reversion reserved in a lease for longer than 15 years is redeemable at any time, at the option of the tenant, after 30 days’ notice to the landlord. Notice shall be given by certified mail, return receipt requested, and by first–class mail to the last known address of the landlord.

(2) The reversion is redeemable:

(i) For a sum equal to the annual rent reserved multiplied by:

1. 25, which is capitalization at 4 percent, if the lease was executed from April 8, 1884 to April 5, 1888, both inclusive;

2. 8.33, which is capitalization at 12 percent, if the lease was or is created after July 1, 1982; or

3. 16.66, which is capitalization at 6 percent, if the lease was created at any other time;

(ii) For a lesser sum if specified in the lease; or

(iii) For a sum to which the parties may agree at the time of redemption.

(c) If a tenant has power to redeem the reversion from a trustee or other person who does not have a power of sale, the reversion nevertheless may be redeemed in accordance with the procedures prescribed in the Maryland Rules.

(d) Notwithstanding subsection (b) of this section, any regulatory changes made by a federal agency, instrumentality, or subsidiary, including the Department of Housing and Urban Development, the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, and the Veterans' Administration, shall be applicable to redemption of reversions of leases for longer than 15 years.

(e) (1) Before the entry of a judgment foreclosing an owner's right of redemption, a reversion in a ground rent or lease for 99 years renewable forever held on abandoned property in Baltimore City, as defined in § 14–817 of the Tax – Property Article, may be donated to Baltimore City or, at the option of Baltimore City, to an entity designated by Baltimore City.

(2) Valuation of the donation of a reversionary interest pursuant to this subsection shall be in accordance with subsection (b) of this section.

(f) (1) (i) A tenant who has given the landlord notice in accordance with subsection (b) of this section may apply to the State Department of Assessments and Taxation to redeem a ground rent as provided in this subsection.

(ii) When the Mayor and City Council of Baltimore City [condemns] **ACQUIRES** property that is subject to an irredeemable ground rent, the City shall become the tenant of the ground rent and, after giving the landlord notice in accordance with subsection (b) of this section, may apply to the State Department of Assessments and Taxation to extinguish the ground rent as provided in this subsection.

(iii) When the Mayor and City Council of Baltimore City [condemns] **ACQUIRES** abandoned or distressed property that is subject to a redeemable ground rent, the City shall become the tenant of the ground rent and, after giving the landlord notice in accordance with subsection (b) of this section, may apply to the State Department of Assessments and Taxation to redeem the ground rent as provided in this subsection.

(2) The tenant shall provide to the State Department of Assessments and Taxation:

(i) Documentation satisfactory to the Department of the lease and the notice given to the landlord; and

(ii) Payment of a \$20 fee, and any expediting fee required under § 1–203 of the Corporations and Associations Article.

(3) (i) On receipt of the items stated in paragraph (2) of this subsection, the Department shall post notice on its website that application has been made to redeem or extinguish the ground rent.

(ii) The notice shall remain posted for at least 90 days.

(4) Except as provided in paragraph (5) of this subsection, no earlier than 90 days after the application has been posted as provided in paragraph (3) of this subsection, a tenant seeking to redeem a ground rent shall provide to the Department:

(i) Payment of the redemption amount and up to 3 years' back rent to the extent required under this section and § 8–111.1 of this subtitle, in a form satisfactory to the Department; and

(ii) An affidavit made by the tenant, in the form adopted by the Department, certifying that:

1. The tenant has not received a bill for ground rent due or other communication from the landlord regarding the ground rent during the 3 years immediately before the filing of the documentation required for the issuance of a redemption certificate under this subsection; or

2. The last payment for ground rent was made to the landlord identified in the affidavit and sent to the same address where the notice required under subsection (b) of this section was sent.

(5) No earlier than 90 days after the application has been posted as provided in paragraph (3) of this subsection, a tenant seeking to extinguish an irredeemable ground rent or to redeem a redeemable ground rent on abandoned or distressed property that was acquired or is being acquired by the Mayor and City Council of Baltimore [through condemnation] shall provide to the Department:

(i) Payment of up to 3 years' back rent to the extent required under this section and § 8–111.1 of this subtitle, in a form satisfactory to the Department; and

(ii) An affidavit made by the Director of the Office of Property Acquisition and Relocation in the Baltimore City Department of Housing and Community Development certifying that:

1. The property is abandoned property, as defined in § 21–17(a)(2) of the Public Local Laws of Baltimore City, or distressed property, as defined in § 21–17(a)(3) of the Public Local Laws of Baltimore City;

2. The property was acquired or is being acquired by the Mayor and City Council of Baltimore City [through condemnation];

3. [A thorough title search has been conducted;

4.] The landlord of the property [cannot be located or identified] **HAS NOT REGISTERED THE GROUND LEASE WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION UNDER SUBTITLE 7 OF THIS TITLE;** and

[5.] 4. The existence of the ground rent is an impediment to redevelopment of the site.

(6) At any time, the tenant may submit to the Department notice that the tenant is no longer seeking redemption or extinguishment under this subsection.

(7) Upon receipt of the documentation, fees, and where applicable, the redemption amount and 3 years' back rent to the extent required under this section and § 8–111.1 of this subtitle, the Department shall issue to the tenant a ground rent redemption certificate or a ground rent extinguishment certificate, as appropriate.

(8) The redemption or extinguishment of the ground rent is effective to conclusively vest a fee simple title in the tenant, free and clear of any and all right, title, or interest of the landlord, any lien of a creditor of the landlord, and any person claiming by, through, or under the landlord when the tenant records the certificate in the land records of the county in which the property is located.

(9) The landlord, any creditor of the landlord, or any other person claiming by, through, or under the landlord may file a claim with the Department in order to collect all, or any portion of, where applicable, the redemption amount and 3 years' back rent to the extent required under this section and § 8–111.1 of this subtitle, without interest, by providing to the Department:

(i) Documentation satisfactory to the Department of the claimant's interest; and

(ii) Payment of a \$20 fee, and any expediting fee required under § 1–203 of the Corporations and Associations Article.

(10) (i) A landlord whose ground rent has been extinguished may file a claim with the Baltimore City Director of Finance to collect an amount equal to the annual rent reserved multiplied by 16.66, which is capitalization at 6 percent, by providing to the Director:

1. Proof of payment to the landlord by the Department of back rent under paragraph (9) of this subsection; and

2. Payment of a \$20 fee.

(ii) A landlord of abandoned or distressed property [condemned] **ACQUIRED** by the Mayor and City Council of Baltimore City whose ground rent has been redeemed may file a claim with the Baltimore City Director of Finance to collect the redemption amount, by providing to the Director:

1. Proof of payment to the landlord by the Department of back rent under paragraph (9) of this subsection; and

2. Payment of a \$20 fee.

(11) (i) In the event of a dispute regarding the extinguishment amount as calculated under paragraph (10)(i) of this subsection, the landlord may refuse payment from the Baltimore City Director of Finance and file an appeal regarding the valuation in the Circuit Court of Baltimore City.

(ii) In an appeal, the landlord is entitled to receive the fair market value of the landlord's interest in the property at the time of the extinguishment.

(12) In the event of a dispute regarding the payment by the Department to any person of all or any portion of the collected redemption amount and up to 3 years' back rent to the extent required by this section and § 8-111.1 of this subtitle, the Department may:

(i) File an interpleader action in the circuit court of the county where the property is located; or

(ii) Reimburse the landlord from the fund established in § 1-203.3 of the Corporations and Associations Article.

(13) The Department is not liable for any sum received by the Department that exceeds the sum of:

(i) The redemption amount; and

(ii) Up to 3 years' back rent to the extent required by this section and § 8-111.1 of this subtitle.

(14) The Department shall credit all fees and funds collected under this subsection to the fund established under § 1-203.3 of the Corporations and Associations Article. Redemption and extinguishment amounts received shall be held in a ground rent redemption and ground rent extinguishment account in that fund.

(15) The Department shall maintain a list of properties for which ground rents have been redeemed or extinguished under this subsection.

(16) The Department shall adopt regulations to carry out the provisions of this subsection.

(17) Any redemption or extinguishment funds not collected by a landlord under this subsection within 20 years after the date of the payment to the Department by the tenant shall escheat to the State. The Department shall annually transfer any funds that remain uncollected after 20 years to the State General Fund at the end of each fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 542 – *Criminal Law – Aggravated Animal Cruelty – Baiting*.

This bill prohibits a person from using or allowing a dog to be used for baiting. This bill also prohibits a person from possessing, owning, selling, transporting, or training a dog with the intent to use the dog for baiting and a person from knowingly allowing specified premises to be used for baiting.

Senate Bill 360, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 542.

Sincerely,

Governor Martin O'Malley

**House Bill 542**

AN ACT concerning



**Criminal Law – Aggravated Animal Cruelty – Baiting**

FOR the purpose of prohibiting a person from using or allowing a dog to be used for baiting; prohibiting a person from possessing, owning, selling, transporting, or training a dog with the intent to use the dog for baiting; prohibiting a person from knowingly allowing certain premises to be used for baiting; defining a certain term; and generally relating to dogfights and baiting.

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 10–607  
Annotated Code of Maryland  
(2012 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Criminal Law**

10–607.

**(A) IN THIS SECTION, “BAITING” MEANS USING A DOG TO TRAIN A FIGHTING DOG OR TO TEST THE FIGHTING OR KILLING INSTINCT OF ANOTHER DOG.**

**[(a)] (B)** A person may not:

- (1) use or allow a dog to be used in a dogfight **OR FOR BAITING**;
- (2) arrange or conduct a dogfight;
- (3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight **OR FOR BAITING**; or
- (4) knowingly allow premises under the person’s ownership, charge, or control to be used to conduct a dogfight **OR FOR BAITING**.

**[(b)] (C)** (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 546 – *Washington County – Public Facilities Bonds*.

This bill authorizes and empowers the Board of County Commissioners of Washington County to borrow no more than \$60,000,000 in order to finance the cost of the construction, improvement, or development of specified public facilities in Washington County and to effect that borrowing by the issuance and sale at public or private sale of its general obligation bonds.

Senate Bill 508, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 546.

Sincerely,

Governor Martin O'Malley

**House Bill 546**

AN ACT concerning

**Washington County – Public Facilities Bonds**

FOR the purpose of authorizing and empowering the County Commissioners of Washington County, from time to time, to borrow not more than \$60,000,000 in order to finance the costs of the construction, improvement, or development of certain public facilities in Washington County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details

incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds, and the interest thereon and any income derived therefrom, from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land, woodland preservation easements, and transferable development rights; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Washington County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, the following, together with related architectural, financial, legal, planning, or engineering services:

- (a) Public school buildings, a school for the arts, administrative facilities, sites, and grounds;
- (b) Community College buildings, sites, and grounds;
- (c) Buildings and facilities for public safety, health and social services, libraries, County administration purposes, County airport purposes, refuse collection, recycling or disposal by whatever means, and park and recreation purposes;
- (d) Acquisition of land or interests in land and any improvement thereon; and
- (e) Easements or similar or related rights in land, including transferable development rights, that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, \$60,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of

general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of the County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 2C, 9, 10, and 11 of Article 31 of the Annotated Code of Maryland. The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds. If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the

terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, including the manner of receipt of bids, and a form of advertisement. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Washington County or such other official of the County as may be designated to receive such payment in a resolution passed by the County Commissioners of Washington County before such delivery. For purposes of issuance and sale, bonds, authorized hereunder may be consolidated into a single issue with any other bonds authorized to be issued by the County.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds within the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of Washington County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland.

Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the

General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Washington County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That the borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land, including transferable development rights, that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be by the direct exchange of installment purchase obligations for easements or transferable development rights, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements or transferable development rights by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, county, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 588 – *Baltimore City – Children – Records Access*.

This bill authorizes access to specified court records and police records by the Baltimore City Health Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice under specified circumstances and requires that the Baltimore City Health Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice be liable for the unauthorized release of specified records and information.

Senate Bill 473, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 588.

Sincerely,

Governor Martin O'Malley

### House Bill 588

AN ACT concerning

#### **Baltimore City – Children – Records Access**

FOR the purpose of authorizing access to certain court records and police records by the Baltimore City Health ~~Department~~ Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice under certain circumstances; requiring that the Baltimore City Health Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice be liable for the unauthorized release of certain records and information; requiring the Baltimore City Health Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice to submit a certain report within a certain period of time; requiring that certain records concerning child abuse and neglect be disclosed to the Baltimore City Health ~~Department~~ Department's Office of Youth Violence Prevention under certain circumstances; requiring the Department of Juvenile Services to disclose to the Baltimore City Health ~~Department~~ Department's Office of Youth Violence Prevention certain records concerning certain children under certain circumstances; requiring the Department of State Police to provide to the Baltimore City Health ~~Department~~ Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice certain information concerning certain children under certain circumstances; requiring the Baltimore City Health ~~Department~~ Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice to keep certain information confidential; authorizing the Baltimore City Health ~~Department~~ Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice to use certain information solely for certain purposes; providing for the termination of this Act; and generally relating to records concerning children and access by the Baltimore



City Health ~~Department~~ Department's Office of Youth Violence Prevention and the Baltimore City Mayor's Office on Criminal Justice.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–827(a) and 3–8A–27  
Annotated Code of Maryland  
(2006 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – Human Services  
Section 1–202(b) and (c)(1)(v)  
Annotated Code of Maryland  
(2007 Volume and 2012 Supplement)

BY adding to  
Article – Human Services  
Section 1–202(f) and 9–219(f)  
Annotated Code of Maryland  
(2007 Volume and 2012 Supplement)

BY adding to  
Article – Public Safety  
Section 2–308(d)  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Courts and Judicial Proceedings**

3–827.

(a) (1) All court records under this subtitle pertaining to a child shall be confidential and their contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.

(2) This subsection does not prohibit review of a court record by:

- (i) Personnel of the court;
- (ii) A party;
- (iii) Counsel for a party;
- (iv) A Court–Appointed Special Advocate for the child; [or]

(v) Authorized personnel of the Social Services Administration and local departments in order to conduct a child abuse or neglect investigation or to comply with requirements imposed under Title IV–E of the Social Security Act; OR

**(VI) THE BALTIMORE CITY HEALTH DEPARTMENT DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION:**

**1. IF THE BALTIMORE CITY HEALTH DEPARTMENT DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE;**

**2. IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; OR**

**3. IF THE RECORD CONCERNS A VICTIM OF, ~~OR A CHILD ADJUDICATED DELINQUENT FOR,~~ A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY; ~~OR~~**

**~~(VII) THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IF THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IS PROVIDING PROGRAMS AND SERVICES TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE PROGRAMS AND SERVICES.~~**

(3) Information obtained from a court record is subject to the provisions of §§ 1-201, 1-202, 1-204, and 1-205 of the Human Services Article.

**(4) (I) THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A COURT RECORD IT REVIEWS UNDER THIS SUBSECTION.**

**(II) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION REVIEWS A COURT RECORD UNDER THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION SHALL SUBMIT A REPORT TO THE COURT DETAILING THE PURPOSES FOR WHICH THE RECORD WAS USED.**

3-8A-27.

(a) (1) A police record concerning a child is confidential and shall be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided in § 7-303 of the Education Article.

(2) This subsection does not prohibit:

(i) Access to and confidential use of the record by the Department of Juvenile Services or in the investigation and prosecution of the child by any law enforcement agency;

**(II) ACCESS TO AND CONFIDENTIAL USE OF THE RECORD BY THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION:**

**1. IF THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE;**

**2. IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; OR**

**3. IF THE RECORD CONCERNS A VICTIM OF, ~~OR A CHILD ADJUDICATED DELINQUENT FOR,~~ A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY;**

**(III) ACCESS TO AND CONFIDENTIAL USE OF THE RECORD BY THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IF THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IS PROVIDING PROGRAMS AND SERVICES TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE PROGRAMS AND SERVICES AND THE DEVELOPMENT OF A COMPREHENSIVE TREATMENT PLAN;**

**[(ii)] (IV)** A law enforcement agency of the State or of a political subdivision of the State, the Department of Juvenile Services, or the criminal justice information system from including in the law enforcement computer information

system information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the writ; or

**[(iii)] (V)** A law enforcement agency of the State or of a political subdivision of the State from releasing to the public photographs and identifying information of a child who has escaped from a detention center for juveniles or a secure residential facility for juveniles, for the purposes of facilitating apprehension of the child and ensuring public safety.

**(3) (I) THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A POLICE RECORD IT ACCESSES UNDER THIS SUBSECTION.**

**(II) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE ACCESSES A POLICE RECORD UNDER THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE SHALL SUBMIT A REPORT TO THE COURT DETAILING THE PURPOSES FOR WHICH THE RECORD WAS USED.**

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in §§ 7–303 and 22–309 of the Education Article.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court-appointed special advocate for the child, or authorized personnel of the Department of Juvenile Services.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection does not prohibit access to and confidential use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the Department of Juvenile Services or in an investigation and prosecution by a law enforcement agency.

(ii) The court record or fingerprints of a child described under §§ 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be disclosed to:

1. A federal criminal justice agency or information center; or

2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.

(4) (i) The Department of Juvenile Services may provide access to and the confidential use of a treatment plan of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by an agency in the District of Columbia or a state agency in Virginia, if the agency:

1. Performs the same functions in the jurisdiction of the agency as described in § 9–216(a) of the Human Services Article;

2. Has a reciprocal agreement with the State that provides that the specific information to be shared by the State is the same type of information that will be shared by the agency; and

3. Has custody of the child.

(ii) A record that is shared under this paragraph may only provide information that is relevant to the supervision, care, and treatment of the child.

(iii) The Department of Juvenile Services shall be liable for an unauthorized release of a court record under this paragraph.

(iv) The Department of Juvenile Services shall adopt regulations to implement this paragraph.

(5) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, the State's Attorney, or the Maryland Division of Pretrial Detention and Services if:

1. The individual who is the subject of the court record is charged as an adult with an offense;

2. The access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and

3. The court record concerns an adjudication of delinquency that occurred within 3 years of the date the individual is charged as an adult.

(ii) The Court of Appeals may adopt rules to implement the provisions of this paragraph.

(6) (i) This subsection does not prohibit access to and confidential use of a court record by the Department of Human Resources for the purpose of claiming federal Title IV–E funds.

(ii) The Department of Human Resources shall be liable for the unauthorized release of a court record under this paragraph.

**(7) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND CONFIDENTIAL USE OF A COURT RECORD BY THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION:**

**(I) IF THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE;**

**(II) IF THE RECORD CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; OR**

**(III) IF THE RECORD CONCERNS A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.**

**(8) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND CONFIDENTIAL USE OF A COURT RECORD BY THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IF THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IS PROVIDING PROGRAMS AND SERVICES IN CONJUNCTION WITH THE BALTIMORE POLICE DEPARTMENT TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE PROGRAMS AND SERVICES AND THE DEVELOPMENT OF A COMPREHENSIVE TREATMENT PLAN.**

**(9) (I) THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A COURT RECORD IT ACCESSES UNDER THIS SUBSECTION.**

**(II) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE ACCESSES A COURT RECORD UNDER THIS SUBSECTION, THE BALTIMORE CITY HEALTH**

**DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE SHALL SUBMIT A REPORT TO THE COURT DETAILING THE PURPOSES FOR WHICH THE RECORD WAS USED.**

(c) The court, on its own motion or on petition, and for good cause shown, may order the court records of a child sealed, and, upon petition or on its own motion, shall order them sealed after the child has reached 21 years of age. If sealed, the court records of a child may not be opened, for any purpose, except by order of the court upon good cause shown.

(d) This section does not prohibit access to or use of any juvenile record by the Maryland Division of Parole and Probation or the Maryland Parole Commission when the Division or the Commission is carrying out any of their statutory duties either at the direction of a court of competent jurisdiction, or when the Maryland Parole Commission is carrying out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

(e) This section does not prohibit access to and use of any juvenile record by the Maryland Division of Correction when the Division is carrying out any of its statutory duties if: (1) the individual to whom the record pertains is committed to the custody of the Division; and (2) the record concerns an adjudication of delinquency.

(f) Subject to the provisions of §§ 9–219 and 9–220 of the Human Services Article, this section does not prohibit access to or use of any juvenile record for criminal justice research purposes. A record used under this subsection may not contain the name of the individual to whom the record pertains, or any other identifying information which could reveal the individual's name.

(g) This section does not prohibit a victim or victim's representative who has filed a notification request form from being notified of proceedings and events involving the defendant or child as provided in this subtitle, the Criminal Procedure Article, or the Criminal Law Article.

(h) This section does not prohibit the Department of Public Safety and Correctional Services or a supervising authority, as defined in § 11–701 of the Criminal Procedure Article, from accessing or using the part of a juvenile record that identifies an offense committed by a juvenile for purposes of complying with Title 11, Subtitle 7 of the Criminal Procedure Article.

**Article – Human Services**

1–202.

- (b) A report or record concerning child abuse or neglect shall be disclosed:
- (1) under a court order;

(2) under an order of an administrative law judge, if:

(i) the request for disclosure concerns a case pending before the Office of Administrative Hearings; and

(ii) provisions are made to comply with other State or federal confidentiality laws and to protect the identity of the reporter or other person whose life or safety is likely to be endangered by the disclosure; [or]

(3) to the Division of Parole and Probation in the Department of Public Safety and Correctional Services if, as a result of a report or investigation of suspected child abuse or neglect, the local department of social services has reason to believe that an individual who lives in or has a regular presence in a child's home is registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child; OR

**(4) ON A WRITTEN REQUEST, TO THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION:**

**(I) IF THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF A REPORT OF CHILD ABUSE OR NEGLECT, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE;**

**(II) IF THE RECORD OR REPORT CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; OR**

**(III) IF THE RECORD OR REPORT CONCERNS A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.**

(c) A report or record concerning child abuse or neglect:

(1) may be disclosed on request to:

(v) **SUBJECT TO THE PROVISIONS OF SUBSECTION (B)(4) OF THIS SECTION**, a licensed practitioner who, or an agency, institution, or program that, is providing treatment or care to a child who is the subject of a report of child abuse or neglect for a purpose relevant to the treatment or care;



**(F) (1) THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A REPORT OR RECORD UNDER SUBSECTION (B) OF THIS SECTION.**

**(2) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION RECEIVES A REPORT OR RECORD UNDER SUBSECTION (B) OF THIS SECTION, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL SUBMIT A REPORT TO THE DEPARTMENT OF HUMAN RESOURCES DETAILING THE PURPOSES FOR WHICH THE RECORD WAS USED.**

9-219.

**(F) (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE DEPARTMENT SHALL DISCLOSE TO THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION, ON A WRITTEN REQUEST:**

**(I) A CONFIDENTIAL RESEARCH RECORD CONCERNING A CHILD TO WHOM THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION IS PROVIDING TREATMENT OR CARE, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE;**

**(II) A CONFIDENTIAL RESEARCH RECORD CONCERNING A CHILD CONVICTED OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; OR**

**(III) A CONFIDENTIAL RESEARCH RECORD CONCERNING A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.**

**(2) (I) THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION SHALL KEEP CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

**(II) THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

(3) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION RECEIVES A CONFIDENTIAL RESEARCH RECORD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION SHALL SUBMIT A REPORT TO THE DEPARTMENT DETAILING THE PURPOSES FOR WHICH THE CONFIDENTIAL RECORD WAS USED.

Article – Public Safety

2-308.

(D) (1) THE DEPARTMENT SHALL PROVIDE TO THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION AND THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE, ON A WRITTEN REQUEST, INFORMATION CONCERNING:

(I) A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY; AND

(II) A CHILD CONVICTED OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY.

(2) THE BALTIMORE CITY HEALTH ~~DEPARTMENT~~ DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION:

(I) SHALL KEEP CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) MAY USE THE INFORMATION SOLELY TO DEVELOP APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.

(3) THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE:

(I) SHALL KEEP CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) MAY USE THE INFORMATION SOLELY TO DEVELOP APPROPRIATE PROGRAMS AND SERVICES TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE PROGRAMS AND SERVICES.

**(4) (I) THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF INFORMATION PROVIDED TO IT UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

**(II) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE REVIEWS THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT'S OFFICE OF YOUTH VIOLENCE PREVENTION OR THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE SHALL SUBMIT A REPORT TO THE DEPARTMENT DETAILING THE PURPOSES FOR WHICH THE INFORMATION WAS USED.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of 6 years and, at the end of September 30, 2019, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 626 – *Register of Wills – Salary*.

This bill increases the limit on the maximum salary that the Board of Public Works may set for a register of wills from \$98,500 to \$114,500. This bill also provides that the Act does not apply to the salary or compensation of an incumbent register of wills.

Senate Bill 196, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 626.

Sincerely,

Governor Martin O'Malley

**House Bill 626**

AN ACT concerning

**Register of Wills – Salary**

FOR the purpose of altering a certain limit on the maximum salary that the Board of Public Works may set for a register of wills; providing that this Act does not apply to the salary or compensation of an incumbent register of wills during a certain term of office; and generally relating to the salary of a register of wills.

BY repealing and reenacting, without amendments,  
Article – Estates and Trusts  
Section 2–205(a)  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 2–205(b)  
Annotated Code of Maryland  
(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Estates and Trusts**

2–205.

(a) (1) It is the intent of this section that each register shall receive a fair and adequate compensation for the effort and duties required of the register by the register's office.

(2) The volume and character of work done by the register shall be in comparison to the salary fixed by the Board of Public Works for each of the other registers.

(b) (1) Each register is entitled to receive an annual salary of not more than ~~[\$98,500]~~ **\$114,500**, to be determined in each instance by the Board of Public Works.

(2) In determining the annual salary of the register, the Board of Public Works shall be guided in the exercise of its discretion by:

(i) The population of the county determined by the last official United States census;

(ii) The dollar volume of total fees and taxes collected and excess fees turned over to the State for each of the preceding 5 years by the office of the register for which the salary is being fixed; and

(iii) Other pertinent data which have relation to the reasonableness of the salary in relation to the work done and volume handled by the office.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the registers of wills during a term of office beginning before the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the registers of wills shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 718 – *State Retirement and Pension System – Service Credit for Unused Sick Leave*.

This bill makes specified members of the State Retirement and Pension System eligible to receive creditable service at retirement for the total amount of unused sick leave accrued by the member in specified systems in the State Retirement and Pension System under specified circumstances. This bill provides for the calculation of the creditable service for unused sick leave accrued by a member in a specified system and requires the Department of Legislative Services to provide a specified report on or before December 1, 2013.

Senate Bill 813, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 718.

Sincerely,

Governor Martin O'Malley

### House Bill 718

AN ACT concerning

#### State Retirement and Pension System – Service Credit for Unused Sick Leave

FOR the purpose of making certain members of the State Retirement and Pension System eligible to receive creditable service at retirement for the total amount of unused sick leave accumulated as a member of a former system accrued by the member in certain systems in the State Retirement and Pension System under certain circumstances; providing for the ~~computation~~ calculation of the creditable service for unused sick leave ~~accumulated in the former State system~~ accrued by a member in certain systems; requiring the Department of Legislative Services and the State Retirement Agency to provide a certain report on or before a certain date; and generally relating to additional creditable service at retirement for unused sick leave for members of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 20–206  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### Article – State Personnel and Pensions

20–206.

(a) In this section, “unused sick leave” means sick leave credit that has not been used before retirement.

(b) This section does not apply to:

- (1) the Judges’ Retirement System; or
- (2) the Legislative Pension Plan.

(c) [A] EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A member is entitled to receive creditable service for unused sick leave if the member retires on or before 30 days after the member is separated from employment with a participating employer or a participating governmental unit that has withdrawn from one of the several systems under Title 31 of this article.

(d) (1) At retirement, a member is entitled to receive creditable service for unused sick leave, on verification of the unused sick leave to the Board of Trustees.

(2) (i) This subsection does not apply to the Local Fire and Police System or the Law Enforcement Officers' Pension System.

(ii) A member who separates from employment for reasons other than retirement on or before June 30, 1990, is entitled to receive creditable service for unused sick leave that is reported by the member's employer at the member's separation from employment if the member was entitled to a vested allowance at the time of separation.

(e) (1) Subject to paragraph (3) of this subsection, for 22 days of unused sick leave a member is entitled to receive 1 month of creditable service.

(2) If fractional days totaling 11 or more result from the application of the formula described in paragraph (1) of this subsection, a member is entitled to receive 1 additional month of creditable service.

(3) For the purposes of this section:

(i) a member may not accumulate more than 15 days of sick leave per year;

(ii) unless sick leave credit is accepted and credited by the current participating employer, a member may not receive credit for unused sick leave granted by a former employer; and

(iii) if a participating employer provides a member with more than 15 days of sick leave per year, before crediting the member with additional sick leave for a year, the Board of Trustees shall reduce the member's accumulated sick leave by the lesser of:

1. the days of sick leave used by the member in that year; or

2. the number of days of sick leave provided by the participating employer for the year, less 15.

~~(F) (1) THIS SUBSECTION APPLIES TO A MEMBER OF A STATE SYSTEM WHO:~~

~~(I) WAS TRANSFERRED INVOLUNTARILY FROM ANOTHER STATE SYSTEM AS A RESULT OF A CHANGE IN POSITION THAT RENDERED THE INDIVIDUAL INELIGIBLE FOR MEMBERSHIP IN THE FORMER STATE SYSTEM; AND~~

~~(II) DID NOT TRANSFER SERVICE CREDIT TO THE NEW STATE SYSTEM.~~

~~(2) A MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE FOR UNUSED SICK LEAVE THAT:~~

~~(I) IS ACCUMULATED WHILE A MEMBER OF THE STATE SYSTEM FROM WHICH THE MEMBER RETIRES AS PROVIDED IN SUBSECTIONS (C) THROUGH (E) OF THIS SECTION; AND~~

~~(II) WAS ACCUMULATED WHILE A MEMBER OF THE FORMER STATE SYSTEM AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION.~~

~~(3) (I) AT RETIREMENT, A MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE IN THE FORMER STATE SYSTEM FOR UNUSED SICK LEAVE ACCUMULATED WHILE A MEMBER OF THE FORMER STATE SYSTEM ON VERIFICATION OF THE UNUSED SICK LEAVE TO THE BOARD OF TRUSTEES.~~

~~(II) THE CREDITABLE SERVICE SHALL BE COMPUTED AS PROVIDED IN SUBSECTION (E) OF THIS SECTION.~~

(F) (1) THIS SUBSECTION APPLIES TO A MEMBER OF THE EMPLOYEES' PENSION SYSTEM WHO:

(I) WAS A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM AND WAS TRANSFERRED FROM THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM TO THE EMPLOYEES' PENSION SYSTEM AS A RESULT OF A CHANGE IN POSITION WITH THE SAME EMPLOYER THAT RENDERED THE INDIVIDUAL INELIGIBLE FOR MEMBERSHIP IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM; AND

(II) DID NOT TRANSFER SERVICE CREDIT FROM THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM TO THE EMPLOYEES' PENSION SYSTEM.



(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE FOR THE TOTAL AMOUNT OF UNUSED SICK LEAVE ACCRUED BY THE MEMBER AT THE TIME OF RETIREMENT.

(3) THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE SHALL BE CALCULATED FOR EACH OF THE TWO STATE SYSTEMS BY MULTIPLYING THE TOTAL AMOUNT OF UNUSED SICK LEAVE, CALCULATED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, BY A FRACTION:

(I) THE NUMERATOR OF WHICH IS THE CREDITABLE SERVICE EARNED IN THE STATE SYSTEM, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE; AND

(II) THE DENOMINATOR OF WHICH IS THE TOTAL CREDITABLE SERVICE EARNED IN BOTH STATE SYSTEMS, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE.

[(f)] (G) Credit for unused sick leave may not be used under this section:

- (1) to determine years of eligibility service required for a benefit under this Division II; or
- (2) to compute average final compensation.

[(g)] (H) A State employee who came into the State system while retaining sick leave and annual leave benefits under a county system and who came under the provisions of Chapter 423 of the Acts of 1971 shall be entitled to the same full credit toward retirement as provided by this section.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Department of Legislative Services shall report to the Joint Committee on Pensions on~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Legislative Services and the State Retirement Agency shall:

(a) (1) study the requirement for a member of the Correctional Officers' Retirement System to join the Employees' Pension System as a condition of employment when the member is promoted to certain positions, including:

- (i) when the requirement was established;
- (ii) the rationale for the requirement;

(iii) the number of individuals who have been affected by the requirement; and

(iv) the difference in benefits between the Correctional Officers' Retirement System and the Employees' Pension System, including whether the benefits have changed since the Correctional Officers' Retirement System was established; and

(2) determine the cost of authorizing a member of the Correctional Officers' Retirement System to remain a member of the Correctional Officers' Retirement System even though the member is promoted to a position in which the member must join the Employees' Pension System as a condition of employment; and

(b) on or before December 1, 2013, report any findings and recommendations to the Joint Committee on Pensions.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 725 – *Vehicle Laws – Title and Registration – Transfer to Surviving Spouse*.

This bill establishes that when the interest in a vehicle of one joint owner passes to another joint owner who is the surviving spouse, the surviving spouse is not required to apply for a new certificate of title or submit a specified certificate of title to the Motor Vehicle Administration until a specified time. The bill authorizes a surviving spouse to drive a vehicle and allow the vehicle to be driven on a highway until a specified time without applying for a registration.

Senate Bill 25, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 725.

Sincerely,

Governor Martin O'Malley

**House Bill 725**

AN ACT concerning

**Vehicle Laws – Title and Registration – Transfer to Surviving Spouse**

FOR the purpose of establishing that when the interest in a vehicle of one joint owner passes by operation of law to another joint owner who is the surviving spouse, the surviving spouse is not required to apply for a new certificate of title or submit a certain certificate of title to the Motor Vehicle Administration until a certain time; authorizing a surviving spouse to drive a certain vehicle and allow the vehicle to be driven on a highway until a certain time without applying for a certain registration if the interest in the vehicle passes to the surviving spouse through joint ownership; prohibiting the Administration, on the death of a joint owner of a vehicle, from charging a fee to another joint owner who is the surviving spouse for the issuance of a new certificate of title for the vehicle; and generally relating to the title and registration of a vehicle transferred to a surviving spouse.

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 13–114, 13–504, 13–801, and 13–802  
Annotated Code of Maryland  
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 13–805  
Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Transportation**

13–114.

(a) Except as otherwise provided in this section, if the interest of an owner in a vehicle for which a certificate of title has been issued passes to another person other than by voluntary transfer, the transferee shall present to the Administration the last certificate of title for the vehicle, if available.

(b) Except as otherwise provided in this section, if the interest of an owner in a vehicle for which a certificate of title has been issued passes to another person other than by voluntary transfer, the transferee shall apply for a new certificate of title.

(c) (1) The application for a new certificate of title under subsection (b) of this section shall be accompanied by such instruments or documents of authority or certified copies of them as are sufficient in law or required by law to evidence or effect a transfer of title or interest in or to chattels in such case.

(2) A written assignment of title or interest is not required if the prior owner's title or interest has passed to the transferee as a result of a judicial decree, order, or proceeding.

(d) (1) If the interest of an owner in a vehicle for which a certificate of title has been issued passes to a legatee or distributee as a result of testamentary disposition or intestate devolution:

(i) An application for a new certificate of title need not be made until the expiration of the last annual registration in the name of the deceased owner; and

(ii) The certificate of title need not be submitted to the Administration until the application for a new certificate of title is made.

(2) If title is assigned properly by the personal representative of the deceased owner, a certificate of letters testamentary or of administration issued by a court of competent jurisdiction in this State is sufficient authority for the Administration to transfer the title of the vehicle of a deceased owner.

(e) (1) The Administration may transfer on its records the ownership of a vehicle that has been repossessed by a secured party, if the secured party submits to the Administration a certification that states:

(i) That the secured party has a security interest in the vehicle;

(ii) That, on the basis of the security agreement or other lawful basis, the secured party has a right to the possession of and title to the vehicle;

(iii) That the secured party has possession of the vehicle; and

(iv) Any other information that the Administration requires.

(2) On submission of the certification to it, the Administration may issue a new certificate of title if it is satisfied that the secured party is entitled to one.

**(F) IN THE CASE OF A VEHICLE FOR WHICH A CERTIFICATE OF TITLE HAS BEEN ISSUED TO MARRIED INDIVIDUALS AS JOINT OWNERS, IF THE**

**INTEREST IN THE VEHICLE OF ONE OF THE JOINT OWNERS WHO HAS DIED PASSES BY OPERATION OF LAW TO THE SURVIVING SPOUSE:**

**(1) AN APPLICATION FOR A NEW CERTIFICATE OF TITLE NEED NOT BE MADE UNTIL THE EXPIRATION OF THE LAST REGISTRATION IN THE NAME OF THE JOINT OWNERS; AND**

**(2) THE CERTIFICATE OF TITLE NEED NOT BE SUBMITTED TO THE ADMINISTRATION UNTIL THE APPLICATION FOR A NEW CERTIFICATE OF TITLE IS MADE.**

13-504.

(a) Except as otherwise provided in this section, if the title or interest of an owner in a registered vehicle passes to another person other than by voluntary transfer:

(1) The registration of the vehicle expires; and

(2) The vehicle may not be driven on a highway until the person entitled to possession of the vehicle applies for and obtains a new registration of the vehicle.

(b) However, the person entitled to possession of the vehicle, or his authorized representative, may drive the vehicle on highways in this State for a distance of not more than 200 miles, but only from the place that the person or his authorized representative obtained possession of the vehicle to the person's place of business, residence, or other place where the vehicle is to be kept.

(c) During the operation of a vehicle described in subsection (b) of this section, the registration plates issued to the former owner may be displayed on the vehicle.

(d) After the operation of a vehicle described in subsection (b) of this section is completed or, even before this operation is completed, on request of the former owner or the Administration, the person who obtained possession of the vehicle shall return its registration plates to the former owner or to the Administration.

(e) After 24 hours of the earlier of the request or the completion of the operation described in subsection (b) of this section, no person, other than the person to whom the registration plates originally were issued, may have the registration plates in his possession, whether or not they are in use.

(f) If the title or interest of an owner in a registered vehicle passes to a legatee or distributee as a result of testamentary disposition or intestate devolution, the personal representative, legatee, or distributee may drive the vehicle and permit it

to be driven on the highways, without applying for a new registration, until the expiration of the last annual registration in the name of the deceased owner.

**(G) IF THE INTEREST IN A REGISTERED VEHICLE OF A JOINT OWNER WHO HAS DIED PASSES TO THE SURVIVING SPOUSE THROUGH JOINT OWNERSHIP, THE SURVIVING SPOUSE MAY DRIVE THE VEHICLE AND ALLOW IT TO BE DRIVEN ON A HIGHWAY, WITHOUT APPLYING FOR A NEW REGISTRATION, UNTIL THE EXPIRATION OF THE LAST REGISTRATION IN THE NAME OF THE JOINT OWNERS.**

13–801.

[The] ANY APPLICABLE fees specified in this part for a certificate of title shall be paid to the Administration before issuance of the certificate.

13–802.

(a) Except as provided in subsection (b) of this section and § 13–805 of this subtitle, the fee for each certificate of title issued under this title is \$100.

(b) (1) For fiscal years 2012 through 2014 only, the fee for each certificate of title issued for a rental vehicle is \$50.

(2) The fee for each certificate of title issued for a motor scooter or a moped is \$20.

**(3) ON THE DEATH OF A JOINT OWNER OF A VEHICLE, THE ADMINISTRATION MAY NOT CHARGE A FEE FOR A NEW CERTIFICATE OF TITLE ISSUED FOR THE VEHICLE TO ANOTHER JOINT OWNER WHO IS THE SURVIVING SPOUSE.**

13–805.

For the issuance of a duplicate certificate of title, issued under § 13–111 of this title to replace a lost, stolen, or damaged certificate of title, the fee shall be established by the Administration.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 730 – *Election Law – Polling Places – Electioneering*.

This bill requires that electioneering be allowed on the premises of a public building that is used for a polling place up to a specified electioneering boundary and also requires that campaign signs be allowed on the premises of a public building that is used for a polling place for, at a minimum, specified time periods. The bill prohibits a polling place from being located in a privately owned building except under specified circumstances.

Senate Bill 542, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 730.

Sincerely,

Governor Martin O'Malley

### House Bill 730

AN ACT concerning

#### **Election Law – Polling Places – Electioneering**

FOR the purpose of requiring that electioneering be allowed on the premises of a public building that is used for a polling place up to a certain electioneering boundary; requiring that campaign signs be allowed on the premises of a public building that is used for a polling place for, at a minimum, certain time periods; prohibiting a polling place from being located in a privately owned building ~~unless the owner of the building agrees to allow electioneering on the premises up to a certain electioneering boundary~~ except under certain circumstances; and generally relating to electioneering at polling places.

BY repealing and reenacting, without amendments,  
Article – Election Law  
Section 10-101(a)(1) and (2)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – Election Law  
 Section 10–101(a)(3) and (4)  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Election Law**

10–101.

(a) (1) Each local board shall designate a polling place that meets the requirements of this subsection for each precinct in the county as established by the local board in accordance with Title 2 of this article.

(2) Each polling place shall:

(i) provide an environment that is suitable to the proper conduct of an election;

(ii) be located as conveniently as practicable for the majority of registered voters assigned to that polling place;

(iii) except as authorized in paragraph (4) of this subsection, be in a public building;

(iv) be in the precinct that it serves unless no suitable location for a polling place can be found within that precinct, in which case the board may establish the polling place in an adjacent precinct; and

(v) whenever practicable, be selected and arranged to avoid architectural and other barriers that impede access or voting by elderly and physically disabled voters.

(3) (i) The public official responsible for the use of any public building requested by a local board for a polling place shall make available to the local board, without charge, the space that is needed in the building for the proper conduct of an election.

(ii) Light, heat, and custodial and janitorial services for the space shall be provided to the local board without charge.

**(III) 1. ~~ELECTIONEERING~~ SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, ELECTIONEERING SHALL BE ALLOWED ON THE PREMISES OF THE PUBLIC BUILDING UP TO THE**



ELECTIONEERING BOUNDARY ESTABLISHED UNDER § 16-206(B) OF THIS ARTICLE.

**2. CAMPAIGN SIGNS SHALL BE ALLOWED ON THE PREMISES OF THE PUBLIC BUILDING, AT A MINIMUM, FROM:**

**A. 7 P.M. THE DAY IMMEDIATELY PRECEDING ELECTION DAY UNTIL 8 A.M. ON THE DAY IMMEDIATELY FOLLOWING ELECTION DAY; AND**

**B. 7 P.M. THE DAY BEFORE AN EARLY VOTING PERIOD BEGINS UNDER § 10-301.1 OF THIS TITLE UNTIL 8 A.M. THE DAY AFTER THE EARLY VOTING PERIOD ENDS.**

(4) (i) If suitable space in a public building is not available, a local board may pay a reasonable fee for the use of space in a privately owned building.

**(II) A POLLING PLACE MAY NOT BE LOCATED IN A PRIVATELY OWNED BUILDING UNLESS THE OWNER OF THE BUILDING AGREES TO:**

**1. ALLOW ELECTIONEERING ON THE PREMISES UP TO THE ELECTIONEERING BOUNDARY ESTABLISHED UNDER § 16-206(B) OF THIS ARTICLE; AND**

**2. ALLOW CAMPAIGN SIGNS ON THE PREMISES, AT A MINIMUM, FROM:**

**A. 7 P.M. THE DAY IMMEDIATELY PRECEDING ELECTION DAY UNTIL 8 A.M. ON THE DAY IMMEDIATELY FOLLOWING ELECTION DAY; AND**

**B. 7 P.M. THE DAY BEFORE AN EARLY VOTING PERIOD BEGINS UNDER § 10-301.1 OF THIS TITLE UNTIL 8 A.M. THE DAY AFTER THE EARLY VOTING PERIOD ENDS.**

**[(ii)] (III)** Except as provided in subparagraphs **[(iii)](IV)** and **[(iv)](V)** of this paragraph, an election may not be held in any building or part of any building used or occupied by an establishment that holds an alcoholic beverages license.

**[(iii)] (IV)** An election may be held in a building that is owned and occupied by an establishment that holds an alcoholic beverages license if:

1. the local board determines that there is no suitable alternative place to hold an election;

2. the licensee agrees not to sell or dispense alcoholic beverages during the period beginning 2 hours before the polls open and ending 2 hours after the polls close; and

3. where applicable, all ballots are removed from the polling place by the local board immediately following the election.

**[(iv)] (v)** An early voting center may be located in a building that is partially occupied by an establishment that holds an alcoholic beverages license if:

1. the State Board, in collaboration with a local board, determines that the building is a suitable site for an early voting center; and

2. the entrance to a licensee's establishment is at least 100 feet from the entrance to the building that is closest to the part of the building where the early voting center is located.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 777 – *Criminal Procedure – Bail Bonds – Cash Bail*.

This bill authorizes in circuit courts and in the District Court cash bail or cash bond to be posted by the defendant, by an individual, or by a specified private surety acting for the defendant under specified circumstances. The bill requires cash bail or cash bond to be posted by the defendant only, unless the order setting bail expressly provides otherwise, in cases involving a defendant's failure to pay support to specified individuals and provides for the repeal of laws inconsistent with the Act.

Senate Bill 505, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 777.

Sincerely,

Governor Martin O'Malley

### House Bill 777

AN ACT concerning

#### Criminal Procedure – Bail Bonds – Cash Bail

FOR the purpose of authorizing in circuit courts and in the District Court cash bail or cash bond to be posted by the defendant, by an individual, or by a certain private surety acting for the defendant under certain circumstances; requiring cash bail or cash bond to be posted by the defendant only, unless the order setting bail expressly provides otherwise, in cases involving a defendant's failure to pay support to certain individuals; providing for the repeal of laws inconsistent with this Act; and generally relating to bail bonds in circuit courts and in the District Court.

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 5–203 and 5–205  
Annotated Code of Maryland  
(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### Article – Criminal Procedure

5–203.

(a) (1) Subject to [paragraph (2)] **PARAGRAPHS (2) AND (3)** of this subsection, a circuit court may adopt rules setting the terms and conditions of bail bonds filed in that court and rules on the qualifications of and fees charged by bail bondsmen.

(2) Notwithstanding any other law or rule to the contrary, if expressly authorized by the court, a defendant or a private surety acting for the defendant may post a bail bond by executing it in the full penalty amount and depositing with the clerk of court the greater of 10% of the penalty amount or \$25.

**(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF AN ORDER SETTING “CASH BAIL” OR “CASH BOND” SPECIFIES THAT IT MAY BE POSTED BY THE DEFENDANT ONLY, THE “CASH BAIL” OR “CASH BOND” MAY BE POSTED BY THE DEFENDANT, BY AN INDIVIDUAL, OR BY A PRIVATE SURETY, ACTING FOR THE DEFENDANT, THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE.**

**(II) UNLESS OTHERWISE ORDERED BY THE COURT, AN ORDER SETTING “CASH BAIL” OR “CASH BOND” FOR A FAILURE TO PAY SUPPORT UNDER TITLE 10, TITLE 11, TITLE 12, OR TITLE 13 OF THE FAMILY LAW ARTICLE MAY BE POSTED BY THE DEFENDANT ONLY.**

**[(3)] (4)** A bail bond commissioner may be appointed to carry out rules adopted under this section.

**[(4)] (5)** A violation of a rule adopted under this section is contempt of court and shall be punished in accordance with Title 15, Chapter 200 of the Maryland Rules.

**[(5)] (6)** A person may not engage in the business of becoming a surety for compensation on bail bonds in criminal cases unless the person is:

(i) approved in accordance with any rules adopted under this section; and

(ii) if required under the Insurance Article, licensed in accordance with the Insurance Article.

(b) (1) In the circuit courts in the Seventh Judicial Circuit, a bail bondsman approved under subsection (a) of this section shall pay a license fee of 1% of the gross value of all bail bonds written in all courts of the circuit, if the fee is approved by the court of the county in which it applies.

(2) The fee shall be paid to the court as required by the rules of court and shall be used to pay the expenses of carrying out this section.

(3) Any absolute bail bond forfeitures collected may be used to pay the expenses of carrying out this section.

5–205.

(a) A District Court judge may:

(1) set bond or bail;

- (2) release a defendant on personal recognizance or on a personal or other bail bond;
- (3) commit a defendant to a correctional facility in default of a bail bond;
- (4) order a bail bond forfeited if the defendant fails to meet the conditions of the bond; and
- (5) exercise all of the powers of a justice of the peace under the Constitution of 1867.

**(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF AN ORDER SETTING “CASH BAIL” OR “CASH BOND” SPECIFIES THAT IT MAY BE POSTED BY THE DEFENDANT ONLY, THE “CASH BAIL” OR “CASH BOND” MAY BE POSTED BY THE DEFENDANT, BY AN INDIVIDUAL, OR BY A PRIVATE SURETY, ACTING FOR THE DEFENDANT, THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE.**

**(2) UNLESS OTHERWISE EXPRESSLY ORDERED BY THE COURT OR DISTRICT COURT COMMISSIONER, AN ORDER SETTING “CASH BAIL” OR “CASH BOND” FOR A FAILURE TO PAY SUPPORT UNDER TITLE 10, TITLE 11, TITLE 12, OR TITLE 13 OF THE FAMILY LAW ARTICLE MAY BE POSTED BY THE DEFENDANT ONLY.**

**[(b)] (C) (1)** This subsection does not apply to a defendant who has been arrested for failure to appear in court or for contempt of court.

(2) (i) Notwithstanding any other law or rule to the contrary, in a criminal or traffic case in the District Court in which a bail bond has been set and if expressly authorized by the court or District Court commissioner, the defendant or a private surety acting for the defendant may post the bail bond by:

1. executing it in the full penalty amount; and
2. depositing with the clerk of the court or a commissioner the greater of 10% of the penalty amount or \$25.

(ii) A judicial officer may increase the percentage of cash surety required in a particular case but may not authorize a cash deposit of less than \$25.

(3) On depositing the amount required under paragraph (2) of this subsection and executing the recognizance, the defendant shall be released from custody subject to the conditions of the bail bond.

[(c)] (D) (1) When all conditions of the bail bond have been performed without default and the defendant has been discharged from all obligations in the cause for which the recognizance was posted, the clerk of the court shall return the deposit to the person or private surety who deposited it.

(2) (i) If the defendant fails to perform any condition of the bail bond, the bail bond shall be forfeited.

(ii) If the bail bond is forfeited, the liability of the bail bond shall extend to the full amount of the bail bond set and the amount posted as a deposit shall be applied to reduce the liability incurred by the forfeiture.

SECTION 2. AND BE IT FURTHER ENACTED, That all laws or parts of laws, public general or public local, inconsistent with this Act, are repealed to the extent of the inconsistency.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 785 – *Commercial Law – Maryland Credit Services Businesses Act – Scope*.

This bill alters the definition of “credit services business” for purposes of the Maryland Credit Services Businesses Act, to exclude a person licensed by the State as an associate real estate broker or a real estate salesperson.

Senate Bill 375, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 785.

Sincerely,

Governor Martin O'Malley

**House Bill 785**

AN ACT concerning

**Commercial Law – Maryland Credit Services Businesses Act – Scope**

FOR the purpose of altering the definition of “credit services business” for purposes of the Maryland Credit Services Businesses Act to exclude a person licensed by the State as an associate real estate broker or a real estate salesperson; and generally relating to the Maryland Credit Services Businesses Act.

BY repealing and reenacting, without amendments,  
Article – Commercial Law  
Section 14–1901(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,  
Article – Commercial Law  
Section 14–1901(e)(3)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Commercial Law**

14–1901.

(a) In this subtitle the following words have the meanings indicated.

(e) (3) “Credit services business” does not include:

(i) Any person authorized to make loans or extensions of credit under the laws of this State or the United States who is actively engaged in the business of making loans or other extensions of credit to residents of this State;

(ii) Any bank, trust company, savings bank, or savings and loan association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any credit union organized and chartered under the laws of this State or the United States;

(iii) Any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));

(iv) Any person licensed as a real estate broker, **AN ASSOCIATE REAL ESTATE BROKER, OR A REAL ESTATE SALESPERSON** by this State where the person is acting within the course and scope of that license;

(v) Any person licensed as a mortgage lender by this State;

(vi) An individual admitted to the Bar of the Court of Appeals of Maryland when the individual renders services within the course and scope of practice by the individual as a lawyer and does not engage in the credit services business on a regular and continuing basis;

(vii) Any broker–dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker–dealer is acting within the course and scope of that regulation;

(viii) Any consumer reporting agency as defined in the federal Fair Credit Reporting Act (15 U.S.C. §§ 1681 – 1681t) or in § 14–1201(e) of this title; or

(ix) An individual licensed by the Maryland Board of Public Accountancy when the individual renders services within the course and scope of practice by the individual as a certified public accountant and does not engage in the credit services business on a regular and continuing basis.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H–101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 802 – *Calvert County – Public Facilities Bonds*.

This bill authorizes and empowers the County Commissioners of Calvert County, from time to time, to borrow not more than \$33,810,000 to finance the construction, improvement, or development of specified public facilities in Calvert County and to effect such borrowing by the issuance and sale of its general obligation bonds.



Senate Bill 458, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 802.

Sincerely,

Governor Martin O'Malley

### **House Bill 802**

AN ACT concerning

#### **Calvert County – Public Facilities Bonds**

FOR the purpose of authorizing and empowering the County Commissioners of Calvert County, from time to time, to borrow not more than \$33,810,000 to finance the construction, improvement, or development of certain public facilities in Calvert County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term “County” means the body politic and corporate of the State of Maryland known as the County Commissioners of Calvert County, and the term “construction, improvement, or development of public facilities” means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities, including but not limited to the Emergency Communication System Upgrade and Expansions, Appeal Waterline Extension, Pasri Oaks Pump Station Rehab, and St. Leonard Well and Storage, and issuance costs together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, \$33,810,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Calvert County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in a bond order pursuant to the bond resolution. The bonds may be issued in registered form and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Calvert County or such other official of Calvert County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure

the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County in such an amount as shall be necessary for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from

time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Calvert County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 846 – *Carroll County – Public Facilities Bonds*.

This bill authorizes and empowers the County Commissioners of Carroll County, from time to time, to borrow not more than \$40,000,000 in order to finance the construction, improvement, or development of specified public facilities in Carroll County and to effect such borrowing by issuance and sale at public or private sale of its general obligation bonds.

Senate Bill 588, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 846.

Sincerely,

Governor Martin O'Malley

### House Bill 846

AN ACT concerning

#### Carroll County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than \$40,000,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency-related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term “County” means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll County, and the term “construction, improvement, or development of public facilities” means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public

school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, \$40,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants

regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term “bonds” used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in



the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or

emergency-related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as

supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 863 – *Higher Education Fair Share Act*.

This bill alters the matters of negotiation that may be included in collective bargaining between an employee organization and specified system institutions, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College and requires employees of specified institutions of higher education to furnish written proof of specified payments to the President of the institution or the President's designee.

Senate Bill 841, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 863.

Sincerely,

Governor Martin O'Malley

## House Bill 863

AN ACT concerning

**Higher Education Fair Share Act**

FOR the purpose of altering the matters of negotiation that may be included in collective bargaining between an employee organization and certain system institutions, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College; ~~requiring that written proof of employee payments to certain charitable organizations be furnished to the president of a certain institution or the president's~~ *employees of certain institutions of higher education to furnish written proof of certain payments to the President of the institution or the President's designee*; and generally relating to collective bargaining for employees of certain State institutions of higher education.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 3–502  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – State Personnel and Pensions**

3–502.

(a) Collective bargaining shall include all matters relating to wages, hours, and other terms and conditions of employment.

(b) (1) [Except as provided in paragraph (3) of this subsection, collective] **COLLECTIVE** bargaining may include negotiations relating to the right of an employee organization to receive service fees from nonmembers.

(2) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) not required to pay a service fee; and

(ii) required to pay an amount of money as determined in collective bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code and to furnish **WRITTEN PROOF OF THE PAYMENT** to:

1. A. the Department ~~OR;~~ OR

B. IN THE CASE OF AN EMPLOYEE OF AN INSTITUTION LISTED OF HIGHER EDUCATION SPECIFIED IN § 3-102(A)(1)(V) OF THIS TITLE, THE ~~PRESIDENT~~ PRESIDENT OF THE INSTITUTION OR THE ~~PRESIDENT'S~~ PRESIDENT'S DESIGNEE; and

2. the exclusive representative ~~written proof of such payment.~~

[(3) Collective bargaining between an employee organization and a system institution, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College may not include negotiations relating to the right of an employee organization to receive service fees from nonmembers.]

(c) Notwithstanding subsection (a) of this section, the representatives of the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(1) shall not be required to negotiate over any matter that is inconsistent with applicable law; and

(2) may negotiate and reach agreement with regard to any such matter only if it is understood that the agreement with respect to such matter cannot become effective unless the applicable law is amended by the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 889 – *Vehicles Laws – Emergency Vehicles – Motorcades and Escorts.*

This bill authorizes the driver of specified emergency vehicles to exercise specified privileges while performing motorcade or escort duties. This bill also authorizes specified emergency vehicles to travel through any jurisdiction in the State as necessary to perform and return from motorcade or escort duty and requires a jurisdiction that employs a driver who travels through another jurisdiction while performing or returning from motorcade or escort duty to provide specified notice to the other jurisdiction.

Senate Bill 621, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 889.

Sincerely,

Governor Martin O'Malley

**House Bill 889**

AN ACT concerning

**Vehicles Laws – Emergency Vehicles – Motorcades and Escorts**

FOR the purpose of authorizing the driver of certain emergency vehicles to exercise certain privileges while performing certain motorcade or escort duties; authorizing certain emergency vehicles to travel through any jurisdiction in the State as necessary to perform and return from motorcade or escort duty; requiring a jurisdiction that employs a driver who travels through another jurisdiction while performing or returning from motorcade or escort duty to provide certain notice to the other jurisdiction; prohibiting the driver of an emergency vehicle from using certain equipment while returning from motorcade or escort duty; and generally relating to the performance of motorcade or escort duty by an emergency vehicle.

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 11–118  
Annotated Code of Maryland  
(2012 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 21–106  
Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### Article – Transportation

11–118.

“Emergency vehicle” means any of the following vehicles that are designated by the Administration as entitled to the exemptions and privileges set forth in the Maryland Vehicle Law for emergency vehicles:

- (1) Vehicles of federal, State, or local law enforcement agencies;
- (2) Vehicles of volunteer fire companies, rescue squads, fire departments, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Fire and Rescue Institute;
- (3) State vehicles used in response to oil or hazardous materials spills;
- (4) State vehicles designated for emergency use by the Commissioner of Correction;
- (5) Ambulances; and
- (6) Special vehicles funded or provided by federal, State, or local government and used for emergency or rescue purposes in this State.

21–106.

(a) Subject to the conditions stated in this section[, the]:

**(1) THE driver of an emergency vehicle registered in any state may exercise the privileges set forth in this section while:**

- [(1)] (I) Responding to an emergency call;**
- [(2)] (II) Pursuing a violator or suspected violator of the law; or**
- [(3)] (III) Responding to, but not while returning from, a fire alarm[.];**

**AND**

**(2) THE DRIVER OF AN EMERGENCY VEHICLE REGISTERED IN THE STATE OR A LOCAL JURISDICTION IN THE STATE MAY EXERCISE THE PRIVILEGES SET FORTH IN THIS SECTION WHILE PERFORMING MOTORCADE OR ESCORT DUTY IF THE MOTORCADE OR ESCORT DUTY INVOLVES:**

- (I) HOMELAND SECURITY;**

(II) A FUNERAL;

(III) A DIGNITARY; OR

(IV) **FACILITATING THE SAFE MOVEMENT OF VEHICLES OR PEDESTRIANS THAT ARE OR WILL BE NEAR THE MOTORCADE OR ESCORT.**

(b) Under the circumstances stated in subsection (a) of this section, the driver of an emergency vehicle may:

(1) Park or stand without regard to the other provisions of this title;

(2) Pass a red or stop signal, a stop sign, or a yield sign, but only after slowing down as necessary for safety;

(3) Exceed any maximum speed limit, but only so long as the driver does not endanger life or property; [and]

(4) Disregard any traffic control device or regulation governing direction of movement or turning in a specified direction; **AND**

(5) **TRAVEL THROUGH ANY LOCAL JURISDICTION IN THE STATE AS NECESSARY TO PERFORM AND RETURN FROM MOTORCADE OR ESCORT DUTY.**

(c) (1) Subject to paragraph (2) of this subsection, the privileges set forth in this section apply only while the emergency vehicle is using audible and visual signals that meet the requirements of § 22–218 of this article, except that an emergency vehicle operated as a police vehicle need not be equipped with or display the visual signals.

(2) The privileges set forth in subsection (b)(1) of this section apply only while the emergency vehicle is using visual signals that meet the requirements of § 22–218 of this article.

(3) (i) The driver of an emergency vehicle may not use flashing lights or a bell, siren, or exhaust whistle while returning from an emergency call [or fire], **FIRE alarm, OR MOTORCADE OR ESCORT**, except that fire apparatus carrying standing firemen may use flashing lights that are visible only to the rear.

(ii) The driver of an emergency vehicle, while parking or backing the emergency vehicle, may use flashing lights within 100 feet of the entrance ramp to a:

1. Fire station; or
2. Rescue station.



**(4) BEFORE EXERCISING THE PRIVILEGES SET FORTH IN SUBSECTION (B)(5) OF THIS SECTION, THE JURISDICTION THAT EMPLOYS THE DRIVER OF A MOTORCADE OR ESCORT SHALL PROVIDE NOTICE OF THE MOTORCADE OR ESCORT TO ANY JURISDICTION THAT THE DRIVER WILL ENTER WHILE PERFORMING OR RETURNING FROM THE MOTORCADE OR ESCORT DUTY.**

(d) This section does not relieve the driver of an emergency vehicle from the duty to drive with due regard for the safety of all persons.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 890 – *Health – Overdose Response Program – Establishment*.

This bill provides for an Overdose Response Program overseen by the Department of Health and Mental Hygiene and requiring the Department to adopt regulations and authorizing the Department to take other actions. The bill specifies the requirements an individual must meet to qualify for a specified certificate and authorizes a certified individual to receive a prescription for naloxone and supplies, possess prescribed naloxone and supplies, and administer naloxone, under specified circumstances, to specified individuals.

Senate Bill 610, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 890.

Sincerely,

Governor Martin O'Malley

## House Bill 890

AN ACT concerning

**Health – Overdose Response Program – Establishment**

FOR the purpose of providing for an Overdose Response Program overseen by the Department of Health and Mental Hygiene; stating the purpose of the Program; ~~authorizing~~ requiring the Department to adopt certain regulations and ~~authorizing the Department to~~ take certain other action regarding the Program; specifying the requirements an individual must meet to qualify for a certain certificate; requiring that a certain educational training program be conducted by a physician or nurse practitioner or certain other individuals and include certain training; requiring an applicant for a certificate to submit a certain application; requiring a certain public or private entity to issue a certificate to an applicant under certain circumstances; requiring that a certificate contain certain information; providing that a replacement certificate may be issued under certain circumstances; providing for the term and renewal of a certain certificate; authorizing an individual who is certified to receive from a certain individual a prescription for naloxone and certain supplies, possess prescribed naloxone and certain paraphernalia, and administer naloxone, under certain circumstances, to certain individuals; authorizing a physician or nurse practitioner to prescribe and dispense naloxone to a certificate holder; ~~prohibiting a certain cause of action from arising against a certificate holder, physician, or nurse practitioner under certain circumstances; prohibiting a certificate holder, physician, and nurse practitioner from being held civilly or criminally liable for certain actions;~~ providing that a certificate holder, under certain circumstances, may not be considered to be practicing medicine for the purposes of a certain provision of law; ~~providing that a certain provision of this Act does not affect certain immunities or defenses; prohibiting an individual from being held civilly liable in certain actions under certain circumstances~~ providing that a physician who prescribes or dispenses naloxone may not be subject to certain disciplinary or other action under certain circumstances; providing for the construction of this Act; defining certain terms; and generally relating to the Overdose Response Program.

BY adding to

Article – Health – General

Section 13–3101 through ~~13–3110~~ 13–3109 to be under the new subtitle  
“Subtitle 31. Overdose Response Program”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health – General**

**SUBTITLE 31. OVERDOSE RESPONSE PROGRAM.****13-3101.**

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY A PRIVATE OR PUBLIC ENTITY TO ADMINISTER NALOXONE.

(C) "PRIVATE OR PUBLIC ENTITY" MEANS A HEALTH CARE PROVIDER, LOCAL HEALTH DEPARTMENT, COMMUNITY-BASED ORGANIZATION, SUBSTANCE ABUSE TREATMENT ORGANIZATION, OR OTHER PERSON THAT ADDRESSES MEDICAL OR SOCIAL ISSUES RELATED TO DRUG ADDICTION.

(D) "PROGRAM" MEANS AN OVERDOSE RESPONSE PROGRAM.

**13-3102.**

AN OVERDOSE RESPONSE PROGRAM IS A PROGRAM OVERSEEN BY THE DEPARTMENT FOR THE PURPOSE OF PROVIDING A MEANS OF AUTHORIZING CERTAIN INDIVIDUALS TO ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING, OR BELIEVED TO BE EXPERIENCING, OPIOID OVERDOSE TO HELP PREVENT A FATALITY WHEN MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE.

**13-3103.**

(A) THE DEPARTMENT MAY:

~~(1)~~ ADOPT SHALL ADOPT REGULATIONS NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM.

(B) THE DEPARTMENT MAY:

~~(2)~~ (1) COLLECT FEES NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM;

~~(3)~~ (2) AUTHORIZE PRIVATE OR PUBLIC ENTITIES TO ISSUE AND RENEW CERTIFICATES TO PERSONS MEETING THE REQUIREMENTS OF THIS SUBTITLE;

~~(4)~~ (3) (I) AUTHORIZE PRIVATE OR PUBLIC ENTITIES TO CONDUCT EDUCATIONAL TRAINING PROGRAMS DESCRIBED IN § 13-3104 OF THIS SUBTITLE; AND

(II) DEVELOP GUIDANCE REGARDING THE CONTENT OF EDUCATIONAL TRAINING PROGRAMS CONDUCTED BY PRIVATE OR PUBLIC ENTITIES; AND

~~(5)~~ (4) COLLECT AND REPORT DATA ON THE OPERATION AND RESULTS OF THE PROGRAMS.

13-3104.

(A) TO QUALIFY FOR A CERTIFICATE, AN INDIVIDUAL SHALL MEET THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(C) THE APPLICANT SHALL HAVE, OR REASONABLY EXPECT TO HAVE, AS A RESULT OF THE INDIVIDUAL'S OCCUPATION OR VOLUNTEER, FAMILY, OR SOCIAL STATUS, THE ABILITY TO ASSIST AN INDIVIDUAL WHO IS EXPERIENCING AN OPIOID OVERDOSE.

(D) (1) THE APPLICANT SHALL SUCCESSFULLY COMPLETE AN EDUCATIONAL TRAINING PROGRAM ~~APPROVED~~ OFFERED BY A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT.

(2) AN EDUCATIONAL TRAINING PROGRAM REQUIRED UNDER THIS SUBSECTION SHALL:

(I) BE CONDUCTED BY:

1. A PHYSICIAN LICENSED TO PRACTICE MEDICINE UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE;

2. A NURSE PRACTITIONER LICENSED TO PRACTICE REGISTERED NURSING UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE AND CERTIFIED AS A NURSE PRACTITIONER BY THE STATE BOARD OF NURSING; OR

3. AN EMPLOYEE OR A VOLUNTEER OF A PRIVATE OR PUBLIC ENTITY THAT MAINTAINS A WRITTEN AGREEMENT WITH A SUPERVISORY PHYSICIAN OR NURSE PRACTITIONER THAT INCLUDES:

**A. PROCEDURES FOR PROVIDING PATIENT OVERDOSE INFORMATION;**

**B. INFORMATION AS TO HOW THE EMPLOYEE OR VOLUNTEER PROVIDING THE INFORMATION WILL BE TRAINED; AND**

**C. STANDARDS FOR DOCUMENTING THE PROVISION OF PATIENT OVERDOSE INFORMATION TO PATIENTS; AND**

**(II) INCLUDE TRAINING IN:**

**1. THE RECOGNITION OF THE SYMPTOMS OF OPIOID OVERDOSE;**

**2. THE PROPER ADMINISTRATION OF NALOXONE;**

**3. THE IMPORTANCE OF CONTACTING EMERGENCY MEDICAL SERVICES;**

**4. THE CARE OF AN INDIVIDUAL AFTER THE ADMINISTRATION OF NALOXONE; AND**

**5. ANY OTHER TOPICS REQUIRED BY THE DEPARTMENT.**

**13-3105.**

**AN APPLICANT FOR A CERTIFICATE SHALL SUBMIT AN APPLICATION TO A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT REQUIRES.**

**13-3106.**

**(A) A PRIVATE OR PUBLIC ENTITY AUTHORIZED BY THE DEPARTMENT SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.**

**(B) EACH CERTIFICATE SHALL INCLUDE:**

**(1) A STATEMENT THAT THE HOLDER IS AUTHORIZED TO ADMINISTER NALOXONE IN ACCORDANCE WITH THIS SUBTITLE;**

**(2) THE FULL NAME OF THE CERTIFICATE HOLDER; AND**

(3) A SERIAL NUMBER.

(C) A REPLACEMENT CERTIFICATE MAY BE ISSUED TO REPLACE A LOST, DESTROYED, OR MUTILATED CERTIFICATE.

(D) (1) THE CERTIFICATE SHALL BE VALID FOR 2 YEARS AND MAY BE RENEWED.

(2) IN ORDER TO RENEW A CERTIFICATE, THE CERTIFICATE HOLDER SHALL:

(I) SUCCESSFULLY COMPLETE A REFRESHER TRAINING PROGRAM CONDUCTED BY AN AUTHORIZED PRIVATE OR PUBLIC ENTITY; OR

(II) DEMONSTRATE PROFICIENCY TO THE PRIVATE OR PUBLIC ENTITY ISSUING CERTIFICATES UNDER THIS SUBTITLE.

13-3107.

AN INDIVIDUAL WHO IS CERTIFIED MAY:

(1) ON PRESENTMENT OF A CERTIFICATE, RECEIVE FROM ANY PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE, OR ANY NURSE PRACTITIONER LICENSED TO PRACTICE NURSING IN THE STATE, A PRESCRIPTION FOR NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE;

(2) POSSESS PRESCRIBED NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE; AND

(3) IN AN EMERGENCY SITUATION WHEN MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE, ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE.

13-3108.

A PHYSICIAN OR NURSE PRACTITIONER MAY PRESCRIBE AND DISPENSE NALOXONE TO A CERTIFICATE HOLDER.

13-3109.

(A) ~~(1) A CAUSE OF ACTION MAY NOT ARISE AGAINST A CERTIFICATE HOLDER AUTHORIZED UNDER THIS SUBTITLE FOR ANY ACT OR OMISSION WHEN~~

~~THE CERTIFICATE HOLDER IS ACTING IN GOOD FAITH WHILE RENDERING EMERGENCY TREATMENT TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE, UNLESS THE CONDUCT OF THE CERTIFICATE HOLDER AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.~~

~~(2) A CERTIFICATE HOLDER WHO IS IN POSSESSION OF OR IS ADMINISTERING NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE MAY NOT BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ACTIONS AUTHORIZED BY THIS SUBTITLE.~~

~~(3) A CERTIFICATE HOLDER WHO, IN ACCORDANCE WITH THIS SUBTITLE, IS ADMINISTERING NALOXONE TO AN INDIVIDUAL EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING AN OPIOID OVERDOSE MAY NOT BE CONSIDERED TO BE PRACTICING MEDICINE FOR THE PURPOSES OF TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE.~~

~~(B) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHYSICIAN OR NURSE PRACTITIONER FOR ANY ACT OR OMISSION WHEN THE PHYSICIAN OR NURSE PRACTITIONER IN GOOD FAITH PRESCRIBES, TO AN INDIVIDUAL CERTIFIED UNDER § 13-3106 OF THIS SUBTITLE, NALOXONE AND THE NECESSARY SUPPLIES FOR THE ADMINISTRATION OF NALOXONE.~~

~~(2) A PHYSICIAN OR NURSE PRACTITIONER MAY NOT BE HELD CIVILLY OR CRIMINALLY LIABLE FOR ACTIONS AUTHORIZED BY THIS SUBTITLE.~~

~~(C) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED TO AFFECT, ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED BY ANY OTHER PROVISION OF STATE LAW OR BY COMMON LAW TO WHICH A VOLUNTEER, PHYSICIAN, OR NURSE PRACTITIONER MAY BE ENTITLED.~~

~~13-3110.~~

~~(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO:~~

~~(1) CREATE A DUTY ON ANY INDIVIDUAL TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE, AND AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE FOR FAILING TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE; OR~~

~~(2) CREATE A DUTY ON A CERTIFICATE HOLDER TO ADMINISTER NALOXONE TO AN INDIVIDUAL EXPERIENCING, OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING, AN OPIOID OVERDOSE.~~

~~(B) AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE IN ANY ACTION ARISING FROM OR IN CONNECTION WITH THE ADMINISTRATION OF NALOXONE BY THE INDIVIDUAL SOLELY BECAUSE THE INDIVIDUAL DID NOT POSSESS A CERTIFICATE ISSUED UNDER THIS SUBTITLE~~ A PHYSICIAN WHO PRESCRIBES OR DISPENSES NALOXONE TO A CERTIFICATE HOLDER IN A MANNER CONSISTENT WITH THE PROTOCOL ESTABLISHED BY THE AUTHORIZED PRIVATE OR PUBLIC ENTITY MAY NOT BE SUBJECT TO ANY DISCIPLINARY OR OTHER ACTION UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE SOLELY FOR THE ACT OF PRESCRIBING OR DISPENSING NALOXONE TO THE CERTIFICATE HOLDER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 905 – *Health Occupations – Funeral Establishments – Preparation and Holding Rooms*.

This bill establishes that a funeral establishment that uses a central preparation room at another funeral establishment is not required to have its own preparation room or holding room.

Senate Bill 335, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 905.

Sincerely,

Governor Martin O'Malley



**House Bill 905**

AN ACT concerning

**Health Occupations – Funeral Establishments – Preparation and Holding Rooms**

FOR the purpose of establishing that a funeral establishment that uses a central preparation room at another funeral establishment is not required to have its own preparation room or holding room; and generally relating to funeral establishments.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 7–310  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health Occupations**

7–310.

(a) (1) A funeral establishment shall be licensed by the Board before the establishment may be used for the preparation of the remains, viewing, and conducting of services.

(2) The licensee may be restricted to operations as determined by the Board.

(b) (1) To apply for a funeral establishment license, an applicant shall:

(i) Submit an application to the Board on the form that the Board requires; and

(ii) Pay to the Board:

1. An application fee set by the Board; and

2. The fee established under § 7–4A–05(a) of this title.

(2) An application for a funeral establishment license shall be signed by a licensed individual who is not an apprentice but is the owner or co-owner of the establishment to be licensed.

(c) The Board shall issue a funeral establishment license to a funeral establishment that:

- (1) Has complied with all applicable State and local laws;
- (2) Will be owned and operated in accordance with this title by at least one licensed mortician or one licensed funeral director, or a holder of a surviving spouse or corporation license; and
- (3) Will be held responsible for any and all activities performed on the premises.

(d) Signs and advertisements of a funeral establishment shall display the name that appears on the establishment license.

**(E) A FUNERAL ESTABLISHMENT THAT USES A CENTRAL PREPARATION ROOM AT ANOTHER FUNERAL ESTABLISHMENT IS NOT REQUIRED TO HAVE ITS OWN PREPARATION ROOM OR HOLDING ROOM.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 977 – *Motor Vehicle Registration – Special Vintage Reproduction Registration Plate*.

This bill requires the Motor Vehicle Administration to develop and make available a specially designed vintage reproduction registration plate and prescribes who may apply for and the classes of vehicles eligible for the registration plate. This bill also provides the manner in which fees will be established, collected, and distributed in connection with the registration plate and requires that the registration plate be available for a specified time and resemble a specified registration plate issued by the State.

Senate Bill 39, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 977.

Sincerely,

Governor Martin O'Malley

### **House Bill 977**

AN ACT concerning

#### **Motor Vehicle Registration – Special Vintage Reproduction Registration Plate**

FOR the purpose of requiring the Motor Vehicle Administration to develop and make available a specially designed vintage reproduction registration plate; prescribing who may apply for and the classes of vehicles eligible for the registration plate; providing the manner in which fees will be established, collected, and distributed in connection with the registration plate; requiring that the registration plate be available for sale for a certain time and resemble a certain registration plate issued by the State; providing for a delayed effective date; and generally relating to the issuance of special registration plates.

BY adding to

Article – Transportation  
Section 13–619.3  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Transportation**

##### **13–619.3.**

**(A) THE ADMINISTRATION SHALL DEVELOP AND MAKE AVAILABLE FOR QUALIFYING VEHICLES A SPECIALLY DESIGNED VINTAGE REPRODUCTION REGISTRATION PLATE.**

**(B) THE OWNER OF A VEHICLE, OR A LESSEE OF THE VEHICLE UNDER A LEASE NOT INTENDED AS SECURITY, OR A DIRECTOR, AN OFFICER, AN EMPLOYEE, OR A PARTNER OF A BUSINESS ENTITY THAT OWNS THE VEHICLE CONSIDERED ELIGIBLE BY THE ADMINISTRATION MAY APPLY TO THE**

ADMINISTRATION FOR A REGISTRATION PLATE UNDER THIS SECTION IF THE VEHICLE IS INCLUDED IN ONE OF THE FOLLOWING CLASSES:

(1) A CLASS A (PASSENGER) VEHICLE;

(2) A CLASS E (TRUCK) VEHICLE WITH A MANUFACTURER'S RATED CAPACITY OF 1 TON OR LESS;

(3) A CLASS L (HISTORIC) VEHICLE;

(4) A CLASS M (MULTIPURPOSE) VEHICLE; OR

(5) A CLASS N (STREET ROD) VEHICLE.

(C) IN ADDITION TO THE ANNUAL REGISTRATION FEE OTHERWISE REQUIRED UNDER THIS TITLE, AN OWNER OF A VEHICLE ASSIGNED A REGISTRATION PLATE UNDER THIS SECTION SHALL PAY WHEN INITIALLY ISSUED THE REGISTRATION PLATE AND EACH TIME THE REGISTRATION PLATE IS RENEWED:

(1) A FEE SET BY THE ADMINISTRATION TO RECOVER THE ADMINISTRATION'S COSTS UNDER THIS SECTION; AND

(2) A FEE SET BY THE ADMINISTRATION TO BE CREDITED TO THE GASOLINE AND MOTOR VEHICLE REVENUE ACCOUNT FOR DISTRIBUTION UNDER § 8-403 OR § 8-404 OF THIS ARTICLE.

(D) THE SPECIAL REGISTRATION PLATE ISSUED UNDER THIS SECTION SHALL:

(1) BE AVAILABLE FOR SALE FOR 1 YEAR FROM THE DATE OF INITIAL ISSUANCE; AND

(2) RESEMBLE THE BLACK LETTERING ON YELLOW BACKGROUND REGISTRATION PLATE ISSUED BY THE STATE FOR DISPLAY ON A MOTOR VEHICLE IN 1910.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2014.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 999 – *Worcester County – Alcoholic Beverages*.

This bill alters in Worcester County the privileges of specified alcoholic beverages licenses and creates a Class EF (entertainment facility) beer, wine and liquor license. This bill also authorizes a license holder to sell beer, wine, and liquor from one or more outlets in a specified entertainment facility, for consumption anywhere throughout the entertainment facility only, and increases the maximum fine to \$4,000 in the county that may be imposed on a person for a specified alcoholic beverages violation.

Senate Bill 949, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 999.

Sincerely,

Governor Martin O'Malley

### House Bill 999

AN ACT concerning

#### **Worcester County – Alcoholic Beverages Licenses – Fines – Alcohol Awareness Program**

FOR the purpose of altering in Worcester County the privileges relating to the sale of alcoholic beverages by the holders of certain alcoholic beverages licenses; creating a Class EF (entertainment facility) beer, wine and liquor license; authorizing a license holder to sell beer, wine, and liquor, from one or more outlets in a certain entertainment facility, for consumption anywhere throughout the entertainment facility only; requiring a facility for which a license is issued to have a certain amount of capital investment; authorizing the Board of License Commissioners to issue one or more licenses for the same facility; specifying the hours of sale and a certain license fee; increasing the maximum fine in the county that may be imposed on a person for a certain alcoholic beverages violation; exempting a certain licensee in the county from a certain requirement regarding certification by an approved alcohol awareness program; allowing in the county a person who is certified by a program to be

absent from the licensed premises under certain circumstances; authorizing the Department of Liquor Control, acting as a wholesaler, to purchase wine and liquor under certain circumstances; prohibiting the resale of certain wine and liquor until a certain excise tax has been paid; authorizing the Department, acting as a retailer, to purchase wine and liquor under certain circumstances; altering a certain date on which a licensee in the county may elect to purchase wine or liquor from a licensed wholesaler; and generally relating to alcoholic beverages in Worcester County.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 6–201(a)(1) and (y)(1), 6–401(y)(1) and (2)(i), and 13–101(c)(1) and (2)(iii)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 6–201(y)(4), 6–401(y)(2)(iv), 11–304(a)(2), ~~and~~ 13–101(c)(2)(i), (ii), and (iv)1., 15–205(l), and 15–204(e)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 6–201(y)(9)

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article 2B – Alcoholic Beverages**

6–201.

(a) (1) A Class B beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located, and the license authorizes its holder to keep for sale and sell all alcoholic beverages at retail at any hotel or restaurant at the place described, for consumption on the premises or elsewhere, or as provided in this section.

(y) (1) This subsection applies only in Worcester County.

(4) Seven–day license holders may sell beer, wine and liquor [(on–sale) and beer and light wine (off–sale)] **(ON–SALE OR OFF–SALE)**.

**(9) (I) THERE IS A CLASS EF (ENTERTAINMENT FACILITY) BEER, WINE AND LIQUOR LICENSE.**

**(II) A CLASS EF LICENSE AUTHORIZES THE HOLDER TO SELL BEER, WINE, AND LIQUOR BY THE DRINK AND BY THE BOTTLE, FROM ONE OR MORE OUTLETS IN THE ENTERTAINMENT FACILITY, FOR CONSUMPTION ANYWHERE THROUGHOUT THE ENTERTAINMENT FACILITY.**

**(III) A HOLDER OF A CLASS EF LICENSE MAY NOT SELL ALCOHOLIC BEVERAGES FOR OFF-SALE CONSUMPTION.**

**(IV) NOTWITHSTANDING § 8-208(B) OF THIS ARTICLE, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS EF LICENSE ONLY IF THE APPLICANT HAS AN INITIAL CAPITAL INVESTMENT IN THE FACILITY FOR WHICH THE LICENSE IS SOUGHT OF AT LEAST \$45,000,000.**

**(V) THE BOARD MAY ISSUE ONE OR MORE CLASS EF LICENSES FOR THE SAME FACILITY.**

**(VI) A CLASS EF LICENSE AUTHORIZES THE SALE AND SERVING OF BEER, WINE, AND LIQUOR ANYWHERE THROUGHOUT THE ENTERTAINMENT FACILITY DURING THOSE DAYS THAT THE ENTERTAINMENT FACILITY IS OPEN FOR BUSINESS AND FROM 9:00 A.M. THROUGH 4:00 A.M. THE FOLLOWING DAY.**

**(VII) A CLASS EF LICENSE AUTHORIZES DANCING AND THE PLAYING OF MUSIC.**

**~~(VII)~~(VIII) THE ANNUAL LICENSE FEE IS \$15,000.**

6-401.

(y) (1) This subsection applies only in Worcester County.

(2) (i) A Class D beer, wine and liquor license may be issued only within:

1. The corporate limits of Ocean City;
2. The boundary lines of the 10th taxing district;
3. The area bounded by U.S. Route 50 to the south, Turville Creek and Herring Creek to the east, St. Martin River to the north, and Maryland Route 589 to the west;

4. The area bounded by Maryland Route 589 to the north and east, U.S. Route 50 to the south, and U.S. Route 113 to the west; and

5. From the intersection of Maryland Route 589 and U.S. Route 50, an area bounded by a line that extends 1,500 feet south of U.S. Route 50, east to the boundary of the 10th taxing district, north along the 10th taxing district boundary to U.S. Route 50, and west to the intersection of Maryland Route 589 and U.S. Route 50.

(iv) Seven-day license holders may sell beer, wine and liquor [(on-sale) and beer and light wine (off-sale)] **(ON-SALE AND OFF-SALE)**.

11-304.

(a) (2) Except as provided in this section, any person found consuming any alcoholic beverage on any premises open to the general public, and any owner, operator or manager of those premises or places who knowingly permits consumption between the hours provided by this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$50 and not less than \$5.

(i) In Anne Arundel County the fine may not be more than \$250.

(ii) In Worcester County the fine may not be more than **[\$1,000]**  
**\$4,000.**

13-101.

(c) (1) A holder of any class of retail alcoholic beverages license or an employee designated by the holder shall complete training in an approved alcohol awareness program. The training shall be valid for a period of 4 years, and the holder shall complete retraining in an approved program for each successive 4-year period.

(2) (i) This paragraph applies only in the following jurisdictions:

1. Howard County;
2. Montgomery County;
3. Kent County;
4. Washington County;
5. Caroline County; **[and]**



6. Except as provided in subparagraph (ii) of this paragraph, Wicomico County; **AND**

**7. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, WORCESTER COUNTY.**

(ii) This paragraph does not apply to a licensee in Wicomico County **OR WORCESTER COUNTY** with a Class C license.

(iii) The licensee or a person who is employed in a supervisory capacity designated by the licensee:

1. Shall be certified by an approved alcohol awareness program; and

2. Except as otherwise provided in subparagraph (iv) of this paragraph, be present during the hours in which alcohol may be sold.

(iv) 1. In Howard County, Kent County, Washington County, [and] Wicomico County, **AND WORCESTER COUNTY**, the person certified by an approved alcohol awareness program may be absent from the licensed premises for a bona fide personal or business reason or an emergency, if the absence lasts for not more than 2 hours.

15-204.

(e) (1) In this subsection, "Department" means the Worcester County Department of Liquor Control.

(2) This subsection applies only in Worcester County.

(3) (i) Beginning on [May 1, 2016] **JULY 1, 2014**, a licensee in the county may elect to purchase wine or liquor from a licensed wholesaler by providing written notice of the licensee's intent to the Department at least 60 days before the date the purchasing activity is to start.

(ii) The notice shall contain:

1. The name of the licensee;

2. The name and address of the licensed premises; and

3. The date that the notice was sent to the Department.

(4) A licensee that meets the requirements of this subsection may purchase wine or liquor from a licensed wholesaler in addition to or instead of the Department.

(5) (i) The Department shall issue a letter of confirmation to a licensee that meets the requirements of this subsection.

(ii) The licensee shall display the letter conspicuously on the licensed premises.

15-205.

(1) (1) In Worcester County, subject to the approval of the County Commissioners, the Director of the Department of Liquor Control may purchase or otherwise acquire:

[(1)] (I) Real or personal property that the Director considers necessary to operate dispensaries, stores, or warehouses; and

[(2)] (II) [Wine] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WINE and liquor from any source for resale.

(2) (I) 1. ACTING AS A WHOLESALER, ~~THE~~ THE DEPARTMENT OF LIQUOR CONTROL ~~ACTING AS A WHOLESALER~~ MAY PURCHASE WINE AND LIQUOR, ON WHICH THE EXCISE TAX HAS NOT BEEN PAID, FROM A LICENSED WHOLESALER.

2. THE DEPARTMENT OF LIQUOR CONTROL MAY ONLY RESELL THE WINE AND LIQUOR PURCHASED UNDER THIS SUBPARAGRAPH TO A NONDISPENSARY, LICENSED RETAILER AND ONLY AFTER THE EXCISE TAX HAS BEEN PAID.

(II) ~~REGARDLESS OF ANY OTHER STATE LAW OR REGULATION TO THE CONTRARY, WINE AND LIQUOR PURCHASED BY THE DEPARTMENT OF LIQUOR CONTROL FROM ANY SOURCE, INCLUDING A GOVERNMENTAL ALCOHOLIC BEVERAGE CONTROL DEPARTMENT OR AGENCY OF ANOTHER STATE, A NONRESIDENT WHOLESALER WHETHER OR NOT LICENSED IN THIS STATE OR ACTING AS A WHOLESALER, OR A LICENSED WHOLESALER OR LIQUOR CONTROL BOARD, MAY NOT BE RESOLD UNTIL THE EXCISE TAX IMPOSED BY § 5-102 OF THE TAX GENERAL ARTICLE HAS BEEN PAID. ACTING AS A RETAILER, THE DEPARTMENT OF LIQUOR CONTROL MAY PURCHASE WINE AND LIQUOR, ON WHICH THE EXCISE TAX HAS BEEN PAID, FROM A LICENSED WHOLESALER FOR RETAIL SALE IN DISPENSARY STORES.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1024 – *Employees' Pension System – Elected or Appointed Officials – Membership*.

This bill prohibits specified individuals who are serving in specified elected or appointed positions from being members of the Employees' Pension System while serving in those positions.

Senate Bill 674, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1024.

Sincerely,

Governor Martin O'Malley

### House Bill 1024

AN ACT concerning

### **Employees' Pension System – Elected or Appointed Officials – ~~Optional~~ Membership**

FOR the purpose of ~~providing that certain elected or appointed officials whose employers are participating employers of the State Retirement and Pension System may elect to join the Employees' Pension System within a certain period of time; providing that certain elected or appointed officials whose employers are participating employers of the State Retirement and Pension System may elect to cease membership in the Employees' Pension System within a certain period of time; requiring certain elected or appointed officials who make an election to join or an election to cease membership to complete a certain form~~

~~and file it with the Board of Trustees for the State Retirement and Pension System; providing that certain elected or appointed officials who do not make an election to join within a certain period of time may not join the Employees' Pension System; providing that certain elected or appointed officials who do not make an election to cease membership within a certain period of time remain members in the Employees' Pension System; requiring the Board of Trustees to adopt certain regulations; defining a certain term; prohibiting certain individuals who are serving in certain elected or appointed positions from being members of the Employees' Pension System while serving in those positions; and generally relating to optional membership for elected or appointed officials in the Employees' Pension System.~~

~~BY adding to~~

~~Article State Personnel and Pensions~~

~~Section 23-204.1~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2012 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~the Laws of Maryland read as follows:~~

~~Article State Personnel and Pensions~~

~~23-204.1.~~

~~(A) IN THIS SECTION, "ELECTED OR APPOINTED OFFICIAL" MEANS AN INDIVIDUAL EMPLOYED BY A PARTICIPATING EMPLOYER AS:~~

- ~~(1) A STATE'S ATTORNEY;~~
- ~~(2) A SHERIFF, OTHER THAN THE BALTIMORE CITY SHERIFF;~~
- ~~(3) AN ELECTED OFFICIAL OF A COUNTY OR MUNICIPAL CORPORATION;~~
- ~~(4) AN ORPHANS' COURT JUDGE FOR A COUNTY THAT IS NOT REQUIRED TO PAY A PENSION UNDER § 2-108(Y) OF THE ESTATES AND TRUSTS ARTICLE;~~
- ~~(5) A MEMBER OF A BOARD THAT REGULATES GAMING UNDER TITLE 13 OF THE CRIMINAL LAW ARTICLE; OR~~
- ~~(6) A MEMBER OF A LOCAL LICENSING BOARD AS DEFINED IN ARTICLE 2B, § 1-101 OF THE CODE.~~

~~(B) (1) (i) MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS OPTIONAL FOR AN INDIVIDUAL WHO:~~

~~1. IS SERVING AS AN ELECTED OR APPOINTED OFFICIAL ON OR AFTER JULY 1, 2011;~~

~~2. REMAINS IN THE SAME ELECTED OR APPOINTED POSITION ON JULY 1, 2013; AND~~

~~3. IS NOT ENROLLED IN THE EMPLOYEES' PENSION SYSTEM.~~

~~(H) AN INDIVIDUAL UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH WHO ELECTS TO JOIN THE EMPLOYEES' PENSION SYSTEM MUST MAKE THE ELECTION IN WRITING ON A FORM PROVIDED BY THE BOARD OF TRUSTEES AND MUST FILE THE FORM WITH THE BOARD OF TRUSTEES ON OR BEFORE SEPTEMBER 30, 2013.~~

~~(III) AN INDIVIDUAL WHO DOES NOT ELECT TO JOIN THE EMPLOYEES' PENSION SYSTEM AS PROVIDED UNDER SUBPARAGRAPH (H) IF THIS PARAGRAPH MAY NOT JOIN THE EMPLOYEES' PENSION SYSTEM AS AN ELECTED OR APPOINTED OFFICIAL WHILE SERVING IN THE SAME ELECTED OR APPOINTED POSITION.~~

~~(2) (i) MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS OPTIONAL FOR AN INDIVIDUAL WHO:~~

~~1. BEGINS SERVING AS AN ELECTED OR APPOINTED OFFICIAL ON OR AFTER JULY 1, 2013; OR~~

~~2. A. WAS SERVING AS AN ELECTED OR APPOINTED OFFICIAL ON OR AFTER JULY 1, 2011;~~

~~B. BEGINS SERVING AS AN ELECTED OR APPOINTED OFFICIAL IN A DIFFERENT POSITION ON OR AFTER JULY 1, 2013; AND~~

~~C. IS NOT ENROLLED IN THE EMPLOYEES' PENSION SYSTEM.~~

~~(H) AN INDIVIDUAL UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH WHO ELECTS TO JOIN THE EMPLOYEES' PENSION SYSTEM MUST MAKE THE ELECTION IN WRITING ON A FORM PROVIDED BY THE BOARD OF TRUSTEES AND MUST FILE THE FORM WITH THE BOARD OF TRUSTEES WITHIN 3~~

~~MONTHS OF BECOMING AN ELECTED OR APPOINTED OFFICIAL IN A NEW OR DIFFERENT POSITION ON OR AFTER JULY 1, 2013.~~

~~(H) AN INDIVIDUAL WHO DOES NOT ELECT TO JOIN THE EMPLOYEES' PENSION SYSTEM AS PROVIDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY NOT JOIN THE EMPLOYEES' PENSION SYSTEM AS AN ELECTED OR APPOINTED OFFICIAL WHILE SERVING IN THAT ELECTED OR APPOINTED POSITION.~~

~~(3) AN ELECTED OR APPOINTED OFFICIAL'S ELECTION UNDER THIS SUBSECTION TO JOIN THE EMPLOYEES' PENSION SYSTEM IS A ONE-TIME, IRREVOCABLE ELECTION.~~

~~(c) (1) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO:~~

~~(i) IS AN ELECTED OR APPOINTED OFFICIAL ON OR AFTER JULY 1, 2011, AND REMAINS AN ELECTED OR APPOINTED OFFICIAL ON JULY 1, 2013; AND~~

~~(ii) IS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM.~~

~~(2) AN ELECTED OR APPOINTED OFFICIAL UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY ELECT TO CEASE BEING A MEMBER IN THE EMPLOYEES' PENSION SYSTEM AT THE START OF THE OFFICIAL'S NEW TERM OF OFFICE.~~

~~(3) AN ELECTION TO TERMINATE MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM SHALL BE MADE IN WRITING ON A FORM PROVIDED BY THE BOARD OF TRUSTEES AND FILED WITH THE BOARD OF TRUSTEES PROMPTLY AFTER THE START OF THE OFFICIAL'S NEW TERM OF OFFICE.~~

~~(4) AN ELECTED OR APPOINTED OFFICIAL'S ELECTION UNDER THIS SUBSECTION TO TERMINATE MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS A ONE-TIME, IRREVOCABLE ELECTION.~~

~~(5) AN ELECTED OR APPOINTED OFFICIAL WHO DOES NOT ELECT TO TERMINATE MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM REMAINS A MEMBER IN THE EMPLOYEES' PENSION SYSTEM.~~

~~(d) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

(a) This section applies to an individual:

(1) (i) who, on or after July 1, 2011, was serving as an elected or appointed official of a municipality that became a participating governmental unit on or after July 1, 2006, and remains in the same elected or appointed position on July 1, 2013;

(ii) for whom no member or employer contributions have been made with respect to the individual's service as an elected or appointed official; and

(iii) who has not been enrolled in the Employees' Pension System on or before June 30, 2013; or

(2) (i) who, on or after July 1, 2011, was serving as an orphans' court judge in a county not required to provide a pension under § 2-108 of the Estates and Trusts Article and remains an orphans' court judge on July 1, 2013;

(ii) for whom no member or employer contributions have been made with respect to the individual's service as an orphans' court judge; and

(iii) who has not been enrolled in the Employees' Pension System on or before June 30, 2013.

(b) Notwithstanding any other provision of law to the contrary, an individual under subsection (a) of this section may not be a member of the Employees' Pension System while in the position described in subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1042 – *Hospitals – Credentialing and Privileging Process – Telemedicine*.

This bill authorizes a hospital, in its credentialing and privileging process for a physician who provides medical services to patients at the hospital only through telemedicine from a distant-site hospital or distant-site telemedicine entity, to rely on credentialing and privileging decisions made for the physician by the distant-site hospital or distant-site telemedicine entity under specified circumstances.

Senate Bill 798, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1042.

Sincerely,

Governor Martin O'Malley

**House Bill 1042**

AN ACT concerning

**Hospitals – Credentialing and Privileging Process – Telemedicine**

FOR the purpose of authorizing a hospital, in its credentialing and privileging process for a physician who provides medical services to patients at the hospital only through telemedicine from certain locations, to rely on certain credentialing and privileging decisions under certain circumstances; defining a certain term; and generally relating to hospital credentialing and privileging processes for physicians providing services through telemedicine.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 19–319(e)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health – General**

19–319.

(e) (1) (I) In this subsection[, “uniform] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(II) 1. **“TELEMEDICINE” MEANS THE USE OF INTERACTIVE AUDIO, VIDEO, OR OTHER TELECOMMUNICATIONS OR**



**ELECTRONIC TECHNOLOGY BY A PHYSICIAN IN THE PRACTICE OF MEDICINE OUTSIDE THE PHYSICAL PRESENCE OF THE PATIENT.**

**2. "TELEMEDICINE" DOES NOT INCLUDE:**

**A. AN AUDIO-ONLY TELEPHONE CONVERSATION BETWEEN A PHYSICIAN AND A PATIENT;**

**B. AN ELECTRONIC MAIL MESSAGE BETWEEN A PHYSICIAN AND A PATIENT; OR**

**C. A FACSIMILE TRANSMISSION BETWEEN A PHYSICIAN AND A PATIENT.**

**(III) "UNIFORM standard credentialing form" means:**

**[(i)] 1.** The form designated by the Secretary through regulation for credentialing physicians who seek to be employed by or have staff privileges at a hospital; or

**[(ii)] 2.** The uniform credentialing form that the Insurance Commissioner designates under § 15-112.1 of the Insurance Article.

(2) As a condition of licensure, each hospital shall:

(i) Establish a credentialing process for the physicians who are employed by or who have staff privileges at the hospital; and

(ii) Use the uniform standard credentialing form as the initial application of a physician seeking to be credentialed.

(3) Use of the uniform standard credentialing form does not preclude a hospital from requiring supplemental or additional information as part of the hospital's credentialing process.

(4) The Secretary shall, by regulation and in consultation with hospitals, physicians, interested community and advocacy groups, and representatives of the Maryland Defense Bar and Plaintiffs' Bar, establish minimum standards for a credentialing process which shall include:

(i) A formal written appointment process documenting the physician's education, clinical expertise, licensure history, insurance history, medical history, claims history, and professional experience.

(ii) A requirement that an initial appointment to staff not be complete until the physician has successfully completed a probationary period.

(iii) A formal, written reappointment process to be conducted at least every 2 years. The reappointment process shall document the physician's pattern of performance by analyzing:

1. Claims filed against the physician;
2. Data dealing with utilization, quality, and risk;
3. Clinical skills;
4. Adherence to hospital bylaws, policies, and procedures;
5. Compliance with continuing education requirements;
6. Mental and physical status; and
7. The results of the practitioner performance evaluation process under subsection (i) of this section.

(5) If requested by the Department, a hospital shall provide documentation that, prior to employing or granting privileges to a physician, the hospital has complied with the requirements of this subsection and that, prior to renewing employment or privileges, the hospital has complied with the requirements of this subsection.

**(6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, IN ITS CREDENTIALING AND PRIVILEGING PROCESS FOR A PHYSICIAN WHO PROVIDES MEDICAL SERVICES TO PATIENTS AT THE HOSPITAL ONLY THROUGH TELEMEDICINE FROM A DISTANT-SITE HOSPITAL OR DISTANT-SITE TELEMEDICINE ENTITY, A HOSPITAL MAY RELY ON THE CREDENTIALING AND PRIVILEGING DECISIONS MADE FOR THE PHYSICIAN BY THE DISTANT-SITE HOSPITAL OR DISTANT-SITE TELEMEDICINE ENTITY, AS AUTHORIZED UNDER 42 C.F.R. PART 482, IF:**

**(I) THE PHYSICIAN WHO PROVIDES MEDICAL SERVICES THROUGH TELEMEDICINE HOLDS A LICENSE TO PRACTICE MEDICINE IN THE STATE ISSUED UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE; AND**

**(II) THE CREDENTIALING AND PRIVILEGING DECISIONS WITH RESPECT TO THE PHYSICIAN WHO PROVIDES MEDICAL SERVICES THROUGH TELEMEDICINE ARE:**

- 1. APPROVED BY THE MEDICAL STAFF OF THE HOSPITAL; AND**

**2. RECOMMENDED BY THE MEDICAL STAFF OF THE HOSPITAL TO THE HOSPITAL'S GOVERNING BODY.**

**[(6)] (7)** If a hospital fails to establish or maintain a credentialing process required under this subsection, the Secretary may impose the following penalties:

- (i) Delicensure of the hospital; or
- (ii) \$500 per day for each day the violation continues.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1124 – *Public Safety – Gas Pipelines – Implementation of Federal Pipeline Safety Laws*.

This bill requires the Public Service Commission to evaluate a specified process and criteria that the U.S. Secretary of Transportation would use to review an application for the Commission to act under a specified certification or agreement with the U.S. Secretary of Transportation as an interstate authority agent for the purpose of implementing specified federal pipeline safety laws. The bill also requires the Commission to make a specified determination and take specified actions necessary to carry out its responsibilities.

Senate Bill 863, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1124.

Sincerely,

Governor Martin O'Malley

## House Bill 1124

AN ACT concerning

**Public Safety – Gas Pipelines – Implementation of Federal Pipeline Safety Laws**

FOR the purpose of requiring the Public Service Commission to evaluate a certain process and criteria that the U.S. Secretary of Transportation would use to review an application for the Commission to act under a certain certification or agreement with the U.S. Secretary of Transportation as an interstate authority agent for the purpose of implementing certain federal pipeline safety laws; requiring the Commission to make a certain determination; requiring the Commission to take certain actions necessary to carry out its responsibilities under a certain certification or agreement with the U.S. Secretary of Transportation under certain circumstances and in accordance with certain regulations; authorizing the Commission to accept grants-in-aid, cash, and reimbursements to implement certain federal pipeline safety laws; authorizing the Commission to charge a certain owner a certain fee for certain inspections of gas pipelines; requiring the Commission to regulate certain gas pipelines; requiring the Commission to adopt certain federal regulations as minimum standards for gas pipelines in the State; requiring a gas transmission company to comply with certain planning, notification, and reporting provisions; requiring a gas transmission company and the Commission to notify the National Response Center of certain errors or new information relating to a gas pipeline; authorizing the Commission to enter, inspect, and examine certain records and property of a gas transmission company for a certain purpose and under certain circumstances; requiring the Commission to inspect a gas pipeline with a certain frequency; authorizing the Commission to assess and collect a certain inspection fee from a gas transmission company; authorizing the Commission to seek a certain relief for a violation of this Act; authorizing the Commission to impose a certain civil penalty for a violation of this Act; defining certain terms; providing for the jurisdiction and enforcement authority of the Commission; and generally relating to gas pipeline safety.

BY adding to

Article – Public Safety

Section 15-101 ~~through 15-108~~ and 15-102 to be under the new title “Title 15.

Gas Pipeline Safety”

Annotated Code of Maryland

(2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Public Safety**

**TITLE 15. GAS PIPELINE SAFETY.****15-101.**

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COMMISSION" MEANS THE PUBLIC SERVICE COMMISSION.

(C) "GAS" MEANS NATURAL GAS, FLAMMABLE GAS, OR TOXIC OR CORROSIVE GAS.

(D) (1) "GAS PIPELINE" MEANS AN INTRASTATE TRANSMISSION LINE OR ANY PORTION OF AN INTERSTATE TRANSMISSION LINE LOCATED WITHIN THE STATE THAT:

~~(1)~~ (I) TRANSPORTS GAS FROM A GATHERING LINE OR STORAGE FACILITY TO A DISTRIBUTION CENTER, STORAGE FACILITY, OR LARGE VOLUME CUSTOMER THAT IS NOT DOWNSTREAM FROM A DISTRIBUTION CENTER;

~~(2)~~ (II) OPERATES AT A HOOP STRESS OF 20% OR MORE OF THE SPECIFIED MINIMUM YIELD STRENGTH OF THE PIPELINE; OR

~~(3)~~ (III) TRANSPORTS GAS WITHIN A STORAGE FIELD.

(2) "GAS PIPELINE" DOES NOT INCLUDE ANY TRANSMISSION LINE OR DISTRIBUTION LINE CONSTRUCTED, OWNED, OR OPERATED BY A PUBLIC SERVICE COMPANY.

(E) (1) "GAS TRANSMISSION COMPANY" MEANS A PERSON THAT OWNS OR OPERATES A GAS PIPELINE REGULATED UNDER THIS TITLE.

(2) "GAS TRANSMISSION COMPANY" DOES NOT INCLUDE A PERSON THAT IS PRIMARILY IN THE BUSINESS OF LOCAL GAS DISTRIBUTION.

~~(F) "NATIONAL RESPONSE CENTER" MEANS THE NATIONAL RESPONSE CENTER OF THE U.S. COAST GUARD, AUTHORIZED TO RECEIVE REPORTS OF INCIDENTS INVOLVING THE TRANSPORTATION OF OIL, HAZARDOUS LIQUIDS, AND GAS BY PIPELINE.~~

**15-102.**

(A) ~~(1) THE~~ ON OR BEFORE DECEMBER 1, 2013, THE COMMISSION,  
THROUGH SHALL:

(I) EVALUATE THE PROCESS AND CRITERIA THE U.S. SECRETARY OF TRANSPORTATION WOULD USE TO REVIEW AN APPLICATION FOR CERTIFICATION OR AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION UNDER 49 U.S.C. CHAPTER 601 WITH RESPECT TO INTERSTATE PIPELINES LOCATED WITHIN THE STATE; AND

(II) DETERMINE WHETHER IT IS IN THE PUBLIC INTEREST FOR THE COMMISSION TO APPLY FOR CERTIFICATION OR AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION UNDER 49 U.S.C. CHAPTER 601, SHALL TO ACT FOR THE U.S. SECRETARY OF TRANSPORTATION TO IMPLEMENT 49 U.S.C. CHAPTER 601 WITH RESPECT TO INTERSTATE GAS PIPELINES LOCATED WITHIN THE STATE.

(2) IF THE COMMISSION DETERMINES THAT IT IS IN THE PUBLIC INTEREST FOR THE COMMISSION TO ACT FOR THE U.S. SECRETARY OF TRANSPORTATION TO IMPLEMENT 49 U.S.C. CHAPTER 601 WITH RESPECT TO INTERSTATE PIPELINES LOCATED WITHIN THE STATE, THE COMMISSION SHALL, ON OR BEFORE JANUARY 1, 2014, APPLY FOR CERTIFICATION OR AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION.

(B) ~~THE COMMISSION SHALL~~ IF THE COMMISSION ENTERS INTO A CERTIFICATION OR AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION TO ACT FOR THE U.S. SECRETARY OF TRANSPORTATION TO IMPLEMENT 49 U.S.C. CHAPTER 601 WITH RESPECT TO INTERSTATE PIPELINES LOCATED WITHIN THE STATE, THE COMMISSION SHALL, IN ACCORDANCE WITH FEDERAL REGULATIONS:

(1) MAKE PERIODIC CERTIFICATIONS AND REPORTS TO THE FEDERAL U.S. DEPARTMENT OF TRANSPORTATION AS MAY BE REQUIRED UNDER 49 U.S.C. CHAPTER 601; AND

(2) TAKE ANY OTHER ACTIONS NECESSARY TO CARRY OUT RESPONSIBILITIES UNDER A CERTIFICATION OR AN AGREEMENT WITH THE U.S. SECRETARY OF TRANSPORTATION UNDER THIS TITLE.

(C) THE COMMISSION MAY:

(1) ACCEPT GRANTS-IN-AID, CASH, AND REIMBURSEMENTS MADE AVAILABLE TO THE STATE TO IMPLEMENT FEDERAL PIPELINE SAFETY LAWS OR OTHER FEDERAL LAW; AND

(2) CHARGE AN OWNER OF AN INTERSTATE GAS PIPELINE A FEE TO RECOVER THE COSTS OF THE INSPECTIONS OF THE OWNER'S INTERSTATE GAS PIPELINES LOCATED WITHIN THE STATE, LESS ANY GRANTS PROVIDED THROUGH THE U.S. DEPARTMENT OF TRANSPORTATION FOR INSPECTING INTERSTATE PIPELINES.

~~15-103.~~

~~(A) (1) THE COMMISSION SHALL ADOPT REGULATIONS THAT ESTABLISH SAFETY STANDARDS AND PRACTICES APPLICABLE TO THE DESIGN, CONSTRUCTION, OPERATION, AND MAINTENANCE OF GAS PIPELINES.~~

~~(2) FOR ANY PIPELINE REGULATORY PROGRAM THAT THE COMMISSION ESTABLISHES UNDER THIS TITLE, THE COMMISSION SHALL ADOPT AS MINIMUM STANDARDS THE FEDERAL SAFETY STANDARDS IN TITLE 49, C.F.R. PART 192.~~

~~(B) THE COMMISSION SHALL REQUIRE A GAS TRANSMISSION COMPANY TO PREPARE, MAINTAIN, AND CARRY OUT A WRITTEN PLAN FOR THE OPERATION AND MAINTENANCE OF EACH GAS PIPELINE OWNED OR OPERATED BY THE GAS TRANSMISSION COMPANY.~~

~~15-104.~~

~~(A) A GAS TRANSMISSION COMPANY SHALL IMMEDIATELY NOTIFY THE COMMISSION AND THE NATIONAL RESPONSE CENTER OF ANY:~~

~~(1) SIGNIFICANT ERROR IN INFORMATION THAT THE GAS TRANSMISSION COMPANY HAS PREVIOUSLY SUBMITTED TO EITHER UNIT; OR~~

~~(2) SIGNIFICANT NEW INFORMATION THAT RELATES TO REPORTING CRITERIA OR OTHER INFORMATION THAT THE GAS TRANSMISSION COMPANY IS REQUIRED TO SUBMIT UNDER THIS TITLE.~~

~~(B) THE COMMISSION SHALL NOTIFY THE NATIONAL RESPONSE CENTER OF ANY ERROR OR NEW INFORMATION THAT THE COMMISSION OR AN AGENT OF THE COMMISSION DISCOVERS WHILE:~~

~~(1) PROVIDING TRAINING FOR GAS PIPELINES;~~

~~(2) DEVELOPING REGULATIONS UNDER THIS TITLE; OR~~

~~(3) INSPECTING A GAS PIPELINE.~~

~~15-105.~~

~~(A) THE COMMISSION MAY ENTER, INSPECT, AND EXAMINE, AT REASONABLE TIMES AND IN A REASONABLE MANNER, THE RECORDS AND PROPERTY OF A GAS TRANSMISSION COMPANY TO DETERMINE WHETHER THE GAS TRANSMISSION COMPANY IS ACTING IN COMPLIANCE WITH THIS TITLE, FEDERAL PIPELINE SAFETY REGULATIONS, AND REGULATIONS ADOPTED BY THE COMMISSION UNDER THIS TITLE.~~

~~(B) THE COMMISSION SHALL INSPECT EACH GAS PIPELINE AT LEAST ONCE EACH YEAR.~~

~~(C) THE COMMISSION MAY ASSESS AND COLLECT FROM A GAS TRANSMISSION COMPANY AN INSPECTION FEE THAT MAY BE USED BY THE COMMISSION FOR ADMINISTERING THE REGULATORY PROGRAM ESTABLISHED UNDER THIS TITLE.~~

~~15-106.~~

~~THE COMMISSION MAY BRING AN ACTION FOR INJUNCTIVE RELIEF IN A CIRCUIT COURT TO:~~

- ~~(1) ENJOIN A VIOLATION OF THIS TITLE;~~
- ~~(2) ENJOIN THE OPERATION OF A GAS PIPELINE; OR~~
- ~~(3) ENFORCE A STANDARD ESTABLISHED BY THE COMMISSION UNDER THIS TITLE.~~

~~15-107.~~

~~(A) THE COMMISSION MAY IMPOSE ON A PERSON THAT VIOLATES THIS TITLE OR A REGULATION ADOPTED IN ACCORDANCE WITH THIS TITLE A CIVIL PENALTY THAT DOES NOT EXCEED THE MAXIMUM PENALTIES PROVIDED IN 49 U.S.C. CHAPTER 601.~~

~~(B) EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION UNDER THIS SECTION.~~

~~(C) TO DETERMINE THE AMOUNT OF A PENALTY IMPOSED UNDER THIS SECTION, THE COMMISSION SHALL CONSIDER:~~

- ~~(1) THE NATURE, CIRCUMSTANCES, AND GRAVITY OF THE VIOLATION;~~



- ~~(2) WITH RESPECT TO THE VIOLATOR:~~
- ~~(I) THE DEGREE OF CULPABILITY;~~
  - ~~(II) ANY HISTORY OF PRIOR VIOLATIONS;~~
  - ~~(III) THE ABILITY TO PAY;~~
  - ~~(IV) ANY EFFECT ON THE ABILITY TO CONTINUE DOING BUSINESS; AND~~
  - ~~(V) GOOD FAITH IN ATTEMPTING TO COMPLY; AND~~
- ~~(3) OTHER MATTERS THAT JUSTICE REQUIRES.~~

~~15-108.~~

~~THE COMMISSION HAS JURISDICTION OVER AND MAY ENFORCE THIS TITLE AND ANY REGULATION ADOPTED UNDER THIS TITLE TO THE SAME EXTENT AND IN THE SAME MANNER AS ANY PROVISION OF DIVISION I OF THE PUBLIC UTILITIES ARTICLE, AS PROVIDED IN TITLE 13 OF THE PUBLIC UTILITIES ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, on completion of its evaluation and determination under § 15-102(a) of the Public Safety Article, as enacted by Section 1 of this Act, the Public Service Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on its findings and conclusions.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
 Speaker of the House  
 H-101 State House  
 Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1166 – *Insurance – Ceding Insurers and Reinsurance*.

This bill requires that a domestic ceding insurer be allowed credit for reinsurance in specified manners under specified circumstances and provides for specified credit to be allowed under specified circumstances depending on the licensure or authorization status and accreditation status of the assuming insurer. This bill also establishes requirements and procedures for an assuming reinsurer to be accredited by the Maryland Insurance Commissioner.

Senate Bill 777, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1166.

Sincerely,

Governor Martin O'Malley

### House Bill 1166

AN ACT concerning

### Insurance – Ceding Insurers and Reinsurance

FOR the purpose of requiring that a domestic ceding insurer be allowed credit for reinsurance in certain manners under certain circumstances; providing for certain credit for reinsurance to be allowed under certain circumstances depending on the licensure or authorization status and accreditation status of the assuming insurer; establishing certain requirements and procedures for an assuming reinsurer to be accredited by the Maryland Insurance Commissioner; providing that an assuming reinsurer is deemed to be qualified under certain circumstances; requiring an assuming reinsurer to report certain information each year to the Commissioner for certain purposes and to submit to examination in a certain manner; prohibiting credit for reinsurance to be granted unless a certain trust has been approved by a certain official; establishing certain requirements for certain trusts; providing for the duration of a certain trust; requiring the trustee of a certain trust to report and certify certain information to the Commissioner; establishing certain requirements for certain trusts used by certain insurers; providing for the certification of certain insurers as reinsurers in this State in accordance with certain requirements and procedures; requiring the Commissioner to maintain a certain list of qualified jurisdictions in which an assuming insurer may be domiciled and considered for certification; providing certain criteria for the Commissioner to consider in recognizing certain qualified jurisdictions; requiring the Commissioner to consider a certain list of jurisdictions published through a certain association for certain purposes; requiring the Commissioner to assign certain ratings to certain certified reinsurers in a certain manner and to publish

a list of the reinsurers and their ratings; authorizing the Commissioner to ~~defer~~ ~~to~~ use information on the certification and rating assigned by certain jurisdictions under certain circumstances for certain purposes; providing for the maintenance of certification in an inactive status under certain circumstances; requiring a certified reinsurer to secure certain obligations in certain manners and forms and at certain levels; requiring the Commissioner to reduce certain allowable credit under certain circumstances; authorizing the Commissioner to suspend or revoke the accreditation or certification of a reinsurer in a certain manner under certain circumstances; limiting the qualification for credit of certain reinsurance contracts under certain circumstances; prohibiting certain credit if the assuming insurer is not licensed, accredited, or certified except under certain circumstances and in a certain manner; providing for the construction of a certain provision of this Act; providing for certain assets or reductions from liability for certain reinsurance in a certain manner under certain circumstances; requiring certain security to be in certain forms and held in certain places and certain institutions; requiring a ceding insurer to take certain steps to manage certain reinsurance recoverables and to notify the Commissioner in certain manners; requiring a ceding insurer to diversify its ~~portfolio~~ reinsurance program and notify the Commissioner in certain manners; authorizing the Commissioner to adopt certain regulations; repealing certain obsolete provisions; defining certain terms; providing that certain laws of the State inconsistent with this Act are superseded to the extent of the inconsistency; providing that credit for reinsurance ceded to a reinsurer under this Act may be allowed only for certain contracts entered into or renewed on or after a certain date; providing that existing obligations or contract rights may not be impaired by this Act; and generally relating to insurance and reinsurance.

BY repealing and reenacting, with amendments,  
 Article – Insurance  
 Section 5–901 through 5–904  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

~~BY repealing and reenacting, without amendments,  
 Article – Insurance  
 Section 5–902  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)~~

BY adding to  
 Article – Insurance  
 Section ~~5–902.1~~ and 5–903 and 5–906 through ~~5–914~~ 5–916  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

BY repealing

Article – Insurance  
 Section ~~5-903, 5-904, and 5-905~~  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Insurance**

5-901.

(a) In this subtitle the following words have the meanings indicated.

(b) “Ceding insurer” means an insurer that procures insurance for itself from another insurer for all or part of an insurance risk.

**(C) “PRIMARY CERTIFYING STATE” MEANS A STATE OTHER THAN MARYLAND:**

**(1) IN WHICH THE INSURANCE REGULATORY AGENCY OR ITS EQUIVALENT HAS DESIGNATED AND ASSIGNED A RATING TO AN ASSUMING INSURER AS A CERTIFIED REINSURER; AND**

**(2) THE DESIGNATION OR RATING FROM WHICH THE COMMISSIONER HAS USED TO DESIGNATE OR ASSIGN A RATING TO THE ASSUMING INSURER IN THIS STATE UNDER § 5-910(B) OF THIS SUBTITLE.**

**(D) “QUALIFIED JURISDICTION” MEANS A JURISDICTION THAT THE COMMISSIONER DETERMINES MEETS THE REQUIREMENTS OF § 5-909 OF THIS SUBTITLE.**

~~(C)~~ **(E) “QUALIFIED UNITED STATES FINANCIAL INSTITUTION” MEANS:**

**(1) FOR PURPOSES OF ISSUANCE OR CONFIRMATION OF A LETTER OF CREDIT UNDER ~~§ 5-912(C)(3)~~ § 5-914(C)(3) OF THIS SUBTITLE, AN INSTITUTION THAT:**

**(I) IS ORGANIZED OR, IN THE CASE OF A UNITED STATES OFFICE OF A FOREIGN BANKING ORGANIZATION, LICENSED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE;**

**(II) IS REGULATED, SUPERVISED, AND EXAMINED BY FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER BANKS AND TRUST COMPANIES; AND**

(III) HAS BEEN DETERMINED BY EITHER THE COMMISSIONER OR THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS TO MEET THE STANDARDS OF FINANCIAL CONDITION AND STANDING THAT ARE CONSIDERED NECESSARY AND APPROPRIATE TO REGULATE THE QUALITY OF FINANCIAL INSTITUTIONS WHOSE LETTERS OF CREDIT WILL BE ACCEPTABLE TO THE COMMISSIONER; OR

(2) FOR PURPOSES OF ELIGIBILITY TO ACT AS A FIDUCIARY OF A TRUST UNDER THIS SUBTITLE, AN INSTITUTION THAT:

(I) IS ORGANIZED OR, IN THE CASE OF A UNITED STATES BRANCH OR AGENCY OFFICE OF A FOREIGN BANKING ORGANIZATION, LICENSED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE AND HAS BEEN GRANTED AUTHORITY TO OPERATE WITH FIDUCIARY POWERS; AND

(II) IS REGULATED, SUPERVISED, AND EXAMINED BY FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER BANKS AND TRUST COMPANIES.

[(c)] ~~(D)~~ (F) "Reinsurer" means an insurer from which a ceding insurer procures insurance for itself for all or part of an insurance risk.

(G) "TRUSTEED SURPLUS" MEANS FUNDS HELD IN A TRUST ACCOUNT IN EXCESS OF THE REINSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED TO THE REINSURER BY UNITED STATES CEDING INSURERS IN ACCORDANCE WITH THIS SUBTITLE.

5-902.

(A) This subtitle does not apply to wet marine and transportation insurance.

(B) ALL LAWS OR PARTS OF LAWS OF THE STATE THAT ARE INCONSISTENT WITH THIS SUBTITLE ARE SUPERSEDED TO THE EXTENT OF THE INCONSISTENCY.

~~5-902.1~~, 5-903.

CREDIT FOR REINSURANCE SHALL BE ALLOWED A DOMESTIC CEDING INSURER AS EITHER AN ASSET OR A REDUCTION FROM LIABILITY ON ACCOUNT OF REINSURANCE CEDED IF THE REINSURER MEETS THE REQUIREMENTS OF THIS SUBTITLE.

~~5-903~~, 5-904.

(a) Except as provided in §§ 3–124 and 3–125 of this article for bulk reinsurance, an insurer may reinsure all or part of a particular risk.

~~(b) An insurer may accept reinsurance only of those risks, and retain risk on reinsurance only within those limits, as the insurer is otherwise authorized to insure.~~

~~5–903.~~

~~(A)~~ (B) (1) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(B)~~, (C), (D), OR ~~(D)~~ (E) OF THIS SECTION WITH RESPECT TO CESSIONS OF THOSE KINDS OR CLASSES OF BUSINESS THAT THE ASSUMING INSURER IS LICENSED OR OTHERWISE ALLOWED TO WRITE OR ASSUME IN ITS STATE OF DOMICILE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN ALIEN ASSUMING INSURER, IN THE STATE THROUGH WHICH IT IS ENTERED AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE.

(2) CREDIT SHALL BE ALLOWED UNDER SUBSECTION ~~(D)~~ OR (E) OR (F) OF THIS SECTION ONLY IF THE APPLICABLE REQUIREMENTS OF ~~§ 5–911~~ § 5–913 OF THIS SUBTITLE HAVE BEEN SATISFIED.

~~(B)~~ (C) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT IS LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN THIS STATE.

~~(C)~~ (D) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT IS ACCREDITED BY THE COMMISSIONER AS A REINSURER IN THIS STATE IN ACCORDANCE WITH ~~§ 5–904~~ § 5–906 OF THIS SUBTITLE.

~~(D)~~ (E) SUBJECT TO THE REQUIREMENTS OF ~~§ 5–911~~ § 5–913 OF THIS SUBTITLE, CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT MAINTAINS A TRUST FUND MEETING THE REQUIREMENTS OF ~~§ 5–905~~ § 5–907 OF THIS SUBTITLE IN A QUALIFIED UNITED STATES FINANCIAL INSTITUTION FOR THE PAYMENT OF THE VALID CLAIMS OF ITS UNITED STATES CEDING INSURERS AND THEIR ASSIGNS AND SUCCESSORS IN INTEREST.

~~(E)~~ (F) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER AS A REINSURER IN THIS STATE IN ACCORDANCE WITH §§ 5–908 AND 5–909 OF THIS SUBTITLE AND SECURES ITS OBLIGATIONS IN ACCORDANCE WITH THE REQUIREMENTS OF ~~§ 5–909~~ § 5–911 OF THIS SUBTITLE.

~~(F)~~ (G) CREDIT SHALL BE ALLOWED WHEN THE REINSURANCE IS CEDED TO AN ASSUMING INSURER NOT MEETING THE REQUIREMENTS OF SUBSECTION ~~(B)~~, (C), (D), (E), OR ~~(F)~~ (F) OF THIS SECTION, BUT ONLY AS TO THE INSURANCE OF RISKS LOCATED IN JURISDICTIONS WHERE THE REINSURANCE IS REQUIRED BY THE APPLICABLE LAW OR REGULATION OF THAT JURISDICTION.

~~5-904.~~ 5-905.

(a) (1) Credit may not be allowed, as an asset or deduction from liability, to a ceding insurer for reinsurance unless:

~~(i) the reinsurer is authorized to transact insurance business in the State or is a solvent insurer approved or accepted by the Commissioner for the purpose of reinsurance; and~~

~~(ii) the reinsurance contract provides, in substance, that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable under the terms of a contract reinsured by the reinsurer on the basis of reported claims allowed by the court in a liquidation proceeding, without diminution because of the insolvency of the ceding insurer.~~

(2) Payments made by a reinsurer under paragraph (1)(ii) of this subsection shall be made directly to the ceding insurer or its domiciliary receiver unless:

(i) the reinsurance contract or other written agreement specifically provides another payee of the reinsurance in the event of the insolvency of the ceding insurer; or

(ii) subject to any contractual or statutory requirement of consent by the policyholder, the reinsurer has assumed the policy obligations of the ceding insurer as direct obligations of the reinsurer to the payees under the policies and in substitution for the ceding insurer's obligations to the payees.

(3) (i) Notwithstanding paragraph (2) of this subsection, if a life and health insurance guaranty association has elected to succeed to the rights and obligations of an insolvent insurer under a reinsurance contract, the reinsurer's liability to pay covered reinsured claims shall continue under the reinsurance contract, subject to the payment of premiums to the reinsurer for the reinsurance coverage.

(ii) Payment for a covered reinsured claim under subparagraph (i) of this paragraph shall be made by the reinsurer only at the direction of the life and health insurance guaranty association or its designated successor.

(iii) Payment for a covered reinsured claim made by the reinsurer at the direction of the life and health insurance guaranty association or its designated successor discharges the reinsurer's liability to any other person for payment of the covered reinsured claim.

(b) (1) A reinsurance ~~agreement~~ CONTRACT may provide that the domiciliary receiver of an insolvent ceding insurer shall give written notice to the reinsurer of the pendency of a claim made against the insolvent ceding insurer under the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding.

(2) During the pendency of the claim, the reinsurer, at its own expense, may investigate the claim and interpose, in the liquidation proceeding, any defense that it determines is available to the insolvent ceding insurer or its receiver.

(3) (i) The reinsurer may file a claim against the insolvent ceding insurer for any expense incurred by the reinsurer under paragraph (2) of this subsection.

(ii) The claim may not exceed an amount equal to the proportionate share of the benefit accruing to the insolvent ceding insurer solely as a result of the defense undertaken by the reinsurer.

(iii) If two or more reinsurers are involved in a claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance ~~agreement~~ CONTRACT as though the expense had been incurred by the insolvent ceding insurer.

(c) On request of the Commissioner, a ceding insurer shall inform the Commissioner promptly in writing of the cancellation or any other material change of any of its reinsurance ~~treaties~~ CONTRACTS or arrangements.†

~~5-904.~~ 5-906.

**(A) IN ORDER FOR AN ASSUMING REINSURER TO BE ELIGIBLE FOR ACCREDITATION BY THE COMMISSIONER, THE REINSURER SHALL:**

**(1) FILE WITH THE COMMISSIONER EVIDENCE OF ITS SUBMISSION TO THIS STATE'S JURISDICTION;**

**(2) SUBMIT TO ~~THIS STATE'S~~ THE COMMISSIONER'S AUTHORITY TO EXAMINE ITS BOOKS AND RECORDS;**

**(3) BE LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE OR, IN THE CASE OF A UNITED STATES BRANCH OF AN**



ALIEN ASSUMING INSURER, BE ENTERED THROUGH AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN AT LEAST ONE STATE;

(4) FILE EACH YEAR WITH THE COMMISSIONER A COPY OF ITS ANNUAL STATEMENT FILED WITH THE INSURANCE DEPARTMENT OF ITS STATE OF DOMICILE AND A COPY OF ITS MOST RECENT AUDITED FINANCIAL STATEMENT; AND

(5) DEMONSTRATE TO THE SATISFACTION OF THE COMMISSIONER THAT THE REINSURER HAS ADEQUATE FINANCIAL CAPACITY TO MEET ITS REINSURANCE OBLIGATIONS AND IS OTHERWISE QUALIFIED TO ASSUME REINSURANCE FROM DOMESTIC INSURERS.

(B) AN ASSUMING INSURER IS DEEMED TO MEET THE REQUIREMENT OF SUBSECTION (A)(5) OF THIS SECTION AS OF THE TIME OF ITS APPLICATION IF:

(1) THE ASSUMING INSURER MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS IN AN AMOUNT NOT LESS THAN \$20,000,000; AND

(2) THE COMMISSIONER HAS NOT DENIED THE ASSUMING INSURER'S ACCREDITATION WITHIN 90 DAYS AFTER SUBMISSION OF ITS APPLICATION.

[5-905.

Each unauthorized insurer that applies for approval or renewal of approval as an accepted reinsurer shall file annually with the Commissioner:

- (1) an annual statement on convention form;
- (2) a certificate evidencing a deposit; and
- (3) a certificate of compliance.]

~~5-905.~~ 5-907.

(A) TO ENABLE THE COMMISSIONER TO DETERMINE THE SUFFICIENCY OF THE TRUST FUND PROVIDED FOR IN ~~§ 5-903(D)~~ § 5-904(E) OF THIS SUBTITLE, THE ASSUMING INSURER SHALL REPORT EACH YEAR TO THE COMMISSIONER INFORMATION SUBSTANTIALLY THE SAME AS THAT REQUIRED TO BE REPORTED ON THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ANNUAL STATEMENT FORM BY ~~LICENSED~~ AUTHORIZED INSURERS.

(B) THE ASSUMING INSURER SHALL SUBMIT TO EXAMINATION OF ITS BOOKS AND RECORDS BY THE COMMISSIONER AND BEAR THE EXPENSE OF EXAMINATION.

(C) CREDIT FOR REINSURANCE MAY NOT BE GRANTED UNDER THIS SECTION UNLESS THE FORM OF THE TRUST AND ANY AMENDMENTS TO THE TRUST HAVE BEEN APPROVED BY:

(1) THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF THE STATE WHERE THE TRUST IS DOMICILED; OR

(2) THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF ANOTHER STATE WHO, UNDER THE TERMS OF THE TRUST INSTRUMENT, HAS ACCEPTED PRINCIPAL REGULATORY OVERSIGHT OF THE TRUST.

(D) THE FORM OF THE TRUST AND ANY TRUST AMENDMENTS SHALL BE FILED WITH THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY OF EACH STATE IN WHICH THE CEDING INSURER BENEFICIARIES OF THE TRUST ARE DOMICILED.

(E) THE TRUST INSTRUMENT SHALL PROVIDE THAT CONTESTED CLAIMS SHALL BE VALID AND ENFORCEABLE ON THE FINAL ORDER OF ANY COURT OF COMPETENT JURISDICTION IN THE UNITED STATES.

(F) THE TRUST SHALL VEST LEGAL TITLE TO ITS ASSETS IN ITS TRUSTEES FOR THE BENEFIT OF THE ASSUMING INSURER'S UNITED STATES CEDING INSURERS AND THEIR ASSIGNS AND SUCCESSORS IN INTEREST.

(G) THE TRUST AND THE ASSUMING INSURER SHALL BE SUBJECT TO EXAMINATION AS DETERMINED BY THE COMMISSIONER ~~DETERMINES~~.

(H) THE TRUST SHALL REMAIN IN EFFECT FOR AS LONG AS THE ASSUMING INSURER HAS OUTSTANDING OBLIGATIONS DUE UNDER THE REINSURANCE ~~AGREEMENTS~~ CONTRACTS SUBJECT TO THE TRUST.

(I) NOT LATER THAN FEBRUARY 28 OF EACH YEAR, THE TRUSTEE OF THE TRUST SHALL:

(1) REPORT TO THE COMMISSIONER IN WRITING THE BALANCE OF THE TRUST AND LIST THE TRUST'S INVESTMENTS AT THE PRECEDING YEAR-END; AND

(2) CERTIFY THE DATE OF TERMINATION OF THE TRUST, IF SO PLANNED, OR CERTIFY THAT THE TRUST WILL NOT EXPIRE BEFORE THE FOLLOWING DECEMBER 31.

(J) (1) ~~IN THE CASE OF~~ THIS SUBSECTION APPLIES TO CEDING TO A SINGLE ASSUMING INSURER.

~~(H) (2) THE~~ THE TRUST FUND SHALL CONSIST OF FUNDS IN TRUST IN AN AMOUNT NOT LESS THAN THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING INSURERS; AND.

~~(H) (3) EXCEPT~~ EXCEPT AS PROVIDED IN PARAGRAPH ~~(2) (4)~~ OF THIS SUBSECTION, THE ASSUMING INSURER SHALL MAINTAIN A TRUSTEED SURPLUS OF NOT LESS THAN \$20,000,000.

~~(2) (4) (I)~~ SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, AT ANY TIME AFTER THE ASSUMING INSURER HAS PERMANENTLY DISCONTINUED UNDERWRITING NEW BUSINESS SECURED BY THE TRUST FOR AT LEAST 3 FULL YEARS, THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH PRINCIPAL REGULATORY OVERSIGHT OF THE TRUST MAY AUTHORIZE A REDUCTION IN THE REQUIRED TRUSTEED SURPLUS, BUT ONLY AFTER A FINDING, BASED ON AN ASSESSMENT OF THE RISK, THAT THE NEW REQUIRED SURPLUS LEVEL IS ADEQUATE FOR THE PROTECTION OF UNITED STATES CEDING INSURERS, POLICYHOLDERS, AND CLAIMANTS IN LIGHT OF REASONABLY FORESEEABLE ADVERSE LOSS DEVELOPMENT.

(II) THE RISK ASSESSMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. MAY INVOLVE AN ACTUARIAL REVIEW, INCLUDING AN INDEPENDENT ANALYSIS OF RESERVES AND CASH FLOWS; AND

2. SHALL CONSIDER ALL MATERIAL RISK FACTORS, INCLUDING, WHEN APPLICABLE, THE LINES OF BUSINESS INVOLVED, THE STABILITY OF THE INCURRED LOSS ESTIMATES, AND THE EFFECT OF THE SURPLUS REQUIREMENTS ON THE ASSUMING INSURER'S LIQUIDITY OR SOLVENCY.

(III) THE MINIMUM REQUIRED TRUSTEED SURPLUS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE REDUCED TO AN AMOUNT LESS THAN 30% OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING INSURERS COVERED BY THE TRUST.

~~(3)~~ ~~(4)~~ ~~(K)~~ ~~(1)~~ ~~IN THE CASE OF~~ THIS SUBSECTION APPLIES TO CEDING TO A GROUP INCLUDING THAT INCLUDES INCORPORATED AND INDIVIDUAL UNINCORPORATED UNDERWRITERS.

~~1~~ ~~(2)~~ ~~FOR~~ FOR REINSURANCE CEDED UNDER REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION, AMENDMENT, OR RENEWAL DATE ON OR AFTER JANUARY 1, 1993, THE TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE UNDERWRITERS' SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY UNITED STATES DOMICILED CEDING INSURERS TO ANY UNDERWRITER OF THE GROUP.

~~2~~ ~~(3)~~ ~~FOR~~ FOR REINSURANCE CEDED UNDER REINSURANCE ~~AGREEMENTS~~ CONTRACTS WITH AN INCEPTION DATE ON OR BEFORE DECEMBER 31, 1992, AND NOT AMENDED OR RENEWED AFTER THAT DATE, NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, THE TRUST SHALL CONSIST OF A TRUSTEED ACCOUNT IN AN AMOUNT NOT LESS THAN THE RESPECTIVE UNDERWRITERS' SEVERAL INSURANCE AND REINSURANCE LIABILITIES ATTRIBUTABLE TO BUSINESS WRITTEN IN THE UNITED STATES; ~~AND.~~

~~3~~ ~~(4)~~ IN ADDITION TO THESE TRUSTS, THE GROUP SHALL MAINTAIN IN TRUST A TRUSTEED SURPLUS OF WHICH \$100,000,000 SHALL BE HELD JOINTLY FOR THE BENEFIT OF THE UNITED STATES DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP FOR ALL YEARS OF ACCOUNT.

~~(H)~~ ~~(5)~~ THE INCORPORATED MEMBERS OF THE GROUP:

~~1~~ ~~(I)~~ MAY NOT BE ENGAGED IN ANY BUSINESS OTHER THAN UNDERWRITING AS A MEMBER OF THE GROUP; AND

~~2~~ ~~(II)~~ SHALL BE SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY CONTROL BY THE GROUP'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS.

~~(H)~~ ~~(6)~~ WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE FILED WITH THE GROUP'S DOMICILIARY REGULATOR, THE GROUP SHALL PROVIDE TO THE COMMISSIONER:

~~1~~ ~~(I)~~ AN ANNUAL CERTIFICATION BY THE GROUP'S DOMICILIARY REGULATOR OF THE SOLVENCY OF EACH UNDERWRITER MEMBER; OR

~~2. (II) IF A CERTIFICATION IS UNAVAILABLE, FINANCIAL STATEMENTS, PREPARED BY INDEPENDENT PUBLIC ACCOUNTANTS, OF EACH UNDERWRITER MEMBER OF THE GROUP.~~

~~(4) IN THE CASE OF A GROUP OF INCORPORATED UNDERWRITERS UNDER COMMON ADMINISTRATION, THE GROUP SHALL:~~

~~(I) HAVE CONTINUOUSLY TRANSACTED AN INSURANCE BUSINESS OUTSIDE THE UNITED STATES FOR AT LEAST 3 YEARS IMMEDIATELY PRIOR TO MAKING APPLICATION FOR ACCREDITATION;~~

~~(II) MAINTAIN AGGREGATE POLICYHOLDERS' SURPLUS OF AT LEAST \$10,000,000,000;~~

~~(III) MAINTAIN A TRUST FUND IN AN AMOUNT NOT LESS THAN THE GROUP'S SEVERAL LIABILITIES ATTRIBUTABLE TO BUSINESS CEDED BY UNITED STATES DOMICILED CEDING INSURERS TO ANY MEMBER OF THE GROUP UNDER REINSURANCE CONTRACTS ISSUED IN THE NAME OF THE GROUP;~~

~~(IV) MAINTAIN A JOINT TRUSTEED SURPLUS OF WHICH \$100,000,000 SHALL BE HELD JOINTLY FOR THE BENEFIT OF UNITED STATES DOMICILED CEDING INSURERS OF ANY MEMBER OF THE GROUP AS ADDITIONAL SECURITY FOR THESE LIABILITIES; AND~~

~~(V) WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE FILED WITH THE GROUP'S DOMICILIARY REGULATOR, MAKE AVAILABLE TO THE COMMISSIONER AN ANNUAL CERTIFICATION OF EACH UNDERWRITER MEMBER'S SOLVENCY BY THE MEMBER'S DOMICILIARY REGULATOR AND FINANCIAL STATEMENTS OF EACH UNDERWRITER MEMBER OF THE GROUP PREPARED BY ITS INDEPENDENT PUBLIC ACCOUNTANT.~~

~~5-906. 5-908.~~

(A) IN ORDER TO BE ELIGIBLE FOR CERTIFICATION IN ACCORDANCE WITH ~~§ 5-903(E)~~ § 5-904(F) OF THIS SUBTITLE, THE ASSUMING INSURER SHALL:

(1) BE DOMICILED AND LICENSED TO TRANSACT INSURANCE OR REINSURANCE IN A QUALIFIED JURISDICTION, AS DETERMINED UNDER ~~§ 5-907~~ § 5-909 OF THIS SUBTITLE;

(2) MAINTAIN MINIMUM CAPITAL AND SURPLUS, OR ITS EQUIVALENT, IN AN AMOUNT THE COMMISSIONER DETERMINES IN ACCORDANCE WITH REGULATIONS THE COMMISSIONER ADOPTS;

(3) MAINTAIN FINANCIAL STRENGTH RATINGS FROM TWO OR MORE RATING AGENCIES THAT THE COMMISSIONER CONSIDERS ACCEPTABLE IN ACCORDANCE WITH REGULATIONS THE COMMISSIONER ADOPTS;

(4) AGREE TO SUBMIT TO THE JURISDICTION OF THIS STATE;

(5) APPOINT THE COMMISSIONER AS ITS AGENT FOR SERVICE OF PROCESS IN THIS STATE;

(6) AGREE TO PROVIDE SECURITY FOR ALL OF THE ASSUMING INSURER'S LIABILITIES ATTRIBUTABLE TO REINSURANCE CEDED BY UNITED STATES CEDING INSURERS IF IT RESISTS ENFORCEMENT OF A FINAL UNITED STATES JUDGMENT;

(7) AGREE TO MEET APPLICABLE INFORMATION FILING REQUIREMENTS AS THE COMMISSIONER DETERMINES BOTH FOR THE INITIAL APPLICATION FOR CERTIFICATION AND ON AN ONGOING BASIS; AND

(8) SATISFY ANY OTHER REQUIREMENTS FOR CERTIFICATION THAT THE COMMISSIONER CONSIDERS RELEVANT.

(B) (1) ~~AN ASSOCIATION~~ A GROUP, INCLUDING INCORPORATED AND INDIVIDUAL UNINCORPORATED UNDERWRITERS, MAY BE A CERTIFIED REINSURER IF THE ~~ASSOCIATION~~ GROUP, INCLUDING INCORPORATED AND INDIVIDUAL UNINCORPORATED UNDERWRITERS, MEETS ALL THE REQUIREMENTS OF THIS ~~SUBSECTION AND SUBSECTION (A) OF THIS SECTION.~~

(2) THE ~~ASSOCIATION~~ GROUP SHALL SATISFY ITS MINIMUM CAPITAL AND SURPLUS EQUIVALENTS, NET OF LIABILITIES, OF THE ~~ASSOCIATION~~ GROUP AND ITS MEMBERS, WHICH SHALL INCLUDE A JOINT CENTRAL FUND THAT MAY BE APPLIED TO ANY UNSATISFIED OBLIGATION OF THE ~~ASSOCIATION~~ GROUP OR ANY OF ITS MEMBERS, IN AN AMOUNT THAT THE COMMISSIONER DETERMINES WILL PROVIDE ADEQUATE PROTECTION.

(3) THE INCORPORATED MEMBERS OF THE ~~ASSOCIATION~~ GROUP MAY NOT BE ENGAGED IN ANY BUSINESS OTHER THAN UNDERWRITING AS A MEMBER OF THE ~~ASSOCIATION~~ GROUP.

(4) THE INCORPORATED MEMBERS OF THE ~~ASSOCIATION~~ GROUP SHALL BE SUBJECT TO THE SAME LEVEL OF REGULATION AND SOLVENCY CONTROL BY THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR AS ARE THE UNINCORPORATED MEMBERS.

(5) WITHIN 90 DAYS AFTER ITS FINANCIAL STATEMENTS ARE DUE TO BE FILED WITH THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR, THE ~~ASSOCIATION~~ GROUP SHALL PROVIDE TO THE COMMISSIONER:

(I) AN ANNUAL CERTIFICATION BY THE ~~ASSOCIATION'S~~ GROUP'S DOMICILIARY REGULATOR OF THE SOLVENCY OF EACH UNDERWRITER MEMBER; OR

(II) IF A CERTIFICATION IS UNAVAILABLE, FINANCIAL STATEMENTS, PREPARED BY INDEPENDENT PUBLIC ACCOUNTANTS, OF EACH UNDERWRITER MEMBER OF THE ~~ASSOCIATION~~ GROUP.

~~5-907.~~ 5-909.

(A) (1) THE COMMISSIONER SHALL MAINTAIN AND PUBLISH A LIST OF QUALIFIED JURISDICTIONS UNDER WHICH AN ASSUMING INSURER, LICENSED AND DOMICILED IN THAT JURISDICTION, IS ELIGIBLE TO BE CONSIDERED FOR CERTIFICATION BY THE COMMISSIONER AS A CERTIFIED REINSURER.

(2) IN ORDER TO DETERMINE WHETHER THE DOMICILIARY JURISDICTION OF A NON-UNITED STATES ASSUMING INSURER IS ELIGIBLE TO BE RECOGNIZED AS A QUALIFIED JURISDICTION, THE COMMISSIONER SHALL:

(I) EVALUATE THE APPROPRIATENESS AND EFFECTIVENESS OF THE REINSURANCE SUPERVISORY SYSTEM OF THE JURISDICTION, INITIALLY AND ON AN ONGOING BASIS; AND

(II) CONSIDER THE RIGHTS, BENEFITS, AND EXTENT OF RECIPROCAL RECOGNITION AFFORDED BY THE NON-UNITED STATES JURISDICTION TO REINSURERS LICENSED AND DOMICILED IN THE UNITED STATES.

(3) A QUALIFIED JURISDICTION SHALL AGREE IN WRITING TO SHARE INFORMATION AND COOPERATE WITH THE COMMISSIONER WITH RESPECT TO ALL CERTIFIED REINSURERS DOMICILED IN THAT JURISDICTION.

(4) THE COMMISSIONER MAY NOT RECOGNIZE A JURISDICTION AS A QUALIFIED JURISDICTION ~~A JURISDICTION THAT UNLESS THE COMMISSIONER DETERMINES DOES~~ HAS DETERMINED THAT THE JURISDICTION NOT ADEQUATELY AND PROMPTLY ENFORCE ENFORCES FINAL UNITED STATES JUDGMENTS AND ARBITRATION AWARDS.

(5) THE COMMISSIONER MAY CONSIDER OTHER FACTORS IN DETERMINING THE JURISDICTION'S ELIGIBILITY TO BE RECOGNIZED AS A QUALIFIED JURISDICTION.

(B) (1) ~~THERE IS A~~ THE COMMISSIONER SHALL CONSIDER THE LIST OF QUALIFIED JURISDICTIONS PUBLISHED THROUGH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS COMMITTEE PROCESS IN DETERMINING THE QUALIFIED JURISDICTIONS IN THIS STATE.

(2) ~~THE~~ IN DETERMINING WHETHER A JURISDICTION IS A QUALIFIED JURISDICTION, THE COMMISSIONER SHALL CONSIDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS LIST IN DETERMINING QUALIFIED JURISDICTIONS:

(I) WHEN THE JURISDICTION HAS BEEN EVALUATED FOR INCLUSION ON THE LIST; AND

(II) WHENEVER THE LIST IS AMENDED.

(3) IF THE COMMISSIONER APPROVES A JURISDICTION AS QUALIFIED THAT DOES NOT APPEAR ON THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS LIST OF QUALIFIED JURISDICTIONS, THE COMMISSIONER SHALL PROVIDE ~~THOROUGHLY DOCUMENTED JUSTIFICATION IN ACCORDANCE WITH CRITERIA TO BE DEVELOPED UNDER~~ INFORMATION RELATED TO THE APPROVAL TO THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AS PROVIDED IN REGULATIONS THE COMMISSIONER ADOPTS.

(4) ~~UNITED STATES JURISDICTIONS~~ THE COMMISSIONER SHALL RECOGNIZE AS A QUALIFIED JURISDICTION IN THIS STATE ANY STATE THAT ~~MEET~~ MEETS THE REQUIREMENT FOR ACCREDITATION UNDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS FINANCIAL STANDARDS AND ACCREDITATION PROGRAM SHALL BE RECOGNIZED AS QUALIFIED JURISDICTIONS IN THIS STATE.

(5) IF A CERTIFIED REINSURER'S DOMICILIARY JURISDICTION CEASES TO BE A QUALIFIED JURISDICTION, THE COMMISSIONER MAY INDEFINITELY SUSPEND OR REVOKE THE REINSURER'S CERTIFICATION.

~~5-908.~~ 5-910.

(A) (1) THE COMMISSIONER SHALL ASSIGN A RATING TO EACH CERTIFIED REINSURER BASED ON FACTORS THE COMMISSIONER CONSIDERS RELEVANT, GIVING DUE CONSIDERATION TO THE FINANCIAL STRENGTH RATINGS THAT HAVE BEEN ASSIGNED BY RATING AGENCIES ~~THAT THE~~



~~COMMISSIONER CONSIDERS ACCEPTABLE~~ IN ACCORDANCE WITH REGULATIONS THE COMMISSIONER ADOPTS.

(2) THE COMMISSIONER SHALL PUBLISH A LIST OF ALL CERTIFIED REINSURERS AND THEIR RATINGS.

(B) IF AN APPLICANT FOR CERTIFICATION HAS BEEN CERTIFIED AS A REINSURER ~~IN A JURISDICTION~~ BY THE INSURANCE REGULATORY AGENCY OF A STATE ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS:

~~(1) , THE COMMISSIONER MAY DEFER TO THAT JURISDICTION'S CERTIFICATION AND TO THE RATING ASSIGNED BY THAT JURISDICTION; AND~~

~~(2) THE ASSUMING INSURER SHALL BE CONSIDERED TO BE A CERTIFIED REINSURER IN THIS STATE~~ USE INFORMATION PROVIDED BY THAT INSURANCE REGULATORY AGENCY TO:

(1) DESIGNATE THE ASSUMING INSURER AS A CERTIFIED REINSURER IN THIS STATE;

(2) ASSIGN A RATING TO THE ASSUMING INSURER; OR

(3) BOTH.

(C) (1) A CERTIFIED REINSURER THAT CEASES TO ASSUME NEW BUSINESS IN THIS STATE MAY REQUEST TO MAINTAIN ITS CERTIFICATION IN INACTIVE STATUS IN ORDER TO CONTINUE TO QUALIFY FOR A REDUCTION IN SECURITY FOR ITS IN-FORCE BUSINESS.

(2) AN INACTIVE CERTIFIED REINSURER SHALL CONTINUE TO COMPLY WITH ALL APPLICABLE REQUIREMENTS OF ~~§ 5-909~~ § 5-911 OF THIS SUBTITLE.

(3) THE COMMISSIONER SHALL ASSIGN A RATING THAT TAKES INTO ACCOUNT, IF RELEVANT, THE REASONS WHY THE REINSURER IS NOT ASSUMING NEW BUSINESS.

~~5-909.~~ 5-911.

(A) A CERTIFIED REINSURER SHALL SECURE OBLIGATIONS ASSUMED FROM UNITED STATES CEDING INSURERS UNDER THIS SUBTITLE AT A LEVEL CONSISTENT WITH ITS RATING, AS SPECIFIED IN REGULATIONS THE COMMISSIONER ADOPTS.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN ORDER FOR A DOMESTIC CEDING INSURER TO QUALIFY FOR FULL FINANCIAL STATEMENT CREDIT FOR REINSURANCE CEDED TO A CERTIFIED REINSURER, THE CERTIFIED REINSURER SHALL MAINTAIN SECURITY IN A FORM THE COMMISSIONER CONSIDERS ACCEPTABLE AND CONSISTENT WITH ~~THE PROVISIONS OF § 5-912~~ § 5-914 OF THIS SUBTITLE, OR IN A MULTIBENEFICIARY TRUST IN ACCORDANCE WITH ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.

(C) (1) IF A CERTIFIED REINSURER MAINTAINS A TRUST TO FULLY SECURE ITS OBLIGATIONS CONSISTENT WITH ~~THE PROVISIONS OF § 5-905~~ § 5-907 OF THIS SUBTITLE AND CHOOSES TO SECURE ITS OBLIGATIONS INCURRED AS A CERTIFIED REINSURER IN THE FORM OF A MULTIBENEFICIARY TRUST, THE CERTIFIED REINSURER SHALL MAINTAIN SEPARATE TRUST ACCOUNTS FOR ITS OBLIGATIONS INCURRED UNDER REINSURANCE ~~AGREEMENTS~~ CONTRACTS ISSUED OR RENEWED AS A CERTIFIED REINSURER WITH REDUCED SECURITY AS ALLOWED BY THIS SECTION OR COMPARABLE LAWS OF OTHER UNITED STATES JURISDICTIONS AND FOR ITS OBLIGATIONS SUBJECT TO ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE.

(2) AS A CONDITION OF CERTIFICATION UNDER ~~§ 5-906~~ § 5-908 OF THIS SUBTITLE, THE CERTIFIED REINSURER SHALL BIND ITSELF, BY THE LANGUAGE OF THE TRUST AND AGREEMENT WITH THE COMMISSIONER WITH PRINCIPAL REGULATORY OVERSIGHT OF EACH TRUST ACCOUNT, TO FUND, ON TERMINATION OF THE TRUST ACCOUNT, OUT OF THE REMAINING SURPLUS OF THE TRUST, ANY DEFICIENCY OF ANY OTHER TRUST ACCOUNT.

(D) THE MINIMUM TRUSTEED SURPLUS REQUIREMENTS PROVIDED IN ~~§ 5-905~~ § 5-907 OF THIS SUBTITLE DO NOT APPLY WITH RESPECT TO A MULTIBENEFICIARY TRUST MAINTAINED BY A CERTIFIED REINSURER FOR THE PURPOSE OF SECURING OBLIGATIONS INCURRED UNDER THIS SECTION, EXCEPT THAT THE TRUST SHALL MAINTAIN A MINIMUM TRUSTEED SURPLUS OF \$10,000,000.

(E) WITH RESPECT TO OBLIGATIONS INCURRED BY A CERTIFIED REINSURER UNDER THIS SECTION, IF THE SECURITY IS INSUFFICIENT, THE COMMISSIONER:

(1) SHALL REDUCE THE ALLOWABLE CREDIT BY AN AMOUNT PROPORTIONATE TO THE DEFICIENCY; AND

(2) MAY IMPOSE FURTHER REDUCTIONS IN ALLOWABLE CREDIT ON FINDING THAT THERE IS A MATERIAL RISK THAT THE CERTIFIED REINSURER'S OBLIGATIONS WILL NOT BE PAID IN FULL WHEN DUE.

(F) (1) FOR PURPOSES OF THIS SECTION, A CERTIFIED REINSURER WHOSE CERTIFICATION THE COMMISSIONER HAS BEEN REVOKED, SUSPENDED, ~~VOLUNTARILY SURRENDERED,~~ OR PLACED ON INACTIVE STATUS, OR HAS BEEN VOLUNTARILY SURRENDERED, FOR ANY REASON SHALL BE TREATED AS A CERTIFIED REINSURER REQUIRED TO SECURE ~~100%~~ ALL OF ITS OBLIGATIONS.

(2) IF THE COMMISSIONER CONTINUES TO ASSIGN A HIGHER RATING AS ALLOWED BY OTHER PROVISIONS OF THIS SECTION, THE REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A CERTIFIED REINSURER IN INACTIVE STATUS OR TO A REINSURER WHOSE CERTIFICATION HAS BEEN SUSPENDED.

~~5-910.~~ 5-912.

(A) AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR HEARING TO THE REINSURER, THE COMMISSIONER MAY SUSPEND OR REVOKE A REINSURER'S ACCREDITATION OR CERTIFICATION IF THE REINSURER CEASES TO MEET THE REQUIREMENTS FOR ACCREDITATION OR CERTIFICATION.

(B) THE REVOCATION OR SUSPENSION MAY NOT TAKE EFFECT UNTIL AFTER THE COMMISSIONER'S ORDER ON HEARING UNLESS:

(1) THE REINSURER WAIVES ITS RIGHT TO A HEARING;

(2) THE COMMISSIONER'S ORDER IS BASED ON A REGULATORY ACTION BY THE REINSURER'S DOMICILIARY JURISDICTION OR PRIMARY CERTIFYING STATE ~~TERMINATING~~ SUSPENDING OR REVOKING THE REINSURER'S ELIGIBILITY TO TRANSACT INSURANCE OR REINSURANCE;

(3) THE REINSURER VOLUNTARILY SURRENDERS ITS LICENSE OR CERTIFICATION TO TRANSACT INSURANCE OR REINSURANCE BUSINESS IN ITS DOMICILIARY JURISDICTION OR PRIMARY CERTIFYING STATE; OR

(4) (I) THE COMMISSIONER FINDS THAT AN EMERGENCY REQUIRES IMMEDIATE ACTION BY THE COMMISSIONER; AND

(II) A COURT OF COMPETENT JURISDICTION HAS NOT STAYED THE COMMISSIONER'S ACTION.

(C) (1) WHILE A REINSURER'S ACCREDITATION OR CERTIFICATION IS SUSPENDED, A REINSURANCE CONTRACT ISSUED OR RENEWED AFTER THE EFFECTIVE DATE OF THE SUSPENSION DOES NOT QUALIFY FOR CREDIT EXCEPT

TO THE EXTENT THE REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN ACCORDANCE WITH ~~§ 5-912~~ § 5-914 OF THIS SUBTITLE.

(2) IF A REINSURER'S ACCREDITATION OR CERTIFICATION IS REVOKED, CREDIT FOR REINSURANCE MAY NOT BE GRANTED AFTER THE EFFECTIVE DATE OF THE REVOCATION EXCEPT TO THE EXTENT THAT THE REINSURER'S OBLIGATIONS UNDER THE CONTRACT ARE SECURED IN ACCORDANCE WITH ~~§ 5-909 OR § 5-912~~ § 5-911 OR § 5-914 OF THIS SUBTITLE.

~~5-911. 5-913.~~

(A) IF THE ASSUMING INSURER IS NOT LICENSED, ACCREDITED, OR CERTIFIED TO TRANSACT INSURANCE OR REINSURANCE IN THIS STATE, THE CREDIT ALLOWED BY ~~§ 5-903(D)~~ § 5-904(E) OF THIS SUBTITLE MAY NOT BE ALLOWED UNLESS THE ASSUMING INSURER AGREES IN THE REINSURANCE ~~AGREEMENTS~~ CONTRACTS:

(1) THAT IN THE EVENT OF THE FAILURE OF THE ASSUMING INSURER TO PERFORM ITS OBLIGATIONS UNDER THE TERMS OF THE REINSURANCE ~~AGREEMENT~~ CONTRACT, THE ASSUMING INSURER, AT THE REQUEST OF THE ~~OF THE~~ CEDING INSURER, SHALL:

(I) SUBMIT TO THE JURISDICTION OF ANY COURT OF COMPETENT JURISDICTION IN ANY STATE;

(II) COMPLY WITH ALL REQUIREMENTS NECESSARY TO GIVE THE COURT JURISDICTION; AND

(III) ABIDE BY THE FINAL DECISION OF THE COURT OR OF ANY APPELLATE COURT IN CASE OF AN APPEAL; AND

(2) TO DESIGNATE THE COMMISSIONER AS ITS RESIDENT AGENT ON WHOM ANY LAWFUL PROCESS MAY BE SERVED IN ANY ACTION, SUIT, OR PROCEEDING INSTITUTED BY OR ON BEHALF OF THE CEDING INSURER.

(B) SUBSECTION (A) OF THIS SECTION IS NOT INTENDED TO CONFLICT WITH OR OVERRIDE THE OBLIGATION OF THE PARTIES TO A REINSURANCE ~~AGREEMENT~~ CONTRACT TO ARBITRATE THEIR DISPUTES, IF THIS OBLIGATION IS CREATED IN THE REINSURANCE ~~AGREEMENT~~ CONTRACT.

(C) IF THE ASSUMING INSURER DOES NOT MEET THE REQUIREMENTS OF ~~§ 5-903(D)~~ § 5-904(C) OR ~~(C)~~ (D) OF THIS SUBTITLE, THE CREDIT ALLOWED BY ~~§ 5-903(D)~~ § 5-904(E) AND ~~(E)~~ (F) OF THIS SUBTITLE MAY NOT BE ALLOWED

UNLESS THE ASSUMING INSURER AGREES IN THE TRUST AGREEMENTS TO THE FOLLOWING CONDITIONS:

(1) NOTWITHSTANDING ANY OTHER PROVISION IN THE TRUST INSTRUMENT, IF THE TRUST FUND IS INADEQUATE BECAUSE IT CONTAINS AN AMOUNT LESS THAN THE AMOUNT REQUIRED BY ~~§ 5-905(J)~~ § 5-907(J) OF THIS SUBTITLE, OR IF THE GRANTOR OF THE TRUST HAS BEEN DECLARED INSOLVENT OR PLACED INTO RECEIVERSHIP, REHABILITATION, LIQUIDATION, OR SIMILAR PROCEEDINGS UNDER THE LAWS OF ITS STATE OR COUNTRY OF DOMICILE, THE TRUSTEE SHALL COMPLY WITH AN ORDER OF THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST OR WITH AN ORDER OF A COURT OF COMPETENT JURISDICTION DIRECTING THE TRUSTEE TO TRANSFER TO THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT ALL OF THE ASSETS OF THE TRUST FUND;

(2) THE ASSETS SHALL BE DISTRIBUTED BY AND CLAIMS SHALL BE FILED WITH AND VALUED BY THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE TRUST IS DOMICILED THAT ARE APPLICABLE TO THE LIQUIDATION OF DOMESTIC INSURERS;

(3) IF THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT OVER THE TRUST DETERMINES THAT THE ASSETS OF THE TRUST FUND OR ANY PART OF THE ASSETS ARE NOT NECESSARY TO SATISFY THE CLAIMS OF THE UNITED STATES CEDING INSURERS OF THE GRANTOR OF THE TRUST, THE ASSETS OR PART SHALL BE RETURNED BY THE ~~COMMISSIONER~~ INSURANCE REGULATORY AGENCY WITH REGULATORY OVERSIGHT TO THE TRUSTEE FOR DISTRIBUTION IN ACCORDANCE WITH THE TRUST AGREEMENT; AND

(4) THE GRANTOR SHALL WAIVE ANY RIGHT OTHERWISE AVAILABLE TO IT UNDER UNITED STATES LAW THAT IS INCONSISTENT WITH THIS SUBSECTION.

~~5-912.~~ 5-914.

(A) AN ASSET OR A REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER NOT MEETING THE REQUIREMENTS OF ~~§ 5-903~~ § 5-904 OF THIS SUBTITLE SHALL BE ALLOWED IN AN AMOUNT NOT EXCEEDING THE LIABILITIES CARRIED BY THE CEDING INSURER.

(B) THE REDUCTION SHALL BE IN THE AMOUNT OF FUNDS HELD BY OR ON BEHALF OF THE CEDING INSURER, INCLUDING FUNDS HELD IN TRUST FOR THE CEDING INSURER, UNDER A REINSURANCE CONTRACT WITH THE ASSUMING INSURER AS SECURITY FOR THE PAYMENT OF OBLIGATIONS UNDER THE CONTRACT, IF THE SECURITY IS HELD:

(1) IN THE UNITED STATES SUBJECT TO WITHDRAWAL SOLELY BY, AND UNDER THE EXCLUSIVE CONTROL OF, THE CEDING INSURER; OR

(2) IN THE CASE OF A TRUST, HELD IN A QUALIFIED UNITED STATES FINANCIAL INSTITUTION.

(C) THE SECURITY MAY BE IN THE FORM OF:

(1) CASH;

(2) SECURITIES LISTED BY THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, INCLUDING THOSE DEEMED EXEMPT FROM FILING AS DEFINED BY THE PURPOSES AND PROCEDURES MANUAL OF THE SECURITIES VALUATION OFFICE, AND QUALIFYING AS ADMITTED ASSETS;

(3) SUBJECT TO SUBSECTION (D) OF THIS SECTION, CLEAN, IRREVOCABLE, UNCONDITIONAL LETTERS OF CREDIT, ISSUED OR CONFIRMED BY A QUALIFIED UNITED STATES FINANCIAL INSTITUTION, EFFECTIVE NO LATER THAN DECEMBER 31 OF THE YEAR FOR WHICH THE FILING IS BEING MADE, AND IN THE POSSESSION OF, OR IN TRUST FOR, THE CEDING INSURER ON OR BEFORE THE FILING DATE OF THE CEDING INSURER'S ANNUAL STATEMENT; OR

(4) ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE COMMISSIONER.

(D) NOTWITHSTANDING THE SUBSEQUENT FAILURE OF THE ISSUING OR CONFIRMING INSTITUTION TO MEET APPLICABLE STANDARDS OF ISSUER ACCEPTABILITY, A LETTER OF CREDIT MEETING APPLICABLE STANDARDS OF ISSUER ACCEPTABILITY AS OF THE DATE OF ITS ISSUANCE OR CONFIRMATION UNDER SUBSECTION (C)(3) OF THIS SECTION SHALL CONTINUE TO BE ACCEPTABLE AS SECURITY UNTIL THE LETTER OF CREDIT EXPIRES OR IS EXTENDED, RENEWED, MODIFIED, OR AMENDED, WHICHEVER OCCURS FIRST.

(A) (1) A CEDING INSURER SHALL TAKE STEPS TO MANAGE ITS REINSURANCE RECOVERABLES PROPORTIONATE TO ITS OWN BOOK OF BUSINESS.

(2) (I) A DOMESTIC CEDING INSURER SHALL NOTIFY THE COMMISSIONER WITHIN 30 DAYS AFTER REINSURANCE RECOVERABLES FROM ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED ASSUMING INSURERS, EXCEEDS OR IS LIKELY TO EXCEED 50% OF THE DOMESTIC CEDING INSURER'S LAST REPORTED SURPLUS TO POLICYHOLDERS.

(II) THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL DEMONSTRATE THAT THE DOMESTIC CEDING INSURER IS SAFELY MANAGING THE EXPOSURE.

(B) (1) A CEDING INSURER SHALL TAKE STEPS TO DIVERSIFY ITS REINSURANCE PROGRAM.

(2) (I) A DOMESTIC CEDING INSURER SHALL NOTIFY THE COMMISSIONER WITHIN 30 DAYS AFTER CEDING OR BEING LIKELY TO CEDE TO ANY SINGLE ASSUMING INSURER, OR GROUP OF AFFILIATED ASSUMING INSURERS, MORE THAN 20% OF THE CEDING INSURER'S GROSS WRITTEN PREMIUM IN THE PRIOR CALENDAR YEAR.

(II) THE NOTIFICATION REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL DEMONSTRATE THAT THE DOMESTIC CEDING INSURER IS SAFELY MANAGING THE EXPOSURE.

~~5-914.~~ 5-916.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That credit for reinsurance ceded to a reinsurer under this Act may be allowed only for reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer by the Maryland Insurance Commissioner under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1168 – *Education – Minority Teacher Recruitment – Study and Report*.

This bill requires the State Department of Education, the Maryland Higher Education Commission, and the University System of Maryland to study and make recommendations on strategies to increase and improve minority teacher recruitment, preparation, development, and retention in elementary and secondary education in the State. The bill requires the Department, Commission, and System jointly to submit a specified report to the Governor and the General Assembly on or before December 1, 2013.

Senate Bill 548, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1168.

Sincerely,

Governor Martin O'Malley

**House Bill 1168**

AN ACT concerning

**~~State Department of Education~~ – Minority Teacher Recruitment – Study and Report**

FOR the purpose of requiring the State Department of Education, the Maryland Higher Education Commission, and the University System of Maryland to study and make recommendations on certain strategies to increase and improve minority teacher recruitment, preparation, development, and retention in elementary and secondary education in the State; requiring the Department, Commission, and System to submit a certain report to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to minority teacher recruitment ~~and the State Department of Education.~~



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The State Department of Education, the Maryland Higher Education Commission, and the University System of Maryland jointly shall study and make recommendations on strategies to increase and improve the recruitment, preparation, development, and retention of high-quality minority teachers in elementary and secondary education in the State.

(b) On or before December 1, 2013, the State Department of Education, the Maryland Higher Education Commission, and the University System of Maryland jointly shall report on ~~its~~ their recommendations under subsection (a) of this section to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. It shall remain effective for a period of 1 year and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1194 – *Baltimore County – Property Tax Credit – Bowerman-Loreley Beach Community Association, Inc.*

This bill corrects a reference to the Bowerman-Loreley Beach Community Association, Inc. for purposes of a specified property tax credit in Baltimore County and makes the Act an emergency measure.

Senate Bill 947, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1194.

Sincerely,

Governor Martin O'Malley

**House Bill 1194**

AN ACT concerning

**Baltimore County – Property Tax Credit – Bowerman–Loreley Beach  
Community Association, Inc.**

FOR the purpose of making a technical correction for purposes of a certain property tax credit; making this Act an emergency measure; and generally relating to a property tax credit in Baltimore County for the Bowerman–Loreley Beach Community Association, Inc.

BY repealing and reenacting, with amendments,  
Article – Tax – Property  
Section 9–305(b)(21)  
Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Tax – Property**

9–305.

(b) The governing body of Baltimore County may grant, by law, a property tax credit under this section against the county property tax imposed on:

(21) real property that is owned by the [Loreley Beach Community Association] **BOWERMAN–LORELEY BEACH COMMUNITY ASSOCIATION, INC.;**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House

H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1237 – *Health Care Practitioners – Prescription Drug or Device Dispensing – Medical Facilities or Clinics That Specialize in Treatment Reimbursable Through Workers' Compensation Insurance*.

This bill repeals an exception from the requirement that an individual be licensed by the Board of Pharmacy before the individual may practice pharmacy in the State. The bill requires a dentist, physician, or podiatrist who dispenses a prescription drug or device in the course of treating a patient at a medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance to obtain a dispensing permit and meet other requirements.

Senate Bill 139, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1237.

Sincerely,

Governor Martin O'Malley

### House Bill 1237

AN ACT concerning

**Health Care Practitioners – Prescription Drug or Device Dispensing –  
Medical Facilities or Clinics That Specialize in Treatment Reimbursable  
Through Workers' Compensation Insurance**

FOR the purpose of repealing a certain exception from the requirement that an individual be licensed by the Board of Pharmacy before the individual may practice pharmacy in the State; requiring a dentist, physician, or podiatrist who dispenses a prescription drug or device in the course of treating a patient at a medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance to obtain a dispensing permit and meet certain other requirements; and generally relating to dispensing of prescription drugs or devices by dentists, physicians, or podiatrists.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 12-102(g)  
Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Health Occupations**

12–102.

(g) This title does not prohibit a dentist, physician, or podiatrist from dispensing a prescription drug or device in the course of treating a patient:

(1) [At a medical facility or clinic that specializes in the treatment of medical cases reimbursable through workers' compensation insurance;

(2)] At a medical facility or clinic that is operated on a nonprofit basis;

[(3)] (2) At a health center that operates on a campus of an institution of higher education; or

[(4)] (3) At a public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H–101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1253 – *Natural Resources – Commercial Fishing – Licensing*.

This bill alters the annual fees and surcharges for specified commercial fishing licenses and authorizations and requires that specified tidal fish licensees obtain a harvester registration from the Department of Natural Resources. The bill authorizes the Department to issue a permit authorizing a person to commercially harvest specified fish species, subject to specified annual fees and repeals provisions of law

that authorize the Department to establish and issue a commercial fishing apprenticeship permit.

Senate Bill 662, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1253.

Sincerely,

Governor Martin O'Malley

### House Bill 1253

AN ACT concerning

#### **Natural Resources – Commercial Fishing – Licensing**

FOR the purpose of altering the annual fees and surcharges for certain commercial fishing licenses and authorizations; requiring that tidal fish licensees with certain authorizations obtain a harvester registration from the Department of Natural Resources; establishing a certain annual fee for the harvester registration; establishing that the harvester registration is nontransferable; authorizing the Department to issue a permit to commercially harvest certain fish species, subject to certain annual fees; authorizing the Department to adopt regulations establishing a permit to commercially harvest certain other fish species, subject to a certain maximum annual fee; repealing a provision of law authorizing a tidal fish licensee to catch striped bass for sale on payment of a certain annual surcharge; altering the amount of a certain annual surcharge for seafood marketing programs assessed on tidal fish licensees; exempting certain nonresident tidal fish licensees from a certain required annual surcharge; requiring the Department to accept applications for certain commercial fish license authorizations and to maintain a waiting list of candidates for each fishing activity in a certain order; repealing provisions of law that authorize the Department to establish and issue a commercial fishing apprenticeship permit, accept applications and annual fees for the permit, issue a certain license to a person who has completed an apprenticeship, adopt certain regulations related to the criteria required for an apprenticeship permit, and otherwise administer a commercial fishing apprenticeship permit process; authorizing a tidal fish licensee to renew a harvester registration annually; repealing a certain provision of law authorizing certain tidal fish license conversions; requiring certain licensees to possess a harvester registration when engaged in certain commercial fishing activity; altering certain standards for determining when a person is required to obtain a seafood dealer authorization; requiring certain persons to obtain a bait harvester permit under certain circumstances; establishing an annual fee for a bait harvester permit; requiring a licensee to provide the Department certain notification and pay a certain pound net activity registration fee in a certain time frame before setting a pound net;

authorizing the Governor annually to include a certain appropriation in the State budget for a certain purpose; providing for certain corrections of cross-references and terminology; clarifying certain language; and generally relating to commercial fishing licensing.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 4–701, 4–702, and 4–711(i)  
Annotated Code of Maryland  
(2012 Replacement Volume)

BY repealing  
Article – Natural Resources  
Section 4–701.1  
Annotated Code of Maryland  
(2012 Replacement Volume)

BY repealing and reenacting, without amendments,  
Article – Natural Resources  
Section 4–711(a), (b), and (h)  
Annotated Code of Maryland  
(2012 Replacement Volume)

BY adding to  
Article – Natural Resources  
Section 4–711(i)  
Annotated Code of Maryland  
(2012 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### **Article – Natural Resources**

4–701.

(a) This section applies to any person who is required under Subtitle 2, 7, 8, 9, or 10 of this title to be licensed to guide fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters.

(b) (1) The Department shall utilize a single, commercial license, to be known and designated as a tidal fish license.

(2) A tidal fish license authorizes a licensee:

(i) To engage in each activity indicated on the license; and

(ii) For catching crabs, to utilize the number of crew members [indicated on the license] **AUTHORIZED UNDER § 4-814 OF THIS TITLE.**

(3) Except for a person receiving a license as a beneficiary of a deceased licensee under subsection (j)(4)(i) of this section, the Department may not issue a tidal fish license to an individual who is younger than 14 years of age.

(4) A person may not guide fishing parties or catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters unless licensed under this section.

(c) (1) The license year for every tidal fish license shall be 12 months from September 1 through August 31 of the following year.

(2) A licensee and crew members may engage only in those activities for which the annual fees for that license year have been paid.

(d) (1) The Department may issue no more than one authorization to a person to engage in each activity under paragraph (2)(i)1 and 2 of this subsection during a license year.

(2) (i) On a tidal fish license, the Department may issue an authorization for any of the following activities for which the indicated fee has been paid.

(ii) The following annual fees for an authorization shall apply regardless of when the license is issued or an activity is authorized:

1. To provide services as:

A. A fishing guide in the tidal waters of Maryland – **[\$50] \$100** for a resident and **[\$100] \$200** for a nonresident; and

B. A master fishing guide, in addition to the fee under item A of this item – **[\$50] \$100** per vessel

2. To catch for sale fish with equipment which is legal under this title:

A. Finfish:

I. Hook and line only, anywhere: **[\$37.50] \$100**

II. All other equipment: **[\$100] \$150**

B. Crabs:

- I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and scrapes: [~~\$50~~] **\$100**
- II. Over 50 pots, plus any other gear listed in item I of this sub–sub–subparagraph: \$150
- C. Clams – \$100
- D. Oysters – \$250 for a dredge boat and [~~\$50~~] **\$100** for other than a dredge boat
- E. Conch, turtles, and lobster – [~~\$50~~] **\$100**
- F. For all activities in item 1A of this subparagraph and in items A through E of this item, unlimited tidal fish – \$300
3. For one or two crew members employed under § 4–814 of this title to enable a licensee to catch crabs under subparagraph (ii)2BII and F of this paragraph with more than 300 pots, the licensee shall pay [~~\$20 for each crew member~~] **AN ADDITIONAL:**
- A. **\$100 FOR UP TO 600 POTS TOTAL PER VESSEL; OR**
- B. ~~\$200~~ **\$150 FOR UP TO 900 POTS TOTAL PER VESSEL.**
4. [Except for a licensee dealing in his own catch, for] **FOR** a person to buy, process, pack, resell, market or otherwise deal in fish caught in the tidal waters of Maryland, seafood dealer [– \$150]:
- A. **\$50 FOR A PERSON LICENSED UNDER ITEM 2 OF THIS SUBPARAGRAPH; OR**
- B. **\$250 FOR A PERSON NOT LICENSED UNDER ITEM 2 OF THIS SUBPARAGRAPH.**
5. For a person who is not licensed under this section to land fish caught in out–of–state tidal waters, seafood landing – ~~\$150~~ **\$350**

**(E) (1) BEFORE CATCHING FISH FOR SALE UNDER AN AUTHORIZATION ISSUED UNDER SUBSECTION (D)(2)(II)2 OF THIS SECTION, A TIDAL FISH LICENSEE SHALL OBTAIN A HARVESTER REGISTRATION FROM THE DEPARTMENT.**



(2) THE ANNUAL FEE FOR A HARVESTER REGISTRATION IS \$215.

(3) A HARVESTER REGISTRATION IS NONTRANSFERABLE.

(F) FOR A TIDAL FISH LICENSE, THE DEPARTMENT MAY ISSUE A PERMIT FOR ANY OF THE FOLLOWING ACTIVITIES FOR WHICH THE INDICATED ANNUAL FEE HAS BEEN PAID:

(1) TO CATCH FOR SALE:

(I) STRIPED BASS:

1. \$200 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION (D)(2)(II)2A OF THIS SECTION; OR

2. \$150 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION (D)(2)(II)2F OF THIS SECTION;

(II) YELLOW PERCH: \$25;

(III) HORSESHOE CRAB: \$25;

(IV) BLACK SEA BASS: \$25; ~~OR~~

(V) SUMMER FLOUNDER: \$25; OR

(VI) SNAPPING TURTLE: \$25.

(2) THE DEPARTMENT MAY ESTABLISH BY REGULATION A PERMIT AND AN ANNUAL PERMIT FEE NOT EXCEEDING \$25 FOR ANY SPECIES NOT SUBJECT TO A PERMIT UNDER THIS SUBSECTION.

[(e)] (G) (1) [To catch striped bass for sale:

(i) A licensee authorized under subsection (d)(2)(ii)2A of this section shall pay an annual surcharge of \$200; or

(ii) A licensee authorized under subsection (d)(2)(ii)2F of this section shall pay with the license fee an annual surcharge of \$100.

(2)] (i) A person may not catch oysters for sale without:

1. Possessing a valid license under this section;

2. Paying an annual surcharge of \$300; and

3. Certifying to the Department that the person received the publications required under § 4–1006.2 of this title.

(ii) The Department shall use the surcharges collected under this paragraph only for oyster repletion activities.

**[(3)] (2)** In addition to the normal license fees imposed under subsection (d)(2)(ii)2 and 4 of this section, a licensee shall pay to the Department an annual surcharge **[of \$10] IN THE FOLLOWING AMOUNTS** to be credited to the Seafood Marketing Office of the Department to fund seafood marketing programs which have been approved by the Department:

**(I) \$20 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION (D)(2)(II)1, 2, 3, OR 5 OF THIS SECTION, IF THE LICENSEE IS NOT ALSO AUTHORIZED UNDER SUBSECTION (D)(2)(II)4 OF THIS SECTION; OR**

**(II) \$50 FOR A LICENSEE AUTHORIZED UNDER SUBSECTION (D)(2)(II)4 OF THIS SECTION, REGARDLESS OF WHETHER THE LICENSEE IS ALSO AUTHORIZED UNDER SUBSECTION (D)(2)(II)1, 2, 3, OR 5 OF THIS SECTION.**

**[(4)] (3)** (i) 1. In this paragraph, “fishing activities” means those activities that are directly related to catching fish.

2. “Fishing activities” does not include the activities of buying, selling, processing, transporting, exporting, or similarly dealing in fish.

(ii) **[The Department shall assess annually on] FOR** every nonresident license **[applicant for the applicant’s fishing activities] ISSUED** under Subtitles 7, 8, and 9 of this title, **EXCEPT UNDER SUBSECTION (D)(2)(II)1A OF THIS SECTION, THE DEPARTMENT SHALL ASSESS AN ANNUAL SURCHARGE** in addition to the normal license fees imposed by this subsection, **[a surcharge which cumulatively for the license year,] WHICH** shall be the greater of:

1. An amount equal to the difference between the total fees charged to a Maryland resident engaged in like fishing activities in the state of residence of the nonresident applicant and the total of normal license fees for fishing activities in Maryland; or

2. **[\$350] \$450.**

**[(f)] (H)** The Department may assess annually on every person licensed under subsection (d)(2)(ii)2 of this section a surcharge for the costs incurred by the Department for:

- (1) Fish tags issued to the licensee; and
- (2) The use by a licensee of a hailing system.

**[(g)] (1) (1) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR NEW AUTHORIZATIONS TO PARTICIPATE IN FISHING ACTIVITIES UNDER SUBSECTION (D)(2)(II)1 OR 2 OF THIS SECTION FROM QUALIFIED PERSONS AND MAINTAIN A WAITING LIST OF CANDIDATES FOR EACH FISHING ACTIVITY IN ORDER OF THE DATE AND TIME THAT APPLICATIONS ARE RECEIVED.**

**(2)** An applicant for a license to provide services as a commercial fishing guide in tidal waters of the State shall supply as part of the application verifiable references to any federal license that is issued by the U.S. Coast Guard to operate a vessel carrying passengers for hire in the applicant's name, as a condition precedent to engaging as a commercial fishing guide in tidal waters.

**[(h)] (1)** Notwithstanding any other provision of this section, the Department may issue an apprenticeship permit for any activity under subsection (d)(2)(ii)1 or 2 of this section to a person who currently resides and has resided for at least 5 years on an island in the State that is at least 3 miles from the mainland.

**(2)] (J) (1)** The Department may set by regulation targets for the number of tidal fish license authorizations under subsection (d)(2)(ii) of this section to be the number issued between September 1, 1998 and March 31, 1999. The Department may modify by regulation the target number of authorizations based on:

(i) Recommendations of the Tidal Fisheries Advisory Commission;

(ii) Recommendations of fishery management plans adopted by the Department, the Chesapeake Bay Program, the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fisheries Management Council, or any other appropriate management body;

(iii) The number of people historically participating;

(iv) Target species, size, number, weight, incidental catch, total biomass, annual harvest, mortality rates, and other factors which are necessary and appropriate; and

(v) The number of authorizations relinquished to the Department under subsection **[(k)] (L)** of this section.

**[(3)] (2)** (i) The Department shall by regulation limit the total number of commercial authorizations to fish for striped bass not to exceed 1,231

participants in the commercial fishery and 499 participants in the charter boat fishery.

(ii) The Department shall provide in its regulations for reallocation of any authorizations that may be revoked or voluntarily relinquished to the Department.

(iii) The Department shall provide in its regulations for the allocation of any available quota on a monthly basis to assure that all areas of the State have ample opportunity to attain an equitable portion of the available quota.

[(i) The Department shall issue a license authorizing participation in a particular fishing activity to a person who has completed the requirements of an apprenticeship under § 4–701.1 of this subtitle.]

[(j)] (K) (1) A license or authorization may be transferred only under the provisions of this subsection.

(2) A person who desires to obtain a license or authorization by transfer under this subsection shall, for each license or authorization applied for:

(i) Pay a \$50 application fee; and

(ii) Submit a completed application to the Department.

(3) The Department shall review and may approve the permanent transfer of a license or an authorization to a person who is the licensee's spouse, daughter, son, stepchild, grandchild, stepgrandchild, parent, sister, brother, grandparent, aunt, uncle, niece, nephew, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, or brother-in-law.

(4) (i) On the death of a licensee, the Department shall review and may approve the permanent transfer of a license or authorization to the person indicated on the beneficiary form submitted by the deceased licensee at the time of issuance on the license.

(ii) The personal representative of the estate of the deceased licensee may retain the license or authorization for 2 years from the date of appointment as personal representative if:

1. The deceased licensee did not indicate a license beneficiary;

2. The Department determines that the license beneficiary is not qualified to receive the license or authorization; or

3. The license beneficiary does not accept the license or authorization.

(iii) On appointment, the personal representative shall notify the Department of the appointment and the intent to retain the license or authorization.

(iv) A license or authorization retained under this paragraph may be renewed annually as required by this title.

(v) Before the end of the 2-year period, the personal representative may submit a completed transfer application to transfer the license or authorization to a qualified individual.

(vi) If a license or authorization is not transferred under subparagraph (i) of this paragraph, and a transfer application is not submitted under subparagraph (ii) of this paragraph, the license or authorization is void.

(vii) A person may not operate under the license or authorization of the deceased licensee without approval of the application by the Department.

(5) (i) Twice per license year, the Department may approve a temporary transfer of a license or authorization for not more than the remainder of the license year.

(ii) A temporary transferee who is convicted or receives an accepted plea of nolo contendere for a violation of federal or State fisheries law that results in a license suspension or revocation may not engage in that fishing activity or receive a transfer of a tidal fish license during the period of suspension or revocation.

(6) The Department may approve the permanent transfer of a license or authorization under this subsection from a person who has held a valid tidal fish license for at least 2 years to a person who provides a notarized bill of sale for the license or authorization being transferred.

(7) (i) Except for a fishing guide licensee or a master fishing guide licensee, a licensee may allow one individual to use the licensee's commercial fishing vessel to engage in activities authorized under the license if:

1. The licensee's commercial fishing vessel number is registered on the license; and

2. The licensee has [indicated the name of] **IDENTIFIED** the assigned individual to the Department on a form provided by the Department.

(ii) A licensee may change the assignment once per license year.

(iii) If a licensee allows an individual to utilize a vessel under this paragraph, the individual and the licensee shall be held responsible for any violations committed by the individual using the vessel.

**[(k)] (L)** (1) Notwithstanding the qualification criteria for a license and authorization to engage in an activity under this section, licensees may renew **A HARVESTER REGISTRATION AND** any valid existing authorizations on their licenses annually.

(2) (i) Application to renew a tidal fish license shall be made not later than August 31, or the next business day in the instance that the Department is not open, for the following license year.

(ii) The Department may not accept application for renewal after that date, as stated in subparagraph (i) of this paragraph unless:

1. Application is made by March 31, or the next business day in the instance that the Department is not open, of the following license year;

2. The applicant shows good cause why application was not made by August 31 of the previous license year; and

3. A late fee of \$50 is paid by the applicant in addition to the license fee.

**[(l)] (M)** (1) **[(Before September 1, 2012, at the time of license renewal, a licensee who possesses three or more authorizations under subsection (d)(2)(ii)1 and 2A through E of this section, one of which is a crabbing authorization, may relinquish each authorization and receive an authorization under subsection (d)(2)(ii)2F of this section.**

**[(2)]** (i) A licensee who possesses an unlimited tidal fish license under subsection (d)(2)(ii)2F of this section may relinquish the unlimited tidal fish license and receive one or more authorizations under subsection (d)(2)(ii)1A through E of this section.

(ii) If the fee for an unlimited tidal fish license is less than the total of the fees for authorizations received by a licensee under subparagraph (i) of this paragraph, the licensee shall pay to the Department an amount equal to the difference between the fee for the unlimited tidal fish license and the total of the fees for the authorizations received.

**[(3)] (2)** The Department shall adjust the number of authorizations under subsection (d)(2)(ii) of this section to reflect the number of license conversions under **[paragraphs (1) and (2)] PARAGRAPH (1)** of this subsection.

~~[(m)]~~ (N) (1) In addition to any other penalty provided in this title, the Department may suspend or revoke a person's entitlement to engage in a particular activity or activities under a tidal fish license.

(2) During a period of suspension or revocation imposed by the Department, the person penalized is not and shall not be authorized under any existing, renewed, transferred, or new tidal fish license to engage in the particular activity or activities for which the suspension is imposed.

(3) The following are grounds for suspension or revocation of a tidal fish license:

(i) Making any false statement in an application for a tidal fish license;

(ii) A serious violation of a State or federal commercial fisheries law that results in a conviction or an accepted plea of nolo contendere;

(iii) Failure to submit reports required by the provisions of this title or by the Department pursuant to provisions of this title; or

(iv) Failure for a nonresident of the State to appear in court pursuant to a citation issued by a Natural Resources police officer, or to any other process issued by any court of Maryland, for violation of this title.

(4) A penalty imposed in accordance with this subtitle shall be in addition to any other penalty authorized under § 4-1201 of this title regarding striped bass.

(5) The Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under this title, including:

(i) A schedule of points assigned to various offenses under this title;

(ii) A schedule of the maximum number of days that a license may be suspended according to the number of points accumulated;

(iii) Suspension or revocation of a license or authorization for a serious violation of a State or federal commercial fisheries law that results in an individual receiving a conviction or an accepted plea of nolo contendere;

(iv) Enhanced penalties for repeated violations of this title; and

(v) Enhanced penalties for violations of provisions of this title that regulate species deemed by the Department to be in need of special protection, including striped bass, crabs, oysters, and menhaden.

(6) (i) Before the suspension or revocation of a tidal fish license under this section, the Department shall notify the licensee in writing of the licensee's right to a hearing on request.

(ii) If a licensee submits a written request for a hearing to the Department within 30 days after the date that the notice required under this paragraph is mailed, the Department shall:

1. Hold a hearing after providing at least 10 days' notice to the licensee; and

2. Conduct the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) The Department may suspend a commercial license issued under this title without a hearing if:

1. The licensee does not submit a written request for a hearing; or

2. The licensee fails to appear for a scheduled hearing for which the Department provided notice.

**[(n)] (O)** (1) If a person is engaged in an activity for which a license or authorization is required under this section, the person shall possess:

(i) Any required license, authorization, **REGISTRATION**, or permit; and

(ii) For a person to whom a license or authorization has been temporarily transferred, documentation indicating the Department's approval of the temporary transfer application.

(2) (i) This paragraph does not limit the Department's authority to inspect books, statements, and accounts under § 4–206(b) of this title.

(ii) The licensee or any person to whom a licensee has transferred a license under subsection **[(j)] (K)** of this section shall allow any police officer, at reasonable times, including when the licensee or person is engaged in an activity that requires a license under this section, to inspect:

1. The license, authorization, or permit;



2. Any applicable application to transfer the commercial tidal fish license approved by the Department for a temporary transfer;

3. Commercial fishing vessels;

4. Vehicles used to transport fish for commercial purposes; and

5. Fish businesses owned or operated by a person licensed under this section.

(iii) Inspections of vessels, vehicles, and businesses authorized under this paragraph shall be restricted to inspections of fishing gear and places where fish may be stored.

(iv) Inspections of businesses authorized under this paragraph may be conducted in any building other than a dwelling house.

(3) (i) An inspector may seize fishing gear or fish found during an inspection under this subsection that is used or possessed in connection with a violation of this title or a regulation adopted under this title.

(ii) Fishing gear seized under this paragraph shall be held by the Department pending disposition of court proceedings, and on conviction the property seized or proceeds from the seizure shall be forfeited to the State for destruction or disposition as the Department may deem appropriate.

(iii) The Department may dispose of fish seized under this paragraph at its discretion.

**[(o)] (P)** The Department shall assign a permanent identification number to each licensee. A licensee shall display the identification number on every vessel, vehicle, gear, or place of business, as the Department may require by regulation.

**[(p)] (Q)** The Department shall:

(1) Deposit to the credit of the Fisheries Research and Development Fund all fees received for tidal fish licenses, authorizations, and permits under this section; and

(2) Use the funds received from the sale of striped bass surcharges for striped bass management and enforcement purposes.

**[(q)] (R)** (1) This subsection applies only to a person who, on April 1, 1997:

(i) Held a valid fishing guide license; and

(ii) Either:

1. Owned two or more vessels used to carry passengers for fishing;
2. Owned or operated a federally licensed vessel of 50 tons or more that was used to carry passengers for fishing; or
3. Owned or operated a marina from which 10 or more vessels operate to carry passengers for fishing.

(2) A person who meets the requirements of paragraph (1) of this subsection may obtain an annual master fishing guide license by:

- (i) Filing an application on a form provided by the Department;
- (ii) Supplying with the application proofs of ownership of the required vessels; and
- (iii) Paying the master fishing guide license fee set forth in subsection (d)(2)(ii)1 of this section.

(3) A person holding a master fishing guide license may:

- (i) Employ other persons to guide fishing parties on vessels owned by the master fishing guide; and
- (ii) Allow a person who holds a valid Coast Guard license to operate a vessel to carry passengers for fishing from the marina owned or operated by the master guide license holder authorized under paragraph (1)(ii)3 of this subsection as follows:

1. One person for 10 vessels;
2. Two persons for 11 to 20 vessels;
3. Three persons for 21 to 30 vessels;
4. Four persons for 31 to 40 vessels;
5. Five persons for 41 to 50 vessels; and
6. Six persons for 51 or more vessels.

(4) (i) The Department shall issue a number of copies of the master fishing guide license corresponding to the number of vessels owned or operated by the

master fishing guide, with each copy bearing the registration number of one of the vessels.

(ii) The master fishing guide shall ensure that when a vessel is operated, the appropriate copy of the license is on board.

(5) If a master fishing guide employs another person to operate a vessel to carry passengers for fishing, for purposes of the license suspension criteria in subsection (m) of this section, the master fishing guide shall be held responsible for any violations committed by the person employed to operate the vessel.

[4-701.1.

(a) This section applies to a person who does not qualify for a license required under Subtitle 2, Subtitle 7, Subtitle 8, Subtitle 9, or Subtitle 10 of this title, except for a seafood dealer license or a seafood landing license, to be licensed to guide fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters.

(b) Except as provided under subsection (h) of this section, the Department may issue an apprenticeship permit to authorize a person to gain practical experience in the presence of a tidal fish licensee regarding commercial fishing activities.

(c) An apprenticeship permit is valid for up to 3 years from the date of issuance and may be renewed for 1 year if the applicant shows good cause.

(d) The fees for an apprenticeship permit shall be the same as the annual fees applied under § 4-701(d) of this subtitle for each commercial fishing activity for the term of the apprenticeship and the first license year.

(e) (1) The Department may accept an application for an apprenticeship permit from a person who is at least 14 years of age and does not qualify for a commercial tidal fish license or an authorization for a particular fishing activity.

(2) The Department may issue an apprenticeship permit if the number of tidal fish authorizations issued for that fishing activity is less than the target number established by regulation.

(3) The Department shall maintain a list in chronological order of persons who have applied for an apprenticeship permit but have not been issued an apprenticeship permit due to the target number already having been issued.

(4) The Department shall issue an apprenticeship permit to the first person on the list when a permit becomes available.

(5) The Department may not issue an apprenticeship permit for a particular fishing activity unless the number of the tidal fish authorizations issued for

the particular activity is below the target number or a review by the General Assembly has been completed.

(f) The Department shall issue a tidal fish license or authorization in accordance with § 4–701(i) of this subtitle to persons who have completed the criteria established in subsection (g) or (h) of this section.

(g) (1) (i) The practical experience of a permittee shall consist of:

1. For each commercial fishing activity authorized under § 4–701(d)(2)(ii) of this subtitle, 150 days of experience in the fishing activity applied for;

2. For multiple fishing activities under § 4–701(d)(2)(ii) of this subtitle and an unlimited tidal fish authorization, 180 days of experience in at least two commercial fishing activities; and

3. For the purposes of subparagraph (ii) of this paragraph, at least 60 days of practical experience spent in separate commercial fishing activities.

(ii) A permittee shall obtain the practical experience required under this subsection within 10 years before applying for a license or an authorization under subsection (f) of this section.

(2) Except as provided in paragraph (6) of this subsection, the practical experience shall be documented by the permittee on the forms provided by the Department and submitted to the Department on a monthly basis when engaging in practical experience. The forms shall include:

(i) Number of days spent gaining practical experience under the presence of a tidal fish licensee;

(ii) Particular fishing activities;

(iii) The signature of a tidal fish licensee certifying that the recorded information regarding the practical experience in fishing activities is true and correct; and

(iv) Copies of appropriate income tax forms documenting the permittee's compensated employment in the presence of a tidal fish licensee.

(3) (i) An applicant for an apprenticeship permit may begin to complete the requirements of this subsection if the applicant posts the fee for the apprenticeship permit.

(ii) This paragraph may not be construed to alter the applicant's position on the waiting list established under subsection (e)(3) of this section.

(4) An applicant shall be issued an apprenticeship permit in accordance with subsection (e)(4) of this section.

(5) An applicant may be credited with the completed requirements that were accrued and documented in accordance with paragraph (2) or (6) of this subsection before being issued an apprenticeship permit.

(6) (i) This paragraph shall apply only to an individual who:

1. Served as a crew member to a tidal fish licensee or a person that holds a commercial fishing license issued by another state or the federal government;

2. Held a Maryland Provisional Chesapeake Bay Charter Boat Permit in accordance with § 4-210.2 of this title;

3. Held a tidal fish license and has not permanently transferred a tidal fish license within the past 24 months in accordance with § 4-701(j) of this subtitle;

4. Held a temporary transfer of a tidal fish license;

5. Harvested fish from the waters of the Exclusive Economic Zone and landed the fish in the State;

6. Holds a commercial fishing license issued by another state or the federal government; or

7. Held a commercial fishing license issued by another state or the federal government.

(ii) Practical experience shall be documented by:

1. Stating the number of days spent engaged in a particular fishing activity up to the minimum number of days required under paragraph (1) of this subsection on forms and in a manner provided by the Department; and

2. Any fishing activity reports required by the State, by another state, or by the federal government.

(iii) For an individual who served as a crew member to a tidal fish licensee or person that holds a commercial fishing license issued by another state or the federal government, practical fishing experience shall be documented by:

1. Stating the number of days spent serving as a crew member engaged in a particular fishing activity up to the minimum number of days required under paragraph (1) of this subsection, certified in writing by the tidal fish licensee or person that holds a commercial fishing license issued by another state or the federal government on forms provided by the Department; and

2. Any fishing activity reports of the tidal fish licensee required by the State, another state, or by the federal government.

(7) In addition to practical experience, before a license may be issued to a permittee, the permittee shall complete an 8-hour program approved by the Department concerning commercial fishing activities.

(h) (1) The Department shall adopt regulations to establish criteria for the practical experience for an individual who holds a valid tidal fish license and who has applied for an additional authorization other than a fishing guide authorization or an unlimited tidal fish authorization.

(2) The criteria established in accordance with paragraph (1) of this subsection shall include documentation at the time of application for an authorization, for the previous 2 years, that at least 20% of the individual's gross income was from the individual's commercial fishing activities.]

4-702.

(a) Except as provided in subsection (b) of this section, a person may not buy[, sell, ship, transport, or otherwise deal in] **FOR RESALE** finfish, **CRABS**, or shellfish **FROM WATERS OF THE STATE** unless the person is licensed [by the Department] **AND AUTHORIZED AS A SEAFOOD DEALER UNDER § 4-701 OF THIS SUBTITLE.**

(b) The following persons are not required to obtain a [license] **SEAFOOD DEALER AUTHORIZATION** under this section:

(1) [A person licensed by the Department to catch finfish or shellfish for sale;

(2) A retail market, restaurant, or other establishment where finfish or shellfish are sold or served to ultimate consumers, and not for resale;

(3)] A person who buys finfish, **CRABS**, or shellfish for personal use or consumption; [and]

[(4)] (2) A person who [catches and sells as bait] **BUYS FOR RESALE** finfish or shellfish species defined as bait under subsection (c) of this section; **AND**

**(3) A PERSON WHO BUYS FINFISH, CRABS, OR SHELLFISH FROM A ~~TIDAL FISH LICENSEE WITH A HARVESTER REGISTRATION AND~~ PERSON WITH A SEAFOOD DEALER AUTHORIZATION UNDER § 4-701 OF THIS SUBTITLE.**

**(c) (1) ANY PERSON NOT OTHERWISE LICENSED UNDER § 4-701(D)(2)(II)2 OF THIS SUBTITLE THAT HARVESTS AND SELLS FINFISH OR SHELLFISH SPECIES DEFINED AS BAIT UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL OBTAIN A BAIT HARVESTER PERMIT FROM THE DEPARTMENT.**

**(2) THE ANNUAL FEE FOR A BAIT HARVESTER PERMIT IS \$25.**

**(3) The Department shall adopt regulations defining which species of finfish and shellfish may be caught and sold as bait [under subsection (b)(4) of this section] IN ACCORDANCE WITH A BAIT HARVESTER PERMIT ISSUED UNDER THIS SUBSECTION.**

(d) The Department shall adopt regulations to define the species that are included as shellfish under this section.

4-711.

(a) A person may not set any pound net or any line of these nets that is greater in length than one third the distance across the waters of the bay, sound, river, creek, cove, or inlet where it is set, or is set so that it impedes or obstructs navigation on or blocks in any way the main channel of the bay, sound, river, creek, cove, or inlet. The length limit provided here shall not be construed to apply to any line of nets running parallel to the bank or shore of any bay, sound, river, creek, cove, or inlet, but no net may be set across the mouth on any tributary, harbor, or navigation channel.

(b) A person may not set at any time a pound net within 4500 feet of another pound net in the Chesapeake Bay and within 1500 feet in a tributary of the Chesapeake Bay, measured at right angles to the line of stakes. Every pound net set licensed in the Chesapeake Bay or one of its tributaries may retain the locations it lawfully occupied on June 1, 1949. Except as otherwise provided by this title, a person may not set at any time a fyke net within 300 feet of a pound net, measured at right angles to the line of stakes. A person may set any fyke net closer to any pound net than the distance provided in this subsection if the owner of the pound net location gives written permission.

(h) (1) Every licensee shall:

(i) Maintain the licensee's stakes in good condition; and

(ii) Promptly remove and renew any stake that may be unsound, broken, or liable to go adrift.

(2) A licensee may not permit or allow to remain in the water:

(i) Any pound net stake for a period greater than 30 days following the removal of the net from each stake;

(ii) Any pound net or stake for a period greater than 30 days following the discontinuance of fishing of the net; or

(iii) Any pound net or stake between January 1 and January 31 of any year unless the owner of the pound net or stake notifies the Department by certified mail, return receipt requested, that the net is being actively fished.

(3) A licensee who fails to comply with the provisions of this subsection is guilty of a misdemeanor and upon conviction is subject to a fine of at least \$200 and not exceeding \$1,000 with costs imposed in the discretion of the court.

(4) For a licensee who is convicted twice within 2 years of violating paragraph (1) of this subsection, the Department may suspend the licensee's striped bass authorization in the following year.

**(I) BEFORE SETTING A POUND NET IN ACCORDANCE WITH THIS SECTION AND THE REGULATIONS ADOPTED UNDER SUBSECTION (J) OF THIS SECTION, A LICENSEE SHALL ENSURE THAT, AT LEAST 7 DAYS BEFORE THE SETTING OF THE NET, THE DEPARTMENT RECEIVES:**

**(1) NOTICE FROM THE LICENSEE ~~ON A FORM PROVIDED BY THE DEPARTMENT~~ THAT THE POUND NET WILL BE SET AND ACTIVELY FISHED; AND**

**(2) A POUND NET ACTIVITY REGISTRATION FEE OF \$20.**

**[(i)] (J)** (1) The Department may adopt regulations on the placement of pound or stake nets, including a limit on the number of locations of pound nets that may be assigned to a licensee.

(2) In the regulations adopted under paragraph (1) of this subsection, the Department may impose a limit of up to eight locations of pound nets that may be assigned to a licensee.

SECTION 2. AND BE IT FURTHER ENACTED, That, beginning in fiscal year 2014 and each fiscal year thereafter, the Governor may include in the State budget an appropriation from the General Fund to augment the increase in revenues generated for and received by the Department of Natural Resources under this Act.



SECTION 3. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2013 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1328 – *Estates and Trusts – Special and Supplemental Needs Trusts – Regulations by State Agencies*.

This bill requires each State agency that provides public benefits to individuals of any age with disabilities to adopt specified regulations that are not more restrictive than any State law regarding trusts and that do not require disclosure of a beneficiary's personal or confidential information without the consent of the beneficiary.

Senate Bill 332, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1328.

Sincerely,

Governor Martin O'Malley

**House Bill 1328**

AN ACT concerning

**Estates and Trusts – Special and Supplemental Needs Trusts – Regulations  
by State Agencies**

FOR the purpose of requiring each State agency that provides public benefits to individuals of any age with disabilities to adopt certain regulations that are not more restrictive than any State ~~statutes, regulations, or common~~ law regarding trusts and that do not require disclosure of a beneficiary's personal or confidential information without the consent of the beneficiary; providing that nothing in a certain provision of law shall be interpreted to require a court order to authorize a disbursement from a special or supplemental needs trust; establishing that a certain regulation enacted by a State agency regarding pooled special needs trusts shall apply only to certain trust beneficiaries; making stylistic changes; and generally relating to special and supplemental needs trusts.

BY repealing and reenacting, with amendments,  
 Article – Estates and Trusts  
 Section 14–115  
 Annotated Code of Maryland  
 (2011 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Estates and Trusts**

14–115.

(a) In this section, “special needs trust” and “supplemental needs trust” include a trust funded by a trust beneficiary or by a third party.

(b) It is the policy of the State to encourage the use of a special needs trust or supplemental needs trust by an individual of any age with disabilities to preserve funds to provide for the needs of the individual not met by public benefits and to enhance quality of life.

(c) (1) Each State agency that provides public benefits to individuals [with disabilities of all ages] **OF ANY AGE WITH DISABILITIES** through means-tested programs, including the Medical Assistance Program, shall adopt regulations that [are]:

(I) **ARE** not more restrictive than existing federal law, regulations, or policies with regard to the treatment of a special needs trust or supplemental needs trust, including a trust defined in 42 U.S.C. § 1396p(c)(2) and (d)(4);

(II) **ARE NOT MORE RESTRICTIVE THAN** ~~STATE STATUTES, REGULATIONS, OR COMMON LAW REGARDING TRUSTS, INCLUDING THE~~

~~REASONABLE EXERCISE OF TRUSTEE DISCRETION, GUARDIANSHIP OF THE PROPERTY, OR CONSERVATORSHIP OF AN ALLEGED DISABLED ADULT ANY STATE LAW REGARDING TRUSTS, INCLUDING ANY STATE LAW REGARDING THE REASONABLE EXERCISE OF DISCRETION BY A TRUSTEE, GUARDIAN, OR CONSERVATOR IN THE BEST INTERESTS OF THE BENEFICIARY; AND~~

**(III) DO NOT REQUIRE DISCLOSURE OF A BENEFICIARY'S PERSONAL OR CONFIDENTIAL INFORMATION WITHOUT THE CONSENT OF THE BENEFICIARY.**

(2) The regulations described in paragraph (1) of this subsection shall allow:

(i) An individual account in a pooled asset special needs trust to be funded without financial limit;

(ii) A fund in a special needs trust, supplemental needs trust, or pooled asset special needs trust to be used for the sole benefit of the beneficiary including, at the discretion of the trustee, distributions for food, shelter, utilities, and transportation;

(iii) An individual to establish or fund an individual account in a pooled asset special needs trust without an age limit or a transfer penalty;

(iv) An individual to fund a special needs trust or supplemental needs trust for the individual's child with disabilities without a transfer penalty and regardless of the child's age; and

(v) All legally assignable income or resources to be assigned to a special needs trust, supplemental needs trust, or pooled asset special needs trust without limit.

**(3) NOTHING IN THIS SUBSECTION MAY BE INTERPRETED TO REQUIRE A COURT ORDER TO AUTHORIZE A DISBURSEMENT FROM A SPECIAL OR SUPPLEMENTAL NEEDS TRUST.**

(d) (1) A determination of the Internal Revenue Service regarding the nonprofit status of an organization operating a pooled asset special needs trust shall be sufficient to satisfy the nonprofit requirement of 42 U.S.C. § 1396p(d)(4)(C).

(2) A State agency may not impose additional requirements on an organization described in paragraph (1) of this subsection for the purpose of qualifying or disqualifying the organization from offering a pooled asset special needs trust.

**(E) A REGULATION ADOPTED BY A STATE AGENCY REGARDING POOLED SPECIAL NEEDS TRUSTS SHALL APPLY ONLY TO THOSE TRUST BENEFICIARIES**

**WHO ARE STATE RESIDENTS OR WHO RECEIVE PUBLIC BENEFITS FUNDED BY THE STATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

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May 16, 2013

The Honorable Michael E. Busch  
Speaker of the House  
H-101 State House  
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 1360 – *Maryland Income Tax Refund – Anne Arundel County Warrant Intercept Program – Extension*.

This bill extends, from September 30, 2013, to September 30, 2018, the termination date of a program that requires the Comptroller to withhold, under specified circumstances, the Maryland income tax refund of specified residents of Anne Arundel County with an outstanding warrant or specified individuals that have an outstanding warrant from Anne Arundel County. The bill requires the Comptroller to provide a report on or before December 1 of each year on the implementation of the programs.

Senate Bill 243, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1360.

Sincerely,

Governor Martin O'Malley

**House Bill 1360**

AN ACT concerning

**Maryland Income Tax Refund – Anne Arundel County Warrant Intercept Program – Extension**

FOR the purpose of extending the termination date of a certain program that requires the Comptroller to withhold the Maryland income tax refund of certain

individuals with outstanding warrants under certain circumstances; requiring the Comptroller to provide a certain report annually; providing for the termination of certain provisions of this Act; and generally relating to withholding income tax refunds for outstanding warrants.

BY adding to

Article – Tax – General

Section 13–940

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing

Chapter 451 of the Acts of the General Assembly of 2012

Section 2

BY repealing and reenacting, with amendments,

Chapter 451 of the Acts of the General Assembly of 2012

Section 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Tax – General**

**13–940.**

**ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE OFFICE OF THE COMPTROLLER SHALL REPORT TO THE HOUSE WAYS AND MEANS COMMITTEE AND THE SENATE BUDGET AND TAXATION COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION OF §§ 13–935 THROUGH 13–939 OF THIS PART.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Chapter 451 of the Acts of 2012**

[SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2013, the Office of the Comptroller shall report to the House Ways and Means Committee and the Senate Budget and Taxation Committee, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act.]

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. Section 1 of this Act shall remain effective for a period of [1 year] **6 YEARS** and, at the end of September 30, [2013] **2018**, with no further action required

by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013. Section 1 of this Act shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter 451 of the Acts of 2012. If that termination provision takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

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