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STATE OF MARYLAND

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VOLUME II

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CHAPTER 34

(House Bill 1009)

AN ACT concerning

Task Force ~~on the Structural Under–Funding of Community Services for Individuals with Developmental Disabilities~~ to Study the Developmental Disabilities Administration Rate Payment Systems

FOR the purpose of ~~establishing the Task Force on the Structural Under–Funding of Community Services for Individuals with Disabilities~~ requiring the Department of Health and Mental Hygiene to establish the Task Force to Study the Developmental Disabilities Administration Rate Payment Systems; providing for the membership of the Task Force; requiring the ~~Task Force to elect~~ Secretary of Health and Mental Hygiene to appoint a chair; requiring the Department of Health and Mental Hygiene to provide staff for the Task Force; providing for the duties of the Task Force; prohibiting members of the Task Force from receiving certain compensation; authorizing members of the Task Force to receive certain assistance upon approval of the Secretary of Health and Mental Hygiene; requiring the Task Force to report to the Governor, the Senate Finance Committee, the Senate Budget and Taxation Committee, the House Health and Government Operations Committee, and the House Appropriations Committee; providing for the termination of this Act; and generally relating to the Task Force ~~on the Structural Under–Funding of Community Services for Individuals with Disabilities~~ to Study the Developmental Disabilities Administration Rate Payment Systems.

Preamble

WHEREAS, Community services for individuals with developmental disabilities should be high quality and individualized to meet each person's needs; and

WHEREAS, 22,000 individuals with developmental disabilities, with over 16,000 more on the Waiting List, depend upon the community services funded by the State of Maryland; and

WHEREAS, The viability of community services for individuals with developmental disabilities is threatened by structural under–funding; and

WHEREAS, Maryland ranks 44th nationally in its fiscal effort to fund and support services for individuals with developmental disabilities; and

WHEREAS, National best practices in community–based supports include self–directed services and customized employment; and

WHEREAS, Without a timely solution to the structural under–funding, State–funded community–based providers will be unable to continue to provide quality services that are accessible throughout Maryland; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) ~~There is a Task Force on the Structural Under–Funding of Community Services for Individuals with Developmental Disabilities~~ The Department of Health and Mental Hygiene shall establish a Task Force to Study the Developmental Disabilities Administration Rate Payment Systems.

(b) The Task Force ~~consists~~ shall consist 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 Secretary of Health and Mental Hygiene, or the Secretary's designee;

(4) The Secretary of Budget and Management, or the Secretary's designee;

(5) One representative from the Maryland Association of Community Services;

(6) One representative from the ARC of Maryland;

(7) One representative from People on the Go;

(8) Four representatives of Developmental Disabilities Administration–funded community–based providers, including a provider of residential supports, a provider of supported employment supports, a provider of day habilitation services, and a provider of community–supported living arrangements;

(9) One representative from the Community Services Reimbursement Rate Commission; ~~and~~

(10) ~~One individual with expertise on rate systems for community services in other states~~ One individual familiar with rate systems for community services in Maryland and in other states; and

(11) One representative from the Developmental Disabilities Council.

(c) The Secretary of Health and Mental Hygiene shall appoint the nondesignated members of the Task Force.

(d) The ~~Task Force members shall elect a chair~~ Secretary of Health and Mental Hygiene shall appoint the chair of the Task Force from its membership.

(e) The Department of Health and Mental Hygiene shall provide staff for the Task Force.

(f) A member of the Task Force may not receive compensation as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) On approval of the Secretary of Health and Mental Hygiene, the Department shall provide assistance to members requiring additional services to attend meetings of the Task Force.

(h) The Task Force shall:

(1) Review the existing rate system for community–based services funded by the Developmental Disabilities Administration and determine its strengths and weaknesses;

(2) Identify current mandates for service delivery;

(3) Consider costs as reported in the Developmental Disabilities Administration's cost report;

~~(3)~~ (4) Compare the cost of current mandates for service delivery to the level of funding provided by the State;

~~(4)~~ (5) ~~Identify~~ Consider promising practices in rate systems in other states that fund appropriate and individualized supports in a cost–effective manner, which are consistent with local and national best practices;

~~(5)~~ (6) Identify changes in the reimbursement system that further support self–directed services and implementation of best practices; and

~~(6)~~ (7) Develop recommendations to address the problem of the structural under–funding of community services.

(i) The Task Force shall report its findings and recommendations by December 31, 2007, to the Governor, and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee, the Senate Budget and Taxation Committee, the House Health and Government Operations Committee, and the House Appropriations Committee.

(j) After the Task Force has submitted its final report, the Task Force shall continue to advise the Governor and the Maryland General Assembly on the implementation of its recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 1 year and 1 month and, at the end of July 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 10, 2007.

CHAPTER 35

(Senate Bill 503)

AN ACT concerning

Family Law – Child Support – Health Insurance

FOR the purpose of requiring that, in determining a child support obligation, any actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible be added to the basic child support obligation and divided by the parents in proportion to their adjusted actual incomes; adding health insurance expenses to the list of items that must be added together in determining each parent's child support obligation, under certain circumstances; making certain conforming changes; altering a certain definition; and generally relating to child support.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 12–201(a), (b), (d), (e), and (f) and 12–204(a) and (g)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 12–201(c) and 12–204(h), (l), and (m)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Family Law

12–201.

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

(b) (1) "Actual income" means income from any source.

(2) For income from self–employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "actual income" means gross receipts minus ordinary and necessary expenses required to produce income.

(3) "Actual income" includes:

(i) salaries;

(ii) wages;

(iii) commissions;

(iv) bonuses;

(v) dividend income;

(vi) pension income;

(vii) interest income;

(viii) trust income;

(ix) annuity income;

(x) Social Security benefits;

(xi) workers' compensation benefits;

(xii) unemployment insurance benefits;

(xiii) disability insurance benefits;

(xiv) for the obligor, any third party payment paid to or for a minor child as a result of the obligor's disability, retirement, or other compensable claim;

(xv) alimony or maintenance received; and

(xvi) expense reimbursements or in–kind payments received by a parent in the course of employment, self–employment, or operation of a business to the extent the reimbursements or payments reduce the parent's personal living expenses.

(4) Based on the circumstances of the case, the court may consider the following items as actual income:

(i) severance pay;

(ii) capital gains;

(iii) gifts; or

(iv) prizes.

(5) "Actual income" does not include benefits received from means–tested public assistance programs, including temporary cash assistance, Supplemental Security Income, food stamps, and transitional emergency, medical, and housing assistance.

(c) "Adjusted actual income" means actual income minus:

(1) preexisting reasonable child support obligations actually paid; **AND**

(2) except as provided in § 12–204(a)(2) of this subtitle, alimony or maintenance obligations actually paid**[**; and

(3) the actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible**]**.

(d) "Adjusted basic child support obligation" means an adjustment of the basic child support obligation for shared physical custody.

(e) "Basic child support obligation" means the base amount due for child support based on the combined adjusted actual incomes of both parents.

(f) "Combined adjusted actual income" means the combined monthly adjusted actual incomes of both parents.

12–204.

(a) (1) The basic child support obligation shall be determined in accordance with the schedule of basic child support obligations in subsection (e) of this section. The basic child support obligation shall be divided between the parents in proportion to their adjusted actual incomes.

(2) (i) If one or both parents have made a request for alimony or maintenance in the proceeding in which a child support award is sought, the court shall decide the issue and amount of alimony or maintenance before determining the child support obligation under these guidelines.

(ii) If the court awards alimony or maintenance, the amount of alimony or maintenance awarded shall be considered actual income for the recipient of the alimony or maintenance and shall be subtracted from the income of the payor of the alimony or maintenance under § 12–201(c)(2) of this subtitle before the court determines the amount of a child support award.

(g) (1) Subject to paragraphs (2) and (3) of this subsection, actual child care expenses incurred on behalf of a child due to employment or job search of either parent shall be added to the basic obligation and shall be divided between the parents in proportion to their adjusted actual incomes.

(2) Child care expenses shall be:

(i) determined by actual family experience, unless the court determines that the actual family experience is not in the best interest of the child; or

(ii) if there is no actual family experience or if the court determines that actual family experience is not in the best interest of the child:

1. the level required to provide quality care from a licensed source; or

2. if the custodial parent chooses quality child care with an actual cost of an amount less than the level required to provide quality care from a licensed source, the actual cost of the child care expense.

(3) Additional child care expenses may be considered if a child has special needs.

(h) **(1) ANY ACTUAL COST OF PROVIDING HEALTH INSURANCE COVERAGE FOR A CHILD FOR WHOM THE PARENTS ARE JOINTLY AND SEVERALLY RESPONSIBLE SHALL BE ADDED TO THE BASIC CHILD SUPPORT OBLIGATION AND SHALL BE DIVIDED BY THE PARENTS IN PROPORTION TO THEIR ADJUSTED ACTUAL INCOMES.**

(2) Any extraordinary medical expenses incurred on behalf of a child shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted actual incomes.

(l) (1) Except in cases of shared physical custody, each parent's child support obligation shall be determined by adding each parent's respective share of the basic child support obligation, work–related child care expenses, **HEALTH INSURANCE EXPENSES,** extraordinary medical expenses, and additional expenses under subsection (i) of this section.

(2) The custodial parent shall be presumed to spend that parent's total child support obligation directly on the child or children.

(3) The noncustodial parent shall owe that parent's total child support obligation as child support to the custodial parent minus any ordered payments included in the calculations made directly by the noncustodial parent on behalf of the child or children for work–related child care expenses, **HEALTH INSURANCE EXPENSES,** extraordinary medical expenses, or additional expenses under subsection (i) of this section.

(m) (1) In cases of shared physical custody, the adjusted basic child support obligation shall first be divided between the parents in proportion to their respective adjusted actual incomes.

(2) Each parent's share of the adjusted basic child support obligation shall then be multiplied by the percentage of time the child or children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent.

(3) Subject to the provisions of paragraphs (4) and (5) of this subsection, the parent owing the greater amount under paragraph (2) of this subsection shall owe the difference in the 2 amounts as child support.

(4) In addition to the amount of the child support owed under paragraph (3) of this subsection, if either parent incurs child care expenses under

subsection (g) of this section, **HEALTH INSURANCE EXPENSES UNDER SUBSECTION (H)(1) OF THIS SECTION,** extraordinary medical expenses under subsection **[**(h)**]** **(H)(2)** of this section, or additional expenses under subsection (i) of this section, the expense shall be divided between the parents in proportion to their respective adjusted actual incomes. The parent not incurring the expense shall pay that parent's proportionate share to:

(i) the parent making direct payments to the provider of the service; or

(ii) the provider directly, if a court order requires direct payments to the provider.

(5) The amount owed under paragraph (3) of this subsection may not exceed the amount that would be owed under subsection (l) of this section if the obligor parent were a noncustodial parent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 36

(House Bill 265)

AN ACT concerning

Family Law – Child Support – Health Insurance

FOR the purpose of requiring that, in determining a child support obligation, any actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible be added to the basic child support obligation and divided by the parents in proportion to their adjusted actual incomes; adding health insurance expenses to the list of items that must be added together in determining each parent's child support obligation, under certain circumstances; making certain conforming changes; altering a certain definition; and generally relating to child support.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 12–201(a), (b), (d), (e), and (f) and 12–204(a) and (g)

Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 12–201(c) and 12–204(h), (l), and (m)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Family Law

12–201.

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

(b) (1) "Actual income" means income from any source.

(2) For income from self–employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "actual income" means gross receipts minus ordinary and necessary expenses required to produce income.

(3) "Actual income" includes:

(i) salaries;

(ii) wages;

(iii) commissions;

(iv) bonuses;

(v) dividend income;

(vi) pension income;

(vii) interest income;

(viii) trust income;

(ix) annuity income;

(x) Social Security benefits;

(xi) workers' compensation benefits;

(xii) unemployment insurance benefits;

(xiii) disability insurance benefits;

(xiv) for the obligor, any third party payment paid to or for a minor child as a result of the obligor's disability, retirement, or other compensable claim;

(xv) alimony or maintenance received; and

(xvi) expense reimbursements or in–kind payments received by a parent in the course of employment, self–employment, or operation of a business to the extent the reimbursements or payments reduce the parent's personal living expenses.

(4) Based on the circumstances of the case, the court may consider the following items as actual income:

(i) severance pay;

(ii) capital gains;

(iii) gifts; or

(iv) prizes.

(5) "Actual income" does not include benefits received from means–tested public assistance programs, including temporary cash assistance, Supplemental Security Income, food stamps, and transitional emergency, medical, and housing assistance.

(c) "Adjusted actual income" means actual income minus:

(1) preexisting reasonable child support obligations actually paid; **AND**

(2) except as provided in § 12–204(a)(2) of this subtitle, alimony or maintenance obligations actually paid**[**; and

(3) the actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible**]**.

(d) "Adjusted basic child support obligation" means an adjustment of the basic child support obligation for shared physical custody.

(e) "Basic child support obligation" means the base amount due for child support based on the combined adjusted actual incomes of both parents.

(f) "Combined adjusted actual income" means the combined monthly adjusted actual incomes of both parents.

12–204.

(a) (1) The basic child support obligation shall be determined in accordance with the schedule of basic child support obligations in subsection (e) of this section. The basic child support obligation shall be divided between the parents in proportion to their adjusted actual incomes.

(2) (i) If one or both parents have made a request for alimony or maintenance in the proceeding in which a child support award is sought, the court shall decide the issue and amount of alimony or maintenance before determining the child support obligation under these guidelines.

(ii) If the court awards alimony or maintenance, the amount of alimony or maintenance awarded shall be considered actual income for the recipient of the alimony or maintenance and shall be subtracted from the income of the payor of the alimony or maintenance under § 12–201(c)(2) of this subtitle before the court determines the amount of a child support award.

(g) (1) Subject to paragraphs (2) and (3) of this subsection, actual child care expenses incurred on behalf of a child due to employment or job search of either parent shall be added to the basic obligation and shall be divided between the parents in proportion to their adjusted actual incomes.

(2) Child care expenses shall be:

(i) determined by actual family experience, unless the court determines that the actual family experience is not in the best interest of the child; or

(ii) if there is no actual family experience or if the court determines that actual family experience is not in the best interest of the child:

1. the level required to provide quality care from a licensed source; or

2. if the custodial parent chooses quality child care with an actual cost of an amount less than the level required to provide quality care from a licensed source, the actual cost of the child care expense.

(3) Additional child care expenses may be considered if a child has special needs.

(h) **(1) ANY ACTUAL COST OF PROVIDING HEALTH INSURANCE COVERAGE FOR A CHILD FOR WHOM THE PARENTS ARE JOINTLY AND SEVERALLY RESPONSIBLE SHALL BE ADDED TO THE BASIC CHILD SUPPORT OBLIGATION AND SHALL BE DIVIDED BY THE PARENTS IN PROPORTION TO THEIR ADJUSTED ACTUAL INCOMES.**

(2) Any extraordinary medical expenses incurred on behalf of a child shall be added to the basic child support obligation and shall be divided between the parents in proportion to their adjusted actual incomes.

(l) (1) Except in cases of shared physical custody, each parent's child support obligation shall be determined by adding each parent's respective share of the basic child support obligation, work–related child care expenses, **HEALTH INSURANCE EXPENSES,** extraordinary medical expenses, and additional expenses under subsection (i) of this section.

(2) The custodial parent shall be presumed to spend that parent's total child support obligation directly on the child or children.

(3) The noncustodial parent shall owe that parent's total child support obligation as child support to the custodial parent minus any ordered payments included in the calculations made directly by the noncustodial parent on behalf of the child or children for work–related child care expenses, **HEALTH INSURANCE EXPENSES,** extraordinary medical expenses, or additional expenses under subsection (i) of this section.

(m) (1) In cases of shared physical custody, the adjusted basic child support obligation shall first be divided between the parents in proportion to their respective adjusted actual incomes.

(2) Each parent's share of the adjusted basic child support obligation shall then be multiplied by the percentage of time the child or children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent.

(3) Subject to the provisions of paragraphs (4) and (5) of this subsection, the parent owing the greater amount under paragraph (2) of this subsection shall owe the difference in the 2 amounts as child support.

(4) In addition to the amount of the child support owed under paragraph (3) of this subsection, if either parent incurs child care expenses under subsection (g) of this section, **HEALTH INSURANCE EXPENSES UNDER SUBSECTION (H)(1) OF THIS SECTION,** extraordinary medical expenses under subsection **[**(h)**]** **(H)(2)** of this section, or additional expenses under subsection (i) of this section, the expense shall be divided between the parents in proportion to their respective adjusted actual incomes. The parent not incurring the expense shall pay that parent's proportionate share to:

(i) the parent making direct payments to the provider of the service; or

(ii) the provider directly, if a court order requires direct payments to the provider.

(5) The amount owed under paragraph (3) of this subsection may not exceed the amount that would be owed under subsection (l) of this section if the obligor parent were a noncustodial parent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 37

(Senate Bill 534)

AN ACT concerning

Senior Citizen Activities Centers – Capital Improvement Grants Program – Maximum Grant Amount

FOR the purpose of increasing the maximum amount the State may grant for a capital improvement project through the Senior Citizen Activities Centers' Capital Improvement Grants Program; and generally relating to the Senior Citizen Activities Centers' Capital Improvement Grants Program.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–504

Annotated Code of Maryland
(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

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

Article – Human Services

10–504.

(a) (1) Any federal grant that is received for a project shall be applied first to the cost of the project.

(2) Except as provided in subsection (b) of this section, a State grant for a project may not exceed the lesser of **[**$600,000**]** ~~**$1,000,000**~~ **$800,000** or 50% of the cost of eligible work remaining unpaid after any federal grant is applied.

(3) A State grant to develop a master plan may not exceed the lesser of $15,000 or 50% of the cost of development of the plan.

(b) The Board of Public Works may authorize a grant for a project that exceeds 50% of the cost of eligible work remaining unpaid after any federal grant is applied, if:

(1) the project involves the conversion, acquisition, renovation, construction, or improvement of a building for use as a senior citizen activities center;

(2) the value of real property and existing improvements made available by the local government equals or exceeds the amount of the State grant; and

(3) the residual value of the real property and existing improvements made available by the local government exceeds the sum of:

(i) any prior amounts used for matching funds under this Program;

(ii) any outstanding State debt relating to the property from another program;

(iii) any prior grant under this Program; and

(iv) any other tangible State investment in the property.

(c) The amount of a State grant for a project shall be determined after consideration of:

(1) the density of the senior population in the area affected by the project;

(2) the proximity of the proposed center to an existing senior citizen activities center; and

(3) other localities eligible for State funding that have not received previous funding under the Program or similar programs.

(d) A grantee who received funds for a project under this subtitle or a prior act authorizing grants for senior citizen activities centers may receive additional grants for the project, but only in an amount that does not exceed the difference between the sum of any prior grants and the maximum funding allowable.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 38

(House Bill 880)

AN ACT concerning

Senior Citizen Activities Centers – Capital Improvement Grants Program – Maximum Grant Amount

FOR the purpose of increasing the maximum amount the State may grant for a capital improvement project through the Senior Citizen Activities Centers' Capital Improvement Grants Program; and generally relating to the Senior Citizen Activities Centers' Capital Improvement Grants Program.

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–504
Annotated Code of Maryland
(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

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

Article – Human Services

10–504.

(a) (1) Any federal grant that is received for a project shall be applied first to the cost of the project.

(2) Except as provided in subsection (b) of this section, a State grant for a project may not exceed the lesser of **[**$600,000**]** ~~**$1,000,000**~~ **$800,000** or 50% of the cost of eligible work remaining unpaid after any federal grant is applied.

(3) A State grant to develop a master plan may not exceed the lesser of $15,000 or 50% of the cost of development of the plan.

(b) The Board of Public Works may authorize a grant for a project that exceeds 50% of the cost of eligible work remaining unpaid after any federal grant is applied, if:

(1) the project involves the conversion, acquisition, renovation, construction, or improvement of a building for use as a senior citizen activities center;

(2) the value of real property and existing improvements made available by the local government equals or exceeds the amount of the State grant; and

(3) the residual value of the real property and existing improvements made available by the local government exceeds the sum of:

(i) any prior amounts used for matching funds under this Program;

(ii) any outstanding State debt relating to the property from another program;

(iii) any prior grant under this Program; and

(iv) any other tangible State investment in the property.

(c) The amount of a State grant for a project shall be determined after consideration of:

(1) the density of the senior population in the area affected by the project;

(2) the proximity of the proposed center to an existing senior citizen activities center; and

(3) other localities eligible for State funding that have not received previous funding under the Program or similar programs.

(d) A grantee who received funds for a project under this subtitle or a prior act authorizing grants for senior citizen activities centers may receive additional grants for the project, but only in an amount that does not exceed the difference between the sum of any prior grants and the maximum funding allowable.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 39

(Senate Bill 543)

AN ACT concerning

2007 Darfur Protection Act – Divestiture from the Republic of Sudan

FOR the purpose of requiring the Board of Trustees for the State Retirement and Pension System to ~~identify and create a list of certain companies within a certain period of time who meet certain criteria;~~ review certain investment holdings; requiring the Board of Trustees to ~~use certain resources to identify certain companies~~ encourage certain companies to take certain actions; requiring the Board of Trustees to provide written notice to certain companies; ~~requiring the Board of Trustees to notify certain companies that they may be subject to divestment under certain circumstances; requiring~~ authorizing the Board of Trustees to ~~divest under certain circumstances from certain companies following a certain schedule;~~ take divestment action with regard to certain investments; prohibiting the Board of Trustees from acquiring certain securities; ~~exempting certain companies from the provisions of this Act;~~ requiring the Board of Trustees to take certain issues into account prior to taking certain actions; requiring the Board of Trustees to ~~submit~~ publish certain reports containing certain information ~~to the Chairman of the Joint Committee~~

~~on Pensions and the United States Presidential Special Envoy to Sudan, by~~ on or before a certain date; ~~providing for the expiration of this Act under certain circumstances;~~ providing for the termination of this Act under certain circumstances; defining certain terms; and generally relating to sanctions against the Republic of Sudan.

BY adding to
Article – State Personnel and Pensions
Section ~~21–1A–01 through 21–1A–08 to be under the new subtitle "Subtitle 1A. Divestment from the Republic of Sudan"~~ 21–123.1
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

Preamble

~~WHEREAS, On July 23, 2004, the United States Congress declared that "the atrocities unfolding in Darfur, Sudan, are genocide"; and~~

WHEREAS, On September 9, 2004, Secretary of State Colin L. Powell told the United States Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility"; and

WHEREAS, On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated, "at this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide"; and

~~WHEREAS, On December 7, 2004, the United States Congress noted that the genocidal policy in Darfur has led to reports of "systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves"; and~~

~~WHEREAS, Also on December 7, 2004, the United States Congress found that "the Government of Sudan has restricted access by humanitarian and human rights workers to the Darfur area through intimidation by military and security forces, and through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter"; and~~

WHEREAS, On September 25, 2006, the United States Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and

sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party–led faction of the Government of Sudan"; and

WHEREAS, On September 26, 2006, the United States Congress stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the Darfur crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad"; and

WHEREAS, The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities a genocide; and

WHEREAS, The federal government has imposed sanctions against the Government of Sudan since 1997, that are monitored through the United States Treasury Department's Office of Foreign Assets Control (OFAC); and

WHEREAS, According to a former chair of the United States Securities and Exchange Commission (SEC), "the fact that a foreign company is doing material business with a country, government, or entity on OFAC's sanctions list is, in the SEC staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company"; and

~~WHEREAS, Since 1993, the United States Secretary of State has determined that Sudan is a country the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan; and~~

~~WHEREAS, A 2006 United States Congressional report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment"; and~~

WHEREAS, In response to the financial risk posed by investments in companies doing business with a terrorist–sponsoring state, the SEC established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies; and

~~WHEREAS, The current Sudan divestment movement encompasses nearly 100 university, city, state, and private pension plans; and~~

WHEREAS, Despite significant pressure from the United States government, the Republic of Sudan fails to take necessary actions to disassociate itself from its ties to terrorism and genocide; and

WHEREAS, Companies ~~facing such widespread divestment~~ supporting such ties with terrorism and genocide present further material risk to remaining investors of these companies; and

WHEREAS, It is a fundamental responsibility of the State to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors; and

WHEREAS, It is the prerogative and desire of the State, in respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries, not to participate in an ownership or capital–providing capacity with entities that provide significant practical support for genocide, including certain international companies presently doing business in Sudan; and

WHEREAS, It is the judgment of the General Assembly that this Act should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the federal government; and

WHEREAS, It is the judgment of the General Assembly that ~~mandatory~~ divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously – a United States Congressional and Presidential declaration of genocide satisfying this high threshold; now, therefore,

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

Article – State Personnel and Pensions

~~**SUBTITLE 1A. DIVESTMENT FROM THE REPUBLIC OF SUDAN.**~~

~~**21–1A–01.**~~

~~**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(B) "ACTIVE BUSINESS OPERATIONS" MEANS ALL BUSINESS OPERATIONS THAT ARE NOT INACTIVE BUSINESS OPERATIONS.**~~

~~**(C) "BUSINESS OPERATIONS" MEANS ENGAGING IN COMMERCE IN ANY FORM IN SUDAN, INCLUDING ACQUIRING, DEVELOPING, MAINTAINING, OWNING, SELLING, POSSESSING, LEASING, OR OPERATING EQUIPMENT, FACILITIES, PERSONNEL, PRODUCTS, SERVICES, PERSONAL PROPERTY, REAL PROPERTY, OR ANY OTHER APPARATUS OF BUSINESS OR COMMERCE.**~~

~~**(D) "COMPANY" MEANS ANY SOLE PROPRIETORSHIP, ORGANIZATION, ASSOCIATION, CORPORATION, PARTNERSHIP, JOINT VENTURE, LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER ENTITY OR BUSINESS ASSOCIATION, INCLUDING ALL WHOLLY OWNED SUBSIDIARIES, MAJORITY-OWNED SUBSIDIARIES, PARENT COMPANIES, OR AFFILIATES OF SUCH ENTITIES OR BUSINESS ASSOCIATIONS, THAT EXIST FOR PROFIT-MAKING PURPOSES.**~~

~~**(E) "COMPLICIT" MEANS TAKING ACTIONS DURING ANY PRECEDING 20-MONTH PERIOD BEGINNING JULY 1, 2007, THAT HAVE DIRECTLY SUPPORTED OR PROMOTED THE GENOCIDAL CAMPAIGN IN DARFUR, INCLUDING:**~~

~~**(1) PREVENTING DARFUR'S VICTIMIZED POPULATION FROM COMMUNICATING WITH EACH OTHER;**~~

~~**(2) ENCOURAGING SUDANESE CITIZENS TO SPEAK OUT AGAINST AN INTERNATIONALLY APPROVED SECURITY FORCE FOR DARFUR; OR**~~

~~**(3) ACTIVELY WORKING TO DENY, COVER UP, OR ALTER THE RECORD ON HUMAN RIGHTS ABUSES IN DARFUR, OR OTHER SIMILAR ACTIONS.**~~

~~**(F) "DIRECT HOLDINGS" MEANS ALL SECURITIES OF A COMPANY THAT ARE HELD DIRECTLY BY THE BOARD OF TRUSTEES ON BEHALF OF THE SEVERAL SYSTEMS IN AN ACCOUNT OR FUND IN WHICH THE BOARD OF TRUSTEES OWNS ALL SHARES OR INTEREST.**~~

~~**(G) (1) "GOVERNMENT OF SUDAN" MEANS THE GOVERNMENT IN KHARTOUM, SUDAN, THAT IS LED BY THE NATIONAL CONGRESS PARTY (FORMERLY KNOWN AS THE NATIONAL ISLAMIC FRONT) OR ANY SUCCESSOR GOVERNMENT FORMED ON OR AFTER OCTOBER 13, 2006, INCLUDING THE COALITION NATIONAL UNITY GOVERNMENT AGREED ON IN THE COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.**~~

~~**(2) "GOVERNMENT OF SUDAN" DOES NOT MEAN THE REGIONAL GOVERNMENT OF SOUTHERN SUDAN.**~~

~~**(H) "INDIRECT HOLDINGS" MEANS ALL SECURITIES OF A COMPANY HELD IN AN ACCOUNT OR FUND AND MANAGED BY ONE OR MORE PERSONS NOT EMPLOYED BY THE BOARD OF TRUSTEES, BUT INCLUDES SHARES OR INTERESTS OWNED BY THE BOARD OF TRUSTEES ON BEHALF OF THE SEVERAL SYSTEMS AND OTHER INVESTORS NOT AFFILIATED WITH THE SEVERAL SYSTEMS.**~~

~~**(I) "MARGINALIZED POPULATION OF SUDAN" MEANS:**~~

~~**(1) THE PORTION OF THE POPULATION IN THE DARFUR REGION THAT HAS BEEN GENOCIDALLY VICTIMIZED;**~~

~~**(2) THE PORTION OF THE POPULATION OF SOUTHERN SUDAN VICTIMIZED BY SUDAN'S NORTH–SOUTH CIVIL WAR;**~~

~~**(3) THE BEJA, RASHIDIYA, AND OTHER SIMILARLY UNDERSERVED GROUPS OF EASTERN SUDAN;**~~

~~**(4) THE NUBIAN AND OTHER SIMILARLY UNDERSERVED GROUPS IN SUDAN'S ABYEI, SOUTHERN BLUE NILE, AND NUBA MOUNTAIN REGIONS; AND**~~

~~**(5) THE AMRI, HAMADAB, MANSIR, AND OTHER SIMILARLY UNDERSERVED GROUPS OF NORTHERN SUDAN.**~~

~~**(J) "MILITARY EQUIPMENT" MEANS WEAPONS, ARMS, MILITARY SUPPLIES, AND EQUIPMENT THAT READILY MAY BE USED FOR MILITARY PURPOSES, INCLUDING:**~~

~~**(1) RADAR SYSTEMS OR MILITARY–GRADE TRANSPORT VEHICLES; AND**~~

~~**(2) SUPPLIES OR SERVICES SOLD OR PROVIDED DIRECTLY OR INDIRECTLY TO ANY FORCE ACTIVELY PARTICIPATING IN ARMED CONFLICT IN SUDAN.**~~

~~**(K) "MINERAL EXTRACTION ACTIVITIES" MEANS EXPLORING, EXTRACTING, PROCESSING, TRANSPORTING, OR WHOLESALE SELLING OR TRADING OF ELEMENTAL MINERALS OR ASSOCIATED METAL ALLOYS OR OXIDES (ORE), INCLUDING GOLD, COPPER, CHROMIUM, CHROMITE, DIAMONDS, IRON, IRON ORE, SILVER, TUNGSTEN, URANIUM, AND ZINC.**~~

~~**(L) (1) "OIL–RELATED ACTIVITIES" MEANS:**~~

~~(I) OWNING RIGHTS TO OIL BLOCKS; AND~~

~~(II) EXPORTING, EXTRACTING, PRODUCING, REFINING, PROCESSING, EXPLORING FOR, TRANSPORTING, SELLING, OR TRADING OF OIL.~~

~~(2) "OIL–RELATED ACTIVITIES" DOES NOT MEAN THE RETAIL SALE OF GASOLINE AND RELATED CONSUMER PRODUCTS.~~

~~(M) "POWER PRODUCTION ACTIVITIES" MEANS ANY BUSINESS OPERATION THAT INVOLVES A PROJECT COMMISSIONED BY THE NATIONAL ELECTRICITY CORPORATION OF SUDAN OR OTHER SIMILAR GOVERNMENT OF SUDAN ENTITY WHOSE PURPOSE IS TO FACILITATE POWER GENERATION AND DELIVERY, INCLUDING:~~

~~(1) ESTABLISHING POWER–GENERATING PLANTS OR HYDROELECTRIC DAMS;~~

~~(2) SELLING OR INSTALLING COMPONENTS FOR THE PROJECT; OR~~

~~(3) PROVIDING SERVICE CONTRACTS RELATED TO THE INSTALLATION OR MAINTENANCE OF THE PROJECT.~~

~~(N) (1) "SCRUTINIZED COMPANY" MEANS ANY COMPANY THAT MEETS THE CRITERIA OF § 21–1A–02 OF THIS SUBTITLE.~~

~~(2) "SCRUTINIZED COMPANY" DOES NOT MEAN A SOCIAL DEVELOPMENT COMPANY THAT IS NOT COMPLICIT IN THE DARFUR GENOCIDE.~~

~~(O) "SOCIAL DEVELOPMENT COMPANY" MEANS A COMPANY WHOSE PRIMARY PURPOSE IS TO PROVIDE HUMANITARIAN GOODS OR SERVICES, INCLUDING MEDICINE OR MEDICAL EQUIPMENT, AGRICULTURAL SUPPLIES OR INFRASTRUCTURE, EDUCATIONAL OPPORTUNITIES, JOURNALISM–RELATED ACTIVITIES, INFORMATION OR INFORMATIONAL MATERIALS, SPIRITUAL–RELATED ACTIVITIES, SERVICES OF A PURELY CLERICAL OR REPORTING NATURE, OR FOOD, CLOTHING, OR GENERAL CONSUMER GOODS THAT ARE UNRELATED TO OIL–RELATED ACTIVITIES, MINERAL EXTRACTION ACTIVITIES, OR POWER PRODUCTION ACTIVITIES.~~

~~(P) "SUBSTANTIAL ACTION" MEANS:~~

~~**(1) ADOPTING, PUBLICIZING, AND IMPLEMENTING A FORMAL PLAN TO CEASE SCRUTINIZED BUSINESS OPERATIONS BY JULY 1, 2008, AND TO REFRAIN FROM ANY SUCH NEW BUSINESS OPERATIONS;**~~

~~**(2) UNDERTAKING SIGNIFICANT HUMANITARIAN EFFORTS ON BEHALF OF ONE OR MORE MARGINALIZED POPULATIONS OF SUDAN; OR**~~

~~**(3) THROUGH ENGAGEMENT WITH THE GOVERNMENT OF SUDAN, MATERIALLY IMPROVING CONDITIONS FOR THE GENOCIDALLY VICTIMIZED POPULATION IN DARFUR.**~~

~~**21–1A–02.**~~

~~**(A) A COMPANY IS A SCRUTINIZED COMPANY IF IT:**~~

~~**(1) (I) HAS BUSINESS OPERATIONS THAT INVOLVE CONTRACTS FOR SUPPLIES OR SERVICES TO:**~~

~~**1. THE GOVERNMENT OF SUDAN;**~~

~~**2. COMPANIES IN WHICH THE GOVERNMENT OF SUDAN HAS A DIRECT OR INDIRECT EQUITY SHARE;**~~

~~**3. THE GOVERNMENT OF SUDAN–COMMISSIONED CONSORTIUMS OR PROJECTS; OR**~~

~~**4. COMPANIES INVOLVED IN THE GOVERNMENT OF SUDAN–COMMISSIONED CONSORTIUMS OR PROJECTS;**~~

~~**(II) HAS ASSETS LINKED TO SUDAN THAT INVOLVE:**~~

~~**1. A. OIL–RELATED ACTIVITIES GREATER THAN 10% OF THE COMPANY'S TOTAL ASSETS; AND**~~

~~**B. OIL–RELATED OR MINERAL EXTRACTING PRODUCTS OR SERVICES TO THE REGIONAL GOVERNMENT OF SUDAN OR A PROJECT OR CONSORTIUM CREATED EXCLUSIVELY BY THAT REGIONAL GOVERNMENT THAT IS LESS THAN 75% OF THE COMPANY'S TOTAL ASSETS; OR**~~

~~**2. A. POWER PRODUCTION ACTIVITIES GREATER THAN 10% OF THE COMPANY'S TOTAL ASSETS;**~~

~~B. LESS THAN 75% OF ALL POWER PRODUCTION ACTIVITIES THAT PROVIDE POWER OR ELECTRICITY TO THE MARGINALIZED POPULATIONS OF SUDAN; AND~~

~~C. FAILURE TO TAKE SUBSTANTIAL ACTION;~~

~~(2) IS COMPLICIT IN THE DARFUR GENOCIDE; OR~~

~~(3) SUPPLIES MILITARY EQUIPMENT TO SUDAN.~~

~~(B) FOR PURPOSES OF SUBSECTION (A)(3) OF THIS SECTION, A COMPANY IS NOT CONSIDERED TO SUPPLY MILITARY EQUIPMENT TO SUDAN IF THE COMPANY:~~

~~(1) SUPPLIES MILITARY EQUIPMENT THAT CANNOT BE USED TO FACILITATE OFFENSIVE MILITARY ACTIONS IN SUDAN; OR~~

~~(2) IMPLEMENTS SAFEGUARDS TO PREVENT USE OF MILITARY EQUIPMENT BY FORCES ACTIVELY PARTICIPATING IN ARMED CONFLICT.~~

~~21–1A–03.~~

~~(A) (1) AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR BEFORE OCTOBER 1, 2007, THE BOARD OF TRUSTEES SHALL IDENTIFY ALL SCRUTINIZED COMPANIES IN WHICH THE BOARD OF TRUSTEES HAS DIRECT OR INDIRECT HOLDINGS.~~

~~(2) TO IDENTIFY SCRUTINIZED COMPANIES AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL:~~

~~(I) REVIEW AND RELY ON PUBLICLY AVAILABLE INFORMATION REGARDING COMPANIES WITH BUSINESS OPERATIONS IN SUDAN, INCLUDING INFORMATION PROVIDED BY NONPROFIT ORGANIZATIONS, RESEARCH FIRMS, INTERNATIONAL ORGANIZATIONS, AND GOVERNMENT ENTITIES;~~

~~(II) CONTACT ASSET MANAGERS CONTRACTED BY THE BOARD OF TRUSTEES ON BEHALF OF THE SEVERAL SYSTEMS, WITH BUSINESS OPPORTUNITIES IN SUDAN; AND~~

~~(III) CONTACT OTHER INSTITUTIONAL INVESTORS THAT HAVE DIVESTED FROM OR ENGAGED WITH COMPANIES THAT HAVE BUSINESS OPERATIONS IN SUDAN.~~

~~**(B) ON OR BEFORE NOVEMBER 1, 2007, THE BOARD OF TRUSTEES SHALL PREPARE A LIST OF ALL SCRUTINIZED COMPANIES IDENTIFIED UNDER SUBSECTION (A) OF THIS SECTION.**~~

~~**(C) THE BOARD OF TRUSTEES SHALL UPDATE THE LIST PREPARED UNDER SUBSECTION (B) OF THIS SECTION ON A QUARTERLY BASIS.**~~

~~**21–1A–04.**~~

~~**(A) FOR PURPOSES OF THIS SECTION, ACTIVELY MANAGED INVESTMENT FUNDS INCLUDE PRIVATE EQUITY FUNDS.**~~

~~**(B) (1) (I) FOR EACH COMPANY IDENTIFIED IN § 21–1A–03 OF THIS SUBTITLE WITH ONLY INACTIVE BUSINESS OPERATIONS, THE BOARD OF TRUSTEES SHALL:**~~

~~**1. SEND A WRITTEN NOTICE INFORMING THE COMPANY OF THE PROVISIONS INCLUDED IN THIS SUBTITLE; AND**~~

~~**2. ENCOURAGE THE COMPANY TO CONTINUE TO REFRAIN FROM INITIATING ACTIVE BUSINESS OPERATIONS IN SUDAN UNTIL IT IS ABLE TO AVOID ALL SCRUTINIZED BUSINESS OPERATIONS.**~~

~~**(II) THE BOARD OF TRUSTEES SHALL SEND CORRESPONDENCE DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH EVERY 6 MONTHS.**~~

~~**(2) (I) FOR EACH COMPANY IDENTIFIED IN § 21–1A–03 OF THIS SUBTITLE WITH ACTIVE BUSINESS OPERATIONS, THE BOARD OF TRUSTEES SHALL SEND A WRITTEN NOTICE INFORMING THE COMPANY:**~~

~~**1. OF ITS SCRUTINIZED COMPANY STATUS; AND**~~

~~**2. THAT IT MAY BECOME SUBJECT TO DIVESTMENT BY THE BOARD OF TRUSTEES.**~~

~~**(II) THE NOTICE SHALL OFFER THE COMPANY THE OPPORTUNITY TO CLARIFY ITS SUDAN–RELATED ACTIVITIES AND SHALL ENCOURAGE THE COMPANY, WITHIN 90 DAYS OF RECEIPT OF THE CORRESPONDENCE, TO EITHER CEASE ITS SCRUTINIZED BUSINESS OPERATIONS OR CONVERT SUCH OPERATIONS TO INACTIVE BUSINESS OPERATIONS IN ORDER TO AVOID QUALIFYING FOR DIVESTMENT BY THE BOARD OF TRUSTEES.**~~

~~(3) (I) IF WITHIN 90 DAYS OF RECEIPT OF THE CORRESPONDENCE DESCRIBED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, A COMPANY CEASES SCRUTINIZED BUSINESS OPERATIONS, THE COMPANY SHALL BE REMOVED FROM THE BOARD OF TRUSTEES' LIST OF SCRUTINIZED COMPANIES AND THE PROVISIONS OF THIS SUBTITLE SHALL CEASE TO APPLY TO IT UNLESS IT RESUMES SCRUTINIZED BUSINESS OPERATIONS.~~

~~(II) IF WITHIN 90 DAYS OF RECEIPT OF THE CORRESPONDENCE DESCRIBED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, A COMPANY CONVERTS ITS SCRUTINIZED ACTIVE BUSINESS OPERATIONS TO INACTIVE BUSINESS OPERATIONS, THE COMPANY SHALL BE SUBJECT TO ALL PROVISIONS IN THIS SUBTITLE AS THEY RELATE TO SCRUTINIZED COMPANIES.~~

~~(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF, ON THE 91ST DAY OF RECEIPT OF THE CORRESPONDENCE DESCRIBED UNDER SUBSECTION (B)(2)(I) OF THIS SECTION, THE COMPANY CONTINUES TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS, THE BOARD OF TRUSTEES SHALL SELL, REDEEM, DIVEST, OR WITHDRAW ALL PUBLICLY TRADED SECURITIES OF THE COMPANY ACCORDING TO THE FOLLOWING SCHEDULE:~~

~~(I) AT LEAST 50% OF ALL ASSETS HELD IN THE COMPANY BY THE BOARD OF TRUSTEES SHALL BE REMOVED AS ASSETS UNDER MANAGEMENT WITHIN 9 MONTHS AFTER THE COMPANY'S MOST RECENT APPEARANCE ON THE BOARD OF TRUSTEES' LIST OF SCRUTINIZED COMPANIES; AND~~

~~(II) 100% OF ALL ASSETS HELD IN THE COMPANY BY THE BOARD OF TRUSTEES SHALL BE REMOVED AS ASSETS UNDER MANAGEMENT WITHIN 15 MONTHS AFTER THE COMPANY'S MOST RECENT APPEARANCE ON THE BOARD OF TRUSTEES' LIST OF SCRUTINIZED COMPANIES.~~

~~(2) (I) IF A COMPANY THAT CEASED SCRUTINIZED ACTIVE BUSINESS OPERATIONS FOLLOWING RECEIPT OF CORRESPONDENCE UNDER SUBSECTION (B)(2)(I) OF THIS SECTION RESUMES SCRUTINIZED ACTIVE BUSINESS OPERATIONS, PARAGRAPH (1) OF THIS SUBSECTION SHALL APPLY IMMEDIATELY.~~

~~(II) THE BOARD OF TRUSTEES SHALL SEND WRITTEN NOTICE TO A COMPANY DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT THE COMPANY HAS BEEN PLACED ON THE BOARD OF~~

~~TRUSTEES' LIST OF SCRUTINIZED COMPANIES AND THE BOARD OF TRUSTEES WILL BEGIN DIVESTMENT PROCEDURES AS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) THIS SUBSECTION APPLIES ONLY TO A COMPANY WHILE IT CONTINUES TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS.~~

~~(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE BOARD OF TRUSTEES MAY NOT ACQUIRE SECURITIES OF COMPANIES ON ITS LIST OF SCRUTINIZED COMPANIES THAT HAVE ACTIVE BUSINESS OPERATIONS.~~

~~(E) A COMPANY THAT THE FEDERAL GOVERNMENT AFFIRMATIVELY DECLARES TO BE EXCLUDED FROM ITS PRESENT OR ANY FUTURE FEDERAL SANCTIONS REGIME RELATING TO SUDAN MAY NOT BE SUBJECT TO DIVESTMENT OR INVESTMENT PROHIBITION UNDER SUBSECTIONS (C) AND (D) OF THIS SECTION.~~

~~(F) (1) SUBSECTIONS (C) AND (D) OF THIS SECTION DO NOT APPLY TO INDIRECT HOLDINGS IN ACTIVELY MANAGED INVESTMENT FUNDS.~~

~~(2) THE BOARD OF TRUSTEES SHALL SEND LETTERS TO ANY MANAGER WHO IS RESPONSIBLE FOR INVESTMENT FUNDS CONTAINING COMPANIES WITH SCRUTINIZED ACTIVE BUSINESS OPERATIONS AND REQUEST THAT THE MANAGER CONSIDER REMOVING SUCH COMPANIES FROM THE FUND OR CREATE A SIMILAR ACTIVELY MANAGED FUND WITH INDIRECT HOLDINGS DEVOID OF SUCH COMPANIES.~~

~~(3) IF THE MANAGER CREATES A SIMILAR FUND, THE BOARD OF TRUSTEES SHALL REPLACE ALL APPLICABLE INVESTMENTS WITH INVESTMENTS IN THE SIMILAR FUND IN AN EXPEDITED TIME FRAME CONSISTENT WITH PRUDENT INVESTING STANDARDS.~~

~~21–1A–05.~~

~~(A) WITHIN 30 DAYS OF CREATING A LIST OF SCRUTINIZED COMPANIES UNDER § 21–1A–03 OF THIS SUBTITLE, THE BOARD OF TRUSTEES SHALL SUBMIT TO THE CHAIR OF THE JOINT COMMITTEE ON PENSIONS A COPY OF THE LIST OF SCRUTINIZED COMPANIES.~~

~~(B) BEGINNING SEPTEMBER 1, 2008, AND EVERY YEAR THEREAFTER, THE BOARD OF TRUSTEES SHALL SUBMIT TO THE CHAIRMAN OF THE JOINT COMMITTEE AND THE UNITED STATES PRESIDENTIAL SPECIAL ENVOY TO SUDAN A REPORT INCLUDING:~~

~~(1) A SUMMARY OF CORRESPONDENCE WITH COMPANIES ENGAGED BY THE BOARD OF TRUSTEES UNDER § 21–1A–04(B) OF THIS SUBTITLE;~~

~~(2) ALL INVESTMENTS SOLD, REDEEMED, DIVESTED, OR WITHDRAWN IN COMPLIANCE WITH § 21–1A–04(C) OF THIS SUBTITLE;~~

~~(3) ALL PROHIBITED INVESTMENTS UNDER § 21–1A–04(D) OF THIS SUBTITLE; AND~~

~~(4) ANY PROGRESS MADE UNDER § 21–1A–04(F) OF THIS SUBTITLE SINCE SUBMITTING THE PREVIOUS REPORT.~~

~~21–1A–06.~~

~~THE PROVISIONS OF THIS SUBTITLE SHALL EXPIRE IF THE UNITED STATES CONGRESS OR THE PRESIDENT OF THE UNITED STATES:~~

~~(1) DECLARES THAT THE DARFUR GENOCIDE HAS BEEN HALTED FOR AT LEAST 12 CONSECUTIVE MONTHS;~~

~~(2) REVOKES ALL SANCTIONS IMPOSED AGAINST THE GOVERNMENT OF SUDAN; OR~~

~~(3) THROUGH LEGISLATION OR EXECUTIVE ORDER, DECLARES THAT MANDATORY DIVESTMENT OF THE TYPE PROVIDED FOR UNDER THIS SUBTITLE INTERFERES WITH THE CONDUCT OF UNITED STATES FOREIGN POLICY.~~

~~21–1A–07.~~

~~WITH RESPECT TO ANY ACTION TAKEN IN COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE, INCLUDING ALL GOOD FAITH DETERMINATIONS REGARDING COMPANIES AS REQUIRED BY THE PROVISIONS OF THIS SUBTITLE, THE BOARD OF TRUSTEES SHALL BE EXEMPT FROM ANY CONFLICTING STATUTORY OR COMMON LAW OBLIGATIONS, INCLUDING ANY SUCH OBLIGATIONS REGARDING CHOICE OF ASSET MANAGERS, INVESTMENT FUNDS, OR INVESTMENTS FOR THE SECURITIES PORTFOLIOS OF THE BOARD OF TRUSTEES.~~

~~21–1A–08.~~

~~**(A) THIS SECTION DOES NOT APPLY TO ANY COMPANY THAT HAS CEASED SCRUTINIZED ACTIVE BUSINESS OPERATIONS.**~~

~~**(B) THE BOARD OF TRUSTEES MAY CEASE DIVESTING FROM SCRUTINIZED COMPANIES AND BEGIN REINVESTING IN THESE COMPANIES ONLY IF CLEAR AND CONVINCING EVIDENCE SHOWS THAT THE VALUE FOR ALL ASSETS UNDER MANAGEMENT BY THE BOARD OF TRUSTEES BECOMES EQUAL TO OR LESS THAN 99.50% OF THE VALUE OF ALL ASSETS UNDER MANAGEMENT BY THE BOARD OF TRUSTEES, ASSUMING NO DIVESTMENT FOR ANY COMPANY HAS OCCURRED.**~~

~~**(C) (1) FOR ANY CESSATION OF DIVESTMENT, REINVESTMENT, AND SUBSEQUENT ONGOING INVESTMENT AUTHORIZED BY THIS SECTION, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT TO THE CHAIR OF THE JOINT COMMITTEE ON PENSIONS IN ADVANCE OF INITIAL REINVESTMENT, THE REASONS AND JUSTIFICATION, SUPPORTED BY CLEAR AND CONVINCING EVIDENCE, FOR ITS DECISIONS TO CEASE DIVESTMENT, REINVEST, OR REMAIN INVESTED IN COMPANIES WITH SCRUTINIZED ACTIVE BUSINESS OPERATIONS.**~~

~~**(2) THE REPORT SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE UPDATED EVERY 6 MONTHS.**~~

21–123.1.

(A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COMPANY" MEANS ANY CORPORATION, UTILITY, PARTNERSHIP, JOINT VENTURE, FRANCHISOR, FRANCHISEE, TRUST, ENTITY INVESTMENT VEHICLE, FINANCIAL INSTITUTION OR ITS WHOLLY OWNED SUBSIDIARY.

(3) (I) "ACTIVELY MANAGED SEPARATE ACCOUNTS" MEANS THE ACCOUNTS OF THE SEVERAL SYSTEMS THAT ARE ACTIVELY MANAGED AT THE DIRECTION OF THE BOARD OF TRUSTEES AND HELD IN SEPARATE ACCOUNTS.

(II) "ACTIVELY MANAGED SEPARATE ACCOUNTS" DOES NOT MEAN INDEXED FUNDS, PRIVATE EQUITY FUNDS, REAL ESTATE FUNDS, OR OTHER COMMINGLED OR PASSIVELY MANAGED FUNDS.

(4) "DIVESTMENT ACTION" MEANS SELLING, REDEEMING, TRANSFERRING, EXCHANGING, OTHERWISE DISPOSING OF, OR REFRAINING FROM FURTHER INVESTMENT IN CERTAIN INVESTMENTS.

(5) "DOING BUSINESS IN SUDAN" MEANS MAINTAINING EQUIPMENT, FACILITIES, PERSONNEL, OR OTHER APPARATUS OF BUSINESS OR COMMERCE IN SUDAN, INCLUDING OWNERSHIP OF REAL OR PERSONAL PROPERTY IN SUDAN OR ENGAGING IN ANY BUSINESS ACTIVITY WITH THE GOVERNMENT OF SUDAN.

(6) "ELIGIBLE ACCOUNTS" MEANS ACTIVELY MANAGED SEPARATE ACCOUNTS CONTAINING FUNDS OF THE SEVERAL SYSTEMS.

(7) "INVESTMENT" MEANS THE COMMITMENT OF FUNDS OR OTHER ASSETS TO A COMPANY, INCLUDING:

(I) THE OWNERSHIP OR CONTROL OF A SHARE OR INTEREST IN THE COMPANY; OR

(II) THE OWNERSHIP OR CONTROL OF A BOND OR OTHER DEBT INSTRUMENT BY A COMPANY.

(8) (I) "SUDAN" MEANS THE GOVERNMENT IN KHARTOUM, SUDAN, THAT IS LED BY THE NATIONAL CONGRESS PARTY (FORMERLY KNOWN AS THE NATIONAL ISLAMIC FRONT) OR ANY SUCCESSOR GOVERNMENT FORMED ON OR AFTER OCTOBER 13, 2006, INCLUDING THE COALITION NATIONAL UNITY GOVERNMENT AGREED ON IN THE COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.

(II) "SUDAN" DOES NOT MEAN THE REGIONAL GOVERNMENT OF SOUTHERN SUDAN.

(B) THE BOARD OF TRUSTEES SHALL REVIEW THE INVESTMENT HOLDINGS IN ELIGIBLE ACCOUNTS FOR THE PURPOSE OF DETERMINING THE EXTENT TO WHICH FUNDS IN ELIGIBLE ACCOUNTS ARE INVESTED IN COMPANIES DOING BUSINESS IN SUDAN.

(C) CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD OF TRUSTEES UNDER SUBTITLE 2 OF THIS TITLE AND THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE BOARD OF TRUSTEES:

(1) SHALL ENCOURAGE COMPANIES IN WHICH ELIGIBLE ACCOUNTS ARE INVESTED AND THAT ARE DOING BUSINESS IN SUDAN TO ACT

RESPONSIBLY AND AVOID ACTIONS THAT PROMOTE OR OTHERWISE ENABLE HUMAN RIGHTS VIOLATIONS IN SUDAN;

(2) MAY TAKE DIVESTMENT ACTION IN ELIGIBLE ACCOUNTS WITH REGARD TO CURRENT INVESTMENTS:

(I) IN ANY COMPANY DOING BUSINESS IN SUDAN; OR

(II) IN ANY SECURITY OR INSTRUMENT ISSUED BY SUDAN; AND

(3) MAY NOT MAKE ANY NEW INVESTMENTS FROM NET NEW FUNDS IN AN ELIGIBLE ACCOUNT IN ANY COMPANY THAT IS DOING BUSINESS IN SUDAN.

(D) IN DETERMINING WHETHER TO TAKE ANY ACTION UNDER SUBSECTION (C) OF THIS SECTION WITH REGARD TO THE INVESTMENT OF FUNDS IN ELIGIBLE ACCOUNTS IN A COMPANY DOING BUSINESS IN SUDAN, THE BOARD OF TRUSTEES SHALL CONSIDER THE FOLLOWING:

(1) REVENUES PAID BY A COMPANY DIRECTLY TO THE GOVERNMENT OF SUDAN;

(2) WHETHER A COMPANY SUPPLIES INFRASTRUCTURE OR RESOURCES USED BY THE GOVERNMENT OF SUDAN TO IMPLEMENT ITS POLICIES OF GENOCIDE IN DARFUR OR OTHER REGIONS OF SUDAN;

(3) WHETHER A COMPANY KNOWINGLY OBSTRUCTS LAWFUL INQUIRIES INTO ITS OPERATIONS AND INVESTMENTS IN SUDAN;

(4) WHETHER A COMPANY ATTEMPTS TO CIRCUMVENT ANY APPLICABLE SANCTIONS OF THE UNITED STATES;

(5) THE EXTENT OF ANY HUMANITARIAN ACTIVITIES UNDERTAKEN BY A COMPANY IN SUDAN;

(6) WHETHER A COMPANY IS ENGAGED SOLELY IN THE PROVISION OF GOODS AND SERVICES INTENDED TO RELIEVE HUMAN SUFFERING OR TO PROMOTE WELFARE, HEALTH, EDUCATION, RELIGIOUS, OR SPIRITUAL ACTIVITIES;

(7) WHETHER A COMPANY IS AUTHORIZED BY THE FEDERAL GOVERNMENT OF THE UNITED STATES TO DO BUSINESS IN SUDAN;

(8) EVIDENCE THAT A COMPANY HAS ENGAGED THE GOVERNMENT OF SUDAN TO CEASE ITS ABUSES IN DARFUR OR OTHER REGIONS IN SUDAN;

(9) WHETHER A COMPANY IS ENGAGED SOLELY IN JOURNALISTIC ACTIVITIES; AND

(10) ANY OTHER FACTOR THAT THE BOARD OF TRUSTEES DEEMS PRUDENT.

(E) IF THE BOARD OF TRUSTEES TAKES DIVESTMENT ACTION UNDER SUBSECTION (C) OF THIS SECTION, WITH RESPECT TO INVESTMENTS IN A COMPANY, THE BOARD OF TRUSTEES SHALL PROVIDE THE COMPANY WITH WRITTEN NOTICE OF ITS DECISION AND REASONS FOR THE DECISION.

(F) ON OR BEFORE OCTOBER 1 OF EACH YEAR, AND EVERY 3 MONTHS THEREAFTER, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

(1) A SUMMARY OF CORRESPONDENCE WITH COMPANIES ENGAGED BY THE BOARD OF TRUSTEES UNDER THIS SECTION;

(2) ALL DIVESTMENT ACTIONS TAKEN BY THE BOARD OF TRUSTEES IN ACCORDANCE WITH THIS SECTION;

(3) A LIST OF COMPANIES DOING BUSINESS IN SUDAN WHICH THE BOARD OF TRUSTEES HAS DETERMINED TO BE INELIGIBLE FOR INVESTMENTS OF NET NEW FUNDS UNDER SUBSECTION (C)(3) OF THIS SECTION; AND

(4) OTHER DEVELOPMENTS RELEVANT TO INVESTMENT IN COMPANIES DOING BUSINESS IN SUDAN.

SECTION 2. AND BE IT FURTHER ENACTED, That if the President of the United States rescinds or repeals Executive Order 13067, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect. Within 5 working days of the President of the United States rescinding or repealing Executive Order 13067, the Board of Trustees for the State Retirement and Pension System shall notify the Department of Legislative Services in writing of the rescission or repeal at 90 State Circle, Annapolis, Maryland 21401.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act, this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 40

(House Bill 1336)

AN ACT concerning

2007 Darfur Protection Act – Divestiture from the Republic of Sudan

FOR the purpose of requiring the Board of Trustees of the State Retirement and Pension System to review certain investment holdings; requiring the Board of Trustees to encourage certain companies to take certain actions; requiring the Board of Trustees to provide written notice to certain companies; authorizing the Board of Trustees to take divestment action with regard to certain investments; prohibiting the Board of Trustees from acquiring certain securities; requiring the Board of Trustees to take certain issues into account prior to taking certain actions; requiring the Board of Trustees to publish certain reports containing certain information on or before a certain date; defining certain terms; providing for the termination of this Act under certain circumstances; and generally relating to the divestment of investments from the Republic of Sudan.

BY adding to
Article – State Personnel and Pensions
Section 21–123.1
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, On September 9, 2004, Secretary of State Colin L. Powell told the United States Senate Foreign Relations Committee that "genocide has occurred and may still be occurring in Darfur" and "the Government of Sudan and the Janjaweed bear responsibility"; and

WHEREAS, On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and

stated, "at this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide"; and

WHEREAS, On September 25, 2006, the United States Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party–led faction of the Government of Sudan"; and

WHEREAS, On September 26, 2006, the United States Congress stated that "an estimated 300,000 to 400,000 people have been killed by the Government of Sudan and its Janjaweed allies since the Darfur crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad"; and

WHEREAS, The Darfur crisis represents the first time the United States Government has labeled ongoing atrocities a genocide; and

WHEREAS, The federal government has imposed sanctions against the Government of Sudan since 1997, that are monitored through the United States Treasury Department's Office of Foreign Assets Control (OFAC); and

WHEREAS, According to a former chair of the United States Securities and Exchange Commission (SEC), "the fact that a foreign company is doing material business with a country, government, or entity on OFAC's sanctions list is, in the SEC staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in that company"; and

WHEREAS, In response to the financial risk posed by investments in companies doing business with a terrorist–sponsoring state, the SEC established its Office of Global Security Risk to provide for enhanced disclosure of material information regarding such companies; and

WHEREAS, Despite significant pressure from the United States government, the Republic of Sudan fails to take necessary actions to disassociate itself from its ties to terrorism and genocide; and

WHEREAS, Companies supporting such ties with terrorism and genocide present further material risk to remaining investors of these companies; and

WHEREAS, It is a fundamental responsibility of the State to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors; and

WHEREAS, It is the prerogative and desire of the State, in respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries, not to participate in an ownership or capital–providing capacity with entities that provide significant practical support for genocide, including certain international companies presently doing business in Sudan; and

WHEREAS, It is the judgment of the General Assembly that this Act should remain in effect only insofar as it continues to be consistent with, and does not unduly interfere with, the foreign policy of the United States as determined by the federal government; and

WHEREAS, It is the judgment of the General Assembly that divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously – a United States Congressional and Presidential declaration of genocide satisfying this high threshold; now, therefore,

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

Article – State Personnel and Pensions

21–123.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COMPANY" MEANS ANY CORPORATION, UTILITY, PARTNERSHIP, JOINT VENTURE, FRANCHISOR, FRANCHISEE, TRUST, ENTITY, INVESTMENT VEHICLE, FINANCIAL INSTITUTION, OR ITS WHOLLY OWNED SUBSIDIARY;

(3) (I) "ACTIVELY MANAGED SEPARATE ACCOUNTS" MEANS THE ACCOUNTS OF THE SEVERAL SYSTEMS THAT ARE ACTIVELY MANAGED AT THE DIRECTION OF THE BOARD OF TRUSTEES AND HELD IN SEPARATE ACCOUNTS.

(II) "ACTIVELY MANAGED SEPARATE ACCOUNTS" DOES NOT MEAN INDEXED FUNDS, PRIVATE EQUITY FUNDS, REAL ESTATE FUNDS, ~~AND~~ *OR* OTHER COMMINGLED OR PASSIVELY MANAGED FUNDS.

(4) "DIVESTMENT ACTION" MEANS SELLING, REDEEMING, TRANSFERRING, EXCHANGING, OR OTHERWISE DISPOSING OF OR REFRAINING FROM FURTHER INVESTMENT IN CERTAIN INVESTMENTS.

(5) "DOING BUSINESS IN SUDAN" MEANS MAINTAINING EQUIPMENT, FACILITIES, PERSONNEL, OR OTHER APPARATUS OF BUSINESS OR COMMERCE IN SUDAN, INCLUDING OWNERSHIP OF REAL OR PERSONAL PROPERTY IN SUDAN, OR ENGAGING IN ANY BUSINESS ACTIVITY WITH THE GOVERNMENT OF SUDAN.

(6) "ELIGIBLE ACCOUNTS" MEANS ACTIVELY MANAGED SEPARATE ACCOUNTS CONTAINING FUNDS OF THE SEVERAL SYSTEMS.

(7) "INVESTMENT" MEANS THE COMMITMENT OF FUNDS OR OTHER ASSETS TO A COMPANY, INCLUDING:

(I) THE OWNERSHIP OR CONTROL OF A SHARE OR INTEREST IN THE COMPANY; OR

(II) THE OWNERSHIP OR CONTROL OF A BOND OR OTHER DEBT INSTRUMENT BY A COMPANY.

(8) (I) "SUDAN" MEANS THE GOVERNMENT IN KHARTOUM, SUDAN, THAT IS LED BY THE NATIONAL CONGRESS PARTY (FORMERLY KNOWN AS THE NATIONAL ISLAMIC FRONT) OR ANY SUCCESSOR GOVERNMENT FORMED ON OR AFTER OCTOBER 13, 2006, INCLUDING THE COALITION NATIONAL UNITY GOVERNMENT AGREED ON IN THE COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.

(II) "SUDAN" DOES NOT MEAN THE REGIONAL GOVERNMENT OF SOUTHERN SUDAN.

(B) THE BOARD OF TRUSTEES SHALL REVIEW THE INVESTMENT HOLDINGS IN ELIGIBLE ACCOUNTS FOR THE PURPOSE OF DETERMINING THE EXTENT TO WHICH FUNDS IN ELIGIBLE ACCOUNTS ARE INVESTED IN COMPANIES DOING BUSINESS IN SUDAN.

(C) CONSISTENT WITH THE FIDUCIARY DUTIES OF THE BOARD OF TRUSTEES UNDER SUBTITLE 2 OF THIS TITLE, AND THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, THE BOARD OF TRUSTEES:

(1) SHALL ENCOURAGE COMPANIES IN WHICH ELIGIBLE ACCOUNTS ARE INVESTED AND THAT ARE DOING BUSINESS IN SUDAN TO ACT RESPONSIBLY AND AVOID ACTIONS THAT PROMOTE OR OTHERWISE ENABLE HUMAN RIGHTS VIOLATIONS IN SUDAN;

(2) MAY TAKE DIVESTMENT ACTION IN ELIGIBLE ACCOUNTS WITH REGARD TO INVESTMENTS:

(I) IN ANY COMPANY DOING BUSINESS IN SUDAN; OR

(II) IN ANY SECURITY OR INSTRUMENT ISSUED BY SUDAN; AND

(3) MAY NOT MAKE ANY NEW INVESTMENTS FROM NET NEW FUNDS IN AN ELIGIBLE ACCOUNT IN ANY COMPANY THAT IS DOING BUSINESS IN SUDAN.

(D) IN DETERMINING WHETHER TO TAKE DIVESTMENT ACTION UNDER SUBSECTION (C) OF THIS SECTION WITH REGARD TO THE INVESTMENT OF FUNDS IN ELIGIBLE ACCOUNTS IN A COMPANY DOING BUSINESS IN SUDAN, THE BOARD OF TRUSTEES SHALL CONSIDER THE FOLLOWING:

(1) REVENUES PAID BY A COMPANY DIRECTLY TO THE GOVERNMENT OF SUDAN;

(2) WHETHER A COMPANY SUPPLIES INFRASTRUCTURE OR RESOURCES USED BY THE GOVERNMENT OF SUDAN TO IMPLEMENT ITS POLICIES OF GENOCIDE IN DARFUR OR OTHER REGIONS OF SUDAN;

(3) WHETHER A COMPANY KNOWINGLY OBSTRUCTS LAWFUL INQUIRIES INTO ITS OPERATIONS AND INVESTMENTS IN SUDAN;

(4) WHETHER A COMPANY ATTEMPTS TO CIRCUMVENT ANY APPLICABLE SANCTIONS OF THE UNITED STATES;

(5) THE EXTENT OF ANY HUMANITARIAN ACTIVITIES UNDERTAKEN BY A COMPANY IN SUDAN;

(6) WHETHER A COMPANY IS ENGAGED SOLELY IN THE PROVISION OF GOODS AND SERVICES INTENDED TO RELIEVE HUMAN SUFFERING, OR TO PROMOTE WELFARE, HEALTH, EDUCATION, OR RELIGIOUS OR SPIRITUAL ACTIVITIES;

(7) WHETHER A COMPANY IS AUTHORIZED BY THE FEDERAL GOVERNMENT OF THE UNITED STATES TO DO BUSINESS IN SUDAN;

(8) EVIDENCE THAT A COMPANY HAS ENGAGED THE GOVERNMENT OF SUDAN TO CEASE ITS ABUSES IN DARFUR OR OTHER REGIONS IN SUDAN;

(9) WHETHER A COMPANY IS ENGAGED SOLELY IN JOURNALISTIC ACTIVITIES; AND

(10) ANY OTHER FACTOR THAT THE BOARD OF TRUSTEES DEEMS PRUDENT.

(E) IF THE BOARD OF TRUSTEES TAKES DIVESTMENT ACTION UNDER SUBSECTION (C) OF THIS SECTION, WITH RESPECT TO INVESTMENTS IN A COMPANY, THE BOARD OF TRUSTEES SHALL PROVIDE THE COMPANY WITH WRITTEN NOTICE OF ITS DECISION AND REASONS FOR THE DECISION.

(F) ON OR BEFORE OCTOBER 1 OF EACH YEAR, AND EVERY 3 MONTHS THEREAFTER, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE JOINT COMMITTEE ON PENSIONS THAT PROVIDES:

(1) A SUMMARY OF CORRESPONDENCE WITH COMPANIES ENGAGED BY THE BOARD OF TRUSTEES UNDER THIS SECTION;

(2) ALL DIVESTMENT ACTIONS TAKEN BY THE BOARD OF TRUSTEES IN ACCORDANCE WITH THIS SECTION;

(3) A LIST OF COMPANIES DOING BUSINESS IN SUDAN WHICH THE BOARD OF TRUSTEES HAS DETERMINED TO BE INELIGIBLE FOR INVESTMENTS OF NET NEW FUNDS UNDER SUBSECTION (C)(3) OF THIS SECTION; AND

(4) OTHER DEVELOPMENTS RELEVANT TO INVESTMENT IN COMPANIES DOING BUSINESS IN SUDAN.

SECTION 2. AND BE IT FURTHER ENACTED, That if the President of the United States rescinds or repeals Executive Order 13067, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect. Within 5 working days of the President of the United States rescinding or repealing Executive Order 13067, the Board of Trustees for the State Retirement and Pension System shall notify the Department of Legislative Services in writing of the rescission or repeal at 90 State Circle, Annapolis, Maryland 21401.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act, this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 41

(Senate Bill 625)

AN ACT concerning

Workers' Compensation Commission – Governmental Self–Insurance Groups – Investment

FOR the purpose of requiring the Workers' Compensation Commission to adopt regulations that establish certain guidelines to authorize a certain type of investment of surplus funds by governmental self–insurance groups; providing certain conditions for the investment of surplus funds by governmental self–insurance groups; and generally relating to regulations by the Workers' Compensation Commission.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–404(a)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–404(b), (c), (i), (j), and (k)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article 95 – Treasurer
Section 22(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Labor and Employment

9–404.

(a) **(1)** The Commission shall adopt regulations**:**

(I) setting procedures and other requirements for a governmental self–insurance group to establish joint self–insurance coverage**; AND**

(II) ESTABLISHING GUIDELINES TO GOVERN THE INVESTMENT OF SURPLUS MONEYS NOT NEEDED TO MEET CURRENT OBLIGATIONS IN A MANNER THAT WILL ENSURE SOLVENCY OF THE FUND AND TIMELY PAYMENT OF CLAIMS.

(2) NOTWITHSTANDING THE LOCAL GOVERNMENT GUIDELINES SET FORTH IN ARTICLE 95, § 22 OF THE CODE, THE GUIDELINES REQUIRED BY PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL:

(I) STATE THE TYPES OF INVESTMENT IN WHICH MONEYS MAY BE INVESTED;

(II) INCLUDE GUIDANCE FOR THE PRUDENT INVESTMENT OF MONEYS BASED ON CLAIM EXPERIENCE, CASH FLOW PROJECTIONS, INCOME, LIQUIDITY, INVESTMENT RATINGS, AND RISK;

(III) AUTHORIZE INVESTMENTS OF MONEYS IN EQUITIES, PROVIDED THAT INVESTMENTS DO NOT EXCEED 30 PERCENT OF THE SURPLUS MONEYS;

(IV) PROVIDE THAT MONEYS NOT INVESTED IN EQUITIES SHALL BE INVESTED IN ACCORDANCE WITH ARTICLE 95, § 22 OF THE CODE; AND

(V) PROHIBIT BORROWING OF FUNDS FOR THE EXPRESS PURPOSE OF INVESTING THOSE FUNDS.

(b) (1) Subject to paragraph (2) of this subsection, a governmental self–insurance group may be formed by any combination of:

(i) counties;

(ii) municipal corporations;

(iii) boards of education; and

(iv) community colleges.

(2) A board of education or a community college may not participate in a governmental self–insurance group unless its participation is approved by its county governing body.

(c) Subject to the approval of the Commission, a county that participates in a governmental self–insurance group may include in the coverage:

(1) any unit created or funded by the county; and

(2) regardless of funding:

(i) the board of education of the county;

(ii) a community college in the county;

(iii) a regional community college in the county;

(iv) a housing agency of the county created under Division II of the Housing and Community Development Article;

(v) a municipal corporation in the county;

(vi) a multicounty unit that operates in the county; or

(vii) a revenue authority in the county created by the State.

(i) (1) To be informed of the continuing financial responsibility of each governmental self–insurance group, the Commission:

(i) shall require each governmental self–insurance group to submit a report at least once each year; and

(ii) may examine the governmental self–insurance group under oath and make other examination of the business of the governmental self–insurance group.

(2) Each year, the Commission shall assess each governmental self–insurance group an amount not exceeding $1,500 to be used for actuarial studies and audits.

(j) (1) The Commission shall revoke the approval of a governmental self–insurance group to self–insure under this section if the governmental self–insurance group:

(i) fails to deposit securities with or submit a bond to the Commission in accordance with subsection (e) of this section;

(ii) fails to submit satisfactory reports to the Commission in accordance with subsection (i)(1)(i) of this section; or

(iii) otherwise fails to satisfy the Commission that it is financially able to self–insure.

(2) Whenever the Commission revokes approval for a governmental self–insurance group to self–insure under this section, the members of the governmental self–insurance group immediately shall secure compensation through an authorized insurer or the Injured Workers' Insurance Fund.

(3) If a member of a governmental self–insurance group fails to secure compensation as required by paragraph (2) of this subsection, the Commission shall order the member of the governmental self–insurance group to secure compensation through the Injured Workers' Insurance Fund.

(k) If a governmental self–insurance group becomes insolvent, the Uninsured Employers' Fund shall pay the outstanding obligations of the governmental self–insurance group for compensation.

Article 95 – Treasurer

22.

(a) Except as provided in subsection (b) of this section or § 22–O of this article, and subject to § 22F of this article, and notwithstanding any provision of a local law or ordinance, the governing body of each county and municipal corporation, each county board of education, and the governing body of each road, drainage, improvement, construction or soil conservation district or commission in the State, the Upper Potomac River Commission, and any other political subdivision or body politic of the State, or their authorized acknowledged agent, are directed, authorized, and empowered to invest, redeem, sell, exchange and reinvest all unexpended or surplus money in any fund or account of which they have custody or control in obligations or repurchase agreements in accordance with § 6–222 of the State Finance and Procurement Article, or deposit unexpended or surplus money in any federally insured bank in the State of Maryland or in any federally insured savings and loan association in the State of Maryland in interest–bearing time deposit or savings accounts, or in the local government investment pool created in this article. Except as provided in §

22–O of this article, deposits in banks or in savings and loan associations shall only be made if the bank or savings and loan association has given as security for these deposits any of the types of collateral set forth in § 6–202 of the State Finance and Procurement Article. The interest or income from any such investment or deposit shall become a part of the fund from which the investment or deposit was made and may itself be so invested or deposited. If the fund so invested or deposited constitutes the proceeds of the issue of bonds or other obligations, the principal of or interest on which the issuer is obligated to repay to the holders thereof, the interest or income from the investments may be used to pay the principal or interest by the issuer. Investments or deposits made pursuant to this section may be withdrawn or altered from time to time by the investing or depositing officer or governing body either to meet the requirements for which such funds are held or for reinvestment pursuant to this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 42

(House Bill 345)

AN ACT concerning

Workers' Compensation Commission – Governmental Self–Insurance Groups – Investment

FOR the purpose of requiring the Workers' Compensation Commission to adopt regulations that establish certain guidelines to authorize a certain type of investment of surplus funds by governmental self–insurance groups; providing certain conditions for the investment of surplus funds by governmental self–insurance groups; and generally relating to regulations by the Workers' Compensation Commission.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–404(a)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 9–404(b), (c), (i), (j), and (k)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article 95 – Treasurer
Section 22(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Labor and Employment

9–404.

(a) **(1)** The Commission shall adopt regulations**:**

(I) setting procedures and other requirements for a governmental self–insurance group to establish joint self–insurance coverage**; AND**

(II) ESTABLISHING GUIDELINES TO GOVERN THE INVESTMENT OF SURPLUS MONEYS NOT NEEDED TO MEET CURRENT OBLIGATIONS IN A MANNER THAT WILL ENSURE SOLVENCY OF THE FUND AND TIMELY PAYMENT OF CLAIMS.

(2) NOTWITHSTANDING THE LOCAL GOVERNMENT GUIDELINES SET FORTH IN ARTICLE 95, § 22 OF THE CODE, THE GUIDELINES REQUIRED BY PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL:

(I) STATE THE TYPES OF INVESTMENT IN WHICH MONEYS MAY BE INVESTED;

(II) INCLUDE GUIDANCE FOR THE PRUDENT INVESTMENT OF MONEYS BASED ON CLAIM EXPERIENCE, CASH FLOW PROJECTIONS, INCOME, LIQUIDITY, INVESTMENT RATINGS, AND RISK;

(III) AUTHORIZE INVESTMENTS OF MONEYS IN EQUITIES, PROVIDED THAT INVESTMENTS DO NOT EXCEED 30 PERCENT OF THE SURPLUS MONEYS;

(IV) PROVIDE THAT MONEYS NOT INVESTED IN EQUITIES SHALL BE INVESTED IN ACCORDANCE WITH ARTICLE 95, § 22 OF THE CODE; AND

(V) PROHIBIT BORROWING OF FUNDS FOR THE EXPRESS PURPOSE OF INVESTING THOSE FUNDS.

(b) (1) Subject to paragraph (2) of this subsection, a governmental self–insurance group may be formed by any combination of:

(i) counties;

(ii) municipal corporations;

(iii) boards of education; and

(iv) community colleges.

(2) A board of education or a community college may not participate in a governmental self–insurance group unless its participation is approved by its county governing body.

(c) Subject to the approval of the Commission, a county that participates in a governmental self–insurance group may include in the coverage:

(1) any unit created or funded by the county; and

(2) regardless of funding:

(i) the board of education of the county;

(ii) a community college in the county;

(iii) a regional community college in the county;

(iv) a housing agency of the county created under Division II of the Housing and Community Development Article;

(v) a municipal corporation in the county;

(vi) a multicounty unit that operates in the county; or

(vii) a revenue authority in the county created by the State.

(i) (1) To be informed of the continuing financial responsibility of each governmental self–insurance group, the Commission:

(i) shall require each governmental self–insurance group to submit a report at least once each year; and

(ii) may examine the governmental self–insurance group under oath and make other examination of the business of the governmental self–insurance group.

(2) Each year, the Commission shall assess each governmental self–insurance group an amount not exceeding $1,500 to be used for actuarial studies and audits.

(j) (1) The Commission shall revoke the approval of a governmental self–insurance group to self–insure under this section if the governmental self–insurance group:

(i) fails to deposit securities with or submit a bond to the Commission in accordance with subsection (e) of this section;

(ii) fails to submit satisfactory reports to the Commission in accordance with subsection (i)(1)(i) of this section; or

(iii) otherwise fails to satisfy the Commission that it is financially able to self–insure.

(2) Whenever the Commission revokes approval for a governmental self–insurance group to self–insure under this section, the members of the governmental self–insurance group immediately shall secure compensation through an authorized insurer or the Injured Workers' Insurance Fund.

(3) If a member of a governmental self–insurance group fails to secure compensation as required by paragraph (2) of this subsection, the Commission shall order the member of the governmental self–insurance group to secure compensation through the Injured Workers' Insurance Fund.

(k) If a governmental self–insurance group becomes insolvent, the Uninsured Employers' Fund shall pay the outstanding obligations of the governmental self–insurance group for compensation.

Article 95 – Treasurer

22.

(a) Except as provided in subsection (b) of this section or § 22–O of this article, and subject to § 22F of this article, and notwithstanding any provision of a local law or ordinance, the governing body of each county and municipal corporation, each county board of education, and the governing body of each road, drainage, improvement, construction or soil conservation district or commission in the State, the Upper Potomac River Commission, and any other political subdivision or body politic of the State, or their authorized acknowledged agent, are directed, authorized, and empowered to invest, redeem, sell, exchange and reinvest all unexpended or surplus money in any fund or account of which they have custody or control in obligations or repurchase agreements in accordance with § 6–222 of the State Finance and Procurement Article, or deposit unexpended or surplus money in any federally insured bank in the State of Maryland or in any federally insured savings and loan association in the State of Maryland in interest–bearing time deposit or savings accounts, or in the local government investment pool created in this article. Except as provided in § 22–O of this article, deposits in banks or in savings and loan associations shall only be made if the bank or savings and loan association has given as security for these deposits any of the types of collateral set forth in § 6–202 of the State Finance and Procurement Article. The interest or income from any such investment or deposit shall become a part of the fund from which the investment or deposit was made and may itself be so invested or deposited. If the fund so invested or deposited constitutes the proceeds of the issue of bonds or other obligations, the principal of or interest on which the issuer is obligated to repay to the holders thereof, the interest or income from the investments may be used to pay the principal or interest by the issuer. Investments or deposits made pursuant to this section may be withdrawn or altered from time to time by the investing or depositing officer or governing body either to meet the requirements for which such funds are held or for reinvestment pursuant to this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 43

(Senate Bill 634)

AN ACT concerning

Presidential Elections – Agreement Among the States to Elect the President by National Popular Vote

FOR the purpose of altering certain methods of nominating presidential electors; altering certain methods of electing presidential electors; repealing a certain restriction governing elector voting; entering the State of Maryland into the Agreement Among the States to Elect the President by National Popular Vote; providing that any state is eligible to become a member state; requiring a statewide popular election for President and Vice President of the United States; establishing a certain procedure for appointing presidential electors in member states; specifying when the Agreement becomes effective; providing for the withdrawal of a member state; requiring notification of member states; specifying that the provisions of the Agreement are severable; defining certain terms; making this Act subject to a certain contingency; and generally relating to the Agreement Among the States to Elect the President by National Popular Vote.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 8–503, 8–504, and 8–505
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

BY adding to
Article – Election Law
Section 8–5A–01 to be under the new subtitle "Subtitle 5A. Agreement Among the States to Elect the President by National Popular Vote"
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Election Law

8–503.

(a) Each political party shall nominate or provide for the nomination of candidates for presidential elector of the party in accordance with party rules.

(b) The number of candidates nominated by each political party shall be the number that this State is entitled to elect.

(c) (1) The names of individuals nominated as candidates for presidential elector by a political party shall be certified to the State Board by the presiding officers of the political party.

(2) The names of individuals nominated as candidates for presidential elector by a candidate for President of the United States who is nominated by petition shall be certified to the State Board by the candidate on a form prescribed by the State Board.

(3) The electors shall be certified to the State Board at least 30 days before the general election.

(D) IF THE NUMBER OF PRESIDENTIAL ELECTORS NOMINATED IS LESS THAN OR GREATER THAN THE STATE'S NUMBER OF ELECTORAL VOTES, PRESIDENTIAL ELECTORS SHALL BE NOMINATED AS PROVIDED FOR UNDER ARTICLE III OF § 8–5A–01 OF THIS TITLE.

8–504.

(a) (1) At the general election for President and Vice President of the United States there shall be elected, in accordance with subsection (b) of this section, the number of presidential electors to which this State is entitled.

(2) Presidential electors shall be elected **[**at large by the voters of the entire State**] UNDER THE PROCEDURE PROVIDED IN § 8–5A–01 OF THIS TITLE**.

(b) (1) The names of the candidates for the office of presidential elector may not be printed on the ballot.

(2) A vote for the candidates for President and Vice President of a political party shall be considered to be and counted as a vote for each of the presidential electors of the political party nominated in accordance with § 8–503 of this subtitle.

8–505.

(a) (1) The individuals elected to the office of presidential elector shall meet in the State House in the City of Annapolis on the day provided by the Constitution and laws of the United States.

(2) The conduct of the meeting shall be consistent with the requirements of federal law.

(b) (1) Before proceeding to perform the duties of their office, the presidential electors who are present shall fill any vacancy in the office of elector, whether the vacancy is caused by absence or other reason.

(2) An individual appointed to fill a vacancy is entitled to all rights and privileges of the duly elected electors.

(c) After taking the oath prescribed by Article I, § 9 of the Maryland Constitution before the Clerk of the Court of Appeals or, in the Clerk's absence, before one of the Clerk's deputies, the presidential electors shall cast their votes for the candidates for President and Vice President who received a plurality of the votes cast in **[**the State of Maryland**]** **THE NATIONAL POPULAR VOTE TOTAL DEFINED IN § 8–5A–01 OF THIS TITLE**.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

SUBTITLE 5A. AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE.

8–5A–01.

THE STATE OF MARYLAND HEREBY ENTERS THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE AS SET FORTH IN THIS SECTION. THE TEXT OF THE AGREEMENT IS AS FOLLOWS:

ARTICLE I. MEMBERSHIP.

ANY STATE OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA MAY BECOME A MEMBER OF THIS AGREEMENT BY ENACTING THIS AGREEMENT.

ARTICLE II. RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE FOR PRESIDENT AND VICE PRESIDENT.

EACH MEMBER STATE SHALL CONDUCT A STATEWIDE POPULAR ELECTION FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

ARTICLE III. MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN MEMBER STATES.

PRIOR TO THE TIME SET BY LAW FOR THE MEETING AND VOTING BY THE PRESIDENTIAL ELECTORS, THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DETERMINE THE NUMBER OF VOTES FOR EACH PRESIDENTIAL SLATE IN EACH STATE OF THE UNITED STATES AND IN THE DISTRICT OF COLUMBIA IN WHICH VOTES HAVE BEEN CAST IN A STATEWIDE POPULAR ELECTION AND SHALL ADD SUCH VOTES TOGETHER TO PRODUCE A "NATIONAL POPULAR VOTE TOTAL" FOR EACH PRESIDENTIAL SLATE.

THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DESIGNATE THE PRESIDENTIAL SLATE WITH THE LARGEST NATIONAL POPULAR VOTE TOTAL AS THE "NATIONAL POPULAR VOTE WINNER."

THE PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE SHALL CERTIFY THE APPOINTMENT IN THAT OFFICIAL'S OWN STATE OF THE ELECTOR SLATE NOMINATED IN THAT STATE IN ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER.

AT LEAST SIX DAYS BEFORE THE DAY FIXED BY LAW FOR THE MEETING AND VOTING BY THE PRESIDENTIAL ELECTORS, EACH MEMBER STATE SHALL MAKE A FINAL DETERMINATION OF THE NUMBER OF POPULAR VOTES CAST IN THE STATE FOR EACH PRESIDENTIAL SLATE AND SHALL COMMUNICATE AN OFFICIAL STATEMENT OF SUCH DETERMINATION WITHIN 24 HOURS TO THE CHIEF ELECTION OFFICIAL OF EACH OTHER MEMBER STATE.

THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL TREAT AS CONCLUSIVE AN OFFICIAL STATEMENT CONTAINING THE NUMBER OF POPULAR VOTES IN A STATE FOR EACH PRESIDENTIAL SLATE MADE BY THE DAY ESTABLISHED BY FEDERAL LAW FOR MAKING A STATE'S FINAL DETERMINATION CONCLUSIVE AS TO THE COUNTING OF ELECTORAL VOTES BY CONGRESS.

IN EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE SHALL CERTIFY THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN ASSOCIATION WITH THE PRESIDENTIAL SLATE RECEIVING THE LARGEST NUMBER OF POPULAR VOTES WITHIN THAT OFFICIAL'S OWN STATE.

IF, FOR ANY REASON, THE NUMBER OF PRESIDENTIAL ELECTORS NOMINATED IN A MEMBER STATE IN ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER IS LESS THAN OR GREATER THAN THAT STATE'S NUMBER OF ELECTORAL VOTES, THE PRESIDENTIAL CANDIDATE ON THE PRESIDENTIAL SLATE THAT HAS BEEN DESIGNATED AS THE NATIONAL POPULAR VOTE WINNER SHALL HAVE THE POWER TO NOMINATE THE PRESIDENTIAL ELECTORS FOR THAT STATE AND THAT STATE'S PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL SHALL CERTIFY THE APPOINTMENT OF SUCH NOMINEES.

THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL IMMEDIATELY RELEASE TO THE PUBLIC ALL VOTE COUNTS OR STATEMENTS OF VOTES AS THEY ARE DETERMINED OR OBTAINED.

THIS ARTICLE SHALL GOVERN THE APPOINTMENT OF PRESIDENTIAL ELECTORS IN EACH MEMBER STATE IN ANY YEAR IN WHICH THIS AGREEMENT IS, ON JULY 20, IN EFFECT IN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES.

ARTICLE IV. OTHER PROVISIONS.

THIS AGREEMENT SHALL TAKE EFFECT WHEN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES HAVE ENACTED THIS AGREEMENT IN SUBSTANTIALLY THE SAME FORM AND THE ENACTMENTS BY SUCH STATES HAVE TAKEN EFFECT IN EACH STATE.

ANY MEMBER STATE MAY WITHDRAW FROM THIS AGREEMENT, EXCEPT THAT A WITHDRAWAL OCCURRING SIX MONTHS OR LESS BEFORE THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE UNTIL A PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE THE NEXT TERM.

THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY NOTIFY THE CHIEF EXECUTIVE OF ALL OTHER STATES OF WHEN THIS AGREEMENT HAS BEEN ENACTED AND HAS TAKEN EFFECT IN THAT OFFICIAL'S STATE, WHEN THE STATE HAS WITHDRAWN FROM THIS AGREEMENT, AND WHEN THIS AGREEMENT TAKES EFFECT GENERALLY.

THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE IS ABOLISHED.

IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED.

ARTICLE V. DEFINITIONS.

FOR PURPOSES OF THIS AGREEMENT,

"CHIEF EXECUTIVE" SHALL MEAN THE GOVERNOR OF A STATE OF THE UNITED STATES OR THE MAYOR OF THE DISTRICT OF COLUMBIA;

"ELECTOR SLATE" SHALL MEAN A SLATE OF CANDIDATES WHO HAVE BEEN NOMINATED IN A STATE FOR THE POSITION OF PRESIDENTIAL ELECTOR IN ASSOCIATION WITH A PRESIDENTIAL SLATE;

"CHIEF ELECTION OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE TOTAL NUMBER OF POPULAR VOTES FOR EACH PRESIDENTIAL SLATE;

"PRESIDENTIAL ELECTOR" SHALL MEAN AN ELECTOR FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES;

"PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE APPOINTMENT OF THE STATE'S PRESIDENTIAL ELECTORS;

"PRESIDENTIAL SLATE" SHALL MEAN A SLATE OF TWO PERSONS, THE FIRST OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT OF THE UNITED STATES AND THE SECOND OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR VICE PRESIDENT OF THE UNITED STATES, OR ANY LEGAL SUCCESSORS TO SUCH PERSONS, REGARDLESS OF WHETHER BOTH NAMES APPEAR ON THE BALLOT PRESENTED TO THE VOTER IN A PARTICULAR STATE;

"STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA; AND

"STATEWIDE POPULAR ELECTION" SHALL MEAN A GENERAL ELECTION IN WHICH VOTES ARE CAST FOR PRESIDENTIAL SLATES BY INDIVIDUAL VOTERS AND COUNTED ON A STATEWIDE BASIS.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not take effect until the interstate compact entitled "Agreement Among the States to Elect the President by National Popular Vote" is enacted in substantially the same form by states cumulatively possessing a majority of the electoral votes and the enactments of the compact have taken effect in each state; that Section 1 of this Act shall only govern the appointment of presidential electors in any year in which the Agreement Among the States to Elect the President by National Popular Vote is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes; that all the states of the United States are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; and that the Department of Legislative Services shall notify the appropriate officials of the combined states of the enactment of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 44

(House Bill 148)

AN ACT concerning

Presidential Elections – Agreement Among the States to Elect the President by National Popular Vote

FOR the purpose of altering certain methods of nominating presidential electors; altering certain methods of electing presidential electors; repealing a certain restriction governing elector voting; entering the State of Maryland into the Agreement Among the States to Elect the President by National Popular Vote; providing that any state is eligible to become a member state; requiring a statewide popular election for President and Vice President of the United States; establishing a certain procedure for appointing presidential electors in member states; specifying when the Agreement becomes effective; providing for the withdrawal of a member state; requiring notification of member states; specifying that the provisions of the Agreement are severable; defining certain terms; making this Act subject to a certain contingency; and generally relating to the Agreement Among the States to Elect the President by National Popular Vote.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 8–503, 8–504, and 8–505
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

BY adding to
Article – Election Law
Section 8–5A–01 to be under the new subtitle "Subtitle 5A. Agreement Among the States to Elect the President by National Popular Vote"
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Election Law

8–503.

(a) Each political party shall nominate or provide for the nomination of candidates for presidential elector of the party in accordance with party rules.

(b) The number of candidates nominated by each political party shall be the number that this State is entitled to elect.

(c) (1) The names of individuals nominated as candidates for presidential elector by a political party shall be certified to the State Board by the presiding officers of the political party.

(2) The names of individuals nominated as candidates for presidential elector by a candidate for President of the United States who is nominated by petition shall be certified to the State Board by the candidate on a form prescribed by the State Board.

(3) The electors shall be certified to the State Board at least 30 days before the general election.

(D) IF THE NUMBER OF PRESIDENTIAL ELECTORS NOMINATED IS LESS THAN OR GREATER THAN THE STATE'S NUMBER OF ELECTORAL VOTES, PRESIDENTIAL ELECTORS SHALL BE NOMINATED AS PROVIDED FOR UNDER ARTICLE III OF § 8–5A–01 OF THIS TITLE.

8–504.

(a) (1) At the general election for President and Vice President of the United States there shall be elected, in accordance with subsection (b) of this section, the number of presidential electors to which this State is entitled.

(2) Presidential electors shall be elected **[**at large by the voters of the entire State**]** **UNDER THE PROCEDURE PROVIDED IN § 8–5A–01 OF THIS TITLE**.

(b) (1) The names of the candidates for the office of presidential elector may not be printed on the ballot.

(2) A vote for the candidates for President and Vice President of a political party shall be considered to be and counted as a vote for each of the presidential electors of the political party nominated in accordance with § 8–503 of this subtitle.

8–505.

(a) (1) The individuals elected to the office of presidential elector shall meet in the State House in the City of Annapolis on the day provided by the Constitution and laws of the United States.

(2) The conduct of the meeting shall be consistent with the requirements of federal law.

(b) (1) Before proceeding to perform the duties of their office, the presidential electors who are present shall fill any vacancy in the office of elector, whether the vacancy is caused by absence or other reason.

(2) An individual appointed to fill a vacancy is entitled to all rights and privileges of the duly elected electors.

(c) After taking the oath prescribed by Article I, § 9 of the Maryland Constitution before the Clerk of the Court of Appeals or, in the Clerk's absence, before one of the Clerk's deputies, the presidential electors shall cast their votes for the candidates for President and Vice President who received a plurality of the votes cast in **[**the State of Maryland**]** **THE NATIONAL POPULAR VOTE TOTAL DEFINED IN § 8–5A–01 OF THIS TITLE**.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

SUBTITLE 5A. AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE.

8–5A–01.

THE STATE OF MARYLAND HEREBY ENTERS THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE AS SET FORTH IN THIS SECTION. THE TEXT OF THE AGREEMENT IS AS FOLLOWS:

ARTICLE I. MEMBERSHIP.

ANY STATE OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA MAY BECOME A MEMBER OF THIS AGREEMENT BY ENACTING THIS AGREEMENT.

ARTICLE II. RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE FOR PRESIDENT AND VICE PRESIDENT.

EACH MEMBER STATE SHALL CONDUCT A STATEWIDE POPULAR ELECTION FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

ARTICLE III. MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN MEMBER STATES.

PRIOR TO THE TIME SET BY LAW FOR THE MEETING AND VOTING BY THE PRESIDENTIAL ELECTORS, THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DETERMINE THE NUMBER OF VOTES FOR EACH PRESIDENTIAL SLATE IN EACH STATE OF THE UNITED STATES AND IN THE DISTRICT OF COLUMBIA IN WHICH VOTES HAVE BEEN CAST IN A STATEWIDE POPULAR ELECTION AND SHALL ADD SUCH VOTES TOGETHER TO PRODUCE A "NATIONAL POPULAR VOTE TOTAL" FOR EACH PRESIDENTIAL SLATE.

THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL DESIGNATE THE PRESIDENTIAL SLATE WITH THE LARGEST NATIONAL POPULAR VOTE TOTAL AS THE "NATIONAL POPULAR VOTE WINNER."

THE PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE SHALL CERTIFY THE APPOINTMENT IN THAT OFFICIAL'S OWN STATE OF THE ELECTOR SLATE NOMINATED IN THAT STATE IN ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER.

AT LEAST SIX DAYS BEFORE THE DAY FIXED BY LAW FOR THE MEETING AND VOTING BY THE PRESIDENTIAL ELECTORS, EACH MEMBER STATE SHALL MAKE A FINAL DETERMINATION OF THE NUMBER OF POPULAR VOTES CAST IN THE STATE FOR EACH PRESIDENTIAL SLATE AND SHALL COMMUNICATE AN OFFICIAL STATEMENT OF SUCH DETERMINATION WITHIN 24 HOURS TO THE CHIEF ELECTION OFFICIAL OF EACH OTHER MEMBER STATE.

THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL TREAT AS CONCLUSIVE AN OFFICIAL STATEMENT CONTAINING THE NUMBER OF POPULAR VOTES IN A STATE FOR EACH PRESIDENTIAL SLATE MADE BY THE DAY ESTABLISHED BY FEDERAL LAW FOR MAKING A STATE'S FINAL DETERMINATION CONCLUSIVE AS TO THE COUNTING OF ELECTORAL VOTES BY CONGRESS.

IN EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE SHALL CERTIFY THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN ASSOCIATION WITH THE PRESIDENTIAL SLATE RECEIVING THE LARGEST NUMBER OF POPULAR VOTES WITHIN THAT OFFICIAL'S OWN STATE.

IF, FOR ANY REASON, THE NUMBER OF PRESIDENTIAL ELECTORS NOMINATED IN A MEMBER STATE IN ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER IS LESS THAN OR GREATER THAN THAT STATE'S NUMBER OF ELECTORAL VOTES, THE PRESIDENTIAL CANDIDATE ON THE PRESIDENTIAL SLATE THAT HAS BEEN DESIGNATED AS THE NATIONAL POPULAR VOTE WINNER SHALL HAVE THE POWER TO NOMINATE THE PRESIDENTIAL

ELECTORS FOR THAT STATE AND THAT STATE'S PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL SHALL CERTIFY THE APPOINTMENT OF SUCH NOMINEES.

THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL IMMEDIATELY RELEASE TO THE PUBLIC ALL VOTE COUNTS OR STATEMENTS OF VOTES AS THEY ARE DETERMINED OR OBTAINED.

THIS ARTICLE SHALL GOVERN THE APPOINTMENT OF PRESIDENTIAL ELECTORS IN EACH MEMBER STATE IN ANY YEAR IN WHICH THIS AGREEMENT IS, ON JULY 20, IN EFFECT IN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES.

ARTICLE IV. OTHER PROVISIONS.

THIS AGREEMENT SHALL TAKE EFFECT WHEN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES HAVE ENACTED THIS AGREEMENT IN SUBSTANTIALLY THE SAME FORM AND THE ENACTMENTS BY SUCH STATES HAVE TAKEN EFFECT IN EACH STATE.

ANY MEMBER STATE MAY WITHDRAW FROM THIS AGREEMENT, EXCEPT THAT A WITHDRAWAL OCCURRING SIX MONTHS OR LESS BEFORE THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE UNTIL A PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE THE NEXT TERM.

THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY NOTIFY THE CHIEF EXECUTIVE OF ALL OTHER STATES OF WHEN THIS AGREEMENT HAS BEEN ENACTED AND HAS TAKEN EFFECT IN THAT OFFICIAL'S STATE, WHEN THE STATE HAS WITHDRAWN FROM THIS AGREEMENT, AND WHEN THIS AGREEMENT TAKES EFFECT GENERALLY.

THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE IS ABOLISHED.

IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED.

ARTICLE V. DEFINITIONS.

FOR PURPOSES OF THIS AGREEMENT,

"CHIEF EXECUTIVE" SHALL MEAN THE GOVERNOR OF A STATE OF THE UNITED STATES OR THE MAYOR OF THE DISTRICT OF COLUMBIA;

"ELECTOR SLATE" SHALL MEAN A SLATE OF CANDIDATES WHO HAVE BEEN NOMINATED IN A STATE FOR THE POSITION OF PRESIDENTIAL ELECTOR IN ASSOCIATION WITH A PRESIDENTIAL SLATE;

"CHIEF ELECTION OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE TOTAL NUMBER OF POPULAR VOTES FOR EACH PRESIDENTIAL SLATE;

"PRESIDENTIAL ELECTOR" SHALL MEAN AN ELECTOR FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES;

"PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE APPOINTMENT OF THE STATE'S PRESIDENTIAL ELECTORS;

"PRESIDENTIAL SLATE" SHALL MEAN A SLATE OF TWO PERSONS, THE FIRST OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT OF THE UNITED STATES AND THE SECOND OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR VICE PRESIDENT OF THE UNITED STATES, OR ANY LEGAL SUCCESSORS TO SUCH PERSONS, REGARDLESS OF WHETHER BOTH NAMES APPEAR ON THE BALLOT PRESENTED TO THE VOTER IN A PARTICULAR STATE;

"STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE DISTRICT OF COLUMBIA; AND

"STATEWIDE POPULAR ELECTION" SHALL MEAN A GENERAL ELECTION IN WHICH VOTES ARE CAST FOR PRESIDENTIAL SLATES BY INDIVIDUAL VOTERS AND COUNTED ON A STATEWIDE BASIS.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not take effect until the interstate compact entitled "Agreement Among the States to Elect the President by National Popular Vote" is enacted in substantially the same form by states cumulatively possessing a majority of the electoral votes and the enactments of the compact have taken effect in each state; that Section 1 of this Act shall only govern the appointment of presidential electors in any year in which the Agreement Among the States to Elect the President by National Popular Vote is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes; that all the states of the United States are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; and that the Department of Legislative Services shall notify the appropriate officials of the combined states of the enactment of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 45

(Senate Bill 649)

AN ACT concerning

Garrett County – Special Property Tax – Volunteer Fire Departments

FOR the purpose of authorizing the Board of County Commissioners of Garrett County to increase certain tax rates on certain property up to a certain amount to support volunteer fire departments.

BY repealing and reenacting, with amendments,
The Public Local Laws of Garrett County
Section 41–1 A.
Article 12 – Public Local Laws of Maryland
(1985 Edition and October 2001 Supplement, as amended)
(As enacted by Chapter 247 of the Acts of the General Assembly of 2003)

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

Article 12 – Garrett County

41–1.

A. Amount of levy established; amounts paid to departments determined jointly. The Board of County Commissioners of Garrett County is authorized and directed to levy annually a tax of **AT LEAST** two cents ($0.02) **AND NO MORE THAN FOUR CENTS ($0.04)** per one hundred dollars ($100.) of assessed value of real property in Garrett County other than operating real property of a public utility and **AT LEAST** five cents ($0.05) **AND NO MORE THAN TEN CENTS ($0.10)** per one hundred dollars ($100.) of assessed value of personal property and operating real property of a public utility, and said levy is to be paid to the volunteer fire departments existing now or organized in the future. The amounts paid to any volunteer fire department shall be determined jointly by one (1) representative of each of said volunteer fire departments and the County Commissioners.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 46

(Senate Bill 650)

AN ACT concerning

Community Based Regional Initiatives Loan of 2004 – Garrett County – Fairgrounds Exhibit Hall

FOR the purpose of extending the deadline by which the County Commissioners of Garrett County must present evidence to the Board of Public Works that a matching fund will be provided.

BY repealing and reenacting, with amendments,
Chapter 204 of the Acts of the General Assembly of 2003
Section 12(3)(X)

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

Chapter 204 of the Acts of 2003

SECTION 12. AND BE IT FURTHER ENACTED, That:

(3)

(X) Garrett County Exhibition Hall. Provide a grant equal to the lesser of (i) $300,000 or (ii) the amount of the matching fund provided, to the County Commissioners of Garrett County for the construction of a multipurpose exhibit hall to be used for county fair and other public events, located in central Garrett County. **NOTWITHSTANDING SECTION 12(5) OF THIS ACT,**

THE GRANTEE HAS UNTIL JUNE 1, 2009, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Garrett County) 300,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 47

(Senate Bill 686)

AN ACT concerning

Drug–Exposed Infants – Methamphetamine

FOR the purpose of ~~expanding the definition of a drug–exposed infant to include exposure to methamphetamine; and generally relating to drug–exposed infants~~ altering the conditions that establish a certain presumption that a child is in need of assistance by adding methamphetamine to certain provisions relating to drugs to which a child was born exposed or for which a mother tested positive upon admission to a hospital for delivery of a child; including methamphetamine within the definition of the term "drug" for purposes of certain factors a juvenile court is required to consider in determining whether termination of a parent's rights is in a child's best interests; and generally relating to children in need of assistance and termination of parental rights.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–818
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–323(a)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–323(d)(3)(ii)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

3–818.

Within 1 year after a child's birth, there is a presumption that a child is not receiving proper care and attention from the mother for purposes of § 3–801(f)(2) of this subtitle if:

(1) (i) The child was born exposed to cocaine, heroin, **METHAMPHETAMINE,** or a derivative of cocaine **[**or**],** heroin**, OR METHAMPHETAMINE** as evidenced by any appropriate tests of the mother or child; or

(ii) Upon admission to a hospital for delivery of the child, the mother tested positive for cocaine, heroin, **METHAMPHETAMINE,** or a derivative of cocaine **[**or**],** heroin**, OR METHAMPHETAMINE** as evidenced by any appropriate toxicology test; and

(2) Drug treatment is made available to the mother and the mother refuses the recommended level of drug treatment, or does not successfully complete the recommended level of drug treatment.

Article – Family Law

5–323.

(a) In this section, "drug" means cocaine, heroin, **METHAMPHETAMINE,** or a derivative of cocaine **[**or**],** heroin**, OR METHAMPHETAMINE**.

(d) Except as provided in subsection (c) of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, including:

(3) whether:

(ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or

B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and

2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5–1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 48

(House Bill 340)

AN ACT concerning

Drug–Exposed Infants – Methamphetamine

FOR the purpose of ~~expanding the definition of a drug–exposed infant to include exposure to methamphetamine; and generally relating to drug–exposed infants~~ altering the conditions that establish a certain presumption that a child is in need of assistance by adding methamphetamine to certain provisions relating to drugs to which a child was born exposed or for which a mother tested positive upon admission to a hospital for delivery of a child; including methamphetamine within the definition of the term "drug" for purposes of certain factors a juvenile court is required to consider in determining whether termination of a parent's rights is in a child's best interests; and generally relating to children in need of assistance and termination of parental rights.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 3–818
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Family Law
Section 5–323(a)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–323(d)(3)(ii)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

3–818.

Within 1 year after a child's birth, there is a presumption that a child is not receiving proper care and attention from the mother for purposes of § 3–801(f)(2) of this subtitle if:

(1) (i) The child was born exposed to cocaine, heroin, **METHAMPHETAMINE,** or a derivative of cocaine **[**or**],** heroin**, OR METHAMPHETAMINE** as evidenced by any appropriate tests of the mother or child; or

(ii) Upon admission to a hospital for delivery of the child, the mother tested positive for cocaine, heroin, **METHAMPHETAMINE,** or a derivative of cocaine **[**or**],** heroin**, OR METHAMPHETAMINE** as evidenced by any appropriate toxicology test; and

(2) Drug treatment is made available to the mother and the mother refuses the recommended level of drug treatment, or does not successfully complete the recommended level of drug treatment.

Article – Family Law

5–323.

(a) In this section, "drug" means cocaine, heroin, **METHAMPHETAMINE,** or a derivative of cocaine **[**or**],** heroin**, OR METHAMPHETAMINE**.

(d) Except as provided in subsection (c) of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to

determine whether terminating a parent's rights is in the child's best interests, including:

(3) whether:

(ii) 1. A. on admission to a hospital for the child's delivery, the mother tested positive for a drug as evidenced by a positive toxicology test; or

B. upon the birth of the child, the child tested positive for a drug as evidenced by a positive toxicology test; and

2. the mother refused the level of drug treatment recommended by a qualified addictions specialist, as defined in § 5–1201 of this title, or by a physician or psychologist, as defined in the Health Occupations Article;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 49

(Senate Bill 711)

AN ACT concerning

Education – "Share the State Fair!" ~~Matching Fund~~ Program

FOR the purpose of establishing the "Share the State Fair!" ~~Matching Fund~~ Program in the State Department of Education; specifying the purpose of the ~~Fund; specifying sources of money for the Fund and~~ Program; requiring the Governor to include certain money in the State budget each year for the ~~Fund~~ Program; specifying the amount of a matching grant; restricting the use of grant money to the payment of certain costs; requiring the State Superintendent of Education to evaluate and make recommendations to the State Board of Education regarding grant applications ~~and to issue a certain annual report~~; requiring the State Board to adopt certain regulations; and generally relating to the "Share the State Fair!" ~~Matching Fund~~ Program.

BY adding to
Article – Education

Section 7–116
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Education

7–116.

(A) IN THIS SECTION, "~~FUND~~ PROGRAM" MEANS THE "SHARE THE STATE FAIR!" ~~MATCHING FUND~~ PROGRAM.

(B) THERE IS A "SHARE THE STATE FAIR!" ~~MATCHING FUND~~ PROGRAM IN THE DEPARTMENT.

(C) THE PURPOSE OF THE ~~FUND~~ PROGRAM IS TO:

(1) PROVIDE MATCHING GRANTS TO COUNTY BOARDS AND ENCOURAGE THEM TO DEDICATE ADDITIONAL LOCAL FINANCIAL SUPPORT FOR A "SHARE THE STATE FAIR!" ~~PROGRAM~~ PROGRAM; AND

(2) PROVIDE AN EDUCATIONAL AND CULTURAL ENRICHMENT OPPORTUNITY FOR STUDENTS IN EACH COUNTY IN PREKINDERGARTEN THROUGH GRADE 8 TO ATTEND THE STATE FAIR.

(D) THE DEPARTMENT SHALL ADMINISTER THE ~~FUND~~ MATCHING GRANTS UNDER THE PROGRAM.

~~(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.~~

~~(F) (1) THE FUND CONSISTS OF:~~

~~(I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~

~~(II) INVESTMENT EARNINGS OF THE FUND; AND~~

~~**(III) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.**~~

~~**(2) THE GOVERNOR SHALL INCLUDE $25,000 IN THE STATE BUDGET EACH FISCAL YEAR FOR THE FUND.**~~

(E) BEGINNING IN FISCAL YEAR 2009 AND ANNUALLY THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET $25,000 FOR THE PROGRAM.

~~**(G) (1) THE FUND MAY BE USED ONLY TO PROVIDE MATCHING GRANTS TO COUNTY BOARDS TO IMPLEMENT A "SHARE THE STATE FAIR!" PROGRAM.**~~

~~**(2)**~~ **(F) (1) IN ANY FISCAL YEAR, A COUNTY BOARD MAY NOT RECEIVE AGGREGATE GRANTS IN EXCESS OF $1,000** ~~**FROM THE FUND**~~ **UNDER THE PROGRAM.**

~~**(3)**~~ **(2) A GRANT MAY BE USED ONLY TO PAY THE COSTS FOR TRANSPORTATION AND REFRESHMENTS FOR STUDENTS PARTICIPATING IN THE "SHARE THE STATE FAIR!"** ~~**PROGRAM**~~ **PROGRAM.**

~~**(H)**~~ **(G) THE STATE SUPERINTENDENT SHALL:**

~~**(1)**~~ ~~**EVALUATE**~~ **EVALUATE AND MAKE RECOMMENDATIONS TO THE STATE BOARD REGARDING APPLICATIONS FOR A GRANT UNDER THIS SECTION;** ~~**AND**~~

~~**(2) ON OR BEFORE DECEMBER 1 EACH YEAR, ISSUE A REPORT ON THE STATUS OF THE PROGRAM TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.**~~

~~**(I)**~~ **(H) THE STATE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 50

(Senate Bill 720)

AN ACT concerning

Joint Committee on Unemployment Insurance Oversight

FOR the purpose of reestablishing the Joint Committee on Unemployment Insurance Oversight; establishing the membership and staffing of the Committee; requiring the President of the Senate and the Speaker of the House of Delegates to designate the cochairs of the Committee; requiring the Committee to examine certain issues; authorizing the Committee to examine certain issues; requiring the Committee to issue a certain report by a certain date; prohibiting a member of the Committee from receiving certain compensation, but authorizing a member of the Committee to receive certain reimbursements; providing for the termination of this Act; and generally relating to the reestablishment of the Joint Committee on Unemployment Insurance Oversight.

BY adding to
Article – State Government
Section 2–10A–11
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

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

Article – State Government

2–10A–11.

(A) THERE IS A JOINT COMMITTEE ON UNEMPLOYMENT INSURANCE OVERSIGHT.

(B) THE COMMITTEE CONSISTS OF THE FOLLOWING 15 MEMBERS:

(1) THREE MEMBERS OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) THREE MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES;

(3) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(5) A REPRESENTATIVE OF THE MARYLAND RETAILERS ASSOCIATION, DESIGNATED BY THE MARYLAND RETAILERS ASSOCIATION;

(6) A REPRESENTATIVE OF THE MARYLAND CHAMBER OF COMMERCE, DESIGNATED BY THE MARYLAND CHAMBER OF COMMERCE;

(7) A REPRESENTATIVE OF THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS, DESIGNATED BY THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS;

(8) A REPRESENTATIVE OF THE JOB OPPORTUNITIES TASK FORCE, DESIGNATED BY THE JOB OPPORTUNITIES TASK FORCE;

(9) TWO REPRESENTATIVES OF UNION LABOR, DESIGNATED BY THE MARYLAND STATE AND DISTRICT OF COLUMBIA AFL–CIO; AND

(10) A REPRESENTATIVE OF THE ACADEMIC PROFESSION WHO IS KNOWLEDGEABLE IN UNEMPLOYMENT INSURANCE LAW, DESIGNATED JOINTLY BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES.

(C) THE MEMBERS OF THE COMMITTEE SERVE AT THE PLEASURE OF THE PRESIDING OFFICER WHO APPOINTED THEM.

(D) THE PRESIDENT AND THE SPEAKER SHALL APPOINT A SENATOR AND A DELEGATE, RESPECTIVELY, EACH TO SERVE AS COCHAIR.

(E) (1) THE COMMITTEE SHALL EXAMINE THE CONDITION OF THE UNEMPLOYMENT INSURANCE SYSTEM IN THE STATE AS A RESULT OF THE IMPLEMENTATION OF CHAPTER 169 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2005.

(2) THE COMMITTEE MAY EXAMINE THE NEED FOR ADDITIONAL ALTERATIONS TO THE UNEMPLOYMENT INSURANCE SYSTEM, INCLUDING THE CHARGING AND TAXATION PROVISIONS AND THE ELIGIBILITY AND BENEFIT PROVISIONS, IN CONSIDERATION OF THE FAIRNESS OF THE SYSTEM AND IN

ORDER TO MAINTAIN THE UNEMPLOYMENT INSURANCE TRUST FUND AT A LEVEL SUFFICIENT TO ENSURE THAT BENEFITS WILL BE PAID FROM THE FUND.

(F) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PROVIDE STAFFING FOR THE COMMITTEE.

(2) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL REPORT TO THE COMMITTEE ON THE CONDITION OF UNEMPLOYMENT INSURANCE IN THE STATE.

(G) A MEMBER OF THE COMMITTEE MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE COMMITTEE, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(H) THE COMMITTEE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON DECEMBER 31 OF EACH YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007. It shall remain effective for a period of 3 years and 7 months and, at the end of December 31, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 10, 2007.

CHAPTER 51

(House Bill 1031)

AN ACT concerning

Joint Committee on Unemployment Insurance Oversight

FOR the purpose of reestablishing the Joint Committee on Unemployment Insurance Oversight; establishing the membership and staffing of the Committee; requiring the President of the Senate and the Speaker of the House of Delegates to designate the cochairs of the Committee; requiring the Committee to examine certain issues; authorizing the Committee to examine certain issues; requiring the Committee to issue a certain report by a certain date; prohibiting a member

of the Committee from receiving certain compensation, but authorizing a member of the Committee to receive certain reimbursements; providing for the termination of this Act; and generally relating to the reestablishment of the Joint Committee on Unemployment Insurance Oversight.

BY adding to
Article – State Government
Section 2–10A–11
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

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

Article – State Government

2–10A–11.

(A) THERE IS A JOINT COMMITTEE ON UNEMPLOYMENT INSURANCE OVERSIGHT.

(B) THE COMMITTEE CONSISTS OF THE FOLLOWING 15 MEMBERS:

(1) THREE MEMBERS OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) THREE MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE OF DELEGATES;

(3) THE SECRETARY OF LABOR, LICENSING, AND REGULATION, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(5) A REPRESENTATIVE OF THE MARYLAND RETAILERS ASSOCIATION, DESIGNATED BY THE MARYLAND RETAILERS ASSOCIATION;

(6) A REPRESENTATIVE OF THE MARYLAND CHAMBER OF COMMERCE, DESIGNATED BY THE MARYLAND CHAMBER OF COMMERCE;

(7) A REPRESENTATIVE OF THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS, DESIGNATED BY THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS;

(8) A REPRESENTATIVE OF THE JOB OPPORTUNITIES TASK FORCE, DESIGNATED BY THE JOB OPPORTUNITIES TASK FORCE;

(9) TWO REPRESENTATIVES OF UNION LABOR, DESIGNATED BY THE MARYLAND STATE AND DISTRICT OF COLUMBIA AFL–CIO; AND

(10) A REPRESENTATIVE OF THE ACADEMIC PROFESSION WHO IS KNOWLEDGEABLE IN UNEMPLOYMENT INSURANCE LAW, DESIGNATED JOINTLY BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES.

(C) THE MEMBERS OF THE COMMITTEE SERVE AT THE PLEASURE OF THE PRESIDING OFFICER WHO APPOINTED THEM.

(D) THE PRESIDENT AND THE SPEAKER SHALL APPOINT A SENATOR AND A DELEGATE, RESPECTIVELY, EACH TO SERVE AS COCHAIR.

(E) (1) THE COMMITTEE SHALL EXAMINE THE CONDITION OF THE UNEMPLOYMENT INSURANCE SYSTEM IN THE STATE AS A RESULT OF THE IMPLEMENTATION OF CHAPTER 169 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2005.

(2) THE COMMITTEE MAY EXAMINE THE NEED FOR ADDITIONAL ALTERATIONS TO THE UNEMPLOYMENT INSURANCE SYSTEM, INCLUDING THE CHARGING AND TAXATION PROVISIONS AND THE ELIGIBILITY AND BENEFIT PROVISIONS, IN CONSIDERATION OF THE FAIRNESS OF THE SYSTEM AND IN ORDER TO MAINTAIN THE UNEMPLOYMENT INSURANCE TRUST FUND AT A LEVEL SUFFICIENT TO ENSURE THAT BENEFITS WILL BE PAID FROM THE FUND.

(F) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PROVIDE STAFFING FOR THE COMMITTEE.

(2) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION SHALL REPORT TO THE COMMITTEE ON THE CONDITION OF UNEMPLOYMENT INSURANCE IN THE STATE.

(G) A MEMBER OF THE COMMITTEE MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE COMMITTEE, BUT IS ENTITLED TO REIMBURSEMENT FOR

EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(H) THE COMMITTEE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON DECEMBER 31 OF EACH YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007. It shall remain effective for a period of 3 years and 7 months and, at the end of December 31, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 10, 2007.

CHAPTER 52

(Senate Bill 745)

AN ACT concerning

Officer Pieter Lucas Act

~~**Ho. Co. 14–07**~~

FOR the purpose of providing that an auxiliary police officer in Howard County is a covered employee while performing duties under certain circumstances for the Howard County Police Department; and generally relating to workers' compensation benefits for Howard County auxiliary police officers.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–220
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

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

Article – Labor and Employment

9–220.

(a) **(1)** Each auxiliary police officer for Baltimore County is a covered employee while on duty as defined in the Baltimore County Police Manual of Rules, Regulations, and Procedures.

(2) EACH AUXILIARY POLICE OFFICER FOR HOWARD COUNTY IS A COVERED EMPLOYEE WHILE ON DUTY AS DEFINED IN THE HOWARD COUNTY POLICE DEPARTMENT'S GENERAL ORDERS.

(b) (1) Except as provided in paragraph (2) of this subsection, each member of a volunteer police department is a covered employee.

(2) A member of a volunteer police department in Allegany, Carroll, Cecil, Charles, Garrett, Queen Anne's, St. Mary's, Somerset, Washington, or Worcester County is not a covered employee.

(3) For the purposes of this title, the political subdivision of the State where the department is organized is the employer of the covered employee in the department.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 53

(Senate Bill 816)

AN ACT concerning

Charles County – Boys and Girls Clubs of Southern Maryland Loan of 2001

FOR the purpose of amending the Charles County – Boys and Girls Clubs of Southern Maryland Loan of 2001 to require that the loan proceeds be encumbered by the Board of Public Works or expended for certain purposes by a certain date; and generally relating to the Charles County – Boys and Girls Clubs of Southern Maryland Loan of 2001.

BY repealing and reenacting, with amendments,
Chapter 257 of the Acts of the General Assembly of 2001
Section 1

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

Chapter 257 of the Acts of 2001

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Charles County – The Boys and Girls Clubs of Southern Maryland Loan of 2001 in a total principal amount equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of The Boys and Girls Clubs of Southern Maryland, Inc. (referred to hereafter in this Act as "the grantee") for the acquisition, planning, design, construction, reconstruction, and capital equipping of a site in Charles County to house a boys and girls club.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as

matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2003, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 54

(Senate Bill 875)

AN ACT concerning

Surplus Lines Insurance – Date of Filing Affidavit

FOR the purpose of altering the date by which a certain affidavit for surplus lines insurance must be filed with the Maryland Insurance Commissioner; and generally relating to surplus lines insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 3–307
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Insurance

3–307.

(a) An affidavit that sets forth the facts referred to in § 3–306 of this subtitle and any other facts required by the Commissioner must be personally executed by the surplus lines broker or the originating insurance producer at the time the surplus lines insurance is placed.

(b) The affidavit must be filed with the Commissioner on or before the 45th day after the last day of the **[**month**]** **CALENDAR QUARTER** in which the surplus lines insurance was placed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 55

(House Bill 1241)

AN ACT concerning

Surplus Lines Insurance – Date of Filing Affidavit

FOR the purpose of altering the date by which a certain affidavit for surplus lines insurance must be filed with the Maryland Insurance Commissioner; and generally relating to surplus lines insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 3–307
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Insurance

3–307.

(a) An affidavit that sets forth the facts referred to in § 3–306 of this subtitle and any other facts required by the Commissioner must be personally executed by the

surplus lines broker or the originating insurance producer at the time the surplus lines insurance is placed.

(b) The affidavit must be filed with the Commissioner on or before the 45th day after the last day of the **[**month**]** **CALENDAR QUARTER** in which the surplus lines insurance was placed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 56

(Senate Bill 879)

AN ACT concerning

Hospitals – Safe Patient Lifting

FOR the purpose of requiring hospitals to establish a safe patient lifting committee composed of certain members on or before a certain date; requiring the committee to establish a safe patient lifting policy on or before a certain date; requiring the committee to consider certain factors while developing a safe patient lifting policy; defining certain terms; and generally relating to the safe lifting of hospital patients.

BY adding to
Article – Health – General
Section 19–377 to be under the new part "Part X. Safe Patient Lifting"
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

19–375. RESERVED.
19–376. RESERVED.

PART X. SAFE PATIENT LIFTING.

19–377.

(A) IN THIS SECTION, "SAFE PATIENT LIFTING" MEANS THE USE OF MECHANICAL LIFTING DEVICES BY HOSPITAL EMPLOYEES, INSTEAD OF MANUAL LIFTING, TO LIFT, TRANSFER, AND REPOSITION PATIENTS.

(B) ON OR BEFORE DECEMBER 1, 2007, EACH HOSPITAL SHALL ESTABLISH A SAFE PATIENT LIFTING COMMITTEE WITH EQUAL MEMBERSHIP FROM MANAGEMENT AND EMPLOYEES.

(C) (1) ON OR BEFORE JULY 1, 2008, THE SAFE PATIENT LIFTING COMMITTEE SHALL DEVELOP A SAFE PATIENT LIFTING POLICY FOR THE HOSPITAL.

(2) THE GOAL OF THE POLICY SHALL BE TO REDUCE EMPLOYEE INJURIES ASSOCIATED WITH PATIENT LIFTING.

(D) WHILE DEVELOPING A SAFE PATIENT LIFTING POLICY, THE COMMITTEE SHALL CONSIDER, BASED ON THE PATIENT POPULATION OF THAT HOSPITAL, THE APPROPRIATENESS AND EFFECTIVENESS OF:

(1) DEVELOPING OR ENHANCING PATIENT HANDLING HAZARD ASSESSMENT PROCESSES;

(2) ENHANCED USE OF MECHANICAL LIFTING DEVICES;

(3) DEVELOPING SPECIALIZED LIFT TEAMS;

(4) TRAINING PROGRAMS FOR SAFE PATIENT LIFTING REQUIRED FOR ALL PATIENT CARE PERSONNEL AT THE HOSPITAL;

(5) INCORPORATING PHYSICAL SPACE AND CONSTRUCTION DESIGN FOR MECHANICAL LIFTING DEVICES IN ANY ARCHITECTURAL PLANS FOR HOSPITAL CONSTRUCTION OR RENOVATION; AND

(6) DEVELOPING AN EVALUATION PROCESS TO DETERMINE THE EFFECTIVENESS OF THE POLICY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 57

(House Bill 1137)

AN ACT concerning

Hospitals – Safe Patient Lifting

FOR the purpose of requiring hospitals to establish a safe patient lifting committee composed of certain members on or before a certain date; requiring the committee to establish a safe patient lifting policy on or before a certain date; requiring the committee to consider certain factors while developing a safe patient lifting policy; defining certain terms; and generally relating to the safe lifting of hospital patients.

BY adding to
Article – Health – General
Section 19–377 to be under the new part "Part X. Safe Patient Lifting"
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

19–375. RESERVED.
19–376. RESERVED.

PART X. SAFE PATIENT LIFTING.

19–377.

(A) IN THIS SECTION, "SAFE PATIENT LIFTING" MEANS THE USE OF MECHANICAL LIFTING DEVICES BY HOSPITAL EMPLOYEES, INSTEAD OF MANUAL LIFTING, TO LIFT, TRANSFER, AND REPOSITION PATIENTS.

(B) ON OR BEFORE DECEMBER 1, 2007, EACH HOSPITAL SHALL ESTABLISH A SAFE PATIENT LIFTING COMMITTEE WITH EQUAL MEMBERSHIP FROM MANAGEMENT AND EMPLOYEES.

(C) (1) ON OR BEFORE JULY 1, 2008, THE SAFE PATIENT LIFTING COMMITTEE SHALL DEVELOP A SAFE PATIENT LIFTING POLICY FOR THE HOSPITAL.

(2) THE GOAL OF THE POLICY SHALL BE TO REDUCE EMPLOYEE INJURIES ASSOCIATED WITH PATIENT LIFTING.

(D) WHILE DEVELOPING A SAFE PATIENT LIFTING POLICY, THE COMMITTEE SHALL CONSIDER, BASED ON THE PATIENT POPULATION OF THAT HOSPITAL, THE APPROPRIATENESS AND EFFECTIVENESS OF:

(1) DEVELOPING OR ENHANCING PATIENT HANDLING HAZARD ASSESSMENT PROCESSES;

(2) ENHANCED USE OF MECHANICAL LIFTING DEVICES;

(3) DEVELOPING SPECIALIZED LIFT TEAMS;

(4) TRAINING PROGRAMS FOR SAFE PATIENT LIFTING REQUIRED FOR ALL PATIENT CARE PERSONNEL AT THE HOSPITAL;

(5) INCORPORATING PHYSICAL SPACE AND CONSTRUCTION DESIGN FOR MECHANICAL LIFTING DEVICES IN ANY ARCHITECTURAL PLANS FOR HOSPITAL CONSTRUCTION OR RENOVATION; AND

(6) DEVELOPING AN EVALUATION PROCESS TO DETERMINE THE EFFECTIVENESS OF THE POLICY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 58

(Senate Bill 905)

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 $80,000,000 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, ~~to finance the payment of contributions to the Carroll County Pension Plan, to finance the payment of contributions to other postemployment benefits provided by the County, to finance the payment of contributions to the length of service program for members 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, ~~to finance the payment of contributions to the Carroll County Pension Plan, to finance the payment of contributions to other postemployment benefits provided by the County, to finance the payment of contributions to the length of service award program for members of volunteer fire departments in the County,~~ 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, $80,000,000 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, ~~the contributions to the Carroll County Pension Plan, the contributions to other postemployment benefits provided by the County, and the contributions to the length of service award program for members 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 of any contributions to the Carroll County Pension Plan, the terms and conditions of any contributions to other postemployment benefits provided by the County, the terms and conditions of any contributions to the length of service award program for members of volunteer fire departments in the County,~~ 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.

~~Bonds issued under the authority of this Act to finance the payment of contributions to the Carroll County Pension Plan, a contribution to other postemployment benefits provided by the County, or a contribution to the length of service award program for members of volunteer fire departments in the County may be issued for the public purposes of (i) realizing savings with respect to the aggregate cost of the County payment liability being funded, on either a direct comparison or present value basis; or (ii) structuring or restructuring contribution costs in a manner that (a) in the aggregate effects a reduction in County pension costs, other postemployment benefits costs or length of service award program costs, as applicable or (b) is determined by the County to be in the best interests of the County, to be consistent with the County's long–term financial plan, and to realize a financial objective of the County, including improving the relationship of contribution costs to a source of payments such as taxes, assessments, or other charges. Any findings made by the County in the resolution regarding the public purposes achieved by the issuance of bonds for such purposes shall be conclusive.~~

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 ~~or to finance the payment of a contribution to the Carroll County Pension Plan~~ 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 ~~or to the financing of the payment of contributions to the Carroll County Pension Plan, contributions to other postemployment benefits programs provided by the County, or contributions to the length of service award program for members 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~~, or the financing of the payment of contributions to the Carroll County Pension Plan, contributions to other postemployment benefits provided by the County, or contributions to the length of service award program for members of 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, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 59

(Senate Bill 952)

AN ACT concerning

Health Insurance – Small Group Market – Choice of Policies for Sole Proprietors

FOR the purpose of providing that certain individuals enrolled on a certain date in certain health benefit plans may remain covered under any policy offered by certain ~~health benefit plans~~ health insurance carriers to small employers under certain circumstances; ~~requiring certain health insurance carriers to establish annual open enrollment periods for certain individuals; defining a certain term;~~ and generally relating to health insurance policies for sole proprietors.

BY repealing and reenacting, with amendments,
Chapter 347 of the Acts of the General Assembly of 2005
Section 2

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

Chapter 347 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That~~:~~

~~(A) [~~each~~]~~ **~~EACH~~** individual enrolled on September 30, 2005 in a health benefit plan **OFFERED BY A CARRIER** under Title 15, Subtitle 12 of the Insurance Article may at the option of the enrollee remain covered under ~~the policy issued under the health benefit plan~~ **~~OR~~ ANY POLICY ISSUED ~~UNDER THE HEALTH BENEFIT PLAN OFFERED~~ BY THE CARRIER TO SMALL EMPLOYERS AND SELECTED BY THE ENROLLEE ~~DURING THE OPEN ENROLLMENT PERIOD DESCRIBED IN SUBSECTION (B) OF THIS SECTION~~ AT RENEWAL**, subject to the termination provisions under § 15–1212(b) of the Insurance Article, provided the enrollee continues to:

(1) work and reside in the State; and

(2) is a self–employed individual organized as a sole proprietorship or in any other legally recognized manner that a self–employed individual may organize:

(i) a substantial part of whose income derives from a trade or business through which the individual has attempted to earn taxable income;

(ii) who has filed the appropriate Internal Revenue form or forms and schedule for the previous taxable year; and

(iii) for whom a copy of the appropriate Internal Revenue form or forms and schedule has been filed with the carrier.

~~(B) (1) IN THIS SECTION, "OPEN ENROLLMENT PERIOD" MEANS A PERIOD OF AT LEAST 30 CONSECUTIVE DAYS THAT OCCURS IN EACH 12–MONTH PERIOD DURING WHICH AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION MAY CHOOSE ANY POLICY ISSUED UNDER THE HEALTH BENEFIT PLAN OFFERED BY THE CARRIER WITH WHICH THE INDIVIDUAL WAS ENROLLED ON SEPTEMBER 30, 2005.~~

~~(2) A CARRIER THAT ENROLLS INDIVIDUALS WHO MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION SHALL ESTABLISH AN OPEN ENROLLMENT PERIOD FOR INDIVIDUALS WHO MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 60

(Senate Bill 992)

AN ACT concerning

Maryland Aviation Administration – Airport Improvement Program Funds

FOR the purpose of repealing a provision of law prohibiting a political subdivision from submitting a project application under federal law unless the Secretary of Transportation approves the project; repealing the requirement that the Maryland Aviation Administration be designated as the agent for political subdivisions of the State for certain purposes related to the receipt of certain federal funds; and generally relating to the repeal of a requirement that the Maryland Aviation Administration act as agent of political subdivisions with respect to certain federal funds.

BY repealing
Article – Transportation
Section 5–423
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Transportation

[5–423.

(a) Whether acting alone or jointly with another political subdivision or this State, a political subdivision may not submit a project application under the federal Airport and Airway Development Act of 1970 or any other federal law unless the Secretary approves the project.

(b) (1) A political subdivision may not directly accept, receive, receipt for, disburse, or spend any funds granted by the federal government under the federal Airport and Airway Development Act of 1970, but shall designate the Administration as its agent for those purposes.

(2) If a political subdivision designates the Administration as its agent under this section, the political subdivision shall make an agreement with the Administration that states the terms and conditions of the agency in accordance with applicable federal and State law.

(3) Money received by the Administration under this section is not part of the Transportation Trust Fund and is not subject to § 3–216 of this article.

(c) This section does not apply to any political subdivision that has an aviation commission or authority existing since 1949 and engaging in the establishment or operation of an airport, airport facility, or air navigation facility.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 61

(Senate Bill 1016)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2005 – Prince George's County – Langley Park Multi–Service Center

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2005 to change the name of the Victory Youth Center to the Langley Park Multi–Service Center and change the name of a certain grantee from the Board of Directors of the Victory Youth Centers, Inc. to the Catholic Archdiocese of Washington; expanding the authorized uses of the loan proceeds and matching fund; and generally relating to the Langley Park Multi–Service Center.

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005
Section 1(3) Item ZA00 (AH)

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

Chapter 445 of the Acts of 2005

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(AH) **[**Victory Youth Center.**]** **LANGLEY PARK MULTI–SERVICE CENTER.** Provide a grant to the **[**Board of Directors of the Victory Youth Centers, Inc.**]** **CATHOLIC ARCHDIOCESE OF WASHINGTON** to assist in the design, construction, and capital equipping of a **CLINIC, SOCIAL SERVICE CENTER, AND** gymnasium to serve the youth of the community of Langley Park in Prince George's County (Prince George's County)..... 550,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 62

(House Bill 2)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2006 – Calvert County – United Way of Calvert County

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2006 to change the authorized uses of the grant; and making this Act an emergency measure.

BY repealing and reenacting, with amendments,
Chapter 46 of the Acts of the General Assembly of 2006
Section 1(3) Item ZA00 (AC)

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

Chapter 46 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(AC) United Way of Calvert County. Provide a grant equal to the lesser of (i) $145,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the United Way of Calvert County, Inc. for the expansion of the parking lot and the **ACQUISITION,** repair, renovation, reconstruction, and capital equipping of the United Way building, located in Prince Frederick. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act (Calvert County) 145,000

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.

Approved by the Governor, April 10, 2007.

CHAPTER 63

(House Bill 10)

AN ACT concerning

Criminal Procedure – Expungement of Police Records – Arrest Without Charge – Automatic

FOR the purpose of altering a provision of law so as to make certain procedures relating to expungement of certain police records applicable only to certain arrests, detentions, or confinements occurring before a certain date; requiring the expungement of certain police records if certain procedures are met;

repealing certain provisions relating to a request for expungement of a certain police record that require written notice to be provided to a law enforcement unit; repealing certain provisions prohibiting a person from giving a certain notice before a certain statute of limitations expires; making a certain conforming change; repealing certain provisions that allow for a certain expungement to occur before a certain date if a certain waiver is filed; establishing that for certain arrests~~, detentions,~~ or confinements occurring on or after a certain date, the person arrested~~, detained,~~ or confined is entitled to expungement of certain police records; requiring a certain law enforcement unit to take certain actions within a certain amount of time after release of a certain person entitled to expungement of a certain police record; requiring certain entities to take certain actions within a certain amount of time after receipt of a certain notice of expungement; establishing that a police record that is expunged under certain circumstances may not be expunged by obliteration for a certain period of time; providing the method by which certain records are to be expunged for a certain period of time and the circumstances under which the records can be accessed; authorizing a certain person to use a certain legal remedy and recover certain ~~fees and~~ costs under certain circumstances; prohibiting a person who is entitled to expungement of certain police records under certain circumstances from being required to pay a certain fee or costs; and generally relating to expungement of police records.

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 10–101(e)
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 10–102(a) and (b)(3) and 10–103
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

BY adding to
Article – Criminal Procedure
Section 10–103.1
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

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

Article – Criminal Procedure

10–101.

(e) "Expungement" with respect to a court record or a police record means removal from public inspection:

(1) by obliteration;

(2) by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or

(3) if access to a court record or police record can be obtained only by reference to another court record or police record, by the expungement of it or the part of it that provides access.

10–102.

(a) A police record or a court record **[**may be expunged**]** **IS SUBJECT TO EXPUNGEMENT** under this subtitle.

(b) (3) The limitation periods provided in **[**§§ 10–103 and 10–105**]** **§ 10–105** of this subtitle begin when the person becomes entitled to expungement of a court record or a police record that existed before July 1, 1975.

10–103.

(a) **[**A**]** **FOR ARRESTS, DETENTIONS, OR CONFINEMENTS OCCURRING BEFORE OCTOBER 1, 2007, A** person who is arrested, detained, or confined by a law enforcement unit for the suspected commission of a crime and then is released without being charged with the commission of a crime may~~:~~

~~(1) give written notice of these facts to a law enforcement unit that the person believes may have a police record about the matter; and~~

~~(2)~~ request the expungement of the police record.

(b) ~~(1) Except as provided in paragraph (2) of this subsection, a person may not give notice under this subtitle before the statute of limitations expires for all tort claims that arise from the incident.~~

~~(2) (i) A person may give notice before the statute of limitations expires if the person attaches to the notice a written general waiver and release, in legal form, of all tort claims that the person has arising from the incident.~~

~~(ii) The notice and waiver are not subject to expungement.~~

~~(3) The law enforcement unit shall keep the notice and waiver at least until any applicable statute of limitations expires.~~

~~(4)~~ The person shall ~~give the notice~~ **REQUEST EXPUNGEMENT** within 8 years after the date of the incident.

(c) (1) On receipt of a timely filed ~~notice~~ **REQUEST**, the law enforcement unit promptly shall investigate and try to verify the facts stated in the ~~notice~~ **REQUEST**.

(2) If the law enforcement unit finds the facts are true, the law enforcement unit shall:

(i) search diligently for each police record about the arrest, detention, or confinement of the person;

(ii) expunge each police record it has about the arrest, detention, or confinement within 60 days after receipt of the ~~notice~~ **REQUEST**; and

(iii) send a copy of the ~~notice~~ **REQUEST** and the law enforcement unit's verification of the facts in the ~~notice~~ **REQUEST** to:

1. the Central Repository;

2. each booking facility or law enforcement unit that the law enforcement unit believes may have a police record about the arrest, detention, or confinement; and

3. the person requesting expungement.

(d) Within ~~30~~ **60** days after receipt of the ~~notice~~ **REQUEST**, the Central Repository, booking facility, and any other law enforcement unit shall search diligently for and expunge a police record about the arrest, detention, or confinement.

(e) If the law enforcement unit to which the person has sent ~~notice~~ **A REQUEST** finds that the person is not entitled to an expungement of the police record, the law enforcement unit, within 60 days after receipt of the ~~notice~~ **REQUEST**, shall advise the person in writing of:

(1) the denial of the request for expungement; and

(2) the reasons for the denial.

(f) (1) (i) If a request by the person for expungement of a police record is denied under subsection (e) of this section, the person may apply for an order of

expungement in the District Court that has proper venue against the law enforcement unit.

(ii) The person shall file the application within 30 days after the written notice of the denial is mailed or delivered to the person.

(2) After notice to the law enforcement unit, the court shall hold a hearing.

(3) If the court finds that the person is entitled to expungement, the court shall order the law enforcement unit to expunge the police record.

(4) If the court finds that the person is not entitled to expungement of the police record, the court shall deny the application.

(5) (i) The law enforcement unit is a party to the proceeding.

(ii) Each party to the proceeding is entitled to appellate review on the record, as provided in the Courts Article for appeals in civil cases from the District Court.

(G) A PERSON WHO IS ENTITLED TO EXPUNGEMENT UNDER THIS SECTION MAY NOT BE REQUIRED TO PAY ANY FEE OR COSTS IN CONNECTION WITH THE EXPUNGEMENT.

10–103.1.

(A) FOR ARRESTS~~, DETENTIONS,~~ OR CONFINEMENTS OCCURRING ON OR AFTER OCTOBER 1, 2007, A PERSON WHO IS ARRESTED~~, DETAINED,~~ OR CONFINED BY A LAW ENFORCEMENT UNIT AND THEN IS RELEASED WITHOUT BEING CHARGED WITH THE COMMISSION OF A CRIME IS ENTITLED TO EXPUNGEMENT OF ALL POLICE RECORDS, INCLUDING PHOTOGRAPHS AND FINGERPRINTS, RELATING TO THE MATTER.

(B) WITHIN ~~30~~ 60 DAYS AFTER RELEASE OF A PERSON ENTITLED TO EXPUNGEMENT OF A POLICE RECORD UNDER SUBSECTION (A) OF THIS SECTION, THE LAW ENFORCEMENT UNIT SHALL:

(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE RECORD ABOUT THE ARREST~~, DETENTION,~~ OR CONFINEMENT OF THE PERSON; AND

(2) SEND A NOTICE OF EXPUNGEMENT CONTAINING ALL RELEVANT FACTS ABOUT THE EXPUNGEMENT AND UNDERLYING ARREST~~, DETENTION,~~ OR CONFINEMENT TO:

(I) THE CENTRAL REPOSITORY;

(II) EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT THAT THE LAW ENFORCEMENT UNIT BELIEVES MAY HAVE A POLICE RECORD ABOUT THE ARREST~~, DETENTION,~~ OR CONFINEMENT; AND

(III) THE PERSON ENTITLED TO EXPUNGEMENT.

(C) WITHIN ~~30~~ 60 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL REPOSITORY, A BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT SHALL:

(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE RECORD ABOUT THE ARREST~~, DETENTION,~~ OR CONFINEMENT OF THE PERSON; AND

(2) ADVISE IN WRITING THE PERSON ENTITLED TO EXPUNGEMENT OF COMPLIANCE WITH THE ORDER.

(D) (1) A POLICE RECORD EXPUNGED UNDER THIS SECTION MAY NOT BE EXPUNGED BY OBLITERATION UNTIL 3 YEARS AFTER THE DATE OF EXPUNGEMENT.

(2) DURING THE 3–YEAR PERIOD DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE RECORDS SHALL BE REMOVED TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS.

(3) FOR PURPOSES OF THIS SUBSECTION, A LEGITIMATE REASON FOR ACCESSING THE RECORDS INCLUDES USING THE RECORDS FOR PURPOSES OF PROCEEDINGS RELATING TO THE ARREST.

~~(D)~~ (E) IF A LAW ENFORCEMENT UNIT, A BOOKING FACILITY, OR THE CENTRAL REPOSITORY FAILS TO EXPUNGE A POLICE RECORD AS REQUIRED UNDER SUBSECTION (B) OR (C) OF THIS SECTION, THE PERSON ENTITLED TO EXPUNGEMENT MAY:

(1) SEEK REDRESS BY MEANS OF ANY APPROPRIATE LEGAL REMEDY; AND

(2) RECOVER COURT COSTS ~~AND REASONABLE ATTORNEY'S FEES~~.

~~(E)~~ (F) A PERSON WHO IS ENTITLED TO EXPUNGEMENT UNDER THIS SECTION MAY NOT BE REQUIRED TO PAY ANY FEE OR COSTS IN CONNECTION WITH THE EXPUNGEMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 64

(House Bill 23)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2006 – Anne Arundel County – Hancock's Resolution Visitor's Center

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2006 to expand the authorized uses of a certain grant ~~to the Board of Directors of Friends of Hancock's Resolution, Inc.~~ and to alter the grantee to be the County Executive and County Council of Anne Arundel County; and making this Act an emergency measure.

BY repealing and reenacting, with amendments,
Chapter 46 of the Acts of the General Assembly of 2006
Section 1(3) Item ZA01 (O)

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

Chapter 46 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA01 LOCAL SENATE INITIATIVES

(O) Hancock's Resolution Visitor Center. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the ~~Board of Directors of Friends of Hancock's Resolution, Inc.~~ **COUNTY EXECUTIVE AND COUNTY COUNCIL OF ANNE ARUNDEL COUNTY** for the planning and design of a new visitor center at Hancock's Resolution, **INCLUDING RELATED SITE WORK,** located in Pasadena, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (Anne Arundel County)... 100,000

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.

Approved by the Governor, April 10, 2007.

CHAPTER 65

(House Bill 94)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2005 – Montgomery County – Old Blair High School Auditorium

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2005 to extend the date by which the Board of Directors of the Old Blair Auditorium Project, Inc. must present evidence that a matching fund will be provided for the Old Blair High School Auditorium grant.

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005
Section 1(3) Items ZA01(AR) and ZA02(AV)

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

Chapter 445 of the Acts of 2005

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(AR) Old Blair High School Auditorium. Provide a grant equal to the lesser of (i) $300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Old Blair Auditorium Project, Inc. for the repair, renovation, construction, reconstruction, and capital equipping of the Old Blair High School Auditorium located in Silver Spring, subject to a requirement that the grantee grant and convey an historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2009**.(Montgomery County) 300,000

ZA02 LOCAL SENATE INITIATIVES

(AV) Old Blair High School Auditorium. Provide a grant equal to the lesser of (i) $300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of

the Old Blair Auditorium Project, Inc. for the repair, renovation, construction, reconstruction, and capital equipping of the Old Blair High School Auditorium located in Silver Spring, subject to a requirement that the grantee grant and convey an historical easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2009**.(Montgomery County) 300,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 66

(House Bill 105)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2005 – Talbot County – Frederick Douglass Memorial

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2005 to extend the deadline by which the Frederick Douglass Memorial Action Coalition may present evidence to the Board of Public Works that a matching fund will be provided; and altering the matching fund requirement.

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005
Section 1(3) Item ZA01 (BN)

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

Chapter 445 of the Acts of 2005

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(BN) Frederick Douglass Memorial. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Frederick Douglass Memorial Action Coalition for the design and construction of a monument to the life and legacy of Frederick Douglass, to be located in Easton**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY INCLUDE REAL PROPERTY, IN KIND CONTRIBUTIONS, OR FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT AND THE GRANTEE HAS UNTIL JUNE 1, 2009, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Talbot County)..... 100,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 67

(House Bill 146)

AN ACT concerning

Local Government – Garrett County Commissioners – Disposal of Surplus ~~Supplies~~ County Property

FOR the purpose of authorizing the Board of County Commissioners of Garrett County to dispose of surplus supplies, equipment, or other personal property belonging to the county by recycling or disposal in the Garrett County landfill; and generally relating to the disposal of surplus county property in Garrett County.

BY repealing and reenacting, with amendments,
Article 25 – County Commissioners
Section 11A(h)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 25 – County Commissioners

11A.

(h) Notwithstanding subsection (a) of this section, in Garrett County, the Board of County Commissioners may dispose of surplus supplies, equipment, or other personal property belonging to the county by the following means:

(1) Public auction;

(2) Public sale; **[**or**]**

(3) Trade–in for new or used equipment**;**

(4) RECYCLING; OR

(5) DISPOSAL IN THE GARRETT COUNTY LANDFILL.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 68

(House Bill 167)

AN ACT concerning

Howard County – Property Tax Credit – Residence Jointly Owned by an Individual and the Howard County Housing Commission

Ho. Co. 6–07

FOR the purpose of authorizing the governing body of Howard County to grant, by law, a tax credit against the county property tax imposed on certain owner–occupied residential real property; authorizing the governing body of Howard County to specify the amount and duration of the credit; authorizing the governing body to provide for implementation and administration of the credit; providing for the application of this Act; and generally relating to the property tax in Howard County.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–315(a) and (b)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

9–315.

(a) The governing body of Howard County may grant, by law, a property tax credit under this section against the county property tax imposed on:

(1) property that:

(i) is owned by any community association;

(ii) is used for community, civic, educational, library, or park purposes; and

(iii) is not a swimming pool, tennis court, or similar recreational facility;

(2) real property that is subject to the county's agricultural land preservation program;

(3) subject to subsections (b) and (c) of this section, real property that is new construction or an improvement to real property owned or occupied by a commercial or industrial business that:

(i) is currently or will be doing business in Howard County;

(ii) will employ at least 12 additional full–time local employees by the second year in which the credit is allowed, not including any employee filling a job created when a job function is shifted from an existing location in the State to the location of the new construction or improvement; and

(iii) makes a substantial investment in Howard County, which may be:

1. the acquisition of a building, land, or equipment that totals at least $2,000,000; or

2. the creation of 10 positions with salaries greater than the current average annual wage in Howard County; **[**and**]**

(4) subject to subsection (b) of this section, real property that is used as a therapeutic riding facility by a nonprofit organization that:

(i) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code;

(ii) provides services to disabled individuals; and

(iii) has at least 85% of its clients who are disabled individuals**[**.**]** **; AND**

(5) SUBJECT TO SUBSECTION (B) OF THIS SECTION, OWNER–OCCUPIED RESIDENTIAL REAL PROPERTY THAT IS JOINTLY OWNED BY AN INDIVIDUAL AND THE HOWARD COUNTY HOUSING COMMISSION.

(b) In establishing a tax credit under subsection (a)(3) **[**and (4)**]** **THROUGH (5)** of this section, the governing body of Howard County:

(1) shall develop criteria necessary to implement the credit;

(2) shall designate an agency to administer the credit; and

(3) may specify:

(i) the amount and duration of the credit;

(ii) the qualifications and application procedures for the credit; and

(iii) any other requirement or procedure for the granting or administration of the credit that the governing body considers appropriate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 69

(House Bill 200)

AN ACT concerning

Frederick County – Road Projects – Repeal of State Match Requirement

FOR the purpose of repealing a prohibition that prevents the Frederick County Commissioners from expending certain funds for a road project on a State highway unless the State matches at least the same amount of funds for the same project; and generally relating to funding for road projects in Frederick County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Frederick County
Section 2–7–131(D)
Article 11 – Public Local Laws of Maryland
(2004 Edition and June 2006 Supplement, as amended)

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

Article 11 – Frederick County

2–7–131.

(D) (1) The county director of finance shall deposit the revenues from the building excise tax in an account called the "Development Road Improvement Fund."

(2) Subject to **[**paragraphs (3) and (4)**]** **PARAGRAPH (3)** of this subsection, the revenues from the building excise tax in the development road improvement fund shall be used only to pay for capital projects or indebtedness incurred for capital projects for additional or expanded public road facilities, including bridges, intersection improvements, and new road construction and road improvement.

(3) Before the county commissioners may expend funds from the development road improvement fund, the county commissioners must match at least the same amount of funds for capital projects for additional or expanded public road facilities.

[(4) Before the county commissioners may expend funds from the development road improvement fund for a road project on a state highway, as defined in § 8–101 of the Transportation Article, the state must match at least the same amount of funds for a capital project for additional or expanded public road facilities on the same road project on the state highway that is within Frederick County.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 70

(House Bill 214)

AN ACT concerning

Health Care Decisions Act – "Patient's Plan of Care" Form – Renaming

FOR the purpose of renaming the "Patient's Plan of Care" form under the Health Care Decisions Act to be the "Instructions on Current Life–Sustaining Treatment Options" form; and generally relating to the renaming of the "Patient's Plan of Care" form.

BY repealing and reenacting, with amendments,

Article – Health – General
Section 5–602(f), 5–608.1, and 19–344(f)(5)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 5–619(b)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)
(As enacted by Chapter 223 of the Acts of the General Assembly of 2006)

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

Article – Health – General

5–602.

(f) (1) It shall be the responsibility of the declarant to notify the attending physician that an advance directive has been made. In the event the declarant becomes comatose, incompetent, or otherwise incapable of communication, any other person may notify the physician of the existence of an advance directive.

(2) An attending physician who is notified of the existence of the advance directive shall promptly:

(i) If the advance directive is written, make the advance directive or a copy of the advance directive a part of the declarant's medical records; or

(ii) If the advance directive is oral, make the substance of the advance directive, including the date the advance directive was made and the name of the attending physician, a part of the declarant's medical records.

(3) If the care of a declarant is transferred from one health care provider to another, the transferring health care provider may prepare **[**a "Patient's Plan of Care"**] AN "INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form in accordance with § 5–608.1 of this subtitle.

(4) If the transferring health care provider prepares **[**a "Patient's Plan of Care"**] AN "INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form in accordance with § 5–608.1 of this subtitle, the transferring health care provider shall:

(i) Take reasonable steps to ensure that the **[**"Patient's Plan of Care"**]** **"INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form is consistent with any applicable decision stated in the advance directive of a declarant; and

(ii) Transmit the **[**"Patient's Plan of Care"**]** **"INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form to the receiving health care provider simultaneously with the transfer of the declarant.

5–608.1.

(a) The Office of the Attorney General shall develop **[**a "Patient's Plan of Care"**]** **AN "INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form suitable for summarizing the plan of care for an individual, including the aspects of the plan of care related to:

(1) The use of life–sustaining procedures; and

(2) Transfer to a hospital from a nonhospital setting.

(b) The **[**"Patient's Plan of Care"**]** **"INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form is voluntary and shall be consistent with:

(1) The decisions of:

(i) The patient if the patient is a competent individual; or

(ii) If the patient is incapable of making an informed decision, a health care agent or surrogate decision maker as authorized by this subtitle; and

(2) Any advance directive of the patient if the patient is incapable of making an informed decision.

(c) The **[**"Patient's Plan of Care"**]** **"INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form:

(1) May be completed by a health care provider under the direction of an attending physician;

(2) If the attending physician has a reasonable basis to believe that the **[**"Patient's Plan of Care"**]** **"INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form satisfies the requirements of subsection (b) of this section, shall be signed by the attending physician;

(3) Shall be signed by:

(i) The patient if the patient is a competent individual; or

(ii) If the patient is incapable of making an informed decision, a health care agent or surrogate decision maker as authorized by this subtitle;

(4) If signed by the patient in accordance with item (3)(i) of this subsection, shall include contact information for the patient's health care agent;

(5) If signed by a health care agent or surrogate decision maker in accordance with item (3)(ii) of this subsection, shall include contact information for the health care agent or surrogate decision maker;

(6) Shall be dated;

(7) Shall include a statement that the form may be reviewed, modified, or rescinded at any time;

(8) Shall designate under which conditions the form must be reviewed or modified, including promptly after the patient becomes incapable of making an informed decision; and

(9) Shall contain a conspicuous statement that the original form shall accompany the individual when the individual is transferred to another health care provider or discharged.

(d) A health care provider shall review any **[**"Patient's Plan of Care"**]** **"INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form received from another health care provider as part of the process of establishing a plan of care for an individual.

(e) The Office of the Attorney General, in developing the **[**"Patient's Plan of Care"**] "INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form in accordance with subsection (a) of this section, shall consult with:

(1) The Department;

(2) Religious groups and institutions with an interest in end–of–life care;

(3) One or more representatives from the community of individuals with disabilities; and

(4) Any other group the Office of the Attorney General identifies as appropriate for consultation.

5–619.

(b) (1) "Advance directive" has the meaning stated in § 5–601 of this subtitle.

(2) "Advance directive" includes **[**a "Patient's Plan of Care"**]** **AN "INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form developed under § 5–608.1 of this subtitle.

19–344.

(f) (5) (i) A facility shall offer a resident, upon admission, the opportunity for the preparation of **[**a "Patient's Plan of Care"**]** **AN "INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form in accordance with § 5–608.1 of this article.

(ii) If a facility prepares **[**a "Patient's Plan of Care"**]** **AN "INSTRUCTIONS ON CURRENT LIFE–SUSTAINING TREATMENT OPTIONS"** form in accordance with subparagraph (i) of this paragraph, the form shall remain conspicuously in the front of a resident's medical records.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 71

(House Bill 334)

AN ACT concerning

~~Complimentary Chesapeake Bay Sport Fishing License~~ Lifetime Complimentary Fishing Licenses – POWs and Disabled Veterans

FOR the purpose of authorizing the Department of Natural Resources to issue a lifetime complimentary Chesapeake Bay sport fishing license to certain veterans; providing that there is no fee for the complimentary Chesapeake Bay license; establishing that the complimentary Chesapeake Bay license is not

transferable; providing for certain procedures for the issuance of the complimentary Chesapeake Bay license; altering the duration of a complimentary nontidal fishing license for certain veterans; and generally relating to the lifetime complimentary ~~Chesapeake Bay sport fishing license~~ fishing licenses for veterans.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–607 and 4–745(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article – Natural Resources
Section 4–745(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

4–607.

(a) **(1)** The Department may issue annually a complimentary angler's license to the President of the United States, the governor of any state, **[**any Maryland resident who certifies that he or she is a former prisoner of war or 100 percent service connected disabled American veteran,**]** and any official of the game and fish department of any other state.

(2) THE DEPARTMENT MAY ISSUE A LIFETIME COMPLIMENTARY ANGLER'S LICENSE TO ANY MARYLAND RESIDENT WHO CERTIFIES THAT THE RESIDENT IS A FORMER PRISONER OF WAR OR 100% SERVICE CONNECTED DISABLED AMERICAN VETERAN.

(B) **[**However, not**]** **NOT** more than 20 complimentary licenses for each state other than Maryland shall be outstanding at any time.

(C) A complimentary license is not transferable and shall be issued without a fee on forms the Department designates.

[(b)**]** **(D)** For the purposes of this section, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United

States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

4–745.

(a) (1) Except as provided in subsections (c) and (d) of this section and § 4–217 of this title, a person may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries without first obtaining a Chesapeake Bay sport fishing license.

(2) The license may be obtained from the Department or from any authorized agent of the Department. The following annual license fees shall apply:

(i) Resident..... $9

(ii) Short–term license valid for 5 consecutive days from date of issue $6

(iii) Nonresident..... $14

(iv) Resident and nonresident blind persons..... No fee

(V) COMPLIMENTARY LICENSE UNDER SUBSECTION (F) OF THIS SECTION..... NO FEE

(3) Except for a license issued under subsection (d) of this section, every Chesapeake Bay sport fishing license shall be valid for not more than 1 year and shall expire on December 31.

(F) (1) IN THIS SUBSECTION, "FORMER PRISONER OF WAR" MEANS A PERSON WHO, WHILE SERVING IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE OF THE UNITED STATES, WAS FORCIBLY DETAINED OR INTERNED IN THE LINE OF DUTY BY AN ENEMY GOVERNMENT OR ITS AGENTS, OR A HOSTILE FORCE, DURING A PERIOD OF ARMED CONFLICT.

(2) THE DEPARTMENT MAY ISSUE A LIFETIME COMPLIMENTARY CHESAPEAKE BAY SPORT FISHING LICENSE TO ANY MARYLAND RESIDENT WHO CERTIFIES THAT THE RESIDENT IS A FORMER PRISONER OF WAR OR A 100% SERVICE CONNECTED DISABLED AMERICAN VETERAN.

(3) A COMPLIMENTARY LICENSE IS NOT TRANSFERABLE AND SHALL BE ISSUED ON FORMS THE DEPARTMENT DESIGNATES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 72

(House Bill 335)

AN ACT concerning

Baltimore County – Todd's Inheritance Loan of 2000

FOR the purpose of ~~extending the deadline by which the County Council and County Executive of Baltimore County must present evidence to the Board of Public Works that a matching fund will be provided~~ amending Chapter 409 of the Acts of 2000 to require that certain loan proceeds be encumbered by the Board of Public Works or expended for certain purposes by a certain date.

BY repealing and reenacting, without amendments,
Chapter 409 of the Acts of the General Assembly of 2000
Section 1(1)

BY repealing and reenacting, with amendments,
Chapter 409 of the Acts of the General Assembly of 2000
Section 1(5)

BY adding to
Chapter 409 of the Acts of the General Assembly of 2000
Section 1(6)

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

Chapter 409 of the Acts of 2000

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore County – Todd's Inheritance Loan of 2000 in a total principal amount equal to the

lesser of (i) $250,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, ~~[~~2002~~]~~ **~~2009~~**, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 73

(House Bill 343)

AN ACT concerning

Department of Health and Mental Hygiene – Laboratories – Letter of Exception

FOR the purpose of altering a certain definition that relates to the circumstances under which the Secretary of Health and Mental Hygiene is required to issue a

letter of exception from certain State licensing requirements for laboratories; and generally relating to exceptions from State licensing requirements for laboratories.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 17–205
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

17–205.

(a) A person shall hold a license issued by the Secretary before the person may:

(1) Offer or perform medical laboratory tests or examinations in this State;

(2) Offer or perform medical laboratory tests or examinations on specimens acquired from health care providers in this State at a medical laboratory located outside this State; or

(3) Represent or service in this State a medical laboratory regardless of the laboratory's location.

(b) The Secretary shall issue a letter of exception to a laboratory that:

(1) Performs only limited medical laboratory tests or examinations; and

(2) Meets the exception requirements in regulations adopted by the Secretary pursuant to this subtitle.

(c) For the purposes of this section, "limited medical laboratory tests or examinations" means **[**simple**]** medical laboratory procedures as defined in regulations adopted by the Secretary pursuant to this subtitle.

(d) If preliminary screening procedures are performed by an operator who is trained under § 17–214(k) of this subtitle, an employer:

(1) Is not required to obtain a permit or to obtain a letter of exception from the Secretary under this section to perform testing; but

(2) Is required before performing preliminary screening procedures, as defined under § 17–214(a) of this subtitle, to register with the Secretary in accordance with requirements adopted in regulations by the Department of Health and Mental Hygiene.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 74

(House Bill 344)

AN ACT concerning

Public Health Laboratories – Mutual Aid Agreements

FOR the purpose of authorizing a public health laboratory in the State to enter into a mutual aid agreement with a public health laboratory operated by another state; requiring a public health laboratory operated by another state to provide certain documentation under certain circumstances; requiring a mutual aid agreement to include certain liability provisions; authorizing certain employees to travel to and provide services at certain public health laboratories under certain circumstances; providing for the applicability of certain laws; providing that certain expenditures may be charged in a certain manner; providing for the construction of this Act; defining certain terms; and generally relating to public health laboratories and mutual aid agreements.

BY adding to
Article – Health – General
Section 17–104
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

17–104.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "MUTUAL AID AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN A PUBLIC HEALTH LABORATORY IN THE STATE AND A PUBLIC HEALTH LABORATORY OPERATED BY ANOTHER STATE TO ESTABLISH AND CARRY OUT A PLAN TO ASSIST EACH OTHER IN PROVIDING TEMPORARY TESTING SERVICES TO ALLEVIATE AN EMERGENCY AT ONE OF THE LABORATORIES.

(3) "PUBLIC HEALTH LABORATORY" MEANS A LABORATORY OPERATED BY A STATE GOVERNMENT TO PROVIDE:

(I) CONSULTING AND REGULATORY SUPPORT OF INFECTIOUS DISEASE, EPIDEMIOLOGY, ENVIRONMENTAL, AND REGULATORY PUBLIC HEALTH PROGRAMS; AND

(II) TESTS OR EXAMINATIONS IN CONNECTION WITH:

1. THE DIAGNOSIS AND CONTROL OF HUMAN DISEASES;

2. THE ASSESSMENT OF HUMAN HEALTH, NUTRITIONAL, OR MEDICAL CONDITIONS; OR

3. THE ENVIRONMENT.

(B) THIS SECTION SHALL BE LIBERALLY CONSTRUED TO PROMOTE ITS PURPOSE OF PROVIDING AID DURING AN EMERGENCY AT A PUBLIC HEALTH LABORATORY.

(C) (1) A PUBLIC HEALTH LABORATORY IN THE STATE MAY ENTER INTO OR RENEW A MUTUAL AID AGREEMENT WITH A PUBLIC HEALTH LABORATORY OPERATED BY ANOTHER STATE.

(2) A PUBLIC HEALTH LABORATORY OPERATED BY ANOTHER STATE THAT ENTERS INTO A MUTUAL AID AGREEMENT SHALL PROVIDE WRITTEN DOCUMENTATION OF THE STATUTORY AUTHORITY REQUIRED FOR THAT STATE TO MEET THE RESPONSIBILITIES SET FORTH IN THE AGREEMENT.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A MUTUAL AID AGREEMENT SHALL PROVIDE THAT THE PARTY REQUESTING ASSISTANCE UNDER THE AGREEMENT SHALL INDEMNIFY AND HOLD HARMLESS THE PUBLIC HEALTH LABORATORY THAT PROVIDES ASSISTANCE AND ITS AUTHORIZED PERSONNEL FROM ANY CLAIM BY A THIRD PARTY FOR PROPERTY DAMAGE, PERSONAL INJURY, OR WRONGFUL DEATH THAT ARISES OUT OF ACTIVITIES, INCLUDING TRAVEL, THAT ARE AUTHORIZED BY THE AGREEMENT.

(II) THE PARTY THAT REQUESTS ASSISTANCE NEED NOT INDEMNIFY THE PARTY THAT PROVIDES ASSISTANCE IF:

1. THE PARTY THAT PROVIDES ASSISTANCE DOES NOT COOPERATE IN DEFENDING AGAINST A CLAIM MADE BY A THIRD PARTY;

2. THE CLAIM BY A THIRD PARTY ARISES OUT OF A MALICIOUS OR GROSSLY NEGLIGENT ACT OF THE PARTY THAT PROVIDES ASSISTANCE; OR

3. THE CLAIM BY A THIRD PARTY ARISES OUT OF AN ACT THAT IS OUTSIDE OF THE SCOPE OF THE DUTIES UNDER THE AGREEMENT OF THE PARTY THAT PROVIDES ASSISTANCE.

(4) A MUTUAL AID AGREEMENT SHALL PROVIDE THAT EACH PARTY TO THE AGREEMENT SHALL WAIVE ANY CLAIM AGAINST ANY OTHER PARTIES TO THE AGREEMENT IF THE CLAIM ARISES OUT OF THE ACTIVITIES OF A PARTY THAT ARE WITHIN THE SCOPE OF THE AGREEMENT AND THAT ARE PERFORMED WITHOUT MALICE OR GROSS NEGLIGENCE.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN EMPLOYEE OF A PUBLIC HEALTH LABORATORY WHO HAS BEEN TRAINED AND CERTIFIED BY THE DIRECTOR OF THE EMPLOYEE'S PUBLIC HEALTH LABORATORY MAY TRAVEL TO AND PROVIDE SERVICES AT THE LOCATION OF THE EMERGENCY UNDER A MUTUAL AID AGREEMENT AT THE REQUEST OF THE SECRETARY, THE SECRETARY'S DESIGNEE, OR AN INDIVIDUAL FROM ANOTHER STATE WITH EQUIVALENT AUTHORITY UNDER THE AGREEMENT.

(2) AN EMPLOYEE MAY NOT TRAVEL TO OR PROVIDE SERVICES AT THE LOCATION OF THE EMERGENCY UNDER A MUTUAL AID AGREEMENT UNTIL THE SECRETARY, THE SECRETARY'S DESIGNEE, OR EQUIVALENT AUTHORITY IN ANOTHER STATE APPROVES THE EMPLOYEE TO TRAVEL TO AND PROVIDE SERVICES AT THE LOCATION OF THE EMERGENCY.

(E) FOR PURPOSES OF WORKERS' COMPENSATION LAW OR ANY OTHER EMPLOYMENT BENEFIT THAT WOULD APPLY TO AN INDIVIDUAL WHO IS PERFORMING A SERVICE FOR A PUBLIC HEALTH LABORATORY UNDER A MUTUAL AID AGREEMENT~~, THE~~ :

(I) THE INDIVIDUAL IS CONSIDERED TO HAVE PERFORMED THAT SERVICE IN THE COURSE OF EMPLOYMENT AS A STATE EMPLOYEE AND IN THE LINE OF DUTY; AND

(II) THE WORKERS' COMPENSATION LAW OR EMPLOYMENT BENEFIT OF THE STATE THAT EMPLOYS THE INDIVIDUAL SHALL BE PROVIDED BY THAT STATE WHEN AN INDIVIDUAL IS PERFORMING A SERVICE IN ANOTHER STATE.

(F) NECESSARY EXPENDITURES MADE UNDER A MUTUAL AID AGREEMENT OR OTHERWISE MADE UNDER THIS SECTION MAY BE CHARGED AGAINST ANY STATE OR LOCAL APPROPRIATIONS THAT ARE USUALLY AVAILABLE TO A PUBLIC HEALTH LABORATORY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 75

(House Bill 367)

AN ACT concerning

Maryland Medical Assistance Program – Primary Adult Care Program – ~~Selection of~~ Enrollment in a Managed Care Organization

FOR the purpose of requiring certain enrollees in the Primary Adult Care Program who become eligible for the HealthChoice Program to be enrolled automatically in a certain managed care organization under certain circumstances; requiring the Department of Health and Mental Hygiene to adopt certain regulations relating to the ~~selection of~~ enrollment of an individual in a managed care organization in the Primary Adult Care Program; making certain technical corrections; and generally relating to managed care organizations and the Maryland Medical Assistance Program.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–103(b)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 15–103(b)(23) and 15–140
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

15–103.

(b) (1) As permitted by federal law or waiver, the Secretary may establish a program under which Program recipients are required to enroll in managed care organizations.

(23) (i) The Department shall adopt regulations relating to enrollment, disenrollment, and enrollee appeals.

(ii) Program recipients shall have the right to choose:

1. The managed care organization with which they are enrolled; and

2. The primary care provider to whom they are assigned within the managed care organization.

(iii) If a recipient is disenrolled and reenrolls within 120 days of the recipient's disenrollment, the Department shall:

1. Assign the recipient to the managed care organization in which the recipient previously was enrolled; and

2. Require the managed care organization to assign the recipient to the primary care provider of record at the time of the recipient's disenrollment.

(iv) Whenever a recipient has to select a new managed care organization because the recipient's managed care organization has departed from the HealthChoice Program, the departing managed care organization:

1. Shall provide a written notice to the recipient 60 days before departing from the Program;

2. Shall include in the notice the name and provider number of the primary care provider assigned to the recipient and the telephone number of the enrollment broker; and

3. Within 30 days after departing from the Program, shall provide the Department with a list of enrollees and the name of each enrollee's primary care provider.

(v) On receiving the list provided by the managed care organization, the Department shall provide the list to:

1. The enrollment broker to assist and provide outreach to recipients in selecting a managed care organization; and

2. The remaining managed care organizations for the purpose of linking recipients with a primary care provider in accordance with federal law and regulation.

(vi) Subject to subsection (f)(4) and (5) of this section, an enrollee may disenroll from a managed care organization:

1. Without cause in the month following the anniversary date of the enrollee's enrollment; and

2. For cause, at any time as determined by the Secretary.

(VII) AN INDIVIDUAL WHO WAS ENROLLED IN THE PRIMARY ADULT CARE PROGRAM ESTABLISHED UNDER § 15–140 OF THIS SUBTITLE WITHIN 120 DAYS OF BECOMING ELIGIBLE FOR THE HEALTHCHOICE PROGRAM SHALL BE ENROLLED AUTOMATICALLY IN THE SAME MANAGED CARE ORGANIZATION IN WHICH THE INDIVIDUAL WAS ENROLLED UNDER THE PRIMARY ADULT CARE PROGRAM, IF THE MANAGED CARE ORGANIZATION IS PARTICIPATING IN THE HEALTHCHOICE PROGRAM.

15–140.

(a) In this section, **[**"Network"**] "PROGRAM"** means the Primary Adult Care **[**Network**] PROGRAM**.

(b) (1) There is a Primary Adult Care **[**Network**] PROGRAM** within the Program.

(2) The purpose of the Primary Adult Care **[**Network**] PROGRAM** is to:

(i) Consolidate health care services provided to adults through the Program; and

(ii) Access federal funding to expand primary and preventive care to adults lacking health care services.

(3) The Secretary shall administer the **[**Network**] PROGRAM** as allowed by federal law or waiver.

(c) Subject to the limitations of the State budget and as allowed by federal law or waiver, the **[**Network**] PROGRAM** shall provide a health care benefit package offering primary and preventive care for adults.

(d) The **[**Network**] PROGRAM** shall be funded:

(1) As provided in the State budget; and

(2) With federal matching money.

(e) The Secretary shall adopt regulations**:**

(1) [to**] TO** implement the **[**Network**] PROGRAM**; **AND**

~~**(2) THAT ALLOW APPLICANTS TO SELECT A PARTICIPATING MANAGED CARE ORGANIZATION WHEN APPLYING FOR THE PROGRAM;**~~

~~**(3) THAT REQUIRE THE DEPARTMENT TO ENROLL AN APPLICANT IN THE PARTICIPATING MANAGED CARE ORGANIZATION SELECTED BY THE APPLICANT;**~~

~~**(4) THAT REQUIRE THE DEPARTMENT TO SEND AN ENROLLMENT PACKET TO APPLICANTS WHO DO NOT SELECT A PARTICIPATING MANAGED CARE ORGANIZATION AT THE TIME OF THE APPLICATION; AND**~~

~~(5)~~ (2) THAT ~~ESTABLISH~~ ESTABLISH A PROCESS THROUGH WHICH HISTORIC HEALTHCHOICE PROGRAM ENROLLEES WHO BECOME ELIGIBLE FOR THE PRIMARY ADULT CARE PROGRAM WITHIN 120 DAYS OF LOSING HEALTHCHOICE ELIGIBILITY WILL BE ENROLLED AUTOMATICALLY WITH THE SAME MANAGED CARE ORGANIZATION IN WHICH THE INDIVIDUAL WAS ENROLLED UNDER THE HEALTHCHOICE PROGRAM, IF THE MANAGED CARE ORGANIZATION IS PARTICIPATING IN THE PRIMARY ADULT CARE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 76

(House Bill 429)

AN ACT concerning

Baltimore County – Arbutus Community Center Loan of 2000

FOR the purpose of extending the deadline by which the County Executive and County Council of Baltimore County must present evidence to the Board of Public Works that a matching fund will be provided.

BY repealing and reenacting, without amendments,
Chapter 317 of the Acts of the General Assembly of 2000, as amended by Chapter 168 of the Acts of the General Assembly of 2002 and Chapter 149 of the Acts of the General Assembly of 2004
Section 1(1)

BY repealing and reenacting, with amendments,
Chapter 317 of the Acts of the General Assembly of 2000, as amended by Chapter 168 of the Acts of the General Assembly of 2002 and Chapter 149 of the Acts of the General Assembly of 2004
Section 1(5)

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

Chapter 317 of the Acts of 2000, as amended by Chapter 168 of the Acts of 2002 and Chapter 149 of the Acts of 2004

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore County – Arbutus Community Facility Loan of 2000 in a total principal amount equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(5) Prior to the payment of any funds under the provisions of this Act for purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's final decision is final. The grantee has until June 1, **[**2006**]** **2009**, to present evidence satisfactory to the Board of Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 77

(House Bill 500)

AN ACT concerning

Prince George's County – State's Attorney's Office – Composition and Salaries

PG 302–07

FOR the purpose of increasing the number of assistant State's Attorney positions in the State's Attorney's office for Prince George's County; increasing the maximum salaries of the deputy State's Attorneys, the assistant State's Attorneys, and the administrative assistant in the State's Attorney's office; and generally relating to the composition of and salaries in the office of the State's Attorney for Prince George's County.

BY repealing and reenacting, with amendments,
Article 10 – Legal Officials
Section 40(q)(2), (3), (4), and (7)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 10 – Legal Officials

40.

(q) In Prince George's County:

(2) The State's Attorney may appoint two deputy State's Attorneys and **[**73**]** **80** assistant State's Attorneys. The deputy State's Attorneys and assistant State's Attorneys serve at the pleasure of the State's Attorney.

(3) The annual salary of the deputy State's Attorneys shall be within the discretion of the State's Attorney, but may not exceed **[**$108,000**]** **$115,000**. The salaries are to be paid by the county on the certification of the State's Attorney to the County Executive and County Council.

(4) The annual salary of the assistant State's Attorneys shall be within the discretion of the State's Attorney, but may not exceed **[**$100,000**]** **$107,000**. The salaries are to be paid by the county on the certification of the State's Attorney to the County Executive and County Council.

(7) The State's Attorney may appoint an administrative assistant to serve at the pleasure of the State's Attorney. The annual salary of the administrative assistant shall be within the discretion of the State's Attorney, but may not exceed **[**$59,000**]** **$64,000**. The salary is to be paid by the county on the certification of the State's Attorney to the County Executive and County Council. The administrative

assistant is not subject to the rules and regulations of the county merit system, but shall be entitled to all benefits provided for county employees under the merit system.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 78

(House Bill 514)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2006 – Anne Arundel County – Maryland Hall for the Creative Arts

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2006 to authorize certain matching funds required to be provided by the Board of Directors of the Maryland Hall for the Creative Arts, Inc. to include in kind contributions.

BY repealing and reenacting, with amendments,
Chapter 46 of the Acts of the General Assembly of 2006
Section 1(3) Item ZA00 (Z) and ZA02 (O)

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

Chapter 46 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(Z) Maryland Hall for the Creative Arts. Provide a grant equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of

the Maryland Hall for the Creative Arts, Inc. for the renovation and rehabilitation of the Maryland Hall for the Creative Arts, located in Annapolis, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF IN KIND CONTRIBUTIONS** (Anne Arundel County)..... 100,000

ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

(O) Maryland Hall for the Creative Arts. Provide a grant equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Maryland Hall for the Creative Arts, Inc. for the renovation and rehabilitation of Maryland Hall for the Creative Arts, located in Annapolis, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust**. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF IN KIND CONTRIBUTIONS** (Anne Arundel County)..... 250,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 79

(House Bill 613)

AN ACT concerning

Election Law – Board of Elections Members – Montgomery County

MC 704–07

FOR the purpose of altering the number of members of the Montgomery County Board of Elections; requiring that a certain number of regular members and substitute members belong to certain parties; making a technical correction; and generally relating to members of the Montgomery County Board of Elections.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 2–201(b) and (h)
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

BY adding to
Article – Election Law
Section 2–201(k)
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Election Law

2–201.

(b) (1) Except as provided in **[**subsection**]** **SUBSECTIONS** (j) **AND (K)** of this section, each local board consists of three regular members and two substitute members.

(2) Two regular members and one substitute member shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) In the event of the absence of a regular member or a vacancy in the office of a regular member, the substitute member of the same political party shall

exercise the powers and duties of a regular member until the regular member returns or the vacancy is filled as prescribed in subsection (h) of this section.

(h) (1) **[**If**]** **EXCEPT AS PROVIDED IN SUBSECTIONS (J) AND (K) OF THIS SECTION, IF** a member of a local board dies, resigns, is removed, or becomes ineligible:

(i) the substitute member belonging to the same political party shall become a regular member of the local board; and

(ii) the Governor shall appoint an eligible person from the same political party to be the new substitute member.

(2) If a substitute member of a local board becomes a regular member as provided in paragraph (1)(ii) of this subsection, dies, resigns, is removed, or becomes ineligible when the confirming legislative body is not in session, the Governor shall appoint an eligible person from the same political party as the predecessor substitute member to fill the vacancy. That individual shall serve until the earlier of:

(i) the adjournment of the next session of the General Assembly; or

(ii) the appointment of another individual to fill the same vacancy.

(K) (1) IN MONTGOMERY COUNTY, THE LOCAL BOARD CONSISTS OF FIVE REGULAR MEMBERS AND TWO SUBSTITUTE MEMBERS.

(2) THREE REGULAR MEMBERS AND ONE SUBSTITUTE MEMBER SHALL BE OF THE MAJORITY PARTY, AND TWO REGULAR MEMBERS AND ONE SUBSTITUTE MEMBER SHALL BE OF THE PRINCIPAL MINORITY PARTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 80

(House Bill 614)

AN ACT concerning

Montgomery County – Alcoholic Beverages – Direct Sales by Holders of Class 6 Limited Wine Wholesaler's Licenses or Nonresident Winery Permits

MC 703–07

FOR the purpose of authorizing in Montgomery County a holder of a Class 6 limited wine wholesaler's license or a nonresident winery permit to sell or deliver wine directly to a restaurant, county dispensary, or other retail dealer; authorizing a restaurant, county dispensary, or other retail dealer to purchase wine directly from a holder of a Class 6 limited wine wholesaler's license or a nonresident winery permit; making certain technical and stylistic changes; making this Act an emergency measure; and generally relating to alcoholic beverages in Montgomery County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–101(i)(6) and 15–204
Annotated Code of Maryland
(2005 Replacement Volume and 2006 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) (6) Notwithstanding any other provision of this section, in Montgomery County the alcohol beverage purchasing power shall be as described in **[**§ 15–205(k)**] §§ 15–204(B) AND 15–205(K)** of this article.

15–204.

(a) Except as otherwise provided in this section, the liquor control board in each county shall have an absolute monopoly of the sale and distribution of the particular alcoholic beverages which elsewhere in this subtitle it is empowered to sell.

(b) **(1)** Provided, that in Montgomery County no person, firm, or corporation shall keep for sale any alcoholic beverage not purchased from the Department of Liquor Control for Montgomery County, provided, however, that nothing in this subsection shall apply to **[**holders of Class F licenses, to the holder of a wholesaler's license or a beer wholesaler's license**]** **A HOLDER OF A CLASS F LICENSE OR A HOLDER OF A CLASS 1 BEER, WINE AND LIQUOR, CLASS 2 WINE AND LIQUOR, CLASS 3 BEER AND WINE, CLASS 4 BEER, OR CLASS 5 WINE WHOLESALER'S LICENSE,** who **[**shall**]** **MAY** not sell or deliver any alcoholic beverage in Montgomery County for resale except to a county liquor dispensary.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION:

(I) A HOLDER OF A CLASS 6 LIMITED WINE WHOLESALER'S LICENSE OR OF A NONRESIDENT WINERY PERMIT MAY SELL OR DELIVER WINE DIRECTLY TO A COUNTY LIQUOR DISPENSARY, RESTAURANT, OR OTHER RETAIL DEALER IN MONTGOMERY COUNTY; AND

(II) A COUNTY LIQUOR DISPENSARY, RESTAURANT, OR OTHER RETAIL DEALER IN MONTGOMERY COUNTY MAY PURCHASE WINE DIRECTLY FROM A HOLDER OF A CLASS 6 LIMITED WINE WHOLESALER'S LICENSE OR OF A NONRESIDENT WINERY PERMIT.

(c) This section does not apply to the sale and distribution of light wine in Somerset County.

(d) In Wicomico County, the county dispensaries shall make wholesale sales of all liquors at a markup of not more than 15 percent above the operating cost to the dispensary to any licensee of a Class A, B, or C beer, wine and liquor license.

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.

Approved by the Governor, April 10, 2007.

CHAPTER 81

(House Bill 797)

AN ACT concerning

Study of Health Care Services for Children with Life–Threatening Medical Conditions

FOR the purpose of requiring the State Advisory Council on Quality Care at the End of Life and the Maryland Health Care Commission to jointly undertake a certain study relating to services for children with life–threatening medical conditions; requiring the Council and the Commission to report the effect of certain programs that provide assistance for children with life–threatening medical conditions, analyze the impact of certain programs in other states, consult with certain persons, and make certain recommendations; requiring the Council and the Commission to report to the Governor and the General Assembly on or before a certain date; and generally relating to the study of health care services for children with life–threatening medical conditions.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The State Advisory Council on Quality Care at the End of Life and the Maryland Health Care Commission shall jointly study the current services and potential care delivery alternatives available for the care of children with life–threatening medical conditions.

(b) As part of the study, the Council and the Commission shall:

(1) Describe the extent to which, under the Maryland Medical Assistance Program and privately funded health insurance or similar benefits, children who are diagnosed with a life–threatening medical condition are currently able to receive appropriate and timely palliative care services related to the symptoms of the condition, the side effects from treatment, and the psychological, social, and spiritual problems resulting from the condition or treatment;

(2) Analyze the impact in states that adopted the Children's Hospice International Program for All–Inclusive Care for Children and their Families ("CHI PACC") or other palliative care demonstration projects, including whether a CHI PACC program results in the reallocation of resources for more effective care within the parameters of overall budgetary neutrality;

(3) Consult with the Department of Health and Mental Hygiene, the Maryland Insurance Administration, the Hospice Network of Maryland, the Pediatric Palliative Care Coalition of Maryland, organizations that represent health care providers, and any other person that the Council and the Commission deem appropriate in connection with the study; and

(4) Present any recommendations that the Council or the Commission deems appropriate and feasible, including a potential CHI PACC or other demonstration project in this State, to advance the goal of improving health care services for children with life–threatening medical conditions.

(c) On or before December 1, 2007, the Council and the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the results of the study.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 82

(House Bill 850)

AN ACT concerning

Alcohol and Drug Abuse Administration – ~~State Drug and Alcohol Abuse Council~~ Needs Assessment

FOR the purpose of requiring the Alcohol and Drug Abuse Administration to conduct a certain needs assessment; ~~requiring the Administration to submit the needs assessment to the State Drug and Alcohol Abuse Council; establishing the State Drug and Alcohol Abuse Council in the Office of the Governor; providing for the membership of the Council; requiring the Governor to designate the chair of the Council; providing for the terms of the members of the Council; specifying the terms of the initial members of the Council; authorizing members of the Council to receive a certain reimbursement; providing that a majority of the voting members of the Council is a quorum; authorizing the Council to adopt certain procedures and consult with State agencies; authorizing the chair to designate certain individuals to serve on a committee or task force of the Council; requiring the Council to meet at a least four times a year; providing for the purpose and duties of the Council; requiring the Office of the Governor to~~

~~designate staff for the Council;~~ and generally relating to the Alcohol and Drug Abuse Administration and ~~the State Drug and Alcohol Abuse Council~~ a needs assessment for prevention, diagnosis, and treatment of drug misuse and alcohol misuse in the State.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 8–204
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

~~BY adding to~~
~~Article – Health – General~~
~~Section 8–6D–01 through 8–6D–06 to be under the new subtitle "Subtitle 6D. State Drug and Alcohol Abuse Council"~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2006 Supplement)~~

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

Article – Health – General

8–204.

(a) The Director is responsible for carrying out the powers, duties, and responsibilities of the Administration.

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

(1) Within the amounts made available by appropriation, gift, or grant, make any agreement or joint financial arrangement to do or have done anything necessary, desirable, or proper to carry out the purposes of this title; and

(2) Within the amounts made available by appropriation, employ a staff.

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

(1) Adopt regulations to carry out the provisions of this title, including provisions setting reasonable fees for the issuance and renewal of certification for those programs certified to perform medication–assisted treatment;

(2) **[**Survey and analyze the**]** **EVERY 3 YEARS, CONDUCT AN ASSESSMENT OF THE** needs of the State for prevention, diagnosis, and treatment of drug misuse or alcohol misuse **THAT IDENTIFIES THE FINANCIAL AND TREATMENT NEEDS OF EACH JURISDICTION AND OF EACH DRUG TREATMENT PROGRAM OPERATED BY THE STATE**;

~~**(3) SUBMIT THE NEEDS ASSESSMENT CONDUCTED UNDER PARAGRAPH (2) OF THIS SUBSECTION TO THE STATE DRUG AND ALCOHOL ABUSE COUNCIL;**~~

~~**[**~~(3)~~**]** (4)~~ Submit each report that the Secretary, Governor, or General Assembly requests;

~~**[**~~(4)~~**]** (5)~~ Gather and disseminate statistics and other information on drug misuse and alcohol misuse and drug misuse and alcohol misuse services;

~~**[**~~(5)~~**]** (6)~~ Work cooperatively and coordinate with other State agencies and advisory bodies in carrying out the provisions of this title; and

~~**[**~~(6)~~**]** (7)~~ Do anything necessary or proper to carry out the scope of this title.

~~**SUBTITLE 6D. STATE DRUG AND ALCOHOL ABUSE COUNCIL.**~~

~~**8–6D–01.**~~

~~**THERE IS A STATE DRUG AND ALCOHOL ABUSE COUNCIL IN THE OFFICE OF THE GOVERNOR.**~~

~~**8–6D–02.**~~

~~**(A) (1) THE COUNCIL CONSISTS OF THE FOLLOWING VOTING MEMBERS:**~~

~~**(I) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;**~~

~~**(II) TWO MEMBERS OF THE MARYLAND HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;**~~

~~**(III) THE SECRETARY OF HEALTH AND MENTAL HYGIENE, OR THE SECRETARY'S DESIGNEE;**~~

~~**(IV) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;**~~

~~**(V) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S DESIGNEE;**~~

~~**(VI) THE SECRETARY OF HUMAN RESOURCES, OR THE SECRETARY'S DESIGNEE;**~~

~~**(VII) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;**~~

~~**(VIII) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;**~~

~~**(IX) THE SPECIAL SECRETARY OF THE GOVERNOR'S OFFICE FOR CHILDREN, OR THE SPECIAL SECRETARY'S DESIGNEE;**~~

~~**(X) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;**~~

~~**(XI) TWO REPRESENTATIVES OF THE MARYLAND JUDICIARY, A DISTRICT COURT JUDGE, AND A CIRCUIT COURT JUDGE, APPOINTED BY THE GOVERNOR AFTER NOMINATION OF THE CHIEF JUDGE OF THE COURT OF APPEALS; AND**~~

~~**(XII) UP TO SEVEN MEMBERS WITH RELEVANT INTEREST OR EXPERTISE, APPOINTED BY THE GOVERNOR.**~~

~~**(2) THE COUNCIL CONSISTS OF THE FOLLOWING NONVOTING MEMBERS:**~~

~~**(I) THE DIRECTOR OF THE ALCOHOL AND DRUG ABUSE ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**~~

~~**(II) THE DIRECTOR OF MENTAL HYGIENE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**~~

~~**(III) THE DIRECTOR OF THE DIVISION OF PAROLE AND PROBATION OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; AND**~~

~~(IV) THE ASSISTANT SECRETARY FOR TREATMENT SERVICES OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

~~(B) THE GOVERNOR SHALL DESIGNATE A CHAIR FROM AMONG THE VOTING MEMBERS OF THE COUNCIL.~~

~~8–6D–03.~~

~~(A) (1) MEMBERS APPOINTED BY THE GOVERNOR UNDER § 8–6D–02(A)(1)(XII) OF THIS SUBTITLE:~~

~~(I) SERVE FOR A 3–YEAR TERM;~~

~~(II) MAY SERVE FOR A MAXIMUM OF TWO CONSECUTIVE TERMS; AND~~

~~(III) SERVE AT THE PLEASURE OF THE GOVERNOR.~~

~~(2) THE TERMS OF MEMBERS APPOINTED BY THE GOVERNOR UNDER § 8–6D–02(A)(1)(XII) OF THIS TITLE ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COUNCIL ON OCTOBER 1, 2007.~~

~~(B) A MEMBER OF THE COUNCIL:~~

~~(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COUNCIL; BUT~~

~~(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.~~

~~(C) (1) A MAJORITY OF THE VOTING MEMBERS OF THE COUNCIL IS A QUORUM.~~

~~(2) (I) THE COUNCIL MAY ADOPT PROCEDURES NECESSARY TO DO BUSINESS, INCLUDING THE CREATION OF COMMITTEES OR TASK FORCES.~~

~~(II) WITH THE CONSENT OF THE COUNCIL, THE CHAIR MAY DESIGNATE ADDITIONAL INDIVIDUALS WITH RELEVANT EXPERTISE TO SERVE ON A COMMITTEE OR TASK FORCE.~~

~~**(3) THE COUNCIL MAY CONSULT WITH STATE AGENCIES TO COMPLETE THE DUTIES OF THE COUNCIL.**~~

~~**(4) THE COUNCIL SHALL MEET AT LEAST FOUR TIMES A YEAR.**~~

~~**8–6D–04.**~~

~~**THE PURPOSE OF THE COUNCIL IS TO:**~~

~~**(1) DEVELOP A COMPREHENSIVE, COORDINATED, AND COLLABORATIVE APPROACH TO THE USE OF STATE AND LOCAL RESOURCES FOR PREVENTION, INTERVENTION, AND TREATMENT OF DRUG AND ALCOHOL ABUSE AMONG THE CITIZENS OF THE STATE;**~~

~~**(2) PROMOTE THE COORDINATED PLANNING AND DELIVERY OF STATE DRUG AND ALCOHOL ABUSE PREVENTION, INTERVENTION, EVALUATION, AND TREATMENT RESOURCES; AND**~~

~~**(3) PROMOTE COLLABORATION AND COORDINATION BY STATE SUBSTANCE ABUSE PROGRAMS WITH LOCAL DRUG AND ALCOHOL ABUSE COUNCILS, LOCAL HEALTH SYSTEMS, AND PRIVATE DRUG AND ALCOHOL ABUSE SERVICES PROVIDERS.**~~

~~**8–6D–05.**~~

~~**THE COUNCIL SHALL:**~~

~~**(1) IDENTIFY, DEVELOP, AND RECOMMEND THE IMPLEMENTATION OF COMPREHENSIVE SYSTEMIC IMPROVEMENTS IN ALCOHOL AND DRUG ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES IN THE STATE IN COORDINATION WITH STATE AND LOCAL CRIME PREVENTION AND HEALTH PROGRAMS;**~~

~~**(2) PREPARE AND ANNUALLY UPDATE A 2–YEAR PLAN:**~~

~~**(I) ESTABLISHING PRIORITIES AND STRATEGIES FOR THE DELIVERY AND FUNDING OF STATE DRUG AND ALCOHOL PREVENTION, INTERVENTION, AND TREATMENT SERVICES IN COORDINATION WITH THE NEEDS ASSESSMENT PROVIDED BY THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, THE GOVERNOR'S CRIMINAL JUSTICE STRATEGY, AND THE CRIMINAL JUSTICE SYSTEM; AND**~~

~~**(II) INCLUDING BEST PRACTICES AND PROGRAMS, RECOMMENDATIONS FOR COORDINATION AND COLLABORATION WITH LOCAL AND PRIVATE PROGRAMS, AND EMERGING NEEDS FOR STATE SUBSTANCE ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES;**~~

~~**(3) REPORT THE PLAN PREPARED UNDER ITEM (2) OF THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON OR BEFORE AUGUST 1 OF EACH YEAR;**~~

~~**(4) REVIEW PLANS SUBMITTED BY LOCAL DRUG AND ALCOHOL ABUSE COUNCILS AND IDENTIFY, DEVELOP, AND IMPLEMENT METHODS FOR COORDINATING THE STRATEGIES AND PRIORITIES IDENTIFIED IN THE LOCAL PLANS WITH THE STATE PLAN; AND**~~

~~**(5) (I) COORDINATE WITH THE GOVERNOR'S GRANTS OFFICE IN EFFORTS TO SEEK FUNDS FROM APPROPRIATE SOURCES FOR DRUG AND ALCOHOL ABUSE PREVENTION, INTERVENTION, AND TREATMENT SERVICES;**~~

~~**(II) ADVISE LOCAL DRUG AND ALCOHOL ABUSE COUNCILS OF FUNDING OPPORTUNITIES; AND**~~

~~**(III) RECEIVE, REVIEW, AND SERVE AS A REPOSITORY FOR STUDIES AND EVALUATIONS OF STATE AND LOCAL SUBSTANCE ABUSE PROGRAMS AND OTHER RELEVANT MATERIALS AND MAKE THE INFORMATION AVAILABLE TO STATE AND LOCAL AGENCIES.**~~

~~**8–6D–06.**~~

~~**THE OFFICE OF THE GOVERNOR SHALL DESIGNATE THE STAFF FOR THE COUNCIL.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the appointed members of the State Advisory Drug and Alcohol Abuse Council established under Section 1 of this Act shall expire as follows:~~

~~(1) four in 2010; and~~

~~(2) three in 2011.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 83

(House Bill 898)

AN ACT concerning

Motor Carrier Transportation Contracts – Indemnity Agreements Void

FOR the purpose of providing that certain indemnity agreements, collateral to, or affecting certain motor carrier transportation contracts that purport to indemnify the promisee against certain liability resulting from certain conduct by the promisee are against public policy and are void and unenforceable; defining certain terms; and generally relating to certain indemnity agreements in certain motor carrier transportation contracts.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–134.2
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–401
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Transportation

11–134.2.

(a) "Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of persons or property by motor vehicle.

(b) "Motor carrier" includes a motor carrier's owners, agents, officers, representatives, and employees.

Article – Courts and Judicial Proceedings

5–401.

(A) A covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relating to the construction, alteration, repair, or maintenance of a building, structure, appurtenance or appliance, including moving, demolition and excavating connected with it, purporting to indemnify the promisee against liability for damages arising out of bodily injury to any person or damage to property caused by or resulting from the sole negligence of the promisee or indemnitee, his agents or employees, is against public policy and is void and unenforceable. This section does not affect the validity of any insurance contract, workers' compensation, or any other agreement issued by an insurer.

(B) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(2)~~ (II) "MOTOR CARRIER" HAS THE MEANING STATED IN § 11–134.2 OF THE TRANSPORTATION ARTICLE.

~~(3)~~ (III) 1. "MOTOR CARRIER TRANSPORTATION CONTRACT" MEANS A CONTRACT, AGREEMENT, OR UNDERSTANDING CONCERNING:

~~(I)~~ A. THE TRANSPORTATION OF PROPERTY FOR COMPENSATION OR HIRE BY A MOTOR CARRIER;

~~(II)~~ B. THE ENTRANCE ON PROPERTY BY A MOTOR CARRIER FOR THE PURPOSE OF LOADING, UNLOADING, OR TRANSPORTING PROPERTY FOR COMPENSATION OR HIRE; OR

~~(III)~~ C. A SERVICE INCIDENTAL TO AN ACTIVITY DESCRIBED IN ITEM (I) OR (II) OF THIS PARAGRAPH, INCLUDING STORAGE OF PROPERTY.

2. "MOTOR CARRIER TRANSPORTATION CONTRACT" DOES NOT INCLUDE:

A. THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT ADMINISTERED BY THE INTERMODAL ASSOCIATION OF NORTH AMERICA, AS AMENDED BY THE INTERMODAL INTERCHANGE EXECUTIVE COMMITTEE; OR

B. OTHER AGREEMENTS PROVIDING FOR THE INTERCHANGE, USE, OR POSSESSION OF INTERMODAL CHASSIS, CONTAINERS, OR OTHER INTERMODAL EQUIPMENT.

~~(4)~~ (IV) "PROMISEE" INCLUDES AN AGENT, EMPLOYEE, SERVANT, OR INDEPENDENT CONTRACTOR WHO IS DIRECTLY RESPONSIBLE TO THE PROMISEE, OTHER THAN A MOTOR CARRIER THAT IS A PARTY TO A MOTOR CARRIER TRANSPORTATION CONTRACT WITH THE PROMISEE, AND AN AGENT, EMPLOYEE, SERVANT, OR INDEPENDENT CONTRACTOR DIRECTLY RESPONSIBLE TO THAT MOTOR CARRIER.

~~(5)~~ (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PROVISION, CLAUSE, COVENANT, OR AGREEMENT CONTAINED IN, COLLATERAL TO, OR AFFECTING A MOTOR CARRIER TRANSPORTATION CONTRACT THAT PURPORTS TO INDEMNIFY, DEFEND, OR HOLD HARMLESS, OR HAS THE EFFECT OF INDEMNIFYING, DEFENDING, OR HOLDING HARMLESS, THE PROMISEE AGAINST LIABILITY FOR LOSS OR DAMAGE RESULTING FROM THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF THE PROMISEE IS AGAINST PUBLIC POLICY AND IS VOID AND UNENFORCEABLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 84

(House Bill 1109)

AN ACT concerning

District Court – Civil Jurisdiction – Amount in Controversy

FOR the purpose of altering the civil jurisdiction of the District Court to include certain cases involving not more than a certain amount in controversy; providing for the application of this Act; and generally relating to the civil jurisdiction of the District Court.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–401(1) and (3)

Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

4–401.

Except as provided in § 4–402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(1) An action in contract or tort, if the debt or damages claimed do not exceed **[**$25,000**]** **$30,000**, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(3) A matter of attachment before judgment, if the sum claimed does not exceed **[**$25,000**]** **$30,000**, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

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 case filed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 85

(House Bill 1170)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2005 – St. Mary's County – Sotterley Plantation

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2005 to extend the deadline by which the Board of Directors of Sotterley Foundation,

Inc. must present evidence to the Board of Public Works that a matching fund will be provided.

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005
Section 1(3) Item ZA01 (BM)

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

Chapter 445 of the Acts of 2005

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(BM)	Sotterley Plantation. Provide a grant equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Sotterley Foundation, Inc. for the planning, design, acquisition, construction, installation, and capital equipping of security upgrades for Sotterley Plantation, located in Hollywood, subject to a requirement that the grantee grant and convey an historic easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions **AND THE GRANTEE MUST PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED BY JUNE 1, 2009** (St. Mary's County).....	50,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 86

(House Bill 1184)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2006 – Montgomery County – Blair Baseball Field Improvements

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2006 to permit the Board of Directors of Maryland Community Baseball, Inc. to include funds expended on or after a certain date in the matching fund.

BY repealing and reenacting, with amendments,
Chapter 46 of the Acts of the General Assembly of 2006
Section 1(3) Item ZA02

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

Chapter 46 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

(AS) Blair Baseball Field Improvements. Provide a grant equal to the lesser of (i) $50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Maryland Community Baseball, Inc. for the planning, design, repair, renovation, construction of improvements, and capital equipping of the Blair Baseball Field, located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act**, INCLUDING FUNDS EXPENDED ON OR**

AFTER JANUARY 1, 2002 (Montgomery County)..... 50,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 87

(House Bill 1185)

AN ACT concerning

Film Production Activity – Employer Wage Rebate Program

FOR the purpose of altering the method for determining the rebate payable from the Film Production Employer Wage Rebate Fund of the Department of Business and Economic Development; altering the scope of certain costs eligible for the rebate; renaming the Fund; defining certain terms; and generally relating to the Film Production Employer Wage Rebate Fund and film production activity in the State.

BY repealing and reenacting with amendments,
Article 83A – Department of Business and Economic Development
Section 5–1801 and 5–1803 through 5–1805 to be under the amended subtitle "Subtitle 18. Film Production Rebate Fund"
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article 83A – Department of Business and Economic Development

Subtitle 18. Film Production **[**Activity – Employer Wage**]**Rebate **[**Grant Program**]** **FUND**.

5–1801.

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

(b) (1) "Film production activity" means the production of film or video projects for which the total direct costs incurred in the State are at least $500,000 and which are intended for nationwide commercial distribution.

(2) "Film production activity" includes the production of feature films, television projects, commercials, corporate films, infomercials, music videos, digital, animation, and multimedia projects.

(3) "Film production activity" does not include:

(i) Production of:

1. Student films;

2. Noncommercial personal videos;

3. Sports broadcasts;

4. Broadcasts of live events; or

5. Talk shows; or

(ii) Any activity not necessary to and undertaken directly and exclusively for the making of a master film, tape, or image.

(c) "Fund" means the Film Production **[**Employer Wage**]** Rebate Fund established under § 5–1805 of this subtitle.

(d) **[**(1) "Qualified employee wages" means the first $25,000 of the portion of an employee's wages that are directly attributable to the employee's work on the film production activity in the State.

(2) "Qualified employee wages" does not include any portion of the wages of an employee whose wages in connection with the film production activity equal or exceed $1,000,000.

(e)**]** "Qualified film production **[**employer**]** **ENTITY**" means an **[**employer**]** **ENTITY** that is carrying out a film production activity and is determined by the Secretary under § 5–1804 of this subtitle to be an **[**employer**]** **ENTITY** eligible for the rebate provided under this subtitle.

[(f)**] (E)** (1) "Total direct costs of a film production activity" means the total of costs incurred **IN THE STATE** that are necessary to carry out a film production activity.

(2) "Total direct costs of a film production activity" include costs incurred for:

(i) Employee wages and benefits;

(ii) Fees for services;

(iii) Acquiring or leasing real property or tangible or intangible personal property; or

(iv) Any other expense necessary to carry out a film production activity.

5–1803.

[A**] AT THE DISCRETION OF THE DEPARTMENT, A** qualified film production **[**employer**] ENTITY** may receive a rebate in **[**the**] AN** amount **[**of 50% of the amount of qualified employee wages that the qualified film production employer has paid, up to a maximum rebate amount of $2,000,000 for any particular film production activity**] UP TO 25% OF THE TOTAL DIRECT COSTS OF A FILM PRODUCTION ACTIVITY**.

5–1804.

(a) To qualify for the rebate provided under this subtitle, a film production **[**employer**] ENTITY** must notify the Department of its intent to seek the rebate before commencing the film production activity.

(b) To apply for the rebate, the film production **[**employer**] ENTITY** shall submit the following to the Secretary:

(1) A description of the anticipated film production activity, including its projected total budget with estimated number of employees and total wages, and anticipated dates for carrying out the major elements of the film production activity; and

(2) Any other information related to the film production activity and the **[**employer**] ENTITY** seeking the rebate that the Secretary requires.

(c) The Secretary may require any information required under this section to be verified by an independent auditor selected and paid by the **[**employer**] ENTITY** seeking the rebate certification and approved by the Secretary.

(d) As a condition to applying for and receiving the rebate, the qualified film production **[**employer**]** **ENTITY** shall enter into a grant agreement with the Department in form and substance satisfactory to the Department.

5–1805.

(a) There is a Film Production **[**Employer Wage**]** Rebate Fund within the Department.

(b) The Department may use the Fund to:

(1) **[**Make a grant**]** **GRANT** to a qualified film production **[**employer to**]** **ENTITY AS A** rebate **[**50% of the qualified employee wages**]** **A PERCENTAGE OF THE TOTAL DIRECT COSTS OF A FILM PRODUCTION ACTIVITY** paid by the qualified film production **[**employer**]** **ENTITY** for a film production activity**, AS PROVIDED UNDER § 5–1803 OF THIS SUBTITLE**; and

(2) Pay the administrative, legal, and actuarial expenses of the Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 88

(House Bill 1187)

AN ACT concerning

Motor Vehicle Liability Insurance – Exclusion of Named Driver

FOR the purpose of altering the scope of certain provisions of law that require certain insurers to offer to exclude certain individuals from certain liability insurance policies; requiring certain insurers to offer to exclude certain individuals from a private passenger motor vehicle liability insurance policy instead of canceling, refusing to renew, or increasing the premiums on the policy; providing that, except for private passenger policies, certain insurers may, but are not required to, offer to exclude certain individuals from a policy of motor vehicle liability insurance instead of canceling, refusing to renew, or increasing the premiums

on the policy; making clarifying and conforming changes; and generally relating to motor vehicle liability insurance.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–609
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

27–609.

(a) (1) **(I)** This **[**subsection**]** **PARAGRAPH** applies to **[**an automobile**]** **A PRIVATE PASSENGER MOTOR VEHICLE** liability insurance policy issued in the State **[**to a resident of a household,**]** under which more than one individual is insured.

[(2)**]** **(II)** If an insurer is authorized under this article to cancel, nonrenew, or increase the premiums on a policy of **[**automobile**]** **PRIVATE PASSENGER MOTOR VEHICLE** liability insurance subject to this **[**subsection**]** **PARAGRAPH** because of the claim experience or driving record of one or more but less than all of the individuals insured under the policy, the insurer, instead of cancellation, nonrenewal, or premium increase, shall offer to continue or renew the insurance, but to exclude all coverage when a motor vehicle is operated by the specifically named excluded individual or individuals whose claim experience or driving record could have justified the cancellation, nonrenewal, or premium increase.

(2) (I) THIS PARAGRAPH APPLIES TO A MOTOR VEHICLE LIABILITY INSURANCE POLICY ISSUED IN THE STATE, OTHER THAN A POLICY SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, UNDER WHICH MORE THAN ONE INDIVIDUAL IS INSURED.

(II) IF AN INSURER IS AUTHORIZED UNDER THIS ARTICLE TO CANCEL, NONRENEW, OR INCREASE THE PREMIUMS ON A POLICY OF MOTOR VEHICLE LIABILITY INSURANCE SUBJECT TO THIS PARAGRAPH BECAUSE OF THE CLAIM EXPERIENCE OR DRIVING RECORD OF ONE OR MORE BUT LESS THAN ALL OF THE INDIVIDUALS INSURED UNDER THE POLICY, THE INSURER, INSTEAD OF CANCELLATION, NONRENEWAL, OR PREMIUM INCREASE, MAY OFFER TO CONTINUE OR RENEW THE INSURANCE, BUT TO EXCLUDE ALL COVERAGE WHEN A MOTOR VEHICLE IS OPERATED BY THE SPECIFICALLY NAMED EXCLUDED INDIVIDUAL OR INDIVIDUALS WHOSE CLAIM EXPERIENCE OR DRIVING RECORD

COULD HAVE JUSTIFIED THE CANCELLATION, NONRENEWAL, OR PREMIUM INCREASE.

(b) If an insurer legally could refuse to issue a policy of **[**automobile**]** **MOTOR VEHICLE** liability insurance under which more than one individual is insured because of the claim experience or driving record of one or more but less than all of the individuals applying to be insured under the policy, the insurer may issue the policy but exclude all coverage when a motor vehicle is operated by the specifically named excluded individual or individuals whose claim experience or driving record could have justified the refusal to issue.

(c) **[**The**]** **A** policy described in subsection (a) or (b) of this section may be endorsed to exclude specifically all coverage for any of the following when the named excluded driver is operating a motor vehicle covered under the policy whether or not that operation or use was with the express or implied permission of an individual insured under the policy:

(1) the excluded operator or user;

(2) the vehicle owner;

(3) family members residing in the household of the excluded operator or user or vehicle owner; and

(4) any other **[**individual**]** **PERSON**, except for the coverage required by §§ 19–505 and 19–509 of this article if that coverage is not available under another **[**automobile**]** **MOTOR VEHICLE** policy.

(d) The premiums charged on a policy that excludes a named driver or drivers under this section may not reflect the claim experience or driving record of the excluded named driver or drivers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 89

(House Bill 1191)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2004 – Baltimore County – The Children's Home

FOR the purpose of removing a requirement that the Board of Directors of The Children's Home, Inc. grant a certain easement to the Maryland Historical Trust.

BY repealing and reenacting, with amendments,
Chapter 204 of the Acts of the General Assembly of 2003, as amended by Chapter 432 of the Acts of the General Assembly of 2004
Section 13(3)(i) Item T and (ii) Item I

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

Chapter 204 of the Acts of 2003, as amended by Chapter 432 of the Acts of 2004

SECTION 13. AND BE IT FURTHER ENACTED, That:

(3)

(i) $15,200,000 for the following projects initially approved by the Senate:

(T) The Children's Home. Provide a grant equal to the lesser of (i) $250,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The Children's Home, Inc. for the construction and capital equipping of a diagnostic treatment facility, located in Catonsville**[**, subject to a requirement that the grantee grant and convey an historic easement to the Maryland Historical Trust**]** (Baltimore County) 250,000

(ii) $2,500,000 for the following projects initially approved by the House:

(I) The Children's Home. Provide a grant equal to the lesser of (i) $200,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The Children's Home, Inc. for the construction and capital equipping of a diagnostic treatment facility, located in Catonsville**[**, subject to a requirement that the grantee grant and convey an historic easement to the Maryland Historical Trust**]** (Baltimore County) 200,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 90

(House Bill 1197)

AN ACT concerning

Business and Economic Development – Maryland Research and Development Tax Credit

FOR the purpose of providing for the continuation of the Maryland research and development tax credit if a certain federal credit is repealed or terminates; and generally relating to the Maryland research and development tax credit.

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–721
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

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

Article – Tax – General

10–721.

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Business and Economic Development.

(3) "Maryland base amount" means the base amount as defined in § 41(c) of the Internal Revenue Code that is attributable to Maryland, determined by:

(i) substituting "Maryland qualified research and development expense" for "qualified research expense";

(ii) substituting "Maryland qualified research and development" for "qualified research"; and

(iii) using, instead of the "fixed base percentage":

1. the percentage that the Maryland qualified research and development expense for the 4 taxable years immediately preceding the taxable year in which the expense is incurred is of the gross receipts for those years; or

2. for a taxpayer who has fewer than 4 but at least 1 prior taxable year, the percentage as determined under item 1 of this item, determined using the number of immediately preceding taxable years that the taxpayer has.

(4) "Maryland gross receipts" means gross receipts that are reasonably attributable to the conduct of a trade or business in this State, determined under methods prescribed by the Comptroller based on standards similar to the standards under § 10–402 of this title.

(5) "Maryland qualified research and development" means qualified research as defined in § 41(d) of the Internal Revenue Code that is conducted in this State.

(6) "Maryland qualified research and development expenses" means qualified research expenses as defined in § 41(b) of the Internal Revenue Code incurred for Maryland qualified research and development.

(b) Subject to the limitations of this section, an individual or a corporation may claim credits against the State income tax in an amount equal to:

(1) 3% of the Maryland qualified research and development expenses, not exceeding the Maryland base amount for the individual or corporation, paid or incurred by the individual or corporation during the taxable year; and

(2) 10% of the amount by which the Maryland qualified research and development expenses paid or incurred by the individual or corporation during the taxable year exceed the Maryland base amount for the individual or corporation.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, an individual or corporation shall submit an application to the Department for the credits allowed under subsection (b)(1) and (2) of this section.

(2) (i) Except as provided under paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(1) of this section may not exceed $3,000,000 for any calendar year.

(ii) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(1) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(1) of this section in the calendar year.

(3) (i) Except as provided in paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(2) of this section may not exceed $3,000,000 for any calendar year.

(ii) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(2) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(2) of this section in the calendar year.

(4) (i) For any calendar year, if the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section, the maximum specified under paragraph (3)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section.

(ii) For any calendar year, if the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section, the maximum specified under paragraph (2)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section.

(5) By December 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, the Department shall certify to the individual or corporation the amount of the research and development tax credits approved by the Department for the individual or corporation under subsection (b)(1) and (2) of this section.

(6) To claim the approved credits allowed under this section, an individual or corporation shall:

(i) file an amended income tax return for the taxable year in which the Maryland qualified research and development expense was incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

(d) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, an individual or corporation may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(1) the full amount of the excess is used; or

(2) the expiration of the 7th taxable year after the taxable year in which the Maryland qualified research and development expense was incurred.

(e) (1) In determining the amount of the credit under this section:

(i) all members of the same controlled group of corporations, as defined under § 41(f) of the Internal Revenue Code, shall be treated as a single taxpayer; and

(ii) the credit allowable by this section to each member shall be its proportionate shares of the qualified research expenses giving rise to the credit.

(2) The Comptroller shall adopt regulations providing for:

(i) determination of the amount of the credit under this section in the case of trades or businesses, whether or not incorporated, that are under common control;

(ii) pass–through and allocation of the credit in the case of estates and trusts, partnerships, unincorporated trades or businesses, and S corporations;

(iii) adjustments in the case of acquisitions and dispositions described in § 41(f)(3) of the Internal Revenue Code; and

(iv) determination of the credit in the case of short taxable years.

(3) The regulations adopted under paragraph (2) of this subsection shall be based on principles similar to the principles applicable under § 41 of the Internal Revenue Code and regulations adopted thereunder.

(f) (1) The Department of Business and Economic Development and the Comptroller jointly shall adopt regulations to prescribe standards for determining when research or development is considered conducted in the State for purposes of determining the credit under this section.

(2) In adopting regulations under this subsection, the Department and the Comptroller may consider:

(i) the location where services are performed;

(ii) the residence or business location of the person or persons performing services;

(iii) the location where supplies used in research and development are consumed; and

(iv) any other factors that the Department determines are relevant for the determination.

(g) (1) On or before January 10 of each year, the Department shall report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, on the credits approved under this section.

(2) The report required under paragraph (1) of this subsection shall include for each individual or corporation approved to receive a credit under subsection (b)(1) and (2) of this section in the prior calendar year:

(i) the individual's or corporation's name and address; and

(ii) the amount of the credit approved.

(3) The report required under paragraph (1) of this subsection shall include the name of the individual or corporation and the aggregate amount of credits approved in all calendar years for each individual or corporation under subsection (b)(1) and (2) of this section.

(4) The report required under paragraph (1) of this subsection shall summarize for the credits approved under subsection (b)(1) of this section and for the credits approved under subsection (b)(2) of this section:

(i) the total number of applicants for credits under this section in each calendar year;

(ii) the number of applications for which a tax credit was approved in each calendar year; and

(iii) the total credits authorized under this section for all calendar years under this section.

(H) IF THE PROVISIONS OF § 41 OF THE INTERNAL REVENUE CODE GOVERNING THE FEDERAL RESEARCH AND DEVELOPMENT TAX CREDIT ARE REPEALED OR TERMINATE, THE PROVISIONS OF THIS SECTION CONTINUE TO OPERATE AS IF THE PROVISIONS OF § 41 OF THE INTERNAL REVENUE CODE REMAIN IN EFFECT, AND THE MARYLAND RESEARCH AND DEVELOPMENT TAX CREDIT UNDER THIS SECTION SHALL CONTINUE TO BE AVAILABLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 91

(House Bill 1206)

AN ACT concerning

Correctional Services – Inmates and Detainees Who Are Pregnant or Have Newborn Child

FOR the purpose of altering parole eligibility requirements for certain individuals detained or confined in a correctional facility; altering the requirements for special leave for certain inmates; establishing authority for female inmates or detainees to retain custody of newborn children under certain circumstances for participation in certain programs; transferring certain authority relating to inmates and detainees from the Division of Correction to the Department of Public Safety and Correctional Services; and generally relating to individuals detained or confined in a correctional facility who are pregnant or have a newborn child.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 3–810, 7–301(a), and 9–601
Annotated Code of Maryland
(1999 Volume and 2006 Supplement)

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

Article – Correctional Services

3–810.

(a) On the recommendation of treatment staff and with the approval of the managing official of a correctional facility in the Division, the Commissioner or Deputy Commissioner may grant special leave to an inmate to allow an inmate to participate in a special community or other meritorious program or activity within or outside of the State that the Commissioner and managing official believe:

(1) would benefit the inmate;

(2) would not be detrimental to the public; and

(3) would help rehabilitate the inmate.

(b) The Commissioner or Deputy Commissioner may grant special leave for the purpose of allowing an inmate to:

(1) attend an educational program;

(2) improve job skills;

(3) attend a trade licensing examination;

(4) be interviewed for employment;

(5) participate as a volunteer for a governmental unit in an activity that serves the general public;

(6) participate in athletic competition; **[**or**]**

(7) participate in a civic activity that benefits the inmate or the community**; OR**

(8) PARTICIPATE IN A RESIDENTIAL OR NONRESIDENTIAL TREATMENT PROGRAM INCLUDING A PROGRAM FOR PREGNANT WOMEN OR A PROGRAM TO ESTABLISH BONDING BETWEEN MOTHERS AND NEWBORN CHILDREN.

(C) AN INMATE GRANTED LEAVE UNDER THIS SECTION MAY BE ALLOWED TO REMAIN OUTSIDE THE INSTITUTION FOR ANY PERIOD OF TIME CONSISTENT WITH PUBLIC SAFETY.

[(c)**] (D)** (1) An inmate is not eligible for special leave under this section unless the managing official and Commissioner concur that positive attitudinal and growth patterns are being established.

(2) Special leave shall be issued in writing and signed personally by both the managing official and either the Commissioner or Deputy Commissioner.

(3) As a condition of granting special leave, the Commissioner may require that the inmate agree to waive the right to contest extradition proceedings.

(4) The Commissioner or Deputy Commissioner shall file the order granting special leave in the Division.

7–301.

(a) (1) Except as otherwise provided in this section, the Commission shall request that the Division of Parole and Probation make an investigation for inmates in a local correctional facility and the Division of Correction make an investigation for inmates in a State correctional facility that will enable the Commission to determine the advisability of granting parole to an inmate who:

(i) has been sentenced under the laws of the State to serve a term of 6 months or more in a correctional facility; and

(ii) has served in confinement one–fourth of the inmate's aggregate sentence.

(2) Except as provided in paragraph (3) of this subsection, or as otherwise provided by law or in a predetermined parole release agreement, an inmate is not eligible for parole until the inmate has served in confinement one–fourth of the inmate's aggregate sentence.

(3) An inmate may be released on parole at any time in order to undergo drug or alcohol treatment**, MENTAL HEALTH TREATMENT, OR TO PARTICIPATE IN A RESIDENTIAL PROGRAM OF TREATMENT IN THE BEST INTEREST OF AN INMATE'S EXPECTED OR NEWBORN CHILD** if the inmate:

(i) is not serving a sentence for a crime of violence, as defined in § 14–101 of the Criminal Law Article;

(ii) is not serving a sentence for a violation of Title 3, Subtitle 6, § 5–608(d), § 5–609(d), § 5–612, § 5–613, § 5–614, § 5–621, § 5–622, or § 5–628 of the Criminal Law Article; and

(iii) has been determined to be amenable to **[**drug or alcohol**]** treatment.

9–601.

(a) If a representation is made to the managing official of a correctional facility in the **[**Division of Correction**]** **DEPARTMENT** that an inmate in the correctional facility is pregnant and about to give birth, the managing official:

(1) a reasonable time before the anticipated birth, shall make an investigation; and

(2) if the facts require, shall recommend through the **[**Division of Correction**]** **MARYLAND PAROLE COMMISSION** that the Governor exercise executive clemency.

(b) Without notice, the Governor may:

(1) parole the inmate;

(2) commute the inmate's sentence; or

(3) suspend the execution of the inmate's sentence for a definite period or from time to time.

(c) If the Governor suspends the execution of an inmate's sentence, the managing official of the correctional facility:

(1) a reasonable time before the anticipated birth, shall have the inmate transferred from the correctional facility to another facility that provides comfortable accommodations, maintenance, and medical care under supervision and safeguards that the managing official determines necessary to prevent the inmate's escape from custody; and

(2) shall require the inmate to be returned to the correctional facility as soon after giving birth as the inmate's health allows.

(d) (1) The expenses of an inmate's accommodation, maintenance, and medical care incurred as a result of the inmate's transfer under subsection (c)(1) of this section shall be paid:

(i) by the inmate;

(ii) by relatives or friends of the inmate; or

(iii) from any available fund that may be used to pay the hospital expenses of an inmate in the correctional facility.

(2) If money is not available under any of the sources identified in paragraph (1) of this subsection to pay the specified expenses:

(i) the county from which the inmate was committed is responsible for payment of the expenses; and

(ii) the managing official of the correctional facility to which the inmate was committed shall collect payment in accordance with Title 16 of the Health – General Article.

(e) (1) After receiving proof from the father or other relative of the child of the ability to properly care for the child, the **[**Division of Correction**]** **DEPARTMENT** may order that the father or other relative take custody of the child.

(2) The father or other relative of the child that receives custody under paragraph (1) of this subsection shall maintain and care for the child at the father's or other relative's expense until the inmate is released from the correctional facility or the child, as provided by law, is adopted.

(3) If the father or other relative of the child is unable to properly maintain and care for the child, the **[**Division of Correction**]** **DEPARTMENT** shall place the child in the care of the Department of Human Resources.

(F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT MAY ALLOW AN INMATE TO PARTICIPATE IN PROGRAMMING AND TO RETAIN CUSTODY OF THE NEWBORN CHILD IN OR OUT OF CUSTODY IF:

(1) THE ENVIRONMENT AND PROGRAM IS CONSISTENT WITH THE BEST INTERESTS OF THE CHILD AND CONSISTENT WITH PUBLIC SAFETY; AND

(2) THE CUSTODY IS NOT INCONSISTENT WITH THE PARENTAL RIGHTS OF ANY INDIVIDUAL WHO IS NOT DETAINED OR CONFINED IN A CORRECTIONAL FACILITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 92

(House Bill 1216)

AN ACT concerning

Abandoned Land – Certificates of Reservation for Public Use

FOR the purpose of altering the definition of "abandoned land" to include land within or contiguous to land owned and managed by the Department of Natural Resources for purposes of obtaining certificates of reservation of land for public use; providing for the termination of this Act; and generally relating to certificates of reservation of land for public use.

BY repealing and reenacting, with amendments,

Article – Real Property
Section 13–101
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Real Property

13–101.

(a) In this title the following words have the meanings indicated unless otherwise apparent from context.

(b) "Abandoned land" means land that has boundaries that are located within or contiguous to **[**Green Ridge State Forest**]** **LAND OWNED AND MANAGED BY THE DEPARTMENT OF NATURAL RESOURCES**:

(1) For which no property tax payment has been made within 20 years immediately preceding the date of an application for a certificate of reservation for public use by a unit of State government; and

(2) Which has not been actually possessed by a person, under claim of title or otherwise, for a continuous period of 20 years immediately preceding the date of an application for a certificate of reservation for public use by a unit of State government.

(c) "Certificate of reservation" means a certificate issued by the Commissioner at the request of a governmental body upon a determination that vacant land or abandoned land exists and the governmental body wishes to reserve the land for public use.

(d) "Commission" means the Hall of Records Commission.

(e) "Commissioner" means the State Archivist who, while performing the duties and exercising the powers provided in this title, is known as the "Commissioner of Land Patents".

(f) "Expense" includes any charge, cost, deposit, fee, or tax incurred in connection with a land patent proceeding.

(g) "Governmental body" includes any unit of State government, any county or municipal corporation, or any agency or instrumentality of any county or municipal corporation.

(h) (1) "Land" means any area of land in the State, including any two or more areas of land with a common boundary for at least part of their perimeters.

(2) "Land" includes vacant land and abandoned land.

(3) "Land" does not include any area covered by navigable water unless it was included in a patent issued before March 3, 1862.

(i) "Mail" means to deposit in the United States mails, postage prepaid, endorsed "Restricted Delivery –– Return Receipt Requested".

(j) "Patent" means:

(1) Any grant confirmed by Article 5 of the Declaration of Rights of the Maryland Constitution;

(2) Any valid grant made under prior law by the State of its interests in any vacant, resurveyed, escheat, or confiscated land; or

(3) Any grant made under this title by the State of its interest in any land.

(k) "Public use" means use by or for the benefit of the public.

(l) "Survey", whether used as a noun or as a verb in any form or tense, means:

(1) The act of surveying any vacant land in order to obtain a patent for the land; or

(2) The act of resurveying any land for which a patent previously was issued in order to obtain a new patent for the land.

(m) "Surveyor" means any professional land surveyor or property line surveyor licensed under the Maryland Professional Land Surveyors Act.

(n) "Vacant land" means land for which a patent never has been issued or for which the applicant believes that a patent never has been issued.

(o) "Verify" means to state in writing, under penalties of perjury, that the matters and facts set forth in the document to which the statement relates are true and complete to the best of the knowledge, information, and belief of the person making the statement.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 5 years and, at the end of September 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 10, 2007.

CHAPTER 93

(House Bill 1217)

AN ACT concerning

Maryland Heritage Areas Authority

FOR the purpose of extending a certain time period for the Maryland Heritage Areas Authority to make certain grants for acquisition or development; altering the area within which the Authority may make certain grants; defining a certain term; and generally relating to the Maryland Heritage Areas Authority.

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 13–1101(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to
Article – Financial Institutions
Section 13–1101(j)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 13–1113(c)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Financial Institutions

13–1101.

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

(J) "TARGET INVESTMENT ZONE" MEANS A SPECIFIC AREA:

(1) LOCATED WITHIN A CERTIFIED HERITAGE AREA;

(2) IDENTIFIED IN A MANAGEMENT PLAN APPROVED BY THE AUTHORITY OR THROUGH A PROCESS SPECIFIED BY THE AUTHORITY; AND

(3) INTENDED TO ATTRACT SIGNIFICANT PRIVATE INVESTMENT TO THE AREA IN ORDER TO ENCOURAGE DEMONSTRABLE RESULTS AND RETURN ON PUBLIC INVESTMENT WITHIN THE AREA IN A RELATIVELY SHORT PERIOD OF TIME.

13–1113.

(c) (1) Except as provided in paragraph (2) of this subsection, the Authority may make acquisition and development grants **[**to a local jurisdiction or other appropriate entity under subsection (a) of this section**]** **ONLY FOR PROJECTS IN A TARGET INVESTMENT ZONE WITHIN A CERTIFIED HERITAGE AREA** for a period of up to **[**5**]** **10** years after the day on which the Authority **FIRST** approves **[**the management plan for the certified heritage area within the local jurisdiction**]** **FUNDING FOR ACQUISITION OR DEVELOPMENT GRANTS IN:**

(I) THE TARGET INVESTMENT ZONE; OR

(II) THAT PORTION OF THE TARGET INVESTMENT ZONE ADDED THROUGH A BOUNDARY AMENDMENT APPROVED BY THE AUTHORITY.

(2) The Authority may make acquisition or development grants for a project **IN A TARGET INVESTMENT ZONE** after the **[**5–year period**]** **10–YEAR PERIOD DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, OR OUTSIDE A TARGET INVESTMENT ZONE,** if the Authority determines that the project is essential for the success of the management plan for the certified heritage area.

(3) An acquisition or development grant:

(i) May not be used for any purpose other than implementation of the certified heritage area in conformity with the approved management plan; and

(ii) May not exceed 50% of the total project cost for which the grant is awarded.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 94

(House Bill 1232)

AN ACT concerning

Baltimore City – Park Heights Golf Range and Family Sports Park Loan of 2000

FOR the purpose of ~~extending the deadline by which the Board of Directors of the Park Heights Golf Range and Family Sports Park, Inc. must present evidence to the Board of Public Works that a matching fund will be provided~~ altering the Baltimore City – Park Heights Golf Range and Family Sports Park Loan of 2000 to require that the loan proceeds be encumbered by the Board of Public Works or expended for certain purposes by a certain date.

~~BY repealing and reenacting, with amendments,~~
BY adding to
Chapter 440 of the Acts of the General Assembly of 2000~~, as amended by Chapter 290 of the Acts of the General Assembly of 2002~~
Section 1~~(3) Item ZA00 (EE)~~ (6)

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

Chapter 440 of the Acts of 2000~~, as amended by Chapter 290 of the Acts of 2002~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

~~(3) ZA00 MISCELLANEOUS GRANT PROGRAMS~~

~~(EE) Park Heights Golf Range and Family Sports Complex. 500,000~~

~~Provide a grant to the Board of Directors of the Park Heights Golf Range and Family Sports Park, Inc. to assist in the acquisition, design, and construction of the Park Heights Golf Range and Family Sports Complex.~~ ~~**NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2009, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED**~~ (Baltimore City) .....

(6) THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 95

(House Bill 1235)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2005 – Baltimore City – Baltimore Museum of Art

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2005 to change the authorized uses of a certain grant to the Board of Trustees of the Baltimore Museum of Art, Inc.

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005
Section 1(3) Item ZA01 (A)

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

Chapter 445 of the Acts of 2005

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(A) Baltimore Museum of Art. Provide a grant equal to the lesser of (i) $337,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Baltimore Museum of Art, Inc. for the design, renovation, reconstruction, and capital equipping of the **[**west wing of the**]** Baltimore Museum of Art, located in Baltimore City, subject to a requirement that the grantee grant and convey an historic easement to the Maryland Historical Trust (Baltimore City) 337,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 96

(House Bill 1248)

AN ACT concerning

Maryland Prepaid College Trust – Refunds – Early Graduation from College

FOR the purpose of altering the circumstances under which certain refunds are available from the Maryland Prepaid College Trust; and generally relating to the Maryland Prepaid College Trust.

BY repealing and reenacting, without amendments,
Article – Education
Section 18–1910(a)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Education
Section 18–1910(b)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Education

18–1910.

(a) (1) The Board shall issue refunds as specified in this section.

(2) Unless authorized by the Board or under subsection (b) of this section, a refund may not exceed the amount paid into the Trust by the account holder.

(b) A refund equal to the same benefits as provided by the prepaid contract, minus any amount paid out of the funds of the Trust on behalf of the qualified beneficiary and for reasonable administrative charges, shall be made if the beneficiary:

(1) **[**Graduates early from college or is**]** **IS** awarded a scholarship or tuition remission that covers benefits provided under the prepaid contract; or

(2) Dies or suffers from a disability which prevents the beneficiary from attending an institution of higher education within the time allowed by this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 97

(House Bill 1253)

AN ACT concerning

HIV Testing – Prohibited Exposure – Forensic Scientists

FOR the purpose of including a forensic scientist who works under the direction of a law enforcement agency within the list of possible victims of prohibited exposure to HIV; and generally relating to forensic scientists prohibitively exposed to HIV.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–107
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

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

Article – Criminal Procedure

11–107.

(a) In Part II of this subtitle the following words have the meanings indicated.

(b) "Charged" means to be the subject of an indictment, an information, or a petition alleging a delinquent act.

(c) "Health officer" has the meaning stated in § 1–101 of the Health – General Article.

(d) "HIV" means any human immunodeficiency virus that causes Acquired Immune Deficiency Syndrome (AIDS).

(e) (1) "Prohibited exposure" means a crime or delinquent act that may have caused or resulted in exposure to HIV.

(2) "Prohibited exposure" includes:

(i) contact that occurs on penetration, however slight, between the penis and the vulva or anus; and

(ii) contact between the mouth and the penis, vulva, or anus.

(f) (1) "Victim" means the victim of a prohibited exposure.

(2) "Victim" includes:

(i) a law enforcement officer who is exposed to HIV while acting in the performance of duty; **[**and**]**

(ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to HIV while acting in the performance of duty**; AND**

(III) A FORENSIC SCIENTIST, WORKING UNDER THE DIRECTION OF A LAW ENFORCEMENT AGENCY, WHO IS EXPOSED TO HIV WHILE ACTING IN THE PERFORMANCE OF DUTY.

(g) "Victim's representative" means:

(1) the parent of a victim who is a minor;

(2) the legal guardian of a victim; or

(3) the person authorized to give consent for the victim under § 5–605 of the Health – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 98

(House Bill 1292)

AN ACT concerning

Department of Agriculture – Honey Bees

FOR the purpose of authorizing the Department of Agriculture to determine the time period for certain inspections of honey bee colonies or used bee equipment shipped into the State.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 5–505(a)
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

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

Article – Agriculture

5–505.

(a) A person may not ship or transport into this State any colony or used bee equipment that is not accompanied by the following documents:

(1) An entry permit, issued by the Department; and

(2) A valid inspection certificate that:

(i) Has been issued by an authorized apiary inspector of the state of origin; and

(ii) **[**Based on an inspection by that inspector within the preceding 2 months, states**]** **STATES** that the colony or equipment is disease free **BASED ON AN INSPECTION BY THAT INSPECTOR WITHIN A TIME PERIOD AS DETERMINED BY THE DEPARTMENT**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 99

(House Bill 1348)

AN ACT concerning

Valuation Records – Restrictions

FOR the purpose of specifying that certain information contained in certain property valuation records is not subject to public inspection; and generally relating to restrictions on public viewing of certain property valuation records.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–201(a) and (b)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

14–201.

(a) Except as otherwise provided in this section, an officer, former officer, employee, or former employee of the State, a county, a municipal corporation, or a taxing district may not open for public inspection valuation records, including:

(1) ASSESSOR NOTES AND MEDICAL–RELATED ADJUSTMENTS ON RESIDENTIAL WORKSHEETS OR CARDS;

[(1)**] (2) COMMERCIAL** assessment worksheets or cards; and

[(2)**] (3)** correspondence containing information concerning private appraisals, building costs, rental data, or business volume.

(b) (1) The Department shall permit a valuation record to be inspected by:

(i) the person whose property is the subject of the valuation record; or

(ii) an officer of the State or a county or municipal corporation affected by the valuation record.

(2) Valuation records, including rental data or business volume, may be submitted to the Maryland Tax Court as evidence in an appeal under Subtitle 5 of this title.

(3) RESIDENTIAL ASSESSMENT WORKSHEETS THAT LIST THE PROPERTY DESCRIPTION WITH ASSIGNED COST RATES AND DEPRECIATION FACTORS SHALL BE AVAILABLE FOR INSPECTION AS THEY APPEAR ON THE DEPARTMENT'S WEBSITE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 100

(House Bill 1352)

AN ACT concerning

Maryland Horse Industry Board – Rescue Stables

FOR the purpose of altering certain definitions to authorize the Maryland Horse Industry Board to license, impose fees, and inspect any person that operates a certain rescue stable; and generally relating to the authority of the Maryland Horse Industry Board to regulate rescue stables.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–701
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 2–710 through 2–713 and 2–715
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

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

Article – Agriculture

2–701.

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

(b) "Board" means the Maryland Horse Industry Board.

(c) "Boarding stable" means an establishment that stables five or more horses and receives compensation for these services.

(d) "Equine dealer **[**and**],** breeding **STABLES, OR RESCUE** stables" includes an establishment in which five or more horses are sold **OR TRANSFERRED** each year.

(e) "Horse" includes horses and ponies.

(f) (1) "Horse riding and rental stables" means an establishment in connection with which one or more horses are let for hire to be ridden or driven, either with or without the furnishing of riding or driving instruction.

(2) "Horse riding and rental stables" includes:

(i) Boarding stables;

(ii) Equine dealer **[**and**],** breeding **STABLES, OR RESCUE** stables; and

(iii) Sales barns.

(g) "Sales barns" includes an establishment where horses are sold.

2–710.

(a) Except as otherwise provided in this subtitle, a person may not engage in the business of operating or maintaining any horse riding stable unless the person has received a license and a certificate issued by the Board.

(b) This section does not apply to a holder of a livestock dealer's or livestock market license issued under Title 3, Subtitle 3 of this article. However, a holder of a livestock dealer's or livestock market license shall comply with the other provisions of this subtitle.

2–711.

To apply for a license, an applicant shall:

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

(2) Pay to the Board a nonrefundable inspection fee of $25.

2–712.

(a) A license expires on the June 30 after its effective date, unless the license is renewed for a 1–year term as provided in this section.

(b) Before his license expires, a licensee periodically may renew his license for additional 1–year terms, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee of $50; and

(3) Submits to the Board a renewal application on the form that it requires.

2–713.

(a) Each horse riding stable licensed under this subtitle shall be inspected at least every two years.

(b) Each licensee shall pay to the Board annually an inspection fee of $25.

(c) If more than one inspection is necessary in any licensing period, the licensee shall pay an additional inspection fee of $25 for each inspection. If, after three inspections, existing deficiencies have not been corrected by the licensee, the Board shall bring formal charges against the licensee, and an administrative hearing shall be held in order to determine if the license should be suspended or revoked for any of the reasons listed in § 2–715 of this subtitle.

(d) An inspection shall be deemed necessary if, during a previous inspection, deficiencies are found and the licensee has not submitted evidence to the Board within a reasonable period of time that satisfactory corrective measures have been completed.

(e) Based on criteria it develops, the Board may create additional classes of licenses, all of which shall have the usual annual fee under this subtitle.

2–715.

After a hearing, the Board may suspend or revoke the license issued to any licensee under this subtitle, if the licensee:

(1) Fails to provide suitable food, water, and shelter for a horse under the control of the licensee;

(2) Maintains an unsanitary or unfit stable;

(3) Fails to provide suitable saddles, bridles, harnesses, and other tack or equipment;

(4) Allows unfit horses to be used for riding or driving purposes;

(5) Refuses to allow a member of the Board to enter and inspect the licensed premises;

(6) Obstructs any member of the Board in the performance of his duties;

(7) Commits an act of cruelty as defined in § 10–601 of the Criminal Law Article, or allows the commission of an act of cruelty by any other person with relation to any horse under the control of the licensee;

(8) If engaged in the public sale of horses, fails to comply with any of the provisions of Title 3, Subtitle 3 of this article;

(9) Does any other action that, in the opinion of the Board of Inspection, taking into consideration the welfare of the horses under the control of the licensee, shows that the licensee is unfit to operate a horse riding stable; or

(10) Fails to comply with the rules and regulations of the Board after receiving a license.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 101

(House Bill 1387)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2005 – Prince George's County – Langley Park Multi–Service Center

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2005 to change the name of the Victory Youth Center to the Langley Park Multi–Service Center and change the name of a certain grantee from the Board of Directors of the Victory Youth Centers, Inc. to the Catholic Archdiocese of Washington; expanding the authorized uses of the loan proceeds and matching fund; and generally relating to the Langley Park Multi–Service Center.

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005
Section 1(3) Item ZA00 (AH)

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

Chapter 445 of the Acts of 2005

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(AH)	**[**Victory Youth Center.**]** **LANGLEY PARK MULTI–SERVICE CENTER.** Provide a grant to the **[**Board of Directors of the Victory Youth Centers, Inc.**]** **CATHOLIC ARCHDIOCESE OF WASHINGTON** to assist in the design, construction, and capital equipping of a **CLINIC, SOCIAL SERVICE CENTER, AND** gymnasium to serve the youth of the community of Langley Park in Prince George's County (Prince George's County).....	550,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 102

(House Bill 1396)

AN ACT concerning

Redhouse Run Stormwater Systems Loan of 1984

FOR the purpose of amending the Redhouse Run Stormwater Systems Loan of 1984 to extend the date by which the loan proceeds must be encumbered by the Board of Public Works or expended.

BY repealing and reenacting, with amendments,
Chapter 389 of the Acts of the General Assembly of 1984, as amended by Chapter 138 of the Acts of the General Assembly of 1985, Chapter 28 of the Acts of the General Assembly of 2004, and Chapter 533 of the Acts of the General Assembly of 2006
Section 1

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

Chapter 389 of the Acts of 1984, as amended by Chapter 138 of the Acts of 1985, Chapter 28 of the Acts of 2004, and Chapter 533 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Redhouse Run Stormwater Systems Loan of 1984 in the aggregate principal amount of $3,000,000. This loan shall be evidenced by the issuance and sale of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold and delivered in accordance with the provisions of §§ 19 to 23 of Article 31 of the Annotated Code of Maryland (1983 Replacement Volume, as amended from time to time).

(2) The bonds issued to evidence this loan or installments thereof may be sold as a single issue, or may be consolidated and sold as part of a single issue of bonds under § 2B of Article 31 of the Code.

(3) The actual cash proceeds of the sale of the bonds shall be paid to the Treasurer and shall be first applied to the payment of the expenses of issuing and delivering the bonds unless funds for this purpose are otherwise provided and thereafter shall be credited on the books of the State Comptroller and expended, upon approval by the Board of Public Works, for the following public purposes, including

any applicable architects' and engineers' fees: as a grant to the County Executive and County Council of Baltimore County for the purpose of the reconstruction, rehabilitation, renovation, reequipping, restoration, and improvement of the stormwater systems along Redhouse Run in Baltimore County.

(4) There is hereby levied and imposed an annual State tax on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds as and when due and until paid in full, such principal to be discharged within fifteen years of the date of issue of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the County Executive and County Council of Baltimore County shall provide at least an equal and matching fund of $3,000,000. No part of an applicant's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The County Executive and County Council of Baltimore County have until June 1, 1987, to present evidence satisfactory to the Board of Public Works that the matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact to the State Treasurer and the proceeds of the loan shall be expended for the purposes provided in this Act. If this evidence is not presented by June 1, 1987, the proceeds of the loan shall be applied to the purposes authorized in Article 78A, § 3 of the Code.

(6) The proceeds of the loan must be encumbered by the Board of Public Works or expended for the purposes provided in this Act no later than June 1, **[**2007**]** **2009**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 103

(House Bill 1401)

AN ACT concerning

Baltimore City – West Arlington Planetarium and Multipurpose Center Loan of 1999

FOR the purpose of amending the Baltimore City – West Arlington Planetarium and Multipurpose Center Loan of 1999 to require that the loan proceeds be encumbered by the Board of Public Works or expended for certain purposes by a certain date; and generally relating to the Baltimore City – West Arlington Planetarium and Multipurpose Center Loan of 1999.

BY repealing and reenacting, with amendments,
Chapter 292 of the Acts of the General Assembly of 1999, as amended by Chapter 333 of the Acts of the General Assembly of 2001
Section 1

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

Chapter 292 of the Acts of 1999, as amended by Chapter 333 of the Acts of 2001

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore City – West Arlington Planetarium and Multipurpose Center Loan of 1999 in a total principal amount equal to the lesser of (i) $100,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of the West Arlington Improvement Association of Baltimore City, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, repair, renovation, rehabilitation and capital equipping of the historic water tower in the West Arlington neighborhood

of Baltimore City, the facility to be used as a planetarium and sky theater, and for the planning, design, construction, and capital equipping of a multipurpose center at the same site, the center to contain a swimming pool, community room, arts and crafts room, offices, and other appropriate facilities.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2003, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) (a) Prior to the issuance of the bonds, the grantee shall grant and convey to the Maryland Historical Trust a perpetual preservation easement to the extent of its interest:

(i) On the land or such portion of the land acceptable to the Trust; and

(ii) On the exterior and interior, where appropriate, of the historic structures.

(b) The easement must be in form and substance acceptable to the Trust and the extent of the interest to be encumbered must be acceptable to the Trust.

(7) THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 104

(House Bill 1414)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2006 – Caroline County – The Benedictine School

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2006 to authorize the Board of Trustees of the Benedictine School Foundation, Inc. to include funds expended on or after a certain date in the matching fund.

BY repealing and reenacting, with amendments,
Chapter 46 of the Acts of the General Assembly of 2006
Section 1(3) Item ZA02 (C)

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

Chapter 46 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

(C) The Benedictine School. Provide a grant equal to the lesser of (i) $500,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Benedictine School Foundation, Inc. for the planning, design, repair, renovation, and capital equipping of the fire protection and HVAC systems and infrastructure of

the Benedictine School, located in Ridgely. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act**, INCLUDING FUNDS EXPENDED ON OR AFTER SEPTEMBER 1, 2002** (Caroline County)..... 500,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 105

(House Bill 1415)

AN ACT concerning

Worcester County – Worcester County Development Center Loan of 2001 and Maryland Consolidated Capital Bond Loan of 2006 – Worcester County Development Center

FOR the purpose of amending the Worcester County – Worcester County Development Center Loan of 2001 and the Maryland Consolidated Capital Bond Loan of 2006 to alter the location of the Worcester County Development Center; extending the deadline by which the Board of County Commissioners of Worcester County must present evidence to the Board of Public Works that a matching fund will be provided; and generally relating to the Worcester County Development Center.

BY repealing and reenacting, without amendments,
Chapter 482 of the Acts of the General Assembly of 2001
Section 1(1), (2), and (4)
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2006 Supplement)~~

BY repealing and reenacting, with amendments,
Chapter 482 of the Acts of the General Assembly of 2001
Section 1(3)
~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2006 Supplement)~~

BY repealing and reenacting, with amendments,
Chapter 482 of the Acts of the General Assembly of 2001, as amended by Chapter 181 of the Acts of the General Assembly of 2003
Section 1(5)

BY repealing and reenacting, with amendments,
Chapter 46 of the Acts of the General Assembly of 2006
Section 1(3) Item ZA00 (V)

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

Chapter 482 of the Acts of 2001

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Worcester County – Worcester County Development Center Loan of 2001 in a total principal amount equal to the lesser of (i) $300,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of County Commissioners of Worcester County (referred to hereafter in this Act as "the grantee") for the planning, design, construction, and capital equipping of a new building in **[**Berlin**]** **NEWARK**, Maryland for the Worcester County Development Center.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and

when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

Chapter 482 of the Acts of 2001, as amended by Chapter 181 of the Acts of 2003

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of in kind contributions or funds expended prior to the effective date of this Act. The fund may consist of real property. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, **[**2005**]** **2009**, to present evidence satisfactory to the Board of Public Works that a matching fund will be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

Chapter 46 of the Acts of 2006

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(V)	Worcester County Development Center. Provide a grant of $1,500,000 to the Board of County Commissioners of Worcester County for the planning, design, construction, and capital equipping of the Worcester County Development Center, located in **[**Berlin**]** **NEWARK** (Worcester County)	1,500,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 106

(House Bill 1421)

AN ACT concerning

Baltimore City Community College – English for Speakers of Other Languages Grant

FOR the purpose of increasing the maximum amount of grants that may be used to provide instruction and services to students enrolled in an English for Speakers of Other Languages program at Baltimore City Community College.

BY repealing and reenacting, with amendments,
Article – Education
Section 16–508
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Education

16–508.

(a) (1) Beginning with fiscal year 1996, the Governor shall include in the annual budget submission a General Fund appropriation for Baltimore City Community College in the amount provided in subsection (b) of this section to provide instruction and services to students enrolled in an English for Speakers of Other Languages ("ESOL") program.

(2) To qualify for a grant under this section, each participant in the program shall be a student:

(i) Born outside of the United States or whose native language is not English;

(ii) Who comes from an environment where a language other than English is dominant; or

(iii) Who is an American Indian or Alaskan native and comes from an environment where a language other than English has had a significant impact on the student's level of English language proficiency.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, the amount of the grant shall be $800 times the number of qualified full–time equivalent students who are enrolled in a Baltimore City Community College ESOL program, as certified by the Maryland Higher Education Commission.

(2) The total amount of the grant under this subsection may not exceed **[**$500,000**]** **$1,000,000** for any fiscal year.

(c) Baltimore City Community College may not transfer State funds received under this subsection to any other program or category.

(d) Subject to the provisions of subsection (b) of this section, for any fiscal year in which the State appropriation is insufficient to fully fund all grants eligible under this section, the Governor shall include in the budget bill for the following fiscal year a deficiency appropriation to fund all unfunded grants.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 107

(House Bill 1422)

AN ACT concerning

Property Tax – Exemptions – Bus Passenger Shelters

FOR the purpose of exempting from property tax certain interests in property of the State, a county, a municipal corporation or any agency or instrumentality of the State, a county, or a municipal corporation held by certain persons under certain agreements to operate certain bus passenger shelters; defining a certain

term; providing for the application of this Act; and generally relating to exemptions for certain interests in government–owned properties.

BY adding to
Article – Tax – Property
Section 7–211(h)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

7–211.

(H) (1) IN THIS SUBSECTION, "BUS PASSENGER SHELTER" MEANS:

(I) A BUS PASSENGER SHELTER AS DEFINED IN § 8–750 OF THE TRANSPORTATION ARTICLE; OR

(II) A SHELTER LOCATED AT A DESIGNATED TRANSIT BUS STOP ON A CAMPUS OF A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION AS DEFINED IN § 10–101 OF THE EDUCATION ARTICLE.

(2) AN INTEREST OF A PERSON IN PROPERTY OF THE STATE, COUNTY, OR A MUNICIPAL CORPORATION OR ANY AGENCY OR INSTRUMENTALITY OF THE STATE, COUNTY, OR A MUNICIPAL CORPORATION IS NOT SUBJECT TO PROPERTY TAX:

(I) IF THE PERSON HOLDS AN INTEREST IN THE PROPERTY UNDER AN AGREEMENT WITH THE STATE, COUNTY, OR MUNICIPAL CORPORATION UNDER § 8–751 OR § 8–752 OF THE TRANSPORTATION ARTICLE TO OPERATE A BUS PASSENGER SHELTER; OR

(II) IF THE PERSON HOLDS AN INTEREST IN THE PROPERTY UNDER AN AGREEMENT WITH A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION TO OPERATE A BUS PASSENGER SHELTER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 108

(House Bill 1423)

AN ACT concerning

Department of Aging – Continuing Care Fund

FOR the purpose of creating a Continuing Care Fund as a special, nonlapsing fund to defray certain costs; requiring the Department of Aging to administer the Fund; requiring the State Treasurer to hold the Fund separately and the Comptroller to account for the Fund; providing which moneys the Fund consists of; providing for the use of the Fund; providing for the investment of moneys in the Fund; providing that the money expended in the Fund is supplemental; defining a certain term; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the creation of a Continuing Care Fund.

BY repealing and reenacting, without amendments,
Article 70B – Department of Aging
Section 8
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to
Article 70B – Department of Aging
Section 8A
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Human Services
Section 10–403(a)
Annotated Code of Maryland
(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

BY adding to
Article – Human Services
Section 10–405
Annotated Code of Maryland
(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

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

Article 70B – Department of Aging

8.

The administration of this subtitle is vested in the Department, which shall:

(1) Prepare and furnish all forms necessary or desirable under the provisions of this subtitle;

(2) Establish and collect reasonable filing fees established for the implementation of this subtitle;

(3) Adopt regulations necessary to enforce this subtitle; and

(4) Prepare and distribute relevant public information and educational materials designed to advise individuals, institutions, and organizations of their rights and responsibilities under this subtitle.

8A.

(A) IN THIS SECTION, "FUND" MEANS THE CONTINUING CARE FUND.

(B) THERE IS A CONTINUING CARE FUND.

(C) THE PURPOSE OF THE FUND IS TO DEFRAY THE COSTS OF ADMINISTERING THIS SUBTITLE.

(D) THE DEPARTMENT OF AGING SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) ALL FEES COLLECTED UNDER THIS SUBTITLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY FOR THE PURPOSES SPECIFIED IN THIS SUBTITLE.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) MONEY EXPENDED FROM THE FUND FOR ADMINISTERING THIS SUBTITLE IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR ADMINISTERING THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Human Services

10–403.

(a) The Department shall:

(1) administer this subtitle;

(2) prepare and furnish all forms necessary or desirable under this subtitle;

(3) establish and collect reasonable filing fees to carry out this subtitle;

(4) adopt regulations necessary to enforce this subtitle; and

(5) prepare and distribute relevant public information and educational materials designed to advise individuals, institutions, and organizations of their rights and responsibilities under this subtitle.

10–405.

(A) IN THIS SECTION, "FUND" MEANS THE CONTINUING CARE FUND.

(B) THERE IS A CONTINUING CARE FUND.

(C) THE PURPOSE OF THE FUND IS TO DEFRAY THE COSTS OF ADMINISTERING THIS SUBTITLE.

(D) THE DEPARTMENT OF AGING SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) ALL FEES COLLECTED UNDER THIS SUBTITLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) INVESTMENT EARNINGS OF THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY FOR THE PURPOSES SPECIFIED IN THIS SUBTITLE.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) MONEY EXPENDED FROM THE FUND FOR ADMINISTERING THIS SUBTITLE IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR ADMINISTERING THIS SUBTITLE.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect June 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 109

(House Bill 1425)

AN ACT concerning

Insurance Producers – Use of Trade Name

FOR the purpose of defining the term "trade name" for purposes of the licensing laws for insurance producers; prohibiting an insurance producer from using any name other than the name in which a license is issued or a trade name when engaging in certain activities, including the execution of certain documents; requiring insurance producers to notify the Maryland Insurance Commissioner of a change in trade name within a certain period of time; providing that failure to notify the Commissioner of the change in trade name is a violation of certain law; and generally relating to insurance producers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–101, 10–113, and 10–117
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Insurance

10–101.

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

(b) "Business entity" means a corporation, professional association, partnership, limited liability company, limited liability partnership, or other legal entity.

(c) "Home state" means any state in which an insurance producer:

(1) maintains the insurance producer's principal place of residence or principal place of business; and

(2) is licensed to act as a resident insurance producer.

(d) (1) "License" means a document issued by the Commissioner to act as an insurance producer for the kind or subdivision of insurance or combination of kinds or subdivisions of insurance specified in the document.

(2) "License" includes a limited lines license.

(e) "Limited line credit insurance" includes:

(1) credit life insurance;

(2) credit health insurance;

(3) credit property insurance;

(4) credit unemployment insurance;

(5) credit involuntary unemployment benefit insurance;

(6) mortgage life insurance;

(7) mortgage guaranty insurance;

(8) mortgage disability insurance;

(9) guaranteed automobile protection (GAP) insurance; and

(10) any other form of insurance that:

(i) is offered in connection with an extension of credit;

(ii) is limited to partially or wholly extinguishing that credit obligation; and

(iii) the Commissioner determines should be designated a form of limited line credit insurance.

(f) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

(g) "Limited lines insurance" means:

(1) limited line credit insurance;

(2) the lines of insurance described in §§ 10–122 through 10–125 of this subtitle;

(3) insurance sold in connection with, and incidental to, the rental of a motor vehicle under Subtitle 6 of this title; or

(4) any other line of insurance that the Commissioner considers necessary to recognize for the purpose of complying with § 10–119(d) of this subtitle.

(h) "Limited lines insurance producer" means a person authorized by the Commissioner to sell, solicit, or negotiate limited lines insurance.

(i) (1) "Title insurance producer" means a person that, for compensation, solicits, procures, or negotiates title insurance contracts.

(2) "Title insurance producer" includes a person that provides escrow, closing, or settlement services that may result in the issuance of a title insurance contract.

(3) "Title insurance producer" does not include:

(i) individuals employed and used by title insurance producers for the performance of clerical and similar office duties;

(ii) a financial institution as defined in § 1–101(i) of the Financial Institutions Article that does not solicit, procure, or negotiate title insurance contracts for compensation; or

(iii) a title insurance insurer that is licensed under this article.

(j) "Title insurance producer independent contractor" means a person that:

(1) is licensed to act as a title insurance producer;

(2) provides escrow, closing, or settlement services that may result in the issuance of a title insurance contract as an independent contractor for, or on behalf of, a licensed and appointed title insurance producer; and

(3) is not an employee of, or associated with, the licensed and appointed title insurance producer.

(K) "TRADE NAME" MEANS A NAME, SYMBOL, OR WORD, OR COMBINATION OF TWO OR MORE OF THESE THAT A PERSON USES TO:

(1) IDENTIFY ITS BUSINESS, OCCUPATION, OR SELF IN A BUSINESS CAPACITY; AND

(2) BE DISTINGUISHED FROM ANOTHER BUSINESS, OCCUPATION, OR PERSON.

[(k)**] (L)** "Uniform application" means the current version of the NAIC uniform application for resident and nonresident insurance producer licensing.

[(l)**] (M)** "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

10–113.

(a) A license authorizes the holder of the license to act as an insurance producer for the kind or subdivision of insurance or combination of kinds or subdivisions of insurance specified in the license.

(B) THE HOLDER OF A LICENSE MAY NOT USE ANY NAME OTHER THAN THE NAME IN WHICH THE LICENSE IS ISSUED OR A TRADE NAME FILED WITH THE COMMISSIONER UNDER THIS SUBTITLE TO ENGAGE IN ANY ACTIVITY FOR WHICH A LICENSE IS REQUIRED, INCLUDING THE EXECUTION OF ANY DOCUMENT RELATED TO MARKETING, NEGOTIATION, SELLING, OR ISSUANCE OF INSURANCE.

[(b)**] (C)** A license does not create any actual, apparent, or inherent authority in the holder to represent or commit an insurer.

10–117.

(a) To change, add to, or delete from a license, the insurance producer shall file with the Commissioner in the form that the Commissioner requires the change or addition to or deletion from the license.

(b) (1) A licensee shall **[**inform**]** **FILE WITH** the Commissioner by any means acceptable to the Commissioner **[**of**]** a change in legal name**, TRADE NAME,** or address within 30 days of the change.

(2) If a licensee fails to timely **[**inform**]** **FILE WITH** the Commissioner **[**of**]** a change in legal name**, TRADE NAME,** or address, the licensee is in violation of § 10–126(a)(1) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 110

(House Bill 1432)

AN ACT concerning

Insurance – Analyses and Examination Reports – Use and Sharing of Documents, Materials, and Information

FOR the purpose of authorizing the Maryland Insurance Commissioner to conduct a certain analysis and examine the financial condition of certain entities under certain circumstances; repealing certain provisions of law governing the disclosure of certain information by the Commissioner; establishing that certain documents, materials, and information in the control or possession of the Commissioner is confidential and privileged, is not subject to certain record keeping and disclosure requirements, and is not subject to subpoena or discovery; establishing the circumstances under which the Commissioner may use, share, and receive certain documents, materials, and information; prohibiting the Commissioner and certain other persons from testifying in certain legal actions concerning certain documents, materials, or information; authorizing the Commissioner to enter into certain agreements; defining a certain term; and generally relating to the conduct of analyses and examinations by the Maryland Insurance Commissioner and the use, sharing, and receipt of certain documents, materials, and information.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 2–205 and 2–209
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Insurance

2–205.

(a) **IN THIS SECTION, "ANALYSIS" MEANS A PROCESS BY WHICH THE COMMISSIONER COLLECTS AND ANALYZES INFORMATION FROM FILED SCHEDULES, SURVEYS, REQUIRED REPORTS SPECIFIED IN SUBSECTION (B) OF THIS SECTION, AND OTHER SOURCES IN ORDER TO:**

(1) DEVELOP AN UNDERSTANDING OF THE AFFAIRS, TRANSACTIONS, ACCOUNTS, RECORDS, ASSETS, AND FINANCIAL CONDITION OF THE ENTITIES SPECIFIED IN SUBSECTION (B) OF THIS SECTION; OR

(2) IDENTIFY OR INVESTIGATE PATTERNS OR PRACTICES OF THE ENTITIES SPECIFIED IN SUBSECTION (B) OF THIS SECTION.

(B) (1) Whenever the Commissioner considers it advisable, the Commissioner shall **CONDUCT AN ANALYSIS OR** examine the affairs, transactions, accounts, records, **[**and**]** assets**, AND FINANCIAL CONDITION** of each:

(i) authorized insurer;

(ii) management company of an authorized insurer;

(iii) subsidiary owned or controlled by an authorized insurer;

(iv) rating organization; or

(v) authorized health maintenance organization.

(2) The Commissioner shall examine each domestic insurer and health maintenance organization at least once every 5 years.

[(b)**] (C)** The Commissioner shall examine the affairs, transactions, accounts, records, and assets of:

(1) each insurer and each health maintenance organization that applies for an original certificate of authority to do business in the State; and

(2) each rating organization that applies for a license to do business in the State.

[(c)**] (D)** When examining a reciprocal insurer, the Commissioner may examine the attorney in fact of the reciprocal insurer to the extent that the transactions of the attorney in fact relate to the reciprocal insurer.

[(d)**] (E)** The Commissioner may limit the examination of an alien insurer to its insurance transactions and affairs in the United States.

[(e)**] (F)** Instead of conducting an examination, the Commissioner may accept a full report, certified by the insurance supervisory official of another state, of the most recent examination of a foreign insurer or health maintenance organization, alien insurer or health maintenance organization, or an out–of–state rating organization.

2–209.

(a) The Commissioner or an examiner shall make a complete report of each examination made under § 2–205 of this subtitle or § 23–207, § 15–10B–19, or § 15–10B–20 of this article.

(b) An examination report shall contain only facts:

(1) from the books, records, or documents of the person being examined; or

(2) determined from statements of individuals about the person's affairs.

(c) (1) At least 30 days before adopting a proposed examination report, the Commissioner shall provide a copy of the proposed report to the person that was examined.

(2) If the person requests a hearing in writing within the 30–day period, the Commissioner:

(i) shall grant a hearing on the proposed report; and

(ii) may not adopt the proposed report until after:

1. the hearing is held; and

2. any modifications of the report that the Commissioner considers proper are made.

(d) (1) After an examination report is adopted by the Commissioner, the examination report is admissible as evidence of the facts contained in it in any action brought by the Commissioner against the person examined or an officer or insurance producer of the person.

(2) Regardless of whether a written examination report has been made, served, or adopted by the Commissioner, the Commissioner or an examiner may testify and offer other proper evidence about information obtained during an examination.

(e) The Commissioner may withhold an examination or investigation report from public inspection for as long as the Commissioner considers the withholding to be:

(1) necessary to protect the person examined from unwarranted injury; or

(2) in the public interest.

(f) If the Commissioner considers it to be in the public interest, the Commissioner may publish an examination report or a summary of it in a newspaper in the State.

[(g) (1) Subject to paragraph (2) of this subsection, the Commissioner may disclose a preliminary examination report, investigation report, or any other matter related to an examination made under § 2–205 or § 2–206 of this subtitle or § 23–207, § 15–10B–19, or § 15–10B–20 of this article only to the insurance regulatory agency of another state or to a federal, State, local, or other law enforcement agency.

(2) A disclosure may be made under paragraph (1) of this subsection only if:

(i) the disclosure is made for regulatory, law enforcement, or prosecutorial purposes;

(ii) the agency receiving the disclosure agrees in writing to keep the disclosure confidential and in a manner consistent with this section; and

(iii) the Commissioner is satisfied that the agency will preserve the confidential nature of the information.

(3) Notwithstanding the provisions of this subsection, adopted reports of examinations are considered public documents and may be disclosed to the public.

(h) The Commissioner may not disclose any information obtained from another state if the information is:

(1) related to an examination made by the other state on an insurer domiciled in that state; and

(2) of a nature that would be considered confidential under paragraph (1) of this subsection if the examination had been made by this State under § 2–205 or § 2–206 of this subtitle or § 23–103, § 15–10B–19, or § 15–10B–20 of this article.**]**

(G) (1) THIS SUBSECTION APPLIES ONLY TO A DOCUMENT, MATERIAL, OR INFORMATION OTHER THAN AN ADOPTED EXAMINATION REPORT THAT:

(I) IS IN THE CONTROL OR POSSESSION OF THE COMMISSIONER; AND

(II) IS OBTAINED OR GENERATED DURING AN ANALYSIS OR EXAMINATION CONDUCTED UNDER § 2–205 OR § 2–206 OF THIS SUBTITLE OR § 23–103, § 15–10B–19, OR § 15–10B–20 OF THIS ARTICLE.

(2) A DOCUMENT, MATERIAL, OR INFORMATION THAT IS SUBJECT TO THIS SUBSECTION:

(I) IS CONFIDENTIAL AND PRIVILEGED;

(II) IS NOT SUBJECT TO TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE;

(III) IS NOT SUBJECT TO SUBPOENA; AND

(IV) IS NOT SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION.

(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER MAY USE ANY DOCUMENT, MATERIAL, OR INFORMATION

THAT IS SUBJECT TO THIS SUBSECTION TO FURTHER ANY REGULATORY OR LEGAL ACTION BROUGHT AS PART OF THE DUTIES OF THE COMMISSIONER.

(4) THE COMMISSIONER AND ANY PERSON THAT RECEIVES A DOCUMENT, MATERIAL, OR INFORMATION THAT IS SUBJECT TO THIS SUBSECTION WHILE ACTING UNDER THE AUTHORITY OF THE COMMISSIONER MAY NOT BE ALLOWED OR REQUIRED TO TESTIFY IN ANY PRIVATE CIVIL ACTION CONCERNING THE DOCUMENT, MATERIAL, OR INFORMATION.

(H) (1) PROVIDED THAT THE RECIPIENT AGREES TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE DOCUMENT, MATERIAL, OR INFORMATION, THE COMMISSIONER MAY SHARE A DOCUMENT, MATERIAL, OR INFORMATION, INCLUDING A DOCUMENT, MATERIAL, OR INFORMATION THAT IS CONFIDENTIAL AND PRIVILEGED UNDER SUBSECTION (G) OF THIS SECTION, WITH:

(I) OTHER STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCIES;

(II) THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS AFFILIATES OR SUBSIDIARIES; OR

(III) STATE, FEDERAL, OR INTERNATIONAL LAW ENFORCEMENT AUTHORITIES.

(2) (I) THE COMMISSIONER MAY RECEIVE A DOCUMENT, MATERIAL, OR INFORMATION, INCLUDING A DOCUMENT, MATERIAL, OR INFORMATION THAT IS CONFIDENTIAL AND PRIVILEGED, FROM:

1. OTHER STATE, FEDERAL, OR INTERNATIONAL REGULATORY AGENCIES;

2. THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS AFFILIATES OR SUBSIDIARIES; OR

3. STATE, FEDERAL, OR INTERNATIONAL LAW ENFORCEMENT AUTHORITIES.

(II) THE COMMISSIONER SHALL MAINTAIN AS CONFIDENTIAL AND PRIVILEGED ANY DOCUMENT, MATERIAL, OR INFORMATION RECEIVED UNDER THIS PARAGRAPH WITH NOTICE OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS OF THE

JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL, OR INFORMATION.

(3) THE COMMISSIONER MAY ENTER INTO AGREEMENTS GOVERNING THE SHARING AND USE OF INFORMATION CONSISTENT WITH THIS SUBSECTION.

(4) THERE IS NO WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY WITH REGARD TO A DOCUMENT, MATERIAL, OR INFORMATION AS A RESULT OF:

(I) DISCLOSURE OF THE DOCUMENT, MATERIAL, OR INFORMATION TO THE COMMISSIONER UNDER THIS SUBSECTION; OR

(II) SHARING OF THE DOCUMENT, MATERIAL, OR INFORMATION BY THE COMMISSIONER UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(i) (1) The Commissioner shall provide a copy of the adopted examination report to the person that was examined.

(2) The person examined shall present the adopted examination report to its board of directors at the next regularly scheduled meeting of the board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.

CHAPTER 111

(Senate Bill 103)

AN ACT concerning

Maryland Clean Cars Act of 2007

FOR the purpose of requiring the Department of the Environment ~~and~~, in consultation with the Motor Vehicle Administration, to establish by regulation and maintain a certain low emissions vehicle program applicable to certain vehicles by a certain date; *authorizing a modification concerning the applicability of the*

program to vehicles of certain model years; ~~authorizing a modification concerning the applicability of the program to vehicles of certain model years;~~ requiring ~~the Administration and~~ the Department to establish certain motor vehicle emissions standards and certain compliance requirements; prohibiting the Department or any other State agency from adopting a regulation that requires the sale or use of certain gasoline; authorizing and requiring the adoption of certain regulations; authorizing the Department to work with certain jurisdictions for certain purposes; prohibiting the Administration from titling, registering, or transferring the registration of certain vehicles under certain circumstances; *exempting a certain zero–emission vehicle from certain emissions testing and inspection requirements; extending the termination of a certain exemption for qualified hybrid vehicles from certain emissions testing and inspection requirements; requiring the Administration and the Secretary to adopt certain regulations; providing that a qualified hybrid vehicle is not required to submit to a certain exhaust emissions test and emissions equipment and misfueling inspection until a certain time after the vehicle was first registered in the State;* ~~prohibiting~~ *authorizing the Department, in consultation with the Administration, to prohibit* certain acts related to certain vehicles or vehicle engines under certain circumstances; ~~authorizing the Department, in consultation with the Administration, to adopt regulations to exempt certain motor vehicles from the program; requiring the Administration to note exemptions for certain motor vehicles on the title of the motor vehicle;~~ providing for the application of certain enforcement and penalty provisions; requiring the Department to submit a certain report to the Administrative, Executive, and Legislative Review Committee on or before a certain date each year; establishing a Maryland Clean Car and Energy Policy Task Force; specifying the chair, membership, staffing, and duties of the Task Force; requiring the Task Force to make legislative recommendations; requiring the Task Force to provide a certain annual report to the Governor and the General Assembly; defining certain terms; *requiring the Department, in consultation with the Administration, to consult with certain stakeholders, consider the implementation of efforts of certain states, and consider the needs of certain individuals in adopting regulations under this Act;* specifying that certain provisions of federal law apply to a certain extent; *providing for the effective date of certain provisions of this Act;* providing for the termination of certain provisions of this Act; and generally relating to the establishment of a low emissions vehicle program.

BY adding to

Article – Environment

Section 2–1101 through ~~2–1106~~ 2–1108 to be under the new subtitle "Subtitle 11. Low Emissions Vehicle Program"

Annotated Code of Maryland

(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–110 ~~and 13–406~~ , *13–406, and 23–202(b)*
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 23–206.3
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to
Article – Transportation
Section 23–206.4
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 273 of the Acts of the General Assembly of 2003, as amended by Chapter 370 of the Acts of the General Assembly of 2005
Section 2

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

Article – Environment

SUBTITLE 11. LOW EMISSIONS VEHICLE PROGRAM.

2–1101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ADMINISTRATION" MEANS THE MOTOR VEHICLE ADMINISTRATION.

(C) "PROGRAM" MEANS THE LOW EMISSIONS VEHICLE PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

(D) "TRANSFER" INCLUDES ACQUIRE, PURCHASE, SELL, AND LEASE.

2–1102.

(A) IN ~~CONJUNCTION~~ CONSULTATION WITH THE ADMINISTRATION AND AS PROVIDED UNDER THIS SUBTITLE, THE DEPARTMENT SHALL ESTABLISH BY REGULATION AND MAINTAIN A LOW EMISSIONS VEHICLE PROGRAM THAT:

(1) IS AUTHORIZED BY § 177 OF THE FEDERAL CLEAN AIR ACT; AND

(2) IS APPLICABLE TO VEHICLES OF THE 2011 MODEL YEAR AND EACH MODEL YEAR THEREAFTER.

(B) AS PART OF THE PROGRAM, THE DEPARTMENT SHALL ESTABLISH NEW MOTOR VEHICLE EMISSIONS STANDARDS AND COMPLIANCE REQUIREMENTS FOR EACH MODEL YEAR INCLUDED IN THE PROGRAM AS AUTHORIZED BY § 177 OF THE FEDERAL CLEAN AIR ACT.

(C) AS PART OF THE COMPLIANCE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE, THE DEPARTMENT MAY ADOPT BY REGULATION MOTOR VEHICLE EMISSIONS INSPECTION, RECALL, AND WARRANTY REQUIREMENTS.

(D) THE DEPARTMENT OR ANY OTHER STATE AGENCY MAY NOT ADOPT A REGULATION UNDER THIS SUBTITLE OR ANY OTHER PROVISION OF LAW THAT REQUIRES THE SALE OR USE OF CALIFORNIA REFORMULATED GASOLINE IN THE STATE.

2–1103.

TO MINIMIZE THE ADMINISTRATIVE IMPACT OF THE PROGRAM AND TO MINIMIZE THE IMPACT OF MOTOR VEHICLE EMISSIONS GENERATED OUT OF STATE ON THE AIR QUALITY OF THIS STATE, THE DEPARTMENT:

(1) MAY ADOPT CALIFORNIA REGULATIONS, PROCEDURES, AND CERTIFICATION DATA BY REFERENCE; AND

(2) MAY WORK IN COOPERATION WITH, AND ENTER INTO CONTRACTS OR AGREEMENTS WITH CALIFORNIA, OTHER STATES, AND THE DISTRICT OF COLUMBIA TO ADMINISTER CERTIFICATION, IN–USE COMPLIANCE, INSPECTION, RECALL, AND WARRANTY REQUIREMENTS FOR THE PROGRAM.

2–1104.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE ADMINISTRATION MAY NOT TITLE OR REGISTER, UNDER TITLE 13 OF THE TRANSPORTATION ARTICLE, A NEW MOTOR VEHICLE THAT IS SUBJECT TO THE

PROVISIONS OF THIS SUBTITLE IF THE MOTOR VEHICLE DOES NOT COMPLY WITH THE PROVISIONS OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE.

(B) ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A PERSON MAY NOT TRANSFER OR ATTEMPT TO TRANSFER A MOTOR VEHICLE OR MOTOR VEHICLE ENGINE THAT IS SUBJECT TO THE PROVISIONS OF THIS SUBTITLE IF THE VEHICLE OR ENGINE DOES NOT COMPLY WITH THE PROGRAM.

(C) A PERSON MAY NOT PROCURE OR ATTEMPT TO PROCURE, THROUGH FRAUD OR MISREPRESENTATION, THE TITLE OR REGISTRATION OF A MOTOR VEHICLE THAT IS SUBJECT TO THE PROVISIONS OF THIS SUBTITLE IF THE VEHICLE DOES NOT COMPLY WITH THE PROGRAM.

(D) THE DEPARTMENT, IN CONSULTATION WITH THE ADMINISTRATION, ~~SHALL~~ MAY ADOPT REGULATIONS TO PROHIBIT THE TRANSFER OF NEW MOTOR VEHICLES OR MOTOR VEHICLE ENGINES THAT ARE NOT IN COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE~~, IF SUCH REGULATIONS ARE NECESSARY TO COMPLY WITH § 177 OF THE FEDERAL CLEAN AIR ACT~~.

2–1105.

(A) THE DEPARTMENT ~~MAY~~ SHALL, IN CONSULTATION WITH THE ADMINISTRATION, ADOPT REGULATIONS TO EXEMPT MOTOR VEHICLES FROM THE PROGRAM.

(B) EXEMPTIONS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE LIMITED TO:

(1) MOTOR VEHICLES SOLD FOR REGISTRATION OUT OF THE STATE;

(2) MOTOR VEHICLES SOLD FROM A LICENSED DEALER TO ANOTHER LICENSED DEALER; AND

(3) MOTOR VEHICLES THAT WOULD BE EXEMPTED FROM THE LOW EMISSIONS VEHICLE PROGRAM ESTABLISHED UNDER CALIFORNIA LAW.

(C) FOR ANY MOTOR ~~VEHICLES~~ VEHICLE EXEMPTED UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL NOTE THE EXEMPTION ~~OF~~ ON THE TITLE OF THE MOTOR VEHICLE.

2–1106.

(A) THE ENFORCEMENT AND PENALTY PROVISIONS OF SUBTITLE 6 OF THIS TITLE SHALL APPLY TO A VIOLATION OF THIS SUBTITLE.

(B) EACH TRANSFER OR ATTEMPTED TRANSFER OF A MOTOR VEHICLE OR MOTOR VEHICLE ENGINE IN VIOLATION OF § 2–1104(B) OF THIS SUBTITLE SHALL CONSTITUTE A SEPARATE VIOLATION OF THE PROVISIONS OF THIS SUBTITLE.

2–1107.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT, TO THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW COMMITTEE FOR THE COMMITTEE'S REVIEW, A LIST AND SUMMARY OF ALL CHANGES TO THE CALIFORNIA MOTOR VEHICLE EMISSIONS STANDARDS AND COMPLIANCE REQUIREMENTS PROPOSED OR ADOPTED BY THE CALIFORNIA AIR RESOURCES BOARD IN THE PRIOR 12 MONTHS.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment

2–1108.

(A) THERE IS A MARYLAND CLEAN CAR AND ENERGY POLICY TASK FORCE.

(B) THE TASK FORCE SHALL BE COMPOSED OF:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE TO SERVE AS A COCHAIR;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE TO SERVE AS A COCHAIR;

(3) THE SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES, OR A DESIGNEE OF THE SECRETARY;

(4) THE SECRETARY OF THE DEPARTMENT OF THE ENVIRONMENT, OR A DESIGNEE OF THE SECRETARY;

(5) THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION, OR A DESIGNEE OF THE SECRETARY;

(6) THE SECRETARY OF THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, OR A DESIGNEE OF THE SECRETARY;

(7) A REPRESENTATIVE OF THE MARYLAND ENERGY RESOURCE CENTER; AND

(8) A REPRESENTATIVE OF THE UNIVERSITY OF MARYLAND BIOTECHNOLOGY INSTITUTE.

(C) A MEMBER OF THE TASK FORCE MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE TASK FORCE BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

(D) THE TASK FORCE SHALL MEET AT THE TIMES AND PLACES THAT THE COCHAIRS DETERMINE.

(E) THE TASK FORCE SHALL:

(1) STUDY:

(I) THE ACTIVITIES OF NEIGHBORING STATES, RELATING TO VEHICLE EMISSION STANDARDS;

(II) REGULATORY ACTIONS BY THE STATE OF CALIFORNIA AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY RELATED TO VEHICLE EMISSION STANDARDS; AND

(III) EMERGING ENERGY TECHNOLOGIES;

(2) REVIEW STATE ENERGY POLICIES AND CONSIDER PROPOSALS AND STRATEGIES TO DEVELOP ALTERNATIVE VEHICLE FUELS AND EFFICIENCY MEASURES THAT WOULD IMPROVE THE STATE'S AIR QUALITY;

(3) MAKE LEGISLATIVE RECOMMENDATIONS; AND

(4) PREPARE A REPORT SUMMARIZING THE FINDINGS AND RECOMMENDATIONS OF THE TASK FORCE.

(F) THE TASK FORCE SHALL SUBMIT THE FINDINGS AND RECOMMENDATIONS OF THE TASK FORCE TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31 OF EACH YEAR.

(G) THE DEPARTMENT OF THE ENVIRONMENT SHALL PROVIDE STAFF TO THE TASK FORCE.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Transportation

13–110.

The Administration shall refuse to issue a certificate of title of a vehicle if:

(1) The application contains any false or fraudulent statement;

(2) The applicant has failed to furnish information or documents required by statute or regulations adopted by the Administration;

(3) Any required fee has not been paid;

(4) The applicant is not entitled to a certificate of title under the Maryland Vehicle Law; or

(5) The Administration has reasonable grounds to believe:

(i) That the applicant is not the owner of the vehicle; **[**or**]**

(ii) That the issuance of a certificate of title to the applicant would be a fraud against another person**; OR**

(III) THAT THE VEHICLE DOES NOT COMPLY WITH TITLE 2, SUBTITLE 11 OF THE ENVIRONMENT ARTICLE OR ANY REGULATION ADOPTED UNDER THAT SUBTITLE.

13–406.

The Administration shall refuse to register or transfer the registration of any vehicle if:

(1) The application contains any false or fraudulent statement;

(2) The applicant has failed to furnish information or documents required or requested by the Administration;

(3) Any required fee has not been paid;

(4) The applicant is not entitled to registration of the vehicle under the Maryland Vehicle Law;

(5) The vehicle is mechanically unfit or unsafe to be operated on the highways;

(6) The registration of the vehicle is suspended or revoked;

(7) A warrant for a motor vehicle violation under the Maryland Vehicle Law has been issued against the applicant and has not been served on the applicant;

(8) Subject to § 13–406.1 of this subtitle, the applicant is named in an outstanding arrest warrant;

(9) The Administration has reasonable grounds to believe:

(i) That the vehicle is stolen; **[**or**]**

(ii) That the grant or transfer of registration would be a fraud against another person**; OR**

(III) THAT THE VEHICLE DOES NOT COMPLY WITH TITLE 2, SUBTITLE 11 OF THE ENVIRONMENT ARTICLE OR ANY REGULATIONS ADOPTED UNDER THAT SUBTITLE; OR

(10) The gross vehicle weight is 55,000 pounds or over and the applicant has failed to furnish proof of payment of the Federal Heavy Vehicle Use Tax.

23–206.3.

(a) In this section, "qualified hybrid vehicle" has the meaning stated in § 13–815(a)(6) of this article.

(b) A qualified hybrid vehicle is exempt from the mandatory tests and inspections required by this subtitle if the vehicle obtains a rating from the U.S. Environmental Protection Agency of at least 50 miles per gallon during city fuel economy tests.

(c) The Administration shall adopt regulations necessary to implement the provisions of this section.

23–206.4.

(A) IN THIS SECTION, "ZERO–EMISSION VEHICLE" MEANS ANY VEHICLE THAT:

(1) IS DETERMINED BY THE SECRETARY TO BE A TYPE OF VEHICLE THAT DOES NOT PRODUCE ANY TAILPIPE OR EVAPORATIVE EMISSIONS; AND

(2) HAS NOT BEEN ALTERED FROM THE MANUFACTURER'S ORIGINAL SPECIFICATIONS.

(B) A ZERO–EMISSION VEHICLE IS EXEMPT FROM THE MANDATORY TESTS AND INSPECTIONS REQUIRED BY THIS SUBTITLE.

(C) THE ADMINISTRATION AND THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO:

(1) PROVIDE FOR THE DETERMINATION OF WHICH VEHICLES ARE ZERO–EMISSION VEHICLES; AND

(2) IMPLEMENT THE PROVISIONS OF THIS SECTION.

Chapter 273 of the Acts of 2003, as amended by Chapter 370 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2003. It shall remain effective for a period of ***[****6****]*** ***9*** *years and, at the end of September 30,* ***[****2009****]*** ***2012****, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.*

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Transportation

23–202.

(b) (1) ***[****The****]*** ***SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE*** *emissions program shall provide for a biennial exhaust emissions test and emissions equipment and misfueling inspection for all vehicles of the 1977 model year and each model year thereafter.*

(2) The emissions control program may not authorize an exhaust emissions test or emissions equipment and misfueling inspection for any vehicle of a model year earlier than the 1977 model year.

(3) (I) IN THIS PARAGRAPH, "QUALIFIED HYBRID VEHICLE" HAS THE MEANING STATED IN § 13–815(A)(6) OF THIS ARTICLE.

(II) A QUALIFIED HYBRID VEHICLE IS NOT REQUIRED TO SUBMIT TO A FIRST EXHAUST EMISSIONS TEST AND EMISSIONS EQUIPMENT AND MISFUELING INSPECTION UNTIL 3 YEARS AFTER THE DATE ON WHICH THE VEHICLE WAS FIRST REGISTERED IN THE STATE.

SECTION ~~2.~~ ~~4.~~ *5.* AND BE IT FURTHER ENACTED, That, on or before December 31, 2007, the Department of the Environment ~~and~~, in consultation with the Motor Vehicle Administration, shall ~~jointly~~ adopt regulations under Title 2, Subtitle 11 of the Environment Article, as enacted by Section 1 of this Act.

SECTION ~~5.~~ *6.* AND BE IT FURTHER ENACTED, That in adopting regulations under Title 2, Subtitle 11 of the Environment Article, as enacted by Section 1 of this Act, the Department of the Environment, in consultation with the Motor Vehicle Administration, shall:

(a) Consult with all stakeholders, including representatives of the State's automotive industry;

(b) Consider the implementation efforts of each state bordering the State that have adopted the California Low Emissions Vehicle Program; and

(c) Consider the needs of individuals with visual impairments.

SECTION ~~3.~~ ~~6.~~ *7.* AND BE IT FURTHER ENACTED, That, to the extent that any portion of this Act may be construed to be in conflict with federal law, the provisions of federal law shall prevail.

SECTION 8. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of the termination provision specified in Section 2 of Chapter 273 of the Acts of the General Assembly of 2003, as amended by Chapter 370 of the Acts of the General Assembly of 2005 and Section 3 of this Act. Except as provided in Section 3 of this Act, this Act may not be interpreted to have any effect on that termination provision.

SECTION ~~4.~~ ~~7.~~ *9.* AND BE IT FURTHER ENACTED, That*, subject to the provisions of Section 8 of this Act,* this Act shall take effect June 1, 2007. Section 2 of this Act shall remain effective for a period of 3 years and 7 months and, at the end of

December 31, 2010, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 112

(House Bill 131)

AN ACT concerning

Maryland Clean Cars Act of 2007

FOR the purpose of requiring the Department of the Environment ~~and the~~, in consultation with the Motor Vehicle Administration, to establish by regulation and maintain a certain low emissions vehicle program applicable to certain vehicles by a certain date; authorizing a modification concerning the applicability of the program to vehicles of certain model years; requiring ~~the Administration and~~ the Department to establish certain motor vehicle emissions standards and certain compliance requirements; prohibiting the Department or any other State Agency from adopting a regulation that requires the sale or use of certain gasoline; authorizing *and requiring* the adoption of certain regulations; authorizing the Department to work with certain jurisdictions for certain purposes; prohibiting the Administration from titling, registering, or transferring the registration of certain vehicles under certain circumstances; exempting a certain zero–emission vehicle from certain emissions testing and inspection requirements; extending the termination of a certain exemption for qualified hybrid vehicles from certain emissions testing and inspection requirements; requiring the Administration and the Secretary to adopt certain regulations; providing that a qualified hybrid vehicle is not required to submit to a certain exhaust emissions test and emissions equipment and misfueling inspection until a certain time after the vehicle was first registered in the State; ~~prohibiting~~ authorizing the Department, in consultation with the Administration, to prohibit certain acts related to certain vehicles or vehicle engines under certain circumstances; providing for the application of certain enforcement and penalty provisions; requiring the Department to submit a certain report to the Administrative, Executive, and Legislative Review Committee on or before a certain date each year; *establishing a Maryland Clean Car and Energy Policy Task Force; specifying the chair, membership, staffing, and duties of the Task Force; requiring the Task Force to make legislative recommendations; requiring the Task Force to provide a certain annual report to the Governor and the General Assembly;* defining certain terms;

requiring the Department, in consultation with the Administration, to consult with certain stakeholders, *consider the implementation efforts of certain states,* and consider the needs of certain individuals in adopting regulations under this Act; specifying that certain provisions of federal law apply to a certain extent; ~~requiring the Department to enter into a certain contract to conduct a certain study; requiring the Department to submit a certain report on or before a certain date;~~ providing for the effective date of certain provisions of this Act; *providing for the termination of certain provisions of this Act;* and generally relating to the establishment of a low emissions vehicle program.

BY adding to
Article – Environment
Section 2–1101 through ~~2–1106~~ ~~2–1107~~ *2–1108* to be under the new subtitle "Subtitle 11. Low Emissions Vehicle Program"
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–110 ~~and 13–406~~, 13–406, and 23–202(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 23–206.3
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to
Article – Transportation
Section 23–206.4
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 273 of the Acts of the General Assembly of 2003, as amended by Chapter 370 of the Acts of the General Assembly of 2005
Section 2

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

Article – Environment

SUBTITLE 11. LOW EMISSIONS VEHICLE PROGRAM.

2–1101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ADMINISTRATION" MEANS THE MOTOR VEHICLE ADMINISTRATION.

(C) "PROGRAM" MEANS THE LOW EMISSIONS VEHICLE PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

(D) "TRANSFER" INCLUDES ACQUIRE, PURCHASE, SELL, AND LEASE.

2–1102.

(A) IN ~~CONJUNCTION~~ CONSULTATION WITH THE ADMINISTRATION AND AS PROVIDED UNDER THIS SUBTITLE, THE DEPARTMENT SHALL ESTABLISH BY REGULATION AND MAINTAIN A LOW EMISSIONS VEHICLE PROGRAM THAT:

(1) IS AUTHORIZED BY § 177 OF THE FEDERAL CLEAN AIR ACT; AND

(2) IS APPLICABLE TO VEHICLES OF THE 2011 MODEL YEAR AND EACH MODEL YEAR THEREAFTER.

(B) AS PART OF THE PROGRAM, THE DEPARTMENT SHALL ESTABLISH NEW MOTOR VEHICLE EMISSIONS STANDARDS AND COMPLIANCE REQUIREMENTS FOR EACH MODEL YEAR INCLUDED IN THE PROGRAM AS AUTHORIZED BY § 177 OF THE FEDERAL CLEAN AIR ACT.

(C) AS PART OF THE COMPLIANCE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE, THE DEPARTMENT MAY ADOPT BY REGULATION MOTOR VEHICLE EMISSIONS INSPECTION, RECALL, AND WARRANTY REQUIREMENTS.

(D) THE DEPARTMENT OR ANY OTHER STATE AGENCY MAY NOT ADOPT A REGULATION UNDER THIS SUBTITLE OR ANY OTHER PROVISION OF LAW THAT REQUIRES THE SALE OR USE OF CALIFORNIA REFORMULATED GASOLINE IN THE STATE.

2–1103.

TO MINIMIZE THE ADMINISTRATIVE IMPACT OF THE PROGRAM AND TO MINIMIZE THE IMPACT OF MOTOR VEHICLE EMISSIONS GENERATED OUT OF STATE ON THE AIR QUALITY OF THIS STATE, THE DEPARTMENT:

(1) MAY ADOPT CALIFORNIA REGULATIONS, PROCEDURES, AND CERTIFICATION DATA BY REFERENCE; AND

(2) MAY WORK IN COOPERATION WITH, AND ENTER INTO CONTRACTS OR AGREEMENTS WITH CALIFORNIA, OTHER STATES, AND THE DISTRICT OF COLUMBIA TO ADMINISTER CERTIFICATION, IN–USE COMPLIANCE, INSPECTION, RECALL, AND WARRANTY REQUIREMENTS FOR THE PROGRAM.

2–1104.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE ADMINISTRATION MAY NOT TITLE OR REGISTER, UNDER TITLE 13 OF THE TRANSPORTATION ARTICLE, A NEW MOTOR VEHICLE THAT IS SUBJECT TO THE PROVISIONS OF THIS SUBTITLE IF THE MOTOR VEHICLE DOES NOT COMPLY WITH THE PROVISIONS OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE.

(B) ~~A~~ *EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A* PERSON MAY NOT TRANSFER OR ATTEMPT TO TRANSFER A MOTOR VEHICLE OR MOTOR VEHICLE ENGINE THAT IS SUBJECT TO THE PROVISIONS OF THIS SUBTITLE IF THE VEHICLE OR ENGINE DOES NOT COMPLY WITH THE PROGRAM.

(C) A PERSON MAY NOT PROCURE OR ATTEMPT TO PROCURE, THROUGH FRAUD OR MISREPRESENTATION, THE TITLE OR REGISTRATION OF A MOTOR VEHICLE THAT IS SUBJECT TO THE PROVISIONS OF THIS SUBTITLE IF THE VEHICLE DOES NOT COMPLY WITH THE PROGRAM.

(D) THE DEPARTMENT, IN CONSULTATION WITH THE ADMINISTRATION, ~~SHALL~~ MAY ADOPT REGULATIONS TO PROHIBIT THE TRANSFER OF NEW MOTOR VEHICLES OR MOTOR VEHICLE ENGINES THAT ARE NOT IN COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE~~, IF SUCH REGULATIONS ARE NECESSARY TO COMPLY WITH § 177 OF THE FEDERAL CLEAN AIR ACT~~.

2–1105.

(A) THE DEPARTMENT ~~MAY~~ *SHALL*, IN CONSULTATION WITH THE ADMINISTRATION, ADOPT REGULATIONS TO EXEMPT MOTOR VEHICLES FROM THE PROGRAM.

(B) EXEMPTIONS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE LIMITED TO:

(1) MOTOR VEHICLES SOLD FOR REGISTRATION OUT OF THE STATE;

(2) MOTOR VEHICLES SOLD FROM A LICENSED DEALER TO ANOTHER LICENSED DEALER; AND

(3) MOTOR VEHICLES THAT WOULD BE EXEMPTED FROM THE LOW EMISSIONS VEHICLE PROGRAM ESTABLISHED UNDER CALIFORNIA LAW.

(C) FOR ANY MOTOR ~~VEHICLES~~ VEHICLE EXEMPTED UNDER SUBSECTION (A) OF THIS SECTION, THE ADMINISTRATION SHALL NOTE THE EXEMPTION ~~OF~~ ON THE TITLE OF THE MOTOR VEHICLE.

2–1106.

(A) THE ENFORCEMENT AND PENALTY PROVISIONS OF SUBTITLE 6 OF THIS TITLE SHALL APPLY TO A VIOLATION OF THIS SUBTITLE.

(B) EACH TRANSFER OR ATTEMPTED TRANSFER OF A MOTOR VEHICLE OR MOTOR VEHICLE ENGINE IN VIOLATION OF § 2–1104(B) OF THIS SUBTITLE SHALL CONSTITUTE A SEPARATE VIOLATION OF THE PROVISIONS OF THIS SUBTITLE.

2–1107.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT, TO THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW COMMITTEE FOR THE COMMITTEE'S REVIEW, A LIST AND SUMMARY OF ALL CHANGES TO THE CALIFORNIA MOTOR VEHICLE EMISSIONS STANDARDS AND COMPLIANCE REQUIREMENTS PROPOSED OR ADOPTED BY THE CALIFORNIA AIR RESOURCES BOARD IN THE PRIOR 12 MONTHS.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment

2–1108.

(A) THERE IS A MARYLAND CLEAN CAR AND ENERGY POLICY TASK FORCE.

(B) THE TASK FORCE SHALL BE COMPOSED OF:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE TO SERVE AS A COCHAIR;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE TO SERVE AS A COCHAIR;

(3) THE SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES, OR A DESIGNEE OF THE SECRETARY;

(4) THE SECRETARY OF THE DEPARTMENT OF THE ENVIRONMENT, OR A DESIGNEE OF THE SECRETARY;

(5) THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION, OR A DESIGNEE OF THE SECRETARY;

(6) THE SECRETARY OF THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, OR A DESIGNEE OF THE SECRETARY;

(7) A REPRESENTATIVE OF THE MARYLAND ENERGY RESOURCE CENTER; AND

(8) A REPRESENTATIVE OF THE UNIVERSITY OF MARYLAND BIOTECHNOLOGY INSTITUTE.

(C) A MEMBER OF THE TASK FORCE MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE TASK FORCE BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

(D) THE TASK FORCE SHALL MEET AT THE TIMES AND PLACES THAT THE COCHAIRS DETERMINE.

(E) THE TASK FORCE SHALL:

(1) STUDY:

(I) THE ACTIVITIES OF NEIGHBORING STATES, RELATING TO VEHICLE EMISSION STANDARDS;

(II) REGULATORY ACTIONS BY THE STATE OF CALIFORNIA AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY RELATED TO VEHICLE EMISSION STANDARDS; AND

(III) EMERGING ENERGY TECHNOLOGIES;

(2) REVIEW STATE ENERGY POLICIES AND CONSIDER PROPOSALS AND STRATEGIES TO DEVELOP ALTERNATIVE VEHICLE FUELS AND EFFICIENCY MEASURES THAT WOULD IMPROVE THE STATE'S AIR QUALITY;

(3) MAKE LEGISLATIVE RECOMMENDATIONS; AND

(4) PREPARE A REPORT SUMMARIZING THE FINDINGS AND RECOMMENDATIONS OF THE TASK FORCE.

(F) THE TASK FORCE SHALL SUBMIT THE FINDINGS AND RECOMMENDATIONS OF THE TASK FORCE TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31 OF EACH YEAR.

(G) THE DEPARTMENT OF THE ENVIRONMENT SHALL PROVIDE STAFF TO THE TASK FORCE.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Transportation

13–110.

The Administration shall refuse to issue a certificate of title of a vehicle if:

(1) The application contains any false or fraudulent statement;

(2) The applicant has failed to furnish information or documents required by statute or regulations adopted by the Administration;

(3) Any required fee has not been paid;

(4) The applicant is not entitled to a certificate of title under the Maryland Vehicle Law; or

(5) The Administration has reasonable grounds to believe:

(i) That the applicant is not the owner of the vehicle; **[**or**]**

(ii) That the issuance of a certificate of title to the applicant would be a fraud against another person**; OR**

(III) THAT THE VEHICLE DOES NOT COMPLY WITH TITLE 2, SUBTITLE 11 OF THE ENVIRONMENT ARTICLE OR ANY REGULATION ADOPTED UNDER THAT SUBTITLE.

13–406.

The Administration shall refuse to register or transfer the registration of any vehicle if:

(1) The application contains any false or fraudulent statement;

(2) The applicant has failed to furnish information or documents required or requested by the Administration;

(3) Any required fee has not been paid;

(4) The applicant is not entitled to registration of the vehicle under the Maryland Vehicle Law;

(5) The vehicle is mechanically unfit or unsafe to be operated on the highways;

(6) The registration of the vehicle is suspended or revoked;

(7) A warrant for a motor vehicle violation under the Maryland Vehicle Law has been issued against the applicant and has not been served on the applicant;

(8) Subject to § 13–406.1 of this subtitle, the applicant is named in an outstanding arrest warrant;

(9) The Administration has reasonable grounds to believe:

(i) That the vehicle is stolen; **[**or**]**

(ii) That the grant or transfer of registration would be a fraud against another person**; OR**

(III) THAT THE VEHICLE DOES NOT COMPLY WITH TITLE 2, SUBTITLE 11 OF THE ENVIRONMENT ARTICLE OR ANY REGULATIONS ADOPTED UNDER THAT SUBTITLE; OR

(10) The gross vehicle weight is 55,000 pounds or over and the applicant has failed to furnish proof of payment of the Federal Heavy Vehicle Use Tax.

23–206.3.

(a) In this section, "qualified hybrid vehicle" has the meaning stated in § 13–815(a)(6) of this article.

(b) A qualified hybrid vehicle is exempt from the mandatory tests and inspections required by this subtitle if the vehicle obtains a rating from the U.S. Environmental Protection Agency of at least 50 miles per gallon during city fuel economy tests.

(c) The Administration shall adopt regulations necessary to implement the provisions of this section.

23–206.4.

(A) IN THIS SECTION, "ZERO–EMISSION VEHICLE" MEANS ANY VEHICLE THAT:

(1) IS DETERMINED BY THE SECRETARY TO BE OF A TYPE THAT DOES NOT PRODUCE ANY TAILPIPE OR EVAPORATIVE EMISSIONS; AND

(2) HAS NOT BEEN ALTERED FROM THE MANUFACTURER'S ORIGINAL SPECIFICATIONS.

(B) A ZERO–EMISSION VEHICLE IS EXEMPT FROM THE MANDATORY TESTS AND INSPECTIONS REQUIRED BY THIS SUBTITLE.

(C) THE ADMINISTRATION AND THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO:

(1) PROVIDE FOR THE DETERMINATION OF WHICH VEHICLES ARE ZERO–EMISSION VEHICLES; AND

(2) IMPLEMENT THE PROVISIONS OF THIS SECTION.

Chapter 273 of the Acts of 2003, as amended by Chapter 370 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2003. It shall remain effective for a period of **[**6**]** **9** years and, at the end of September 30, **[**2009**]** **2012**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ *4.* AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Transportation

23–202.

(b) (1) **[**The**]** **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE** emissions program shall provide for a biennial exhaust emissions test and emissions equipment and misfueling inspection for all vehicles of the 1977 model year and each model year thereafter.

(2) The emissions control program may not authorize an exhaust emissions test or emissions equipment and misfueling inspection for any vehicle of a model year earlier than the 1977 model year.

(3) (I) IN THIS PARAGRAPH, "QUALIFIED HYBRID VEHICLE" HAS THE MEANING STATED IN § 13–815(A)(6) OF THIS ARTICLE.

(II) A QUALIFIED HYBRID VEHICLE IS NOT REQUIRED TO SUBMIT TO A FIRST EXHAUST EMISSIONS TEST AND EMISSIONS EQUIPMENT AND MISFUELING INSPECTION UNTIL 3 YEARS AFTER THE DATE ON WHICH THE VEHICLE WAS FIRST REGISTERED IN THE STATE.

SECTION ~~2.~~ ~~3.~~ *5.* AND BE IT FURTHER ENACTED, That, on or before December 31, 2007, the Department of the Environment ~~and~~, in consultation with the Motor Vehicle Administration, shall ~~jointly~~ adopt regulations under Title 2, Subtitle 11 of the Environment Article, as enacted by Section 1 of this Act.

SECTION ~~3.~~ ~~4.~~ *6.* AND BE IT FURTHER ENACTED, That in adopting regulations under Title 2, Subtitle 11 of the Environment Article, as enacted by Section 1 of this Act, the Department of the Environment, in consultation with the Motor Vehicle Administration, shall:

(a) Consult with all stakeholders, including representatives of the State's automotive industry; ~~and~~

(b) *Consider the implementation efforts of each state bordering the State that have adopted the California Low Emissions Vehicle Program; and*

(c) Consider the needs of individuals with visual impairments.

SECTION ~~3.~~ ~~4.~~ ~~5.~~ *7.* AND BE IT FURTHER ENACTED, That, to the extent that any portion of this Act may be construed to be in conflict with federal law, the provisions of federal law shall prevail.

~~SECTION 5. 6. AND BE IT FURTHER ENACTED, That:~~

~~(a) The Department of the Environment shall contract with an academic institution in the State for a study of whether there has been an adverse impact on the State's economy, businesses, and citizens as a result of the implementation of the Low Emissions Vehicle Program established under Title 2, Subtitle 11 of the Environment Article.~~

~~(b) On or before December 1, 2013, the Department shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the findings of the study contracted for under this section.~~

SECTION ~~7.~~ *8.* AND BE IT FURTHER ENACTED, That Section ~~2~~ *4* of this Act shall take effect on the taking effect of the termination provision specified in Section 2 of Chapter 273 of the Acts of the General Assembly of 2003, as amended by Chapter 370 of the Acts of the General Assembly of 2005 and Section ~~1~~ *3* of this Act. Except as provided in Section ~~1~~ *3* of this Act, this Act may not be interpreted to have any effect on that termination provision.

SECTION ~~4.~~ ~~6.~~ ~~8.~~ *9.* AND BE IT FURTHER ENACTED, That, subject to the provisions of Section ~~7~~ *8* of this Act, this Act shall take effect June 1, 2007. *Section 2 of this Act shall remain effective for a period of 3 years and 7 months and, at the end of December 31, 2010, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.*

Approved by the Governor, April 24, 2007.

CHAPTER 113

(Senate Bill 148)

AN ACT concerning

Natural Resources – Chesapeake Bay – Oyster Restoration

FOR the purpose of ~~authorizing the Department of Natural Resources to lease land under certain waters of the Chesapeake Bay for oyster restoration; requiring the Department to adopt regulations and condition the leases to require a holder of certain oyster bottom to plant a certain minimum amount of seed oyster on certain surfaces within a certain time frame; authorizing the Department to extend the time frame for planting oyster seed on certain leased oyster bottom under certain circumstances; authorizing a holder of certain leased oyster bottom to catch oysters for certain purposes; establishing that a holder of certain leased oyster bottom may only restore a certain species of oyster; establishing that certain penalties apply for certain unlawful taking of oysters; establishing that certain penalties apply for unlawfully taking oysters in certain areas; altering a certain element of the criminal offense of unlawfully taking oysters; altering the range of time for a tidal fish license suspension that applies to a person who unlawfully takes oysters; establishing a certain additional penalty for a violation of certain time restrictions on catching or landing oysters; requiring the Department to impose certain license suspensions in a certain manner; requiring the Department to adopt certain regulations; establishing the Task Force on Oyster Restoration in the Chesapeake Bay; providing for the membership of the Task Force; requiring the Secretary of Natural Resources to appoint the chair of the Task Force; requiring the Task Force to examine certain issues related to oysters in the Chesapeake Bay and to formulate a certain action plan; providing for reimbursement for the expenses of a member of the Task Force; providing that certain provisions of the Maryland Public Ethics Law do not apply under certain circumstances to certain regulated lobbyists who serve on the Task Force; providing for the staff of the Task Force; requiring the Task Force to report to the Governor and the General Assembly by a certain date; providing for the termination of certain provisions of this Act; making certain technical corrections; making certain stylistic changes; altering a certain definition~~ establishing the Oyster Advisory Commission in the Department of Natural Resources; providing for the membership of the Commission; establishing the duties of the Commission; requiring the Commission to report to the Governor and the General Assembly by a certain date; requiring the Department of Natural Resources to publish certain information with respect to areas closed to shellfish harvesting; requiring the Department to provide certain publications to certain persons under certain circumstances; prohibiting a person from catching oysters for sale without providing certain certification to the Department; authorizing certain organizations to lease certain submerged land in Anne Arundel County for oyster restoration; authorizing certain holders of certain oyster bottom leases to renew the leases; requiring a certain holder of an oyster bottom lease to adhere to a certain plan and to plant a certain amount and density of oyster seed; prohibiting a certain holder of an oyster bottom lease from transferring or

attempting to transfer a certain interest in submerged land; providing for reversion of a lease to the State if a certain transfer is made or attempted; establishing that certain penalties apply for unlawfully taking oysters in certain areas; repealing the penalty of license suspension for certain unlawful takings of oysters; requiring a certain amount of the oyster seed or spat produced at a certain laboratory to be made available to certain leaseholders for purchase; requiring the Department to adopt certain regulations establishing a certain administrative process for license suspension or revocation for unlawfully taking oysters; providing for the effective dates of this Act; and generally relating to oyster restoration in the Chesapeake Bay.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section ~~4–11A–05(a)(1), (b), and (f)(1) and (2), 4–11A–07, 4–11A–11, 4–11A–12(a), 4–11A–13(a), (b), and (c)(1),~~ 4–204(c), 4–701(e)(2), 4–11A–05(a)(2), and 4–1201(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article – Natural Resources
Section ~~4–1201(g)~~ 4–1006.2
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

~~4–11A–05.~~

~~(a) (1) **(I)** The Department may lease, in the name of the State, tracts or parcels of land beneath the waters of the State to residents of the State for protecting, sowing, bedding, or cultivating oysters or other shellfish, subject to the provisions of this **[**section**]** SUBTITLE.~~

~~**(II) THE DEPARTMENT MAY LEASE, IN THE NAME OF THE STATE, TRACTS OR PARCELS OF LAND BENEATH THE WATERS OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES TO RESIDENTS OF THE STATE FOR OYSTER RESTORATION, SUBJECT TO THE PROVISIONS OF THIS SUBTITLE.**~~

~~**(III)** These submerged lands when leased shall be known as leased oyster bottoms.~~

~~(b)~~ **~~(1)~~** ~~The Department may not lease any of the submerged areas of the State within the jurisdictional boundaries of Dorchester, Kent, Queen Anne's, Somerset and Talbot counties for oyster~~ **~~RESTORATION OR~~** ~~cultivation. The Department also may not lease any of the submerged areas of the State in the tidewater tributaries of Charles County, except the Patuxent River, for oyster~~ **~~RESTORATION OR~~** ~~cultivation. This subsection does not affect any existing lease in Somerset County made prior to and effective on June 1, 1952; any lease in Dorchester County made prior to and effective on June 1, 1957; in Charles County made prior to and effective on July 1, 1968 and in Kent, Queen Anne's and Talbot counties made prior to July 1, 1973. This subsection also does not prevent any lessee from renewing, assigning, devising by will or prohibit the descendents of any lessee, his heirs, or next of kin, from inheriting rights by the operation of the laws of descent and distribution. If an existing lease does not provide for renewal, the Department may grant renewal when the lease terminates unless good cause to the contrary is shown. However, a person may not lease more acreage than now authorized by law regardless of the manner in which the lease or the rights under the lease are obtained.~~

~~(2) THE DEPARTMENT MAY LEASE A SUBMERGED AREA OF THE STATE FOR OYSTER RESTORATION ONLY:~~

~~(I) IN THE CHESAPEAKE BAY AND ITS TRIBUTARIES; AND~~

~~(II) IF, ON JUNE 1, 2007, THE AREA WAS OR HAD PREVIOUSLY BEEN CONSIDERED A LEASED OYSTER BOTTOM.~~

~~(f) (1) If a person applies to the Department for a lease of submerged land for oyster~~ **~~RESTORATION OR~~** ~~cultivation, the Department shall determine if the submerged land is a productive natural clam bar.~~

~~(2) Notwithstanding any other provision of this subtitle, if the Department determines that the submerged land is a productive natural clam bar, the Department may not lease the submerged land for purposes of oyster~~ **~~RESTORATION OR~~** ~~cultivation.~~

~~4–11A–07.~~

~~(a) Except as provided in subsection (c)(2) of this section the term of leases for submerged lands shall be 20 years at an annual rent the Department deems proper and commensurate with the value of the leased land.~~

~~(b) If the Department ascertains that any leased area is affected by environmental factors which destroy or seriously impede the culture and growth of oysters and threaten the potential of the area for continued oyster production, it may reduce or abate the annual rent by an amount and for a period the Department deems equitable and reasonable in view of the degree of damage.~~

~~(c) (1) In this subsection, "utilize" [includes]~~ **INCLUDES:**

~~(I)~~ **FOR CULTIVATING OYSTERS OR CLAMS,** ~~the planting or harvesting of not less than 25 bushels of oysters or 25 bags of clams per lease during 1 year of each 3–year period~~**; AND**

~~(II)~~ **FOR RESTORING OYSTERS, THE PLANTING OF NOT LESS THAN 250,000 CULTCHED OYSTERS ON SUITABLE GROUND OR SUBSTRATE IN AN AREA THAT IS ECOLOGICALLY SUITABLE FOR OYSTER GROWTH.**

~~(2) If any part of the rent required by a lease remains unpaid for more than 60 days after it becomes due, the Department may declare the lease null and void in accordance with subsection (e) of this section and the land shall revert to the State and may be leased again. The Department may cancel any lease, either in whole or in part, and may diminish or cancel the annual rental to an extent commensurate with the area remaining under lease on the written request of the lessee.~~

~~(3)~~ ~~(I)~~ ~~The Department shall adopt regulations and condition each lease to require a leaseholder to actively utilize the leased area~~ [within] **WITHIN:**

~~1.~~ **FOR OYSTER OR CLAM CULTIVATION,** ~~any 3–year period commencing July 1, 1990, or the effective date of a lease after July 1, 1990~~**; OR**

~~2.~~ **FOR OYSTER RESTORATION, 1 YEAR AFTER THE EFFECTIVE DATE OF THE LEASE.**

~~(II)~~ ~~The Department may allow a longer period than 3 years~~ [upon] **FOR THE CULTIVATION OR 1 YEAR FOR THE RESTORATION OF THE LEASED AREA ON** ~~a showing that natural conditions, including unavailability of oyster shell or seed, prevented utilization.~~

~~(4) If a leaseholder fails to actively utilize leased bottom in accordance with regulations promulgated under~~ [paragraph (2)] **PARAGRAPH (3)** ~~of this subsection, the leasehold shall revert to the State and may be leased again. A leaseholder shall maintain records documenting activities which show that the lease is being used for shellfish production as required by the Department.~~

~~(d) A lease may not be invalidated in any way by facts determined in any resurvey under § 4–1102 of this title unless the lessee forfeits~~ [his] **THE LESSEE'S** ~~lease voluntarily, fails to pay rental or other fees, or fails to actively utilize the lease areas~~ [within a period of 3 years] **UNDER SUBSECTION (C)(3) OF THIS SECTION.**

~~(e) (1) The provisions of Title 8 of the Real Property Article do not apply to leases under this subtitle.~~

~~(2)~~ **[**~~Upon~~**] ON** ~~a determination under subsection (c) of this section, the Department shall notify a lessee of the lessee's opportunity to contest the Department's action in a hearing under Title 10, Subtitle 2 of the State Government Article.~~

~~4–11A–11.~~

~~(a) The lessee of any leased oyster bottom shall have exclusive ownership of and title to all the oysters planted by~~ **[**~~him~~**] THE LESSEE** ~~or existing on the leasehold. Lessees shall have the rights to use their lease subject to the following conditions:~~

~~(1) Land leased under this subtitle shall be used only for the purpose of planting and cultivating oysters~~**, OR RESTORING OYSTERS**~~;~~

~~(2) Persons may fish on all leased oyster bottoms, if they do not remove or destroy oysters on the areas; and~~

~~(3) A person may not redeem or purchase any leased oyster bottom.~~

~~(b)~~ **~~(1)~~ [**~~A~~**] IF A LEASED OYSTER BOTTOM IS USED FOR OYSTER CULTIVATION, THE** ~~lessee may catch oysters at any time from~~ **[**~~his~~**] THE** ~~leased~~ **[**~~oyster bottom~~**] AREA** ~~for private use, planting or cultivating, or for sale for planting by other lessees.~~

~~(2)~~ IF A LEASED OYSTER BOTTOM IS USED FOR OYSTER RESTORATION, THE LESSEE MAY CATCH OYSTERS AT ANY TIME FROM THE LEASED AREA AS NECESSARY TO FACILITATE OYSTER RESTORATION.

~~(c) (1) In Wicomico and Somerset counties, any State resident holding a current tonging license may catch oysters on any leased oyster bottom~~ **USED FOR CULTIVATION** ~~if the State resident first obtains the written permission of the lessee of the leased oyster bottom.~~

~~(2) A lessee or a bona fide representative of a lessee who has written permission from the lessee is not required to have a tonging license in the Manokin River.~~

~~(d) The season for catching oysters from leased oyster bottoms of the State for sale shall be between sunrise and sunset of any day, except Sunday, throughout the year, if the leased oyster bottoms are marked as prescribed in this subtitle.~~

~~4–11A–12.~~

~~(a) A lessee may plant, cultivate, sow, or protect oysters~~**~~, OR RESTORE OYSTERS,~~** ~~only of the species known as Crassostrea virginica in the waters of the State.~~

~~4–11A–13.~~

~~(a) A lessee may cultivate or remove oysters planted on~~ **~~[~~**~~his~~**~~]~~ ~~THE LESSEE'S~~** ~~leased oyster bottom in any manner~~ **~~[~~**~~he~~**~~]~~ ~~THE LESSEE~~** ~~deems proper, if~~ **~~[~~**~~he~~**~~]~~ ~~THE LESSEE~~** ~~complies with the provisions of this subtitle relating to dredging and tonging when transplanting oysters or catching them for commercial purposes.~~

~~(b) Each lessee shall keep accurate records concerning the seeding and planting of cultch and oysters on, and the harvesting, and selling of oysters from~~ **~~[~~**~~his~~**~~]~~ ~~THE LESSEE'S~~** ~~leased oyster bottom. Each lessee shall report this information to the Department on forms the Department prescribes.~~

~~(c) (1) In that water area in Somerset County of Pocomoke Sound and Pocomoke River, east of Tull's Point, and Marumsco natural oyster bar eastward to William's Point,~~ **~~IF THE OYSTER BOTTOM IS LEASED FOR CULTIVATION~~** ~~a lessee may authorize a nonresident to take oysters by tong as provided by this section.~~

4–204.

(c) **[**Notwithstanding any other provision of this section, a member of the Fish and Wildlife Commission as of June 30, 1972, may serve the unexpired remainder of his term as a member of an advisory commission created by law.**]**

(1) THERE IS AN OYSTER ADVISORY COMMISSION IN THE DEPARTMENT.

(2) THE COMMISSION CONSISTS OF MEMBERS APPOINTED BY THE SECRETARY.

(3) THE COMMISSION SHALL:

(I) PROVIDE THE DEPARTMENT WITH ADVICE ON MATTERS RELATED TO OYSTERS IN THE CHESAPEAKE BAY;

(II) REVIEW THE BEST POSSIBLE SCIENCE AND RECOMMEND CHANGES TO THE FRAMEWORK AND STRATEGIES FOR REBUILDING AND MANAGING THE OYSTER POPULATION IN THE CHESAPEAKE BAY UNDER THE CHESAPEAKE BAY OYSTER MANAGEMENT PLAN;

(III) REVIEW THE LATEST FINDINGS RELEVANT TO THE ENVIRONMENTAL IMPACT STATEMENT EVALUATING OYSTER RESTORATION ALTERNATIVES FOR THE CHESAPEAKE BAY;

(IV) REVIEW ANY OTHER SCIENTIFIC, ECONOMIC, OR CULTURAL INFORMATION RELEVANT TO OYSTERS IN THE CHESAPEAKE BAY; AND

(V) BY DECEMBER 31, 2007 AND TO THE EXTENT REASONABLY APPROPRIATE, REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

1. STRATEGIES TO MINIMIZE THE IMPACT OF OYSTER DISEASE, INCLUDING THE STATE REPLETION PROGRAM AND BAR CLEANING;

2. THE FRAMEWORK AND EFFECTIVENESS OF THE OYSTER SANCTUARY, HARVEST RESERVE, AND REPLETION PROGRAMS, AND THE OVERALL MANAGEMENT OF NATURAL OYSTER BARS, AFTER PERFORMING A COST–BENEFIT ANALYSIS THAT CONSIDERS BIOLOGICAL, ECOLOGICAL, ECONOMIC, AND CULTURAL ISSUES;

3. STRATEGIES TO MAXIMIZE THE ECOLOGICAL BENEFITS OF NATURAL OYSTER BARS; AND

4. STRATEGIES TO IMPROVE ENFORCEMENT OF CLOSED OYSTER AREAS.

4–701.

(e) (2) **(I)** A person may not catch oysters for sale without **[**possessing**]:**

1. POSSESSING a valid license under this section **[**and paying**];**

2. PAYING an annual surcharge of $300 **[**which shall be used by the Department only for oyster repletion activities**]; 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.

4–1006.2.

(A) THE DEPARTMENT ANNUALLY SHALL PUBLISH MAPS AND COORDINATES OF OYSTER SANCTUARIES, CLOSED OYSTER HARVEST RESERVE AREAS, AND AREAS CLOSED TO SHELLFISH HARVEST BY THE DEPARTMENT OF THE ENVIRONMENT.

(B) (1) THE DEPARTMENT SHALL PROVIDE THE PUBLICATIONS REQUIRED UNDER THIS SECTION TO EACH TIDAL FISH LICENSEE WHO PAYS THE OYSTER SURCHARGES REQUIRED UNDER § 4–701(E) OF THIS TITLE.

(2) BEFORE A PERSON MAY CATCH OYSTERS UNDER A TIDAL FISH LICENSE THAT HAS AN OYSTER AUTHORIZATION AND FOR WHICH THE OYSTER SURCHARGES HAVE BEEN PAID, THE PERSON SHALL CERTIFY TO THE DEPARTMENT ON A FORM THE DEPARTMENT PRESCRIBES THAT THE PERSON RECEIVED THE PUBLICATIONS REQUIRED UNDER THIS SECTION.

4–11A–05.

(a) (2) (i) Except as provided in this paragraph, a corporation or joint stock company may not lease or acquire by assignment or otherwise any submerged land of the State for the purposes of this section.

(ii) A 4–H club in the State may lease or acquire not more than 10 acres of submerged land for the purposes of this section.

(iii) 1. An incorporated college or university within the State having an enrollment of at least 700 undergraduate, degree–seeking students may acquire, by assignment, gift, or bequest, submerged land for education and research purposes only.

2. An incorporated college or university may not transfer or attempt to transfer any interest in submerged land acquired under the provision of item 1 of this subparagraph to any person, corporation, or joint stock company.

3. Any transfer or attempt to transfer an interest in submerged land acquired under the provisions of item 1 of this subparagraph shall be void, and the interest in submerged land shall revert to the State without the necessity of any action by the State.

(iv) 1. **A.** A nonstock, nonprofit corporation organized under the laws of this State exclusively for educational purposes may lease or acquire not more than two leases consisting of not more than 30 acres each of submerged land in the Severn River for educational or ecological purposes.

B. A NONSTOCK, NONPROFIT CORPORATION MAY RENEW A LEASE ACQUIRED UNDER THIS SUBPARAGRAPH.

2. A. Except as provided in sub–sub–subparagraph B of this sub–subparagraph, a nonstock, nonprofit corporation organized exclusively for educational purposes may not transfer or attempt to transfer any interest in submerged land acquired under the provisions of sub–subparagraph 1 of this subparagraph to any person, corporation, or joint stock company.

B. The nonprofit, nonstock corporation may harvest oysters in accordance with a harvesting program approved by the Department provided that any revenues from harvesting are maintained by the nonstock, nonprofit corporation exclusively for educational or ecological purposes and for the maintenance and preservation of submerged lands leased by the nonprofit, nonstock corporation.

(V) 1. A. A NONSTOCK, NONPROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE EXCLUSIVELY FOR CONSERVATION OR ECOLOGICAL PURPOSES MAY LEASE OR ACQUIRE BY LEASE NOT MORE THAN 30 ACRES OF SUBMERGED LAND IN ANNE ARUNDEL COUNTY FOR THE PURPOSE OF OYSTER RESTORATION.

B. A NONSTOCK, NONPROFIT CORPORATION MAY RENEW A LEASE ACQUIRED UNDER THIS SUBPARAGRAPH.

2. THE NONSTOCK, NONPROFIT CORPORATION SHALL ADHERE TO A MANAGEMENT PLAN APPROVED BY THE DEPARTMENT FOR THE LEASED SUBMERGED LAND.

3. THE NONSTOCK, NONPROFIT CORPORATION SHALL PLANT A MINIMUM OF 250,000 OYSTERS AT A DENSITY OF 1,000,000 OYSTERS PER ACRE.

4. A. A NONSTOCK, NONPROFIT CORPORATION MAY NOT TRANSFER OR ATTEMPT TO TRANSFER ANY INTEREST IN SUBMERGED LAND ACQUIRED UNDER ITEM 1 OF THIS SUBPARAGRAPH TO ANY PERSON, CORPORATION, OR JOINT STOCK COMPANY.

B. ANY TRANSFER OR ATTEMPT TO TRANSFER AN INTEREST IN SUBMERGED LAND ACQUIRED UNDER ITEM 1 OF THIS SUBPARAGRAPH SHALL BE VOID, AND THE INTEREST IN SUBMERGED LAND SHALL REVERT TO THE STATE WITHOUT THE NECESSITY OF ANY ACTION BY THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Natural Resources

4–1201.

(f) ~~**(1)**~~ In addition to any other applicable penalty set forth in this title ~~**AND NOTWITHSTANDING § 4–215(II) OF THIS TITLE**~~, a person who unlawfully takes oysters from **A LEASED OYSTER BOTTOM,** an **[**oyster sanctuary or oyster reserve that is**]** **OYSTER SANCTUARY, AN OYSTER RESERVE, OR AN AREA CLOSED TO SHELLFISH HARVEST BY THE DEPARTMENT OF THE ENVIRONMENT, WHEN THE AREA IS** designated and marked by buoys or other ~~signage, **[**and who~~ **SIGNAGE OR THE PERSON** knew or should have known that taking the oysters from ~~the sanctuary or reserve~~ **THE AREA** was unlawful, ~~shall be subject to a~~**] ~~IS SUBJECT TO:~~ IS SUBJECT TO A FINE NOT EXCEEDING $3,000.**

~~**(I)** **A** fine not exceeding **[**$3,000**] $3,000;** and~~

~~**(II)** **[**immediate**] IMMEDIATE** suspension of the person's tidal fish license for a period not less than **[**6 months but not more than 1 year**] 180 DAYS AND NOT EXCEEDING 365 DAYS.~~

~~**(2)** **A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL:~~

~~**(I)** **APPLY ON CONSECUTIVE DAYS DURING THE OPEN OYSTER SEASON FOR WHICH THE VIOLATOR IS LICENSED; AND~~

~~**(II)** **CONTINUE INTO SUCCESSIVE OPEN SEASONS UNTIL THE SUSPENSION IS FULLY SERVED.~~

~~**(G)** **(1)** **IN ADDITION TO ANY OTHER APPLICABLE PENALTY SET FORTH IN THIS TITLE AND NOTWITHSTANDING § 4–215(II) OF THIS TITLE, A PERSON WHO VIOLATES THE TIME RESTRICTIONS ON CATCHING OR LANDING OYSTERS UNDER § 4–1008 OF THIS TITLE IS SUBJECT TO IMMEDIATE SUSPENSION OF THE PERSON'S TIDAL FISH LICENSE FOR A PERIOD NOT LESS THAN 180 DAYS AND NOT EXCEEDING 365 DAYS.~~

~~**(2) A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL:**~~

~~**(I) APPLY ON CONSECUTIVE DAYS DURING THE OPEN OYSTER SEASON FOR WHICH THE VIOLATOR IS LICENSED; AND**~~

~~**(II) CONTINUE INTO SUCCESSIVE OPEN SEASONS UNTIL THE SUSPENSION IS FULLY SERVED.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) There is a Task Force on Oyster Restoration in the Chesapeake Bay.~~

~~(b) The Task Force shall consist of the following members:~~

~~(1) one member of the House of Delegates, appointed by the Speaker of the House;~~

~~(2) one member of the Senate of Maryland, appointed by the President of the Senate;~~

~~(3) the following eight members, appointed by the Secretary of Natural Resources:~~

~~(i) a representative of the Department of Natural Resources Fisheries Service;~~

~~(ii) a representative of the Department's Oyster Restoration and Repletion Programs;~~

~~(iii) a representative of the Natural Resources Police;~~

~~(iv) a representative of the Maryland seafood industry;~~

~~(v) a representative with scientific expertise on oyster disease;~~

~~(vi) a representative with scientific expertise on oyster restoration;~~

~~(vii) a representative of the Maryland recreational fishing or fishing guide community; and~~

~~(viii) a representative of a nongovernmental organization engaged in oyster restoration in the Chesapeake Bay and its tributaries; and~~

~~(4) a representative of the Maryland Watermen's Association, appointed by the President of the Association.~~

~~(c) The Secretary of Natural Resources shall appoint the chair of the Task Force.~~

~~(d) The Task Force shall:~~

~~(1) formulate an action plan regarding the necessary methodology, time frame, and costs of:~~

~~(i) minimizing the impact of oyster disease in the Chesapeake Bay and its tributaries;~~

~~(ii) maximizing the ecological benefits of natural oyster bars;~~

~~(iii) promoting oyster aquaculture in Maryland; and~~

~~(iv) increasing the native oyster population of the Chesapeake Bay and its tributaries; and~~

~~(2) include in its deliberations:~~

~~(i) an examination of the practice of bar cleaning;~~

~~(ii) an examination of State oyster restoration and repletion programs;~~

~~(iii) an examination of current management practices of natural oyster bars, including:~~

~~1. the fairness and equitability of the quality and percentage of these areas that are currently designated as sanctuaries; and~~

~~2. current restrictions on the leasing and use of these areas for aquaculture;~~

~~(iv) the most recent findings related to the nonnative oyster Environmental Impact Statement; and~~

~~(v) any other scientific, economic, or cultural information relevant to oyster management practices.~~

~~(e) (1) A member of the Task Force:~~

~~(i) may not receive compensation; but~~

~~(ii) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(2) If a regulated lobbyist is appointed to serve as a member of the Task Force, the lobbyist:~~

~~(i) is not subject to § 15–504(d) of the State Government Article with respect to that service; and~~

~~(ii) is not subject to § 15–703(f)(3) of the State Government Article as a result of that service.~~

~~(f) The Department of Natural Resources shall provide staff support for the Task Force.~~

~~(g) The Task Force shall issue a final report of its findings and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on or before December 1, 2007.~~

SECTION 3. AND BE IT FURTHER ENACTED, That one–tenth of the oyster seed or spat produced for planting in accordance with Section 1 of this Act at the University of Maryland Center for Environmental Science Horn Point Laboratory shall be made available for purchase to any leaseholder of land beneath the waters of the Chesapeake Bay and its tributaries who leased in accordance with Title 4, Subtitle 11A of the Natural Resources Article.

SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, ~~That, as required under § 4–11A–07(c) of the Natural Resources Article, as enacted by Section 1 of this Act, the Department of Natural Resources shall adopt regulations on or before December 31, 2007, to establish standards for determining whether a leased oyster bottom is being actively utilized for sound restoration purposes.~~ That:

(a) By October 1, 2007, the Department of Natural Resources shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under Title 4, Subtitle 7 of the Natural Resources Article.

(b) The regulations shall require the suspension of a person's tidal fish license or authorization for a period of not less than 180 days and not exceeding 365 days during the oyster harvest season for:

(1) the unlawful harvest of oysters from a leased oyster bottom or from more than 150 feet within an oyster sanctuary, oyster reserve, or area closed to harvest by the Department of the Environment, when the area is designated and

marked with buoys or other signage or the person knew or should have known that the harvest of oysters from the area was unlawful; or

(2) a violation of a time restriction for the harvest of oysters by more than 2 hours.

SECTION ~~4.~~ 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect ~~June~~ October 1, 2007. ~~Sections 2 and 3 of this Act shall remain effective for a period of 9 months and, at the end of February 29, 2008, with no further action required by the General Assembly, Sections 2 and 3 of this Act shall be abrogated and of no further force and effect.~~

SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 114

(House Bill 133)

AN ACT concerning

Natural Resources – Chesapeake Bay – Oyster Restoration

FOR the purpose of ~~authorizing the Department of Natural Resources to lease land under certain waters of the Chesapeake Bay for oyster restoration; requiring the Department to adopt regulations and condition the leases to require a holder of certain oyster bottom to plant a certain minimum amount of seed oyster on certain surfaces within a certain time frame; authorizing the Department to extend the time frame for planting oyster seed on certain leased oyster bottom under certain circumstances; authorizing a holder of certain leased oyster bottom to catch oysters for certain purposes; establishing that a holder of certain leased oyster bottom may only restore a certain species of oyster; establishing that certain penalties apply for certain unlawful taking of oysters; establishing that certain penalties apply for unlawfully taking oysters in certain areas; altering a certain element of the criminal offense of unlawfully taking oysters; altering the range of time for a tidal fish license suspension that applies to a person who unlawfully takes oysters; establishing a certain additional penalty for a violation of certain time restrictions on catching or landing oysters; requiring the Department to impose certain license suspensions in a certain manner; requiring the Department to adopt certain regulations;~~

~~establishing the Task Force on Oyster Restoration in the Chesapeake Bay; providing for the membership of the Task Force; requiring the Secretary of Natural Resources to appoint the chair of the Task Force; requiring the Task Force to examine certain issues related to oysters in the Chesapeake Bay and to formulate a certain action plan; providing for reimbursement for the expenses of a member of the Task Force; providing that certain provisions of the Maryland Public Ethics Law do not apply under certain circumstances to certain regulated lobbyists who serve on the Task Force; providing for the staff of the Task Force; requiring the Task Force to report to the Governor and the General Assembly by a certain date; providing for the termination of certain provisions of this Act; making certain technical corrections; making certain stylistic changes; altering a certain definition~~ establishing the Oyster Advisory Commission in the Department of Natural Resources; providing for the membership of the Commission; establishing the duties of the Commission; requiring the Commission to report to the Governor and the General Assembly by a certain date; requiring the Department of Natural Resources to publish certain information with respect to areas closed to shellfish harvesting; *requiring the Department to provide certain publications to certain persons under certain circumstances; prohibiting a person from catching oysters for sale without providing certain certification to the Department;* authorizing certain organizations to lease certain submerged land in Anne Arundel County for oyster restoration; authorizing certain holders of certain oyster bottom leases to renew the leases; requiring a certain holder of an oyster bottom lease to adhere to a certain plan and to plant a certain amount and density of oyster seed; prohibiting a certain holder of an oyster bottom lease from transferring or attempting to transfer a certain interest in submerged land; providing for reversion of a lease to the State if a certain transfer is made or attempted; establishing that certain penalties apply for unlawfully taking oysters in certain areas; repealing the penalty of license suspension for certain unlawful takings of oysters; *requiring a certain amount of the oyster seed or spat produced at a certain laboratory to be made available to certain leaseholders for purchase;* requiring the Department to adopt certain regulations establishing a certain administrative process for license suspension or revocation for unlawfully taking oysters; providing for the effective dates of this Act; and generally relating to oyster restoration in the Chesapeake Bay.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section ~~4–11A–05(a)(1), (b), and (f)(1) and (2), 4–11A–07, 4–11A–11, 4–11A–12(a), 4–11A–13(a), (b), and (c)(1),~~ 4–204(c), *4–701(e)(2),* 4–11A–05(a)(2), and 4–1201(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article – Natural Resources
Section ~~4–1201(g)~~ 4–1006.2
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

~~4–11A–05.~~

~~(a) (1) **(I)** The Department may lease, in the name of the State, tracts or parcels of land beneath the waters of the State to residents of the State for protecting, sowing, bedding, or cultivating oysters or other shellfish, subject to the provisions of this **[**section**]** **SUBTITLE.**~~

~~**(II) THE DEPARTMENT MAY LEASE, IN THE NAME OF THE STATE, TRACTS OR PARCELS OF LAND BENEATH THE WATERS OF THE CHESAPEAKE BAY AND ITS TRIBUTARIES TO RESIDENTS OF THE STATE FOR OYSTER RESTORATION, SUBJECT TO THE PROVISIONS OF THIS SUBTITLE.**~~

~~**(III)** These submerged lands when leased shall be known as leased oyster bottoms.~~

~~(b) **(1)** The Department may not lease any of the submerged areas of the State within the jurisdictional boundaries of Dorchester, Kent, Queen Anne's, Somerset and Talbot counties for oyster **RESTORATION OR** cultivation. The Department also may not lease any of the submerged areas of the State in the tidewater tributaries of Charles County, except the Patuxent River, for oyster **RESTORATION OR** cultivation. This subsection does not affect any existing lease in Somerset County made prior to and effective on June 1, 1952; any lease in Dorchester County made prior to and effective on June 1, 1957; in Charles County made prior to and effective on July 1, 1968 and in Kent, Queen Anne's and Talbot counties made prior to July 1, 1973. This subsection also does not prevent any lessee from renewing, assigning, devising by will or prohibit the descendents of any lessee, his heirs, or next of kin, from inheriting rights by the operation of the laws of descent and distribution. If an existing lease does not provide for renewal, the Department may grant renewal when the lease terminates unless good cause to the contrary is shown. However, a person may not lease more acreage than now authorized by law regardless of the manner in which the lease or the rights under the lease are obtained.~~

~~**(2) THE DEPARTMENT MAY LEASE A SUBMERGED AREA OF THE STATE FOR OYSTER RESTORATION ONLY:**~~

~~**(I) IN THE CHESAPEAKE BAY AND ITS TRIBUTARIES; AND**~~

~~**(II) IF, ON JUNE 1, 2007, THE AREA WAS OR HAD PREVIOUSLY BEEN CONSIDERED A LEASED OYSTER BOTTOM.**~~

~~(f) (1) If a person applies to the Department for a lease of submerged land for oyster **RESTORATION OR** cultivation, the Department shall determine if the submerged land is a productive natural clam bar.~~

~~(2) Notwithstanding any other provision of this subtitle, if the Department determines that the submerged land is a productive natural clam bar, the Department may not lease the submerged land for purposes of oyster **RESTORATION OR** cultivation.~~

~~4–11A–07.~~

~~(a) Except as provided in subsection (c)(2) of this section the term of leases for submerged lands shall be 20 years at an annual rent the Department deems proper and commensurate with the value of the leased land.~~

~~(b) If the Department ascertains that any leased area is affected by environmental factors which destroy or seriously impede the culture and growth of oysters and threaten the potential of the area for continued oyster production, it may reduce or abate the annual rent by an amount and for a period the Department deems equitable and reasonable in view of the degree of damage.~~

~~(c) (1) In this subsection, "utilize" **[**includes**] INCLUDES:**~~

~~**(I) FOR CULTIVATING OYSTERS OR CLAMS,** the planting or harvesting of not less than 25 bushels of oysters or 25 bags of clams per lease during 1 year of each 3–year period**; AND**~~

~~**(II) FOR RESTORING OYSTERS, THE PLANTING OF NOT LESS THAN 250,000 CULTCHED OYSTERS ON SUITABLE GROUND OR SUBSTRATE IN AN AREA THAT IS ECOLOGICALLY SUITABLE FOR OYSTER GROWTH.**~~

~~(2) If any part of the rent required by a lease remains unpaid for more than 60 days after it becomes due, the Department may declare the lease null and void in accordance with subsection (e) of this section and the land shall revert to the State and may be leased again. The Department may cancel any lease, either in whole or in part, and may diminish or cancel the annual rental to an extent commensurate with the area remaining under lease on the written request of the lessee.~~

~~(3)~~ **(I)** ~~The Department shall adopt regulations and condition each lease to require a leaseholder to actively utilize the leased area~~ **[**~~within~~**] WITHIN:**

~~**1.** **FOR OYSTER OR CLAM CULTIVATION,** any 3–year period commencing July 1, 1990, or the effective date of a lease after July 1, 1990~~**; OR**

~~**2.** **FOR OYSTER RESTORATION, 1 YEAR AFTER THE EFFECTIVE DATE OF THE LEASE.**~~

~~**(II)** The Department may allow a longer period than 3 years~~ **[**~~upon~~**] FOR THE CULTIVATION OR 1 YEAR FOR THE RESTORATION OF THE LEASED AREA ON** ~~a showing that natural conditions, including unavailability of oyster shell or seed, prevented utilization.~~

~~(4)~~ ~~If a leaseholder fails to actively utilize leased bottom in accordance with regulations promulgated under~~ **[**~~paragraph (2)~~**] PARAGRAPH (3)** ~~of this subsection, the leasehold shall revert to the State and may be leased again. A leaseholder shall maintain records documenting activities which show that the lease is being used for shellfish production as required by the Department.~~

~~(d)~~ ~~A lease may not be invalidated in any way by facts determined in any resurvey under § 4–1102 of this title unless the lessee forfeits~~ **[**~~his~~**] THE LESSEE'S** ~~lease voluntarily, fails to pay rental or other fees, or fails to actively utilize the lease areas~~ **[**~~within a period of 3 years~~**] UNDER SUBSECTION (C)(3) OF THIS SECTION.**

~~(e)~~ ~~(1)~~ ~~The provisions of Title 8 of the Real Property Article do not apply to leases under this subtitle.~~

~~(2)~~ **[**~~Upon~~**] ON** ~~a determination under subsection (c) of this section, the Department shall notify a lessee of the lessee's opportunity to contest the Department's action in a hearing under Title 10, Subtitle 2 of the State Government Article.~~

~~4–11A–11.~~

~~(a)~~ ~~The lessee of any leased oyster bottom shall have exclusive ownership of and title to all the oysters planted by~~ **[**~~him~~**] THE LESSEE** ~~or existing on the leasehold. Lessees shall have the rights to use their lease subject to the following conditions:~~

~~(1)~~ ~~Land leased under this subtitle shall be used only for the purpose of planting and cultivating oysters~~**, OR RESTORING OYSTERS**~~;~~

~~(2)~~ ~~Persons may fish on all leased oyster bottoms, if they do not remove or destroy oysters on the areas; and~~

~~(3) A person may not redeem or purchase any leased oyster bottom.~~

~~(b)~~ **~~(1)~~** ~~**[**A**]** **IF A LEASED OYSTER BOTTOM IS USED FOR OYSTER CULTIVATION, THE** lessee may catch oysters at any time from **[**his**]** **THE** leased **[**oyster bottom**]** **AREA** for private use, planting or cultivating, or for sale for planting by other lessees.~~

~~**(2) IF A LEASED OYSTER BOTTOM IS USED FOR OYSTER RESTORATION, THE LESSEE MAY CATCH OYSTERS AT ANY TIME FROM THE LEASED AREA AS NECESSARY TO FACILITATE OYSTER RESTORATION.**~~

~~(c) (1) In Wicomico and Somerset counties, any State resident holding a current tonging license may catch oysters on any leased oyster bottom **USED FOR CULTIVATION** if the State resident first obtains the written permission of the lessee of the leased oyster bottom.~~

~~(2) A lessee or a bona fide representative of a lessee who has written permission from the lessee is not required to have a tonging license in the Manokin River.~~

~~(d) The season for catching oysters from leased oyster bottoms of the State for sale shall be between sunrise and sunset of any day, except Sunday, throughout the year, if the leased oyster bottoms are marked as prescribed in this subtitle.~~

~~4–11A–12.~~

~~(a) A lessee may plant, cultivate, sow, or protect oysters**, OR RESTORE OYSTERS,** only of the species known as Crassostrea virginica in the waters of the State.~~

~~4–11A–13.~~

~~(a) A lessee may cultivate or remove oysters planted on **[**his**]** **THE LESSEE'S** leased oyster bottom in any manner **[**he**]** **THE LESSEE** deems proper, if **[**he**]** **THE LESSEE** complies with the provisions of this subtitle relating to dredging and tonging when transplanting oysters or catching them for commercial purposes.~~

~~(b) Each lessee shall keep accurate records concerning the seeding and planting of cultch and oysters on, and the harvesting, and selling of oysters from **[**his**]** **THE LESSEE'S** leased oyster bottom. Each lessee shall report this information to the Department on forms the Department prescribes.~~

~~(c) (1) In that water area in Somerset County of Pocomoke Sound and Pocomoke River, east of Tull's Point, and Marumsco natural oyster bar eastward to William's Point, **IF THE OYSTER BOTTOM IS LEASED FOR CULTIVATION** a lessee may authorize a nonresident to take oysters by tong as provided by this section.~~

4–204.

(c) **[**Notwithstanding any other provision of this section, a member of the Fish and Wildlife Commission as of June 30, 1972, may serve the unexpired remainder of his term as a member of an advisory commission created by law.**]**

(1) THERE IS AN OYSTER ADVISORY COMMISSION IN THE DEPARTMENT.

(2) THE COMMISSION CONSISTS OF MEMBERS APPOINTED BY THE SECRETARY.

(3) THE COMMISSION SHALL:

(I) PROVIDE THE DEPARTMENT WITH ADVICE ON MATTERS RELATED TO OYSTERS IN THE CHESAPEAKE BAY;

(II) REVIEW THE BEST POSSIBLE SCIENCE AND RECOMMEND CHANGES TO THE FRAMEWORK AND STRATEGIES FOR REBUILDING AND MANAGING THE OYSTER POPULATION IN THE CHESAPEAKE BAY UNDER THE CHESAPEAKE BAY OYSTER MANAGEMENT PLAN;

(III) REVIEW THE LATEST FINDINGS RELEVANT TO THE ENVIRONMENTAL IMPACT STATEMENT EVALUATING OYSTER RESTORATION ALTERNATIVES FOR THE CHESAPEAKE BAY;

(IV) REVIEW ANY OTHER SCIENTIFIC, ECONOMIC, OR CULTURAL INFORMATION RELEVANT TO OYSTERS IN THE CHESAPEAKE BAY; AND

(V) BY DECEMBER 31, 2007 AND TO THE EXTENT REASONABLY APPROPRIATE, REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

1. STRATEGIES TO MINIMIZE THE IMPACT OF OYSTER DISEASE, INCLUDING THE STATE REPLETION PROGRAM AND BAR CLEANING;

2. THE FRAMEWORK AND EFFECTIVENESS OF THE OYSTER SANCTUARY, HARVEST RESERVE, AND REPLETION PROGRAMS, AND THE OVERALL MANAGEMENT OF NATURAL OYSTER BARS, AFTER PERFORMING A COST–BENEFIT ANALYSIS THAT CONSIDERS BIOLOGICAL, ECOLOGICAL, ECONOMIC, AND CULTURAL ISSUES;

3. STRATEGIES TO MAXIMIZE THE ECOLOGICAL BENEFITS OF NATURAL OYSTER BARS; AND

4. STRATEGIES TO IMPROVE ENFORCEMENT OF CLOSED OYSTER AREAS.

4–701.

(e) (2) ***(I)*** *A person may not catch oysters for sale without* ***[****possessing****]:***

1. POSSESSING *a valid license under this section* ***[****and paying****];***

2. PAYING *an annual surcharge of $300* ***[****which shall be used by the Department only for oyster repletion activities****]; 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.

4–1006.2.

(A) THE DEPARTMENT ANNUALLY SHALL PUBLISH MAPS AND COORDINATES OF OYSTER SANCTUARIES, CLOSED OYSTER HARVEST RESERVE AREAS, AND AREAS CLOSED TO SHELLFISH HARVEST BY THE DEPARTMENT OF THE ENVIRONMENT.

(B) (1) THE DEPARTMENT SHALL PROVIDE THE PUBLICATIONS REQUIRED UNDER THIS SECTION TO EACH TIDAL FISH LICENSEE WHO PAYS THE OYSTER SURCHARGES REQUIRED UNDER § 4–701(E) OF THIS TITLE.

(2) BEFORE ~~THE DEPARTMENT ISSUES A TIDAL FISH LICENSE WITH AN OYSTER AUTHORIZATION TO A PERSON~~ *A PERSON MAY CATCH OYSTERS UNDER A TIDAL FISH LICENSE THAT HAS AN OYSTER AUTHORIZATION AND FOR WHICH THE OYSTER SURCHARGES HAVE BEEN PAID*, THE PERSON SHALL CERTIFY TO THE DEPARTMENT ON A FORM THE DEPARTMENT PRESCRIBES THAT THE PERSON RECEIVED THE PUBLICATIONS REQUIRED UNDER THIS SECTION.

4–11A–05.

(a) (2) (i) Except as provided in this paragraph, a corporation or joint stock company may not lease or acquire by assignment or otherwise any submerged land of the State for the purposes of this section.

(ii) A 4–H club in the State may lease or acquire not more than 10 acres of submerged land for the purposes of this section.

(iii) 1. An incorporated college or university within the State having an enrollment of at least 700 undergraduate, degree–seeking students may acquire, by assignment, gift, or bequest, submerged land for education and research purposes only.

2. An incorporated college or university may not transfer or attempt to transfer any interest in submerged land acquired under the provision of item 1 of this subparagraph to any person, corporation, or joint stock company.

3. Any transfer or attempt to transfer an interest in submerged land acquired under the provisions of item 1 of this subparagraph shall be void, and the interest in submerged land shall revert to the State without the necessity of any action by the State.

(iv) 1. **A.** A nonstock, nonprofit corporation organized under the laws of this State exclusively for educational purposes may lease or acquire not more than two leases consisting of not more than 30 acres each of submerged land in the Severn River for educational or ecological purposes.

B. A NONSTOCK, NONPROFIT CORPORATION MAY RENEW A LEASE ACQUIRED UNDER THIS SUBPARAGRAPH.

2. A. Except as provided in sub–sub–subparagraph B of this sub–subparagraph, a nonstock, nonprofit corporation organized exclusively for educational purposes may not transfer or attempt to transfer any interest in submerged land acquired under the provisions of sub–subparagraph 1 of this subparagraph to any person, corporation, or joint stock company.

B. The nonprofit, nonstock corporation may harvest oysters in accordance with a harvesting program approved by the Department provided that any revenues from harvesting are maintained by the nonstock, nonprofit corporation exclusively for educational or ecological purposes and for the maintenance and preservation of submerged lands leased by the nonprofit, nonstock corporation.

(V) 1. A. A NONSTOCK, NONPROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE EXCLUSIVELY FOR CONSERVATION OR ECOLOGICAL PURPOSES MAY LEASE OR ACQUIRE BY LEASE NOT MORE THAN 30 ACRES OF SUBMERGED LAND IN ANNE ARUNDEL COUNTY FOR THE PURPOSE OF OYSTER RESTORATION.

B. A NONSTOCK, NONPROFIT CORPORATION MAY RENEW A LEASE ACQUIRED UNDER THIS SUBPARAGRAPH.

2. THE NONSTOCK, NONPROFIT CORPORATION SHALL ADHERE TO A MANAGEMENT PLAN APPROVED BY THE DEPARTMENT FOR THE LEASED SUBMERGED LAND.

3. THE NONSTOCK, NONPROFIT CORPORATION SHALL PLANT A MINIMUM OF 250,000 OYSTERS AT A DENSITY OF 1,000,000 OYSTERS PER ACRE.

4. A. A NONSTOCK, NONPROFIT CORPORATION MAY NOT TRANSFER OR ATTEMPT TO TRANSFER ANY INTEREST IN SUBMERGED LAND ACQUIRED UNDER ITEM 1 OF THIS SUBPARAGRAPH TO ANY PERSON, CORPORATION, OR JOINT STOCK COMPANY.

B. ANY TRANSFER OR ATTEMPT TO TRANSFER AN INTEREST IN SUBMERGED LAND ACQUIRED UNDER ITEM 1 OF THIS SUBPARAGRAPH SHALL BE VOID, AND THE INTEREST IN SUBMERGED LAND SHALL REVERT TO THE STATE WITHOUT THE NECESSITY OF ANY ACTION BY THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Natural Resources

4–1201.

(f) ~~**(1)**~~ In addition to any other applicable penalty set forth in this title ~~**AND NOTWITHSTANDING § 4–215(H) OF THIS TITLE**~~, a person who unlawfully takes

oysters from **A LEASED OYSTER BOTTOM,** an **[**oyster sanctuary or oyster reserve that is**]** **OYSTER SANCTUARY, AN OYSTER RESERVE, OR AN AREA CLOSED TO SHELLFISH HARVEST BY THE DEPARTMENT OF THE ENVIRONMENT, WHEN THE AREA IS** designated and marked by buoys or other ~~signage, [and who~~ **SIGNAGE OR THE PERSON** knew or should have known that taking the oysters from ~~the sanctuary or reserve~~ **THE AREA** was unlawful, ~~shall be subject to a~~**] IS SUBJECT TO: IS SUBJECT TO A FINE NOT EXCEEDING $3,000.**

~~**(I) A** fine not exceeding **[**$3,000**] $3,000;** and~~

~~**(II) [**immediate**] IMMEDIATE** suspension of the person's tidal fish license for a period not less than **[**6 months but not more than 1 year**] 180 DAYS AND NOT EXCEEDING 365 DAYS.~~

~~**(2) A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL:**~~

~~**(I) APPLY ON CONSECUTIVE DAYS DURING THE OPEN OYSTER SEASON FOR WHICH THE VIOLATOR IS LICENSED; AND**~~

~~**(II) CONTINUE INTO SUCCESSIVE OPEN SEASONS UNTIL THE SUSPENSION IS FULLY SERVED.**~~

~~**(G) (1) IN ADDITION TO ANY OTHER APPLICABLE PENALTY SET FORTH IN THIS TITLE AND NOTWITHSTANDING § 4–215(II) OF THIS TITLE, A PERSON WHO VIOLATES THE TIME RESTRICTIONS ON CATCHING OR LANDING OYSTERS UNDER § 4–1008 OF THIS TITLE IS SUBJECT TO IMMEDIATE SUSPENSION OF THE PERSON'S TIDAL FISH LICENSE FOR A PERIOD NOT LESS THAN 180 DAYS AND NOT EXCEEDING 365 DAYS.**~~

~~**(2) A SUSPENSION IMPOSED UNDER THIS SUBSECTION SHALL:**~~

~~**(I) APPLY ON CONSECUTIVE DAYS DURING THE OPEN OYSTER SEASON FOR WHICH THE VIOLATOR IS LICENSED; AND**~~

~~**(II) CONTINUE INTO SUCCESSIVE OPEN SEASONS UNTIL THE SUSPENSION IS FULLY SERVED.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) There is a Task Force on Oyster Restoration in the Chesapeake Bay.~~

~~(b) The Task Force shall consist of the following members:~~

~~(1) one member of the House of Delegates, appointed by the Speaker of the House;~~

~~(2) one member of the Senate of Maryland, appointed by the President of the Senate;~~

~~(3) the following eight members, appointed by the Secretary of Natural Resources:~~

~~(i) a representative of the Department of Natural Resources Fisheries Service;~~

~~(ii) a representative of the Department's Oyster Restoration and Repletion Programs;~~

~~(iii) a representative of the Natural Resources Police;~~

~~(iv) a representative of the Maryland seafood industry;~~

~~(v) a representative with scientific expertise on oyster disease;~~

~~(vi) a representative with scientific expertise on oyster restoration;~~

~~(vii) a representative of the Maryland recreational fishing or fishing guide community; and~~

~~(viii) a representative of a nongovernmental organization engaged in oyster restoration in the Chesapeake Bay and its tributaries; and~~

~~(4) a representative of the Maryland Watermen's Association, appointed by the President of the Association.~~

~~(c) The Secretary of Natural Resources shall appoint the chair of the Task Force.~~

~~(d) The Task Force shall:~~

~~(1) formulate an action plan regarding the necessary methodology, time frame, and costs of:~~

~~(i) minimizing the impact of oyster disease in the Chesapeake Bay and its tributaries;~~

~~(ii) maximizing the ecological benefits of natural oyster bars;~~

~~(iii) promoting oyster aquaculture in Maryland; and~~

~~(iv) increasing the native oyster population of the Chesapeake Bay and its tributaries; and~~

~~(2) include in its deliberations:~~

~~(i) an examination of the practice of bar cleaning;~~

~~(ii) an examination of State oyster restoration and repletion programs;~~

~~(iii) an examination of current management practices of natural oyster bars, including:~~

~~1. the fairness and equitability of the quality and percentage of these areas that are currently designated as sanctuaries; and~~

~~2. current restrictions on the leasing and use of these areas for aquaculture;~~

~~(iv) the most recent findings related to the nonnative oyster Environmental Impact Statement; and~~

~~(v) any other scientific, economic, or cultural information relevant to oyster management practices.~~

~~(e) (1) A member of the Task Force:~~

~~(i) may not receive compensation; but~~

~~(ii) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(2) If a regulated lobbyist is appointed to serve as a member of the Task Force, the lobbyist:~~

~~(i) is not subject to § 15–504(d) of the State Government Article with respect to that service; and~~

~~(ii) is not subject to § 15–703(f)(3) of the State Government Article as a result of that service.~~

~~(f) The Department of Natural Resources shall provide staff support for the~~

~~Task Force.~~

~~(g) The Task Force shall issue a final report of its findings and recommendations to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly on or before December 1, 2007.~~

SECTION 3. AND BE IT FURTHER ENACTED, That one–tenth of the oyster seed or spat produced for planting in accordance with Section 1 of this Act at the University of Maryland Center for Environmental Science Horn Point Laboratory shall be made available for purchase to any leaseholder of land beneath the waters of the Chesapeake Bay and its tributaries who leased in accordance with Title 4, Subtitle 11A of the Natural Resources Article.

SECTION ~~3.~~ *4.* AND BE IT FURTHER ENACTED, ~~That, as required under § 4–11A–07(c) of the Natural Resources Article, as enacted by Section 1 of this Act, the Department of Natural Resources shall adopt regulations on or before December 31, 2007, to establish standards for determining whether a leased oyster bottom is being actively utilized for sound restoration purposes.~~ That:

(a) By October 1, 2007, the Department of Natural Resources shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under Title 4, Subtitle 7 of the Natural Resources Article.

(b) The regulations shall require the suspension of a person's tidal fish license or authorization for a period of not less than 180 days and not exceeding 365 days during the oyster harvest season for:

(1) the unlawful harvest of oysters from a leased oyster bottom or from more than 150 feet within an oyster sanctuary, oyster reserve, or area closed to harvest by the Department of the Environment, when the area is designated and marked with buoys or other signage or the person knew or should have known that the harvest of oysters from the area was unlawful; or

(2) a violation of a time restriction for the harvest of oysters by more than 2 hours.

SECTION ~~4.~~ *5.* AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect ~~June~~ October 1, 2007. ~~Sections 2 and 3 of this Act shall remain effective for a period of 9 months and, at the end of February 29, 2008, with no further action required by the General Assembly, Sections 2 and 3 of this Act shall be abrogated and of no further force and effect.~~

SECTION ~~5.~~ *6.* AND BE IT FURTHER ENACTED, That, except as provided in Section ~~4~~ *5* of this Act, this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 115

(Senate Bill 332)

AN ACT concerning

~~**High Performance Buildings Act**~~
Maryland Green Building Council

FOR the purpose of ~~requiring certain buildings to be high performance buildings; requiring certain buildings that are renovated to be high performance buildings under certain circumstances; exempting certain building types from certain high performance building standards; requiring certain buildings rented by the State to be high performance buildings; providing for the applicability of this Act; defining a term; and generally relating to high performance buildings~~ establishing the Maryland Green Building Council in the Department of General Services; providing for the membership and terms of the Council; prohibiting certain members of the Council from receiving compensation for serving on the Council; authorizing certain members of the Council to receive reimbursement for certain expenses; requiring the Governor to appoint the chair; providing that the Council may act with an affirmative vote of a certain number of members; requiring the Department of General Services to provide certain staff support to the Council; requiring certain other agencies and units of State government to furnish assistance to the Council under certain circumstances; providing for duties of the Council to be accomplished on or before a certain date; requiring a certain report by the Council; and generally relating to the Maryland Green Building Council.

~~BY repealing and reenacting, with amendments,~~
~~Article – State Finance and Procurement~~
~~Section 3–602(d)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2006 Supplement)~~

BY adding to
Article – State Finance and Procurement
Section ~~3–602.1~~ 4–809
Annotated Code of Maryland
(2006 Replacement Volume and 2006 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

~~3–602.~~

~~(d) (1) (i) In this paragraph, "high performance building" means a building that:~~

~~1. achieves at least a silver rating according to the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) Green Building Rating System as adopted in 2001 or subsequently by the Maryland Green Building Council;~~

~~2. achieves at least a two globe rating according to the Green Globes Program as adopted by the Green Building Initiative;~~

~~3. achieves at least a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard; or~~

~~4. meets nationally recognized, consensus–based, and accepted green building guidelines, standards, or systems approved by the State.~~

~~(ii) 1.~~ **[**~~A~~**] EXCEPT AS PROVIDED IN § 3–602.1 OF THIS SUBTITLE, A** ~~unit of State government requesting an appropriation for preliminary planning of a proposed capital project may include in its request a justification for proposing that a building in the project is appropriate for design as a high performance building.~~

~~2.~~ **[**~~If~~**] EXCEPT AS PROVIDED IN § 3–602.1 OF THIS SUBTITLE, IF** ~~justification is submitted under subsubparagraph 1 of this subparagraph concerning a building in a proposed capital project, the Department shall review whether it is practicable and fiscally prudent to incorporate in the capital project the use of a comprehensive process of design and construction that would result in the building being a high performance building.~~

~~(2) Before an appropriation may be authorized for preliminary planning of a proposed capital project:~~

~~(i) the unit of the State government requesting the appropriation shall submit to the Department a program describing, in detail, the scope and purpose of the project; and~~

~~(ii) the Secretary of Budget and Management must approve the program.~~

~~(3) Before an appropriation may be authorized for construction of a proposed capital project:~~

~~(i) the unit of State government requesting the appropriation shall submit to the Departments of Budget and Management and General Services a detailed design program, which shall include all information required by the Departments; and~~

~~(ii) both the Secretary of Budget and Management and the Secretary of General Services must approve the detailed design program.~~

~~3–602.1.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF A CAPITAL PROJECT INCLUDES THE CONSTRUCTION OF A BUILDING THAT IS 5,000 SQUARE FEET OR GREATER, THE BUILDING SHALL BE CONSTRUCTED TO BE A HIGH PERFORMANCE BUILDING, AS DEFINED IN § 3–602(D) OF THIS SUBTITLE.~~

~~(2) (I) FOR THE PURPOSES OF THIS PARAGRAPH, "MAJOR RENOVATION" MEANS THE RENOVATION OF A BUILDING WHERE:~~

~~1. THE COST OF THE RENOVATION IS GREATER THAN 50% OF THE BUILDING'S ASSESSED VALUE; AND~~

~~2. THE SCOPE OF THE RENOVATION IS 5,000 SQUARE FEET OR GREATER.~~

~~(II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF A CAPITAL PROJECT INCLUDES THE MAJOR RENOVATION OF A BUILDING, THE BUILDING SHALL BE RENOVATED TO BE A HIGH PERFORMANCE BUILDING, AS DEFINED IN § 3–602(D) OF THIS SUBTITLE.~~

~~(3) THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS ARE NOT REQUIRED TO BE CONSTRUCTED OR RENOVATED TO BE HIGH PERFORMANCE BUILDINGS:~~

~~(I) WAREHOUSE AND STORAGE FACILITIES;~~

~~**(II) GARAGES;**~~

~~**(III) MAINTENANCE FACILITIES;**~~

~~**(IV) TRANSMITTER BUILDINGS;**~~

~~**(V) PUMPING STATIONS; AND**~~

~~**(VI) OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY THE DEPARTMENT.**~~

~~**(B) ANY BUILDING THAT IS 5,000 SQUARE FEET OR GREATER AND THAT IS RENTED WITH STATE FUNDS FOR USE BY UNITS OF STATE GOVERNMENT SHALL BE A HIGH PERFORMANCE BUILDING.**~~

4–809.

(A) THERE IS A MARYLAND GREEN BUILDING COUNCIL.

(B) THE COUNCIL SHALL INCLUDE:

(1) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(2) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;

(3) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY'S DESIGNEE;

(6) THE SECRETARY OF PLANNING, OR THE SECRETARY'S DESIGNEE;

(7) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(8) THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE;

(9) THE DIRECTOR OF THE INTERAGENCY COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION, OR THE DIRECTOR'S DESIGNEE;

(10) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND, OR THE CHANCELLOR'S DESIGNEE; AND

(11) SIX MEMBERS APPOINTED BY THE GOVERNOR TO REPRESENT ENVIRONMENTAL, BUSINESS, AND CITIZEN INTERESTS, ONE OF WHOM HAS EXPERTISE IN ENERGY CONSERVATION OR GREEN BUILDING DESIGN STANDARDS.

(C) (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 2 YEARS.

(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

(6) A MEMBER APPOINTED BY THE GOVERNOR MAY NOT RECEIVE COMPENSATION, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(D) (1) THE GOVERNOR SHALL APPOINT A CHAIR FROM AMONG THE COUNCIL MEMBERS.

(2) THE COUNCIL MAY ACT WITH AN AFFIRMATIVE VOTE OF NINE MEMBERS.

(E) STAFF SUPPORT TO THE COUNCIL SHALL BE PROVIDED BY THE DEPARTMENT OF GENERAL SERVICES, WITH ASSISTANCE AS NECESSARY TO BE FURNISHED BY OTHER INVOLVED AGENCIES AND UNITS OF STATE GOVERNMENT.

(F) ON OR BEFORE SEPTEMBER 30, 2007, THE MARYLAND GREEN BUILDING COUNCIL SHALL:

(1) EVALUATE CURRENT HIGH PERFORMANCE BUILDING TECHNOLOGIES;

(2) PROVIDE RECOMMENDATIONS CONCERNING THE MOST COST–EFFECTIVE GREEN BUILDING TECHNOLOGIES THAT THE STATE MIGHT CONSIDER REQUIRING IN THE CONSTRUCTION OF STATE FACILITIES, INCLUDING CONSIDERATION OF THE ADDITIONAL COST ASSOCIATED WITH THE VARIOUS TECHNOLOGIES; AND

(3) DEVELOP A LIST OF BUILDING TYPES FOR WHICH GREEN BUILDING TECHNOLOGIES SHOULD NOT BE APPLIED, TAKING INTO CONSIDERATION THE OPERATIONAL ASPECTS OF FACILITIES EVALUATED, AND THE UTILITY OF A WAIVER PROCESS WHERE APPROPRIATE.

(G) ON OR BEFORE NOVEMBER 1, 2007, AND EVERY YEAR THEREAFTER, THE COUNCIL SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AS TO RECOMMENDATIONS FOR THE IMPLEMENTATION PLAN FOR A STATE HIGHER PERFORMANCE BUILDING PROGRAM AND ANY PROGRESS THAT HAS BEEN MADE DURING THE PRECEDING YEAR.

~~SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to capital projects that have not initiated a Request For Proposal for the selection of an architectural and engineering consultant on or before the effective date of this Act.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 116

(House Bill 942)

AN ACT concerning

~~**High Performance Buildings Act**~~
Maryland Green Building Council

FOR the purpose of ~~requiring certain buildings to be high performance buildings; requiring certain buildings that are renovated to be high performance buildings under certain circumstances; exempting certain building types from certain high performance building standards; providing for the applicability of this Act; defining a term; and generally relating to high performance buildings~~ establishing the Maryland Green Building Council in the Department of General Services; providing for the membership and terms of the Council; prohibiting certain members of the Council from receiving compensation for serving on the Council; authorizing certain members of the Council to receive reimbursement for certain expenses; requiring the Governor to appoint the chair; providing that the Council may act with an affirmative vote of a certain number of members; requiring the Department of General Services to provide certain staff support to the Council; requiring certain other agencies and units of State government to furnish assistance to the Council under certain circumstances; providing for duties of the Council to be accomplished on or before a certain date; requiring a certain report by the Council; and generally relating to the Maryland Green Building Council.

~~BY repealing and reenacting, with amendments,~~
~~Article – State Finance and Procurement~~
~~Section 3–602(d)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2006 Supplement)~~

BY adding to
Article – State Finance and Procurement
Section ~~3–602.1~~ 4–809
Annotated Code of Maryland
(2006 Replacement Volume and 2006 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

~~3–602.~~

~~(d) (1) (i) In this paragraph, "high performance building" means a building that:~~

~~1. achieves at least a silver rating according to the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) Green Building Rating System as adopted in 2001 or subsequently by the Maryland Green Building Council;~~

~~2. achieves at least a two globe rating according to the Green Globes Program as adopted by the Green Building Initiative;~~

~~3. achieves at least a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard; or~~

~~4. meets nationally recognized, consensus–based, and accepted green building guidelines, standards, or systems approved by the State.~~

~~(ii) 1. [A] Except as provided in § 3–602.1 of this~~ **SUBTITLE, A** ~~unit of State government requesting an appropriation for preliminary planning of a proposed capital project may include in its request a justification for proposing that a building in the project is appropriate for design as a high performance building.~~

~~2.~~ **[**~~If~~**] EXCEPT AS PROVIDED IN § 3–602.1 OF THIS SUBTITLE, IF** ~~justification is submitted under subsubparagraph 1 of this subparagraph concerning a building in a proposed capital project, the Department shall review whether it is practicable and fiscally prudent to incorporate in the capital project the use of a comprehensive process of design and construction that would result in the building being a high performance building.~~

~~(2) Before an appropriation may be authorized for preliminary planning of a proposed capital project:~~

~~(i) the unit of the State government requesting the appropriation shall submit to the Department a program describing, in detail, the scope and purpose of the project; and~~

~~(ii) the Secretary of Budget and Management must approve the program.~~

~~(3) Before an appropriation may be authorized for construction of a proposed capital project:~~

~~(i) the unit of State government requesting the appropriation shall submit to the Departments of Budget and Management and General Services a detailed design program, which shall include all information required by the Departments; and~~

~~(ii) both the Secretary of Budget and Management and the Secretary of General Services must approve the detailed design program.~~

~~3–602.1.~~

~~(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF A CAPITAL PROJECT INCLUDES THE CONSTRUCTION OF A BUILDING THAT IS 5,000 SQUARE FEET OR GREATER, THE BUILDING SHALL BE CONSTRUCTED TO BE A HIGH PERFORMANCE BUILDING, AS DEFINED IN § 3–602(D) OF THIS SUBTITLE.~~

~~(B) (1) FOR THE PURPOSES OF THIS SUBSECTION, "MAJOR RENOVATION" MEANS THE RENOVATION OF A BUILDING WHERE:~~

~~(I) THE COST OF THE RENOVATION IS GREATER THAN 50% OF THE BUILDING'S ASSESSED VALUE; AND~~

~~(II) THE SCOPE OF THE RENOVATION IS 5,000 SQUARE FEET OR GREATER.~~

~~(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF A CAPITAL PROJECT INCLUDES THE MAJOR RENOVATION OF A BUILDING, THE BUILDING SHALL BE RENOVATED TO BE A HIGH PERFORMANCE BUILDING, AS DEFINED IN § 3–602(D) OF THIS SUBTITLE.~~

~~(C) THE FOLLOWING TYPES OF UNOCCUPIED BUILDINGS ARE NOT REQUIRED TO BE CONSTRUCTED OR RENOVATED TO BE HIGH PERFORMANCE BUILDINGS:~~

~~(1) WAREHOUSE AND STORAGE FACILITIES;~~

~~(2) GARAGES;~~

~~(3) MAINTENANCE FACILITIES;~~

~~(4) TRANSMITTER BUILDINGS;~~

~~(5) PUMPING STATIONS; AND~~

~~**(6) OTHER SIMILAR TYPES OF BUILDINGS, AS DETERMINED BY THE DEPARTMENT.**~~

4–809.

(A) THERE IS A MARYLAND GREEN BUILDING COUNCIL.

(B) THE COUNCIL SHALL INCLUDE:

(1) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(2) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE SECRETARY'S DESIGNEE;

(3) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(5) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY'S DESIGNEE;

(6) THE SECRETARY OF PLANNING, OR THE SECRETARY'S DESIGNEE;

(7) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY'S DESIGNEE;

(8) THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE;

(9) THE DIRECTOR OF THE INTERAGENCY COMMITTEE ON PUBLIC SCHOOL CONSTRUCTION, OR THE DIRECTOR'S DESIGNEE;

(10) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND, OR THE CHANCELLOR'S DESIGNEE; AND

(11) SIX MEMBERS APPOINTED BY THE GOVERNOR TO REPRESENT ENVIRONMENTAL, BUSINESS, AND CITIZEN INTERESTS, ONE OF WHOM HAS EXPERTISE IN ENERGY CONSERVATION OR GREEN BUILDING DESIGN STANDARDS.

(C) (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 2 YEARS.

(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

(6) A MEMBER APPOINTED BY THE GOVERNOR MAY NOT RECEIVE COMPENSATION, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(D) (1) THE GOVERNOR SHALL APPOINT A CHAIR FROM AMONG THE COUNCIL MEMBERS.

(2) THE COUNCIL MAY ACT WITH AN AFFIRMATIVE VOTE OF NINE MEMBERS.

(E) STAFF SUPPORT TO THE COUNCIL SHALL BE PROVIDED BY THE DEPARTMENT OF GENERAL SERVICES, WITH ASSISTANCE AS NECESSARY TO BE FURNISHED BY OTHER INVOLVED AGENCIES AND UNITS OF STATE GOVERNMENT.

(F) ON OR BEFORE SEPTEMBER 30, 2007, THE MARYLAND GREEN BUILDING COUNCIL SHALL:

(1) EVALUATE CURRENT HIGH PERFORMANCE BUILDING TECHNOLOGIES;

(2) PROVIDE RECOMMENDATIONS CONCERNING THE MOST COST–EFFECTIVE GREEN BUILDING TECHNOLOGIES THAT THE STATE MIGHT CONSIDER REQUIRING IN THE CONSTRUCTION OF STATE FACILITIES,

INCLUDING CONSIDERATION OF THE ADDITIONAL COST ASSOCIATED WITH THE VARIOUS TECHNOLOGIES; AND

(3) DEVELOP A LIST OF BUILDING TYPES FOR WHICH GREEN BUILDING TECHNOLOGIES SHOULD NOT BE APPLIED, TAKING INTO CONSIDERATION THE OPERATIONAL ASPECTS OF FACILITIES EVALUATED, AND THE UTILITY OF A WAIVER PROCESS WHERE APPROPRIATE~~; AND~~.

(G) ON OR BEFORE NOVEMBER 1, 2007, AND EVERY YEAR THEREAFTER, THE COUNCIL SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, AS TO RECOMMENDATIONS FOR THE IMPLEMENTATION PLAN FOR A STATE HIGHER PERFORMANCE BUILDING PROGRAM AND ANY PROGRESS THAT HAS BEEN MADE DURING THE PRECEDING YEAR.

~~SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to capital projects that have not initiated a Request For Proposal for the selection of an architectural and engineering consultant on or before the effective date of this Act.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 117

(Senate Bill 532)

AN ACT concerning

Natural Resources – Diamondback Terrapin – Take and Possession

FOR the purpose of repealing the requirement that the Department of Natural Resources prepare a fishery management plan for the diamondback terrapin; prohibiting the take or possession of diamondback terrapin for commercial purposes; prohibiting the possession of a certain number of diamondback terrapin for noncommercial purposes; *providing for certain exceptions to the prohibition on taking or possessing diamondback terrapin; requiring the Department, in consultation with the Maryland Aquaculture Coordinating Council, to adopt certain regulations before issuing certain permits;* repealing

the requirement that the Department adopt certain regulations for the catching of terrapin; requiring the Department to adopt certain regulations for the conservation of diamondback terrapin; repealing certain exemptions from certain excise and use taxes relating to the catching of terrapin for commercial purposes; and generally relating to the catch, take, or possession of diamondback terrapin.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–215(b), 4–902, and 4–903
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 8–716(c)
Annotated Code of Maryland
(2000 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–716(e) and (g) and 8–716.1(k)
Annotated Code of Maryland
(2000 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

4–215.

(b) The Department shall prepare fishery management plans for the following species:

(1) Striped bass or rockfish;

(2) White perch;

(3) Yellow perch;

(4) American shad;

(5) Hickory shad;

(6) Oysters;

(7) Blue crabs;

(8) Bluefish;

(9) Herring;

(10) Weakfish;

(11) Croaker;

(12) Spot;

(13) Summer flounder;

(14) American eel;

(15) Red drum;

(16) Black drum;

(17) Spotted sea trout;

(18) Horseshoe crabs;

(19) Menhaden;

(20) Tautog;

(21) Black sea bass;

(22) Scup;

(23) Hard shell clams; **AND**

(24) Catfish**[**; and

(25) Diamondback terrapin**]**.

4–902.

[A person may not catch terrapin for commercial purposes unless he first obtains a license from the Department.**]**

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION:

(1) A PERSON MAY NOT TAKE OR POSSESS DIAMONDBACK TERRAPIN FOR COMMERCIAL PURPOSES; AND

(2) A PERSON MAY NOT POSSESS MORE THAN THREE DIAMONDBACK TERRAPIN FOR NONCOMMERCIAL PURPOSES.

(B) THIS SECTION DOES NOT PROHIBIT:

(1) THE INCIDENTAL CATCH OF DIAMONDBACK TERRAPIN, PROVIDED THE DIAMONDBACK TERRAPIN ARE RETURNED IMMEDIATELY TO THE WATER; ~~OR~~

(2) THE COLLECTION OR POSSESSION OF DIAMONDBACK TERRAPIN IN ACCORDANCE WITH THE TERMS OF A SCIENTIFIC OR EDUCATIONAL CERTIFICATE OR PERMIT ISSUED IN ACCORDANCE WITH § 4–212 OF THIS TITLE OR § 10–909 OF THIS ARTICLE*; OR*

(3) THE POSSESSION AND BREEDING OF DIAMONDBACK TERRAPIN BY A PERSON WHO HOLDS A VALID PERMIT ISSUED BY THE DEPARTMENT FOR:

(I) AQUACULTURE ACTIVITIES UNDER SUBTITLE 11A OF THIS TITLE; OR

***(II) CAPTIVE WILDLIFE BREEDING UNDER TITLE 10, SUBTITLE 9 OF THIS ARTICLE*.**

(C) (1) THE DEPARTMENT, IN CONSULTATION WITH THE MARYLAND AQUACULTURE COORDINATING COUNCIL, SHALL ADOPT REGULATIONS FOR DIAMONDBACK TERRAPIN AQUACULTURE AND CAPTIVE BREEDING BEFORE ISSUING ANY ADDITIONAL PERMITS RELATING TO DIAMONDBACK TERRAPIN UNDER SUBTITLE 11A OF THIS TITLE OR TITLE 10, SUBTITLE 9 OF THIS ARTICLE.

(2) THE REGULATIONS ADOPTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) VERIFIABLE SAFEGUARDS TO IDENTIFY LEGALLY OBTAINED DIAMONDBACK TERRAPIN;

(II) STANDARDS FOR DIAMONDBACK TERRAPIN HUSBANDRY; AND

(III) STANDARDS FOR SHIPPING DIAMONDBACK TERRAPIN.

4–903.

[(a)**]** The Department shall adopt regulations governing**[**:

(1) The catching of terrapin; and

(2) Terrapin resources**]** **THE CONSERVATION OF DIAMONDBACK TERRAPIN**.

[(b) The regulations adopted under this section shall be consistent with the recommendations of the Maryland Diamondback Terrapin Task Force issued in 2001.**]**

8–716.

(c) (1) Except as provided in § 8–715(d) of this subtitle and in subsections (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied at the rate of 5% of the fair market value of the vessel on:

(i) The issuance of every original certificate of title required for a vessel under this subtitle;

(ii) The issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel;

(iii) The sale within the State of every other vessel; and

(iv) The possession within the State of a vessel used or to be used principally in the State.

(2) Notwithstanding the provisions of this subsection, no tax is paid on issuance of any certificate of title if the owner of the vessel for which a certificate of title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use tax on the vessel as required by law at the time of acquisition. The Department may require the applicant for titling to submit satisfactory proof that the applicant owned the vessel prior to June 1, 1965.

(e) A person is not required to pay the tax provided for in subsection (c) of this section resulting from:

(1) A transfer between members of the immediate family as determined by Department regulations;

(2) A transfer between members of the immediate family as determined by Department regulations of a documented vessel for which the transferor applied for and was issued a valid use sticker under § 8–712.1 of this subtitle;

(3) A transfer to a licensed dealer of a vessel for resale, rental, or leasing purposes;

(4) The holding of a vessel that is titled or numbered in another state or is federally documented, provided:

(i) The vessel is held for resale or listed for resale by a licensed dealer; and

(ii) The vessel owner signs an affidavit that there will be no use of the vessel on the waters of the State other than for a sea trial;

(5) Purchase of a vessel by the State or any political subdivision;

(6) Purchase of a vessel by an eleemosynary organization which the Secretary has approved;

(7) The purchase within the State of a vessel if the owner paid or incurred a liability for the Maryland sales and use tax on the vessel prior to July 1, 1986;

(8) The possession within the State of a vessel which was purchased outside the State if the owner paid or incurred a liability for the Maryland use tax on the vessel prior to July 1, 1986;

(9) The possession of a vessel in the State that is not used or to be used principally on the waters of the State and for which the issuance of a title is not sought or required under this subtitle, except that:

(i) A vessel is not deemed used on the waters of the State if the vessel is used for 90 days or less of a calendar year; and

(ii) If a vessel is used for more days than 90 days in a calendar year, the period of 90 days shall be counted in the determination of principal use under this subtitle;

(10) The possession within the State of a vessel if the current owner, before July 1, 1986:

(i) 1. Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, **[**terrapin,**]** soft–shell clams, hard–shell clams, oysters, or any other fish; and

2. Used the vessel for any of the commercial fishing purposes described in item 1 of this item;

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article;

(11) The possession within the State of a vessel that:

(i) Is owned by a nonprofit organization that:

1. Is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code; and

2. Is engaged in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; and

(ii) Is used for the purposes of the organization;

(12) The possession within the State of a vessel for a period of not more than one year if the current owner is a member of the armed services and is serving on active duty in this State; or

(13) The sale of a vessel within the State if:

(i) The vessel is purchased from a licensed dealer;

(ii) The issuance of a title is not sought or required;

(iii) The vessel is not used or to be used principally on the waters of this State;

(iv) The vessel is duly registered in another jurisdiction within 30 days of the date of purchase; and

(v) The dealer and the purchaser execute an agreement certifying the state of principal use for the vessel which is filed with the Department within 30 days of the date of purchase.

(g) (1) A person may claim a credit against any tax imposed under subsection (c) of this section on a vessel for sales tax the person has paid to the State, to another state, or to the District of Columbia on materials and equipment that are incorporated into the vessel, if:

(i) 1. The person is licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, **[**terrapin,**]** soft–shell clams, hard–shell clams, oysters, or any other fish; and

2. The vessel is to be used for any of the commercial fishing purposes described in item 1 of this item; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article.

(2) The Department may require a person claiming the credit allowed under this subsection to submit satisfactory proof of payment of the sales tax and that the materials or equipment have been incorporated into the vessel.

8–716.1.

(k) Notwithstanding any other provision of law, the Department may not collect or enforce any liability for the Maryland use tax that was incurred before July 1, 1986 on a vessel owned by a person who at the time the liability was incurred:

(1) (i) Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, **[**terrapin,**]** soft–shell clams, hard–shell clams, oysters, or any other fish; and

(ii) Used the vessel for any of the commercial fishing purposes described in item (1)(i) of this paragraph; or

(2) (i) Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

(ii) Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *July* 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 118

(House Bill 760)

AN ACT concerning

Natural Resources – Diamondback Terrapin – Take and Possession

FOR the purpose of repealing the requirement that the Department of Natural Resources prepare a fishery management plan for the diamondback terrapin; prohibiting the take or possession of diamondback terrapin for commercial purposes; prohibiting the possession of a certain number of diamondback terrapin for noncommercial purposes; *providing for certain exceptions to the prohibition on taking or possessing diamondback terrapin; requiring the Department, in consultation with the Maryland Aquaculture Coordinating Council, to adopt certain regulations before issuing certain permits;* repealing the requirement that the Department adopt certain regulations for the catching of terrapin; requiring the Department to adopt certain regulations for the conservation of diamondback terrapin; repealing certain exemptions from certain excise and use taxes relating to the catching of terrapin for commercial purposes; and generally relating to the catch, take, or possession of diamondback terrapin.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–215(b), 4–902, and 4–903
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 8–716(c)
Annotated Code of Maryland
(2000 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources

Section 8–716(e) and (g) and 8–716.1(k)
Annotated Code of Maryland
(2000 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

4–215.

(b) The Department shall prepare fishery management plans for the following species:

(1) Striped bass or rockfish;

(2) White perch;

(3) Yellow perch;

(4) American shad;

(5) Hickory shad;

(6) Oysters;

(7) Blue crabs;

(8) Bluefish;

(9) Herring;

(10) Weakfish;

(11) Croaker;

(12) Spot;

(13) Summer flounder;

(14) American eel;

(15) Red drum;

(16) Black drum;

(17) Spotted sea trout;

(18) Horseshoe crabs;

(19) Menhaden;

(20) Tautog;

(21) Black sea bass;

(22) Scup;

(23) Hard shell clams; **AND**

(24) Catfish**[**; and

(25) Diamondback terrapin**]**.

4–902.

[A person may not catch terrapin for commercial purposes unless he first obtains a license from the Department.**]**

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION:

(1) A PERSON MAY NOT TAKE OR POSSESS DIAMONDBACK TERRAPIN FOR COMMERCIAL PURPOSES; AND

(2) A PERSON MAY NOT POSSESS MORE THAN THREE DIAMONDBACK TERRAPIN FOR NONCOMMERCIAL PURPOSES.

(B) THIS SECTION DOES NOT PROHIBIT:

(1) THE INCIDENTAL CATCH OF DIAMONDBACK TERRAPIN, PROVIDED THE DIAMONDBACK TERRAPIN ARE RETURNED IMMEDIATELY TO THE WATER; ~~OR~~

(2) THE COLLECTION OR POSSESSION OF DIAMONDBACK TERRAPIN IN ACCORDANCE WITH THE TERMS OF A SCIENTIFIC OR EDUCATIONAL CERTIFICATE OR PERMIT ISSUED IN ACCORDANCE WITH § 4–212 OF THIS TITLE OR § 10–909 OF THIS ARTICLE*; OR*

(3) THE POSSESSION AND BREEDING OF DIAMONDBACK TERRAPIN BY A PERSON WHO HOLDS A VALID PERMIT ISSUED BY THE DEPARTMENT FOR:

(I) AQUACULTURE ACTIVITIES UNDER SUBTITLE 11A OF THIS TITLE; OR

(II) CAPTIVE WILDLIFE BREEDING UNDER TITLE 10, SUBTITLE 9 OF THIS ARTICLE.

(C) (1) THE DEPARTMENT, IN CONSULTATION WITH THE MARYLAND AQUACULTURE COORDINATING COUNCIL, SHALL ADOPT REGULATIONS FOR DIAMONDBACK TERRAPIN AQUACULTURE AND CAPTIVE BREEDING BEFORE ISSUING ANY ADDITIONAL PERMITS RELATING TO DIAMONDBACK TERRAPIN UNDER SUBTITLE 11A OF THIS TITLE OR TITLE 10, SUBTITLE 9 OF THIS ARTICLE.

(2) THE REGULATIONS ADOPTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(I) VERIFIABLE SAFEGUARDS TO IDENTIFY LEGALLY OBTAINED DIAMONDBACK TERRAPIN;

(II) STANDARDS FOR DIAMONDBACK TERRAPIN HUSBANDRY; AND

(III) STANDARDS FOR SHIPPING DIAMONDBACK TERRAPIN.

4–903.

[(a)**]** The Department shall adopt regulations governing**[**:

(1) The catching of terrapin; and

(2) Terrapin resources**]** **THE CONSERVATION OF DIAMONDBACK TERRAPIN**.

[(b) The regulations adopted under this section shall be consistent with the recommendations of the Maryland Diamondback Terrapin Task Force issued in 2001.**]**

8–716.

(c) (1) Except as provided in § 8–715(d) of this subtitle and in subsections (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied at the rate of 5% of the fair market value of the vessel on:

(i) The issuance of every original certificate of title required for a vessel under this subtitle;

(ii) The issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel;

(iii) The sale within the State of every other vessel; and

(iv) The possession within the State of a vessel used or to be used principally in the State.

(2) Notwithstanding the provisions of this subsection, no tax is paid on issuance of any certificate of title if the owner of the vessel for which a certificate of title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use tax on the vessel as required by law at the time of acquisition. The Department may require the applicant for titling to submit satisfactory proof that the applicant owned the vessel prior to June 1, 1965.

(e) A person is not required to pay the tax provided for in subsection (c) of this section resulting from:

(1) A transfer between members of the immediate family as determined by Department regulations;

(2) A transfer between members of the immediate family as determined by Department regulations of a documented vessel for which the transferor applied for and was issued a valid use sticker under § 8–712.1 of this subtitle;

(3) A transfer to a licensed dealer of a vessel for resale, rental, or leasing purposes;

(4) The holding of a vessel that is titled or numbered in another state or is federally documented, provided:

(i) The vessel is held for resale or listed for resale by a licensed dealer; and

(ii) The vessel owner signs an affidavit that there will be no use of the vessel on the waters of the State other than for a sea trial;

(5) Purchase of a vessel by the State or any political subdivision;

(6) Purchase of a vessel by an eleemosynary organization which the Secretary has approved;

(7) The purchase within the State of a vessel if the owner paid or incurred a liability for the Maryland sales and use tax on the vessel prior to July 1, 1986;

(8) The possession within the State of a vessel which was purchased outside the State if the owner paid or incurred a liability for the Maryland use tax on the vessel prior to July 1, 1986;

(9) The possession of a vessel in the State that is not used or to be used principally on the waters of the State and for which the issuance of a title is not sought or required under this subtitle, except that:

(i) A vessel is not deemed used on the waters of the State if the vessel is used for 90 days or less of a calendar year; and

(ii) If a vessel is used for more days than 90 days in a calendar year, the period of 90 days shall be counted in the determination of principal use under this subtitle;

(10) The possession within the State of a vessel if the current owner, before July 1, 1986:

(i) 1. Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, **[**terrapin,**]** soft–shell clams, hard–shell clams, oysters, or any other fish; and

2. Used the vessel for any of the commercial fishing purposes described in item 1 of this item;

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article;

(11) The possession within the State of a vessel that:

(i) Is owned by a nonprofit organization that:

1. Is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code; and

2. Is engaged in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; and

(ii) Is used for the purposes of the organization;

(12) The possession within the State of a vessel for a period of not more than one year if the current owner is a member of the armed services and is serving on active duty in this State; or

(13) The sale of a vessel within the State if:

(i) The vessel is purchased from a licensed dealer;

(ii) The issuance of a title is not sought or required;

(iii) The vessel is not used or to be used principally on the waters of this State;

(iv) The vessel is duly registered in another jurisdiction within 30 days of the date of purchase; and

(v) The dealer and the purchaser execute an agreement certifying the state of principal use for the vessel which is filed with the Department within 30 days of the date of purchase.

(g) (1) A person may claim a credit against any tax imposed under subsection (c) of this section on a vessel for sales tax the person has paid to the State, to another state, or to the District of Columbia on materials and equipment that are incorporated into the vessel, if:

(i) 1. The person is licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, **[**terrapin,**]** soft–shell clams, hard–shell clams, oysters, or any other fish; and

2. The vessel is to be used for any of the commercial fishing purposes described in item 1 of this item; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article.

(2) The Department may require a person claiming the credit allowed under this subsection to submit satisfactory proof of payment of the sales tax and that the materials or equipment have been incorporated into the vessel.

8–716.1.

(k) Notwithstanding any other provision of law, the Department may not collect or enforce any liability for the Maryland use tax that was incurred before July 1, 1986 on a vessel owned by a person who at the time the liability was incurred:

(1) (i) Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, **[**terrapin,**]** soft–shell clams, hard–shell clams, oysters, or any other fish; and

(ii) Used the vessel for any of the commercial fishing purposes described in item (1)(i) of this paragraph; or

(2) (i) Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

(ii) Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 119

(Senate Bill 595)

AN ACT concerning

~~Public Utility Companies~~ *Electricity* – Net Energy Metering – Renewable *Energy* Portfolio ~~Energy~~ Standard – ~~Photovoltaic Power~~ *Solar Energy*

FOR the purpose of increasing a certain limit used to determine the availability of net energy metering to eligible customer–generators; ~~providing that a certain~~

~~portion of a certain limit shall be for eligible customer–generators that operate solar electric generating facilities;~~ increasing the amount of generating capacity of an electric generating system that may be used by an eligible customer–generator for net metering; requiring *the Public Service Commission to make a certain determination concerning dual metering for certain eligible customer–generators; providing* that an eligible customer–generator has a title to certain attributes or credits associated with certain electricity produced; requiring the ~~Public Service~~ Commission on or before a certain date each year to report *to the General Assembly* on the status of the net metering program *in the State*; ~~establishing a Tier 3 renewable portfolio energy standard for electricity derived from solar energy; providing that a Tier 3 renewable portfolio energy standard applies only to electric companies under certain circumstances to electricity suppliers~~ *altering a certain renewable portfolio standard by requiring that certain portions of electricity in the standard be derived from solar energy; extending the deadlines within the renewable energy portfolio standard for certain requirements; limiting the eligibility of certain energy for meeting the renewable energy portfolio standard in certain manners during certain periods; requiring certain credits to be offered for certain purposes in a certain manner*; ~~requiring an electric company to meet the Tier 3 renewable energy portfolio standard in a certain manner;~~ repealing a *certain* provision that ~~required~~ *provided for* an electricity supplier to receive a double credit toward meeting a certain *renewable energy portfolio* standard *for energy* derived from solar energy *sources under certain circumstances*; allowing ~~a~~ *certain* renewable on–site ~~generator~~ *generators* to retain or transfer certain credits; requiring certain ~~electric companies~~ electricity suppliers to submit a certain report; *altering certain compliance fees to include fees for a shortfall from the requirement for solar energy within a certain time frame; authorizing an electricity supplier to request a delay in implementing certain requirements under certain circumstances; providing for the effect of a certain delay in certain requirements;* ~~providing for compliance fees for certain shortfalls in required Tier 3 renewable sources; allowing an electric company electricity supplier to request a certain delay for a certain scheduled increase under certain circumstances; providing that compliance fees paid for Tier 3 renewable sources be used for a certain support of new Tier 3 renewable sources; requiring that the duration of a certain contract be not less than 15 years;~~ *altering the use of a certain fund; requiring certain fees to be accounted for and used in a certain manner; requiring the Maryland Energy Administration to report each year on certain matters; requiring certain electricity suppliers to enter into certain contracts for not less than a certain term of years;* requiring the purchase of certain credits from certain systems to be made in a certain manner in accordance with rates and methods determined by the Commission; requiring the ~~Public Service~~ Commission to ~~appoint~~ designate a certain individual ~~with~~ *to have* certain ~~duties~~ *responsibilities*; requiring the Commission to convene a certain workgroup to revise ~~certain~~ the State's interconnection standards and procedures to be consistent with certain standards *and procedures* by a certain

date; requiring the Commission to investigate certain rate–making mechanisms; providing for the application and construction of certain provisions of this Act; requiring the Commission to include certain information in a *certain* report *due on a certain date*; ~~defining a certain term and~~ altering certain definitions; making stylistic changes; and generally relating to net energy metering, *the* renewable ~~portfolio~~ energy ~~standards~~ *portfolio standard*, and ~~photovoltaic power generation~~ *increasing the use of solar energy in the State*.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–306, 7–701*(h)(2) and (m)*, 7–703 ~~through~~ *(b) and (d), 7–704*, 7–705, ~~7–707,~~ *7–706(c)(1), 7–707(f),* ~~and 7–709~~ 7–709, and ~~7–712~~ *7–711*
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Public Utility Companies~~
~~Section 7–702, 7–706, and 7–708~~
~~Annotated Code of Maryland~~
~~(1998 Volume and 2006 Supplement)~~

BY adding to
Article – Public Utility Companies
Section ~~7–714~~ *7–707(h)*
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

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

Article – Public Utility Companies

7–306.

(a) (1) In this section the following words have the meanings indicated.

(2) "Biomass" means "qualified biomass" as defined in § 7–701 of this title.

(3) "Eligible customer–generator" means a customer that owns and operates or leases and operates a biomass, solar, or wind electric generating facility that:

(i) is located on the customer's premises;

(ii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and

(iii) is intended primarily to offset all or part of the customer's own electricity requirements.

(4) "Net energy metering" means measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer–generator and fed back to the electric company over the eligible customer–generator's billing period.

(b) The General Assembly finds and declares that a program to provide net energy metering for eligible customer–generators is a means to encourage private investment in renewable energy resources, stimulate in–State economic growth, enhance continued diversification of the State's energy resource mix, and reduce costs of interconnection and administration.

(c) An electric company serving an eligible customer–generator shall ensure that the meter installed for net energy metering is capable of measuring the flow of electricity in two directions.

(d) The Commission shall require electric utilities to develop a standard contract or tariff for net energy metering and make it available to eligible customer–generators on a first–come, first–served basis until the rated generating capacity owned and operated by eligible customer–generators in the State reaches **[**34.722**]** **1,500** megawatts~~, OF WHICH 1,465.28 MEGAWATTS SHALL BE FOR ELIGIBLE CUSTOMER–GENERATORS THAT OWN AND OPERATE OR LEASE AND OPERATE A SOLAR ELECTRIC GENERATING FACILITY~~**[**, 0.2% of the State's adjusted peak–load forecast for 1998**]**.

(e) (1) Except as provided in subsection (g) of this section, a net energy metering contract or tariff shall be identical, in energy rates, rate structure, and monthly charges, to the contract or tariff that the customer would be assigned if the customer were not an eligible customer–generator.

(2) (i) A net energy metering contract or tariff may not include charges that would raise the eligible customer–generator's minimum monthly charge above that of customers of the rate class to which the eligible customer–generator would otherwise be assigned.

(ii) Charges prohibited by this paragraph include new or additional demand charges, standby charges, customer charges, and minimum monthly charges.

(f) (1) The electric company shall calculate net energy metering in accordance with this subsection.

(2) Net energy produced or consumed on a monthly basis shall be measured in accordance with standard metering practices.

(3) If electricity supplied by the grid exceeds electricity generated by the eligible customer–generator during a month, the eligible customer–generator shall be billed for the net energy supplied in accordance with subsection (e) of this section.

(4) If electricity generated by the eligible customer–generator exceeds the electricity supplied by the grid, the eligible customer–generator shall be required to pay only customer charges for that month in accordance with subsection (e) of this section.

(5) (i) An eligible customer–generator under paragraph (4) of this subsection may accrue generation credit for a period not to exceed 12 months.

(ii) The electric company shall carry forward a negative kilowatt–hour reading until:

1. the eligible customer–generator's consumption of electricity from the grid eliminates the credit; or

2. the 12–month accrual period under subparagraph (i) of this paragraph expires.

(6) ANY REMAINING ACCRUED GENERATION CREDIT AT THE EXPIRATION OF THE 12–MONTH ACCRUAL PERIOD UNDER PARAGRAPH (5)(II)2 OF THIS SUBSECTION:

(I) SHALL REVERT TO THE ELECTRIC COMPANY; AND

(II) MAY NOT BE RECOVERED BY THE ELIGIBLE CUSTOMER–GENERATOR.

(g) **(1)** For an eligible customer–generator whose facility is sized to produce energy in excess of the eligible customer–generator's annual energy consumption, the Commission:

~~(1)~~ **(I)** may require the eligible customer–generator to install a dual meter that is capable of measuring the flow of electricity in two directions; and

~~(2)~~ **(II)** shall develop a credit formula that:

~~(i)~~ **1.** excludes recovery of transmission and distribution costs; and

~~(ii)~~ **2.** provides that the credit may be calculated using a method other than a kilowatt–hour basis, including a method that allows a dollar–for–dollar offset of electricity supplied by the grid compared to electricity generated by the eligible customer–generator.

(2) IN DETERMINING WHETHER TO REQUIRE AN ELIGIBLE CUSTOMER–GENERATOR TO INSTALL A DUAL METER UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER THE GENERATING CAPACITY OF THE CUSTOMER–GENERATOR.

(h) (1) **[**(i)**]** **[**Except as provided in subparagraph (ii) of this paragraph, the**]** **THE** generating capacity of an electric generating system used by an eligible customer–generator for net metering may not exceed **[**200 kilowatts**]** **2 MEGAWATTS**.

[(ii) 1. An eligible customer–generator may petition the Commission to use an electric generating system with a capacity not exceeding 500 kilowatts.

2. The Commission may approve a petition for use of an electric generating system with a capacity not exceeding 500 kilowatts for net metering if the Commission finds that the project meets public safety and reliability requirements and is in the public interest.**]**

(2) An electric generating system used by an eligible customer–generator for net metering shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

(3) The Commission may adopt by regulation additional control and testing requirements for eligible customer–generators that the Commission determines are necessary to protect public safety and system reliability.

(4) An electric company may not require an eligible customer–generator whose electric generating system meets the standards of paragraphs (2) and (3) of this subsection to:

(i) install additional controls;

(ii) perform or pay for additional tests; or

(iii) purchase additional liability insurance.

(5) AN ELIGIBLE CUSTOMER–GENERATOR SHALL OWN AND HAVE TITLE TO ALL RENEWABLE ENERGY ATTRIBUTES OR RENEWABLE ENERGY CREDITS ASSOCIATED WITH ANY ELECTRICITY PRODUCED BY ITS ELECTRIC GENERATING SYSTEM.

(I) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE COMMISSION SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE NET METERING PROGRAM UNDER THIS SECTION, INCLUDING:

(1) THE AMOUNT OF CAPACITY OF ELECTRIC GENERATING FACILITIES OWNED AND OPERATED BY ELIGIBLE CUSTOMER–GENERATORS IN THE STATE BY TYPE OF ENERGY RESOURCE;

(2) BASED ON THE NEED TO ENCOURAGE A DIVERSIFICATION OF THE STATE'S ENERGY RESOURCE MIX TO ENSURE RELIABILITY, WHETHER THE RATED GENERATING CAPACITY LIMIT IN SUBSECTION (D) OF THIS SECTION SHOULD BE ALTERED ~~FOR ELIGIBLE CUSTOMER–GENERATORS THAT OWN AND OPERATE OR LEASE AND OPERATE A GENERATING FACILITY OTHER THAN A SOLAR ELECTRIC GENERATING FACILITY~~; AND

(3) OTHER PERTINENT INFORMATION.

7–701.

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

~~(b) "Administration" means the Maryland Energy Administration.~~

~~(c) "Fund" means the Maryland Renewable Energy Fund established under § 7–707 of this subtitle.~~

~~(d) "Industrial process load" means the consumption of electricity by a manufacturing process at an establishment classified in the manufacturing sector under the North American Industry Classification System, codes 31 through 33.~~

~~(e) "Old growth timber" means timber from a forest:~~

~~(1) at least 5 acres in size with a preponderance of old trees, of which the oldest exceed at least half the projected maximum attainable age for the species; and~~

~~(2) that exhibits several of the following characteristics:~~

~~(i) shade–tolerant species are present in all age and size classes;~~

~~(ii) randomly distributed canopy gaps are present;~~

~~(iii) a high degree of structural diversity characterized by multiple growth layers reflecting a broad spectrum of ages is present;~~

~~(iv) an accumulation of dead wood of varying sizes and stages of decomposition accompanied by decadence in live dominant trees is present; and~~

~~(v) pit and mound topography can be observed.~~

~~(f) "PJM region" means the control area administered by the PJM Interconnection, Inc., as the area may change from time to time.~~

~~(g) "Poultry litter" means the fecal and urinary excretions of poultry, including wood shavings, sawdust, straw, rice hulls, and other bedding material for the disposition of manure.~~

(h) ~~(1) "Qualifying biomass" means a nonhazardous, organic material that is available on a renewable or recurring basis, and is:~~

~~(i) waste material that is segregated from inorganic waste material and is derived from sources including:~~

~~1. except for old growth timber, any of the following forest–related resources:~~

~~A. mill residue, except sawdust and wood shavings;~~

~~B. precommercial soft wood thinning;~~

~~C. slash;~~

~~D. brush; or~~

~~E. yard waste;~~

~~2. a pallet, crate, or dunnage;~~

~~3. agricultural and silvicultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by–products or residues; or~~

~~4. gas produced from the anaerobic decomposition of animal waste or poultry waste; or~~

~~(ii) a plant that is cultivated exclusively for purposes of being used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.~~

(2) "Qualifying biomass" includes biomass listed in paragraph (1) of this section that is used for co–firing, subject to § **[**7–704(e)**]** **7–704(D)** of this subtitle.

~~(3) "Qualifying biomass" does not include:~~

~~(i) unsegregated solid waste or postconsumer wastepaper; or~~

~~(ii) an invasive exotic plant species.~~

~~(i) "Renewable energy credit" or "credit" means a credit equal to the generation attributes of 1 megawatt–hour of electricity that is derived from:~~

~~(1)~~ ~~a Tier 1 renewable source or~~ **[**~~a~~**]** ~~Tier 2 renewable source that is located:~~

[~~(1)~~**] ~~(I)~~** ~~in the PJM region or in a state that is adjacent to the PJM region; or~~

[~~(2)~~**] ~~(II)~~** ~~outside the area described in item~~ **[**~~(1)~~**] ~~(I)~~** ~~of this~~ **[**~~subsection~~**] ~~ITEM~~** ~~but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region~~**; ~~OR~~**

~~(2) A TIER 3 RENEWABLE SOURCE THAT IS CONNECTED WITH THE ELECTRIC DISTRIBUTION GRID SERVING MARYLAND.~~

~~(j) "Renewable energy portfolio standard" or "standard" means the percentage of electricity sales at retail in the State that is to be derived from Tier 1~~ **[**~~renewable sources and~~**]**~~, Tier 2~~**~~, AND TIER 3~~** ~~renewable sources in accordance with § 7–703(b) of this subtitle.~~

~~(k) "Renewable on–site generator" means a person who generates electricity on site from a Tier 1~~ **[**~~renewable source or a~~**]**~~, Tier 2~~**~~, OR TIER 3~~** ~~renewable source for the person's own use.~~

~~(l) "Tier 1 renewable source" means one or more of the following types of energy sources:~~

~~(1)~~ **[**~~solar;~~

~~(2)~~**]** ~~wind;~~

~~**[**(3)~~**] (2)** qualifying biomass;~~

~~**[**(4)~~**] (3)** methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;~~

~~**[**(5)~~**] (4)** geothermal;~~

~~**[**(6)~~**] (5)** ocean, including energy from waves, tides, currents, and thermal differences;~~

~~**[**(7)~~**] (6)** a fuel cell that produces electricity from a Tier 1 renewable source under item **[**(3) or (4)~~**] (2) OR (3)** of this subsection; and~~

~~**[**(8)~~**] (7)** a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission.~~

(m) "Tier 2 renewable source" means one or more of the following types of energy sources:

(1) hydroelectric power other than pump storage generation;

(2) incineration of poultry litter~~, if the Maryland Energy Administration and the Maryland Department of Agriculture determine that there is a sufficient quantity of poultry litter available for the economic viability of any existing and operating entity that is sited on the Delmarva Peninsula and that, as of July 1, 2004, processes and pasteurizes chicken litter as fertilizer~~; and

(3) waste–to–energy.

~~**(N)** **"TIER 3 RENEWABLE SOURCE" MEANS PHOTOVOLTAIC POWER.**~~

~~7–702.~~

~~(a) It is the intent of the General Assembly to:~~

~~(1) recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources;~~

~~(2) establish a market for electricity from these resources in Maryland; and~~

~~(3) lower the cost to consumers of electricity produced from these resources.~~

~~(b) The General Assembly finds that:~~

~~(1) the benefits of electricity from renewable energy resources, including long–term decreased emissions, a healthier environment, increased energy security, and decreased reliance on and vulnerability from imported energy sources, accrue to the public at large; and~~

~~(2) electricity suppliers and consumers share an obligation to develop a minimum level of these resources in the electricity supply portfolio of the State.~~

7–703.

~~(a) (1) (i) The Commission shall implement a renewable energy portfolio standard:~~

~~A. FROM TIER 1 AND TIER 2 RENEWABLE SOURCES~~ ~~that, except as provided under paragraph (2) of this subsection, applies to all retail electricity sales in the State by electricity suppliers~~**~~; AND~~**

~~B. FROM TIER 3 RENEWABLE SOURCES THAT APPLIES TO ONLY ELECTRIC COMPANIES WHOSE RATES ARE REGULATED BY THE COMMISSION.~~

~~(ii) If the standard becomes applicable to electricity sold to a customer after the start of a calendar year, the standard does not apply to electricity sold to the customer during that portion of the year before the standard became applicable.~~

~~(2) A renewable energy portfolio standard may not apply to electricity sales at retail by any electricity supplier:~~

~~(i) in excess of 300,000,000 kilowatt–hours of industrial process load to a single customer in a year;~~

~~(ii) to residential customers in a region of the State in which electricity prices for residential customers are subject to a freeze or cap contained in a settlement agreement entered into under § 7–505 of this title until the freeze or cap has expired; or~~

~~(iii) to a customer served by an electric cooperative under an electricity supplier purchase agreement that existed on October 1, 2004, until the expiration of the agreement.~~

(b) The renewable energy portfolio standard shall be as follows:

~~(1) [in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;~~

~~(2)]~~ ~~in 2007, 1% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(3)]~~ **(2)** ~~in 2008, 2% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.005% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(4)]~~ **(3)** ~~in 2009, 2% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.01% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(5)]~~ **(4)** ~~in 2010, 3% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.025% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(6)]~~ **(5)** ~~in 2011, 3% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.04% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(7)]~~ **(6)** ~~in 2012, 4% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, 0.06% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(8)]~~ **(7)** ~~in 2013, 4% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.1% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(9)]~~ **(8)** ~~in 2014, 5% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.15% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(10)]~~ **(9)** ~~in 2015, 5% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.25% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(11)]~~**(10)** ~~in 2016, 6% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.35% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(12)]~~ **(11)** ~~in 2017, 6% from Tier 1 renewable sources [and], 2.5% from Tier 2 renewable sources, AND 0.55% FROM TIER 3 RENEWABLE SOURCES;~~

~~[(13)]~~ **(12)** ~~in 2018, 7% from Tier 1 renewable sources, [and] 2.5% from Tier 2 renewable sources, AND 0.9% FROM TIER 3 RENEWABLE SOURCES;[and]~~

~~**[**(14)**] (13)** in 2019 **[**and later**]**, 7.5% from Tier 1 renewable sources **[**and**],** 0% from Tier 2 renewable sources**, AND 1.2% FROM TIER 3 RENEWABLE SOURCES;**~~

~~**(14) IN 2020, 7.5% FROM TIER 1 RENEWABLE SOURCES, 0% FROM TIER 2 RENEWABLE SOURCES, AND 1.5% FROM TIER 3 RENEWABLE SOURCES;**~~

~~**(15) IN 2021, 7.5% FROM TIER 1 RENEWABLE SOURCES, 0% FROM TIER 2 RENEWABLE SOURCES, AND 1.85% FROM TIER 3 RENEWABLE SOURCES; AND**~~

~~**(16) IN 2022 AND LATER, 7.5% FROM TIER 1 RENEWABLE SOURCES, 0% FROM TIER 2 RENEWABLE SOURCES, AND 2% FROM TIER 3 RENEWABLE SOURCES.**~~

~~(c) Before calculating the number of credits required to meet the percentages established under subsection (b) of this section, an electricity supplier shall exclude from its total retail electricity sales all retail electricity sales described in subsection (a)(2) of this section.~~

(1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

*(3) in 2008, **[**2%**] 2.005%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.005% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(4) in 2009, **[**2%**] 2.01%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.01% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(5) in 2010, **[**3%**] 3.025%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.025% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(6) in 2011, **[**3%**] 3.04%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.04% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(7) in 2012, [4%] **4.06%** from Tier 1 renewable sources, **INCLUDING AT LEAST 0.06% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(8) in 2013, [4%] **4.1%** from Tier 1 renewable sources, **INCLUDING AT LEAST 0.1% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(9) in 2014, [5%] **5.15%** from Tier 1 renewable sources, **INCLUDING AT LEAST 0.15% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(10) in 2015, [5%] **5.25%** from Tier 1 renewable sources, **INCLUDING AT LEAST 0.25% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(11) in 2016, [6%] **6.35%** from Tier 1 renewable sources, **INCLUDING AT LEAST 0.35% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(12) in 2017, [6%] **6.55%** from Tier 1 renewable sources, **INCLUDING AT LEAST 0.55% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;*

*(13) in 2018, [7%] **7.9%** from Tier 1 renewable sources, **INCLUDING AT LEAST 0.9% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources; **[**and**]***

*(14) in 2019 **[**and later, 7.5%**], 8.7%** from Tier 1 renewable sources, **INCLUDING AT LEAST 1.2% DERIVED FROM SOLAR ENERGY,** and 0% from Tier 2 renewable sources**;***

(15) IN 2020, 9% FROM TIER 1 RENEWABLE SOURCES, INCLUDING AT LEAST 1.5% DERIVED FROM SOLAR ENERGY, AND 0% FROM TIER 2 RENEWABLE SOURCES;

(16) IN 2021, 9.35% FROM TIER 1 RENEWABLE SOURCES, INCLUDING AT LEAST 1.85% DERIVED FROM SOLAR ENERGY, AND 0% FROM TIER 2 RENEWABLE SOURCES; AND

(17) IN 2022 AND LATER, 9.5% FROM TIER 1 RENEWABLE SOURCES, INCLUDING AT LEAST 2% DERIVED FROM SOLAR ENERGY, AND 0% FROM TIER 2 RENEWABLE SOURCES.

(d) ~~**(1)**~~ Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the renewable energy portfolio standard by accumulating the equivalent amount of renewable energy credits that equal the ~~percentage~~ **PERCENTAGES** required under this section.

~~**(II) SUBJECT TO SUBSECTIONS (A) AND (C) OF THIS SECTION, AN ELECTRIC COMPANY SHALL MEET THE TIER 3 RENEWABLE ENERGY PORTFOLIO STANDARD BY ACCUMULATING THE EQUIVALENT AMOUNT OF RENEWABLE ENERGY CREDITS FROM TIER 3 RENEWABLE SOURCES THAT EQUAL THE TIER 3 PERCENTAGES REQUIRED UNDER THIS SECTION.**~~

7–704.

(a) (1) Energy from a Tier 1 renewable source:

(i) is eligible for inclusion in meeting the renewable energy portfolio standard regardless of when the generating system or facility was placed in service; and

(ii) may be applied to the percentage requirements of the standard for either Tier 1 renewable sources or Tier 2 renewable sources.

(2) (I) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7–701(L)(1) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD ONLY IF THE SOURCE IS CONNECTED WITH THE ELECTRIC DISTRIBUTION GRID SERVING MARYLAND.

2. ON OR BEFORE DECEMBER 31, 2011, ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7–701(L)(1) OF THIS SUBTITLE THAT IS NOT CONNECTED WITH THE ELECTRIC DISTRIBUTION GRID SERVING MARYLAND IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD ONLY IF OFFERS FOR SOLAR CREDITS FROM MARYLAND GRID SOURCES ARE NOT MADE TO THE ELECTRICITY SUPPLIER THAT WOULD SATISFY REQUIREMENTS UNDER THE STANDARD AND ONLY TO THE EXTENT THAT SUCH OFFERS ARE NOT MADE.

(II) IF THE OWNER OF A SOLAR GENERATING SYSTEM IN THIS STATE CHOOSES TO SELL SOLAR RENEWABLE ENERGY CREDITS FROM THAT SYSTEM, THE OWNER MUST FIRST OFFER THE CREDITS FOR SALE TO AN ELECTRICITY SUPPLIER OR ELECTRIC COMPANY THAT SHALL APPLY THEM

TOWARD COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7–703 OF THIS SUBTITLE.

~~(2)~~ ***(3)*** Energy from a Tier 1 renewable source under § **[**7–701(l)(8)**]** ~~**7–701(L)(7)**~~ of this subtitle is eligible for inclusion in meeting the renewable energy portfolio ***STANDARD*** if it is generated at a dam that existed as of January 1, 2004, even if a system or facility that is capable of generating electricity did not exist on that date.

~~(3)~~ ***(4)*** (i) Energy from a Tier 2 renewable source under § 7–701(m)(1) or (3) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard through 2018 if it is generated at a system or facility that existed and was operational as of January 1, 2004, even if the facility or system was not capable of generating electricity on that date.

(ii) Energy from a Tier 2 renewable source under § 7–701(m)(2) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard**,** regardless of when the generating system was placed in service***, IF THE MARYLAND ENERGY ADMINISTRATION AND THE MARYLAND DEPARTMENT OF AGRICULTURE DETERMINE THAT THERE IS A SUFFICIENT QUANTITY OF POULTRY LITTER AVAILABLE FOR THE ECONOMIC VIABILITY OF ANY EXISTING AND OPERATING ENTITY THAT IS SITED ON THE DELMARVA PENINSULA AND THAT, AS OF JULY 1, 2004, PROCESSED AND PASTEURIZED CHICKEN LITTER AS FERTILIZER***.

(b) On or after January 1, 2004, an electricity supplier may:

(1) receive renewable energy credits; and

(2) accumulate renewable energy credits under this subtitle.

(c) **[**An electricity supplier shall receive double credit toward meeting the renewable energy portfolio standard for energy derived from solar energy.

(d)**]** (1) This subsection applies only to a generating facility that is placed in service on or after January 1, 2004.

(2) (i) On or before December 31, 2005, an electricity supplier shall receive 120% credit toward meeting the renewable energy portfolio standard for energy derived from wind.

(ii) After December 31, 2005, and on or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from wind.

(3) On or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from methane under § **[**7–701(l)(4)**]** ~~7–701(L)(3)~~ of this subtitle.

[(e)**] (D)** An electricity supplier shall receive credit toward meeting the renewable energy portfolio standard for electricity derived from the biomass fraction of biomass co–fired with other fuels.

[(f)**] (E)** (1) In this subsection, "customer" means:

(i) an industrial electric customer that is not on standard offer service; or

(ii) a renewable on–site generator.

(2) (i) A customer may independently acquire renewable energy credits to satisfy the standards applicable to the customer's load, including credits created by a renewable on–site generator.

(ii) **[**Except as provided in subparagraph (iii)1 of this paragraph, the customer shall surrender the credits necessary to meet the standard to its electricity supplier for inclusion in the electricity supplier's compliance report under § 7–705 of this subtitle.

(iii) 1.**]** Credits that a customer **[**surrenders**]** **TRANSFERS** to its electricity supplier to meet the standard and that the electricity supplier relies on in submitting its compliance report may not be resold or retransferred by the customer or by the electricity supplier.

[2. The customer may retain or transfer any credits in excess of the amount needed to satisfy the standard for the customer's load.

(iv) A customer who surrenders credits under this subsection retains all rights and title to any environmental or other attributes associated with the credits, including emission reductions or related allowances.**]**

(3) A renewable on–site generator **[**shall receive credit**]** **MAY RETAIN OR TRANSFER AT ITS SOLE OPTION ANY CREDITS CREATED BY THE RENEWABLE ON–SITE GENERATOR, INCLUDING CREDITS** for the portion of its on–site generation from a Tier 1 **[**renewable source or a**],** Tier 2~~, OR TIER 3~~ renewable source that displaces the purchase of electricity by the renewable on–site generator from the grid.

(4) A customer that satisfies the standard applicable to the customer's load under this subsection may not be required to contribute to a compliance fee recovered under § 7–706 of this subtitle.

(5) The Commission shall adopt regulations governing the application and transfer of credits under this subsection consistent with federal law.

[(g)**] (F)** (1) In order to create a renewable energy credit, a Tier 1 ~~[~~renewable source or~~]~~, Tier 2~~, OR TIER 3~~ renewable source must substantially comply with all applicable environmental and administrative requirements, including air quality, water quality, solid waste, and right–to–know provisions, permit conditions, and administrative orders.

(2) (i) This paragraph applies to Tier 2 renewable sources that incinerate solid waste.

(ii) At least 80% of the solid waste incinerated at a Tier 2 renewable source facility shall be collected from:

1. for areas in Maryland, jurisdictions that achieve the recycling rates required under § 9–505 of the Environment Article; and

2. for other states, jurisdictions for which the electricity supplier demonstrates recycling substantially comparable to that required under § 9–505 of the Environment Article, in accordance with regulations of the Commission.

(iii) An electricity supplier may report credits received under this paragraph based on compliance by the facility with the percentage requirement of subparagraph (ii) of this paragraph during the year immediately preceding the year in which the electricity supplier receives the credit to apply to the standard.

7–705.

(a) Each electricity supplier ~~AND EACH ELECTRIC COMPANY WHOSE RATES ARE REGULATED BY THE COMMISSION~~ shall submit a report to the Commission each year in a form and by a date specified by the Commission that:

(1) demonstrates that ~~[~~the electricity supplier~~]~~ ~~IT~~ has complied with the applicable renewable energy portfolio standard under § 7–703 of this subtitle and includes the submission of the required amount of renewable energy credits; or

(2) demonstrates the amount of electricity sales by which ~~[~~the electricity supplier~~]~~ ~~IT~~ failed to meet the applicable renewable energy portfolio standard.

(b) If an electricity supplier fails to comply with the renewable energy portfolio standard ~~**FOR TIER 1 RENEWABLE SOURCES OR TIER 2 RENEWABLE SOURCES**~~ for the applicable year, the electricity supplier shall pay into the Maryland Renewable Energy Fund established under § 7–707 of this subtitle:

(1) except as provided in ~~paragraph~~ **ITEM** (2) of this subsection, a compliance fee of:

(i) 2 cents for each kilowatt–hour of shortfall from required Tier 1 renewable sources ***OTHER THAN THE SHORTFALL FROM THE REQUIRED TIER 1 RENEWABLE SOURCES THAT IS TO BE DERIVED FROM SOLAR ENERGY***; ~~and~~

(II) THE FOLLOWING AMOUNTS FOR EACH KILOWATT–HOUR OF SHORTFALL FROM REQUIRED TIER 1 RENEWABLE SOURCES THAT IS TO BE DERIVED FROM SOLAR ENERGY:

1. 45 CENTS IN 2008;

2. 40 CENTS IN 2009 AND 2010;

3. 35 CENTS IN 2011 AND 2012;

4. 30 CENTS IN 2013 AND 2014;

5. 25 CENTS IN 2015 AND 2016;

6. 20 CENTS IN 2017 AND 2018;

7. 15 CENTS IN 2019 AND 2020;

8. 10 CENTS IN 2021 AND 2022; AND

9. 5 CENTS IN 2023 AND LATER; AND

~~(ii)~~ ***(III)*** 1.5 cents for each kilowatt–hour of shortfall from required Tier 2 renewable sources; or

(2) for industrial process load:

(i) for each kilowatt–hour of shortfall from required Tier 1 ~~**AND**~~ ***TIER 3*** renewable sources, a compliance fee of:

1. 0.8 cents in 2006, 2007, and 2008;

2. 0.5 cents in 2009 and 2010;

3. 0.4 cents in 2011 and 2012;

4. 0.3 cents in 2013 and 2014;

5. 0.25 cents in 2015 and 2016; and

6. 0.2 cents in 2017 and later; and

(ii) nothing for any shortfall from required Tier 2 renewable sources.

~~(C) IF AN ELECTRIC COMPANY~~ IF AN ELECTRICITY SUPPLIER ~~FAILS TO COMPLY WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR TIER 3 RENEWABLE SOURCES FOR THE APPLICABLE YEAR, THE ELECTRIC COMPANY~~ ELECTRICITY SUPPLIER ~~SHALL PAY INTO THE MARYLAND RENEWABLE ENERGY FUND ESTABLISHED UNDER § 7–707 OF THIS SUBTITLE:~~

~~(1) EXCEPT AS PROVIDED IN ITEM (2) OF THIS SUBSECTION, FOR EACH KILOWATT–HOUR OF SHORTFALL FROM REQUIRED TIER 3 RENEWABLE SOURCES A COMPLIANCE FEE OF:~~

~~(1) (I) 45 CENTS IN 2007 AND 2008;~~

~~(2) (II) 40 CENTS IN 2009 AND 2010;~~

~~(3) (III) 35 CENTS IN 2011 AND 2012;~~

~~(4) (IV) 30 CENTS IN 2013 AND 2014;~~

~~(5) (V) 25 CENTS IN 2015 AND 2106; AND~~

~~(6) (VI) 20 CENTS IN 2017 AND LATER~~ AND ~~2018;~~

~~(VII) 15 CENTS IN 2019 AND 2020;~~

~~(VIII) 10 CENTS IN 2021 AND 2022; AND~~

~~(IX) 5 CENTS IN 2023 AND LATER; AND~~

~~(2) FOR INDUSTRIAL PROCESS LOAD, A COMPLIANCE FEE AS PROVIDED IN SUBSECTION (B)(2)(I) OF THIS SECTION.~~

~~[~~(c)~~]~~ ~~(D)~~ The Commission may allow an electricity supplier ~~OR AN ELECTRIC COMPANY~~ to submit the report required under § 7–505(b)(4) of this title to demonstrate compliance with the renewable energy portfolio standard.

~~[~~(d)~~]~~ ~~(E)~~ An aggregator or broker who assists an electricity customer in purchasing electricity but who does not supply the electricity or take title to or ownership of the electricity may require the electricity supplier who supplies the electricity to demonstrate compliance with this subtitle.

~~(F)~~ *(E)* **(1) NOTWITHSTANDING THE ~~TIER 3 RENEWABLE ENERGY PORTFOLIO STANDARD~~ REQUIREMENTS ~~UNDER~~ *OF* § 7–703(B) OF THIS ~~TITLE~~ *SUBTITLE*, IF THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR ~~COSTS~~ *COST INCURRED* INCURRED OR TO BE INCURRED BY AN ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF TIER ~~3~~ *1* RENEWABLE ENERGY CREDITS *DERIVED FROM SOLAR ENERGY* IN ANY ~~ONE~~ *1* YEAR IS GREATER THAN OR EQUAL TO, OR IS ANTICIPATED TO BE GREATER THAN OR EQUAL TO, 1% OF THE ~~ANNUAL ELECTRICITY SALES REVENUE FOR AN ELECTRIC COMPANY, THE ELECTRIC COMPANY~~ ELECTRIC SUPPLIER'S TOTAL ANNUAL ELECTRICITY SALES REVENUES IN MARYLAND, THE ELECTRICITY SUPPLIER MAY REQUEST THAT THE COMMISSION ~~DELAY A SCHEDULED INCREASE THAT APPLIES TO THE ELECTRIC COMPANY IN TIER 3 REQUIREMENTS FOR 1 YEAR~~:**

(I) DELAY BY 1 YEAR EACH OF THE SCHEDULED PERCENTAGES *FOR SOLAR ENERGY* UNDER § 7–703(B) OF THIS SUBTITLE THAT WOULD APPLY TO THE ELECTRICITY SUPPLIER ~~IN TIER 3~~; AND

(II) ALLOW THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ~~TIER 3~~ *SOLAR ENERGY* FOR THAT YEAR TO CONTINUE TO APPLY TO THE ELECTRICITY SUPPLIER FOR THE FOLLOWING YEAR.

(2) IN MAKING ITS DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COMPLIANCE COSTS OF OTHER ~~ELECTRIC COMPANIES~~ ELECTRICITY SUPPLIERS.

(3) IF AN ELECTRICITY SUPPLIER MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON PROJECTED COSTS, THE ELECTRICITY SUPPLIER SHALL PROVIDE VERIFIABLE EVIDENCE OF THE PROJECTIONS TO THE COMMISSION AT THE TIME OF THE REQUEST.

(4) IF THE COMMISSION ALLOWS A DELAY UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ~~TIER 3~~ *SOLAR ENERGY* APPLICABLE TO THE ELECTRICITY SUPPLIER UNDER THE DELAY CONTINUES FOR EACH SUBSEQUENT CONSECUTIVE YEAR THAT THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COSTS INCURRED, OR TO BE INCURRED, BY THE ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF ~~TIER 3~~ *SOLAR* RENEWABLE ENERGY CREDITS IS GREATER THAN OR EQUAL TO, OR IS ANTICIPATED TO BE GREATER THAN OR EQUAL TO, 1% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL RETAIL ELECTRICITY SALES REVENUES IN MARYLAND; AND

(II) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ~~TIER 3~~ *SOLAR ENERGY* APPLICABLE TO THE ELECTRICITY SUPPLIER UNDER THE DELAY IS INCREASED TO THE NEXT SCHEDULED PERCENTAGE INCREASE UNDER § 7–703(B) OF THIS SUBTITLE FOR EACH YEAR IN WHICH THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COSTS INCURRED, OR TO BE INCURRED, BY THE ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF ~~TIER 3~~ *SOLAR* RENEWABLE ENERGY CREDITS IS LESS THAN, OR IS ANTICIPATED TO BE LESS THAN, 1% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL RETAIL ELECTRICITY SALES REVENUES IN MARYLAND.

7–706.

~~(a) (1) Except as provided in paragraph (2) of this subsection, in accordance with the obligation to provide standard offer service through the bid process created under § 7–510 of this title, the Commission shall allow an electricity supplier to recover actual dollar–for–dollar costs incurred, including a compliance fee under § 7–705 of this subtitle, in complying with a State–mandated renewable energy portfolio standard.~~

~~(2) In accordance with the Phase II Settlement Agreement approved by the Commission in Order No. 78710 in Case No. 8908 on September 30, 2003, for any full–service agreement executed before the renewable energy standard under this subtitle applies to an electric company, the electric company and its wholesale electricity suppliers may pass through their commercially reasonable additional costs, if any, associated with complying with the standard, through the end of the year of standard offer service in which the requirement took effect.~~

~~(b) An electricity supplier may recover a compliance fee if:~~

~~(1) the payment of a compliance fee is the least–cost measure to customers as compared to the purchase of Tier 1 renewable sources to comply with a renewable energy portfolio standard;~~

~~(2) there are insufficient Tier 1 renewable sources available for the electricity supplier to comply with a renewable energy portfolio standard; or~~

~~(3) a wholesale electricity supplier defaults or otherwise fails to deliver renewable energy credits under a supply contract approved by the Commission.~~

(c) Any cost recovery under this section:

(1) for all electricity suppliers, may be in the form of a generation surcharge payable by all current electricity supply customers, except as otherwise provided in § **[**7–704(f)**] 7–704 (E)** of this subtitle;

~~(2) shall be disclosed to customers in a manner to be determined by the Commission; and~~

~~(3) may not include the costs for a power purchase contract under the federal Public Utility Regulatory Policy Act contemplated in rates or restructuring proceedings.~~

~~(d) (1) In accordance with regulations adopted by the Commission in consultation with the Department of Business and Economic Development, the Commission may waive the recovery of all or part of the compliance fee assessed on the load of a particular industrial or nonretail commercial customer for a particular year, based on a demonstration by the applicant of an extreme economic hardship that significantly impairs the continued operation of the applicant.~~

~~(2) Any compliance fee recovery that is waived under this subsection may not be assessed against other customers.~~

~~(3) An electricity supplier is not liable for any compliance fee that is waived under this subsection.~~

7–707.

~~(a) There is a Maryland Renewable Energy Fund.~~

~~(b) The purpose of the Fund is to encourage the development of resources to generate renewable energy in the State.~~

~~(c) Subject to oversight by the Commission, the Administration shall administer the Fund.~~

~~(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.~~

~~(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.~~

~~(e) The Fund consists of:~~

~~(1) compliance fees paid under § 7–705 of this subtitle;~~

~~(2) payments received in repayment of a loan;~~

~~(3) investment earnings of the Fund; and~~

~~(4) any other money from any other source accepted for the benefit of the Fund.~~

(f) (1) ***(I)*** **[**The**]** ~~**IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION**~~ ***SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH*****, THE** Fund may be used only to make loans and grants to support the creation of new Tier 1 ~~**AND TIER 3**~~ renewable **[**energy**]** sources in the State.

~~**(2) COMPLIANCE FEES PAID UNDER § 7–705 OF THIS SUBTITLE:**~~

~~**(I) FOR A SHORTFALL IN THE REQUIREMENTS FOR TIER 1 RENEWABLE RESOURCES OR TIER 2 RENEWABLE SOURCES, MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW TIER 1 RENEWABLE SOURCES IN THE STATE; AND**~~

~~**(II) FOR A SHORTFALL IN THE REQUIREMENTS FOR TIER 3 RENEWABLE SOURCES, MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW TIER 3 RENEWABLE SOURCES IN THE STATE.**~~

(II) COMPLIANCE FEES PAID UNDER § 7–705(B)(1)(II) OF THIS SUBTITLE SHALL BE ACCOUNTED FOR SEPARATELY WITHIN THE FUND AND MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW SOLAR ENERGY SOURCES IN THE STATE.

~~**[**~~(2)~~**]** **(3)**~~ By regulation the Commission shall adopt eligibility criteria for projects supported by the Fund.

~~**[**~~(3)~~**]** **(4)**~~ (i) The Administration shall receive and review applications for loans and grants for eligible projects.

(ii) The Administration shall approve or disapprove applications for loans and grants from the Fund.

~~[~~(4)~~]~~ ~~(5)~~ (i) Subject to subparagraph (ii) of this paragraph, the Commission may allow the use of money of the Fund for administrative expenses related to the Fund and project review and oversight.

(ii) The Administration and the Commission may not spend more than 10% of the funds placed in the Fund for administrative expenses.

~~(g) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.~~

~~(2) Any investment earnings of the Fund shall be credited to the Fund.~~

(H) (1) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE ADMINISTRATION, IN CONSULTATION WITH THE COMMISSION, SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON THE STATUS OF THE FUND.

(2) THE REPORT SHALL INCLUDE:

(I) ALL AMOUNTS RECEIVED BY AND DISBURSED FROM THE FUND;

(II) ALL AMOUNTS USED BY THE ADMINISTRATION AND THE COMMISSION FOR ADMINISTRATIVE PURPOSES;

(III) THE EVALUATION CRITERIA USED BY THE ADMINISTRATION IN MAKING LOANS AND GRANTS FROM THE FUND AND IN SELECTING RECIPIENTS OF THOSE LOANS AND GRANTS;

(IV) THE NUMBER AND AMOUNTS OF LOANS AND GRANTS MADE IN THE PRECEDING CALENDAR YEAR;

(V) THE STATUS OF LOANS PENDING AS OF THE END OF THE PRECEDING CALENDAR YEAR;

(VI) THE ALLOCATION OF DISBURSEMENTS FOR DEVELOPMENT OF NEW SOLAR AND OTHER TIER 1 RENEWABLE SOURCES;

(VII) THE PROJECTED RECEIPTS OF THE FUND IN THE CURRENT CALENDAR YEAR; AND

(VIII) PLANS FOR THE USE OF RESOURCES OF THE FUND IN THE CURRENT CALENDAR YEAR.

~~7–708.~~

~~(a) (1) The Commission shall establish and maintain a market–based renewable electricity trading system to facilitate the creation and transfer of renewable energy credits.~~

~~(2) To the extent practicable, the trading system shall be consistent with and operate in conjunction with the trading system developed by PJM Interconnection, Inc., if available.~~

~~(3) The Commission may contract with a for–profit or a nonprofit entity to assist in the administration of the electricity trading system required under paragraph (1) of this subsection.~~

~~(b) (1) The system shall include a registry of pertinent information regarding all:~~

~~(i) available renewable energy credits; and~~

~~(ii) renewable energy credit transactions among electricity suppliers in the State, including:~~

~~1. the creation and application of renewable energy credits;~~

~~2. the number of renewable energy credits sold or transferred; and~~

~~3. the price paid for the sale or transfer of renewable energy credits.~~

~~(2) (i) The registry shall provide current information to electricity suppliers and the public on the status of renewable energy credits created, sold, or transferred in the State.~~

~~(ii) Registry information shall be available by computer network access through the Internet.~~

7–709.

(a) An electricity supplier may use accumulated renewable energy credits to meet the renewable energy portfolio standard, including credits created by a renewable on–site generator.

(b) A renewable energy credit may be sold or otherwise transferred.

(C) (1) *(I)* IF AN ~~ELECTRIC COMPANY~~ ELECTRICITY SUPPLIER PURCHASES ~~TIER 3~~ *SOLAR* RENEWABLE ENERGY CREDITS DIRECTLY FROM A RENEWABLE ON–SITE GENERATOR TO MEET THE *SOLAR COMPONENT OF THE* TIER ~~3~~ *1* RENEWABLE ENERGY PORTFOLIO STANDARD, THE DURATION OF THE CONTRACT TERM FOR THE ~~TIER 3~~ *SOLAR* RENEWABLE ~~SOURCE~~ ENERGY CREDITS MAY NOT BE LESS THAN 15 YEARS.

(II) THE MINIMUM REQUIRED TERM UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT AFFECT THE ABILITY OF THE PARTIES TO NEGOTIATE A PRICE FOR A SOLAR RENEWABLE ENERGY CREDIT THAT VARIES OVER TIME IN ANY MANNER.

(2) (I) AN ELECTRICITY SUPPLIER THAT PURCHASES ~~TIER 3~~ *SOLAR* RENEWABLE ENERGY CREDITS FROM A RENEWABLE ON–SITE GENERATOR WITH A CAPACITY NOT EXCEEDING 10 KILOWATTS SHALL PURCHASE THE CREDITS WITH A SINGLE INITIAL PAYMENT REPRESENTING THE FULL ESTIMATED PRODUCTION OF THE SYSTEM FOR THE LIFE OF THE CONTRACT.

(II) THE COMMISSION SHALL:

~~1. DETERMINE THE RATE FOR A PAYMENT MADE TO THE RENEWABLE ON–SITE GENERATOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND~~

~~2.~~ *1.* DEVELOP A METHOD FOR ESTIMATING ANNUAL PRODUCTION FROM THE TYPE OF SYSTEM DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND ALLOCATING THE ~~TIER 3 RENEWABLE ENERGY~~ CREDITS TO THE ELECTRICITY SUPPLIER IN A MANNER THAT IS CONSISTENT WITH ~~A MINIMUM 15–YEAR PRODUCTION PERIOD~~ *THE DURATION OF THE CONTRACT; AND*

2. DETERMINE THE RATE FOR A PAYMENT MADE TO A RENEWABLE ON–SITE GENERATOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[(c)**] (D)** (1) Except as authorized under paragraph (2) of this subsection, a renewable energy credit shall exist for 3 years from the date created.

(2) A renewable energy credit may be diminished or extinguished before the expiration of 3 years by:

(i) the electricity supplier that received the credit;

(ii) a nonaffiliated entity of the electricity supplier:

1. that purchased the credit from the electricity supplier receiving the credit; or

2. to whom the electricity supplier otherwise transferred the credit; or

(iii) demonstrated noncompliance by the generating facility with the requirements of § **[**7–704(g)**] 7–704(F)** of this subtitle.

[(d)**] (E)** Notwithstanding subsection **[**(c)(2)(iii)**] (D)(2)(III)** of this section, and only if the demonstrated noncompliance does not result in environmental degradation, an electricity supplier that reasonably includes in its annual report under § 7–705 of this subtitle a renewable energy credit that is extinguished for noncompliance with § **[**7–704(g)(1)**] 7–704(F)(1)** or (2) of this subtitle:

(1) may continue to rely on that credit for that year; but

(2) for later years must:

(i) demonstrate a return to compliance of the generating facility under § **[**7–704(g)**] 7–704(F)** of this subtitle; or

(ii) replace the credit with a renewable energy credit from another source.

[(e)**] (F)** The Commission by regulation shall establish requirements for documentation and verification of renewable energy credits by licensed electricity suppliers and other generators that create and receive credits for compliance with the standards for Tier 1 ~~[~~renewable sources and~~]~~**,** Tier 2**~~, AND TIER 3~~** renewable sources.

~~7–712.~~

~~Subject to § 2–1246 of the State Government Article, on or before February 1 of each year the Commission shall report to the General Assembly on the status of~~

~~implementation of this subtitle, including the availability of Tier 1 AND TIER 3 renewable sources, projects supported by the Fund, and other pertinent information.~~

~~**7–714.**~~

7–711.

(A) *The Commission has the same power and authority with respect to an electricity supplier under this subtitle that the Commission has with respect to any public service company under this article for the purposes of investigating and examining the electricity supplier to determine compliance with this subtitle and with other applicable law.*

(B) ***(1)*** ~~**THE**~~ ***BEGINNING JANUARY 1, 2008, THE*** **COMMISSION SHALL** ~~**APPOINT**~~ **DESIGNATE AN INDIVIDUAL** ~~**WHO SHALL**~~ **TO BE** ~~**SOLELY**~~ **RESPONSIBLE FOR:**

~~**(1)**~~ **THE OVERSIGHT OF COMPLIANCE WITH THE** ~~**RENEWABLE ENERGY PORTFOLIO**~~ **REQUIREMENTS** ~~**FOR**~~ ***OF*** **TIER** ~~**3**~~ ***1*** **RENEWABLE SOURCES;** ***THAT ARE TO BE DERIVED FROM SOLAR ENERGY.*** ~~**AND**~~

~~**(2) THE DEVELOPMENT OF PROGRAMMATIC CHANGES, OUTREACH, AND POLICY RECOMMENDATIONS TO ENSURE THE SUCCESS OF THE RENEWABLE ENERGY PORTFOLIO REQUIREMENTS FOR TIER 3 RENEWABLE SOURCES; AND**~~

~~**(3) THE DEVELOPMENT OF CLEAR, SIMPLE, AND STRAIGHTFORWARD FORMS, REQUIREMENTS, AND PROCEDURES TO FACILITATE PARTICIPATION OF HOMEOWNERS AND SMALL BUSINESSES IN THE DEPLOYMENT OF TIER 3 RENEWABLE ENERGY GENERATION IN THE STATE.**~~

(2) ***THE INDIVIDUAL DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:***

(I) ***DEVELOP THE PROGRAM FOR THE REQUIREMENTS FOR TIER 1 RENEWABLE SOURCES DERIVED FROM SOLAR ENERGY;***

(II) ***PROVIDE EDUCATION AND OUTREACH TO PROMOTE THE USE OF SOLAR ENERGY; AND***

(III) ***MAKE POLICY RECOMMENDATIONS TO THE COMMISSION REGARDING IMPROVING THE STATE'S USE OF SOLAR ENERGY, INCLUDING THE DEVELOPMENT OF CLEAR, SIMPLE, AND STRAIGHTFORWARD FORMS,***

REQUIREMENTS, AND PROCEDURES TO FACILITATE PARTICIPATION BY HOMEOWNERS AND SMALL BUSINESSES IN DEPLOYMENT OF SOLAR GENERATION IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, ~~That, on or before November 1, 2007, the Public Service Commission shall revise Maryland's interconnection standards and procedures to be consistent with the interconnection standards of any state in the PJM region with more than 1,000 interconnected renewable on–site generators~~ That, in recognition of the value of small distributed generation to the reliable and cost–effective operation of the grid, the Public Service Commission shall:

(1) form a small generator interconnections working group to develop interconnection standards and procedures for on–site generator facilities operating in Maryland that are consistent with nationally adopted interconnection standards and procedures; and

(2) on or before November 1, 2007, by regulation or order, revise Maryland's interconnection standards and procedures:

(i) to be consistent with nationally adopted interconnection standards and procedures; and

(ii) to facilitate and encourage a simplified connection of small distributed generators to the grid in a manner that ensures the safe and reliable operation of the grid.

SECTION 3. AND BE IT FURTHER ENACTED, That the Public Service Commission shall investigate the benefits to residential customers of using a regulatory rate–making mechanism that separates electric company distribution sales from electric company distribution profits, including a mechanism that allows electric companies to recover fixed distribution costs on a flat rate basis instead of on a consumption rate basis.

SECTION 4. AND BE IT FURTHER ENACTED, That the requirement under § 7–306(h)(5) of the Public Utility Companies Article, as enacted by Section 1 of this Act, for an eligible customer–generator to own and have title to all renewable energy attributes or renewable energy credits associated with any electricity produced by its electric generating system shall apply prospectively and may not be construed to:

(1) impair contracts that were entered into before the effective date of *Section 1 of* this Act; or

(2) prohibit contracts between an eligible customer–generator and another entity entered into after the effective date of this Act that explicitly transfers

ownership of the renewable energy attributes or renewable energy credits from the eligible customer–generator to another entity.

SECTION 5. AND BE IT FURTHER ENACTED, That, as part of its annual report due February 1, 2014 under § 7–712 of the Public Utility Companies Article, the Public Service Commission shall report its findings and recommendations for modification, if any, to the renewable energy portfolio standard provisions under Title 7, Subtitle 7 of the Public Utility Companies Article based on a thorough study of the implementation of the renewable energy portfolio standard requirements since 2006. The study conducted by the Commission shall:

(1) be based on the results of the renewable energy portfolio standard requirements effective through 2013;

(2) determine whether the intended goals of the renewable energy portfolio standard ~~provisions~~ are being met and are anticipated to be met in the future;

(3) consider the impact of the renewable energy portfolio standard requirements in developing renewable energy in the State; ~~and~~

(4) consider the cost implications to residential consumers of continuing the renewable energy portfolio standard requirements beyond 2014;

(5) determine the realized and projected availability of solar renewable energy credits in Maryland;

(6) consider the ability of a regional market to lower the cost impact of the solar requirements of the renewable *energy* portfolio standard on customers;

(7) consider the ability of a regional market, in complying with the solar requirements, to develop solar energy in Maryland; and

(8) determine the appropriate use of the funds that are paid into the Maryland Renewable Energy Fund from compliance fees, including specific criteria for making loans and grants, to achieve the intended goals of the renewable energy portfolio ~~provisions~~ *standard*.

SECTION ~~3.~~ 6. AND BE IT FURTHER ENACTED, That *Sections 1 and 4 of* this Act shall take effect October 1, 2007.

SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in Section 6 of this Act, this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 120

(House Bill 1016)

AN ACT concerning

Electricity – Net Energy Metering – **Renewable Energy Portfolio Standard – Solar Energy**

FOR the purpose of *increasing a certain limit used to determine the availability of net energy metering to eligible customer–generators; increasing the amount of generating capacity of an electric generating system that may be used by an eligible customer–generator for net metering; requiring the Public Service Commission to make a certain determination concerning dual metering for certain eligible customer–generators; providing that an eligible customer–generator has a title to certain attributes or credits associated with certain electricity produced; requiring the Commission on or before a certain date each year to report to the General Assembly on the status of the net metering program in the State;* altering a certain renewable energy portfolio standard by requiring that certain portions of electricity in the standard be derived from solar energy; extending the deadlines within the renewable energy portfolio standard for certain requirements; limiting the eligibility of certain energy for meeting the renewable energy portfolio standard *in certain manners during certain periods; requiring certain credits to be offered for certain purposes in a certain manner*; repealing a certain provision that provided for an electricity supplier to receive a double credit toward meeting a certain renewable energy portfolio standard for energy derived by solar energy sources under certain circumstances; ~~requiring an electricity supplier to enter into certain contracts for not less than a certain term of years; requiring the purchase of certain credits from certain systems to be made in a certain manner in accordance with rates and methods determined by the Commission~~ *allowing certain renewable on–site generators to retain or transfer certain credits in a certain manner; requiring certain electricity suppliers to submit a certain report*; altering certain compliance fees to include fees for a shortfall from the requirement for solar energy within a certain time frame; authorizing an electricity supplier to request a delay in implementing certain requirements under certain circumstances; ~~requiring the Public Service Commission to make certain considerations when deciding to grant a certain request;~~ altering the use of a certain fund; *requiring certain fees to be accounted for and used in a certain manner; requiring the Maryland Energy Administration to report each year on certain matters; requiring certain electricity suppliers to enter into certain contracts for not less than a certain term of years; requiring the ~~Commission to set a maximum price for a solar renewable~~*

~~*energy credit each year by taking into consideration certain market prices; prohibiting certain credits from being sold above a certain price; requiring the purchase of certain credits from certain systems to be made based on certain market prices*~~ *purchase of certain credits from certain systems to be made in a certain manner in accordance with rates and methods determined by the Commission;* requiring the Commission to designate a certain individual to have certain responsibilities; ~~altering certain amounts of net energy metering available under certain circumstances;~~ requiring the Commission to ~~begin and complete a revision of~~ convene a certain workgroup to revise the State's interconnection standards *and procedures* to be consistent with certain standards *and procedures* ~~of the Interstate Renewable Energy Council~~ by a certain ~~dates~~ date; ~~altering the time frame within which a certain qualified energy facility may place certain energy resources in service for a certain tax credit for renewable energy; altering the calculation of the amount of the tax credit; extending the period over which a certain tax credit may be claimed; altering the expiration date of a certain tax credit certificate;~~ requiring the Commission to investigate certain rate–making mechanisms; requiring the Commission to include certain information in a certain report *due on a certain date*; ~~requiring certain committees of the General Assembly to convene a certain workgroup for certain purposes~~ *altering certain definitions; making stylistic changes*; providing for the application *and construction* of *certain provisions of* this Act; and generally relating to *net energy metering*, the ~~use of~~ renewable energy *portfolio standard*, and increasing the use of solar energy in the State.

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–306, *7–701(h)(2) and (m)*, ~~7–703(b),~~ 7–703(b) and (d), ~~7–704(a),~~ *7–704*, 7–705, *7–706(c)(1)*, 7–707(f), *7–709*, and 7–711
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

~~BY repealing~~
~~Article – Public Utility Companies~~
~~Section 7–704(c)~~
~~Annotated Code of Maryland~~
~~(1998 Volume and 2006 Supplement)~~

BY adding to
Article – Public Utility Companies
Section ~~7–704(c)~~ *7–707(h)*
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

~~BY repealing and reenacting, with amendments,~~
~~Article – Tax – General~~

~~Section 10–720(a), (b), and (c)~~
~~Annotated Code of Maryland~~
~~(2004 Replacement Volume and 2006 Supplement)~~

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

Article – Public Utility Companies

7–306.

(a) (1) In this section the following words have the meanings indicated.

(2) "Biomass" means "qualified biomass" as defined in § 7–701 of this title.

(3) "Eligible customer–generator" means a customer that owns and operates or leases and operates a biomass, solar, or wind electric generating facility that:

(i) is located on the customer's premises;

(ii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and

(iii) is intended primarily to offset all or part of the customer's own electricity requirements.

(4) "Net energy metering" means measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer–generator and fed back to the electric company over the eligible customer–generator's billing period.

(b) The General Assembly finds and declares that a program to provide net energy metering for eligible customer–generators is a means to encourage private investment in renewable energy resources, stimulate in–State economic growth, enhance continued diversification of the State's energy resource mix, and reduce costs of interconnection and administration.

(c) An electric company serving an eligible customer–generator shall ensure that the meter installed for net energy metering is capable of measuring the flow of electricity in two directions.

(d) The Commission shall require electric utilities to develop a standard contract or tariff for net energy metering and make it available to eligible

customer–generators on a first–come, first–served basis until the rated generating capacity owned and operated by eligible customer–generators in the State reaches **[**34.722 megawatts, 0.2% of the State's adjusted peak–load forecast for 1998**]** **1,500 MEGAWATTS**.

(e) (1) Except as provided in subsection (g) of this section, a net energy metering contract or tariff shall be identical, in energy rates, rate structure, and monthly charges, to the contract or tariff that the customer would be assigned if the customer were not an eligible customer–generator.

(2) (i) A net energy metering contract or tariff may not include charges that would raise the eligible customer–generator's minimum monthly charge above that of customers of the rate class to which the eligible customer–generator would otherwise be assigned.

(ii) Charges prohibited by this paragraph include new or additional demand charges, standby charges, customer charges, and minimum monthly charges.

(f) (1) The electric company shall calculate net energy metering in accordance with this subsection.

(2) Net energy produced or consumed on a monthly basis shall be measured in accordance with standard metering practices.

(3) If electricity supplied by the grid exceeds electricity generated by the eligible customer–generator during a month, the eligible customer–generator shall be billed for the net energy supplied in accordance with subsection (e) of this section.

(4) If electricity generated by the eligible customer–generator exceeds the electricity supplied by the grid, the eligible customer–generator shall be required to pay only customer charges for that month in accordance with subsection (e) of this section.

(5) (i) An eligible customer–generator under paragraph (4) of this subsection may accrue generation credit for a period not to exceed 12 months.

(ii) The electric company shall carry forward a negative kilowatt–hour reading until:

1. the eligible customer–generator's consumption of electricity from the grid eliminates the credit; or

2. the 12–month accrual period under subparagraph (i) of this paragraph expires.

(6) ANY REMAINING ACCRUED GENERATION CREDIT AT THE EXPIRATION OF THE 12–MONTH ACCRUAL PERIOD UNDER PARAGRAPH (5)(II)2 OF THIS SUBSECTION:

(I) SHALL REVERT TO THE ELECTRIC COMPANY; AND

(II) MAY NOT BE RECOVERED BY THE ELIGIBLE CUSTOMER–GENERATOR.

(g) **(1)** For an eligible customer–generator whose facility is sized to produce energy in excess of the eligible customer–generator's annual energy consumption, the Commission:

~~(1)~~ **(I)** may require the eligible customer–generator to install a dual meter that is capable of measuring the flow of electricity in two directions; and

~~(2)~~ **(II)** shall develop a credit formula that:

~~(i)~~ **1.** excludes recovery of transmission and distribution costs; and

~~(ii)~~ **2.** provides that the credit may be calculated using a method other than a kilowatt–hour basis, including a method that allows a dollar for dollar offset of electricity supplied by the grid compared to electricity generated by the eligible customer–generator.

(2) IN DETERMINING WHETHER TO REQUIRE AN ELIGIBLE CUSTOMER–GENERATOR TO INSTALL A DUAL METER UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER THE GENERATING CAPACITY OF THE ELIGIBLE CUSTOMER–GENERATOR.

(h) (1) **[**(i) Except as provided in subparagraph (ii) of this paragraph, the**]** **THE** generating capacity of an electric generating system used by an eligible customer–generator for net metering may not exceed **[**200 kilowatts**]** **2 MEGAWATTS**.

[(ii) 1. An eligible customer–generator may petition the Commission to use an electric generating system with a capacity not exceeding 500 kilowatts.

2. The Commission may approve a petition for use of an electric generating system with a capacity not exceeding 500 kilowatts for net metering if the Commission finds that the project meets public safety and reliability requirements and is in the public interest.**]**

(2) An electric generating system used by an eligible customer–generator for net metering shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

(3) The Commission may adopt by regulation additional control and testing requirements for eligible customer–generators that the Commission determines are necessary to protect public safety and system reliability.

(4) An electric company may not require an eligible customer–generator whose electric generating system meets the standards of paragraphs (2) and (3) of this subsection to:

(i) install additional controls;

(ii) perform or pay for additional tests; or

(iii) purchase additional liability insurance.

(5) AN ELIGIBLE CUSTOMER–GENERATOR SHALL OWN AND HAVE TITLE TO ALL RENEWABLE ENERGY ATTRIBUTES OR RENEWABLE ENERGY CREDITS ASSOCIATED WITH ANY ELECTRICITY PRODUCED BY ITS ELECTRIC GENERATING SYSTEM.

~~**(5) (I) ON OR BEFORE NOVEMBER 1, 2007, THE COMMISSION SHALL BEGIN A REVISION OF THE STATE'S INTERCONNECTION STANDARDS AND PROCEDURES TO BE CONSISTENT WITH THE MR–I2005 MODEL INTERCONNECTION STANDARDS OF THE INTERSTATE RENEWABLE ENERGY COUNCIL.**~~

~~**(II) THE COMMISSION SHALL COMPLETE THE REVISION OF THE STATE'S INTERCONNECTION STANDARDS ON OR BEFORE MAY 1, 2008.**~~

(I) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE COMMISSION SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE STATUS OF THE NET METERING PROGRAM UNDER THIS SECTION, INCLUDING:

(1) THE AMOUNT OF CAPACITY OF ELECTRIC GENERATING FACILITIES OWNED AND OPERATED BY ELIGIBLE CUSTOMER–GENERATORS IN THE STATE BY TYPE OF ENERGY RESOURCE;

(2) BASED ON THE NEED TO ENCOURAGE A DIVERSIFICATION OF THE STATE'S ENERGY RESOURCE MIX TO ENSURE RELIABILITY, WHETHER THE

RATED GENERATING CAPACITY LIMIT IN SUBSECTION (D) OF THIS SECTION SHOULD BE ALTERED; AND

(3) OTHER PERTINENT INFORMATION.

7–701.

(h) (2) "Qualifying biomass" includes biomass listed in paragraph (1) of this section that is used for co–firing, subject to ***[****§ 7–704(e)****] § 7–704(D)*** *of this subtitle.*

(m) "Tier 2 renewable source" means one or more of the following types of energy sources:

(1) hydroelectric power other than pump storage generation;

*(2) incineration of poultry litter****[****, if the Maryland Energy Administration and the Maryland Department of Agriculture determine that there is a sufficient quantity of poultry litter available for the economic viability of any existing and operating entity that is sited on the Delmarva Peninsula and that, as of July 1, 2004, processes and pasteurizes chicken litter as fertilizer****]****; and*

(3) waste–to–energy.

7–703.

(b) The renewable energy portfolio standard shall be as follows:

(1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(3) in 2008, **[**2%**]** ~~**3%**~~ **2.005%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.005% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(4) in 2009, **[**2%**]** ~~**3%**~~ **2.01%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.01% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(5) in 2010, **[**3%**]** ~~**4%**~~ **3.025%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.025% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(6) in 2011, **[**3%**]** ~~**4%**~~ **3.04%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.04% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(7) in 2012, **[**4%**]** ~~**5%**~~ **4.06%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.06% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(8) in 2013, **[**4%**]** ~~**5%**~~ **4.1%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.1% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(9) in 2014, **[**5%**]** ~~**6%**~~ **5.15%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.15% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(10) in 2015, **[**5%**]** ~~**6%**~~ **5.25%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.25% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(11) in 2016, **[**6%**]** ~~**7%**~~ **6.35%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.35% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(12) in 2017, **[**6%**]** ~~**7%**~~ **6.55%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.55% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources;

(13) in 2018, **[**7%**]** ~~**8%**~~ **7.9%** from Tier 1 renewable sources**, INCLUDING AT LEAST 0.9% DERIVED FROM SOLAR ENERGY,** and 2.5% from Tier 2 renewable sources; **[**and**]**

(14) in 2019 **[**and later, 7.5%**]**, ~~**8%**~~ **8.7%** from Tier 1 renewable sources**, INCLUDING AT LEAST 1.2% DERIVED FROM SOLAR ENERGY,** and 0% from Tier 2 renewable sources**;**

(15) IN 2020, 9% FROM TIER 1 RENEWABLE SOURCES, INCLUDING AT LEAST 1.5% DERIVED FROM SOLAR ENERGY, AND 0% FROM TIER 2 RENEWABLE SOURCES;

(16) IN 2021, ~~9.5%~~ *9.35%* FROM TIER 1 RENEWABLE SOURCES, INCLUDING AT LEAST 1.85% DERIVED FROM SOLAR ENERGY, AND 0% FROM TIER 2 RENEWABLE SOURCES; AND

(17) IN 2022 AND LATER, 9.5% FROM TIER 1 RENEWABLE SOURCES, INCLUDING AT LEAST 2% DERIVED FROM SOLAR ENERGY, AND 0% FROM TIER 2 RENEWABLE SOURCES.

(d) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the renewable energy portfolio standard by accumulating the equivalent amount of renewable energy credits that equal the **[**percentage**]** **PERCENTAGES** required under this section.

7–704.

(a) (1) Energy from a Tier 1 renewable source:

(i) is eligible for inclusion in meeting the renewable energy portfolio standard regardless of when the generating system or facility was placed in service; and

(ii) may be applied to the percentage requirements of the standard for either Tier 1 renewable sources or Tier 2 renewable sources.

(2) ~~STARTING JANUARY 1, 2012, FOR THE RENEWABLE ENERGY PORTFOLIO STANDARD APPLICABLE TO 2012 AND LATER:~~

(I) *1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH,* ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7–701(L)(1) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD ONLY IF THE SOURCE IS CONNECTED WITH THE ELECTRIC DISTRIBUTION GRID SERVING MARYLAND~~; AND~~.

2. ON OR BEFORE DECEMBER 31, 2011, ENERGY FROM A TIER 1 RENEWABLE SOURCE UNDER § 7–701(L)(1) OF THIS SUBTITLE THAT IS NOT CONNECTED WITH THE ELECTRIC DISTRIBUTION GRID SERVING MARYLAND IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD ONLY IF OFFERS FOR SOLAR CREDITS FROM MARYLAND GRID SOURCES ARE NOT MADE TO THE ELECTRICITY SUPPLIER THAT WOULD SATISFY REQUIREMENTS UNDER THE STANDARD AND ONLY TO THE EXTENT THAT SUCH OFFERS ARE NOT MADE.

(II) ~~IF~~ ***IF*** **THE OWNER OF A SOLAR GENERATING SYSTEM IN THIS STATE CHOOSES TO SELL SOLAR RENEWABLE ENERGY CREDITS FROM THAT SYSTEM, THE OWNER MUST FIRST OFFER THE CREDITS FOR SALE TO AN ELECTRICITY SUPPLIER OR ELECTRIC COMPANY THAT SHALL APPLY THEM TOWARD COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7–703 OF THIS SUBTITLE.**

[(2)**]** **(3)** Energy from a Tier 1 renewable source under § 7–701(l)(8) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio **STANDARD** if it is generated at a dam that existed as of January 1, 2004, even if a system or facility that is capable of generating electricity did not exist on that date.

[(3)**]** **(4)** (i) Energy from a Tier 2 renewable source under § 7–701(m)(1) or (3) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard through 2018 if it is generated at a system or facility that existed and was operational as of January 1, 2004, even if the facility or system was not capable of generating electricity on that date.

(ii) Energy from a Tier 2 renewable source under § 7–701(m)(2) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard**,** regardless of when the generating system was placed in service**,** ***IF THE MARYLAND ENERGY ADMINISTRATION AND THE MARYLAND DEPARTMENT OF AGRICULTURE DETERMINE THAT THERE IS A SUFFICIENT QUANTITY OF POULTRY LITTER AVAILABLE FOR THE ECONOMIC VIABILITY OF ANY EXISTING AND OPERATING ENTITY THAT IS SITED ON THE DELMARVA PENINSULA AND THAT, AS OF JULY 1, 2004, PROCESSED AND PASTEURIZED CHICKEN LITTER AS FERTILIZER***.

(b) On or after January 1, 2004, an electricity supplier may:

(1) receive renewable energy credits; and

(2) accumulate renewable energy credits under this subtitle.

[(c) An electricity supplier shall receive double credit toward meeting the renewable energy portfolio standard for energy derived from solar energy.**]**

~~**(C) (1) (I) AN ELECTRICITY SUPPLIER THAT PURCHASES SOLAR RENEWABLE ENERGY CREDITS DIRECTLY FROM A SOLAR ON–SITE GENERATOR SHALL ENTER INTO A CONTRACT WITH THE ON–SITE GENERATOR FOR A TERM OF AT LEAST 15 YEARS.**~~

~~(II) THE MINIMUM REQUIRED TERM UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT AFFECT THE ABILITY OF THE PARTIES TO NEGOTIATE A PRICE FOR A SOLAR RENEWABLE ENERGY CREDIT THAT VARIES OVER TIME IN ANY MANNER.~~

~~(2) (I) AN ELECTRICITY SUPPLIER THAT PURCHASES SOLAR RENEWABLE ENERGY CREDITS FROM AN ON–SITE GENERATOR USING A SOLAR GENERATING SYSTEM WITH A CAPACITY NOT EXCEEDING 10 KILOWATTS SHALL PURCHASE THE CREDITS WITH A SINGLE INITIAL PAYMENT REPRESENTING THE FULL ESTIMATED PRODUCTION OF THE SYSTEM FOR THE LIFE OF THE CONTRACT.~~

~~(II) THE COMMISSION SHALL:~~

~~1. DEVELOP A METHOD FOR ESTIMATING ANNUAL PRODUCTION FROM THE TYPE OF SYSTEM DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND ALLOCATING CREDITS TO THE ELECTRICITY SUPPLIER CONSISTENT WITH THE DURATION OF THE CONTRACT; AND~~

~~2. DETERMINE THE RATE FOR A PAYMENT MADE TO AN ON–SITE GENERATOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

[(d)***]*** ***(C)*** *(1) This subsection applies only to a generating facility that is placed in service on or after January 1, 2004.*

(2) (i) On or before December 31, 2005, an electricity supplier shall receive 120% credit toward meeting the renewable energy portfolio standard for energy derived from wind.

(ii) After December 31, 2005, and on or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from wind.

(3) On or before December 31, 2008, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from methane under § 7–701(l)(4) of this subtitle.

[(e)***]*** ***(D)*** *An electricity supplier shall receive credit toward meeting the renewable energy portfolio standard for electricity derived from the biomass fraction of biomass co–fired with other fuels.*

[(f)***]*** ***(E)*** *(1) In this subsection, "customer" means:*

(i) an industrial electric customer that is not on standard offer service; or

(ii) a renewable on–site generator.

(2) (i) A customer may independently acquire renewable energy credits to satisfy the standards applicable to the customer's load, including credits created by a renewable on–site generator.

*(ii) **[**Except as provided in subparagraph (iii)1 of this paragraph, the customer shall surrender the credits necessary to meet the standard to its electricity supplier for inclusion in the electricity supplier's compliance report under § 7–705 of this subtitle.*

*(iii) 1.**]** Credits that a customer **[**surrenders**]** **TRANSFERS** to its electricity supplier to meet the standard and that the electricity supplier relies on in submitting its compliance report may not be resold or retransferred by the customer or by the electricity supplier.*

***[**2. The customer may retain or transfer any credits in excess of the amount needed to satisfy the standard for the customer's load.*

*(iv) A customer who surrenders credits under this subsection retains all rights and title to any environmental or other attributes associated with the credits, including emission reductions or related allowances.**]***

*(3) A renewable on–site generator **[**shall receive credit**]** **MAY RETAIN OR TRANSFER AT ITS SOLE OPTION ANY CREDITS CREATED BY THE RENEWABLE ON–SITE GENERATOR, INCLUDING CREDITS** for the portion of its on–site generation from a Tier 1 renewable source or a Tier 2 renewable source that displaces the purchase of electricity by the renewable on–site generator from the grid.*

(4) A customer that satisfies the standard applicable to the customer's load under this subsection may not be required to contribute to a compliance fee recovered under § 7–706 of this subtitle.

(5) The Commission shall adopt regulations governing the application and transfer of credits under this subsection consistent with federal law.

***[**(g)**]** **(F)** (1) In order to create a renewable energy credit, a Tier 1 renewable source or Tier 2 renewable source must substantially comply with all applicable environmental and administrative requirements, including air quality, water quality, solid waste, and right–to–know provisions, permit conditions, and administrative orders.*

(2) (i) This paragraph applies to Tier 2 renewable sources that incinerate solid waste.

(ii) At least 80% of the solid waste incinerated at a Tier 2 renewable source facility shall be collected from:

1. for areas in Maryland, jurisdictions that achieve the recycling rates required under § 9–505 of the Environment Article; and

2. for other states, jurisdictions for which the electricity supplier demonstrates recycling substantially comparable to that required under § 9–505 of the Environment Article, in accordance with regulations of the Commission.

(iii) An electricity supplier may report credits received under this paragraph based on compliance by the facility with the percentage requirement of subparagraph (ii) of this paragraph during the year immediately preceding the year in which the electricity supplier receives the credit to apply to the standard.

7–705.

(a) Each electricity supplier shall submit a report to the Commission each year in a form and by a date specified by the Commission that:

(1) demonstrates that the electricity supplier has complied with the applicable renewable energy portfolio standard under § 7–703 of this subtitle and includes the submission of the required amount of renewable energy credits; or

(2) demonstrates the amount of electricity sales by which the electricity supplier failed to meet the applicable renewable energy portfolio standard.

(b) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Maryland Renewable Energy Fund established under § 7–707 of this subtitle:

(1) except as provided in ~~paragraph~~ ***ITEM*** (2) of this subsection, a compliance fee of:

(i) 2 cents for each kilowatt–hour of shortfall from required Tier 1 renewable sources **OTHER THAN THE SHORTFALL FROM THE REQUIRED TIER 1 RENEWABLE SOURCES THAT IS TO BE DERIVED FROM SOLAR ENERGY**; **[**and**]**

(II) THE FOLLOWING AMOUNTS FOR EACH KILOWATT–HOUR OF SHORTFALL FROM REQUIRED TIER 1 RENEWABLE SOURCES THAT IS TO BE DERIVED FROM SOLAR ENERGY:

1. ~~IN 2008,~~ 45 CENTS IN 2008;

2. ~~IN 2009 AND 2010,~~ 40 CENTS IN 2009 AND 2010;

3. ~~IN 2011 AND 2012,~~ 35 CENTS IN 2011 AND 2012;

4. ~~IN 2013 AND 2014,~~ 30 CENTS IN 2013 AND 2014;

5. ~~IN 2015 AND 2016,~~ 25 CENTS IN 2015 AND 2016;

~~AND~~

6. ~~IN 2017 AND LATER,~~ 20 CENTS IN 2017 AND 2018;

~~AND~~

7. 15 CENTS IN 2019 AND 2020;

8. 10 CENTS IN 2021 AND 2022; AND

9. 5 CENTS IN 2023 AND LATER; AND

[(ii)**] (III)** 1.5 cents for each kilowatt–hour of shortfall from required Tier 2 renewable sources; or

(2) for industrial process load:

(i) for each kilowatt–hour of shortfall from required Tier 1 renewable sources, a compliance fee of:

1. 0.8 cents in 2006, 2007, and 2008;

2. 0.5 cents in 2009 and 2010;

3. 0.4 cents in 2011 and 2012;

4. 0.3 cents in 2013 and 2014;

5. 0.25 cents in 2015 and 2016; and

6. 0.2 cents in 2017 and later; and

(ii) nothing for any shortfall from required Tier 2 renewable sources.

(c) The Commission may allow an electricity supplier to submit the report required under § 7–505(b)(4) of this title to demonstrate compliance with the renewable energy portfolio standard.

(d) An aggregator or broker who assists an electricity customer in purchasing electricity but who does not supply the electricity or take title to or ownership of the electricity may require the electricity supplier who supplies the electricity to demonstrate compliance with this subtitle.

(E) (1) NOTWITHSTANDING THE REQUIREMENTS OF § 7–703(B) OF THIS SUBTITLE, IF THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COST INCURRED OR TO BE INCURRED BY AN ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF TIER 1 RENEWABLE ENERGY CREDITS DERIVED FROM SOLAR ENERGY IN ANY 1 YEAR IS GREATER THAN OR EQUAL TO, OR IS ANTICIPATED TO BE GREATER THAN OR EQUAL TO, 1% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL ELECTRICITY SALES REVENUES IN MARYLAND, THE ELECTRICITY SUPPLIER MAY REQUEST ~~A DELAY OF 1 YEAR IN THE SCHEDULED INCREASE OF SOLAR ENERGY REQUIREMENTS THAT APPLY TO THE ELECTRICITY SUPPLIER UNDER § 7–703 OF THIS SUBTITLE.~~

~~(2) WITH RESPECT TO A REQUEST FOR DELAY UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER AND COMPARE THE DOLLAR–FOR–DOLLAR COMPLIANCE COSTS OF OTHER ELECTRICITY SUPPLIERS IN THE STATE~~ THAT THE COMMISSION:

(I) DELAY BY 1 YEAR EACH OF THE SCHEDULED PERCENTAGES FOR SOLAR ENERGY UNDER § 7–703(B) OF THIS SUBTITLE THAT WOULD APPLY TO THE ELECTRICITY SUPPLIER; AND

(II) ALLOW THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR SOLAR ENERGY FOR THAT YEAR TO CONTINUE TO APPLY TO THE ELECTRICITY SUPPLIER FOR THE FOLLOWING YEAR.

(2) IN MAKING ITS DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COMPLIANCE COSTS OF OTHER ELECTRICITY SUPPLIERS.

(3) IF AN ELECTRICITY SUPPLIER MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON PROJECTED COSTS, THE ELECTRICITY SUPPLIER SHALL PROVIDE VERIFIABLE EVIDENCE OF THE PROJECTIONS TO THE COMMISSION AT THE TIME OF THE REQUEST.

(4) IF THE COMMISSION ALLOWS A DELAY UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR SOLAR ENERGY APPLICABLE TO THE ELECTRICITY SUPPLIER UNDER THE DELAY CONTINUES FOR EACH SUBSEQUENT CONSECUTIVE YEAR THAT THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COSTS INCURRED, OR TO BE INCURRED, BY THE ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF SOLAR RENEWABLE ENERGY CREDITS IS GREATER THAN OR EQUAL TO, OR IS ANTICIPATED TO BE GREATER THAN OR EQUAL TO, 1% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL RETAIL ELECTRICITY SALES REVENUES IN MARYLAND; AND

(II) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR SOLAR ENERGY APPLICABLE TO THE ELECTRICITY SUPPLIER UNDER THE DELAY IS INCREASED TO THE NEXT SCHEDULED PERCENTAGE INCREASE UNDER § 7–703(B) OF THIS SUBTITLE FOR EACH YEAR IN WHICH THE ACTUAL OR PROJECTED DOLLAR–FOR–DOLLAR COSTS INCURRED, OR TO BE INCURRED, BY THE ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF SOLAR RENEWABLE ENERGY CREDITS IS LESS THAN, OR IS ANTICIPATED TO BE LESS THAN, 1% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL RETAIL ELECTRICITY SALES REVENUES IN MARYLAND.

7–706.

(c) Any cost recovery under this section:

(1) for all electricity suppliers, may be in the form of a generation surcharge payable by all current electricity supply customers, except as otherwise provided in ***[****§ 7–704(f)****] § 7–704(E)*** *of this subtitle;*

7–707.

(f) (1) **(I) [**The**] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** Fund may be used only to make loans and grants to support the creation of new Tier 1 renewable ~~energy~~ sources in the State.

(II) COMPLIANCE FEES PAID UNDER § 7–705(B)(1)(II) OF THIS SUBTITLE SHALL BE ACCOUNTED FOR SEPARATELY WITHIN THE FUND AND MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO SUPPORT THE CREATION OF NEW SOLAR ENERGY SOURCES IN THE STATE.

(2) By regulation the Commission shall adopt eligibility criteria for projects supported by the Fund.

(3) (i) The Administration shall receive and review applications for loans and grants for eligible projects.

(ii) The Administration shall approve or disapprove applications for loans and grants from the Fund.

(4) (i) Subject to subparagraph (ii) of this paragraph, the Commission may allow the use of money of the Fund for administrative expenses related to the Fund and project review and oversight.

(ii) The Administration and the Commission may not spend more than 10% of the funds placed in the Fund for administrative expenses.

(H) (1) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, THE ADMINISTRATION, IN CONSULTATION WITH THE COMMISSION, SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON THE STATUS OF THE FUND.

(2) THE REPORT SHALL INCLUDE:

(I) ALL AMOUNTS RECEIVED BY AND DISBURSED FROM THE FUND;

(II) ALL AMOUNTS USED BY THE ADMINISTRATION AND THE COMMISSION FOR ADMINISTRATIVE PURPOSES;

(III) THE EVALUATION CRITERIA USED BY THE ADMINISTRATION IN MAKING LOANS AND GRANTS FROM THE FUND AND IN SELECTING RECIPIENTS OF THOSE LOANS AND GRANTS;

(IV) THE NUMBER AND AMOUNTS OF LOANS AND GRANTS MADE IN THE PRECEDING CALENDAR YEAR;

(V) THE STATUS OF LOANS PENDING AS OF THE END OF THE PRECEDING CALENDAR YEAR;

(VI) THE ALLOCATION OF DISBURSEMENTS FOR DEVELOPMENT OF NEW SOLAR AND OTHER TIER 1 RENEWABLE SOURCES;

(VII) THE PROJECTED RECEIPTS OF THE FUND IN THE CURRENT CALENDAR YEAR; AND

(VIII) PLANS FOR THE USE OF RESOURCES OF THE FUND IN THE CURRENT CALENDAR YEAR.

7–709.

(a) An electricity supplier may use accumulated renewable energy credits to meet the renewable energy portfolio standard, including credits created by a renewable on–site generator.

(b) A renewable energy credit may be sold or otherwise transferred.

(C) (1) (I) IF AN ELECTRICITY SUPPLIER PURCHASES SOLAR RENEWABLE ENERGY CREDITS DIRECTLY FROM A RENEWABLE ON–SITE GENERATOR TO MEET THE SOLAR COMPONENT OF THE TIER 1 RENEWABLE ENERGY PORTFOLIO STANDARD, THE DURATION OF THE CONTRACT TERM FOR THE SOLAR RENEWABLE ENERGY CREDITS MAY NOT BE LESS THAN 15 YEARS.

(II) ~~SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THE~~ THE MINIMUM REQUIRED TERM UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT AFFECT THE ABILITY OF THE PARTIES TO NEGOTIATE A PRICE FOR A SOLAR RENEWABLE ENERGY CREDIT THAT VARIES OVER TIME IN ANY MANNER.

~~(III) THE COMMISSION SHALL SET A MAXIMUM PRICE FOR A SOLAR RENEWABLE ENERGY CREDIT EACH YEAR BY TAKING INTO CONSIDERATION THE MARKET PRICES FOR SOLAR RENEWABLE ENERGY CREDITS IN ALL THE STATES THAT ARE WITHIN THE PJM REGION.~~

~~(IV) A SOLAR RENEWABLE ENERGY CREDIT MAY NOT BE SOLD FOR MORE THAN THE MAXIMUM PRICE ESTABLISHED BY THE COMMISSION IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS PARAGRAPH.~~

~~(2) AN ELECTRICITY SUPPLIER THAT PURCHASES SOLAR RENEWABLE ENERGY CREDITS FROM A RENEWABLE ON–SITE GENERATOR WITH A CAPACITY NOT EXCEEDING 10 KILOWATTS SHALL PAY THE ON–SITE GENERATOR THE MAXIMUM PRICE ESTABLISHED EACH YEAR BY THE COMMISSION UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION.~~

(2) (I) AN ELECTRICITY SUPPLIER THAT PURCHASES SOLAR RENEWABLE ENERGY CREDITS FROM A RENEWABLE ON–SITE GENERATOR WITH A

CAPACITY NOT EXCEEDING 10 KILOWATTS SHALL PURCHASE THE CREDITS WITH A SINGLE INITIAL PAYMENT REPRESENTING THE FULL ESTIMATED PRODUCTION OF THE SYSTEM FOR THE LIFE OF THE CONTRACT.

(II) THE COMMISSION SHALL:

1. DEVELOP A METHOD FOR ESTIMATING ANNUAL PRODUCTION FROM THE TYPE OF SYSTEM DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND ALLOCATING THE CREDITS TO THE ELECTRICITY SUPPLIER IN A MANNER THAT IS CONSISTENT WITH THE DURATION OF THE CONTRACT; AND

2. DETERMINE THE RATE FOR A PAYMENT MADE TO A RENEWABLE ON–SITE GENERATOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[*(c)****]*** ***(D)*** *(1) Except as authorized under paragraph (2) of this subsection, a renewable energy credit shall exist for 3 years from the date created.*

(2) A renewable energy credit may be diminished or extinguished before the expiration of 3 years by:

(i) the electricity supplier that received the credit;

(ii) a nonaffiliated entity of the electricity supplier:

1. that purchased the credit from the electricity supplier receiving the credit; or

2. to whom the electricity supplier otherwise transferred the credit; or

(iii) demonstrated noncompliance by the generating facility with the requirements of ***[****§ 7–704(g)****] § 7–704(F)*** *of this subtitle.*

[*(d)****]*** ***(E)*** *Notwithstanding subsection* ***[****(c)(2)(iii)****] (D)(2)(III)*** *of this section, and only if the demonstrated noncompliance does not result in environmental degradation, an electricity supplier that reasonably includes in its annual report under § 7–705 of this subtitle a renewable energy credit that is extinguished for noncompliance with* ***[****§ 7–704(g)(1)****] § 7–704(F)(1)*** *or (2) of this subtitle:*

(1) may continue to rely on that credit for that year; but

(2) for later years must:

(i) demonstrate a return to compliance of the generating facility under ***[****§ 7–704(g)****] § 7–704(F)*** *of this subtitle; or*

(ii) replace the credit with a renewable energy credit from another source.

[*(e)****]*** ***(F)*** *The Commission by regulation shall establish requirements for documentation and verification of renewable energy credits by licensed electricity suppliers and other generators that create and receive credits for compliance with the standards for Tier 1 renewable sources and Tier 2 renewable sources.*

7–711.

(A) The Commission has the same power and authority with respect to an electricity supplier under this subtitle that the Commission has with respect to any public service company under this article for the purposes of investigating and examining the electricity supplier to determine compliance with this subtitle and with other applicable law.

(B) (1) BEGINNING JANUARY 1, 2008, THE COMMISSION SHALL DESIGNATE AN INDIVIDUAL TO BE RESPONSIBLE FOR THE OVERSIGHT OF COMPLIANCE WITH THE REQUIREMENTS OF TIER 1 RENEWABLE ~~ENERGY~~ SOURCES THAT ARE TO BE DERIVED FROM SOLAR ENERGY.

(2) THE ~~PERSON~~ INDIVIDUAL DESIGNATED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) DEVELOP THE PROGRAM FOR THE REQUIREMENTS FOR TIER 1 RENEWABLE ~~ENERGY~~ SOURCES DERIVED FROM SOLAR ENERGY;

(II) PROVIDE EDUCATION AND OUTREACH TO PROMOTE THE USE OF SOLAR ENERGY; AND

(III) MAKE POLICY RECOMMENDATIONS TO THE COMMISSION REGARDING IMPROVING THE STATE'S USE OF SOLAR ENERGY, INCLUDING THE DEVELOPMENT OF CLEAR, SIMPLE, AND STRAIGHTFORWARD FORMS, REQUIREMENTS, AND PROCEDURES TO FACILITATE PARTICIPATION BY HOMEOWNERS AND SMALL BUSINESSES IN DEPLOYMENT OF SOLAR GENERATION IN THE STATE.

~~Article – Tax – General~~

~~10–720.~~

~~(a) (1) In this section the following words have the meanings indicated.~~

~~(2) "Administration" means the Maryland Energy Administration.~~

~~(3) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, "qualified energy resources" has the meaning stated in § 45(c)(1) of the Internal Revenue Code.~~

~~(ii) "Qualified energy resources" includes any solid, nonhazardous, cellulosic waste material that is segregated from other waste materials and is derived from:~~

~~1. any of the following forest–related resources, not including old–growth timber:~~

~~A. mill residues, except sawdust and wood shavings;~~

~~B. forest thinnings;~~

~~C. slash; or~~

~~D. brush;~~

~~2. waste pallets, crates, and dunnage and landscape or right–of–way trimmings; or~~

~~3. agricultural sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by–products or residues.~~

~~(iii) "Qualified energy resources" includes methane gas or other combustible gases resulting from the decomposition of organic materials from an agricultural operation, or from a landfill or wastewater treatment plant using one or a combination of the following processes:~~

~~1. anaerobic decomposition; or~~

~~2. thermal decomposition.~~

~~(4) "Qualified Maryland facility" means a facility located in the State that:~~

~~(i) primarily uses qualified energy resources to produce electricity and is originally placed in service on or after January 1, 2006, but before~~ **[**~~January 1, 2011~~**] JANUARY 2, 2016**~~; or~~

~~(ii) produces electricity from a qualified energy resource that is co–fired with coal and initially begins co–firing a qualified energy resource on or after January 1, 2006, but before January 1, 2011, regardless of when the original facility was placed in service.~~

~~(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, an individual or corporation that receives an initial credit certificate from the Administration may claim a credit against the State income tax for a taxable year in an amount equal to [0.85] 1.7 cents for each kilowatt hour of electricity:~~

~~(i) produced by the individual or corporation from qualified energy resources at a qualified Maryland facility during the [5–year] 10–YEAR period specified in the initial credit certificate; and~~

~~(ii) sold by the individual or corporation to a person other than a related person, within the meaning of § 45 of the Internal Revenue Code, during the taxable year.~~

~~(2) If the electricity is produced from a qualified energy resource that is co–fired at a facility that produces electricity from coal, the credit is 0.5 cents for each kilowatt hour of electricity produced from the qualified energy resource instead of [0.85] 1.7 cents.~~

~~(3) The annual tax credit under this subsection may not exceed one–fifth of the maximum amount of credit stated in the initial credit certificate.~~

~~(c) (1) Subject to the provisions of this subsection, on application by a taxpayer, the Administration shall issue an initial credit certificate if the taxpayer has demonstrated that the taxpayer will within the next 12 months produce electricity from qualified energy resources at a qualified Maryland facility.~~

~~(2) The initial credit certificate issued under this subsection shall:~~

~~(i) state the maximum amount of credit that may be claimed by the taxpayer over a [5–year] 10–YEAR period;~~

~~(ii) state the earliest tax year for which the credit may be claimed; and~~

~~(iii) expire after the [5th] 10TH consecutive tax year beginning with the earliest tax year for which the credit may be claimed.~~

~~(3) The maximum amount of credit stated in the initial credit certificate shall:~~

~~(i) for an energy producer, be in an amount equal to the lesser of:~~

~~1. the product of multiplying 5 times the taxpayer's estimated annual tax credit, based on estimated annual energy production, as certified by the Administration; or~~

~~2. $2,500,000.~~

~~(4) The Administration may not issue initial credit certificates for maximum credit amounts in the aggregate totaling more than $25,000,000.~~

~~(5) The Administration shall approve all applications that qualify for an initial credit certificate under this subsection on a first–come, first–served basis.~~

~~(6) If a taxpayer over a 3–year period does not claim on average at least 10% of the maximum credit amount stated in the initial credit certificate, the Administration at its discretion may cancel an amount of the taxpayer's initial credit certificate equal to the product of multiplying:~~

~~(i) the amount of the credit on average that was not claimed over the 3–year period; and~~

~~(ii) the remaining number of tax years that the taxpayer is eligible to take the credit.~~

~~(7) An applicant for an initial credit certificate or a taxpayer whose credits have been canceled under paragraph (6) of this subsection, may appeal a decision by the Administration to the Office of Administrative Hearings in accordance with Title 10, Subtitle 2 of the State Government Article.~~

~~(8) The Administration may not issue an initial credit certificate after December 31, 2010.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, in recognition of the value of small distributed generation to the reliable and cost–effective operation of the grid, the Public Service Commission shall:

(1) form a small generator interconnections workgroup to develop interconnection standards and procedures for on–site generator facilities operating in Maryland that are consistent with nationally adopted interconnection standards and procedures; and

(2) on or before November 1, 2007, by regulation or order, revise Maryland's interconnection standards and procedures:

(i) to be consistent with nationally adopted interconnection standards and procedures; and

(ii) to facilitate and encourage a simplified connection of small distributed generators to the grid in a manner that ensures the safe and reliable operation of the grid.

SECTION 3. AND BE IT FURTHER ENACTED, That the Public Service Commission shall investigate the benefits to residential customers of using a regulatory rate–making mechanism that separates electric company distribution sales from electric company distribution profits, including a mechanism that allows electric companies to recover fixed distribution costs on a flat rate basis instead of on a consumption rate basis.

SECTION 4. AND BE IT FURTHER ENACTED, That the requirement under § 7–306 (h)(5) of the Public Utility Companies Article, as enacted by Section 1 of this Act, for an eligible customer–generator to own and have title to all renewable energy attributes or renewable energy credits associated with any electricity produced by its electric generating system shall apply prospectively and may not be construed to:

(1) impair contracts that were entered into before the effective date of Section 1 of this Act; or

(2) prohibit contracts between an eligible customer–generator and another entity entered into on or after the effective date of Section 1 of this Act that explicitly transfers ownership of the renewable energy attributes or renewable energy credits from the eligible customer–generator to another entity.

SECTION 5. AND BE IT FURTHER ENACTED, That, as part of its annual report due February 1, 2014 under § 7–712 of the Public Utility Companies Article, the Public Service Commission shall report its findings and recommendations for modification, if any, to the renewable energy portfolio standard provisions under Title 7, Subtitle 7 of the Public Utility Companies Article based on a thorough study of the implementation of the renewable energy portfolio standard requirements since 2006. The study conducted by the Commission shall:

(1) be based on the results of the renewable energy portfolio standard requirements effective through 2013;

(2) determine whether the intended goals of the renewable energy portfolio standard ~~provisions~~ are being met and are anticipated to be met in the future;

(3) consider the impact of the renewable energy portfolio standard requirements in developing renewable energy in the State; ~~and~~

(4) consider the cost implications to residential consumers of continuing the renewable energy portfolio standard requirements beyond 2014;

(5) determine the realized and projected availability of solar renewable energy credits in Maryland;

(6) consider the ability of a regional market to lower the cost impact of the solar requirements of the renewable energy portfolio standard on customers;

(7) consider the ability of a regional market, in complying with the solar requirements, to develop solar energy in Maryland; and

(8) determine the appropriate use of the funds that are paid into the Maryland Renewable Energy Fund from compliance fees, including specific criteria for making loans and grants, to achieve the intended goals of the renewable energy portfolio standard.

~~SECTION 6. AND BE IT FURTHER ENACTED, That:~~

~~(a) The House Economic Matters Committee and the Senate Finance Committee jointly shall convene a workgroup to study issues relating to deployment of solar generation in the State and to make recommendations on means to encourage deployment of solar generation equipment in residential, commercial, and industrial facilities.~~

~~(b) The workgroup shall solicit input from Executive agencies, other interested parties, and consumers in the State and may include representatives of these parties as members.~~

~~(c) The purpose of the workgroup is to:~~

~~(1) investigate current incentives and programs available to encourage deployment of solar generation equipment in the State;~~

~~(2) assess their effectiveness and viability; and~~

~~(3) propose changes or enhancements to these programs as well as new programs that will increase solar deployment for the environmental, economic, and security benefits of the State and its residents.~~

~~(d) The areas studied by the workgroup shall include, at a minimum, means to create incentives to:~~

~~(1) deploy solar technology in new residential construction;~~

~~(2) retrofit existing property for the benefit of low–income families and others who struggle to meet energy costs in the midst of rising electricity costs;~~

~~(3) assist individuals and businesses to obtain training in installation of solar technology; and~~

~~(4) finance these activities.~~

~~(e) The joint workgroup shall report its initial findings to the House Economic Matters Committee and the Senate Finance Committee on or before February 1, 2008, and may report supplemental findings whenever appropriate thereafter.~~

SECTION ~~7.~~ *6.* AND BE IT FURTHER ENACTED, That Sections 1 and 4 of this Act shall take effect October 1, 2007. ~~The changes to § 10–720 of the Tax – General Article as enacted by Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2007.~~

SECTION ~~2.~~ ~~8.~~ *7.* AND BE IT FURTHER ENACTED, That, except as provided in Section ~~7~~ *6* of this Act, this Act shall take effect ~~October 1, 2007, and shall be applicable to all taxable years beginning after December 31, 2007~~ July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 121

(Senate Bill 784)

AN ACT concerning

Stormwater Management Act of 2007

FOR the purpose of ~~requiring certain local governments to update certain zoning ordinances to allow for the implementation of certain environmental site design techniques in certain stormwater management practices;~~ requiring the Department of the Environment to adopt regulations that establish certain regulations and a certain model ordinance ~~or model regulation~~ for certain

purposes; requiring the Department to adopt regulations that specify certain criteria for certain stormwater management plans ~~and certain stormwater control ordinances; requiring the Department to adopt regulations that specify certain environmental site design techniques as the primary method for managing stormwater under certain circumstances~~; requiring the Department to adopt regulations that establish a certain comprehensive process for approving certain grading and sediment control plans and certain stormwater management plans; requiring the Department~~, on or before a certain date, to review a certain fee system and establish a certain schedule of fees necessary to enforce certain provisions of law~~ to evaluate certain options and report certain findings on or before a certain date; requiring the Department to seek certain input and work with certain parties in the creation of certain regulations and a certain model ordinance; defining certain terms; and generally relating to stormwater management.

BY adding to
Article – Environment
Section 4–201.1
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section ~~4–202 and~~ 4–203
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

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

Article – Environment

4–201.1.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ENVIRONMENTAL SITE DESIGN ~~TECHNIQUE~~" MEANS ~~A TECHNIQUE USED IN A SITE DESIGN STRATEGY INTENDED TO MAINTAIN OR REPLICATE THE PREDEVELOPMENT HYDROLOGIC AND WATER QUALITY REGIME OF A BUILDING SITE~~ USING SMALL–SCALE STORMWATER MANAGEMENT PRACTICES, NONSTRUCTURAL TECHNIQUES, AND BETTER SITE PLANNING TO MIMIC NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE IMPACT OF LAND DEVELOPMENT ON WATER RESOURCES.

(C) "ENVIRONMENTAL SITE DESIGN ~~TECHNIQUE~~" INCLUDES:

(1) OPTIMIZING CONSERVATION OF NATURAL FEATURES, SUCH AS DRAINAGE PATTERNS, SOILS, AND VEGETATION;

(2) MINIMIZING USE OF IMPERVIOUS SURFACES, SUCH AS PAVED SURFACES, CONCRETE CHANNELS, ROOFS, AND PIPES;

(3) SLOWING DOWN RUNOFF TO MAINTAIN DISCHARGE TIMING AND TO INCREASE INFILTRATION AND EVAPOTRANSPIRATION; AND

(4) USING ~~AT–THE–SOURCE INTEGRATED CONTROL TECHNIQUES, SUCH AS BIORETENTION, VEGETATED SWALES, AND INFILTRATION DEVICES; AND~~

~~(5)~~ ~~USING POLLUTION PREVENTION MEASURES TO REDUCE THE INTRODUCTION OF POLLUTANTS INTO THE ENVIRONMENT~~ OTHER NONSTRUCTURAL PRACTICES OR INNOVATIVE STORMWATER MANAGEMENT TECHNOLOGIES APPROVED BY THE DEPARTMENT.

~~4–202.~~

~~**(A)** By July 1, 1984, each county and municipality shall adopt ordinances necessary to implement a stormwater management program. These stormwater management programs shall be consistent with flood management plans, if any, developed under Title 5, Subtitle 8 of this article for a particular watershed, shall meet the requirements established by the Department under § 4–203 of this subtitle, and shall be consistent with the purposes of this subtitle.~~

~~(B) (1) EACH COUNTY AND MUNICIPALITY THAT EXERCISES PLANNING AND ZONING AUTHORITY SHALL UPDATE LOCAL ZONING ORDINANCES TO ALLOW FOR THE IMPLEMENTATION OF ENVIRONMENTAL SITE DESIGN TECHNIQUES IN STORMWATER MANAGEMENT PRACTICES.~~

~~(2) EACH COUNTY AND MUNICIPALITY THAT IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION MAY BASE THEIR LOCAL ZONING ORDINANCE ON THE DEPARTMENT'S MODEL ORDINANCE OR MODEL RULES AND REGULATIONS REQUIRED UNDER § 4–203 OF THIS SUBTITLE.~~

4–203.

(a) The Department of the Environment shall implement the provisions of this subtitle and shall consult the Department of Natural Resources from time to time**,**

INCLUDING DURING THE ADOPTION OF REGULATIONS, concerning the impact of stormwater on waters of the State.

(b) The Department shall adopt rules and regulations which establish criteria and procedures for stormwater management in Maryland. The rules and regulations shall:

(1) Indicate that the primary goal of the State and local programs will be to maintain after development, as nearly as possible, the predevelopment runoff characteristics;

(2) Make allowance for the difference in hydrologic characteristics and stormwater management needs of different parts of the State;

(3) Specify that watershed–wide analyses may be necessary to prevent undesirable downstream effects of increased stormwater runoff;

(4) Specify the exemptions a county or municipality may grant from the requirements of submitting a stormwater management plan;

(5) **(I)** Specify the minimum content of the local ordinances or the rules and regulations of the affected county governing body to be adopted which may be done by inclusion of a model ordinance or model rules and regulations; **AND**

(II) ESTABLISH REGULATIONS AND A MODEL ORDINANCE ~~OR MODEL RULE AND REGULATION FOR A LOCAL ZONING ORDINANCE THAT ALLOWS FOR~~ THAT REQUIRE:

1. THE IMPLEMENTATION OF ENVIRONMENTAL SITE DESIGN ~~TECHNIQUES IN STORMWATER MANAGEMENT PRACTICES~~ TO THE MAXIMUM EXTENT PRACTICABLE;

2. THE REVIEW AND MODIFICATION, IF NECESSARY, OF PLANNING AND ZONING OR PUBLIC WORKS ORDINANCES TO REMOVE IMPEDIMENTS TO ENVIRONMENTAL SITE DESIGN IMPLEMENTATION; AND

3. A DEVELOPER TO DEMONSTRATE THAT:

A. ENVIRONMENTAL SITE DESIGN HAS BEEN IMPLEMENTED TO THE MAXIMUM EXTENT PRACTICABLE; AND

B. STANDARD BEST MANAGEMENT PRACTICES HAVE BEEN USED ONLY WHERE ABSOLUTELY NECESSARY;

(6) Indicate that water quality practices may be required for any redevelopment, even when predevelopment runoff characteristics are maintained; **[**and**]**

(7) Specify the minimum requirements for inspection and maintenance of stormwater practices**;**

(8) SPECIFY ALL STORMWATER MANAGEMENT PLANS ~~AND STORMWATER CONTROL ORDINANCES~~ SHALL BE DESIGNED TO:

(I) PREVENT SOIL EROSION FROM ANY DEVELOPMENT ~~OR CONSTRUCTION~~ PROJECT;

(II) PREVENT, TO THE MAXIMUM EXTENT PRACTICABLE, AN INCREASE IN NONPOINT POLLUTION;

(III) MAINTAIN THE INTEGRITY OF STREAM CHANNELS FOR THEIR BIOLOGICAL FUNCTION, AS WELL AS FOR DRAINAGE;

(IV) MINIMIZE POLLUTANTS IN STORMWATER RUNOFF FROM NEW ~~AND EXISTING~~ DEVELOPMENT AND REDEVELOPMENT IN ORDER TO:

1. RESTORE, ENHANCE AND MAINTAIN THE CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF THE WATERS OF THE STATE;

2. PROTECT PUBLIC HEALTH;

3. SAFEGUARD FISH AND AQUATIC LIFE AND SCENIC AND ECOLOGICAL VALUES; AND

4. ENHANCE THE DOMESTIC, MUNICIPAL, RECREATIONAL, INDUSTRIAL, AND OTHER USES OF WATER AS SPECIFIED BY THE DEPARTMENT;

(V) PROTECT PUBLIC SAFETY THROUGH THE PROPER DESIGN AND OPERATION OF STORMWATER MANAGEMENT FACILITIES;

(VI) ~~1.~~ MAINTAIN 100% OF AVERAGE ANNUAL PREDEVELOPMENT GROUNDWATER RECHARGE VOLUME FOR THE SITE; ~~OR~~

~~2. ENSURE THAT THE SITE WILL INFILTRATE THE POSTDEVELOPMENT INCREASE OF STORMWATER RUNOFF VOLUME FOR THE~~

~~2–YEAR STORM EVENT COMPARED TO THE SITE'S PREDEVELOPMENT RUNOFF VOLUME; AND~~

~~(VII) REQUIRE A DEMONSTRATION THROUGH HYDROLOGIC AND HYDRAULIC ANALYSES THAT:~~

~~1. FOR STORMWATER LEAVING THE SITE, POSTCONSTRUCTION RUNOFF HYDROGRAPHS FOR THE 2–, 10–, AND 100–YEAR STORM EVENTS DO NOT EXCEED, AT ANY POINT IN TIME, THE PRECONSTRUCTION RUNOFF HYDROGRAPHS FOR THE SAME STORM EVENTS; OR~~

~~2. THERE IS NO INCREASE, AS COMPARED TO THE PRECONSTRUCTION CONDITION, IN THE PEAK RUNOFF RATES OF STORMWATER LEAVING THE SITE FOR THE 2–, 10–, AND 100–YEAR STORM EVENTS AND THAT THE INCREASED VOLUME OR CHANGE IN TIMING OF STORMWATER RUNOFF WILL NOT INCREASE FLOOD DAMAGE AT OR DOWNSTREAM OF THE SITE;~~

(VII) CAPTURE AND TREAT STORMWATER RUNOFF TO REMOVE POLLUTANTS AND ENHANCE WATER QUALITY;

(VIII) IMPLEMENT A CHANNEL PROTECTION STRATEGY TO REDUCE DOWNSTREAM EROSION IN RECEIVING STREAMS; AND

(IX) IMPLEMENT QUANTITY CONTROL STRATEGIES TO PREVENT INCREASES IN THE FREQUENCY AND MAGNITUDE OF OUT–OF–BANK FLOODING FROM LARGE, LESS FREQUENT STORM EVENTS;

(9) ~~(I)~~ ~~SPECIFY THAT:~~

~~1. ENVIRONMENTAL SITE DESIGN TECHNIQUES ARE THE PRIMARY METHOD FOR MANAGING STORMWATER;~~

~~2. STANDARD BEST MANAGEMENT PRACTICES MAY BE USED ONLY AS A BACK–UP TO CATCH RUNOFF NOT DEALT WITH THROUGH ENVIRONMENTAL SITE DESIGN TECHNIQUES; AND~~

~~3. A DEVELOPER HAS THE BURDEN OF PROOF TO SHOW THAT THE USE OF ENVIRONMENTAL SITE DESIGN TECHNIQUES IS NOT PRACTICAL; AND~~

~~(10)~~ (I) ESTABLISH A COMPREHENSIVE PROCESS FOR APPROVING GRADING AND SEDIMENT CONTROL PLANS AND STORMWATER MANAGEMENT PLANS; AND

(II) SPECIFY THAT THE COMPREHENSIVE PROCESS ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TAKES INTO ACCOUNT THE CUMULATIVE IMPACTS OF BOTH PLANS.

(c) Before the regulations required under this subsection are final, the Department shall hold at least one public hearing in the affected immediate geographic areas of the State and shall consult with the affected counties and municipalities.

(d) The Department shall provide technical assistance, training, research, and coordination in stormwater management technology to the local governments consistent with the purposes of this subtitle.

~~**(E) ON OR BEFORE OCTOBER 1, 2009, THE DEPARTMENT SHALL REVIEW THE DEPARTMENT'S STORMWATER MANAGEMENT FEE SYSTEM AND ESTABLISH AN APPROPRIATE SCHEDULE OF FEES NECESSARY TO ENFORCE THE PROVISIONS OF THIS SUBTITLE.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of the Environment shall evaluate options for a stormwater management fee system and an appropriate schedule of fees necessary to improve the enforcement of the provisions of Title 4, Subtitle 2 of the Environment Article.

(b) On or before December 1, 2007, the Department shall report its findings to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) During the creation of the regulations and model ordinance required under § 4–203(b)(5)(ii) of the Environment Article, as enacted by this Act, the Department of the Environment shall seek the input of interested parties, including each county and municipality that operates a stormwater management program.

(b) The Department shall work with the counties, municipalities, and other interested parties to address any reasonable concern raised by the parties.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 122

(House Bill 786)

AN ACT concerning

Stormwater Management Act of 2007

FOR the purpose of ~~requiring certain local governments to update certain zoning ordinances to allow for the implementation of certain environmental site design techniques in certain stormwater management practices;~~ requiring the Department of the Environment to adopt regulations that establish certain regulations and a certain model ordinance ~~or model regulation~~ for certain purposes; requiring the Department to adopt regulations that specify certain criteria for certain stormwater management plans ~~and certain stormwater control ordinances; requiring the Department to adopt regulations that specify certain environmental site design techniques as the primary method for managing stormwater under certain circumstances~~; requiring the Department to adopt regulations that establish a certain comprehensive process for approving certain grading and sediment control plans and certain stormwater management plans; requiring the Department~~, on or before a certain date, to review a certain fee system and establish a certain schedule of fees necessary to enforce certain provisions of law~~ to evaluate certain options and report certain findings on or before a certain date; requiring the Department to seek certain input and work with certain parties in the creation of certain regulations and a certain model ordinance; defining certain terms; and generally relating to stormwater management.

BY adding to
Article – Environment
Section 4–201.1
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section ~~4–202 and~~ 4–203
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

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

Article – Environment

4–201.1.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ENVIRONMENTAL SITE DESIGN ~~TECHNIQUE~~" MEANS ~~A TECHNIQUE USED IN A SITE DESIGN STRATEGY INTENDED TO MAINTAIN OR REPLICATE THE PREDEVELOPMENT HYDROLOGIC AND WATER QUALITY REGIME OF A BUILDING SITE~~ USING SMALL–SCALE STORMWATER MANAGEMENT PRACTICES, NONSTRUCTURAL TECHNIQUES, AND BETTER SITE PLANNING TO MIMIC NATURAL HYDROLOGIC RUNOFF CHARACTERISTICS AND MINIMIZE THE IMPACT OF LAND DEVELOPMENT ON WATER RESOURCES.

(C) "ENVIRONMENTAL SITE DESIGN ~~TECHNIQUE~~" INCLUDES:

(1) OPTIMIZING CONSERVATION OF NATURAL FEATURES, SUCH AS DRAINAGE PATTERNS, SOILS, AND VEGETATION;

(2) MINIMIZING USE OF IMPERVIOUS SURFACES, SUCH AS PAVED SURFACES, CONCRETE CHANNELS, ROOFS, AND PIPES;

(3) SLOWING DOWN RUNOFF TO MAINTAIN DISCHARGE TIMING AND TO INCREASE INFILTRATION AND EVAPOTRANSPIRATION; AND

(4) USING ~~AT–THE–SOURCE INTEGRATED CONTROL TECHNIQUES, SUCH AS BIORETENTION, VEGETATED SWALES, AND INFILTRATION DEVICES; AND~~

~~(5)~~ ~~USING POLLUTION PREVENTION MEASURES TO REDUCE THE INTRODUCTION OF POLLUTANTS INTO THE ENVIRONMENT~~ OTHER NONSTRUCTURAL PRACTICES OR INNOVATIVE STORMWATER MANAGEMENT TECHNOLOGIES APPROVED BY THE DEPARTMENT.

~~4–202.~~

~~**(A)** By July 1, 1984, each county and municipality shall adopt ordinances necessary to implement a stormwater management program. These stormwater management programs shall be consistent with flood management plans, if any, developed under Title 5, Subtitle 8 of this article for a particular watershed, shall meet the requirements established by the Department under § 4–203 of this subtitle, and shall be consistent with the purposes of this subtitle.~~

~~**(B) (1) EACH COUNTY AND MUNICIPALITY THAT EXERCISES PLANNING AND ZONING AUTHORITY SHALL UPDATE LOCAL ZONING ORDINANCES TO ALLOW FOR THE IMPLEMENTATION OF ENVIRONMENTAL SITE DESIGN TECHNIQUES IN STORMWATER MANAGEMENT PRACTICES.**~~

~~**(2) EACH COUNTY AND MUNICIPALITY THAT IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION MAY BASE THEIR LOCAL ZONING ORDINANCE ON THE DEPARTMENT'S MODEL ORDINANCE OR MODEL RULES AND REGULATIONS REQUIRED UNDER § 4–203 OF THIS SUBTITLE.**~~

4–203.

(a) The Department of the Environment shall implement the provisions of this subtitle and shall consult the Department of Natural Resources from time to time**, INCLUDING DURING THE ADOPTION OF REGULATIONS,** concerning the impact of stormwater on waters of the State.

(b) The Department shall adopt rules and regulations which establish criteria and procedures for stormwater management in Maryland. The rules and regulations shall:

(1) Indicate that the primary goal of the State and local programs will be to maintain after development, as nearly as possible, the predevelopment runoff characteristics;

(2) Make allowance for the difference in hydrologic characteristics and stormwater management needs of different parts of the State;

(3) Specify that watershed–wide analyses may be necessary to prevent undesirable downstream effects of increased stormwater runoff;

(4) Specify the exemptions a county or municipality may grant from the requirements of submitting a stormwater management plan;

(5) **(I)** Specify the minimum content of the local ordinances or the rules and regulations of the affected county governing body to be adopted which may be done by inclusion of a model ordinance or model rules and regulations; **AND**

(II) ESTABLISH REGULATIONS AND A MODEL ORDINANCE ~~**OR MODEL RULE AND REGULATION FOR A LOCAL ZONING ORDINANCE THAT ALLOWS FOR**~~ **THAT REQUIRE:**

1. THE IMPLEMENTATION OF ENVIRONMENTAL SITE DESIGN ~~TECHNIQUES IN STORMWATER MANAGEMENT PRACTICES~~ TO THE MAXIMUM EXTENT PRACTICABLE;

2. THE REVIEW AND MODIFICATION, IF NECESSARY, OF PLANNING AND ZONING OR PUBLIC WORKS ORDINANCES TO REMOVE IMPEDIMENTS TO ENVIRONMENTAL SITE DESIGN IMPLEMENTATION; AND

3. A DEVELOPER TO DEMONSTRATE THAT:

A. ENVIRONMENTAL SITE DESIGN HAS BEEN IMPLEMENTED TO THE MAXIMUM EXTENT PRACTICABLE; AND

B. STANDARD BEST MANAGEMENT PRACTICES HAVE BEEN USED ONLY WHERE ABSOLUTELY NECESSARY;

(6) Indicate that water quality practices may be required for any redevelopment, even when predevelopment runoff characteristics are maintained; **[**and**]**

(7) Specify the minimum requirements for inspection and maintenance of stormwater practices**;**

(8) SPECIFY ALL STORMWATER MANAGEMENT PLANS ~~AND STORMWATER CONTROL ORDINANCES~~ SHALL BE DESIGNED TO:

(I) PREVENT SOIL EROSION FROM ANY DEVELOPMENT ~~OR CONSTRUCTION~~ PROJECT;

(II) PREVENT, TO THE MAXIMUM EXTENT PRACTICABLE, AN INCREASE IN NONPOINT POLLUTION;

(III) MAINTAIN THE INTEGRITY OF STREAM CHANNELS FOR THEIR BIOLOGICAL FUNCTION, AS WELL AS FOR DRAINAGE;

(IV) MINIMIZE POLLUTANTS IN STORMWATER RUNOFF FROM NEW ~~AND EXISTING~~ DEVELOPMENT AND REDEVELOPMENT IN ORDER TO:

1. RESTORE, ENHANCE AND MAINTAIN THE CHEMICAL, PHYSICAL, AND BIOLOGICAL INTEGRITY OF THE WATERS OF THE STATE;

2. PROTECT PUBLIC HEALTH;

3. SAFEGUARD FISH AND AQUATIC LIFE AND SCENIC AND ECOLOGICAL VALUES; AND

4. ENHANCE THE DOMESTIC, MUNICIPAL, RECREATIONAL, INDUSTRIAL, AND OTHER USES OF WATER AS SPECIFIED BY THE DEPARTMENT;

(V) PROTECT PUBLIC SAFETY THROUGH THE PROPER DESIGN AND OPERATION OF STORMWATER MANAGEMENT FACILITIES;

(VI) ~~1.~~ MAINTAIN 100% OF AVERAGE ANNUAL PREDEVELOPMENT GROUNDWATER RECHARGE VOLUME FOR THE SITE; ~~OR~~

~~2. ENSURE THAT THE SITE WILL INFILTRATE THE POSTDEVELOPMENT INCREASE OF STORMWATER RUNOFF VOLUME FOR THE 2–YEAR STORM EVENT COMPARED TO THE SITE'S PREDEVELOPMENT RUNOFF VOLUME; AND~~

~~(VII) REQUIRE A DEMONSTRATION THROUGH HYDROLOGIC AND HYDRAULIC ANALYSES THAT:~~

~~1. FOR STORMWATER LEAVING THE SITE, POSTCONSTRUCTION RUNOFF HYDROGRAPHS FOR THE 2–, 10–, AND 100–YEAR STORM EVENTS DO NOT EXCEED, AT ANY POINT IN TIME, THE PRECONSTRUCTION RUNOFF HYDROGRAPHS FOR THE SAME STORM EVENTS; OR~~

~~2. THERE IS NO INCREASE, AS COMPARED TO THE PRECONSTRUCTION CONDITION, IN THE PEAK RUNOFF RATES OF STORMWATER LEAVING THE SITE FOR THE 2–, 10–, AND 100–YEAR STORM EVENTS AND THAT THE INCREASED VOLUME OR CHANGE IN TIMING OF STORMWATER RUNOFF WILL NOT INCREASE FLOOD DAMAGE AT OR DOWNSTREAM OF THE SITE;~~

(VII) CAPTURE AND TREAT STORMWATER RUNOFF TO REMOVE POLLUTANTS AND ENHANCE WATER QUALITY;

(VIII) IMPLEMENT A CHANNEL PROTECTION STRATEGY TO REDUCE DOWNSTREAM EROSION IN RECEIVING STREAMS; AND

(IX) IMPLEMENT QUANTITY CONTROL STRATEGIES TO PREVENT INCREASES IN THE FREQUENCY AND MAGNITUDE OF OUT–OF–BANK FLOODING FROM LARGE, LESS FREQUENT STORM EVENTS.

(9) ~~(I)~~ ~~SPECIFY THAT:~~

~~**1. ENVIRONMENTAL SITE DESIGN TECHNIQUES ARE THE PRIMARY METHOD FOR MANAGING STORMWATER;**~~

~~**2. STANDARD BEST MANAGEMENT PRACTICES MAY BE USED ONLY AS A BACK-UP TO CATCH RUNOFF NOT DEALT WITH THROUGH ENVIRONMENTAL SITE DESIGN TECHNIQUES; AND**~~

~~**3. A DEVELOPER HAS THE BURDEN OF PROOF TO SHOW THAT THE USE OF ENVIRONMENTAL SITE DESIGN TECHNIQUES IS NOT PRACTICAL; AND**~~

~~(10)~~ (I) ESTABLISH A COMPREHENSIVE PROCESS FOR APPROVING GRADING AND SEDIMENT CONTROL PLANS AND STORMWATER MANAGEMENT PLANS; AND

(II) SPECIFY THAT THE COMPREHENSIVE PROCESS ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TAKES INTO ACCOUNT THE CUMULATIVE IMPACTS OF BOTH PLANS.

(c) Before the regulations required under this subsection are final, the Department shall hold at least one public hearing in the affected immediate geographic areas of the State and shall consult with the affected counties and municipalities.

(d) The Department shall provide technical assistance, training, research, and coordination in stormwater management technology to the local governments consistent with the purposes of this subtitle.

~~**(E) ON OR BEFORE OCTOBER 1, 2009, THE DEPARTMENT SHALL REVIEW THE DEPARTMENT'S STORMWATER MANAGEMENT FEE SYSTEM AND ESTABLISH AN APPROPRIATE SCHEDULE OF FEES NECESSARY TO ENFORCE THE PROVISIONS OF THIS SUBTITLE.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of the Environment shall evaluate options for a stormwater management fee system and an appropriate schedule of fees necessary to improve the enforcement of the provisions of Title 4, Subtitle 2 of the Environment Article.

(b) On or before December 1, 2007, the Department shall report its findings to the House Environmental Matters Committee and the Senate Education, Health,

and Environmental Affairs Committee, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) During the creation of the regulations and model ordinance required under § 4–203(b)(5)(ii) of the Environment Article, as enacted by this Act, the Department of the Environment shall seek the input of interested parties, including each county and municipality that operates a stormwater management program.

(b) The Department shall work with the counties, municipalities, and other interested parties to address any reasonable concern raised by the parties.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 123

(Senate Bill 16)

AN ACT concerning

Baltimore City – Local Government Tort Claims Act – Baltimore Public Markets Corporation and Lexington Market, Inc.

FOR the purpose of including the Baltimore Public Markets Corporation, in Baltimore City, in the definition of ~~local government~~ "local government" for the purposes of the Local Government Tort Claims Act; providing that Baltimore Public Markets Corporation may not raise a certain defense; providing for the application of this Act; providing that a certain notice requirement does not apply to a certain action for unliquidated damages; and generally relating to the Local Government Tort Claims Act and the Baltimore Public Markets Corporation and Lexington Market, Inc., in Baltimore City.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–301(d) ~~and 5–303(f)~~, 5–303(f), and 5–304(a)
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 5–304(b)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

5–301.

(d) "Local government" means:

(1) A chartered county established under Article 25A of the Code;

(2) A code county established under Article 25B of the Code;

(3) A board of county commissioners established or operating under Article 25 of the Code;

(4) Baltimore City;

(5) A municipal corporation established or operating under Article 23A of the Code;

(6) The Maryland–National Capital Park and Planning Commission;

(7) The Washington Suburban Sanitary Commission;

(8) The Northeast Maryland Waste Disposal Authority;

(9) A community college or board of trustees for a community college established or operating under Title 16 of the Education Article, not including Baltimore City Community College;

(10) A county public library or board of trustees of a county public library established or operating under Title 23, Subtitle 4 of the Education Article;

(11) The Enoch Pratt Free Library or Board of Trustees of the Enoch Pratt Free Library;

(12) The Washington County Free Library or the Board of Trustees of the Washington County Free Library;

(13) A special taxing district;

(14) A nonprofit community service corporation incorporated under State law that is authorized to collect charges or assessments;

(15) Housing authorities created under Division II of the Housing and Community Development Article;

(16) A sanitary district, sanitary commission, metropolitan commission, or other sewer or water authority established or operating under public local law or public general law;

(17) The Baltimore Metropolitan Council;

(18) The Howard County Economic Development Authority;

(19) The Howard County Mental Health Authority;

(20) A commercial district management authority established by a county or municipal corporation if provided under local law;

(21) The Baltimore City Police Department;

(22) A regional library resource center or a cooperative library corporation established under Title 23, Subtitle 2 of the Education Article;

(23) Lexington Market, Inc., in Baltimore City;

(24) THE BALTIMORE PUBLIC MARKETS CORPORATION, IN BALTIMORE CITY;

[(24)**](25)** The nonprofit corporation serving as the local public transportation authority for Carroll County pursuant to a contract or memorandum of understanding with Carroll County (Carroll County Senior Overland Service, Inc., t/a Carroll Area Transit System); and

[(25)**](26)** The nonprofit corporation serving as the animal control and licensing authority for Carroll County pursuant to a contract or memorandum of understanding with Carroll County (the Humane Society of Carroll County, Inc.).

5–303.

(f) **(1)** Lexington Market, Inc., in Baltimore City, and its employees, may not raise as a defense a limitation on liability described under § 5–406 of this title.

(2) BALTIMORE PUBLIC MARKETS CORPORATION, IN BALTIMORE CITY, AND ITS EMPLOYEES, MAY NOT RAISE AS A DEFENSE A LIMITATION ON LIABILITY DESCRIBED UNDER § 5–406 OF THIS TITLE.

5–304.

(a) This section does not apply to an action against a nonprofit corporation described in **[**§ 5–301(d)(24) or (25)**] § 5–301(D)(23), (24), (25), OR (26)** of this subtitle or its employees.

(b) Except as provided in subsections (a) and (d) of this section, an action for unliquidated damages may not be brought against a local government or its employees unless the notice of the claim required by this section is given within 180 days after the injury.

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 124

(Senate Bill 35)

AN ACT concerning

Transportation – Highways – Federal Property

FOR the purpose of altering the definition of "highway" for the purposes of the application of State laws to include a certain part of any way or thoroughfare owned, leased, or controlled by the United States government and located in the State.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 11–127

Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Transportation

11–127.

"Highway" means**:**

(1) [the**] THE** entire width between the boundary lines of any way or thoroughfare of which any part is used by the public for vehicular travel, whether or not the way or thoroughfare has been dedicated to the public and accepted by any proper authority**; AND**

(2) FOR PURPOSES OF THE APPLICATION OF STATE LAWS, THE ENTIRE WIDTH BETWEEN THE BOUNDARY LINES OF ANY WAY OR THOROUGHFARE USED FOR PURPOSES OF VEHICULAR TRAVEL ON ANY PROPERTY OWNED, LEASED, OR CONTROLLED BY THE UNITED STATES GOVERNMENT AND LOCATED IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 125

(Senate Bill 93)

AN ACT concerning

Unclaimed Restitution – Disbursements and Use

FOR the purpose of requiring the Comptroller to distribute all unclaimed money from certain judgments to the State Victims of Crime Fund for a certain purpose; <u>requiring the Comptroller to reduce a certain distribution by a certain amount if a victim entitled to certain restitution is located;</u> requiring the State Board of Victim Services to ensure that the money obtained from unclaimed restitution is

used for certain grants; ~~providing that it is the intent of the General Assembly that if certain funding is terminated or reduced below a certain level, the Governor shall include a certain appropriation in the annual budget bill;~~ and generally relating to disbursements and use of unclaimed restitution.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 17–101(c)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 17–317
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–919
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

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

Article – Commercial Law

17–101.

(c) "Administrator" means the State Comptroller.

17–317.

(a) (1) All funds received under this title, including the proceeds of the sale of abandoned property under § 17–316 of this subtitle, shall be credited by the Administrator to a special fund. The Administrator shall retain in the special fund at the end of each fiscal year, from the proceeds received, an amount not to exceed $50,000, from which sum the Administrator shall pay any claim allowed under this title.

(2) After deducting all costs incurred in administering this title from the remaining net funds the Administrator shall distribute $500,000 to the Maryland Legal Services Corporation to support the activities of the corporation.

(3) (I) ~~THE~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ADMINISTRATOR SHALL DISTRIBUTE ALL UNCLAIMED MONEY FROM JUDGMENTS OF RESTITUTION UNDER TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE TO THE STATE VICTIMS OF CRIME FUND ESTABLISHED UNDER § 11–916 OF THE CRIMINAL PROCEDURE ARTICLE TO ASSIST VICTIMS OF CRIMES AND DELINQUENT ACTS TO PROTECT THE VICTIMS' RIGHTS AS PROVIDED BY LAW.

(II) IF A VICTIM ENTITLED TO RESTITUTION THAT HAS BEEN TREATED AS ABANDONED PROPERTY UNDER § 11–614 OF THE CRIMINAL PROCEDURE ARTICLE IS LOCATED AFTER THE MONEY HAS BEEN DISTRIBUTED UNDER THIS PARAGRAPH, THE ADMINISTRATOR SHALL REDUCE THE NEXT DISTRIBUTION TO THE STATE VICTIMS OF CRIME FUND BY THE AMOUNT RECOVERED BY THE VICTIM.

[(3)**](4)** After making the **[**distribution**]** **DISTRIBUTIONS** required under **[**paragraph (2)**]** **PARAGRAPHS (2) AND (3)** of this subsection, the Administrator shall distribute the remaining net funds not retained under paragraph (1) of this subsection to the General Fund of the State.

(b) Before making the distribution, the Administrator shall record the name and last known address, if any, of the owners of funds so distributed and the type of property which the funds distributed represent. The record shall be available for public inspection during reasonable business hours by any person who claims a legal interest in any property held by the Administrator, provided that the person gives prior notice to the Administrator.

Article – Criminal Procedure

11–919.

(a) There is a grant program.

(b) The Governor's Office of Crime Control and Prevention shall:

(1) adopt regulations for the administration and award of grants under Part II of this subtitle; and

(2) submit all approved grant applications to the Board.

(c) The Board shall**:**

(1) approve each grant application received by the Governor's Office of Crime Control and Prevention before any money is released from the Fund**; AND**

(2) ENSURE THAT THE MONEY OBTAINED FROM UNCLAIMED RESTITUTION UNDER § 11–614(B)(2) OF THIS TITLE IS USED FOR ANNUAL GRANTS TO PROVIDE LEGAL COUNSEL TO VICTIMS OF CRIMES AND DELINQUENT ACTS TO PROTECT THE VICTIMS' RIGHTS AS PROVIDED BY LAW.

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that if the funding provided to serve Maryland crime victims through the Department of Justice's State and Federal Clinics and System Demonstration Project and the Crime Victims' Rights Enforcement Project is terminated or reduced below a total of $500,000 per fiscal year, the Governor shall include in the annual budget bill each year an appropriation to the State Victims of Crime Fund of $500,000 less any funding provided by the federal projects and any amount distributed to the Fund under the provisions of this Act.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 126

(House Bill 1001)

AN ACT concerning

Unclaimed Restitution – Disbursements and Use

FOR the purpose of requiring the Comptroller to distribute all unclaimed money from certain judgments to the State Victims of Crime Fund for a certain purpose; requiring the Comptroller to reduce a certain distribution by a certain amount if a victim entitled to certain restitution is located; requiring the State Board of Victim Services to ensure that the money obtained from unclaimed restitution is used for certain grants; ~~providing that it is the intent of the General Assembly that if certain funding is terminated or reduced below a certain level, the Governor shall include a certain appropriation in the annual budget bill;~~ and generally relating to disbursements and use of unclaimed restitution.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 17–101(c)
Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 17–317
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–919
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

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

Article – Commercial Law

17–101.

(c) "Administrator" means the State Comptroller.

17–317.

(a) (1) All funds received under this title, including the proceeds of the sale of abandoned property under § 17–316 of this subtitle, shall be credited by the Administrator to a special fund. The Administrator shall retain in the special fund at the end of each fiscal year, from the proceeds received, an amount not to exceed $50,000, from which sum the Administrator shall pay any claim allowed under this title.

(2) After deducting all costs incurred in administering this title from the remaining net funds the Administrator shall distribute $500,000 to the Maryland Legal Services Corporation to support the activities of the corporation.

(3) (I) ~~THE~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ADMINISTRATOR SHALL DISTRIBUTE ALL UNCLAIMED MONEY FROM JUDGMENTS OF RESTITUTION UNDER TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE TO THE STATE VICTIMS OF CRIME FUND ESTABLISHED UNDER § 11–916 OF THE CRIMINAL PROCEDURE ARTICLE TO ASSIST VICTIMS OF CRIMES AND DELINQUENT ACTS TO PROTECT THE VICTIMS' RIGHTS AS PROVIDED BY LAW.

(II) IF A VICTIM ENTITLED TO RESTITUTION THAT HAS BEEN TREATED AS ABANDONED PROPERTY UNDER § 11–614 OF THE CRIMINAL PROCEDURE ARTICLE IS LOCATED AFTER THE MONEY HAS BEEN DISTRIBUTED UNDER THIS PARAGRAPH, THE ADMINISTRATOR SHALL REDUCE THE NEXT DISTRIBUTION TO THE STATE VICTIMS OF CRIME FUND BY THE AMOUNT RECOVERED BY THE VICTIM.

[(3)**](4)** After making the **[**distribution**]** **DISTRIBUTIONS** required under **[**paragraph (2)**]** **PARAGRAPHS (2) AND (3)** of this subsection, the Administrator shall distribute the remaining net funds not retained under paragraph (1) of this subsection to the General Fund of the State.

(b) Before making the distribution, the Administrator shall record the name and last known address, if any, of the owners of funds so distributed and the type of property which the funds distributed represent. The record shall be available for public inspection during reasonable business hours by any person who claims a legal interest in any property held by the Administrator, provided that the person gives prior notice to the Administrator.

Article – Criminal Procedure

11–919.

(a) There is a grant program.

(b) The Governor's Office of Crime Control and Prevention shall:

(1) adopt regulations for the administration and award of grants under Part II of this subtitle; and

(2) submit all approved grant applications to the Board.

(c) The Board shall**:**

(1) approve each grant application received by the Governor's Office of Crime Control and Prevention before any money is released from the Fund**; AND**

(2) ENSURE THAT THE MONEY OBTAINED FROM UNCLAIMED RESTITUTION UNDER § 11–614(B)(2) OF THIS TITLE IS USED FOR ANNUAL GRANTS TO PROVIDE LEGAL COUNSEL TO VICTIMS OF CRIMES AND DELINQUENT ACTS TO PROTECT THE VICTIMS' RIGHTS AS PROVIDED BY LAW.

~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that if the funding provided to serve Maryland crime victims~~

~~through the Department of Justice's State and Federal Clinics and System Demonstration Project and the Crime Victims' Rights Enforcement Project is terminated or reduced below a total of $500,000 per fiscal year, the Governor shall include in the annual budget bill each year an appropriation to the State Victims of Crime Fund of $500,000 less any funding provided by the federal projects and any amount distributed to the Fund under the provisions of this Act.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 127

(Senate Bill 96)

AN ACT concerning

Frederick County – Alcoholic Beverages – Special Licenses

FOR the purpose of authorizing a certain organization in Frederick County to obtain certain special licenses for the sale of certain alcoholic beverages; specifying the use of the net proceeds from the sale of certain alcoholic beverages; and generally relating to special alcoholic beverages licenses in Frederick County.

BY renumbering
Article 2B – Alcoholic Beverages
Section 8–211(i)
to be Section 8–211(j)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8–211(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–211(i)
Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–211(i) of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be Section(s) 8–211(j).

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

8–211.

(a) The provisions of this section apply only in Frederick County.

(I) (1) NOTWITHSTANDING THE RESTRICTIONS IN THIS SECTION AND IN § 7–101(G) OF THIS ARTICLE, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A ONE–DAY SPECIAL CLASS C BEER AND LIGHT WINE LICENSE AND A ONE–DAY SPECIAL CLASS C BEER, WINE AND LIQUOR LICENSE TO HOLY FAMILY CATHOLIC COMMUNITY.

(2) ALL NET PROCEEDS FROM THE SALE OF ALCOHOLIC BEVERAGES FOR HOLY FAMILY CATHOLIC COMMUNITY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE USED TO FUND BUILDING CONSTRUCTION OR FOR CHARITABLE PURPOSES.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 128

(House Bill 195)

AN ACT concerning

Frederick County – Alcoholic Beverages – Special License

FOR the purpose of authorizing a certain organization in Frederick County to obtain certain special licenses for the sale of certain alcoholic beverages; specifying the

use of the net proceeds from the sale of certain alcoholic beverages; and generally relating to special alcoholic beverages licenses in Frederick County.

BY renumbering
Article 2B – Alcoholic Beverages
Section 8–211(i)
to be Section 8–211(j)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8–211(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 8–211(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–211(i) of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be Section(s) 8–211(j).

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 2B – Alcoholic Beverages

8–211.

(a) The provisions of this section apply only in Frederick County.

(I) (1) NOTWITHSTANDING THE RESTRICTIONS IN THIS SECTION AND IN § 7–101(G) OF THIS ARTICLE, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A ONE–DAY SPECIAL CLASS C BEER AND LIGHT WINE LICENSE AND A ONE–DAY SPECIAL CLASS C BEER, WINE AND LIQUOR LICENSE TO HOLY FAMILY CATHOLIC COMMUNITY.

(2) ALL NET PROCEEDS FROM THE SALE OF ALCOHOLIC BEVERAGES FOR HOLY FAMILY CATHOLIC COMMUNITY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE USED TO FUND BUILDING CONSTRUCTION OR FOR CHARITABLE PURPOSES.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 129

(Senate Bill 137)

AN ACT concerning

State Employee and Retiree Health and Welfare Benefits Program – Eligibility for Enrollment and Participation

FOR the purpose of allowing employees of the Southern Maryland Regional Library, the Eastern Shore Regional Library, and the Western Maryland Regional Library to enroll and participate in the health insurance benefit options established under the State Employee and Retiree Health and Welfare Benefits Program under certain circumstances; requiring a regional library to pay certain costs to the State; requiring a regional library to make a certain determination; and generally relating to the participation in health and insurance benefit options under the State Employee and Retiree Health and Welfare Benefits Program by employees of the Southern Maryland Regional Library, the Eastern Shore Regional Library, and the Western Maryland Regional Library.

BY adding to
Article – State Personnel and Pensions
Section 2–515.1
Annotated Code of Maryland
(2004 Replacement Volume and 2006 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

2–515.1.

(A) THIS SECTION APPLIES TO THE SOUTHERN MARYLAND REGIONAL LIBRARY, THE EASTERN SHORE REGIONAL LIBRARY, AND THE WESTERN MARYLAND REGIONAL LIBRARY.

(B) AN EMPLOYEE OF A REGIONAL LIBRARY SUBJECT TO THIS SECTION MAY ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM WITH THE APPROVAL OF THE LIBRARY.

(C) A REGIONAL LIBRARY SUBJECT TO THIS SECTION SHALL:

(1) PAY TO THE STATE THE TOTAL COSTS RESULTING FROM THE PARTICIPATION OF ITS EMPLOYEES IN THE PROGRAM; AND

(2) DETERMINE THE EXTENT TO WHICH THE REGIONAL LIBRARY WILL SUBSIDIZE PARTICIPATION OF ITS EMPLOYEES IN THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 130

(House Bill 575)

AN ACT concerning

State Employee and Retiree Health and Welfare Benefits Program – Eligibility for Enrollment and Participation

FOR the purpose of allowing employees of the Southern Maryland Regional Library, the Eastern Shore Regional Library, and the Western Maryland Regional Library to enroll and participate in the health insurance benefit options established under the State Employee and Retiree Health and Welfare Benefits Program under certain circumstances; requiring a regional library to pay certain costs to the State; requiring a regional library to make a certain determination; and generally relating to the participation in health and insurance benefit options under the State Employee and Retiree Health and Welfare Benefits Program by employees of the Southern Maryland Regional Library, the Eastern Shore Regional Library, and the Western Maryland Regional Library.

BY adding to
Article – State Personnel and Pensions
Section 2–515.1
Annotated Code of Maryland
(2004 Replacement Volume and 2006 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

2–515.1.

(A) THIS SECTION APPLIES TO THE SOUTHERN MARYLAND REGIONAL LIBRARY, THE EASTERN SHORE REGIONAL LIBRARY, AND THE WESTERN MARYLAND REGIONAL LIBRARY.

(B) AN EMPLOYEE OF A REGIONAL LIBRARY SUBJECT TO THIS SECTION MAY ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM WITH THE APPROVAL OF THE LIBRARY.

(C) A REGIONAL LIBRARY SUBJECT TO THIS SECTION SHALL:

(1) PAY TO THE STATE THE TOTAL COSTS RESULTING FROM THE PARTICIPATION OF ITS EMPLOYEES IN THE PROGRAM; AND

(2) DETERMINE THE EXTENT TO WHICH THE REGIONAL LIBRARY WILL SUBSIDIZE PARTICIPATION OF ITS EMPLOYEES IN THE PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 131

(Senate Bill 156)

AN ACT concerning

Insurers – Third Party Claimants – Notice of Payment to Claimant's Attorney

FOR the purpose of requiring, instead of authorizing, an insurer to provide certain notice to certain third party claimants if payment, in a certain amount, of a certain third party liability claim is made to the claimant's attorney under certain circumstances; altering the time period within which notice must be sent to a third party claimant; making conforming changes; and generally relating to notice to third party claimants of payment by insurers to a claimant's attorney.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 4–117
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Insurance

4–117.

(a) At the time of payment, if the payment has been specifically authorized by the claimant's attorney, an insurer **[**may**]** **SHALL** provide written notice to a third party claimant of payment of $2,000 or more in settlement of a third party liability claim for bodily injury if:

(1) the claimant is an individual; and

(2) the payment is delivered to the claimant's attorney by check, draft, or other means.

(b) The notice **[**provided under**]** **REQUIRED BY** subsection (a) of this section shall be sent by regular mail **[**at least**]** **NO MORE THAN** 5 working days after payment is delivered under subsection (a)(2) of this section to the claimant at the last known address of the claimant.

(c) The insurer may provide notice to the claimant by a copy of the letter of transmittal to the claimant's attorney.

(d) This section may not be construed to create:

(1) a cause of action for any person against an insurer based on the insurer's failure to provide the notice **[**under**]** **REQUIRED BY** this section; or

(2) a defense for any party against a cause of action based on the insurer's failure to provide the notice **[**under**]** **REQUIRED BY** this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 132

(Senate Bill 173)

AN ACT concerning

Garrett County – Local Government Tort Claims Act – Inclusion of Garrett County Municipalities, Inc.

FOR the purpose of including Garrett County Municipalities, Inc., in Garrett County in the definition of ~~local government~~ "local government" for the purposes of the Local Government Tort Claims Act; ~~providing that Garrett County Municipalities, Inc., and its employees may not raise as a defense a certain limitation on liability;~~ providing for the application of this Act; and generally relating to the Local Government Tort Claims Act and Garrett County Municipalities, Inc., in Garrett County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–301(d) ~~and 5–303(f)~~
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

5–301.

(d) "Local government" means:

(1) A chartered county established under Article 25A of the Code;

(2) A code county established under Article 25B of the Code;

(3) A board of county commissioners established or operating under Article 25 of the Code;

(4) Baltimore City;

(5) A municipal corporation established or operating under Article 23A of the Code;

(6) The Maryland–National Capital Park and Planning Commission;

(7) The Washington Suburban Sanitary Commission;

(8) The Northeast Maryland Waste Disposal Authority;

(9) A community college or board of trustees for a community college established or operating under Title 16 of the Education Article, not including Baltimore City Community College;

(10) A county public library or board of trustees of a county public library established or operating under Title 23, Subtitle 4 of the Education Article;

(11) The Enoch Pratt Free Library or Board of Trustees of the Enoch Pratt Free Library;

(12) The Washington County Free Library or the Board of Trustees of the Washington County Free Library;

(13) A special taxing district;

(14) A nonprofit community service corporation incorporated under State law that is authorized to collect charges or assessments;

(15) Housing authorities created under Division II of the Housing and Community Development Article;

(16) A sanitary district, sanitary commission, metropolitan commission, or other sewer or water authority established or operating under public local law or public general law;

(17) The Baltimore Metropolitan Council;

(18) The Howard County Economic Development Authority;

(19) The Howard County Mental Health Authority;

(20) A commercial district management authority established by a county or municipal corporation if provided under local law;

(21) The Baltimore City Police Department;

(22) A regional library resource center or a cooperative library corporation established under Title 23, Subtitle 2 of the Education Article;

(23) Lexington Market, Inc., in Baltimore City;

(24) The nonprofit corporation serving as the local public transportation authority for Carroll County pursuant to a contract or memorandum of understanding with Carroll County (Carroll County Senior Overland Service, Inc., t/a Carroll Area Transit System); **[**and**]**

(25) The nonprofit corporation serving as the animal control and licensing authority for Carroll County pursuant to a contract or memorandum of understanding with Carroll County (the Humane Society of Carroll County, Inc.)**; AND**

(26) GARRETT COUNTY MUNICIPALITIES, INC., IN GARRETT COUNTY.

~~5–303.~~

~~(f)~~ **~~(1)~~** ~~Lexington Market, Inc., in Baltimore City, and its employees, may not raise as a defense a limitation on liability described under § 5–406 of this title.~~

~~(2) GARRETT COUNTY MUNICIPALITIES, INC., IN GARRETT COUNTY, AND ITS EMPLOYEES, MAY NOT RAISE AS A DEFENSE A LIMITATION ON LIABILITY DESCRIBED UNDER § 5–406 OF THIS TITLE.~~

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 133

(Senate Bill 177)

AN ACT concerning

Residential Child Care Programs – Out–of–Home Placement – Standards for Staff and System for Outcomes Evaluation

FOR the purpose of requiring the Department of Juvenile Services, the Department of Human Resources, the Department of Health and Mental Hygiene, and the Governor's Office for Children to adopt certain regulations to require certain staff members of certain residential child care programs to meet certain qualifications; requiring the Department of Juvenile Services, the Department of Human Resources, and the Governor's Office for Children to develop, coordinate, and implement a certain system of outcomes evaluation; specifying the uses of the system for outcomes evaluation; ~~requiring the system for outcomes evaluation to use certain measures for a certain purpose; requiring the Governor's Office for Children, the Department of Juvenile Services, and the Department of Human Resources to consult with the University of Maryland, Baltimore, in planning and implementing the system for outcomes evaluation;~~ establishing certain requirements for the system for outcomes evaluation; providing that the Department of Juvenile Services and the Department of Human Resources may not disclose personal identifiers and must ensure confidentiality of certain information when reporting certain information and data; requiring the Governor's Office for Children, in coordination with the Department of Juvenile Services and the Department of Human Resources, to submit a certain report to the Governor and the General Assembly on or before a certain date; requiring the Governor's Office for Children, the Department of Juvenile Services, the Department of Human Resources, and the Department of Health and Mental Hygiene, in cooperation with representatives of certain programs and certain groups, to develop certain regulations and certain recommendations; requiring the Governor's Office for Children to report to the General Assembly on certain recommendations on or before a certain date; defining certain terms; and generally relating to residential child care programs.

BY repealing and reenacting, without amendments,
Article – Human Services
Section 8–101(a), (b), (c), (k), and (m)
Annotated Code of Maryland
(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

BY adding to

Article – Human Services
Section 8–1001 through 8–1003, to be under the new subtitle "Subtitle 10. Residential Child Care Programs – Standards for Staff and System for Outcomes Evaluation"
Annotated Code of Maryland
(As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

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

Article – Human Services

8–101.

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

(b) (1) "Child in need of out–of–state placement" means a child who is recommended by a unit represented on the local coordinating council for out–of–home placement outside of the State.

(2) "Child in need of out–of–state placement" does not include a child placed in foster care, as defined in § 5–501 of the Family Law Article.

(c) "Child in need of residential placement" means a child:

(1) who is recommended by a member of the local coordinating council for residential placement;

(2) on whose behalf the member of the local coordinating council seeks State funding for the placement; and

(3) who a unit represented on the local coordinating council has determined meets eligibility criteria for a State–funded placement.

(k) "Office" means the Governor's Office for Children.

(m) (1) "Residential child care program" means an entity that provides 24–hour per day care for children within a structured set of services and activities that are designed to achieve specific objectives relative to the needs of the children served and that include the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities.

(2) "Residential child care program" includes a program:

(i) licensed by:

1. the Department of Health and Mental Hygiene;

2. the Department of Human Resources; or

3. the Department of Juvenile Services; and

(ii) that is subject to the licensing regulations of the members of the Children's Cabinet governing the operations of residential child care programs.

SUBTITLE 10. RESIDENTIAL CHILD CARE PROGRAMS – STANDARDS FOR STAFF AND SYSTEM FOR OUTCOMES EVALUATION.

8–1001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "COOPERATING DEPARTMENT" MEANS A UNIT OF THE STATE GOVERNMENT RESPONSIBLE FOR OUT–OF–HOME PLACEMENT OF CHILDREN.

(2) "COOPERATING DEPARTMENT" INCLUDES:

(I) THE DEPARTMENT OF JUVENILE SERVICES; AND

(II) THE DEPARTMENT OF HUMAN RESOURCES.

(C) "DIRECT CARE STAFF" MEANS STAFF ASSIGNED TO PERFORM DIRECT RESPONSIBILITIES RELATED TO ACTIVITIES OF DAILY LIVING, SELF–HELP, AND SOCIALIZATION SKILLS OF CHILDREN IN A RESIDENTIAL CHILD CARE PROGRAM.

(D) "OUT–OF–HOME PLACEMENT" MEANS:

(1) THE REMOVAL OF A CHILD FROM THE CHILD'S FAMILY; AND

(2) THE PLACEMENT OF THE CHILD BY A COOPERATING DEPARTMENT OR COURT IN A PUBLIC OR PRIVATE RESIDENTIAL CHILD CARE PROGRAM FOR MORE THAN 30 DAYS.

(E) "SYSTEM FOR OUTCOMES EVALUATION" MEANS AN OBJECTIVE AND STANDARDIZED METHOD OF MEASURING THE EFFECTIVENESS OF RESIDENTIAL CHILD CARE PROGRAMS.

8–1002.

THE DEPARTMENT OF JUVENILE SERVICES, THE DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, AND THE GOVERNOR'S OFFICE FOR CHILDREN SHALL JOINTLY ADOPT REGULATIONS REQUIRING EACH MEMBER OF A DIRECT CARE STAFF TO:

(1) BE AT LEAST 21 YEARS OLD; AND

(2) ~~HAVE COMPLETED~~ COMPLETE A TRAINING PROGRAM THAT~~:~~

~~(I)~~ IS APPROVED BY THE AGENCY THAT LICENSED THE RESIDENTIAL CHILD CARE PROGRAM~~; AND~~

~~(II) SUPPORTS THE SPECIFIC MISSION OF THE RESIDENTIAL CHILD CARE PROGRAM IN WHICH THE DIRECT CARE STAFF MEMBER WORKS~~.

8–1003.

(A) ON OR BEFORE JULY 1, ~~2009~~ 2008, THE OFFICE AND THE COOPERATING DEPARTMENTS SHALL DEVELOP, COORDINATE, AND IMPLEMENT A SYSTEM FOR OUTCOMES EVALUATION.

(B) THE SYSTEM FOR OUTCOMES EVALUATION SHALL BE USED TO:

(1) MONITOR THE CARE, SUPERVISION, EDUCATION, AND TREATMENT PROVIDED BY STATE–OPERATED AND STATE–SUPPORTED RESIDENTIAL CHILD CARE PROGRAMS SO THAT SUCCESSFUL SERVICES CAN BE EXPANDED AND SERVICES THAT DO NOT PRODUCE POSITIVE RESULTS CAN BE IDENTIFIED;

~~(2) ASSESS THE CAPACITY OF RESIDENTIAL CHILD CARE PROGRAMS TO MEET THE NEEDS OF A CHILD REQUIRING OUT–OF–HOME PLACEMENT IN THE CHILD'S COMMUNITY;~~

~~(3) EFFECTIVELY ALLOCATE RESOURCES BASED ON DEMONSTRATED OUTCOMES;~~

~~(4)~~ (2) ESTABLISH AN EVALUATION SYSTEM FOR PROGRAM PERFORMANCE, INCLUDING MEASURES OF SAFETY, QUALITY, AND EFFECTIVENESS; AND

~~(5)~~ (3) COMPLETE AN ASSESSMENT OF THE STATE'S RESIDENTIAL CHILD CARE PROGRAM CAPACITY THAT IDENTIFIES RESIDENTIAL CHILD CARE PROGRAMS IN EACH COMMUNITY TO SERVE THE NEEDS OF A FAMILY THAT RESIDES IN THE COMMUNITY.

(C) ~~(1)~~ THE SYSTEM FOR OUTCOMES EVALUATION SHALL USE STANDARDIZED MEASURES OF FUNCTION TO EVALUATE THE CHILD'S:

~~(I)~~ (1) PROTECTION FROM HARM WHILE IN OUT–OF–HOME PLACEMENT;

~~(II)~~ (2) STABILITY OF LIVING ENVIRONMENT;

~~(III)~~ (3) FAMILY SITUATION AND EFFORTS TO TREAT AND COUNSEL THE FAMILY UNIT;

~~(IV)~~ (4) EDUCATIONAL AND VOCATIONAL DEVELOPMENT;

~~(V)~~ (5) JOB SKILLS AND EMPLOYMENT READINESS;

~~(VI)~~ (6) ~~CESSATION OF DRUG AND ALCOHOL ABUSE~~ LEGAL AND APPROPRIATE USE OF DRUGS AND ALCOHOL;

~~(VII)~~ (7) ~~LEARNING TO NOT BE AGGRESSIVE~~ PROGRESS IN LEARNING POSITIVE, NONAGGRESSIVE BEHAVIORAL HABITS; AND

~~(VIII)~~ (8) ~~POSTDISCHARGE TRANSITION~~ DELINQUENCY STATUS.

~~(2) THE MEASURES OF FUNCTION TO EVALUATE THE CHILD'S POSTDISCHARGE TRANSITION SHALL INCLUDE:~~

~~(I) ARREST;~~

~~(II) REARREST;~~

~~(III) REARREST WITH A CHARGE OF A SERIOUS OR VIOLENT OFFENSE;~~

~~(IV) REARREST WITH A WAIVER TO THE ADULT SYSTEM;~~

~~(V) RE–REFERRAL TO THE DEPARTMENT OF JUVENILE SERVICES;~~

~~(VI) READJUDICATION AND RECOMMITMENT; AND~~

~~(VII) GRADUATION FROM HIGH SCHOOL OR SUCCESSFUL COMPLETION OF A HIGH SCHOOL EQUIVALENCY EXAMINATION.~~

~~(D) THE OFFICE AND THE COOPERATING DEPARTMENTS SHALL CONSULT WITH THE UNIVERSITY OF MARYLAND, BALTIMORE, IN PLANNING AND IMPLEMENTING THE SYSTEM FOR OUTCOMES EVALUATION.~~

~~(E)~~ (D) THE SYSTEM FOR OUTCOMES EVALUATION SHALL ENSURE THAT COLLECTION AND USE OF DATA IN THE SYSTEM MAINTAINS CONFIDENTIALITY OF INFORMATION ON THE CHILDREN FROM THE COOPERATING DEPARTMENTS.

~~(F)~~ (E) THE SYSTEM FOR OUTCOMES EVALUATION SHALL ENSURE THAT A COOPERATING DEPARTMENT SHALL:

(1) FACILITATE THE PARTICIPATION OF RESIDENTIAL CHILD CARE PROGRAMS OPERATED BY THE COOPERATING DEPARTMENT OR PRIVATE AGENCIES WITH WHICH THE COOPERATING DEPARTMENT HAS A CONTRACT FOR THE PLACEMENT OF CHILDREN IN OUT–OF–HOME CARE; AND

(2) INCLUDE IN THE COOPERATING DEPARTMENT'S CONTRACT WITH A PRIVATE RESIDENTIAL CHILD CARE PROGRAM PROVISIONS REQUIRING THE PROGRAM TO COLLECT AND REPORT TO THE COOPERATING DEPARTMENT:

(I) CHILD–SPECIFIC DEMOGRAPHIC INFORMATION; AND

(II) DATA NECESSARY TO EVALUATE CHANGES IN FUNCTIONING OF THE CHILD AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.

~~(G)~~ (F) WHEN REPORTING DEMOGRAPHIC INFORMATION AND DATA UNDER SUBSECTION ~~(F)~~ (E) OF THIS SECTION, A COOPERATING DEPARTMENT:

(1) MAY NOT DISCLOSE PERSONAL IDENTIFIERS; AND

(2) SHALL ENSURE THE CONFIDENTIALITY OF THE INFORMATION ABOUT THE CHILDREN UNDER ITS RESPONSIBILITY.

~~(H)~~ (G) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE OFFICE, IN COORDINATION WITH THE COOPERATING DEPARTMENTS, SHALL SUBMIT A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §

2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE PROGRESS OF IMPLEMENTING THE SYSTEM FOR OUTCOMES EVALUATION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Governor's Office for Children and the departments that license residential child care programs in the State, in cooperation with representatives of residential child care programs and other advocacy groups for children, shall:

(1) develop the regulations required under § 8–1002 of the Human Services Article, as enacted by Section 1 of this Act; and

(2) develop recommendations for a process and standards for certification of the direct care staff of residential child care programs, taking into consideration the needs of children served by each licensing agency.

(b) On or before January 1, 2008, the Governor's Office for Children shall report, in accordance with § 2–1246 of the State Government Article, to the General Assembly on the recommendations for the process and standards for certification of direct care staff.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 134

(Senate Bill 202)

AN ACT concerning

Somerset County – Treasurer – Salary

FOR the purpose of altering the salary of the Treasurer of Somerset County; providing that this Act does not apply to the salary or compensation of the incumbent Treasurer of Somerset County; and generally relating to the salary of the Treasurer of Somerset County.

BY repealing and reenacting, with amendments,
Article 25 – County Commissioners

Section 51(r)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 25 – County Commissioners

51.

(r) The annual salary of the County Treasurer of Somerset County is **[**$44,300**] $60,000**.

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 Treasurer of Somerset County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Treasurer of Somerset County 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, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 135

(Senate Bill 217)

AN ACT concerning

Vehicle Laws – Special and Commemorative Registration Plates ~~– Sunset Provisions~~

FOR the purpose of repealing the authority of the Motor Vehicle Administration to issue certain special commemorative registration plates for a certain class of vehicles; altering the termination date for the Chesapeake Bay Commemorative License Plate and the special registration plate honoring State agriculture; repealing the termination date for certain provisions related to the design of and the renewal fees for the Chesapeake Bay Commemorative License Plate;

providing for the termination of a certain provision of this Act; and generally relating to special and commemorative registration plates for motor vehicles.

BY repealing and reenacting, ~~without~~ with amendments,
Article – Transportation
Section 13–618 and ~~13–619.2(a)~~ 13–619.2
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 3 of the Acts of the General Assembly of the First Special Session of 1992, as amended by Chapter 91 of the Acts of the General Assembly of 1994, Chapter 356 of the Acts of the General Assembly of 1996, Chapter 141 of the Acts of the General Assembly of 1998, Chapter 340 of the Acts of the General Assembly of 2000, Chapter 34 of the Acts of the General Assembly of 2002, and Chapter 398 of the Acts of the General Assembly of 2003
Section 3

BY repealing and reenacting, with amendments,
Chapter 251 of the Acts of the General Assembly of 2000, as amended by Chapter 398 of the Acts of the General Assembly of 2003
Section 3

BY repealing and reenacting, with amendments,
Chapter 398 of the Acts of the General Assembly of 2003
Section 3

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

Article – Transportation

13–618.

(a) The Administration may issue special commemorative original or substitute registration plates for any geographical, historical, natural resource, or environmental commemoration of statewide significance.

(b) The owner of a vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle considered eligible by the Administration may apply to the Administration for the assignment of a commemorative 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 B (for-hire) vehicle;~~

~~(3)~~ **(2)** A Class E (truck) vehicle with a manufacturer's rated capacity of one ton or less;

~~(4)~~ **(3)** A Class G (trailer) vehicle; or

~~(5)~~ **(4)** A Class M (multipurpose) vehicle.

(c) (1) An original or substitute commemorative plate may only be issued under this section for a fixed period of 2 consecutive years after its initial issuance.

(2) The Administration may only issue 1 commemorative plate under this section at any one time.

(d) (1) In addition to the annual registration fee otherwise required under this title, an owner of a vehicle assigned a commemorative registration plate under this section shall pay:

(i) An additional initial registration fee set by the Administration when the new registration plates are issued to the vehicle under this section; or

(ii) An additional renewal fee set by the Administration each time the plate is renewed.

(2) (i) The Administration shall set the additional initial registration fee at a level that will enable the Administration to recover its costs under this section.

(ii) The Administration may set the additional initial registration fee at a level that is sufficient to result in a surplus after costs are subtracted.

(iii) The Administration shall retain a portion of the additional initial registration fee that is sufficient to allow the Administration to recover any costs of issuing and distributing commemorative plates under this section.

(iv) Any surplus moneys remaining after the Administration has recovered the costs of issuing a commemorative plate under this section and moneys collected for additional renewal fees may not be retained by or transferred to any agency of the State for any purpose.

(v) Notwithstanding subparagraph (iv) of this paragraph, the surplus moneys and moneys collected for additional renewal fees may be retained for the purpose described in paragraph (3) of this subsection.

(3) The surplus moneys and moneys collected for additional renewal fees shall be disbursed by the Administration to a nonprofit organization that is:

(i) Closely related to the geographical, historical, natural resource, or environmental theme which the plate commemorates; and

(ii) Designated by the Administration under subsection (e) of this section.

(4) No portion of the additional initial registration or renewal fees may be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(e) (1) The Administration shall adopt regulations not inconsistent with the Maryland Vehicle Law to govern the issuance of special registration plates under this section.

(2) Before designating any nonprofit organization to receive any surplus moneys or moneys collected for additional renewal fees and before distributing the moneys to any nonprofit organization, the Administration shall adopt regulations specific to each new commemorative plate detailing:

(i) The name and nature of the nonprofit organization receiving the money;

(ii) The relationship of the nonprofit organization to the geographical, historical, natural resource, or environmental theme which the plate commemorates; and

(iii) The plan of distribution of the funds.

(3) The Administration shall consult with the nonprofit organization designated to receive moneys under this section to establish a schedule under which the Administration will transfer to the nonprofit organization revenue collected on behalf of the nonprofit organization under this section.

(f) The additional fees to the annual registration fee required by this section are not required for special registration of a vehicle that is exempt under § 13–903 of this title, or a vehicle with a special registration plate recognizing:

(1) The Maryland National Guard; or

(2) A volunteer fire department, volunteer rescue squad, or volunteer ambulance company in this State.

(g) (1) A special registration number as specified by the Administration and assigned under this section may consist of:

(i) Any combination of:

1. Letters; and

2. Numerals; and

(ii) Any design approved by the Administration that adequately reflects the geographical, historical, natural resource, or environmental theme which the plate commemorates.

(2) A special registration number or design assigned under this section shall be displayed on the registration plates for the vehicle.

(3) The Administration shall consult with the nonprofit organization designated to receive moneys under this section with respect to any design of the Chesapeake Bay Commemorative License Plate.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Transportation

13–619.2.

(a) In consultation with the Maryland Agricultural Education Foundation, Inc. the Administration shall develop and make available for qualifying vehicles a specially designed registration plate honoring Maryland agriculture.

(b) The owner of a vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle considered eligible by the Administration may apply to the Administration for an original or substitute 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 B (for hire) vehicle;**]**

[(3)**] (2)** A Class E (truck) vehicle with a manufacturer's rated capacity of one ton or less;

[(4)**] (3)** A Class E (farm truck) vehicle;

[(5)**] (4)** A Class G (trailer) vehicle; or

[(6)**] (5)** A Class M (multipurpose) vehicle.

(c) (1) 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:

(i) When initially issued the registration plate, a one–time fee set by the Administration to recover the Administration's costs under this section; and

(ii) When initially issued the registration plate, and each time the registration plate is renewed, an additional fee set by the Administration to benefit the Maryland Agricultural Education Foundation, Inc.

(2) The additional fee collected under this section is not required for special registration of a vehicle that is exempt under § 13–903 of this title.

(3) No portion of the fee collected under this section may be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(d) The Administration shall consult with the Maryland Agricultural Education Foundation, Inc. on:

(1) The design of a registration plate to be issued under this section to honor Maryland agriculture;

(2) The setting of the fee to be charged under subsection (c)(1)(ii) of this section at a level intended to encourage the purchase of the registration plate issued under this section while providing a continuous revenue source to benefit the Foundation; and

(3) A schedule under which the Administration will transfer to the Foundation revenue collected on the Foundation's behalf.

(e) The Administration shall adopt regulations to govern the issuance of special registration plates under this section.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 3 of the Acts of the First Special Session of 1992, as amended by Chapter 91 of the Acts of 1994, Chapter 356 of the Acts of 1996, Chapter 141 of the Acts of 1998, Chapter 340 of the Acts of 2000, Chapter 34 of the Acts of 2002, and Chapter 398 of the Acts of 2003

SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 13–618(c) of the Transportation Article, the Motor Vehicle Administration shall extend the Chesapeake Bay Commemorative Plate Program until July 1, **[**2008**]** **2013**.

Chapter 251 of the Acts of 2000, as amended by Chapter 398 of the Acts of 2003

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000. It shall remain effective for a period of **[**8**]** **13** years and, at the end of June 30, **[**2008**]** **2013**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 398 of the Acts of 2003

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2003. **[**It shall remain effective for a period of 5 years and, at the end of June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2007. It shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter ~~398~~ *251* of the Acts of the General Assembly of ~~2003~~ *2000*, as amended by *Chapter 398 of the Acts of 2003 and* this Act. If that termination provision takes effect, Section 2 of this Act shall be abrogated and of no further force and effect. Section 2 of this Act may not be interpreted to have any effect on that termination provision.

SECTION ~~2.~~ 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 136

(House Bill 220)

AN ACT concerning

Vehicle Laws – Special and Commemorative Registration Plates ~~– Sunset Provisions~~

FOR the purpose of *repealing the authority of the Motor Vehicle Administration to issue certain special commemorative registration plates for a certain class of vehicles;* altering the termination date for the Chesapeake Bay Commemorative License Plate and the special registration plate honoring State agriculture; repealing the termination date for certain provisions related to the design of and the renewal fees for the Chesapeake Bay Commemorative License Plate; *providing for the termination of a certain provision of this Act;* and generally relating to special and commemorative registration plates for motor vehicles.

BY repealing and reenacting, ~~without~~ *with* amendments,
Article – Transportation
Section 13–618 and ~~13–619.2(a)~~ *13–619.2*
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 3 of the Acts of the General Assembly of the First Special Session of 1992, as amended by Chapter 91 of the Acts of the General Assembly of 1994, Chapter 356 of the Acts of the General Assembly of 1996, Chapter 141 of the Acts of the General Assembly of 1998, Chapter 340 of the Acts of the General Assembly of 2000, Chapter 34 of the Acts of the General Assembly of 2002, and Chapter 398 of the Acts of the General Assembly of 2003
Section 3

BY repealing and reenacting, with amendments,
Chapter 251 of the Acts of the General Assembly of 2000, as amended by Chapter 398 of the Acts of the General Assembly of 2003
Section 3

BY repealing and reenacting, with amendments,
Chapter 398 of the Acts of the General Assembly of 2003
Section 3

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

Article – Transportation

13–618.

(a) The Administration may issue special commemorative original or substitute registration plates for any geographical, historical, natural resource, or environmental commemoration of statewide significance.

(b) The owner of a vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle considered eligible by the Administration may apply to the Administration for the assignment of a commemorative 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 B (for hire) vehicle;~~

~~(3)~~ ***(2)*** A Class E (truck) vehicle with a manufacturer's rated capacity of one ton or less;

~~(4)~~ ***(3)*** A Class G (trailer) vehicle; or

~~(5)~~ ***(4)*** A Class M (multipurpose) vehicle.

(c) (1) An original or substitute commemorative plate may only be issued under this section for a fixed period of 2 consecutive years after its initial issuance.

(2) The Administration may only issue 1 commemorative plate under this section at any one time.

(d) (1) In addition to the annual registration fee otherwise required under this title, an owner of a vehicle assigned a commemorative registration plate under this section shall pay:

(i) An additional initial registration fee set by the Administration when the new registration plates are issued to the vehicle under this section; or

(ii) An additional renewal fee set by the Administration each time the plate is renewed.

(2) (i) The Administration shall set the additional initial registration fee at a level that will enable the Administration to recover its costs under this section.

(ii) The Administration may set the additional initial registration fee at a level that is sufficient to result in a surplus after costs are subtracted.

(iii) The Administration shall retain a portion of the additional initial registration fee that is sufficient to allow the Administration to recover any costs of issuing and distributing commemorative plates under this section.

(iv) Any surplus moneys remaining after the Administration has recovered the costs of issuing a commemorative plate under this section and moneys collected for additional renewal fees may not be retained by or transferred to any agency of the State for any purpose.

(v) Notwithstanding subparagraph (iv) of this paragraph, the surplus moneys and moneys collected for additional renewal fees may be retained for the purpose described in paragraph (3) of this subsection.

(3) The surplus moneys and moneys collected for additional renewal fees shall be disbursed by the Administration to a nonprofit organization that is:

(i) Closely related to the geographical, historical, natural resource, or environmental theme which the plate commemorates; and

(ii) Designated by the Administration under subsection (e) of this section.

(4) No portion of the additional initial registration or renewal fees may be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(e) (1) The Administration shall adopt regulations not inconsistent with the Maryland Vehicle Law to govern the issuance of special registration plates under this section.

(2) Before designating any nonprofit organization to receive any surplus moneys or moneys collected for additional renewal fees and before distributing the moneys to any nonprofit organization, the Administration shall adopt regulations specific to each new commemorative plate detailing:

(i) The name and nature of the nonprofit organization receiving the money;

(ii) The relationship of the nonprofit organization to the geographical, historical, natural resource, or environmental theme which the plate commemorates; and

(iii) The plan of distribution of the funds.

(3) The Administration shall consult with the nonprofit organization designated to receive moneys under this section to establish a schedule under which the Administration will transfer to the nonprofit organization revenue collected on behalf of the nonprofit organization under this section.

(f) The additional fees to the annual registration fee required by this section are not required for special registration of a vehicle that is exempt under § 13–903 of this title, or a vehicle with a special registration plate recognizing:

(1) The Maryland National Guard; or

(2) A volunteer fire department, volunteer rescue squad, or volunteer ambulance company in this State.

(g) (1) A special registration number as specified by the Administration and assigned under this section may consist of:

(i) Any combination of:

1. Letters; and

2. Numerals; and

(ii) Any design approved by the Administration that adequately reflects the geographical, historical, natural resource, or environmental theme which the plate commemorates.

(2) A special registration number or design assigned under this section shall be displayed on the registration plates for the vehicle.

(3) The Administration shall consult with the nonprofit organization designated to receive moneys under this section with respect to any design of the Chesapeake Bay Commemorative License Plate.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Transportation

13–619.2.

(a) In consultation with the Maryland Agricultural Education Foundation, Inc. the Administration shall develop and make available for qualifying vehicles a specially designed registration plate honoring Maryland agriculture.

(b) The owner of a vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle considered eligible by the Administration may apply to the Administration for an original or substitute 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 B (for hire) vehicle;**]

***[**(3)**] (2)** A Class E (truck) vehicle with a manufacturer's rated capacity of one ton or less;*

***[**(4)**] (3)** A Class E (farm truck) vehicle;*

***[**(5)**] (4)** A Class G (trailer) vehicle; or*

***[**(6)**] (5)** A Class M (multipurpose) vehicle.*

(c) (1) 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:

(i) When initially issued the registration plate, a one–time fee set by the Administration to recover the Administration's costs under this section; and

(ii) When initially issued the registration plate, and each time the registration plate is renewed, an additional fee set by the Administration to benefit the Maryland Agricultural Education Foundation, Inc.

(2) The additional fee collected under this section is not required for special registration of a vehicle that is exempt under § 13–903 of this title.

(3) No portion of the fee collected under this section may be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(d) The Administration shall consult with the Maryland Agricultural Education Foundation, Inc. on:

(1) The design of a registration plate to be issued under this section to honor Maryland agriculture;

(2) The setting of the fee to be charged under subsection (c)(1)(ii) of this section at a level intended to encourage the purchase of the registration plate issued under this section while providing a continuous revenue source to benefit the Foundation; and

(3) A schedule under which the Administration will transfer to the Foundation revenue collected on the Foundation's behalf.

(e) The Administration shall adopt regulations to govern the issuance of special registration plates under this section.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Chapter 3 of the Acts of the First Special Session of 1992, as amended by Chapter 91 of the Acts of 1994, Chapter 356 of the Acts of 1996, Chapter 141 of the Acts of 1998, Chapter 340 of the Acts of 2000, Chapter 34 of the Acts of 2002, and Chapter 398 of the Acts of 2003

SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 13–618(c) of the Transportation Article, the Motor Vehicle Administration shall extend the Chesapeake Bay Commemorative Plate Program until July 1, **[**2008**]** **2013**.

Chapter 251 of the Acts of 2000, as amended by Chapter 398 of the Acts of 2003

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000. It shall remain effective for a period of **[**8**]** **13** years and, at the end of June 30, **[**2008**]** **2013**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 398 of the Acts of 2003

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2003. **[**It shall remain effective for a period of 5 years and, at the end of June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2007. It shall remain effective until the taking effect of the termination provision specified in Section 3 of Chapter 251 of the Acts of the General Assembly of 2000, as amended by Chapter 398 of the Acts of 2003 and this Act. If that termination provision takes effect, Section 2 of this Act shall be abrogated and of no further force and effect. Section 2 of this Act may not be interpreted to have any effect on that termination provision.

SECTION ~~2.~~ *5.* AND BE IT FURTHER ENACTED, That*, subject to Section 4 of this Act,* this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 137

(Senate Bill 237)

AN ACT concerning

Natural Resources – Open Air Burning Limitations – Application

FOR the purpose of establishing that the prohibition against open air burning at certain times and places does not apply to a burning conducted under the direct control and supervision of certain *fire* personnel; making a technical correction; making certain stylistic changes; altering a certain definition; and generally relating to the application of a ban on open air burning.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–720
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

5–720.

(a) (1) In this section the following words have the meanings indicated.

(2) "Burning ban" means a complete ban on all open air burning that is declared by the Secretary or the Governor as a result of prolonged or unusual conditions conducive to the easy starting and spread of fire.

(3) **[**(i)**]** "Open air burning" means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.

[(ii) "Open air burning" does not include 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 any other supervised burning conducted under the direct control and supervision of qualified instructors.**]**

(4) "Public officer" means:

(i) The authorized agents of the Department; or

(ii) Any police officer who is authorized to enforce the laws of the State or of a political subdivision of the State.

(b) **(1) [**A**] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A** person may not start or allow open air burning in an area in which a burning ban imposed by the Secretary **OR THE GOVERNOR** is in effect.

(2) THIS SUBSECTION DOES NOT APPLY TO:

(I) 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

(II) ANY OTHER SUPERVISED BURNING CONDUCTED UNDER THE DIRECT CONTROL AND SUPERVISION OF:

1. ~~QUALIFIED INSTRUCTORS FROM A FIRE DEPARTMENT TRAINING CENTER~~ ~~A QUALIFIED~~ *QUALIFIED* FIRE ~~INSTRUCTOR~~ *INSTRUCTORS*; OR

2. ~~IN WICOMICO COUNTY, A~~ ~~A~~ *IN WICOMICO COUNTY, WORCESTER COUNTY, OR SOMERSET COUNTY, A* FIRE CHIEF, CAPTAIN, OR *FIRE LINE* OFFICER ~~IN CHARGE~~ OF A FIRE DEPARTMENT THAT HAS JURISDICTION OVER THE AREA WHERE THE SUPERVISED BURNING OCCURS.

(c) On reasonable suspicion of open air burning on privately owned property in an area in which a burning ban is in effect, a public officer may enter on the privately owned property of any person to extinguish the fire or to enforce the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 138

(Senate Bill 243)

AN ACT concerning

~~Employees'~~ State Retirement and Pension System – Transfer of Service Credit

FOR the purpose of providing that certain members of the State Retirement and Pension System may request the Executive Director of the State Retirement Agency to take a certain action with regard to certain claims; authorizing the Executive Director of the State Retirement Agency to accept or deny certain requests by certain members; requiring the Board of Trustees of the State Retirement and Pension System to review certain claims that have been denied by the Executive Director of the State Retirement Agency; authorizing the Board of Trustees to overturn certain denials made by the Executive Director of the State Retirement Agency; requiring the Board of Trustees to submit certain reports to the Joint Committee on Pensions on or before a certain date; requiring the Board of Trustees to adopt certain regulations; providing that certain members of the Employees' Pension System may transfer certain service credit from the State Contributory Employees' Pension System in a certain manner; requiring that certain members of the Employees' Pension System who transfer certain service credit from the State Contributory Employees' Pension System complete and file certain forms with the Board of Trustees of the State Retirement and Pension System by a certain date; defining a certain term; providing for the termination of certain provisions of this Act; and generally relating to the transfer of service credit for members of the ~~Employees' Pension System~~ State Retirement and Pension System.

BY adding to
Article – State Personnel and Pensions

Section 37–203.2
Annotated Code of Maryland
(2004 Replacement Volume and 2006 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

37–203.2.

(A) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:

(1) HAS ACCRUED SERVICE CREDIT IN A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM;

(2) HAS ACCEPTED NEW EMPLOYMENT IN A POSITION REQUIRING MEMBERSHIP IN ONE OF THE SEVERAL SYSTEMS; AND

(3) DID NOT MAKE A CLAIM UNDER § 37–203 OR § 37–203.1 OF THIS SUBTITLE TO TRANSFER THE PREVIOUS SERVICE CREDIT WITHIN 1 YEAR OF TRANSFERRING INTO ONE OF THE SEVERAL SYSTEMS.

(B) (1) AN INDIVIDUAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION MAY REQUEST THE EXECUTIVE DIRECTOR TO ACCEPT THE INDIVIDUAL'S CLAIM TO TRANSFER SERVICE CREDIT ACCRUED IN THE PREVIOUS SYSTEM.

(2) IF THE EXECUTIVE DIRECTOR DENIES A REQUEST FOR A WAIVER, THE DENIAL SHALL BE PRESENTED TO THE BOARD OF TRUSTEES FOR REVIEW.

(3) THE BOARD OF TRUSTEES MAY OVERTURN THE EXECUTIVE DIRECTOR'S DECISION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(C) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT TO THE JOINT COMMITTEE ON PENSIONS IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THAT PROVIDES:

(1) THE NUMBER OF REQUESTS MADE BY INDIVIDUALS TO THE EXECUTIVE DIRECTOR REQUESTING A WAIVER OF THE 1–YEAR REQUIREMENT TO CLAIM TRANSFERRED SERVICE CREDIT;

(2) THE NUMBER OF REQUESTS GRANTED AND DENIED BY THE EXECUTIVE DIRECTOR; AND

(3) THE NUMBER OF REQUESTS GRANTED BY THE BOARD OF TRUSTEES FOLLOWING A DENIAL BY THE EXECUTIVE DIRECTOR.

(D) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, "State Contributory Employees' Pension System" means the part of the Employees' Pension System of the State of Maryland that provides a contributory pension benefit under Title 23, Subtitle 2, Part II of the State Personnel and Pensions Article.

(b) This section applies to an individual who:

(1) on or before June 30, 2007, was employed by the Office of the Public Defender and was a member of the State Contributory Employees' Pension System;

(2) on or after July 1, 2007, is employed by the State's Attorney's Office for a county that:

(i) is a participant in the Employees' Pension System as a participating governmental unit; and

(ii) did not elect to participate in the contributory pension benefit under § 23–218 of the State Personnel and Pensions Article; and

(3) has been a member of the Employees' Pension System for more than 1 year.

(c) (1) An individual described in subsection (b) of this section may elect to transfer to the Employees' Pension System the years of creditable service the individual accrued in the State Contributory Employees' Pension System prior to joining the Employees' Pension System.

(2) An individual who elects to transfer creditable service in paragraph (1) of this subsection shall transfer the creditable service in accordance with Title 37 of the State Personnel and Pensions Article.

(d) To transfer service credit under subsection (c) of this section, an individual shall complete a claim to transfer the service credit on a form provided by the Board of Trustees for the State Retirement and Pension System and file it with the Board of Trustees on or before December 31, 2007.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. ~~It~~ Section 2 of this Act shall remain effective for a period of 6 months and, at the end of December 31, 2007, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 139

(House Bill 311)

AN ACT concerning

~~Employees'~~ State Retirement and Pension System – Transfer of Service Credit

FOR the purpose of providing that certain members of the State Retirement and Pension System may request the Executive Director of the State Retirement Agency to take a certain action with regard to certain claims; authorizing the Executive Director of the State Retirement Agency to accept or deny certain requests by certain members; requiring the Board of Trustees of the State Retirement and Pension System to review certain claims that have been denied by the Executive Director of the State Retirement Agency; authorizing the Board of Trustees to overturn certain denials made by the Executive Director of the State Retirement Agency; requiring the Board of Trustees to submit certain reports to the Joint Committee on Pensions on or before a certain date; requiring the Board of Trustees to adopt certain regulations; providing that certain members of the Employees' Pension System may transfer certain service credit from the State Contributory Employees' Pension System in a certain manner; requiring that certain members of the Employees' Pension System who transfer certain service credit from the State Contributory Employees' Pension System complete and file certain forms with the Board of Trustees of the State Retirement and Pension System by a certain date; defining a certain term; providing for the termination of certain provisions of this Act; and generally relating to the transfer of service credit for members of the ~~Employees' Pension System~~ State Retirement and Pension System.

BY adding to
Article – State Personnel and Pensions
Section 37–203.2
Annotated Code of Maryland
(2004 Replacement Volume and 2006 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

37–203.2.

(A) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:

(1) HAS ACCRUED SERVICE CREDIT IN A STATE OR LOCAL RETIREMENT OR PENSION SYSTEM;

(2) HAS ACCEPTED NEW EMPLOYMENT IN A POSITION REQUIRING MEMBERSHIP IN ONE OF THE SEVERAL SYSTEMS; AND

(3) DID NOT MAKE A CLAIM UNDER § 37–203 OR § 37–203.1 OF THIS SUBTITLE TO TRANSFER THE PREVIOUS SERVICE CREDIT WITHIN 1 YEAR OF TRANSFERRING INTO ONE OF THE SEVERAL SYSTEMS.

(B) (1) AN INDIVIDUAL DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION MAY REQUEST THE EXECUTIVE DIRECTOR TO ACCEPT THE INDIVIDUAL'S CLAIM TO TRANSFER SERVICE CREDIT ACCRUED IN THE PREVIOUS SYSTEM.

(2) IF THE EXECUTIVE DIRECTOR DENIES A REQUEST FOR A WAIVER, THE DENIAL SHALL BE PRESENTED TO THE BOARD OF TRUSTEES FOR REVIEW.

(3) THE BOARD OF TRUSTEES MAY OVERTURN THE EXECUTIVE DIRECTOR'S DECISION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(C) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A REPORT TO THE JOINT COMMITTEE ON PENSIONS IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THAT PROVIDES:

(1) THE NUMBER OF REQUESTS MADE BY INDIVIDUALS TO THE EXECUTIVE DIRECTOR REQUESTING A WAIVER OF THE 1–YEAR REQUIREMENT TO CLAIM TRANSFERRED SERVICE CREDIT;

(2) THE NUMBER OF REQUESTS GRANTED AND DENIED BY THE EXECUTIVE DIRECTOR; AND

(3) THE NUMBER OF REQUESTS GRANTED BY THE BOARD OF TRUSTEES FOLLOWING A DENIAL BY THE EXECUTIVE DIRECTOR.

(D) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, "State Contributory Employees' Pension System" means the part of the Employees' Pension System of the State of Maryland that provides a contributory pension benefit under Title 23, Subtitle 2, Part II of the State Personnel and Pensions Article.

(b) This section applies to an individual who:

(1) on or before June 30, 2007, was employed by the Office of the Public Defender and was a member of the State Contributory Employees' Pension System;

(2) on or after July 1, 2007, is employed by the State's Attorney's Office for a county that:

(i) is a participant in the Employees' Pension System as a participating governmental unit; and

(ii) did not elect to participate in the contributory pension benefit under § 23–218 of the State Personnel and Pensions Article; and

(3) has been a member of the Employees' Pension System for more than 1 year.

(c) (1) An individual described in subsection (b) of this section may elect to transfer to the Employees' Pension System the years of creditable service the individual accrued in the State Contributory Employees' Pension System prior to joining the Employees' Pension System.

(2) An individual who elects to transfer creditable service in paragraph (1) of this subsection shall transfer the creditable service in accordance with Title 37 of the State Personnel and Pensions Article.

(d) To transfer service credit under subsection (c) of this section, an individual shall complete a claim to transfer the service credit on a form provided by the Board of Trustees for the State Retirement and Pension System and file it with the Board of Trustees on or before December 31, 2007.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. ~~It~~ Section 2 of this Act shall remain effective for a period of 6 months and, at the end of December 31, 2007, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 140

(Senate Bill 262)

AN ACT concerning

Consent Provisions – Minors – Mental or Emotional Disorder

FOR the purpose of authorizing psychologists to give certain individuals information, without the consent of or over the express objection of a minor, about treatment of a mental or emotional disorder needed by a minor or provided to a minor under certain circumstances; authorizing certain individuals, on advice or direction of a psychologist, to give certain individuals information, without the consent of or over the express objection of a minor, about treatment of a mental or emotional disorder needed by a minor or provided to a minor under certain circumstances; and generally relating to the disclosure of information about the treatment of a mental or emotional disorder of a minor.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 20–104
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

20–104.

(a) (1) A minor who is 16 years old or older has the same capacity as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a physician, psychologist, or a clinic.

(2) The capacity of a minor to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a physician, psychologist, or a clinic under paragraph (1) of this subsection does not include the capacity to refuse consultation, diagnosis, or treatment for a mental or emotional disorder for which a parent, guardian, or custodian of the minor has given consent.

(b) **(1)** ~~Without~~ **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITHOUT** the consent of or over the express objection of a minor, the attending physician**, THE PSYCHOLOGIST,** or, on advice or direction of the attending physician **OR THE PSYCHOLOGIST**, a member of the medical staff of a hospital or public clinic may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor under this section.

(2) IF A PSYCHOLOGIST IS ON A TREATMENT TEAM FOR A MINOR THAT IS HEADED BY A PHYSICIAN, THE PHYSICIAN HEADING THE TREATMENT TEAM SHALL DECIDE WHETHER A PARENT, GUARDIAN, OR CUSTODIAN OF THE MINOR OR THE SPOUSE OF THE PARENT SHOULD RECEIVE INFORMATION ABOUT TREATMENT NEEDED BY THE MINOR OR PROVIDED TO THE MINOR UNDER THIS SECTION.

(c) Unless the parent, guardian, or custodian of a minor consents to consultation, diagnosis, or treatment of the minor, the parent, guardian, or custodian is not liable for any costs of the consultation, diagnosis, or treatment of the minor under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 141

(Senate Bill 263)

AN ACT concerning

Health Insurance – Carrier Provider Panels – Nonphysician Specialists

FOR the purpose of requiring a health insurance carrier to establish and implement a certain procedure for requesting a referral to a nonphysician specialist who is not part of the carrier's provider panel; providing that a certain decision by a health insurance carrier constitutes an adverse decision under certain circumstances; defining a certain term; providing for the application of this Act; and generally relating to health insurance carrier provider panels and nonphysician specialists.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–830
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

15–830.

(a) (1) In this section the following words have the meanings indicated.

(2) "Carrier" means:

(i) an insurer that offers health insurance other than long–term care insurance or disability insurance;

(ii) a nonprofit health service plan;

(iii) a health maintenance organization;

(iv) a dental plan organization; or

(v) except for a managed care organization as defined in Title 15, Subtitle 1 of the Health – General Article, any other person that provides health benefit plans subject to State regulation.

(3) (i) "Member" means an individual entitled to health care benefits under a policy or plan issued or delivered in the State by a carrier.

(ii) "Member" includes a subscriber.

(4) "NONPHYSICIAN SPECIALIST" MEANS A HEALTH CARE PROVIDER WHO:

(I) IS NOT A PHYSICIAN;

(II) IS LICENSED OR CERTIFIED UNDER THE HEALTH OCCUPATIONS ARTICLE; AND

(III) IS CERTIFIED OR TRAINED TO TREAT OR PROVIDE HEALTH CARE SERVICES FOR A SPECIFIED CONDITION OR DISEASE IN A MANNER THAT IS WITHIN THE SCOPE OF THE LICENSE OR CERTIFICATION OF THE HEALTH CARE PROVIDER.

[(4)**]** **(5)** "Provider panel" has the meaning stated in § 15–112(a) of this title.

[(5)**]** **(6)** "Specialist" means a physician who is certified or trained to practice in a specified field of medicine and who is not designated as a primary care provider by the carrier.

(b) (1) Each carrier that does not allow direct access to specialists shall establish and implement a procedure by which a member may receive a standing referral to a specialist in accordance with this subsection.

(2) The procedure shall provide for a standing referral to a specialist if:

(i) the primary care physician of the member determines, in consultation with the specialist, that the member needs continuing care from the specialist;

(ii) the member has a condition or disease that:

1. is life threatening, degenerative, chronic, or disabling; and

2. requires specialized medical care; and

(iii) the specialist:

1. has expertise in treating the life–threatening, degenerative, chronic, or disabling disease or condition; and

2. is part of the carrier's provider panel.

(3) Except as provided in subsection (c) of this section, a standing referral shall be made in accordance with a written treatment plan for a covered service developed by:

(i) the primary care physician;

(ii) the specialist; and

(iii) the member.

(4) A treatment plan may:

(i) limit the number of visits to the specialist;

(ii) limit the period of time in which visits to the specialist are authorized; and

(iii) require the specialist to communicate regularly with the primary care physician regarding the treatment and health status of the member.

(5) The procedure by which a member may receive a standing referral to a specialist may not include a requirement that a member see a provider in addition to the primary care physician before the standing referral is granted.

(c) (1) Notwithstanding any other provision of this section, a member who is pregnant shall receive a standing referral to an obstetrician in accordance with this subsection.

(2) After the member who is pregnant receives a standing referral to an obstetrician, the obstetrician is responsible for the primary management of the member's pregnancy, including the issuance of referrals in accordance with the carrier's policies and procedures, through the postpartum period.

(3) A written treatment plan may not be required when a standing referral is to an obstetrician under this subsection.

(d) (1) Each carrier shall establish and implement a procedure by which a member may request a referral to a specialist **OR NONPHYSICIAN SPECIALIST** who is not part of the carrier's provider panel in accordance with this subsection.

(2) The procedure shall provide for a referral to a specialist **OR NONPHYSICIAN SPECIALIST** who is not part of the carrier's provider panel if:

(i) the member is diagnosed with a condition or disease that requires specialized **HEALTH CARE SERVICES OR** medical care; and

(ii) 1. the carrier does not have in its provider panel a specialist **OR NONPHYSICIAN SPECIALIST** with the professional training and expertise to treat **OR PROVIDE HEALTH CARE SERVICES FOR** the condition or disease; or

2. the carrier cannot provide reasonable access to a specialist **OR NONPHYSICIAN SPECIALIST** with the professional training and expertise to treat **OR PROVIDE HEALTH CARE SERVICES FOR** the condition or disease without unreasonable delay or travel.

(e) For purposes of calculating any deductible, copayment amount, or coinsurance payable by the member, a carrier shall treat services received in accordance with subsection (d) of this section as if the service was provided by a provider on the carrier's provider panel.

(f) A decision by a carrier not to provide access to or coverage of treatment **OR HEALTH CARE SERVICES** by a specialist **OR NONPHYSICIAN SPECIALIST** in accordance with this section constitutes an adverse decision as defined under Subtitle 10A of this title if the decision is based on a finding that the proposed service is not medically necessary, appropriate, or efficient.

(g) Each carrier shall file with the Commissioner a copy of each of the procedures required under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2007.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 142

(House Bill 519)

AN ACT concerning

Health Insurance – Carrier Provider Panels – Nonphysician Specialists

FOR the purpose of requiring a health insurance carrier to establish and implement a certain procedure for requesting a referral to a nonphysician specialist who is not part of the carrier's provider panel; providing that a certain decision by a health insurance carrier constitutes an adverse decision under certain circumstances; defining a certain term; providing for the application of this Act; and generally relating to health insurance carrier provider panels and nonphysician specialists.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–830
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

15–830.

(a) (1) In this section the following words have the meanings indicated.

(2) "Carrier" means:

(i) an insurer that offers health insurance other than long–term care insurance or disability insurance;

(ii) a nonprofit health service plan;

(iii) a health maintenance organization;

(iv) a dental plan organization; or

(v) except for a managed care organization as defined in Title 15, Subtitle 1 of the Health – General Article, any other person that provides health benefit plans subject to State regulation.

(3) (i) "Member" means an individual entitled to health care benefits under a policy or plan issued or delivered in the State by a carrier.

(ii) "Member" includes a subscriber.

(4) "NONPHYSICIAN SPECIALIST" MEANS A HEALTH CARE PROVIDER WHO:

(I) IS NOT A PHYSICIAN;

(II) IS LICENSED OR CERTIFIED UNDER THE HEALTH OCCUPATIONS ARTICLE; AND

(III) IS CERTIFIED OR TRAINED TO TREAT OR PROVIDE HEALTH CARE SERVICES FOR A SPECIFIED CONDITION OR DISEASE IN A MANNER THAT IS WITHIN THE SCOPE OF THE LICENSE OR CERTIFICATION OF THE HEALTH CARE PROVIDER.

[(4)**] (5)** "Provider panel" has the meaning stated in § 15–112(a) of this title.

[(5)**] (6)** "Specialist" means a physician who is certified or trained to practice in a specified field of medicine and who is not designated as a primary care provider by the carrier.

(b) (1) Each carrier that does not allow direct access to specialists shall establish and implement a procedure by which a member may receive a standing referral to a specialist in accordance with this subsection.

(2) The procedure shall provide for a standing referral to a specialist if:

(i) the primary care physician of the member determines, in consultation with the specialist, that the member needs continuing care from the specialist;

(ii) the member has a condition or disease that:

1. is life threatening, degenerative, chronic, or disabling; and

2. requires specialized medical care; and

(iii) the specialist:

1. has expertise in treating the life–threatening, degenerative, chronic, or disabling disease or condition; and

2. is part of the carrier's provider panel.

(3) Except as provided in subsection (c) of this section, a standing referral shall be made in accordance with a written treatment plan for a covered service developed by:

(i) the primary care physician;

(ii) the specialist; and

(iii) the member.

(4) A treatment plan may:

(i) limit the number of visits to the specialist;

(ii) limit the period of time in which visits to the specialist are authorized; and

(iii) require the specialist to communicate regularly with the primary care physician regarding the treatment and health status of the member.

(5) The procedure by which a member may receive a standing referral to a specialist may not include a requirement that a member see a provider in addition to the primary care physician before the standing referral is granted.

(c) (1) Notwithstanding any other provision of this section, a member who is pregnant shall receive a standing referral to an obstetrician in accordance with this subsection.

(2) After the member who is pregnant receives a standing referral to an obstetrician, the obstetrician is responsible for the primary management of the member's pregnancy, including the issuance of referrals in accordance with the carrier's policies and procedures, through the postpartum period.

(3) A written treatment plan may not be required when a standing referral is to an obstetrician under this subsection.

(d) (1) Each carrier shall establish and implement a procedure by which a member may request a referral to a specialist **OR NONPHYSICIAN SPECIALIST** who is not part of the carrier's provider panel in accordance with this subsection.

(2) The procedure shall provide for a referral to a specialist **OR NONPHYSICIAN SPECIALIST** who is not part of the carrier's provider panel if:

(i) the member is diagnosed with a condition or disease that requires specialized **HEALTH CARE SERVICES OR** medical care; and

(ii) 1. the carrier does not have in its provider panel a specialist **OR NONPHYSICIAN SPECIALIST** with the professional training and expertise to treat **OR PROVIDE HEALTH CARE SERVICES FOR** the condition or disease; or

2. the carrier cannot provide reasonable access to a specialist **OR NONPHYSICIAN SPECIALIST** with the professional training and expertise to treat **OR PROVIDE HEALTH CARE SERVICES FOR** the condition or disease without unreasonable delay or travel.

(e) For purposes of calculating any deductible, copayment amount, or coinsurance payable by the member, a carrier shall treat services received in accordance with subsection (d) of this section as if the service was provided by a provider on the carrier's provider panel.

(f) A decision by a carrier not to provide access to or coverage of treatment **OR HEALTH CARE SERVICES** by a specialist **OR NONPHYSICIAN SPECIALIST** in accordance with this section constitutes an adverse decision as defined under Subtitle 10A of this title if the decision is based on a finding that the proposed service is not medically necessary, appropriate, or efficient.

(g) Each carrier shall file with the Commissioner a copy of each of the procedures required under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2007.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 143

(Senate Bill 274)

AN ACT concerning

Garrett County – Property Tax Credit – New or Expanding Businesses

FOR the purpose of authorizing the governing body of Garrett County to grant, by law, a property tax credit against the county property tax imposed on certain real property owned or occupied by certain businesses in Garrett County under certain circumstances and subject to certain limitations and requirements; authorizing the governing body of Garrett County to specify, by law, certain criteria for qualification for the credit and to provide, by law, for the amount and duration of the credit, ~~qualifications and~~ application procedures for the credit, and other provisions for the credit; providing for the application of this Act; and generally relating to authorization for a property tax credit in Garrett County for certain real property owned or occupied by certain businesses in Garrett County under certain circumstances.

BY adding to
Article – Tax – Property
Section 9–313(b)(7)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

9–313.

(b) **(7) (I) THE GOVERNING BODY OF GARRETT COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY THAT IS NEW CONSTRUCTION OR AN IMPROVEMENT TO REAL PROPERTY OWNED OR OCCUPIED BY A COMMERCIAL OR INDUSTRIAL BUSINESS THAT:**

1. IS CURRENTLY OR WILL BE DOING BUSINESS IN GARRETT COUNTY;

2. WILL EMPLOY ~~AT LEAST 12~~ ADDITIONAL FULL–TIME LOCAL EMPLOYEES IN THE COUNTY BY THE SECOND YEAR IN WHICH

THE CREDIT IS ALLOWED, NOT INCLUDING ANY EMPLOYEE FILLING A JOB CREATED WHEN A JOB FUNCTION IS SHIFTED FROM AN EXISTING LOCATION IN THE STATE TO THE LOCATION OF THE NEW CONSTRUCTION OR IMPROVEMENT; AND

3. MAKES A SUBSTANTIAL INVESTMENT IN GARRETT COUNTY~~, WHICH MAY BE:~~

~~A. THE ACQUISITION OF A BUILDING, LAND, OR EQUIPMENT THAT TOTALS AT LEAST $2,000,000; OR~~

~~B. THE CREATION OF 10 POSITIONS WITH SALARIES GREATER THAN THE CURRENT AVERAGE ANNUAL WAGE IN GARRETT COUNTY~~.

(II) ~~IN ESTABLISHING A TAX CREDIT UNDER THIS PARAGRAPH, THE~~ THE GOVERNING BODY OF GARRETT COUNTY, BY LAW, MAY:

~~1. SHALL DEVELOP CRITERIA NECESSARY TO IMPLEMENT THE CREDIT;~~

1. SPECIFY THE MINIMUM INVESTMENT OR JOB CREATION REQUIREMENTS FOR QUALIFICATION FOR THE CREDIT;

2. ~~SHALL~~ DESIGNATE AN AGENCY TO ADMINISTER THE CREDIT; AND

3. ~~MAY~~ SPECIFY:

A. THE AMOUNT AND DURATION OF THE CREDIT;

B. ~~THE QUALIFICATIONS AND~~ APPLICATION PROCEDURES FOR THE CREDIT; AND

C. ANY ADDITIONAL CRITERIA FOR ELIGIBILITY OR ANY OTHER REQUIREMENT OR PROCEDURE FOR THE GRANTING OR ADMINISTRATION OF THE CREDIT THAT THE GOVERNING BODY CONSIDERS APPROPRIATE.

(III) A PROPERTY TAX CREDIT UNDER THIS PARAGRAPH MAY NOT EXCEED THE AMOUNT OF COUNTY PROPERTY TAX IMPOSED ON THE INCREASE IN ASSESSMENT THAT IS DUE TO THE NEW CONSTRUCTION OR IMPROVEMENTS MADE TO THE PROPERTY OF THE PERSON APPLYING FOR THE CREDIT.

(IV) IF A PROPERTY TAX CREDIT UNDER THIS PARAGRAPH IS GRANTED FOR PROPERTY LEASED OR RENTED BY A COMMERCIAL OR INDUSTRIAL BUSINESS:

1. THE AMOUNT OF THE TAX CREDIT ALLOWED SHALL PASS THROUGH TO THE COMMERCIAL OR INDUSTRIAL BUSINESS THAT CONDUCTS THE ACTIVITY THAT QUALIFIES FOR THE CREDIT; AND

2. THE TERM OF THE TAX CREDIT MAY NOT EXCEED THE TERM OF THE LEASE AND MAY NOT EXCEED 10 YEARS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 144

(Senate Bill 282)

AN ACT concerning

Potomac River Fisheries Commission – Commissioner Compensation

FOR the purpose of authorizing the members of the Potomac River Fisheries Commission to receive up to a certain amount of compensation for each day or portion of a day spent in the performance of their duties; providing that members of the Potomac River Fisheries Commission may not receive more than a certain amount of compensation in any year; providing that this Act does not apply to the compensation of the incumbent members of the Potomac River Fisheries Commission from Maryland; making this Act subject to a certain contingency; and generally relating to compensation of the members of the Potomac River Fisheries Commission.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 4–306 Article I Section 5
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

4–306.

Article I.

Commission –– Membership and Organization

Section 5. Commissioners shall be entitled to receive from the general fund of the commission compensation **[**of twenty–five dollars ($25.00)**]** **NOT TO EXCEED TWO HUNDRED AND FIFTY DOLLARS ($250.00)** for each day or portion thereof spent in the performance of their duties**, BUT IN NO EVENT TO EXCEED ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500.00) IN ANY YEAR**, and reimbursement for reasonable expenses incident to the performance of their duties.

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 members of the Potomac River Fisheries Commission from Maryland in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the members of the Potomac River Fisheries Commission from Maryland shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not take effect until a similar act is enacted by the Commonwealth of Virginia; that the Commonwealth of Virginia is requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar act; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia ~~and the United States Congress~~ of the enactment of this Act; and that on the concurrence in this Act by the Commonwealth of Virginia ~~and approval by the United States Congress~~, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Department of Legislative Services.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Sections 2 and 3 of this Act, this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 145

(Senate Bill 339)

AN ACT concerning

Drug Treatment – Maryland State Drug and Alcohol Abuse Council – Study of the State's Approach to Drug Treatment ~~and the Feasibility of Communal–Setting Treatment~~

FOR the purpose of requiring the ~~Director of the Alcohol and Drug Abuse Administration in the Department of Health and Mental Hygiene to report to the Governor and to certain committees regarding the State's approach to drug treatment and the feasibility of communal–setting treatment;~~ Maryland State Drug and Alcohol Abuse Council to include a certain review of the State's approach to drug treatment in the two–year strategic review; and generally relating to the State's approach to drug treatment.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, ~~on or before December 1, 2007, the Director of the Alcohol and Drug Abuse Administration in the Department of Health and Mental Hygiene shall study and report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and Judicial Proceedings Committee and the House Health and Government Operations Committee and Judiciary Committee regarding the State's approach to drug treatment and the feasibility of communal–setting treatment, including:~~

~~(1) actual drug treatment;~~

~~(2) skill training;~~

~~(3) career training; and~~

~~(4) housing possibilities~~ the Maryland State Drug and Alcohol Abuse Council shall include in the two–year strategic plan a review of the State's approach to drug treatment, including a review of the appropriate location of treatment services and the use of employment and housing services for individuals in treatment.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 146

(Senate Bill 349)

AN ACT concerning

Disease Prevention – Sexually Transmitted Diseases – Expedited Partner Therapy Pilot Program

FOR the purpose of establishing the Expedited Partner Therapy Pilot Program in the Baltimore City Health Department; providing for the purpose of the Program; authorizing certain health care providers to ~~prescribe, dispense,~~ dispense or otherwise provide certain antibiotic therapy to certain partners of patients diagnosed with certain sexually transmitted diseases without making a certain physical assessment; requiring the Secretary of Health and Mental Hygiene ~~and the Commissioner of the Baltimore City Health Department~~ to adopt ~~jointly~~ certain regulations; ~~establishing civil immunity for certain health care providers in certain circumstances;~~ requiring the Baltimore City Health Department to report to the Governor and General Assembly regarding the operation and performance of the Program on or before a certain date each year; providing for the termination of this Act; and generally relating to the prevention of sexually transmitted diseases and the Expedited Partner Therapy Pilot Program.

BY adding to
Article – Health – General
Section 18–214.1
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

18–214.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COMMISSIONER" MEANS THE COMMISSIONER OF HEALTH OF THE BALTIMORE CITY HEALTH DEPARTMENT.

(3) "PROGRAM" MEANS THE EXPEDITED PARTNER THERAPY PILOT PROGRAM.

(B) THERE IS AN EXPEDITED PARTNER THERAPY PILOT PROGRAM IN THE BALTIMORE CITY HEALTH DEPARTMENT.

(C) THE PURPOSE OF THE PROGRAM IS TO PROVIDE ANTIBIOTIC THERAPY TO THE PARTNER OF A PATIENT DIAGNOSED WITH A SEXUALLY TRANSMITTED INFECTION IDENTIFIED IN SUBSECTION (D) OF THIS SECTION IN ORDER TO CONTAIN THE INFECTION AND STOP THE FURTHER SPREAD OF IT.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN A PUBLIC HEALTH CLINIC ESTABLISHED BY THE COMMISSIONER IN BALTIMORE CITY, THE FOLLOWING HEALTH CARE PROVIDERS MAY ~~PRESCRIBE, DISPENSE,~~ DISPENSE OR OTHERWISE PROVIDE ANTIBIOTIC THERAPY TO ANY SEXUAL PARTNER OF A PATIENT DIAGNOSED WITH CHLAMYDIA OR GONORRHEA WITHOUT MAKING A PERSONAL PHYSICAL ASSESSMENT OF THE PATIENT'S PARTNER:

(1) A PHYSICIAN LICENSED UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE;

(2) A CERTIFIED NURSE PRACTITIONER IN ACCORDANCE WITH § 8–508 OF THE HEALTH OCCUPATIONS ARTICLE; AND

(3) AN AUTHORIZED PHYSICIAN ASSISTANT IN ACCORDANCE WITH § 15–302.2 OF THE HEALTH OCCUPATIONS ARTICLE.

(E) THE SECRETARY ~~AND THE COMMISSIONER JOINTLY~~ SHALL ADOPT REGULATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

~~**(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LICENSED PHYSICIAN, CERTIFIED NURSE PRACTITIONER, LICENSED REGISTERED NURSE, LICENSED PRACTICAL NURSE, OR CERTIFIED PHYSICIAN ASSISTANT MAY NOT BE HELD CIVILLY LIABLE FOR ANY ACT OR OMISSION PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION IF:**~~

~~**(1) THE ACT OR OMISSION DOES NOT CONSTITUTE GROSS NEGLIGENCE;**~~

~~**(2) THE PRESCRIPTION ANTIBIOTIC THERAPY IS PROVIDED TO THE PATIENT'S PARTNER WITHOUT FEE OR OTHER COMPENSATION FROM THE PATIENT'S PARTNER; OR**~~

~~**(3) THE PRESCRIPTION ANTIBIOTIC THERAPY IS PROVIDED IN BALTIMORE CITY TO THE PATIENT AT A PUBLIC HEALTH CLINIC FOR THE PATIENT'S SEXUAL PARTNER.**~~

~~**(G)**~~ **(F) ON OR BEFORE DECEMBER 31, 2007, AND EACH YEAR THEREAFTER, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON THE OPERATION AND PERFORMANCE OF THE EXPEDITED PARTNER THERAPY PILOT PROGRAM.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of ~~5~~ 3 years and, at the end of June 30, ~~2012~~ 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 147

(Senate Bill 351)

AN ACT concerning

Forensic Laboratories – Standards and Oversight

FOR the purpose of requiring the Secretary of Health and Mental Hygiene to adopt regulations that set certain standards and requirements; specifying the required contents of certain regulations; requiring ~~an individual who~~ a laboratory that examines or analyzes forensic specimens ~~on behalf of a certain laboratory~~ to demonstrate satisfactory performance in a certain proficiency testing program; requiring the Secretary to adopt certain regulations for a certain proficiency testing program; requiring ~~a certain employee~~ the Department of Health and Mental Hygiene to review certain proficiency tests and proficiency ~~test results at certain times~~ testing programs; requiring the Secretary to conduct certain inspections for a certain purpose; authorizing the Secretary to conduct certain investigations and surveys; providing that certain documents are public documents; requiring ~~the Secretary~~ a forensic laboratory to make certain information available to the public within a certain time of a written request; requiring the Secretary to adopt regulations that set qualifications for certain personnel; requiring the Secretary to set certain fees; ~~authorizing the Secretary to set a certain fee;~~ requiring a ~~person~~ *forensic*

laboratory to hold a certain license before the ~~person~~ *forensic laboratory* may offer or perform certain tests, examinations, or analyses in the State on or after a certain date; requiring the Secretary to issue a letter of exception to certain laboratories under certain circumstances; authorizing the Secretary to grant a certain waiver to certain laboratories; requiring an applicant to provide certain evidence to qualify for a certain license; requiring a certain applicant to submit an application to the Secretary on a certain form; specifying the required contents of an application for a certain license; requiring a certain applicant to pay a certain fee to the Department of Health and Mental Hygiene; requiring the Secretary to issue a certain license to a certain applicant; specifying the required contents of a certain license; requiring a certain license to designate the tests, examinations, or analyses that may be offered or performed by the laboratory; prohibiting a certain laboratory from operating in a manner not designated by its license; providing that a certain license is not transferable; providing that a certain license expires on a certain date, unless the license is renewed in accordance with this Act; authorizing a certain licensee to renew its license for an additional term under certain circumstances; requiring the Secretary to renew the license of each licensee ~~who~~ *that* meets certain requirements; authorizing the Secretary to deny a certain license or suspend, revoke, or limit a certain license or the authority of a certain licensee to offer or perform tests that a certain license sets forth under certain circumstances; ~~requiring the Secretary to take certain actions if the Secretary finds that a certain laboratory no longer meets certain standards and requirements and the Secretary does not suspend or revoke the laboratory's license; requiring the Secretary to undertake a certain due diligence review under certain circumstances;~~ ~~requiring~~ authorizing the Secretary to order a certain laboratory to take certain actions if the Secretary finds that the laboratory provided erroneous or questionable reports, analyses, examinations, or test results; requiring a State's Attorney to provide certain notice to certain victims under certain circumstances; providing for certain penalties; requiring the Secretary to give a certain applicant or licensee notice and an opportunity for a hearing under certain circumstances; requiring a certain laboratory to post a certain notice in a certain place; specifying the required contents of a certain notice; requiring the Secretary to specify the form of a certain notice; authorizing an employee of a forensic laboratory to disclose certain information to the Secretary under certain circumstances; prohibiting a certain laboratory from ~~discriminating or retaliating~~ taking certain adverse employment actions against a certain employee for ~~a certain reason~~ certain reasons; authorizing a certain employee to initiate ~~judicial~~ an action under certain circumstances; providing that a certain employee who prevails in a certain ~~judicial~~ action is entitled to certain remedies; limiting the time in which a certain ~~judicial~~ action may be filed; establishing a Forensic Laboratory Advisory Committee; specifying the membership of the Advisory Committee; requiring the ~~Secretary~~ Governor to designate a chair of the Advisory Committee and appoint members of the Advisory Committee at certain times; *establishing the terms of the members of*

the Advisory Committee; prohibiting a member of the Advisory Committee from receiving certain compensation; requiring the Department to staff the Advisory Committee; ~~establishing the Maryland Forensic Laboratory Improvement Fund as a special fund; providing for the funding of a certain fund; requiring the Governor's Office of Crime Control and Prevention to administer a certain fund; specifying the purposes for which grants shall be made from a certain fund;~~ providing that certain proceedings, records, and files of ~~a certain organization or agency~~ certain organizations or agencies are not discoverable and are not admissible in a certain criminal case; ~~providing that certain reports, findings, recommendations, and corrective actions issued by a certain organization or agency are discoverable and admissible to a certain extent; requiring the Governor to include certain funds in the State budget for a certain purpose for certain years;~~ requiring the Secretary to make certain appointments on or before a certain date; requiring the Secretary to adopt certain regulations on or before a certain date; defining certain terms; modifying a certain definition; ~~providing that this Act does not apply to a certain type of testing;~~ and generally relating to standards and oversight for forensic laboratories.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 1–101(c) and (j)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article – Health – General
Section 17–2A–01 through ~~17–2A–16~~ 17–2A–12 to be under the new subtitle "Subtitle 2A. Forensic Laboratories"
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – ~~Health Occupations~~ Health – General
Section ~~1–401~~ 19–2301
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

1–101.

(c) "Department" means the Department of Health and Mental Hygiene.

(j) "Secretary" means the Secretary of Health and Mental Hygiene.

SUBTITLE 2A. FORENSIC LABORATORIES.

17–2A–01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "FORENSIC ANALYSIS" MEANS A MEDICAL, CHEMICAL, TOXICOLOGIC, ~~BALLISTIC~~ *FIREARMS,* OR OTHER EXPERT EXAMINATION OR TEST PERFORMED ON PHYSICAL EVIDENCE, INCLUDING DNA EVIDENCE, FOR THE PURPOSE OF DETERMINING THE CONNECTION OF THE EVIDENCE TO A CRIMINAL ACT.

(2) "FORENSIC ANALYSIS" INCLUDES AN EXAMINATION OR TEST REQUIRED BY A LAW ENFORCEMENT AGENCY, PROSECUTOR, CRIMINAL SUSPECT OR DEFENDANT, OR COURT.

(3) "FORENSIC ANALYSIS" DOES NOT INCLUDE:

(I) A TEST OF A SPECIMEN OF BREATH OR BLOOD TO DETERMINE ALCOHOL CONCENTRATION OR CONTROLLED DANGEROUS SUBSTANCE CONTENT;

(II) FORENSIC INFORMATION TECHNOLOGY;

(III) ~~FORENSIC FIELD TESTS~~ *A PRESUMPTIVE TEST PERFORMED AT A CRIME SCENE*;

(IV) A PRESUMPTIVE TEST PERFORMED FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH A TERM OR CONDITION OF COMMUNITY SUPERVISION OR PAROLE AND CONDUCTED BY OR UNDER CONTRACT WITH A COUNTY DEPARTMENT OF CORRECTIONS OR THE STATE DEPARTMENT OF ~~CORRECTIONS~~ *PUBLIC SAFETY AND CORRECTIONAL SERVICES*; OR

(V) AN EXPERT EXAMINATION OR TEST CONDUCTED PRINCIPALLY FOR THE PURPOSE OF SCIENTIFIC RESEARCH, MEDICAL PRACTICE, CIVIL OR ADMINISTRATIVE LITIGATION, OR ANY OTHER PURPOSE UNRELATED TO DETERMINING THE CONNECTION OF PHYSICAL EVIDENCE TO A CRIMINAL ACT.

(C) "FORENSIC INFORMATION TECHNOLOGY" MEANS DIGITAL OR ELECTRONIC EVIDENCE THAT IS STORED OR TRANSMITTED ELECTRONICALLY.

~~(B)~~ (D) (1) "FORENSIC LABORATORY" MEANS A FACILITY, ENTITY, OR SITE THAT OFFERS OR PERFORMS ~~TESTS, EXAMINATIONS, OR ANALYSES THAT MAY BE USED TO DETERMINE A CONNECTION BETWEEN THE ITEMS TESTED, EXAMINED, OR ANALYZED AND A CRIMINAL ACT~~ FORENSIC ANALYSIS.

(2) "FORENSIC LABORATORY" INCLUDES A LABORATORY OWNED OR OPERATED BY THE STATE, A COUNTY OR MUNICIPAL CORPORATION IN THE STATE, OR ~~OTHER~~ ANOTHER GOVERNMENTAL ENTITY.

(3) "FORENSIC LABORATORY" DOES NOT INCLUDE:

(I) A FORENSIC LABORATORY OPERATED BY THE FEDERAL GOVERNMENT; OR

(II) A LABORATORY LICENSED OR CERTIFIED BY THE DEPARTMENT OF AGRICULTURE.

~~(C)~~ (E) "LICENSE" MEANS A PERMIT, LETTER OF EXCEPTION, CERTIFICATE, OR OTHER DOCUMENT ISSUED BY THE SECRETARY GRANTING APPROVAL OR AUTHORITY TO OFFER OR PERFORM FORENSIC LABORATORY TESTS, EXAMINATIONS, OR ANALYSES IN THE STATE.

(F) "LIMITED FORENSIC ANALYSIS" MEANS A FORENSIC LABORATORY TEST OR ANALYSIS DEFINED IN REGULATIONS ADOPTED BY THE SECRETARY.

(G) "PHYSICAL EVIDENCE" MEANS ANY OBJECT, THING, OR SUBSTANCE RELATING TO A CRIMINAL ACT.

17–2A–02.

~~THIS SUBTITLE DOES NOT APPLY TO THE TESTING OF A PERSON'S BLOOD OR BREATH TO DETERMINE ALCOHOL CONCENTRATION OR CONTROLLED DANGEROUS SUBSTANCE CONTENT.~~

~~17–2A–03.~~

(A) (1) THE SECRETARY SHALL ADOPT REGULATIONS THAT SET STANDARDS AND REQUIREMENTS FOR FORENSIC LABORATORIES.

(2) THE REGULATIONS SHALL CONTAIN THE STANDARDS AND REQUIREMENTS THAT THE SECRETARY CONSIDERS NECESSARY TO ASSURE THE CITIZENS OF THE STATE THAT FORENSIC LABORATORIES PROVIDE SAFE, RELIABLE, AND ACCURATE SERVICES.

(3) THE REGULATIONS SHALL:

(I) REQUIRE THE DIRECTOR OF A FORENSIC LABORATORY TO ESTABLISH AND ADMINISTER AN ONGOING QUALITY ASSURANCE PROGRAM USING STANDARDS ACCEPTABLE TO THE SECRETARY;

(II) REQUIRE THE DIRECTOR OF A FORENSIC LABORATORY TO RETAIN ALL CASE FILES FOR AT LEAST 10 YEARS; ~~AND~~

(III) ESTABLISH QUALIFICATIONS FOR THE PERSONNEL OF FORENSIC LABORATORIES;

(IV) ESTABLISH PROCEDURES FOR VERIFYING THE BACKGROUND AND EDUCATION OF THE PERSONNEL OF FORENSIC LABORATORIES;

(V) REQUIRE THE SECRETARY TO CHARGE FEES THAT MAY NOT EXCEED THE ACTUAL DIRECT AND INDIRECT COSTS TO THE DEPARTMENT TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE; AND

~~(III)~~ (VI) ESTABLISH ANY ADDITIONAL STANDARDS THAT THE SECRETARY CONSIDERS NECESSARY TO ASSURE THAT FORENSIC LABORATORIES PROVIDE ~~SAFE~~ ACCURATE AND RELIABLE SERVICES.

(B) (1) ~~AN INDIVIDUAL WHO EXAMINES OR ANALYZES FORENSIC SPECIMENS ON BEHALF OF A LICENSED FORENSIC LABORATORY SHALL DEMONSTRATE SATISFACTORY PERFORMANCE IN AN APPROVED PROFICIENCY TESTING PROGRAM SPECIFICALLY RELATED TO THE PARTICULAR TESTING OR ANALYSIS BEING PERFORMED~~ A FORENSIC LABORATORY THAT EXAMINES OR ANALYZES PHYSICAL EVIDENCE SHALL DEMONSTRATE SATISFACTORY PERFORMANCE IN AN APPROVED PROFICIENCY TESTING PROGRAM SPECIFICALLY RELATED TO THE PARTICULAR FORENSIC ANALYSIS BEING PERFORMED.

(2) THE SECRETARY SHALL ADOPT REGULATIONS FOR THE FORENSIC PROFICIENCY TESTING PROGRAM THAT:

(I) DEFINE SATISFACTORY PROFICIENCY TESTING PERFORMANCE; AND

(II) SET STANDARDS AND REQUIREMENTS THAT A FORENSIC PROFICIENCY TESTING PROGRAM SHALL MEET ~~BEFORE IT MAY BE DESIGNATED AN APPROVED PROGRAM~~.

(3) ~~AN EMPLOYEE OF THE~~ THE DEPARTMENT SHALL REVIEW ~~ALL PROFICIENCY TESTS AND PROFICIENCY TEST RESULTS EVERY 2 YEARS~~ A FORENSIC LABORATORY'S PROFICIENCY TESTING PROGRAM.

(C) TO ASSURE COMPLIANCE WITH THE STANDARDS AND REQUIREMENTS ~~SET FORTH IN REGULATIONS ADOPTED~~ UNDER THIS SUBTITLE, THE SECRETARY SHALL CONDUCT:

(1) AN INSPECTION OF EACH FORENSIC LABORATORY FOR WHICH A LICENSE TO OPERATE IS SOUGHT; AND

(2) ~~PERIODIC INSPECTIONS~~ AN INSPECTION OF EACH FORENSIC LABORATORY FOR WHICH A LICENSE HAS BEEN ISSUED~~; AND~~

~~(3) AN INSPECTION WITHIN 6 MONTHS PRIOR TO REISSUING A LICENSE TO A FORENSIC LABORATORY~~.

(D) TO ASSURE COMPLIANCE WITH THE STANDARDS AND REQUIREMENTS UNDER THIS SUBTITLE, THE SECRETARY MAY CONDUCT:

(1) A COMPLAINT INVESTIGATION; AND

(2) A VALIDATION SURVEY OF AN ACCREDITED FORENSIC LABORATORY.

~~17–2A–04.~~ 17–2A–03.

~~THE SECRETARY SHALL MAKE REPORTS OF INSPECTIONS CONDUCTED BY THE SECRETARY UNDER THIS SUBTITLE, DISCREPANCY LOGS, CONTAMINATION RECORDS, PROFICIENCY TESTS AND TEST RESULTS, AND DIRECTED PLANS OF CORRECTION AVAILABLE TO THE PUBLIC WITHIN 10 DAYS OF A WRITTEN REQUEST.~~

~~17–2A–05.~~

~~THE SECRETARY SHALL ADOPT REGULATIONS THAT SET QUALIFICATIONS FOR THE PERSONNEL OF FORENSIC LABORATORIES.~~

~~17–2A–06.~~

~~THE SECRETARY:~~

~~(1) SHALL SET LICENSING FEES FOR FORENSIC LABORATORIES IN ACCORDANCE WITH § 2–104 OF THIS ARTICLE; AND~~

~~(2) MAY SET A FEE FOR THE PROFICIENCY TESTING PROGRAM.~~

~~17–2A–07.~~

~~ON OR AFTER SEPTEMBER 1, 2009, A PERSON SHALL HOLD A LICENSE ISSUED BY THE SECRETARY BEFORE THE PERSON MAY OFFER OR PERFORM FORENSIC LABORATORY TESTS, EXAMINATIONS, OR ANALYSES IN THE STATE.~~

(A) FORENSIC LABORATORY DEFICIENCY STATEMENTS AND PLANS OF CORRECTION ARE PUBLIC DOCUMENTS.

(B) A FORENSIC LABORATORY SHALL MAKE DISCREPANCY LOGS, CONTAMINATION RECORDS, ~~PROFICIENCY TESTS,~~ AND TEST RESULTS AVAILABLE TO THE PUBLIC WITHIN 30 DAYS OF A WRITTEN REQUEST.

(C) EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE PROCEEDINGS, RECORDS, AND FILES OF AN ORGANIZATION OR STATE AGENCY RESPONSIBLE FOR ASSURING COMPLIANCE WITH THIS SUBTITLE SHALL BE CONFIDENTIAL AND NOT DISCOVERABLE OR ADMISSIBLE IN EVIDENCE IN A CIVIL OR CRIMINAL ACTION.

17–2A–04.

(A) AFTER DECEMBER 31, 2011, A ~~PERSON~~ *FORENSIC LABORATORY* SHALL HOLD A LICENSE ISSUED BY THE SECRETARY BEFORE THE ~~PERSON~~ *FORENSIC LABORATORY* MAY OFFER OR PERFORM FORENSIC ANALYSIS IN THE STATE.

(B) THE SECRETARY SHALL ISSUE A LETTER OF EXCEPTION TO A LABORATORY THAT:

(1) PERFORMS ONLY LIMITED FORENSIC ANALYSIS; AND

(2) MEETS THE EXCEPTION REQUIREMENTS IN REGULATIONS ADOPTED BY THE SECRETARY.

(C) THE SECRETARY MAY GRANT AN OUT–OF–STATE FORENSIC LABORATORY A WAIVER FROM THE LICENSURE REQUIREMENTS OF THIS SUBTITLE WITH CONDITIONS.

~~**17–2A–08.**~~ **17–2A–05.**

TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL PROVIDE EVIDENCE TO SATISFY THE SECRETARY THAT THE FORENSIC LABORATORY AND ITS PERSONNEL MEET THE STANDARDS AND REQUIREMENTS OF THIS SUBTITLE ~~AND THE REGULATIONS ADOPTED UNDER THIS SUBTITLE~~.

~~**17–2A–09.**~~ **17–2A–06.**

(A) AN APPLICANT FOR A LICENSE SHALL SUBMIT AN APPLICATION TO THE SECRETARY ON THE FORM THAT THE SECRETARY REQUIRES.

(B) AN APPLICATION FOR A LICENSE TO OPERATE A FORENSIC LABORATORY SHALL INCLUDE:

(1) THE NAME OF THE OPERATOR OR OWNER;

(2) THE TESTS OR EXAMINATIONS THAT THE FORENSIC LABORATORY WOULD PROVIDE; AND

(3) ANY OTHER INFORMATION THAT THE SECRETARY REQUIRES.

(C) THE APPLICANT SHALL PAY TO THE DEPARTMENT THE APPLICATION FEE SET BY THE SECRETARY IN ACCORDANCE WITH § 2–104 OF THIS ARTICLE.

~~**17–2A–10.**~~ **17–2A–07.**

(A) THE SECRETARY SHALL ISSUE A LICENSE TO AN APPLICANT ~~WHO~~ THAT MEETS THE STANDARDS AND REQUIREMENTS OF THIS SUBTITLE ~~AND THE REGULATIONS ADOPTED UNDER THIS SUBTITLE~~.

(B) A FORENSIC LABORATORY LICENSE SHALL INCLUDE THE NAME OF THE:

(1) FORENSIC LABORATORY;

(2) LABORATORY DIRECTOR; AND

(3) OPERATOR OR OWNER OF THE LABORATORY.

(C) A FORENSIC LABORATORY LICENSE SHALL DESIGNATE THE TESTS, EXAMINATIONS, OR ANALYSES THAT MAY BE OFFERED OR PERFORMED BY THE LABORATORY.

(D) A FORENSIC LABORATORY MAY NOT OPERATE IN A MANNER NOT DESIGNATED BY ~~ITS LICENSE~~ *THE LICENSE ISSUED UNDER THIS SUBTITLE*.

(E) A FORENSIC LABORATORY LICENSE ISSUED BY THE SECRETARY UNDER THIS SUBTITLE IS NOT TRANSFERABLE.

~~17–2A–11.~~ 17–2A–08.

(A) A LICENSE EXPIRES ON THE DATE SET BY THE SECRETARY UNLESS THE LICENSE IS RENEWED AS PROVIDED IN THIS SECTION.

(B) BEFORE THE LICENSE EXPIRES, THE LICENSEE MAY RENEW ITS LICENSE FOR AN ADDITIONAL TERM, IF THE LICENSEE:

(1) PAYS TO THE DEPARTMENT THE RENEWAL FEE SET BY THE SECRETARY AND ANY OUTSTANDING LICENSING OR PROFICIENCY TESTING FEES;

(2) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON THE FORM THAT THE SECRETARY REQUIRES; AND

(3) IS IN COMPLIANCE WITH ALL STANDARDS AND REQUIREMENTS OF THIS SUBTITLE ~~AND REGULATIONS ADOPTED UNDER THIS SUBTITLE~~.

(C) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE THAT MEETS THE REQUIREMENTS OF THIS SECTION.

~~17–2A–12.~~ 17–2A–09.

(A) THE SECRETARY MAY DENY A LICENSE TO AN APPLICANT OR SUSPEND, REVOKE, OR LIMIT A LICENSE OR THE AUTHORITY OF A LICENSEE TO OFFER OR PERFORM TESTS THAT A LICENSE SETS FORTH, IF THE FORENSIC

LABORATORY OR ITS DIRECTOR OR OTHER PERSONNEL FAIL TO MEET THE STANDARDS AND REQUIREMENTS OF THIS SUBTITLE ~~OR REGULATIONS ADOPTED UNDER THIS SUBTITLE~~.

~~(B) IF THE SECRETARY FINDS THAT A FORENSIC LABORATORY ISSUED A LICENSE UNDER THIS SUBTITLE NO LONGER MEETS THE STANDARDS AND REQUIREMENTS OF THIS SUBTITLE OR REGULATIONS ADOPTED UNDER THIS SUBTITLE AND THE SECRETARY DOES NOT SUSPEND OR REVOKE THE LABORATORY'S LICENSE, THE SECRETARY:~~

~~(1) SHALL IMPOSE A DIRECTED PLAN OF CORRECTION;~~

~~(2) REGULARLY SHALL INSPECT THE LABORATORY TO ASSURE COMPLIANCE WITH THE DIRECTED PLAN OF CORRECTION; AND~~

~~(3) MAY LIMIT THE TESTING AUTHORIZED BY THE LICENSE.~~

~~(C) IF THE SECRETARY FINDS THAT A LABORATORY THAT WAS ISSUED A LICENSE UNDER THIS SUBTITLE NO LONGER MEETS THE STANDARDS AND REQUIREMENTS OF THIS SUBTITLE OR REGULATIONS ADOPTED UNDER THIS SUBTITLE, THE SECRETARY SHALL UNDERTAKE A DUE DILIGENCE REVIEW OF THE LABORATORY TO IDENTIFY ERRONEOUS OR QUESTIONABLE REPORTS, ANALYSES, EXAMINATIONS, OR TEST RESULTS.~~

~~(D) IF THE SECRETARY FINDS THAT A FORENSIC LABORATORY PROVIDED ERRONEOUS OR QUESTIONABLE REPORTS, ANALYSES, EXAMINATIONS, OR TEST RESULTS, THE SECRETARY SHALL ORDER THE LABORATORY TO:~~

~~(1) PROVIDE WRITTEN NOTIFICATION OF THE ERRONEOUS OR QUESTIONABLE TEST RESULTS TO:~~

~~(I) THE PERSON OR AGENCY THAT ORDERED THE TESTS;~~

~~(II) THE RELEVANT PROSECUTING AUTHORITY;~~

~~(III) THE SUSPECT OR DEFENDANT AFFECTED BY THE ERRONEOUS OR QUESTIONABLE TEST RESULTS;~~

~~(IV) THE COUNSEL OF RECORD FOR THE SUSPECT OR DEFENDANT AFFECTED BY THE ERRONEOUS OR QUESTIONABLE TEST RESULTS;~~

~~**(V) THE COURT TO WHICH THE ERRONEOUS OR QUESTIONABLE TEST RESULTS WERE PROFFERED; AND**~~

~~**(VI) THE VICTIM OF THE CRIMINAL ACT AT ISSUE; AND**~~

~~**(2) TAKE ANY OTHER MEASURES NECESSARY TO MEET THE STANDARDS AND REQUIREMENTS OF THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER THIS SUBTITLE.**~~

(B) (1) IF THE SECRETARY FINDS THAT A FORENSIC LABORATORY LICENSED UNDER THIS SUBTITLE NO LONGER MEETS THE STANDARDS AND REQUIREMENTS OF THIS SUBTITLE, THE SECRETARY MAY:

(I) REVOKE THE LICENSE OF THE FORENSIC LABORATORY; OR

(II) SUSPEND THE LICENSE OF THE FORENSIC LABORATORY.

(2) IF A DEFICIENCY EXISTS, THE SECRETARY MAY:

(I) IMPOSE A DIRECTED PLAN OF CORRECTION;

(II) REGULARLY INSPECT THE FORENSIC LABORATORY TO ASSURE COMPLIANCE WITH THE DIRECTED PLAN OF CORRECTION; OR

(III) LIMIT THE TESTING AUTHORIZED BY THE LICENSE.

(C) IF THE SECRETARY FINDS THAT A FORENSIC LABORATORY PROVIDED ERRONEOUS OR QUESTIONABLE TEST RESULTS, THE SECRETARY MAY ORDER THE LABORATORY TO PROVIDE WRITTEN NOTIFICATION TO:

(1) THE PERSON OR AGENCY THAT ORDERED THE TESTS; ~~AND~~

(2) THE OFFICE OF THE PUBLIC DEFENDER OR COUNSEL OF RECORD; *AND*

***(3) THE STATE'S ATTORNEY*.**

(D) A STATE'S ATTORNEY WHO RECEIVES NOTIFICATION FROM A LABORATORY UNDER SUBSECTION (C) OF THIS SECTION SHALL NOTIFY THE VICTIM OF THE CRIMINAL ACT OR THE VICTIM'S REPRESENTATIVE OF THE ERRONEOUS OR QUESTIONABLE TEST RESULTS.

(E) A FORENSIC LABORATORY THAT FAILS TO COMPLY WITH AN ORDER ISSUED BY THE SECRETARY UNDER SUBSECTION ~~(D)~~ *(C)* OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF UP TO $1,000 FOR EACH DAY OF NONCOMPLIANCE AFTER THE DEADLINE FOR COMPLIANCE STATED IN THE SECRETARY'S ORDER, NOT TO EXCEED A MAXIMUM PENALTY OF $50,000.

(F) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT, BEFORE THE SECRETARY DENIES, SUSPENDS, OR REVOKES A LICENSE, OR IMPOSES A CIVIL PENALTY UNDER THIS SECTION, THE SECRETARY SHALL GIVE THE APPLICANT OR LICENSEE NOTICE AND AN OPPORTUNITY FOR A HEARING.

~~**17–2A–13.**~~ **17–2A–10.**

(A) IN THIS SECTION, "DISCRIMINATE OR RETALIATE" INCLUDES:

(1) FAILING TO PROMOTE AN INDIVIDUAL OR TO PROVIDE ANOTHER EMPLOYMENT–RELATED BENEFIT FOR WHICH THE INDIVIDUAL WOULD OTHERWISE BE ELIGIBLE;

(2) MAKING AN ADVERSE EVALUATION OR DECISION IN RELATION TO ACCREDITATION, CERTIFICATION, CREDENTIALING, OR LICENSING OF THE INDIVIDUAL; OR

(3) TAKING A PERSONNEL ACTION THAT IS ADVERSE TO THE INDIVIDUAL CONCERNED.

~~**(B) (1) A FORENSIC LABORATORY SHALL POST IN A CONSPICUOUS PLACE A NOTICE TO EMPLOYEES THAT INDICATES THE MANNER IN WHICH TO REPORT INSTANCES OF NONCOMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE, INCLUDING DEFICIENCIES WITH RESPECT TO TESTING, QUALITY, AND TRAINING OF PERSONNEL.**~~

~~**(2) A NOTICE UNDER THIS SUBSECTION SHALL INCLUDE:**~~

~~**(I) THE NAME AND CONTACT INFORMATION OF THE APPROPRIATE ENTITY OR STATE AGENCY TO WHICH INSTANCES OF NONCOMPLIANCE MAY BE REPORTED; AND**~~

~~**(II) A DESCRIPTION OF THE RIGHTS OF AND PROTECTIONS AVAILABLE TO INDIVIDUALS WHO REPORT INSTANCES OF NONCOMPLIANCE.**~~

~~**(3) THE SECRETARY SHALL SPECIFY THE FORM OF THE NOTICE.**~~

~~**(C) A FORENSIC LABORATORY MAY NOT DISCRIMINATE OR RETALIATE AGAINST AN EMPLOYEE OF THE LABORATORY BECAUSE THAT EMPLOYEE OR ANY OTHER PERSON HAS PRESENTED A GRIEVANCE OR COMPLAINT OR HAS INITIATED OR COOPERATED IN AN INVESTIGATION OR PROCEEDING RELATING TO THE TESTS PERFORMED BY THE LABORATORY OR TO OTHER REQUIREMENTS OR PROHIBITIONS OF THIS SUBTITLE.**~~

(B) AN EMPLOYEE WHO WORKS IN A FORENSIC LABORATORY MAY DISCLOSE INFORMATION TO THE SECRETARY THAT THE EMPLOYEE BELIEVES EVIDENCES A VIOLATION OF STANDARDS AND REQUIREMENTS FOR FORENSIC LABORATORIES IN THE STATE.

(C) A FORENSIC LABORATORY MAY NOT DISCRIMINATE OR RETALIATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE:

(1) DISCLOSES INFORMATION UNDER SUBSECTION (B) OF THIS SECTION; OR

(2) HAS AGREED TO COOPERATE WITH AN INVESTIGATION OF THE FORENSIC LABORATORY.

(D) (1) THE SECRETARY SHALL DEVELOP, THROUGH REGULATION, A DOCUMENT THAT INFORMS THE EMPLOYEES OF A FORENSIC LABORATORY OF THE PROCEDURES TO REPORT INSTANCES OF NONCOMPLIANCE OR OTHER VIOLATIONS OF THE STANDARDS AND REQUIREMENTS FOR FORENSIC LABORATORIES IN THE STATE.

(2) THE SECRETARY SHALL DISTRIBUTE THE DOCUMENT DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO FORENSIC LABORATORIES IN THE STATE.

(E) A FORENSIC LABORATORY SHALL POST THE DOCUMENT DEVELOPED UNDER SUBSECTION (D) OF THIS SECTION IN A CONSPICUOUS PLACE.

~~**(D)**~~ **(F) AN EMPLOYEE OF A FORENSIC LABORATORY WHO HAS BEEN DISCRIMINATED OR RETALIATED AGAINST IN VIOLATION OF SUBSECTION (C) OF THIS SECTION MAY INITIATE ~~JUDICIAL~~ AN ACTION AND, ON PREVAILING, SHALL BE ENTITLED TO:**

(1) REINSTATEMENT;

(2) REIMBURSEMENT FOR LOST WAGES;

(3) WORK BENEFITS LOST AS A RESULT OF THE UNLAWFUL ACTS OF THE EMPLOYING LABORATORY; AND

(4) REASONABLE ATTORNEY'S FEES AND COSTS ASSOCIATED WITH PURSUING THE ~~JUDICIAL~~ ACTION.

~~(E)~~ (G) NO ~~JUDICIAL~~ ACTION MAY BE BROUGHT UNDER THIS SUBSECTION ~~(D) OF THIS SECTION~~ MORE THAN 2 YEARS AFTER THE DISCRIMINATION OR RETALIATION THAT IS THE BASIS FOR THE ACTION.

~~17–2A–14.~~ 17–2A–11.

(A) A PERSON THAT VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) A FINE NOT EXCEEDING $100 FOR THE FIRST OFFENSE; AND

(2) A FINE NOT EXCEEDING $500 FOR EACH SUBSEQUENT CONVICTION FOR A VIOLATION OF THE SAME PROVISION.

(B) EACH DAY ~~A VIOLATION IS CONTINUED AFTER THE FIRST CONVICTION IS A SUBSEQUENT OFFENSE~~ ON WHICH A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS SECTION.

~~17–2A–15.~~ 17–2A–12.

(A) THE ~~SECRETARY~~ GOVERNOR SHALL ESTABLISH A FORENSIC LABORATORY ADVISORY COMMITTEE TO ADVISE THE SECRETARY ON MATTERS RELATING TO THE IMPLEMENTATION OF THE PROVISIONS OF THIS SUBTITLE.

~~(B) THE ADVISORY COMMITTEE SHALL CONSIST OF ONE REPRESENTATIVE OR DESIGNEE OF:~~

~~(1) THE AMERICAN SOCIETY FOR CLINICAL LABORATORY SCIENCE;~~

~~(2) THE UNIVERSITY OF MARYLAND SCHOOL OF MEDICINE DEPARTMENT OF MEDICAL RESEARCH AND TECHNOLOGY;~~

~~(3) THE JOHN JAY CENTER FOR MODERN FORENSIC PRACTICE;~~

~~**(4) THE CLINICAL LABORATORY MANAGEMENT ASSOCIATION;**~~

~~**(5) THE AMERICAN ASSOCIATION FOR LABORATORY ACCREDITATION;**~~

~~**(6) THE CLINICAL AND LABORATORY STANDARDS INSTITUTE; AND**~~

~~**(7) ONE DIRECTOR OF A FORENSIC LABORATORY IN THE STATE.**~~

~~**(C) THE SECRETARY SHALL:**~~

~~**(1) APPOINT MEMBERS OF THE ADVISORY COMMITTEE EVERY 2 YEARS; AND**~~

~~**(2) DESIGNATE THE CHAIR OF THE ADVISORY COMMITTEE.**~~

(B) THE ADVISORY COMMITTEE SHALL CONSIST OF THE FOLLOWING ~~11~~ *10* MEMBERS:

(1) THE DIRECTOR OF THE LABORATORIES ADMINISTRATION IN THE DEPARTMENT, OR THE DIRECTOR'S DESIGNEE;

(2) THE DIRECTOR OF THE OFFICE OF HEALTH CARE QUALITY IN THE DEPARTMENT, OR THE DIRECTOR'S DESIGNEE; AND

(3) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(I) ONE FROM THE AMERICAN SOCIETY FOR CLINICAL LABORATORY SCIENCE;

(II) ONE FROM THE UNIVERSITY OF MARYLAND SCHOOL OF MEDICINE, DEPARTMENT OF MEDICAL RESEARCH AND TECHNOLOGY;

(III) ONE FROM THE AMERICAN ASSOCIATION FOR LABORATORY ACCREDITATION;

(IV) ONE FROM THE AMERICAN ACADEMY OF FORENSIC SCIENCES;

~~**(V) ONE FROM FORENSIC QUALITY SERVICES;**~~

~~(VI)~~ *(V)* **ONE FROM THE AMERICAN SOCIETY OF CRIME LABORATORY DIRECTORS/LABORATORY ACCREDITATION BOARD; AND**

~~(VII)~~ *(VI)* **THREE DIRECTORS OF FORENSIC LABORATORIES IN THE STATE, INCLUDING:**

1. ONE FROM A FORENSIC LABORATORY OPERATED BY THE STATE;

2. ONE FROM A FORENSIC LABORATORY OPERATED BY A COUNTY; AND

3. ONE FROM A FORENSIC LABORATORY OPERATED BY A MUNICIPAL CORPORATION.

(C) (1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS.

(2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR APPOINTED MEMBERS OF THE ADVISORY COMMITTEE ON OCTOBER 1, 2007.

(D) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE ADVISORY COMMITTEE.

(E) A MAJORITY OF THE MEMBERS SERVING ON THE ADVISORY COMMITTEE REPRESENTS A QUORUM TO CONDUCT BUSINESS.

(F) A MEMBER OF THE ADVISORY COMMITTEE MAY NOT RECEIVE COMPENSATION BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE ADVISORY COMMITTEE.

~~17–2A–16.~~

~~(A) THERE IS A SPECIAL FUND CALLED THE MARYLAND FORENSIC LABORATORY IMPROVEMENT FUND.~~

~~(B) THE FUND SHALL CONTAIN SUCH FUNDS AS PROVIDED IN THE STATE BUDGET.~~

~~**(C) THE FUND MAY INCLUDE FUNDS GENERATED BY LICENSING AND ENFORCEMENT FEES IMPOSED UNDER THIS SUBTITLE.**~~

~~**(D) THE FUND SHALL BE ADMINISTERED BY THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.**~~

~~**(E) GRANTS SHALL BE MADE FROM THE FUND TO FORENSIC LABORATORIES FOR THE PURPOSE OF PAYING FOR FACILITIES, EQUIPMENT, AND TRAINING OR OTHER COSTS ASSOCIATED WITH COMPLIANCE WITH THIS SUBTITLE.**~~

19–2301.

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

(b) "Accreditation organization" means a private entity that conducts inspections and surveys of health care facilities based on nationally recognized and developed standards.

(c) "Deemed status" means a status under which a health care facility may be exempt from routine surveys conducted by the Department.

(d) "Health care facility" means:

(1) A hospital as defined in § 19–301(b) of this title;

(2) A health maintenance organization as defined in § 19–701(g) of this title;

(3) A freestanding ambulatory care facility as defined in § 19–3B–01 of this title;

(4) An assisted living facility as defined in § 19–1801 of this title;

(5) A laboratory as defined in § 17–201 of this article;

(6) A home health agency as defined in § 19–401 of this title;

(7) A residential treatment center as defined in § 19–301 of this title; **[**and**]**

(8) A comprehensive rehabilitation facility as defined in § 19–1201 of this title**; AND**

(9) A FORENSIC LABORATORY AS DEFINED IN § 17–2A–01 OF THIS ARTICLE.

~~**Article – Health Occupations**~~

~~1–401.~~

~~(a) (1) In this section the following words have the meanings indicated.~~

~~(2) (i) "Alternative health care system" means a system of health care delivery other than a hospital or related institution.~~

~~(ii) "Alternative health care system" includes:~~

~~1. A health maintenance organization;~~

~~2. A preferred provider organization;~~

~~3. An independent practice association;~~

~~4. A community health center that is a nonprofit, freestanding ambulatory health care provider governed by a voluntary board of directors and that provides primary health care services to the medically indigent;~~

~~5. A freestanding ambulatory care facility as that term is defined in § 19–3B–01 of the Health – General Article; or~~

~~6. Any other health care delivery system that utilizes a medical review committee.~~

~~(3) "Medical review committee" means a committee or board that:~~

~~(i) Is within one of the categories described in subsection (b) of this section; and~~

~~(ii) Performs functions that include at least one of the functions listed in subsection (c) of this section.~~

~~(4) (i) "Provider of health care" means any person who is licensed by law to provide health care to individuals.~~

~~(ii) "Provider of health care" does not include any nursing institution that is conducted by and for those who rely on treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.~~

~~(5) "The Maryland Institute for Emergency Medical Services Systems" means the State agency described in § 13–503 of the Education Article.~~

~~(b) For purposes of this section, a medical review committee is:~~

~~(1) A regulatory board or agency established by State or federal law to license, certify, or discipline any provider of health care;~~

~~(2) A committee of the Faculty or any of its component societies or a committee of any other professional society or association composed of providers of health care;~~

~~(3) A committee appointed by or established in a local health department for review purposes;~~

~~(4) A committee appointed by or established in the Maryland Institute for Emergency Medical Services Systems;~~

~~(5) A committee of the medical staff or other committee, including any risk management, credentialing, or utilization review committee established in accordance with § 19–319 of the Health – General Article, of a hospital, related institution, or alternative health care system, if the governing board of the hospital, related institution, or alternative health care system forms and approves the committee or approves the written bylaws under which the committee operates;~~

~~(6) A committee or individual designated by the holder of a pharmacy permit, as defined in § 12–101 of this article, that performs the functions listed in subsection (c) of this section, as part of a pharmacy's ongoing quality assurance program;~~

~~(7) Any person, including a professional standard review organization, who contracts with an agency of this State or of the federal government to perform any of the functions listed in subsection (c) of this section;~~

~~(8) Any person who contracts with a provider of health care to perform any of those functions listed in subsection (c) of this section that are limited to the review of services provided by the provider of health care;~~

~~(9) An organization, established by the Maryland Hospital Association, Inc. and the Faculty, that contracts with a hospital, related institution, or alternative delivery system to:~~

~~(i) Assist in performing the functions listed in subsection (c) of this section; or~~

~~(ii) Assist a hospital in meeting the requirements of § 19–319(e) of the Health – General Article;~~

~~(10) A committee appointed by or established in an accredited health occupations school;~~

~~(11) An organization described under § 14–501 of this article that contracts with a hospital, related institution, or health maintenance organization to:~~

~~(i) Assist in performing the functions listed in subsection (c) of this section; or~~

~~(ii) Assist a health maintenance organization in meeting the requirements of Title 19, Subtitle 7 of the Health – General Article, the National Committee for Quality Assurance (NCQA), or any other applicable credentialing law or regulation;~~

~~(12) An accrediting organization as defined in § 14–501 of this article;~~

~~(13) A Mortality and Quality Review Committee established under § 5–801 of the Health – General Article;~~ **[**~~or~~**]**

~~(14) A center designated by the Maryland Health Care Commission as the Maryland Patient Safety Center that performs the functions listed in subsection (c)(1) of this section~~**; OR**

~~**(15) AN ORGANIZATION OR STATE AGENCY RESPONSIBLE FOR ASSURING COMPLIANCE WITH TITLE 17, SUBTITLE 2A OF THE HEALTH – GENERAL ARTICLE.**~~

~~(c) For purposes of this section, a medical review committee:~~

~~(1) Evaluates and seeks to improve the quality of health care provided by providers of health care;~~

~~(2) Evaluates the need for and the level of performance of health care provided by providers of health care;~~

~~(3) Evaluates the qualifications, competence, and performance of providers of health care; or~~

~~(4) Evaluates and acts on matters that relate to the discipline of any provider of health care.~~

~~(d) (1) Except as otherwise provided in this section, the proceedings, records, and files of a medical review committee are not discoverable and are not admissible in evidence in any civil action.~~

~~(2) The proceedings, records, and files of a medical review committee are confidential and are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being reviewed and evaluated by the medical review committee if requested by the following:~~

~~(i) The Department of Health and Mental Hygiene to ensure compliance with the provisions of § 19–319 of the Health – General Article;~~

~~(ii) A health maintenance organization to ensure compliance with the provisions of Title 19, Subtitle 7 of the Health – General Article and applicable regulations;~~

~~(iii) A health maintenance organization to ensure compliance with the National Committee for Quality Assurance (NCQA) credentialing requirements; or~~

~~(iv) An accrediting organization to ensure compliance with accreditation requirements or the procedures and policies of the accrediting organization.~~

~~(3) If the proceedings, records, and files of a medical review committee are requested by any person from any of the entities in paragraph (2) of this subsection:~~

~~(i) The person shall give the medical review committee notice by certified mail of the nature of the request and the medical review committee shall be granted a protective order preventing the release of its proceedings, records, and files; and~~

~~(ii) The entities listed in paragraph (2) of this subsection may not release any of the proceedings, records, and files of the medical review committee.~~

~~(e) Subsection (d)(1) of this section does not apply to:~~

~~(1) A civil action brought by a party to the proceedings of the medical review committee who claims to be aggrieved by the decision of the medical review committee; or~~

~~(2) Any record or document that is considered by the medical review committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.~~

~~(f) (1) A person shall have the immunity from liability described under § 5–637 of the Courts and Judicial Proceedings Article for any action as a member of the medical review committee or for giving information to, participating in, or contributing to the function of the medical review committee.~~

~~(2) A contribution to the function of a medical review committee includes any statement by any person, regardless of whether it is a direct communication with the medical review committee, that is made within the context of the person's employment or is made to a person with a professional interest in the functions of a medical review committee and is intended to lead to redress of a matter within the scope of a medical review committee's functions.~~

~~(g) Notwithstanding this section, §§ 14–410 and 14–412 of this article apply to:~~

~~(1) The Board of Physicians; and~~

~~(2) Any other entity, to the extent that it is acting in an investigatory capacity for the Board of Physicians.~~

~~**(H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE INTERNAL PROCEEDINGS, RECORDS, AND FILES OF AN ORGANIZATION OR STATE AGENCY RESPONSIBLE FOR ASSURING COMPLIANCE WITH TITLE 17, SUBTITLE 2A OF THE HEALTH – GENERAL ARTICLE ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN A CRIMINAL CASE IN WHICH EVIDENCE PRODUCED BY A FORENSIC LABORATORY IS INVOLVED.**~~

~~**(2) REPORTS, FINDINGS, RECOMMENDATIONS, AND CORRECTIVE ACTIONS ISSUED BY AN ORGANIZATION OR STATE AGENCY RESPONSIBLE FOR ASSURING COMPLIANCE WITH TITLE 17, SUBTITLE 2A OF THE HEALTH – GENERAL ARTICLE TO A FORENSIC LABORATORY ARE DISCOVERABLE AND ADMISSIBLE TO THE EXTENT REQUIRED BY LAW.**~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall include in the State budget for fiscal year 2009 and each year thereafter an appropriation sufficient to fund not less than one supervisor, three surveyors, and related administrative costs for the Office of Health Care Quality Laboratory Licensing and Certification Unit to implement this Act.~~

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That the ~~Secretary of Health and Mental Hygiene~~ Governor shall make initial appointments to the Forensic Laboratory Advisory Committee on or before ~~November 1, 2007~~ December 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the appointed members of the Forensic Laboratory Advisory Committee shall expire as follows:

(a) Three members in ~~2008~~ *2009*;

(b) Three members in ~~2009~~ *2010*; and

(c) ~~Three members in 2010~~ *Two members in 2011.*

SECTION 4. AND BE IT FURTHER ENACTED, That the Secretary of Health and Mental Hygiene shall adopt the regulations necessary to implement this Act, including standards for licensing, on or before ~~September 1, 2008~~ December 31, 2010.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 148

(Senate Bill 368)

AN ACT concerning

Torts – Release of Claim for Damages – Voidable

FOR the purpose of altering the period during which a release of a claim for certain damages signed by an injured individual is voidable; altering the circumstances under which a release of a claim for certain damages is voidable; altering the period during which a certain power of attorney or employment contract signed by an injured individual is voidable; clarifying when a certain time period begins; requiring a certain notice that a certain release is voided to be in writing and accompanied by the return of certain money; providing that a certain release is void from the date that a certain notice is mailed; providing for the application of this Act; and generally relating to certain documents signed by injured individuals.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–401.1
Annotated Code of Maryland

(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

5–401.1.

(a) **(1)** A release of the claim of an injured individual for damages resulting from a tort, signed by the injured individual within **[**5**]** **30** days of the infliction of the injuries **WITHOUT THE ASSISTANCE OR GUIDANCE OF AN ATTORNEY AT LAW**, and any power of attorney to or contract of employment with an attorney at law, with reference to recovery of damages for the tort, signed by the individual within **[**5**]** **30** days after the infliction of the injuries, shall be voidable **AT THE OPTION OF THE INJURED INDIVIDUAL** within 60 days **[**at the option of the injured individual**]** **AFTER THE DAY ON WHICH THE INDIVIDUAL SIGNED THE DOCUMENT**.

(2) (I) NOTICE THAT A RELEASE IS VOIDED UNDER THIS SUBSECTION BY THE INJURED INDIVIDUAL SHALL BE:

1. IN WRITING; AND

2. ACCOMPANIED BY THE RETURN OF ANY MONEY PAID TO THE INJURED INDIVIDUAL AS A RESULT OF THE SIGNING OF THE RELEASE.

(II) THE RELEASE IS VOID FROM THE DATE THAT THE NOTICE IS MAILED.

(b) A person whose interest is or may become adverse to an injured individual who is confined to a hospital or sanitarium as a patient may not, within 15 days from the date of the occurrence causing the patient's injury:

(1) Negotiate or attempt to negotiate a settlement with the patient;

(2) Obtain or attempt to obtain a general release of liability from the patient; or

(3) Obtain or attempt to obtain any statement, either written or oral from the patient, for use in negotiating a settlement or obtaining a release.

(c) Any settlement agreement entered into or any general release of liability made by any individual who is confined in a hospital or sanitarium after the individual incurs a personal injury may not be used in evidence in any court action relating to the injury and may not be used for any purpose in any legal action in connection with the injury if the settlement agreement or release is obtained contrary to the provisions of subsection (b) of this section.

(d) A release executed by an individual who has sustained personal injuries does not discharge a subsequent tort–feasor:

(1) Who is not a party to the release; and

(2) (i) Whose responsibility for the individual's injuries is unknown at the time of execution of the release; or

(ii) Who is not specifically identified in the release.

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 injury occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 149

(House Bill 387)

AN ACT concerning

Torts – Release of Claim for Damages – Voidable

FOR the purpose of altering the period during which a release of a claim for certain damages signed by an injured individual is voidable; *altering the circumstances under which a release of a claim for certain damages is voidable*; altering the period during which a certain power of attorney or employment contract signed by an injured individual is voidable; clarifying when a certain time period begins; requiring a certain notice that a certain release is voided to be in writing and accompanied by the return of certain money; providing that a certain release is void from the date that a certain notice is mailed; providing for the

application of this Act; and generally relating to certain documents signed by injured individuals.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–401.1
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

5–401.1.

(a) **(1)** A release of the claim of an injured individual for damages resulting from a tort, signed by the injured individual within **[**5**]** **30** days of the infliction of the injuries ***WITHOUT THE ASSISTANCE OR GUIDANCE OF AN ATTORNEY AT LAW***, and any power of attorney to or contract of employment with an attorney at law, with reference to recovery of damages for the tort, signed by the individual within **[**5**]** **30** days after the infliction of the injuries, shall be voidable **AT THE OPTION OF THE INJURED INDIVIDUAL** within 60 days **[**at the option of the injured individual**]** **AFTER THE DAY ON WHICH THE INDIVIDUAL SIGNED THE DOCUMENT**.

(2) (I) NOTICE THAT A RELEASE IS VOIDED UNDER THIS SUBSECTION BY THE INJURED INDIVIDUAL SHALL BE:

1. IN WRITING; AND

2. ACCOMPANIED BY THE RETURN OF ANY MONEY PAID TO THE INJURED INDIVIDUAL AS A RESULT OF THE SIGNING OF THE RELEASE.

(II) THE RELEASE IS VOID FROM THE DATE THAT THE NOTICE IS MAILED.

(b) A person whose interest is or may become adverse to an injured individual who is confined to a hospital or sanitarium as a patient may not, within 15 days from the date of the occurrence causing the patient's injury:

(1) Negotiate or attempt to negotiate a settlement with the patient;

(2) Obtain or attempt to obtain a general release of liability from the patient; or

(3) Obtain or attempt to obtain any statement, either written or oral from the patient, for use in negotiating a settlement or obtaining a release.

(c) Any settlement agreement entered into or any general release of liability made by any individual who is confined in a hospital or sanitarium after the individual incurs a personal injury may not be used in evidence in any court action relating to the injury and may not be used for any purpose in any legal action in connection with the injury if the settlement agreement or release is obtained contrary to the provisions of subsection (b) of this section.

(d) A release executed by an individual who has sustained personal injuries does not discharge a subsequent tort–feasor:

(1) Who is not a party to the release; and

(2) (i) Whose responsibility for the individual's injuries is unknown at the time of execution of the release; or

(ii) Who is not specifically identified in the release.

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 injury occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 150

(Senate Bill 389)

AN ACT concerning

Civil Actions – Liability of Insurer – ~~Failure to Act in Good~~ ~~Bad~~ *Failure to Act in Good* Faith

FOR the purpose of authorizing ~~an insured, in a certain civil action between an insured and an insurer, to recover certain~~ damages, ~~expenses and litigation costs,~~ and ~~interest computed at a certain rate and from a certain date, and actual compensatory damages, if the court finds that the insurer failed to act in good faith~~ acted in bad faith; ~~requiring an insured to send a certain notice to the insurer before filing a certain civil action; providing for the application and construction of this Act; and generally relating to the liability of an insurer for failure to act in good~~ acting in bad ~~faith~~ *the recovery of actual damages, expenses, litigation costs, and interest in first–party claims against property and casualty insurers under certain circumstances; providing that the interest is to be computed at a certain rate and from a certain date; requiring a clerk of a court to file a copy of certain verdicts and other dispositions with the Maryland Insurance Administration; providing that a failure to act in good faith under certain circumstances constitutes an unfair claim settlement practice for certain purposes; providing for certain penalties; providing for certain restitution in certain proceedings under certain circumstances; providing for certain procedures; providing for a certain appeal to a circuit court from a final decision under certain circumstances; providing for the tolling of certain limitations under certain circumstances; requiring the Administration to report annually on certain matters to the General Assembly on or before a certain date; defining certain terms; providing for the application of this Act; and generally relating to certain proceedings concerning property and casualty insurers who fail to act in good faith in settling a first–party claim under certain circumstances*.

BY repealing and reenacting, with amendments,
Article 1 – Rules of Interpretation
Section 32
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article – Courts and Judicial Proceedings
Section 3–1701 to be under the new subtitle "Subtitle 17. Liability of Insurer"; *and 5–118*
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–303(7) and (8), 27–304(16) and (17), and 27–305(a) and (c)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to
Article – Insurance

Section 27–303(9), 27–304(18), and 27–1001 and the subtitle "Subtitle 10. Property and Casualty Insurance – First–Party Claims"
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article 1 – Rules of Interpretation

32.

(a) Except as provided in subsection (b) of this section, in a statute providing for de novo judicial review or appeal of a quasi–judicial administrative agency action, the term "de novo" means judicial review based upon an administrative record and such additional evidence as would be authorized by § 10–222(f) and (g) of the State Government Article.

(b) This section does not apply to review of cases from:

(1) The Workers' Compensation Commission; ***[****or****]***

*(2) The Health Care Alternative Dispute Resolution Office****; OR***

(3) THE MARYLAND INSURANCE ADMINISTRATION UNDER § 27–1001 OF THE INSURANCE ARTICLE*.*

Article – Courts and Judicial Proceedings

SUBTITLE 17. LIABILITY OF INSURER.

3–1701.

(A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "CASUALTY INSURANCE" HAS THE MEANING STATED IN § 1–101 OF THE INSURANCE ARTICLE.

(3) "COMMERCIAL INSURANCE" HAS THE MEANING STATED IN § 27–601 OF THE INSURANCE ARTICLE.

(4) "GOOD FAITH" MEANS AN INFORMED JUDGMENT BASED ON HONESTY AND DILIGENCE SUPPORTED BY EVIDENCE THE INSURER KNEW OR SHOULD HAVE KNOWN AT THE TIME THE INSURER MADE A DECISION ON A CLAIM.

(5) "INSURER" HAS THE MEANING STATED IN § 1–101 OF THE INSURANCE ARTICLE.

(6) "PROPERTY INSURANCE" HAS THE MEANING STATED IN § 1–101 OF THE INSURANCE ARTICLE.

(B) THIS SUBTITLE APPLIES ONLY TO FIRST–PARTY CLAIMS UNDER PROPERTY AND CASUALTY INSURANCE POLICIES ISSUED, SOLD, OR DELIVERED IN THE STATE.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PARTY MAY NOT FILE AN ACTION UNDER THIS SUBTITLE BEFORE THE DATE OF A FINAL DECISION UNDER § 27–1001 OF THE INSURANCE ARTICLE.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN ACTION:

(I) WITHIN THE SMALL CLAIM JURISDICTION OF THE DISTRICT COURT UNDER § 4–405 OF THIS ARTICLE;

(II) IF THE INSURED AND THE INSURER AGREE TO WAIVE THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR

(III) UNDER A COMMERCIAL INSURANCE POLICY ON A CLAIM WITH RESPECT TO WHICH THE APPLICABLE LIMIT OF LIABILITY EXCEEDS $1,000,000.

~~**(A) THIS SECTION APPLIES IN ONLY TO A CIVIL ACTION FILED BY AN INSURED AGAINST AN INSURER OR BY AN INSURER AGAINST ITS INSURED TO DETERMINE:**~~

~~**(1) THE COVERAGE THAT EXISTS UNDER THE INSURER'S INSURANCE POLICY OF PROPERTY AND CASUALTY OR MOTOR VEHICLE LIABILITY INSURANCE; OR**~~

~~**(2) THE EXTENT TO WHICH THE INSURED IS ENTITLED TO RECEIVE PAYMENT FROM THE INSURER FOR A COVERED LOSS UNDER THE INSURER'S POLICY OF PROPERTY AND CASUALTY OR MOTOR VEHICLE LIABILITY INSURANCE.**~~

~~**(B) (1) AT LEAST 30 DAYS BEFORE FILING AN ACTION UNDER THIS SECTION, AN INSURED SHALL SEND WRITTEN NOTICE TO THE INSURER OF THE INSURED'S INTENT TO FILE THE ACTION.**~~

~~**(2) THE NOTICE SHALL INCLUDE AN OFFER TO SETTLE THE INSURED'S CLAIM AGAINST THE INSURER AND STATE THE AMOUNT OF THE SETTLEMENT OFFER.**~~

(D) THIS SECTION APPLIES ONLY IN A CIVIL ACTION:

(1) (I) TO DETERMINE THE COVERAGE THAT EXISTS UNDER THE INSURER'S INSURANCE POLICY; OR

(II) TO DETERMINE THE EXTENT TO WHICH THE INSURED IS ENTITLED TO RECEIVE PAYMENT FROM THE INSURER FOR A COVERED LOSS;

(2) THAT ALLEGES THAT THE INSURER FAILED TO ACT IN GOOD FAITH; AND

(3) THAT SEEKS, IN ADDITION TO THE ACTUAL DAMAGES UNDER THE POLICY, TO RECOVER EXPENSES AND LITIGATION COSTS, AND INTEREST ON THOSE EXPENSES OR COSTS, UNDER SUBSECTION (E) OF THIS SECTION.

~~**(B) (C)** ***(E)*** **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE** ~~**COURT**~~ ***TRIER OF FACT*** **IN AN ACTION UNDER THIS SECTION FINDS IN FAVOR OF THE INSURED AND FINDS THAT THE INSURER** ~~**FAILED TO ACT IN GOOD FAITH ACTED IN BAD FAITH**~~ ***FAILED TO ACT IN GOOD FAITH*****, THE INSURED MAY RECOVER FROM THE INSURER:**

(1) ACTUAL DAMAGES, WHICH ~~**MAY NOT EXCEED THE COVERAGE THAT EXISTS UNDER THE INSURER'S POLICY**~~ ***ACTUAL DAMAGES MAY NOT EXCEED THE LIMITS OF THE APPLICABLE POLICY*****;**

~~**(2) NONECONOMIC DAMAGES;**~~

~~**(3) CONSEQUENTIAL DAMAGES;**~~

~~**(1) (4)**~~ **EXPENSES AND LITIGATION COSTS INCURRED BY THE INSURED** ***IN AN ACTION UNDER THIS SECTION OR UNDER § 27–1001 OF THE INSURANCE ARTICLE OR BOTH*****, INCLUDING REASONABLE ATTORNEY'S FEES; AND**

~~(2)~~ ~~(5)~~ *(3)* INTEREST ON ALL ~~EXPENSES~~ *ACTUAL DAMAGES, EXPENSES,* AND LITIGATION COSTS INCURRED BY THE INSURED, COMPUTED:

(I) AT THE RATE ALLOWED UNDER § 11–107(A) OF THIS ARTICLE; AND

(II) FROM THE DATE ~~THE CLAIM THAT WAS THE SUBJECT OF THE CIVIL ACTION WAS SUBMITTED TO INSURER OR THE INSURER'S AGENT~~ *ON WHICH THE INSURED'S CLAIM WOULD HAVE BEEN PAID IF THE INSURER ACTED IN GOOD FAITH~~; AND~~

~~(III) ACTUAL COMPENSATORY DAMAGES~~.

(F) AN INSURER MAY NOT BE FOUND TO HAVE FAILED TO ACT IN GOOD FAITH UNDER THIS SECTION SOLELY ON THE BASIS OF DELAY IN DETERMINING COVERAGE OR THE EXTENT OF PAYMENT TO WHICH THE INSURED IS ENTITLED IF THE INSURER ACTED WITHIN THE TIME PERIOD SPECIFIED BY STATUTE OR REGULATION FOR INVESTIGATION OF A CLAIM BY AN INSURER.

(G) THE AMOUNT OF ATTORNEY'S FEES RECOVERED FROM AN INSURER UNDER SUBSECTION (E) OF THIS SECTION MAY NOT EXCEED ONE–THIRD OF THE ACTUAL DAMAGES RECOVERED.

(H) THE CLERK OF THE COURT SHALL FILE A COPY OF THE VERDICT OR ANY OTHER FINAL DISPOSITION OF AN ACTION UNDER THIS SECTION WITH THE MARYLAND INSURANCE ADMINISTRATION.

~~(C)~~ ~~(D)~~ *(I)* THIS SECTION DOES NOT LIMIT THE RIGHT OF ANY PERSON TO MAINTAIN A CIVIL ACTION FOR DAMAGES *OR OTHER REMEDIES* OTHERWISE AVAILABLE UNDER ANY OTHER PROVISION OF LAW.

(J) IF A PARTY TO THE PROCEEDING ELECTS TO HAVE THE CASE TRIED BY A JURY IN ACCORDANCE WITH THE MARYLAND RULES, THE CASE SHALL BE TRIED BY A JURY.

5–118.

FOR THE PURPOSES OF THIS SUBTITLE, THE FILING OF A COMPLAINT WITH THE MARYLAND INSURANCE ADMINISTRATION IN ACCORDANCE WITH § 27–1001 OF THE INSURANCE ARTICLE SHALL BE DEEMED THE FILING OF AN ACTION UNDER § 3–1701 OF THIS ARTICLE.

Article – Insurance

27–303.

It is an unfair claim settlement practice and a violation of this subtitle for an insurer or nonprofit health service plan to:

(7) fail to meet the requirements of Title 15, Subtitle 10B of this article for preauthorization for a health care service; ***[****or****]***

*(8) fail to comply with the provisions of Title 15, Subtitle 10A of this article****; OR***

(9) FAIL TO ACT IN GOOD FAITH, AS DEFINED UNDER § 27–1001 OF THIS TITLE, IN SETTLING A FIRST–PARTY CLAIM UNDER A POLICY OF PROPERTY AND CASUALTY INSURANCE*.***

27–304.

It is an unfair claim settlement practice and a violation of this subtitle for an insurer or nonprofit health service plan, when committed with the frequency to indicate a general business practice, to:

(16) fail to meet the requirements of Title 15, Subtitle 10B of this article for preauthorization for a health care service; ***[****or****]***

*(17) fail to comply with the provisions of Title 15, Subtitle 10A of this article****; OR***

(18) FAIL TO ACT IN GOOD FAITH, AS DEFINED UNDER § 27–1001 OF THIS TITLE, IN SETTLING A FIRST–PARTY CLAIM UNDER A POLICY OF PROPERTY AND CASUALTY INSURANCE*.***

27–305.

*(a) The Commissioner may impose a penalty****:***

(1) *not exceeding $2,500 for each violation of § 27–303 of this subtitle or a regulation adopted under § 27–303 of this subtitle****; AND***

(2) NOT EXCEEDING $125,000 FOR EACH VIOLATION OF § 27–303(9) OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER § 27–303(9) OF THIS SUBTITLE*.***

(c) (1) On finding a violation of this subtitle, the Commissioner may require an insurer or nonprofit health service plan to make restitution to each claimant who has suffered actual economic damage because of the violation.

(2) ***[****Restitution****]*** ***SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, RESTITUTION*** *may not exceed the amount of actual economic damage sustained, subject to the limits of any applicable policy.*

(3) FOR A VIOLATION OF § 27–303(9) OF THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE RESTITUTION TO AN INSURED FOR THE FOLLOWING:

(I) ACTUAL DAMAGES, WHICH ACTUAL DAMAGES MAY NOT EXCEED THE LIMITS OF ANY APPLICABLE POLICY;

(II) EXPENSES AND LITIGATION COSTS INCURRED BY THE INSURED IN PURSUING AN ADMINISTRATIVE COMPLAINT UNDER § 27–303(9) OF THIS SUBTITLE, INCLUDING REASONABLE ATTORNEY'S FEES; AND

(III) INTEREST ON ALL ACTUAL DAMAGES, EXPENSES, AND LITIGATION COSTS INCURRED BY THE INSURED COMPUTED:

1. AT THE RATE ALLOWED UNDER § 11–107(A) OF THE COURTS ARTICLE; AND

2. FROM THE DATE ON WHICH THE INSURED'S CLAIM WOULD HAVE BEEN PAID IF THE INSURER ACTED IN GOOD FAITH.

(4) THE AMOUNT OF ATTORNEY'S FEES RECOVERED FROM AN INSURER UNDER PARAGRAPH (3) OF THIS SUBSECTION MAY NOT EXCEED ONE–THIRD OF THE ACTUAL DAMAGES RECOVERED.

SUBTITLE 10. PROPERTY AND CASUALTY INSURANCE – FIRST–PARTY CLAIMS.

27–1001.

(A) IN THIS SECTION, "GOOD FAITH" MEANS AN INFORMED JUDGMENT BASED ON HONESTY AND DILIGENCE SUPPORTED BY EVIDENCE THE INSURER KNEW OR SHOULD HAVE KNOWN AT THE TIME THE INSURER MADE A DECISION ON A CLAIM.

(B) THIS SECTION APPLIES ONLY TO ACTIONS UNDER § 3–1701 OF THE COURTS ARTICLE.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT BRING OR PURSUE AN ACTION UNDER § 3–1701 OF THE COURTS ARTICLE IN A COURT UNLESS THE PERSON COMPLIES WITH THIS SECTION.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN ACTION:

(I) WITHIN THE SMALL CLAIM JURISDICTION OF THE DISTRICT COURT UNDER § 4–405 OF THE COURTS ARTICLE;

(II) IF THE INSURED AND THE INSURER AGREE TO WAIVE THE REQUIREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR

(III) UNDER A COMMERCIAL INSURANCE POLICY ON A CLAIM WITH RESPECT TO WHICH THE APPLICABLE LIMIT OF LIABILITY EXCEEDS $1,000,000.

(D) (1) A COMPLAINT STATING A CAUSE OF ACTION UNDER § 3–1701 OF THE COURTS ARTICLE SHALL FIRST BE FILED WITH THE ADMINISTRATION.

(2) THE COMPLAINT SHALL:

(I) BE ACCOMPANIED BY EACH DOCUMENT THAT THE INSURED HAS SUBMITTED TO THE INSURER FOR PROOF OF LOSS;

(II) SPECIFY THE APPLICABLE INSURANCE COVERAGE AND THE AMOUNT OF THE CLAIM UNDER THE APPLICABLE COVERAGE; AND

(III) STATE THE AMOUNT OF ACTUAL DAMAGES, AND THE CLAIM FOR EXPENSES AND LITIGATION COSTS DESCRIBED UNDER SUBSECTION (E)(2) OF THIS SECTION.

(3) THE ADMINISTRATION SHALL FORWARD THE FILING TO THE INSURER.

(4) WITHIN 30 DAYS AFTER THE DATE THE FILING IS FORWARDED TO THE INSURER BY THE ADMINISTRATION, THE INSURER SHALL:

(I) FILE WITH THE ADMINISTRATION, EXCEPT FOR GOOD CAUSE SHOWN, A WRITTEN RESPONSE TOGETHER WITH A COPY OF EACH DOCUMENT FROM THE INSURER'S CLAIM FILE THAT ENABLES RECONSTRUCTION

OF THE INSURER'S ACTIVITIES RELATIVE TO THE INSURED'S CLAIM, INCLUDING DOCUMENTATION OF EACH PERTINENT COMMUNICATION, TRANSACTION, NOTE, WORK PAPER, CLAIM FORM, BILL, AND EXPLANATION OF BENEFITS FORM RELATIVE TO THE CLAIM; AND

(II) MAIL TO THE INSURED A COPY OF THE RESPONSE AND, EXCEPT FOR GOOD CAUSE SHOWN, EACH DOCUMENT FROM THE INSURER'S CLAIM FILE THAT ENABLES RECONSTRUCTION OF THE INSURER'S ACTIVITIES RELATIVE TO THE INSURED'S CLAIM, INCLUDING DOCUMENTATION OF EACH PERTINENT COMMUNICATION, TRANSACTION, NOTE, WORK PAPER, CLAIM FORM, BILL, AND EXPLANATION OF BENEFITS FORM RELATIVE TO THE CLAIM.

(E) (1) (I) WITHIN 90 DAYS AFTER THE DATE THE FILING WAS RECEIVED BY THE ADMINISTRATION, THE ADMINISTRATION SHALL ISSUE A DECISION THAT DETERMINES:

1. WHETHER THE INSURER IS OBLIGATED UNDER THE APPLICABLE POLICY TO COVER THE UNDERLYING FIRST–PARTY CLAIM;

2. THE AMOUNT THE INSURED WAS ENTITLED TO RECEIVE FROM THE INSURER UNDER THE APPLICABLE POLICY ON THE UNDERLYING COVERED FIRST–PARTY CLAIM;

3. WHETHER THE INSURER BREACHED ITS OBLIGATION UNDER THE APPLICABLE POLICY TO COVER AND PAY THE UNDERLYING COVERED FIRST–PARTY CLAIM, AS DETERMINED BY THE ADMINISTRATION;

4. WHETHER AN INSURER THAT BREACHED ITS OBLIGATION FAILED TO ACT IN GOOD FAITH; AND

5. THE AMOUNT OF DAMAGES, EXPENSES, LITIGATION COSTS, AND INTEREST, AS APPLICABLE AND AS AUTHORIZED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(II) THE FAILURE OF THE ADMINISTRATION TO ISSUE A DECISION WITHIN THE TIME SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE CONSIDERED A DETERMINATION THAT THE INSURER DID NOT BREACH ANY OBLIGATION TO THE INSURED.

(2) WITH RESPECT TO THE DETERMINATION OF DAMAGES UNDER PARAGRAPH (1)(I)5 OF THIS SUBSECTION:

(I) IF THE ADMINISTRATION FINDS THAT THE INSURER BREACHED AN OBLIGATION TO THE INSURED, THE ADMINISTRATION SHALL DETERMINE THE OBLIGATION OF THE INSURER TO PAY:

1. ACTUAL DAMAGES, WHICH ACTUAL DAMAGES MAY NOT EXCEED THE LIMITS OF ANY APPLICABLE POLICY; AND

2. INTEREST ON ALL ACTUAL DAMAGES INCURRED BY THE INSURED COMPUTED:

A. AT THE RATE ALLOWED UNDER § 11–107(A) OF THE COURTS ARTICLE; AND

B. FROM THE DATE ON WHICH THE INSURED'S CLAIM SHOULD HAVE BEEN PAID; AND

(II) IF THE ADMINISTRATION ALSO FINDS THAT THE INSURER FAILED TO ACT IN GOOD FAITH, THE ADMINISTRATION SHALL ALSO DETERMINE THE OBLIGATION OF THE INSURER TO PAY:

1. EXPENSES AND LITIGATION COSTS INCURRED BY THE INSURED, INCLUDING REASONABLE ATTORNEY'S FEES, IN PURSUING RECOVERY UNDER THIS SUBTITLE; AND

2. INTEREST ON ALL EXPENSES AND LITIGATION COSTS INCURRED BY THE INSURED COMPUTED:

A. AT THE RATE ALLOWED UNDER § 11–107(A) OF THE COURTS ARTICLE; AND

B. FROM THE APPLICABLE DATE OR DATES ON WHICH THE INSURED'S EXPENSES AND COSTS WERE INCURRED.

(3) AN INSURER MAY NOT BE FOUND TO HAVE FAILED TO ACT IN GOOD FAITH UNDER THIS SECTION SOLELY ON THE BASIS OF DELAY IN DETERMINING COVERAGE OR THE EXTENT OF PAYMENT TO WHICH THE INSURED IS ENTITLED IF THE INSURER ACTED WITHIN THE TIME PERIOD SPECIFIED BY STATUTE OR REGULATION FOR INVESTIGATION OF A CLAIM BY AN INSURER.

(4) THE AMOUNT OF THE ATTORNEY'S FEES DETERMINED TO BE PAYABLE TO AN INSURED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT EXCEED ONE–THIRD OF THE ACTUAL DAMAGES PAYABLE TO THE INSURED.

(5) THE ADMINISTRATION SHALL SERVE A COPY OF THE DECISION ON THE INSURED AND THE INSURER IN ACCORDANCE WITH § 2–204(C) OF THIS ARTICLE.

(F) (1) IF A PARTY RECEIVES AN ADVERSE DECISION, THE PARTY SHALL HAVE 30 DAYS AFTER THE DATE OF SERVICE OF THE ADMINISTRATION'S DECISION TO REQUEST A HEARING.

(2) ALL HEARINGS REQUESTED UNDER THIS SECTION SHALL:

(I) BE REFERRED BY THE COMMISSIONER TO THE OFFICE OF ADMINISTRATIVE HEARINGS FOR A FINAL DECISION UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE;

(II) BE HEARD DE NOVO;

(III) RESULT IN A FINAL DECISION THAT MAKES THE DETERMINATIONS SET FORTH IN SUBSECTION (E) OF THIS SECTION.

(3) IF NO ADMINISTRATIVE HEARING IS REQUESTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE DECISION ISSUED BY THE ADMINISTRATION SHALL BECOME A FINAL DECISION.

(G) (1) IF A PARTY RECEIVES AN ADVERSE DECISION, THE PARTY MAY APPEAL A FINAL DECISION BY THE ADMINISTRATION OR AN ADMINISTRATIVE LAW JUDGE UNDER THIS SECTION TO A CIRCUIT COURT IN ACCORDANCE WITH § 2–215 OF THIS ARTICLE AND TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) (I) THIS PARAGRAPH APPLIES ONLY IF MORE THAN ONE PARTY RECEIVES AN ADVERSE DECISION FROM THE ADMINISTRATION.

(II) IF A PARTY REQUESTS A HEARING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS AND ANOTHER PARTY FILES AN APPEAL TO A CIRCUIT COURT:

1. JURISDICTION OVER THE REQUEST FOR HEARING IS TRANSFERRED TO THE CIRCUIT COURT;

2. THE REQUEST FOR HEARING, THE ADMINISTRATION'S DECISION, AND THE ADMINISTRATION'S CASE FILE, INCLUDING THE COMPLAINT, RESPONSE, AND ALL DOCUMENTS SUBMITTED TO

THE ADMINISTRATION, SHALL BE TRANSMITTED PROMPTLY TO THE CIRCUIT COURT; AND

3. THE REQUEST FOR HEARING SHALL BE DOCKETED IN THE CIRCUIT COURT AND CONSOLIDATED FOR TRIAL WITH THE APPEAL.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN APPEAL TO A CIRCUIT COURT UNDER THIS SECTION SHALL BE HEARD DE NOVO.

(H) ON OR BEFORE JANUARY 1 OF EACH YEAR BEGINNING IN 2009, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE ADMINISTRATION SHALL REPORT TO THE GENERAL ASSEMBLY ON THE FOLLOWING FOR THE PRIOR FISCAL YEAR:

(1) THE NUMBER AND TYPES OF COMPLAINTS UNDER THIS SECTION OR § 3–1701 OF THE COURTS ARTICLE FROM INSUREDS REGARDING FIRST–PARTY INSURANCE CLAIMS UNDER PROPERTY AND CASUALTY INSURANCE POLICIES;

(2) THE ADMINISTRATIVE AND JUDICIAL DISPOSITIONS OF THE COMPLAINTS DESCRIBED IN ITEM (1) OF THIS SUBSECTION;

(3) THE NUMBER AND TYPES OF REGULATORY ENFORCEMENT ACTIONS INSTITUTED BY THE ADMINISTRATION FOR UNFAIR CLAIM SETTLEMENT PRACTICES UNDER § 27–303(9) OR § 27–304(18) OF THIS TITLE; AND

(4) THE ADMINISTRATIVE AND JUDICIAL DISPOSITIONS OF THE REGULATORY ENFORCEMENT ACTIONS FOR UNFAIR CLAIM SETTLEMENT PRACTICES DESCRIBED UNDER ITEM (3) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this Act providing for administrative penalties and license sanctions that may be imposed by the Maryland Insurance Commissioner apply only to an act or omission occurring on or after the effective date of this Act.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 151

(Senate Bill 407)

AN ACT concerning

Baltimore City – Hotel Room Tax – Convention Center Promotion

FOR the purpose of extending to a certain date provisions requiring that for certain fiscal years certain amounts measured by proceeds from a hotel room tax imposed by Baltimore City be appropriated for certain purposes; requiring that the required appropriation be made to a certain association; repealing certain obsolete language; and generally relating to hotel room taxes and convention center marketing and tourism promotion in Baltimore City.

BY repealing and reenacting, with amendments,
The Charter of Baltimore City
Article II – General Powers
Section (40)(e)
(2006 Edition)

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

The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(40)

(e) **[**(1) Notwithstanding subsection (a) of this section, for any fiscal year beginning before July 1, 2002, the rate of any hotel room tax imposed by the Mayor and City Council of Baltimore may not exceed 7.5%.**]**

[(2)**] (1)** For each fiscal year beginning on or after July 1, 1997 but before **[**July 1, 2007,**]** **JULY 1, 2012,** the Mayor and City Council shall appropriate from its General Fund **TO THE BALTIMORE AREA CONVENTION AND VISITORS**

ASSOCIATION specifically for Convention Center marketing and tourism promotion an amount equal to at least 40% of the proceeds of any hotel room tax imposed.

[(3)**] (2)** If the appropriation made for any fiscal year pursuant to paragraph **[**(2**)] (1)** of this subsection is less than the amount required when compared to actual receipts for the completed fiscal year, the difference shall be added to the appropriation to be made for the second succeeding fiscal year. If the appropriation made for any fiscal year pursuant to paragraph **[**(2)**] (1)** of this subsection is more than the amount required when compared to actual receipts for the completed fiscal year, the difference may be deleted from the appropriation to be made for the second succeeding fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 152

(Senate Bill 426)

AN ACT concerning

Maryland Tourism Development Board – Membership

FOR the purpose of expanding the membership of the Maryland Tourism Development Board by adding two appointments of the President of the Senate and the Speaker of the House of Delegates and three appointments of the Governor who are from certain destination marketing organizations; providing that certain members appointed by the Governor meet certain qualifications; providing that certain members may not vote on any matter before the Board; specifying a certain legislative intent relating to the role of certain members; making certain stylistic changes; and generally relating to the membership of the Maryland Tourism Development Board.

BY repealing and reenacting, with amendments,
Article 83A – Department of Business and Economic Development
Section 4–203
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article 83A – Department of Business and Economic Development
Section 4–206 and 4–207
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article 83A – Department of Business and Economic Development

4–203.

(a) There is a Maryland Tourism Development Board in the Department.

(b) (1) The Board consists of **[**19**]** **24** members appointed as follows:

(i) **[**11**]** **14** members shall be appointed by the Governor**:**

1. **11 OF WHOM SHALL BE APPOINTED** in consultation with the Secretary and with the advice and consent of the Senate; **AND**

2. **3 OF WHOM SHALL BE DIRECTORS OR CHIEF EXECUTIVE OFFICERS FROM AMONG THE DESTINATION MARKETING ORGANIZATIONS OFFICIALLY RECOGNIZED BY THE MARYLAND OFFICE OF TOURISM DEVELOPMENT;**

(ii) **[**4**]** **5** members shall be appointed by the President of the Senate of Maryland, 2 of whom shall be from the private sector business community; and

(iii) **[**4**]** **5** members shall be appointed by the Speaker of the House of Delegates, 2 of whom shall be from the private sector business community.

(2) **[**Two**]** **FOUR** members of the Board at all times shall be members of the General Assembly of Maryland, **[**1 a member**]** **2 TO BE MEMBERS** of the Senate of Maryland appointed by the President and the other **[**a member**]** **2 TO BE MEMBERS** of the House of Delegates appointed by the Speaker.

(3) In making the appointments from the private sector business community, the President of the Senate and the Speaker of the House shall:

(i) Ensure that each geographic region of the State is equitably represented; ~~**[**and**]**~~

(ii) Give due consideration to the recommendations made by representatives of the tourism industry and provide balanced representation of the lodging, food service, transportation, retail, and amusements and attractions sectors of the tourism industry~~; AND~~

~~(III) ENSURE THAT 3 MEMBERS ARE DIRECTORS OR CHIEF EXECUTIVE OFFICERS FROM AMONG THE 25 DESTINATION MARKETING ORGANIZATIONS OFFICIALLY RECOGNIZED BY THE MARYLAND OFFICE OF TOURISM DEVELOPMENT~~.

(4) **(I)** A member of the Board who is a member of the General Assembly may not vote on matters before the Board relating to the exercise of the sovereign powers of the State.

(II) A MEMBER OF THE BOARD WHO IS A DIRECTOR OR CHIEF EXECUTIVE OFFICER FROM A DESTINATION MARKETING ORGANIZATION MAY NOT VOTE ON ANY MATTER BEFORE THE BOARD.

(5) In making the appointments the Governor is required to make under paragraph (1)(i) of this subsection, the Governor shall:

(i) Ensure that each geographic region of the State is equitably represented; and

(ii) Give due consideration to the recommendations made by representatives of the tourism industry and provide balanced representation of the lodging, food service, transportation, retail, and amusements and attractions sectors of the tourism industry.

(c) (1) The term of a member is 3 years and begins on July 1.

(2) The terms of the members are staggered as required by the terms provided for the members of the Board on July 1, 1993.

(3) Any member is eligible for reappointment, but after serving for 2 consecutive 3–year terms, a member may not be reappointed until the expiration of at least one year after the termination of the member's previous tenure. Vacancies shall be filled immediately for the remainder of the unexpired portion of the term. A member shall hold office until a successor has been appointed.

(4) A member of the General Assembly who is appointed to the Board by the President or the Speaker serves until a successor is appointed.

(d) Each member of the Board appointed by the Governor serves at the pleasure of the Governor. Members of the Board shall serve without compensation, but each member shall be reimbursed for necessary travel and other expenses incurred in the performance of official duties in accordance with the Standard State Travel Regulations. The Board shall select annually from its membership a **[**chairman,**]** **CHAIR, AND** 5 **[**vice–chairmen**]** **VICE CHAIRS**, 1 each to represent the lodging, food service, transportation, retail, and attractions sectors, and a secretary–treasurer.

4–206.

Subject to the approval of the Secretary, the Board has the following powers and duties:

(1) To adopt reasonable regulations to effectuate the provisions of this subtitle;

(2) To enter into contracts and agreements;

(3) To engage services;

(4) To request and obtain from any department, division, board, bureau, commission or other agency or unit of the State, assistance and data to enable it to carry out its powers and duties under this subtitle;

(5) To accept any federal funds granted by an act of Congress or by executive order for any of the purposes of this subtitle;

(6) To accept any gifts, donations, or bequests for any of the purposes of this subtitle; and

(7) Subject to the provisions of § 4–208 of this subtitle, to generate revenue through sales of goods and services relating to tourism.

4–207.

Subject to the approval of the Secretary, the Board shall:

(1) Draft and implement:

(i) A 5–year strategic plan for the promotion and development of tourism in Maryland; and

(ii) An annual marketing plan consistent with the strategic plan;

(2) Submit to the Maryland Economic Development Commission for its review the 5–year strategic plan and annual marketing plan;

(3) Establish an annual operating budget consistent with the marketing plan;

(4) Protect, preserve, promote, and restore the natural, historical, scenic, and cultural resources in the State;

(5) Encourage the development of new tourism resources, products, businesses, and attractions in the State;

(6) Facilitate the movement and activities of tourists to, from, and within the State through signs, information aids, and other services;

(7) Improve the safety and security of tourists in the State;

(8) Encourage and facilitate training and education of individuals for jobs in the tourism industry, and provide a healthy environment for the development of human resources in tourism businesses;

(9) Encourage residents to pursue careers in the tourism industry;

(10) Produce a climate conducive to small tourism business growth and viability;

(11) Review existing and proposed taxes, fees, licenses, regulations, and regulatory procedures affecting tourism and tourism businesses in the State and evaluate their impact on the ability of the tourism industry to create employment and generate income;

(12) Support the conducting of research necessary to evaluate, plan, and execute effective tourism programs;

(13) Cooperate with other public and private agencies and organizations in the development and promotion of the State's tourism and travel industries;

(14) Encourage, assist, and coordinate the tourism activities of local and regional promotional organizations;

(15) Publish and submit to the Commission and the Secretary an annual report and other material that the Board considers appropriate;

(16) Set policies regarding the expenditures of appropriated and other funds for tourism advertising, written and graphic materials, cooperative and matching promotional programs, and other tourism and travel developmental and promotional activities for the State; and

(17) Spend funds of the Maryland Tourism Development Board Fund for the planning, advertising, promotion, assistance, and development of tourism and travel industries in this State.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the members appointed to the Maryland Tourism Development Board from among the destination marketing organizations shall actively advocate and promote the collective interests of all destination marketing organizations.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 153

(Senate Bill 431)

AN ACT concerning

Children – Out–of–Home ~~Placement~~ Care Review Boards – Case Reviews

FOR the purpose of requiring the State Citizens Review Board for Children to conduct certain case reviews to assist certain State and local agencies in determining whether certain child protection responsibilities are being effectively carried out; requiring certain case reviews to include certain questions designed to meet certain quality assessment goals for certain casework services; requiring the State Board to tabulate certain case review results and to submit certain results for ~~review~~ consideration as part of a certain self–assessment process; requiring the State Board or its designee to hold certain community forums for certain purposes; requiring the State Board to coordinate its activities with the State Child Fatality Review Team and certain local child fatality review teams to avoid duplication of certain efforts; requiring the State Board to submit a certain report or reports containing certain information to the General Assembly and the Secretary of Human Resources on or before a certain date each year; requiring the Secretary of Human Resources to send a certain response to the State Board within a certain number of days after receiving a

certain report; providing for the election and term of a vice chair of the State Board; altering the powers and duties of the State Board; requiring certain memoranda of understanding to be executed by certain governing bodies of certain counties under certain circumstances; altering the membership of a local citizens review panel; providing for the term of a member of a local citizens review panel; requiring certain local panels to carry out certain case reviews; prohibiting members of certain local panels from receiving compensation; subjecting members of certain local panels to certain standards of confidentiality; establishing the goals of a local board of review for minor children in out–of–home care; requiring certain local boards to review certain children in out–of–home care in accordance with certain regulations adopted by the State Board and the Secretary; requiring certain regulations to provide for the frequency of certain reviews; requiring certain case review reports to include certain information; authorizing certain case reviews to include certain questions; making certain stylistic changes; altering a certain definition; defining a certain term; and generally relating to ~~the~~ case reviews and ~~Out–of–Home Placement Review Boards~~ State and local review boards.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–501, 5–537, 5–538, 5–539, 5–539.1, 5–539.2, 5–540, 5–541, 5–542, 5–543, 5–544, 5–545, and 5–547
Annotated Code of Maryland
(2006 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–535, 5–536, 5–539.3, and 5–546
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Family Law

5–501.

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

(b) "Administration" means the Social Services Administration of the Department.

(d) "Day care provider" means the adult who has primary responsibility for the operation of a family day care home.

(e) "Family day care" means the care given to a child under the age of 13 years or to any developmentally disabled person under the age of 21 years, in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the day care provider is paid.

(f) "Family day care home" means a residence in which family day care is provided.

(g) "Foster care" means continuous 24–hour care and supportive services provided for a minor child placed by a child placement agency in an approved family home.

(h) "Group care" means continuous 24–hour care and supportive services provided for a minor child placed in a licensed group facility.

(i) "Kinship care" means continuous 24–hour care and supportive services provided for a minor child placed by a child placement agency in the home of a relative related by blood or marriage within the 5th degree of consanguinity or affinity under the civil law rule.

(j) (1) "License" means a license issued by the Administration under this subtitle.

(2) "License" includes:

(i) a child placement agency license;

(ii) a child care home license;

(iii) a child care institution license; and

(iv) a residential educational facility license.

(k) "Local board" means a local citizen board of review ~~of foster care~~ for children **IN OUT–OF–HOME CARE**.

(L) "OUT–OF–HOME CARE" MEANS:

(1) OUT–OF–HOME PLACEMENT; AND

(2) THE MONITORING OF AND SERVICES PROVIDED TO A CHILD IN AFTERCARE FOLLOWING A CHILD'S OUT–OF–HOME PLACEMENT.

(m) "Out–of–home placement" means placement of a child into foster care, kinship care, group care, or residential treatment care.

(n) "Residential educational facility" means:

(1) a facility that:

(i) provides special education and related services for students with disabilities;

(ii) holds a certificate of approval issued by the State Board of Education; and

(iii) provides continuous 24–hour care and supportive services to children in a residential setting; or

(2) one of the following schools:

(i) the Benedictine School;

(ii) the Linwood School;

(iii) the Maryland School for the Blind; or

(iv) the Maryland School for the Deaf.

(o) "Residential treatment care" means continuous 24–hour care and supportive services for a minor child placed in a facility that provides formal programs of basic care, social work, and health care services.

(p) "State Board" means the State **[**Citizen Board of Review of Foster Care**]** **CITIZENS REVIEW BOARD** for Children.

(q) "Unregistered family day care home" means a residence in which family day care is provided and in which the day care provider:

(1) has not obtained a certificate of registration from the Department;

(2) is not related by blood or marriage to each child in the provider's care;

(3) is not a friend of each child's parents or legal guardian and is providing care on a regular basis; and

(4) has not received the care of the child from a child placement agency licensed by the Administration or by a local department.

(r) "Voluntary placement agreement" means a binding, written agreement voluntarily entered into between a local department and the parent or legal guardian of a minor child that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the local department while the child is in placement.

5–535.

There is a State Citizens Review Board for Children.

5–536.

(a) (1) The State Board consists of 11 members.

(2) Of the 11 members:

(i) 1 shall be appointed by the Governor from the Governor's staff;

(ii) 3 shall be from the eighth judicial circuit, to be chosen by and from among the members of the local boards in the circuit; and

(iii) 1 shall be from each of the remaining judicial circuits, to be chosen by and from among the members of the local boards in the respective circuits.

(b) (1) The term of a member is 2 years.

(2) A member may not serve on the State Board beyond the completion of the term of the member on the local board.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

5–537.

(a) From among its members, the State Board shall elect a **[**chairman**]** **CHAIR AND A VICE CHAIR** by majority vote.

(b) (1) The **[**term**]** **TERMS** of the **[**chairman is**]** **CHAIR AND VICE CHAIR ARE** 2 years.

(2) At the end of a term, the **[**chairman**]** **CHAIR OR VICE CHAIR** continues to serve until a successor is elected.

5–538.

(a) The State Board shall meet not less than once every 3 months and more frequently on the call of the **[**chairman**]** **CHAIR**.

(b) A member of the State Board:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) The State Board may employ a staff in accordance with the State budget.

5–539.

(a) **[**(1)**]** The State Board may adopt policies and procedures that:

[(i)**]** **(1)** relate to the functions of the local boards; and

[(ii)**]** **(2)** are consistent with the goals set forth in § 5–544 of this subtitle.

[(2) If the Administration concurs, the State Board may establish categories of children in out–of–home placement for whom a satisfactory permanent placement has been made and who may be exempt from review by the local boards.**]**

(b) The State Board shall:

(1) provide a training program for members of the local boards and local citizens review panels;

(2) review and coordinate the activities of the local boards;

(3) adopt policies and procedures that relate to reports and any other information that is required for any public or private agency or institution;

(4) make recommendations to the **SECRETARY AND THE** General Assembly **[**that relate to**]** **REGARDING:**

(I) THE RESPONSE OF THE STATE TO CHILD ABUSE AND NEGLECT; AND

(II) out–of–home ~~placement~~ **CARE** policies**,** ~~and~~ procedures**, AND PRACTICES**; and

(5) subject to § 2–1246 of the State Government Article, report to the General Assembly **AND THE SECRETARY** on the first day of each year on the status of children in out–of–home placement in this State.

5–539.1.

(a) In addition to any duties set forth elsewhere, the State Board shall, by examining the policies **[**and**],** procedures**, AND PRACTICES** of State and local agencies and **BY REVIEWING** specific cases **[**that the State Board considers necessary to perform its duties under this section**]**, evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with:

(1) the State plan under 42 U.S.C. § 5106a(b);

(2) the child protection standards set forth in 42 U.S.C. § 5106a(b); and

(3) any other criteria that the State Board considers important to ensure the protection of children, including:

(i) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption program established under Part E of Title IV of the Social Security Act; and

(ii) a review of child fatalities and near fatalities.

(B) (1) CASE REVIEWS CONDUCTED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE QUESTIONS DESIGNED TO MEET THE QUALITY ASSESSMENT GOALS FOR CASEWORK SERVICES IN § 5–1308 OF THIS TITLE.

(2) THE STATE BOARD SHALL TABULATE THE RESULTS OF THE CASE REVIEWS AND SUBMIT THE RESULTS FOR ~~REVIEW~~ CONSIDERATION AS PART OF THE LOCAL DEPARTMENT SELF–ASSESSMENT PROCESS IN § 5–1309 OF THIS TITLE.

(C) THE STATE BOARD OR ITS DESIGNEE SHALL HOLD IN–PERSON OR ELECTRONIC COMMUNITY FORUMS THAT:

(1) PROVIDE FOR PUBLIC OUTREACH AND COMMENT; AND

(2) REPORT THE ~~RESULTS OF CHILD WELFARE ACCOUNTABILITY ACTIVITIES PERFORMED IN ACCORDANCE WITH SUBTITLE 13 OF THIS TITLE~~ FINDINGS AND RECOMMENDATIONS OF THE STATE BOARD, THE LOCAL CITIZEN REVIEW PANEL, IF ANY, AND THE LOCAL BOARDS.

[(b)**] (D)** The State Board may:

(1) by a majority vote of its members add up to four members with expertise in the prevention and treatment of child abuse and neglect for the purpose of performing its duties under this section; and

(2) to assist the State Board in its reviews of specific cases, designate:

(i) local teams composed of members of local boards of out–of–home **[**placement**]** **CARE** of children and staff; or

(ii) local citizens review panels established under § 5–539.2 of this subtitle.

[(c)**] (E)** In consultation with local citizens review panels and the State Council on Child Abuse and Neglect, the State Board shall develop protocols that govern the scope of activities of local citizens review panels to reflect the provisions of the federal Child Abuse Prevention and Treatment Act (42 U.S.C. § 5101 et seq.).

[(d)**] (F)** The State Board shall coordinate its activities under this section with the State Council on Child Abuse and Neglect, **THE STATE CHILD FATALITY REVIEW TEAM,** local citizens review panels, and the **LOCAL** child fatality review teams in order to avoid unnecessary duplication of effort.

[(e)**] (G) (1)** The State Board shall **[**annually**] SUBMIT, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY AND THE SECRETARY ON OR BEFORE JANUARY 1 OF EACH YEAR AND** prepare and make available to the public a report containing a summary of its activities**, FINDINGS, AND RECOMMENDATIONS** under this section.

(2) THE STATE BOARD MAY COMBINE THE REPORTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND § 5–539 OF THIS SUBTITLE.

(H) WITHIN 120 DAYS AFTER RECEIVING THE REPORT FROM THE STATE BOARD UNDER § 5–539 OF THIS SUBTITLE OR THE REPORT UNDER SUBSECTION (G) OF THIS SECTION, THE SECRETARY SHALL SEND A WRITTEN RESPONSE TO THE STATE BOARD DESCRIBING THE ACTIONS TO BE TAKEN BY THE DEPARTMENT IN RESPONSE TO THE RECOMMENDATIONS OF THE STATE BOARD.

5–539.2.

(a) (1) A local government may establish a local citizens review panel to assist and advise the State Board and the State Council on Child Abuse and Neglect.

(2) Two or more counties may establish a multicounty local citizens review panel, in accordance with a memorandum of understanding executed by the **[**multicounty local panel**]** **GOVERNING BODIES OF EACH PARTICIPATING COUNTY**.

(b) Except as provided in subsection (c)(2) of this section, the members and **[**chairman**]** **CHAIR** of a local citizens review panel shall be appointed by the local governing body.

(c) Membership on a local citizens review panel shall be representative of the local jurisdiction and include:

(1) individuals with expertise in the prevention and treatment of child abuse and neglect, such as child advocates, volunteers of the court–appointed special advocate program, attorneys who represent children, parent and consumer representatives, law enforcement representatives, and health**, [**and**]** human**, AND EDUCATIONAL** services professionals; and

(2) one member from the local jurisdiction, who is appointed by the State Board and one who is appointed by the State Council on Child Abuse and Neglect.

(D) (1) THE TERM OF A MEMBER IS 4 YEARS.

(2) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

[(d)**]** **(E)** A local panel shall:

(1) evaluate the extent to which State and local agencies in that jurisdiction are effectively fulfilling their responsibilities in accordance with the child protection standards and the State plan under 42 U.S.C. § 5106a(b) and any other criteria that the panel considers important for the protection of children;

(2) issue reports on its findings to the State Board and the State Council on Child Abuse and Neglect; and

(3) carry out **CASE REVIEWS AND** other duties as requested to assist the State Board and the State Council on Child Abuse and Neglect.

5–539.3.

(a) The members of the State Board and the Board's designees and staff:

(1) may not disclose to any person or government official any identifying information about any specific child protection case about which the State Board is provided information; and

(2) may make public other information unless prohibited by law.

(b) In addition to any other penalties provided by law, the Special Secretary for Children, Youth, and Families may impose on any person who violates subsection (a) of this section a civil penalty not exceeding $500 for each violation.

5–540.

(a) Except as provided in subsection (b) of this section, there shall be at least 1 local board of review for minor children in out–of–home **[**placement**]** **CARE** in each county.

(b) Instead of a local board in each county, 2 or more counties may agree to establish a single multicounty local board **IN ACCORDANCE WITH A MEMORANDUM OF UNDERSTANDING EXECUTED BY THE PARTICIPATING COUNTIES**.

5–541.

(a) (1) A local board consists of 7 members appointed by the Governor.

(2) If a single multicounty local board is established for 2 or more counties, and if it is necessary that 1 or more of those counties have a greater number of members on the local board in order for the local board to have 7 members, the greater number of members shall be appointed from the counties that have the largest out–of–home **[**placement**]** **CARE** populations, in order of the size of the out–of–home **[**placement**]** **CARE** populations.

(b) (1) Each member of a local board shall be a resident of a county that is served by the local board.

(2) Each member of a local board shall:

(i) be a citizen who has demonstrated an interest in minor children through community service, professional experience, or similar activities; or

(ii) have a background in law, sociology, psychology, psychiatry, education, social work, or medicine.

(c) (1) The term of a member is 4 years.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

5–542.

(a) From among its members, each local board shall elect a **[**chairman**]** **CHAIR** by majority vote.

(b) The term of the **[**chairman**]** **CHAIR** is 4 years.

5–543.

(a) A member of a local board **OR LOCAL PANEL** may not receive compensation.

(b) Each member of a local board **OR LOCAL PANEL** is subject to the same standards of confidentiality as an employee of the Administration.

5–544.

The goals of each local board are:

[(1) subject to § 5–545 of this subtitle, as to minor children who have resided in out–of–home placement under the jurisdiction of the local department for more than 6 months:

(i) to review the cases every 6 months to determine what efforts have been made to acquire permanent and stable placement for these children; and

(ii) to encourage and facilitate the return of each of these children to the child's parent or, on determining that return of a child to the child's parent is not in the best interests of the child, to encourage placement of the child with

the child's relatives, provided the placement has legal status, or if neither measure is in the best interests of the child, to encourage efforts at adoption of the child;

(2) to encourage all possible efforts for permanent foster care or kinship care or guardianship for minor children for whom return to a parent or adoption is not feasible; and

(3) to report to the juvenile court on the status of efforts to secure permanent homes for minor children.**]**

(1) AS TO MINOR CHILDREN WHO RESIDE IN OUT–OF–HOME CARE UNDER THE JURISDICTION OF A LOCAL DEPARTMENT, TO CONDUCT CASE REVIEWS AND INDIVIDUAL CHILD ADVOCACY ACTIVITIES IN ACCORDANCE WITH THOSE CASE REVIEWS UNDER THE PROTOCOLS ESTABLISHED BY THE STATE BOARD;

(2) IN COOPERATION WITH OTHER LOCAL BOARDS, IF ANY, IN THE COUNTY, TO MAKE:

~~**(I) FINDINGS ABOUT HOW WELL THE OUT–OF–HOME CARE SYSTEM DISCHARGES ITS RESPONSIBILITIES; AND**~~

~~**(II)**~~ **RECOMMENDATIONS REGARDING HOW THE OUT–OF–HOME CARE SYSTEM MAY BE IMPROVED;**

(3) TO COORDINATE ITS FINDINGS AND RECOMMENDATIONS UNDER ITEM (2) OF THIS SECTION WITH A LOCAL CITIZENS REVIEW PANEL SERVING THE COUNTY;

(4) TO MEET WITH THE DIRECTOR OF THE LOCAL DEPARTMENT AND THE JUDGE IN CHARGE OF THE JUVENILE COURT IN THE COUNTY TO DISCUSS THE BOARD'S FINDINGS AND RECOMMENDATIONS; AND

(5) TO ASSIST THE STATE BOARD IN HOLDING COMMUNITY FORUMS AS REQUIRED IN § 5–539.1 OF THIS SUBTITLE.

5–545.

(a) **(1)** Each local board shall review children in out–of–home **[**placement**]** **CARE** in accordance with **[**local plans approved**]** **THE REGULATIONS ADOPTED** by the State Board and the Secretary of Human Resources.

(2) THE REGULATIONS ADOPTED BY THE STATE BOARD AND THE SECRETARY SHALL REQUIRE:

(I) AT LEAST ONE REVIEW WITHIN THE FIRST 12 MONTHS AFTER A CHILD ENTERS OUT–OF–HOME PLACEMENT; AND

(II) SUBSEQUENT REVIEWS WHEN THE COURT, THE LOCAL DEPARTMENT, AN INTERESTED PERSON, OR THE LOCAL BOARD RAISES A CONCERN THAT THE LOCAL BOARD MAY ADDRESS THROUGH THE FINDINGS AND RECOMMENDATIONS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(b) Each local board shall report in writing to the juvenile court and the local department on each minor child whose case is reviewed by the local board.

(c) In the report, the local board **[**may recommend, as being in the best interest of the minor child:

(1) that the child be returned to the parent or legal guardian;

(2) that the child continue to be placed outside the home and that the present placement plan is appropriate to the child's needs;

(3) that the child continue to be placed outside the home, but that the present placement plan is inappropriate to the child's needs;

(4) that the child continue to be placed outside the home, but that the child be placed outside the home in the local jurisdiction of origin, if appropriate;

(5) that it is in the best interest of a child to continue to be placed in another local jurisdiction in the State, after considering:

1. the availability of resources to provide necessary services to the child;

2. the accessibility to family treatment, if appropriate; and

3. the effect on the local school system; or

(6) that proceedings be initiated to terminate the rights of the parent as to the child so that the child may be eligible for adoption.**] SHALL INCLUDE THE FOLLOWING FINDINGS AND RECOMMENDATIONS:**

(1) THE APPLICABILITY OF PROVISIONS AUTHORIZING THE WAIVER OF REUNIFICATION SERVICES IN § 3–812 OF THE COURTS ARTICLE;

(2) THE APPROPRIATENESS OF THE TERMINATION OF PARENTAL RIGHTS FOR A MINOR CHILD, INCLUDING THE APPLICABILITY OF THE REQUIREMENTS AND EXCEPTIONS DESCRIBED IN § 5–525.1 OF THIS SUBTITLE;

(3) AGREEMENT OR DISAGREEMENT WITH THE PERMANENCY PLAN;

(4) ~~THE ADEQUACY OF~~ ANY REASONABLE EFFORTS MADE TOWARD THE PRESERVATION OF FAMILY RELATIONSHIPS AND CONNECTIONS;

(5) ANY REASONABLE EFFORTS MADE TOWARDS A PERMANENT PLACEMENT AND PREPARING THE CHILD FOR INDEPENDENT LIVING, IF APPLICABLE;

(6) THE LEVEL OF SAFETY OF CURRENT AND PLANNED LIVING ARRANGEMENTS AND THE ADEQUACY OF THE DEPARTMENT'S EFFORTS TO KEEP THE CHILD SAFE;

(7) THE APPROPRIATENESS OF THE CURRENT LIVING ARRANGEMENT AND AGREEMENT OR DISAGREEMENT WITH THE LOCAL DEPARTMENT'S PLACEMENT PLAN; AND

(8) THE ~~QUALITY OF~~ APPROPRIATENESS OF EFFORTS TO MEET THE CHILD'S EDUCATION AND HEALTH CARE NEEDS.

(D) (1) ~~(I)~~ IF THE LOCAL BOARD FINDS UNDER SUBSECTION (C)(7) OF THIS SECTION THAT A CHILD'S CURRENT LIVING ARRANGEMENT IS NOT APPROPRIATE~~, THE LOCAL BOARD SHALL DETERMINE WHETHER THE CHILD IS PLACED IN THE JURISDICTION OF ORIGIN AND THE APPROPRIATENESS OF THAT ARRANGEMENT.~~

~~(II) IF THE LOCAL BOARD DETERMINES THAT THE ARRANGEMENT IS INAPPROPRIATE, THE LOCAL BOARD SHALL:~~

~~1.~~ AND THE CHILD IS NOT PLACED IN THE JURISDICTION OF ORIGIN, THE LOCAL BOARD SHALL EXPLAIN WHY THE ARRANGEMENT IS INAPPROPRIATE, INCLUDING WHETHER:

~~A.~~ (I) RESOURCES ARE NOT AVAILABLE TO MEET THE CHILD'S SERVICE NEEDS;

~~B.~~ (II) FAMILY TREATMENT SERVICES ARE NOT ACCESSIBLE;

~~C.~~ (III) DISTANCE IS A BARRIER TO FAMILY VISITATION; OR

~~D.~~ (IV) THE LOCAL SCHOOL SYSTEM IS NOT MEETING THE CHILD'S EDUCATIONAL NEEDS~~; AND~~

~~2. RECOMMEND STEPS TO ESTABLISH AN APPROPRIATE LIVING ARRANGEMENT~~.

(2) IF THE LOCAL BOARD DISAGREES UNDER SUBSECTION (C)(7) OF THIS SECTION WITH THE LOCAL DEPARTMENT'S PLACEMENT PLAN~~, THE LOCAL BOARD SHALL:~~

~~(I) RECOMMEND AN ALTERNATIVE PLACEMENT PLAN AND EXPLAIN WHY THE ALTERNATIVE PLACEMENT PLAN IS MORE APPROPRIATE; OR~~

~~(II) IF THE LOCAL BOARD DISAGREES WITH THE PLACEMENT PLAN BECAUSE~~ AND THE CHILD WOULD BE PLACED OUTSIDE THE JURISDICTION OF ORIGIN, ~~MAKE FINDINGS~~ THE LOCAL BOARD SHALL EXPLAIN WHY THE PLAN IS INAPPROPRIATE, INCLUDING WHETHER:

~~1.~~ (I) RESOURCES ARE NOT AVAILABLE TO MEET THE CHILD'S SERVICE NEEDS;

~~2.~~ (II) FAMILY TREATMENT SERVICES ARE NOT ACCESSIBLE;

~~3.~~ (III) DISTANCE IS A BARRIER TO FAMILY VISITATION; OR

~~4.~~ (IV) THE LOCAL SCHOOL SYSTEM IS NOT MEETING THE CHILD'S EDUCATIONAL NEEDS.

(E) (1) CASE REVIEWS CONDUCTED UNDER THIS SECTION ~~SHALL~~ MAY INCLUDE QUESTIONS DESIGNED TO MEET THE QUALITY ASSESSMENT GOALS FOR CASEWORK SERVICES IN § 5–1308 OF THIS TITLE.

(2) THE STATE BOARD SHALL TABULATE THE RESULTS OF THE CASE REVIEWS AND SUBMIT THE RESULTS FOR ~~REVIEW~~ CONSIDERATION AS

PART OF THE LOCAL DEPARTMENT SELF–ASSESSMENT PROCESS IN § 5–1309 OF THIS TITLE.

5–546.

A public or private agency or institution shall give to the State Board and local boards any information that the boards request to perform their duties.

5–547.

This Part IV of this subtitle:

(1) may not be construed to restrict or alter the authority of any public or private agency or institution that deals with out–of–home placement, adoption, or related matters; and

(2) is related to and should be read in relation to **SUBTITLE 13 OF THIS TITLE AND** §§ 5–524, 5–525, 5–525.1, and 5–534 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 154

(Senate Bill 433)

AN ACT concerning

Banking Institutions – Deceptive Use of Names, Trade Names, Trademarks, Service Marks, Logos, or Taglines – Penalties

FOR the purpose of clarifying the entities that may use a name, title, or other words that represent that the person is authorized to do the business of banking in the State; providing that under certain circumstances, a person may not use the name, trade name, trademark, service mark, logo, or tagline of a certain bank ~~that is similar to that which is used by the bank~~ or a term or design that is similar to the name, trade name, trademark, service mark, logo, or tagline of a certain bank in certain material; providing for an exception; providing for a penalty for a violation of ~~the~~ *this* Act; defining ~~a certain term~~ certain terms; and

generally relating to the deceptive use of the name, trade name, trademark, service mark, logo, or tagline of a bank.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 5–806
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article – Financial Institutions

5–806.

(a) Except for a bank, trust company, ~~or~~ savings bank**, OR SAVINGS AND LOAN ASSOCIATION** that is authorized to do business in this State, a person may not use any name, title, or other words that represent that the person is authorized to do the business of banking in this State.

(B) (1) (I) IN THIS SUBSECTION~~,~~ THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(II) 1. ~~"BANK"~~ "BANK" MEANS ANY BANK, TRUST COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION ~~INCORPORATED OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES THAT ACCEPTS DEPOSITS~~ THAT IS AUTHORIZED TO DO BUSINESS IN THIS STATE, AND ANY SUBSIDIARY OR AFFILIATE OF THE ENTITY.

2. "BANK" INCLUDES ANY FARM CREDIT SYSTEM INSTITUTION IN THIS STATE.

(III) "NAME" MEANS THE NAME, TRADE NAME, TRADEMARK, SERVICE MARK, LOGO, OR TAGLINE USED BY A BANK TO IDENTIFY ITSELF.

(2) EXCEPT WITH THE CONSENT OF THE BANK, A PERSON MAY NOT USE THE NAME~~, TRADE NAME, LOGO, OR TAGLINE~~ OF A BANK ~~OR THE NAME, TRADE NAME, LOGO, OR TAGLINE~~ OR ANY TERM OR DESIGN THAT IS SIMILAR TO ~~THAT WHICH IS USED BY~~ THE NAME OF ~~THE~~ A BANK IN ANY MARKETING MATERIAL PROVIDED TO ANOTHER PERSON OR IN ANY SOLICITATION OF ANOTHER PERSON ~~IF THE NAME, TRADE NAME, LOGO, OR TAGLINE~~ IN A MANNER THAT MAY CAUSE A REASONABLE PERSON TO ~~BELIEVE~~ BE CONFUSED, MISTAKEN, OR DECEIVED THAT THE MARKETING MATERIAL OR SOLICITATION:

(I) ORIGINATED FROM THE BANK;

(II) ORIGINATED FROM SOMEONE AFFILIATED, CONNECTED, OR ASSOCIATED WITH THE BANK;

(III) IS ~~ENDORSED~~ APPROVED OR SPONSORED BY THE BANK; OR

~~(III)~~ (IV) IS THE RESPONSIBILITY OF THE BANK.

(C) IN ADDITION TO ANY OTHER REMEDIES A BANK MAY HAVE UNDER ANY OTHER PROVISION OF LAW, A BANK THAT IS AFFECTED BY A VIOLATION OF SUBSECTION (B) OF THIS SECTION MAY BRING AN ACTION AGAINST THE PERSON THAT COMMITTED THE VIOLATION TO RECOVER:

(1) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE VIOLATION;

(2) EITHER:

(I) ALL PROFITS ATTRIBUTABLE TO THE VIOLATION; OR

(II) $1,000 FOR EACH VIOLATION; AND

(3) ~~REASONABLE~~ COURT COSTS AND REASONABLE ATTORNEY'S FEES ~~AND COURT COSTS~~.

~~(D) (1) IF THE COMMISSIONER REASONABLY BELIEVES THAT A PERSON HAS VIOLATED OR INTENDS TO VIOLATE SUBSECTION (B) OF THIS SECTION, THE COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER TO THE PERSON IN ACCORDANCE WITH § 2–115 OF THIS ARTICLE.~~

~~(2) IF A PERSON FAILS TO COMPLY WITH A CEASE AND DESIST ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING $5,000 FOR EACH VIOLATION.~~

~~(3) FOR THE PURPOSES OF IMPOSING PENALTIES UNDER PARAGRAPH (2) OF THIS SUBSECTION, EACH INSTANCE OF A VIOLATION OF THIS SECTION IS A SEPARATE VIOLATION.~~

[(b)**]** ~~**(E)**~~ **(D)** Any person who violates **[**any provision**]** **SUBSECTION (A)** of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 5 years or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 155

(Senate Bill 434)

AN ACT concerning

Estates and Trusts – Disclaimers

FOR the purpose of establishing that creditors of a disclaimant have no interest in property disclaimed under the Maryland Uniform Disclaimer of Property Interests Act; altering a provision providing for the validity of a disclaimer that is not filed, recorded, or registered; and generally relating to the Maryland Uniform Disclaimer of Property Interests Act.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 9–202(f) and 9–212(b)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Estates and Trusts

9–202.

(f) **(1)** A disclaimer made under this subtitle is not a transfer, assignment, or release.

(2) CREDITORS OF THE DISCLAIMANT HAVE NO INTEREST IN THE PROPERTY DISCLAIMED.

9–212.

(b) Failure to file, record, or register the disclaimer does not affect its validity **[**as between the disclaimant and the persons to whom the property interest or power passes by reason of the disclaimer**]**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 156

(Senate Bill 444)

AN ACT concerning

Motor Vehicles – Special Registration Plates for Veterans – Use After Vehicle Transfer

FOR the purpose of providing that, under certain circumstances, a spouse may continue using on a certain vehicle certain special registration plates for armed forces veterans and recipients of certain armed forces medals after a transfer of title or ownership interest in the vehicle; and generally relating to the use of special registration plates for veterans.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–619.1
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Transportation

13–619.1.

(a) (1) The owner of a motor vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle may apply to the Administration for the assignment of a

special registration number and special registration plates under this section for a vehicle included in one of the following classes:

(i) A Class A (passenger) vehicle;

(ii) A Class E (truck) vehicle with a one ton or less manufacturer's rated capacity;

(iii) A Class M (multipurpose) vehicle; or

(iv) A Class D (motorcycle) vehicle.

(2) To be eligible for a special registration under subsection (c)(2)(i) of this section, an applicant shall provide proof that is satisfactory to the Administration that the applicant is a recipient of an individually earned, combat–related, armed forces medal.

(3) To be eligible for a special registration under subsection (c)(2)(ii) of this section, an applicant shall provide proof that is satisfactory to the Administration that the applicant is an honorably discharged veteran of a branch of the armed forces of the United States.

(b) (1) In addition to the annual registration fee otherwise required under this title, an owner of a vehicle assigned a special registration under this section shall pay a fee as determined by the Administration each time new registration plates are issued for the vehicle. The fee shall be calculated to recover the costs incurred by the Administration in carrying out the provisions of this section.

(2) The additional fee charged under this section shall be retained by the Administration for the purpose of recovering the Administration's costs under this section, and may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(c) Special registration plates issued under this section:

(1) May consist of any combination of letters, numerals, or both; and

(2) Shall include:

(i) 1. An emblem or logo as authorized by the Administration that depicts the medal; and

2. Except on plates issued for Class D (motorcycle) vehicles, words describing the medal printed across the bottom of the plates; or

(ii) Words or an emblem or logo indicating that the special registration plate holder is an honorably discharged veteran of a branch of the armed forces of the United States.

(d) (1) The Administration, in consultation with the U.S. Department of Defense and appropriate representatives of the various branches of the armed forces, shall adopt regulations specifying those armed forces medals that are of the type described in subsection (a)(2) of this section and which, when awarded to an individual, qualify that individual to apply for special registration under this section.

(2) The Administration may adopt other regulations as necessary to govern the issuance of special registration numbers and special registration plates under this section.

(E) IF, WHETHER BY ACT OF THE PARTIES OR BY OPERATION OF LAW, THE TITLE OR OWNERSHIP INTEREST IN A VEHICLE ASSIGNED A SPECIAL REGISTRATION UNDER THIS SECTION IS TRANSFERRED FROM THE JOINT NAMES OF A HUSBAND AND WIFE TO THE INDIVIDUAL NAME OF EITHER SPOUSE, THE TRANSFEREE MAY CONTINUE TO USE THE SAME SPECIAL REGISTRATION PLATES ISSUED UNDER THIS SECTION ON THE VEHICLE AFTER THE TRANSFER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 157

(House Bill 856)

AN ACT concerning

Motor Vehicles – Special Registration Plates for Veterans – Use After Vehicle Transfer

FOR the purpose of providing that, under certain circumstances, a spouse may continue using on a certain vehicle certain special registration plates for armed forces veterans and recipients of certain armed forces medals after a transfer of title or ownership interest in the vehicle; and generally relating to the use of special registration plates for veterans.

BY repealing and reenacting, with amendments,

Article – Transportation
Section 13–619.1
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Transportation

13–619.1.

(a) (1) The owner of a motor vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle may apply to the Administration for the assignment of a special registration number and special registration plates under this section for a vehicle included in one of the following classes:

(i) A Class A (passenger) vehicle;

(ii) A Class E (truck) vehicle with a one ton or less manufacturer's rated capacity;

(iii) A Class M (multipurpose) vehicle; or

(iv) A Class D (motorcycle) vehicle.

(2) To be eligible for a special registration under subsection (c)(2)(i) of this section, an applicant shall provide proof that is satisfactory to the Administration that the applicant is a recipient of an individually earned, combat–related, armed forces medal.

(3) To be eligible for a special registration under subsection (c)(2)(ii) of this section, an applicant shall provide proof that is satisfactory to the Administration that the applicant is an honorably discharged veteran of a branch of the armed forces of the United States.

(b) (1) In addition to the annual registration fee otherwise required under this title, an owner of a vehicle assigned a special registration under this section shall pay a fee as determined by the Administration each time new registration plates are issued for the vehicle. The fee shall be calculated to recover the costs incurred by the Administration in carrying out the provisions of this section.

(2) The additional fee charged under this section shall be retained by the Administration for the purpose of recovering the Administration's costs under this

section, and may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(c) Special registration plates issued under this section:

(1) May consist of any combination of letters, numerals, or both; and

(2) Shall include:

(i) 1. An emblem or logo as authorized by the Administration that depicts the medal; and

2. Except on plates issued for Class D (motorcycle) vehicles, words describing the medal printed across the bottom of the plates; or

(ii) Words or an emblem or logo indicating that the special registration plate holder is an honorably discharged veteran of a branch of the armed forces of the United States.

(d) (1) The Administration, in consultation with the U.S. Department of Defense and appropriate representatives of the various branches of the armed forces, shall adopt regulations specifying those armed forces medals that are of the type described in subsection (a)(2) of this section and which, when awarded to an individual, qualify that individual to apply for special registration under this section.

(2) The Administration may adopt other regulations as necessary to govern the issuance of special registration numbers and special registration plates under this section.

(E) IF, WHETHER BY ACT OF THE PARTIES OR BY OPERATION OF LAW, THE TITLE OR OWNERSHIP INTEREST IN A VEHICLE ASSIGNED A SPECIAL REGISTRATION UNDER THIS SECTION IS TRANSFERRED FROM THE JOINT NAMES OF A HUSBAND AND WIFE TO THE INDIVIDUAL NAME OF EITHER SPOUSE, THE TRANSFEREE MAY CONTINUE TO USE THE SAME SPECIAL REGISTRATION PLATES ISSUED UNDER THIS SECTION ON THE VEHICLE AFTER THE TRANSFER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 158

(Senate Bill 456)

AN ACT concerning

Interest Rate for Overdue Property Tax – Mardela Springs

FOR the purpose of providing that the rate of interest for overdue property tax for a certain municipal corporation is the rate set by law by the governing body of the municipal corporation, subject to a certain limitation; and generally relating to the interest rate for overdue property tax for a certain municipal corporation.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–603(b)(5)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

14–603.

(b) For the following counties and municipal corporations the rate of interest for each month or fraction of a month that county or municipal corporation property tax or taxing district property tax is overdue is:

(5) the rate set by law by:

(i) the governing body of a county that has adopted a charter form of government under Article XI–A of the Maryland Constitution;

(ii) the governing body of:

1. Allegany County;

2. the City of Annapolis;

3. Berlin, not exceeding 1.5%;

4. Caroline County, not exceeding 1%;

5. Cecil County, or any municipal corporation in Cecil County, not exceeding 1%;

6. Dorchester County;

7. the City of Frederick, not exceeding 1%, that is set on or before the date of finality;

8. Frederick County, not exceeding 1%, that is set on or before the date of finality;

9. Ocean City, not exceeding 1.5%;

10. Pocomoke City, not exceeding 1.5%;

11. the Town of Princess Anne, not exceeding 1.5%;

12. Kent County or any municipal corporation in Kent County;

13. Queen Anne's County or any municipal corporation in Queen Anne's County;

14. Snow Hill, not exceeding 1.5%;

15. Worcester County, not exceeding 1.5%;

16. Calvert County;

17. St. Mary's County;

18. the City of Taneytown; **[**or**]**

19. the City of Cambridge; or

20. MARDELA SPRINGS, NOT EXCEEDING 1%; OR

(iii) the Mayor and City Council of Baltimore City for Baltimore City, if the rate is set on or before June 30 for the following taxable year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 159

(Senate Bill 488)

AN ACT concerning

Voter Registration Protection Act

FOR the purpose of altering certain qualifications for voter registration; providing that an individual is not qualified to register to vote if the individual has been convicted of a felony and is actually serving a court–ordered sentence ~~imposed~~ of imprisonment, including any term of parole or probation, for the conviction; repealing certain conditions relating to the eligibility of certain felons convicted of certain crimes to register to vote; repealing a certain definition; altering the type of crimes for which the clerks of certain courts must report the names of individuals convicted of those crimes to the State Administrator of Elections; modifying the criteria under which a certain criminal penalty may be imposed; and generally relating to voter registration eligibility requirements for individuals convicted of certain crimes.

BY repealing
Article – Election Law
Section 1–101(aa)
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

BY renumbering
Article – Election Law
Section 1–101(bb) through 1–101(zz), respectively
to be Section 1–101(aa) through 1–101(yy), respectively
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 3–102, 3–504, and 16–202
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1–101(bb) through (zz), respectively, of Article – Election Law of the Annotated Code of Maryland be renumbered to be Section(s) 1–101(aa) through (yy), respectively.

SECTION ~~1.~~ 2. AND BE IT FURTHER ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Election Law

1–101.

[(aa) "Infamous crime" means any felony, treason, perjury, or any crime involving an element of deceit, fraud, or corruption.**]**

3–102.

(a) Except as provided in subsection (b) of this section, an individual may become registered to vote if the individual:

(1) is a citizen of the United States;

(2) is at least 18 years old or will be 18 years old on or before the day of the next succeeding general or special election;

(3) is a resident of the State as of the day the individual seeks to register; and

(4) registers pursuant to this title.

(b) An individual is not qualified to be a registered voter if the individual:

(1) has been convicted of **[**theft or other infamous crime, unless the individual:

(i) has been pardoned; or

(ii) 1. in connection with a first conviction, has completed the court–ordered sentence imposed for the conviction, including probation, parole, community service, restitutions, and fines; or

2. in connection with a subsequent conviction, has completed the court–ordered sentence imposed for the conviction, including probation, parole, community service, restitutions, and fines, and at least 3 years have elapsed since the completion of the court–ordered sentence imposed for the conviction, including probation, parole, community service, restitutions, and fines;**]** **A FELONY AND IS ACTUALLY SERVING A COURT–ORDERED SENTENCE ~~IMPOSED~~ OF IMPRISONMENT, INCLUDING ANY TERM OF PAROLE OR PROBATION, FOR THE CONVICTION; ~~OR~~**

(2) is under guardianship for mental disability**~~[~~**; or

(3) has been convicted of buying or selling votes**]**.

[(c) Notwithstanding subsection (b) of this section, an individual is not qualified to be a registered voter if the individual has been convicted of a second or subsequent crime of violence, as defined in § 14–101 of the Criminal Law Article.**]**

3–504.

(a) (1) (i) Information from the agencies specified in this paragraph shall be reported to the State Administrator in a format and at times prescribed by the State Board.

(ii) The Department of Health and Mental Hygiene shall report the names and residence addresses (if known) of all individuals at least 16 years of age reported deceased within the State since the date of the last report.

(iii) The clerk of the circuit court for each county and the administrative clerk for each District Court shall report the names and addresses of all individuals convicted, in the respective court, of **[**theft or infamous crimes**] A FELONY** since the date of the last report.

(iv) The clerk of the circuit court for each county shall report the former and present names and residence addresses (if known) of all individuals whose names have been changed by decree or order of the court since the date of the last report.

(2) The State Administrator shall make arrangements with the clerk of the United States District Court for the District of Maryland to receive reports of names and addresses, if available, of individuals convicted of **[**infamous crimes**] A FELONY** in that court.

(b) (1) The State Administrator shall transmit to the appropriate local board information gathered pursuant to subsection (a) of this section.

(2) Every agency or instrumentality of any county which acquires or condemns or razes or causes to be condemned or razed any building used as a residence within the county shall promptly report this fact and the location of the building to the local board in the county or city.

(3) Registration cancellation information provided by an applicant on any voter registration application shall be provided to the appropriate local board by the State Administrator or another local board.

(4) A local board may:

(i) make arrangements to receive change of address information from an entity approved by the State Board; and

(ii) pay a reasonable fee to the entity for the information.

(c) (1) Whenever a local board becomes aware of an obituary or any other reliable report of the death of a registered voter, the election director shall mail a notice to the registered voter, as prescribed by the State Board, to verify whether the voter is in fact deceased.

(2) On receipt of a verification of the death of a voter, provided in accordance with the notice mailed under paragraph (1) of this subsection, the election director may remove the voter from the statewide voter registration list under § 3–501 of this subtitle.

16–202.

(a) A person who has been convicted of **[**an infamous crime,**]** **A FELONY AND IS ACTUALLY SERVING A COURT–ORDERED SENTENCE ~~IMPOSED~~ OF IMPRISONMENT, INCLUDING ANY TERM OF PAROLE OR PROBATION, FOR THE CONVICTION,** and has been rendered ineligible to vote pursuant to § 3–102(b) of this article, may not vote or attempt to vote during the time that the person is rendered ineligible to vote.

(b) A person who violates this section is guilty of a felony and is subject to imprisonment for not less than 1 year nor more than 5 years.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 160

(Senate Bill 492)

AN ACT concerning

Commission on Civic Literacy

FOR the purpose of establishing a Commission on Civic Literacy; establishing the membership of the Commission; requiring the Commission to elect certain officers from among its members; requiring the State Department of Education to provide staff and certain other support to the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing a member of the Commission to receive certain reimbursements; requiring the Commission to hold certain meetings; authorizing the Commission to hold additional meetings under certain circumstances; requiring certain officials to jointly call the first meeting of the Commission; requiring the Commission to develop, support, and coordinate certain programs; requiring the Commission to develop a clearinghouse on the Internet including certain information; requiring the Commission to submit a certain report to the Governor and General Assembly annually by a certain date; authorizing the Commission to seek and use certain funds and services from certain sources; providing for the termination of this Act; and generally relating to the Commission on Civic Literacy.

BY adding to
Article – Education
Section 24–601
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Education

24–601.

(A) THERE IS A COMMISSION ON CIVIC LITERACY.

(B) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE GOVERNOR, OR THE GOVERNOR'S DESIGNEE;

(2) THE LIEUTENANT GOVERNOR, OR THE LIEUTENANT GOVERNOR'S DESIGNEE;

(3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(4) THE SECRETARY OF STATE, OR THE SECRETARY'S DESIGNEE;

(5) THE PRESIDENT OF THE SENATE, OR THE PRESIDENT'S DESIGNEE;

(6) THE SPEAKER OF THE HOUSE OF DELEGATES, OR THE SPEAKER'S DESIGNEE;

(7) THE CHAIR OF THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, OR THE CHAIR'S DESIGNEE;

(8) THE CHAIR OF THE HOUSE WAYS AND MEANS COMMITTEE, OR THE CHAIR'S DESIGNEE;

(9) THE STATE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE;

(10) THE PRESIDENT OF THE STATE BOARD OF EDUCATION, OR THE PRESIDENT'S DESIGNEE;

(11) THE PRESIDENT OF THE MARYLAND PARENT TEACHER ASSOCIATION, OR THE PRESIDENT'S DESIGNEE;

(12) A STATE COORDINATOR OF THE MARYLAND LEGISLATORS' BACK TO SCHOOL PROGRAM TO REPRESENT THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE;

(13) A STATE COORDINATOR OF THE MARYLAND LEGISLATORS' BACK TO SCHOOL PROGRAM TO REPRESENT THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(14) THE PRESIDENT OF THE ANNIE E. CASEY FOUNDATION, OR THE PRESIDENT'S DESIGNEE;

(15) THE STATE COORDINATOR OF WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION;

(16) THE PRESIDENT OF THE MARYLAND STATE TEACHERS ASSOCIATION, OR THE PRESIDENT'S DESIGNEE;

(17) A REPRESENTATIVE OF THE BOYS AND GIRLS CLUBS IN MARYLAND, APPOINTED BY THE GOVERNOR;

(18) THE SECRETARY OF HIGHER EDUCATION, OR THE SECRETARY'S DESIGNEE;

(19) THE PRESIDENT OF THE MARYLAND PUBLIC BROADCASTING COMMISSION, OR THE PRESIDENT'S DESIGNEE;

(20) THE PRESIDENT OF THE LEAGUE OF WOMEN VOTERS OF MARYLAND, OR THE PRESIDENT'S DESIGNEE;

(21) A REPRESENTATIVE OF THE MARYLAND–DELAWARE–D.C. PRESS ASSOCIATION AND THE MARYLAND D.C. DELAWARE BROADCASTERS ASSOCIATION, APPOINTED BY THE PRESIDENT OF EACH ORGANIZATION ACTING JOINTLY;

(22) THE EXECUTIVE DIRECTOR OF THE CITIZENSHIP LAW–RELATED EDUCATION PROGRAM FOR THE SCHOOLS OF MARYLAND, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(23) A MEMBER OF THE POLICY STUDIES ORGANIZATION IN THE UNIVERSITY SYSTEM OF MARYLAND, APPOINTED BY THE GOVERNOR;

(24) THE CHAIR OF THE EDUCATION THAT IS MULTICULTURAL AND ACHIEVEMENT NETWORK, OR THE CHAIR'S DESIGNEE;

(25) THE PRESIDENT OF THE MARYLAND COUNCIL FOR THE SOCIAL STUDIES, OR THE PRESIDENT'S DESIGNEE;

(26) THE DIRECTOR OF THE CENTER FOR INFORMATION AND RESEARCH ON CIVIC LEARNING AND ENGAGEMENT (CIRCLE), OR THE DIRECTOR'S DESIGNEE; ~~AND~~

(27) TWO STUDENTS ENROLLED IN PUBLIC HIGH SCHOOLS IN MARYLAND, APPOINTED BY THE MARYLAND ASSOCIATION OF STUDENT COUNCILS; AND

(28) TWO TEACHERS WHO TEACH IN PUBLIC HIGH SCHOOLS IN MARYLAND, APPOINTED BY THE MARYLAND STATE TEACHERS ASSOCIATION.

~~(B)~~ *(C)* FROM AMONG ITS MEMBERS, THE COMMISSION SHALL ELECT A CHAIR, VICE CHAIR, AND ANY OTHER OFFICERS NECESSARY TO CARRY OUT ITS FUNCTIONS.

~~(C)~~ *(D)* THE STATE DEPARTMENT OF EDUCATION SHALL PROVIDE STAFF AND OTHER NECESSARY SUPPORT TO THE COMMISSION USING EXISTING RESOURCES.

~~(D)~~ *(E)* A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

~~(E)~~ *(F)* THE COMMISSION SHALL MEET AT LEAST TWICE EACH YEAR AND MAY HOLD ADDITIONAL MEETINGS AT THE DISCRETION OF THE CHAIR OR AT THE REQUEST OF A MAJORITY OF THE MEMBERS. THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES ACTING JOINTLY SHALL CALL THE FIRST MEETING OF THE COMMISSION.

~~(F)~~ *(G)* THE COMMISSION SHALL:

(1) DEVELOP AND COORDINATE PROGRAMS IN COLLABORATION WITH SCHOOLS TO EDUCATE STUDENTS IN THE IMPORTANCE OF:

(I) REASONED DEBATE, GOOD FAITH, NEGOTIATION, AND COMPROMISE IN REPRESENTATIVE DEMOCRACY;

(II) INDIVIDUAL INVOLVEMENT IN CREATING SUCCESSFUL COMMUNITIES; AND

(III) CONSIDERATION AND RESPECT FOR OTHERS IN DELIBERATING, NEGOTIATING, AND ADVOCATING POSITIONS ON PUBLIC CONCERNS;

(2) IDENTIFY CIVIC EDUCATION PROJECTS IN MARYLAND AND PROVIDE TECHNICAL ASSISTANCE TO THOSE PROJECTS AS NEEDED;

(3) BUILD A NETWORK OF EDUCATION PROFESSIONALS TO SHARE INFORMATION AND STRENGTHEN PARTNERSHIPS;

(4) CONSULT WITH ORGANIZATIONS REPRESENTED ON THE COMMISSION AS APPROPRIATE;

(5) DEVELOP A CLEARINGHOUSE THAT SHALL BE AVAILABLE ON THE INTERNET TO INCLUDE:

(I) A DATABASE OF CIVIC EDUCATION RESOURCES, LESSON PLANS, AND OTHER PROGRAMS AND BEST PRACTICES IN CIVIC EDUCATION;

(II) A BULLETIN BOARD TO PROMOTE DISCUSSION OF IDEAS RELATING TO CIVIC EDUCATION;

(III) AN EVENTS CALENDAR; AND

(IV) LINKS TO CIVIC EDUCATION RESEARCH;

(6) SUPPORT SUCCESSFUL CIVIC EDUCATION PROGRAMS IN MARYLAND AND ENCOURAGE THE EXPANSION OF THOSE PROGRAMS; AND

(7) REPORT ON ITS ACTIVITIES TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ANNUALLY ON OR BEFORE OCTOBER 1 OF EACH YEAR.

~~(G)~~ *(H)* THE COMMISSION MAY:

(1) SEEK, ACCEPT, AND EXPEND FUNDS FROM ANY SOURCE, INCLUDING DONATIONS, STATE APPROPRIATIONS, AND FEDERAL GRANTS; AND

(2) SEEK, ACCEPT, AND USE SERVICES FROM INDIVIDUALS, CORPORATIONS, AND GOVERNMENT ENTITIES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 5 years and, at the end of September 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 161

(Senate Bill 553)

AN ACT concerning

Environment – Landfills – Termination Date

FOR the purpose of expanding a certain prohibition against issuing a certain permit to construct or operate a landfill within a certain distance of certain areas; ~~repealing a prohibition against issuing a certain permit to construct or operate a~~

~~landfill within a certain distance of certain tributaries in Prince George's County;~~ repealing the termination date of certain provisions of law relating to landfills in the State; *requiring the Department to report to the General Assembly on or before a certain date*; and generally relating to landfills.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–204(m)
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 228 of the Acts of the General Assembly of 2006
Section 2

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

Article – Environment

9–204.

(m) The Secretary may not issue any permit under this section to construct or operate a **[**rubble**]** landfill within 4 miles of Unicorn Lake in Queen Anne's County, ~~**OR**~~ within 1 mile of the Piscataway Creek, a Piscataway Creek tributary, or the Mattawoman Creek~~, or within 1 mile of any other tributary in Prince George's County that flows directly or indirectly into the Potomac River~~ ~~**IN PRINCE GEORGE'S COUNTY**~~, *or within 1 mile of any other tributary in Prince George's County that flows directly or indirectly into the Potomac River*.

Chapter 228 of the Acts of 2006

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. **[**It shall remain effective through June 1, 2009, and, at the end of June 1, 2009, 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, on or before January 1, 2008, the Department of the Environment shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on appropriate methods to authorize a county to remove a proposed landfill from a county plan, including any information on methods or practices utilized by other states.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 162

(Senate Bill 565)

AN ACT concerning

Frederick County – Collective Bargaining – Representatives for Correctional Officers

FOR the purpose of authorizing the representatives of certain full–time correctional officers in the Frederick County Sheriff's Office to collectively bargain with the Sheriff of Frederick County concerning wages and benefits; authorizing certain correctional officers to take certain actions or refrain from taking certain actions in connection with certain labor organizations and collective bargaining activities; requiring that any additional funding required as a result of a negotiated agreement be subject to the approval of the County Commissioners of Frederick County; providing for the procedures for certifying a labor organization as an exclusive representative and for collective bargaining negotiations; requiring a collective bargaining agreement to contain certain matters; and generally relating to collective bargaining with the Sheriff of Frederick County.

BY adding to
Article – Courts and Judicial Proceedings
Section 2–309(l)(6)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Courts and Judicial Proceedings

2–309.

(l) **(6) (I) THIS PARAGRAPH APPLIES TO ALL FULL–TIME CORRECTIONAL OFFICERS IN THE FREDERICK COUNTY SHERIFF'S OFFICE AT THE RANK OF SERGEANT AND BELOW.**

(II) 1. FULL–TIME CORRECTIONAL OFFICERS AT THE RANK OF SERGEANT AND BELOW MAY:

A. TAKE PART IN OR REFRAIN FROM TAKING PART IN FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR ORGANIZATION OR ITS LAWFUL ACTIVITIES;

B. SELECT A LABOR ORGANIZATION AS THEIR EXCLUSIVE REPRESENTATIVE;

C. ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF, OR THE SHERIFF'S DESIGNEE, CONCERNING WAGES AND BENEFITS, NOT REGULATED BY THE SHERIFF, THROUGH A LABOR ORGANIZATION CERTIFIED AS THEIR EXCLUSIVE REPRESENTATIVE;

D. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THEIR EXCLUSIVE REPRESENTATIVE, COVERING THOSE WAGES AND BENEFITS NOT REGULATED BY THE SHERIFF; AND

E. DECERTIFY A LABOR ORGANIZATION AS THEIR EXCLUSIVE REPRESENTATIVE.

2. ANY ADDITIONAL FUNDING REQUIRED AS A RESULT OF A NEGOTIATED COLLECTIVE BARGAINING AGREEMENT SHALL BE SUBJECT TO APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY.

(III) 1. A LABOR ORGANIZATION SHALL BE DEEMED CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IF THE FOLLOWING CONDITIONS ARE MET:

A. A PETITION FOR THE LABOR ORGANIZATION TO BE RECOGNIZED BY THE SHERIFF IS SIGNED BY AT LEAST 51% OF THE CORRECTIONAL OFFICERS AT THE RANK OF SERGEANT AND BELOW INDICATING THEIR DESIRE TO BE EXCLUSIVELY REPRESENTED BY THE PETITIONER FOR THE PURPOSE OF COLLECTIVE BARGAINING; AND

B. THE PETITION IS SUBMITTED TO THE SHERIFF.

2. IF THE SHERIFF DOES NOT CHALLENGE THE VALIDITY OF THE PETITION WITHIN 10 CALENDAR DAYS FOLLOWING THE RECEIPT OF THE PETITION, THE LABOR ORGANIZATION SHALL BE DEEMED CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE.

3. IF THE SHERIFF CHALLENGES THE VALIDITY OF THE PETITION, THE AMERICAN ARBITRATION ASSOCIATION SHALL BE REQUESTED TO APPOINT A THIRD PARTY NEUTRAL TO CONDUCT AN ELECTION AND TO CERTIFY WHETHER THE LABOR ORGANIZATION HAS BEEN SELECTED AS THE EXCLUSIVE REPRESENTATIVE BY A MAJORITY OF THE VOTES CAST IN THE ELECTION.

4. THE COSTS ASSOCIATED WITH THE AMERICAN ARBITRATION ASSOCIATION AND THE THIRD PARTY NEUTRAL SHALL BE SHARED EQUALLY BY THE PARTIES.

(IV) 1. FOLLOWING CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE PARTIES SHALL MEET AT REASONABLE TIMES AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH.

2. THE PARTIES SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS IN A TIMELY MANNER TO ALLOW FOR INCLUSION BY THE OFFICE OF THE SHERIFF OF MATTERS AGREED ON IN ITS BUDGET REQUEST TO THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY.

(V) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.

2. THE AGREEMENT MAY CONTAIN A GRIEVANCE PROCEDURE PROVIDING FOR NONBINDING ARBITRATION OF GRIEVANCES.

3. AN AGREEMENT REACHED IN ACCORDANCE WITH THIS SUBPARAGRAPH SHALL BE IN WRITING AND SIGNED BY THE DESIGNATED REPRESENTATIVES OF THE PARTIES INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.

4. A. SUBJECT TO SUBSUBSUBPARAGRAPH B OF THIS SUBSUBPARAGRAPH, AN AGREEMENT IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY A MAJORITY OF THE VOTES CAST BY THE CORRECTIONAL OFFICERS IN THE BARGAINING UNIT AND THE SHERIFF.

B. ADDITIONAL FUNDING, IF ANY, REQUIRED AS A RESULT OF THE AGREEMENT SHALL BE SUBJECT TO THE APPROVAL OF THE BOARD OF COUNTY COMMISSIONERS.

(VI) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED AS AUTHORIZING OR OTHERWISE ALLOWING A CORRECTIONAL OFFICER TO ENGAGE IN A STRIKE AS DEFINED IN § 3–303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 163

(Senate Bill 566)

AN ACT concerning

Public Utility Companies – Generating Stations – Wind

FOR the purpose of exempting a certain person from having to obtain a certificate of public convenience and necessity for a generating station that produces electricity from wind under certain circumstances; requiring a person to obtain approval from the Public Service Commission prior to any construction of a generating station that produces electricity from wind under certain circumstances; requiring the Commission to provide an opportunity for public comment at a public hearing in a certain manner under certain circumstances; requiring the Commission to provide certain notices; *requiring the Commission to report on certain matters to certain persons; providing for the construction of this Act; providing for the termination of a portion of this Act;* and generally relating to electricity from wind and generating stations.

BY repealing and reenacting, without amendments,
Article – Public Utility Companies

Section 7–207(b)
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7–207.1
Annotated Code of Maryland
(1998 Volume and 2006 Supplement)

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

Article – Public Utility Companies

7–207.

(b) (1) (i) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of a generating station.

(ii) If a person obtains Commission approval for construction under § 7–207.1 of this subtitle, the Commission shall exempt a person from the requirement to obtain a certificate of public convenience and necessity under this section.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, an electric company may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

7–207.1.

(a) This section applies to a person who:

(1) constructs a generating station**:**

(I) designed to provide on–site generated electricity if:

[(i)**] 1.** the capacity of the generating station does not exceed 70 megawatts; and

[(ii)**] 2.** the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or

(II) THAT PRODUCES ELECTRICITY FROM WIND IF:

1. ***THE GENERATING STATION IS LAND–BASED;***

2. **THE CAPACITY OF THE GENERATING STATION DOES NOT EXCEED 70 MEGAWATTS;**

~~2.~~ ***3.*** **THE ELECTRICITY THAT MAY BE EXPORTED FOR SALE FROM THE GENERATING STATION TO THE ELECTRIC SYSTEM IS SOLD ONLY ON THE WHOLESALE MARKET PURSUANT TO AN INTERCONNECTION, OPERATION, AND MAINTENANCE AGREEMENT WITH THE LOCAL ELECTRIC COMPANY; AND**

~~3.~~ ***4.*** **THE COMMISSION PROVIDES AN OPPORTUNITY FOR PUBLIC COMMENT AT A PUBLIC HEARING AS PROVIDED IN SUBSECTION (E) OF THIS SECTION; OR**

(2) constructs a generating station if:

(i) the capacity of the generating station does not exceed 25 megawatts;

(ii) the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and

(iii) at least 10% of the electricity generated at the generating station each year is consumed on–site.

(b) (1) The Commission shall require a person that is exempted from the requirement to obtain a certificate of public convenience and necessity to obtain approval from the Commission under this section before the person may construct a generating station described in subsection (a) of this section.

(2) An application for approval under this section shall:

(i) be made to the Commission in writing on a form adopted by the Commission;

(ii) be verified by oath or affirmation; and

(iii) contain information that the Commission requires, including:

1. proof of compliance with all applicable requirements of the independent system operator; and

2. a copy of an interconnection, operation, and maintenance agreement between the generating station and the local electric company.

(c) When reviewing an application for approval under this section, the Commission shall:

(1) ensure the safety and reliability of the electric system;

(2) require the person constructing the generating station to notify the Commission 2 weeks before the first export of electricity from a generating station approved under this section; and

(3) conduct its review and approval in an expeditious manner.

(d) The Commission may waive an element of the approval process under this section if the Commission determines that the waiver is in the public interest.

(E) (1) THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC COMMENT AND HOLD A PUBLIC HEARING AS PROVIDED UNDER THIS SUBSECTION ON AN APPLICATION FOR APPROVAL MADE UNDER SUBSECTION (A)(1)(II) OF THIS SECTION IN EACH COUNTY AND MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE CONSTRUCTION OF A GENERATING STATION IS PROPOSED TO BE LOCATED.

(2) UPON THE REQUEST OF THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION IN WHICH ANY PORTION OF THE CONSTRUCTION OF A GENERATING STATION IS PROPOSED TO BE LOCATED, THE COMMISSION SHALL HOLD THE PUBLIC HEARING JOINTLY WITH THE GOVERNING BODY.

(3) ONCE IN EACH OF 2 SUCCESSIVE WEEKS IMMEDIATELY BEFORE THE HEARING DATE, THE COMMISSION, AT THE EXPENSE OF THE

APPLICANT, SHALL PROVIDE WEEKLY NOTICE OF THE PUBLIC HEARING AND OPPORTUNITY FOR PUBLIC COMMENT BY ADVERTISEMENT IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR MUNICIPAL CORPORATION AFFECTED BY THE APPLICATION.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before February 1 of each year, the Public Service Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Finance Committee and the House Economic Matters Committee on:

(1) the number of applications for and the locations of wind–powered generating stations for which approval is sought under § 7–207.1(a)(1)(ii) of the Public Utility Companies Article, as enacted by this Act;

(2) the status of the applications and the extent to which the wind–powered generating stations have been constructed after obtaining approval from the Commission in accordance with this Act; and

(3) the status of any regulatory actions undertaken by other State or local agencies with respect to the wind–powered generating stations.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be construed to limit the regulatory authority of any State or local agency with respect to matters relating to a wind–powered generating station that is exempt from the requirement to obtain a certificate of public convenience and necessity under §§ 7–207 and 7–208 of the Public Utilities Article.

SECTION ~~2.~~ *4.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. *Section 2 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2010, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.*

Approved by the Governor, April 24, 2007.

CHAPTER 164

(Senate Bill 568)

AN ACT concerning

Health Occupations – Supervised Practice – Dental Hygienist

FOR the purpose of altering the requirements for certain dental facilities that employ certain dental hygienists who are authorized to practice dental hygiene under certain supervision; and generally relating to dental hygienists and general supervision practice requirements.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–308(h)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health Occupations

4–308.

(h) (1) In this subsection, "general supervision" means supervision of a dental hygienist by a dentist, where the dentist may or may not be present when the dental hygienist performs the dental hygiene procedures.

(2) While it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene under the general supervision of a licensed dentist in:

(i) A dental facility owned and operated by the federal, the State, or a local government; or

(ii) A public health department of the State or a county.

(3) A facility in which a dental hygienist is authorized to practice under the general supervision of a licensed dentist shall ensure that:

(i) The supervising dentist in the facility:

1. Holds an active general license to practice dentistry in the State;

2. Holds a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation; and

3. Has at least 2 years of active clinical practice in direct patient care;

(ii) Each dental hygienist authorized to practice under the general supervision of a licensed dentist:

1. Holds an active general license to practice dental hygiene in the State;

2. Holds a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation; and

3. Has at least 2 years of active clinical practice in direct patient care;

[(iii) Before the initial treatment of a patient by a dental hygienist practicing under the general supervision of a licensed dentist, the supervising dentist, the patient's dentist, or the treating physician evaluates the patient's medical history and determines its impact on the patient's suitability to receive oral health treatment;

(iv) The supervising dentist diagnoses the patient and approves the treatment plan for the patient;

(v) The supervising dentist authorizes, on a patient by patient basis, a dental hygienist to practice under the general supervision of a licensed dentist;

(vi) A dental hygienist practicing under the general supervision of a licensed dentist ascertains before treating a recall patient that there has been no change in the patient's medical history;

(vii) A dental hygienist consults with the supervising dentist, the patient's dentist, or a treating physician before proceeding with treatment if there is a change in the patient's medical history;**]**

[(viii)**] (III)** The facility has a medical emergency plan; **AND**

[(ix) Adequate facilities and equipment are available for the delivery of dental hygiene services other than fluoride rinse programs; and**]**

[(x)**] (IV)** A recall patient who has been examined by a dental hygienist practicing under the general supervision of a licensed dentist will be scheduled for an oral examination every 6 months, or as otherwise recommended by the supervising dentist.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A FACILITY IN WHICH A DENTAL HYGIENIST IS AUTHORIZED TO

PRACTICE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST SHALL SATISFY THE FOLLOWING REQUIREMENTS:

1. BEFORE THE INITIAL TREATMENT OF A PATIENT BY A DENTAL HYGIENIST PRACTICING UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST, THE SUPERVISING DENTIST, THE PATIENT'S DENTIST, OR THE TREATING PHYSICIAN EVALUATES THE PATIENT'S MEDICAL HISTORY AND DETERMINES ITS IMPACT ON THE PATIENT'S SUITABILITY TO RECEIVE ORAL HEALTH TREATMENT;

2. THE SUPERVISING DENTIST DIAGNOSES THE PATIENT AND APPROVES THE TREATMENT PLAN FOR THE PATIENT;

3. THE SUPERVISING DENTIST AUTHORIZES, ON A PATIENT BY PATIENT BASIS, A DENTAL HYGIENIST TO PRACTICE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST;

4. A DENTAL HYGIENIST PRACTICING UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST ASCERTAINS BEFORE TREATING A RECALL PATIENT THAT THERE HAS BEEN NO CHANGE IN THE PATIENT'S MEDICAL HISTORY;

5. A DENTAL HYGIENIST CONSULTS WITH THE SUPERVISING DENTIST, THE PATIENT'S DENTIST, OR A TREATING PHYSICIAN BEFORE PROCEEDING WITH TREATMENT IF THERE IS A CHANGE IN THE PATIENT'S MEDICAL HISTORY; AND

6. ADEQUATE FACILITIES AND EQUIPMENT ARE AVAILABLE FOR THE DELIVERY OF DENTAL HYGIENE SERVICES OTHER THAN FLUORIDE RINSE PROGRAMS.

(II) A DENTAL HYGIENIST WHO IS AUTHORIZED TO PRACTICE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST MAY APPLY FLUORIDE, MOUTH RINSE, OR VARNISH WITHOUT SATISFYING THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[(4)**] (5)** Before a facility operates under general supervision, the facility shall report to the Board:

(i) That the facility is operating under general supervision; and

(ii) The identity of each supervising dentist and each dental hygienist.

[(5)**] (6)** A facility operating under general supervision shall report to the Board any changes in the status of the facility's general supervision, any supervising dentist, or any dental hygienist within 30 days after the change.

[(6)**] (7)** This subsection may not be construed to:

(i) Authorize a dental hygienist to practice dental hygiene independent of a supervising dentist; or

(ii) Prohibit a dentist from being available for personal consultation or on the premises where a dental hygienist is practicing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 165

(House Bill 751)

AN ACT concerning

Health Occupations – Supervised Practice – Dental Hygienist

FOR the purpose of altering the requirements for certain dental facilities that employ certain dental hygienists who are authorized to practice dental hygiene under certain supervision; and generally relating to dental hygienists and general supervision practice requirements.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–308(h)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health Occupations

4–308.

(h) (1) In this subsection, "general supervision" means supervision of a dental hygienist by a dentist, where the dentist may or may not be present when the dental hygienist performs the dental hygiene procedures.

(2) While it is effective, a general license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene under the general supervision of a licensed dentist in:

(i) A dental facility owned and operated by the federal, the State, or a local government; or

(ii) A public health department of the State or a county.

(3) A facility in which a dental hygienist is authorized to practice under the general supervision of a licensed dentist shall ensure that:

(i) The supervising dentist in the facility:

1. Holds an active general license to practice dentistry in the State;

2. Holds a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation; and

3. Has at least 2 years of active clinical practice in direct patient care;

(ii) Each dental hygienist authorized to practice under the general supervision of a licensed dentist:

1. Holds an active general license to practice dental hygiene in the State;

2. Holds a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation; and

3. Has at least 2 years of active clinical practice in direct patient care;

[(iii) Before the initial treatment of a patient by a dental hygienist practicing under the general supervision of a licensed dentist, the supervising dentist, the patient's dentist, or the treating physician evaluates the

patient's medical history and determines its impact on the patient's suitability to receive oral health treatment;

(iv) The supervising dentist diagnoses the patient and approves the treatment plan for the patient;

(v) The supervising dentist authorizes, on a patient by patient basis, a dental hygienist to practice under the general supervision of a licensed dentist;

(vi) A dental hygienist practicing under the general supervision of a licensed dentist ascertains before treating a recall patient that there has been no change in the patient's medical history;

(vii) A dental hygienist consults with the supervising dentist, the patient's dentist, or a treating physician before proceeding with treatment if there is a change in the patient's medical history;**]**

[(viii)**] (III)** The facility has a medical emergency plan; **AND**

[(ix) Adequate facilities and equipment are available for the delivery of dental hygiene services other than fluoride rinse programs; and**]**

[(x)**] (IV)** A recall patient who has been examined by a dental hygienist practicing under the general supervision of a licensed dentist will be scheduled for an oral examination every 6 months, or as otherwise recommended by the supervising dentist.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A FACILITY IN WHICH A DENTAL HYGIENIST IS AUTHORIZED TO PRACTICE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST SHALL SATISFY THE FOLLOWING REQUIREMENTS:

1. BEFORE THE INITIAL TREATMENT OF A PATIENT BY A DENTAL HYGIENIST PRACTICING UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST, THE SUPERVISING DENTIST, THE PATIENT'S DENTIST, OR THE TREATING PHYSICIAN EVALUATES THE PATIENT'S MEDICAL HISTORY AND DETERMINES ITS IMPACT ON THE PATIENT'S SUITABILITY TO RECEIVE ORAL HEALTH TREATMENT;

2. THE SUPERVISING DENTIST DIAGNOSES THE PATIENT AND APPROVES THE TREATMENT PLAN FOR THE PATIENT;

3. THE SUPERVISING DENTIST AUTHORIZES, ON A PATIENT BY PATIENT BASIS, A DENTAL HYGIENIST TO PRACTICE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST;

4. A DENTAL HYGIENIST PRACTICING UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST ASCERTAINS BEFORE TREATING A RECALL PATIENT THAT THERE HAS BEEN NO CHANGE IN THE PATIENT'S MEDICAL HISTORY;

5. A DENTAL HYGIENIST CONSULTS WITH THE SUPERVISING DENTIST, THE PATIENT'S DENTIST, OR A TREATING PHYSICIAN BEFORE PROCEEDING WITH TREATMENT IF THERE IS A CHANGE IN THE PATIENT'S MEDICAL HISTORY; AND

6. ADEQUATE FACILITIES AND EQUIPMENT ARE AVAILABLE FOR THE DELIVERY OF DENTAL HYGIENE SERVICES OTHER THAN FLUORIDE RINSE PROGRAMS.

(II) A DENTAL HYGIENIST WHO IS AUTHORIZED TO PRACTICE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST MAY APPLY FLUORIDE, MOUTH RINSE, OR VARNISH WITHOUT SATISFYING THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[(4)**] (5)** Before a facility operates under general supervision, the facility shall report to the Board:

(i) That the facility is operating under general supervision; and

(ii) The identity of each supervising dentist and each dental hygienist.

[(5)**] (6)** A facility operating under general supervision shall report to the Board any changes in the status of the facility's general supervision, any supervising dentist, or any dental hygienist within 30 days after the change.

[(6)**] (7)** This subsection may not be construed to:

(i) Authorize a dental hygienist to practice dental hygiene independent of a supervising dentist; or

(ii) Prohibit a dentist from being available for personal consultation or on the premises where a dental hygienist is practicing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 166

(Senate Bill 582)

AN ACT concerning

Prince George's County School Facilities Surcharge – Exemption

FOR the purpose of altering an exemption from the school facilities surcharge in Prince George's County for certain multi–family housing designated as student housing; and generally relating to an exemption from the school facilities surcharge in Prince George's County.

BY repealing and reenacting, without amendments,
The Public Local Laws of Prince George's County
Section 10–192.01(a)
Article 17 – Public Local Laws of Maryland
(2003 Edition, as amended)
(As enacted by Chapter 431 of the Acts of the General Assembly of 2003)

BY repealing and reenacting, with amendments,
The Public Local Laws of Prince George's County
Section 10–192.01(b)(4)
Article 17 – Public Local Laws of Maryland
(2003 Edition, as amended)
(As enacted by Chapter 431 of the Acts of the General Assembly of 2003)

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

Article 17 – Prince George's County

10–192.01.

(a) (1) The County Council, by ordinance, shall impose a school facilities surcharge on new residential construction for which a building permit is issued on or after July 1, 2003.

(2) (i) Except as provided under subparagraph (ii) of this paragraph, the County Council may impose a school facilities surcharge on new residential construction for which a building permit is issued on or after July 1, 2003, by a municipal corporation in Prince George's County with zoning authority and the authority to issue building permits.

(ii) The County Council may not impose a school facilities surcharge on new residential construction for which a building permit is issued by a municipal corporation if Prince George's County has collected a surcharge on issuance of a county permit for the same new residential construction.

(b) (4) **(I)** The school facilities surcharge does not apply to multi–family housing designated as student housing **[**within 1.5 miles of the University of Maryland, College Park campus.**]** **THAT IS LOCATED IN:**

1. THE AREA BOUNDED BY MARYLAND ROUTE 193 TO THE WEST AND NORTH, U.S. ROUTE 1 TO THE EAST, AND THE SOUTHERN BOUNDARY OF THE CITY OF COLLEGE PARK TO THE SOUTH;

2. THE AREA BOUNDED BY U.S. ROUTE 1 TO THE WEST, BERWYN HOUSE ROAD TO THE NORTH, RHODE ISLAND AVENUE TO THE EAST, AND LAKELAND ROAD TO THE SOUTH;

3. THE AREA BOUNDED BY U.S. ROUTE 1 TO THE WEST, PAINT BRANCH PARKWAY TO THE NORTH AND EAST, RHODE ISLAND AVENUE TO THE EAST, AND COLLEGE AVENUE TO THE SOUTH; ~~**OR**~~

4. THE AREA BOUNDED BY UNIVERSITY BOULEVARD TO THE NORTH, ADELPHI ROAD TO THE EAST, STANFORD STREET TO THE SOUTH, AND UNIVERSITY HILLS PARK TO THE WEST;

5. THE AREA BOUNDED BY THE EASTERN BOUNDARY OF PAINT BRANCH STREAM VALLEY PARK TO THE WEST, PARK ROAD AND A LINE EXTENDING FROM THE WESTERN END OF PARK ROAD DIRECTLY WEST TO PAINT BRANCH STREAM VALLEY PARK TO THE NORTH, U.S. ROUTE 1 TO THE EAST, AND ERIE STREET AND A LINE EXTENDING FROM THE WESTERN END OF ERIE STREET DIRECTLY WEST TO PAINT BRANCH STREAM VALLEY PARK TO THE SOUTH;

6. THE AREA BOUNDED BY AUTOVILLE DRIVE AND A LINE EXTENDING FROM THE SOUTHERN END OF AUTOVILLE DRIVE DIRECTLY

SOUTH TO MARYLAND ROUTE 193 TO THE WEST, ERIE STREET TO THE NORTH, U.S. ROUTE 1 TO THE EAST, AND MARYLAND ROUTE 193 TO THE SOUTH; OR

7. THE AREA BOUNDED BY U.S. ROUTE 1 TO THE WEST, MARYLAND ROUTE 193 TO THE NORTH, 48TH AVENUE TO THE EAST, AND GREENBELT ROAD TO THE SOUTH.

(II) SUBJECT TO THE APPROVAL OF THE COUNTY COUNCIL AND THE MUNICIPALITY WHERE THE MULTI–FAMILY HOUSING IS LOCATED, THE SCHOOL FACILITIES SURCHARGE DOES NOT APPLY TO MULTI–FAMILY HOUSING DESIGNATED AS STUDENT HOUSING FOR ANY AREAS NOT LISTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN THE CITY OF COLLEGE PARK, THE CITY OF HYATTSVILLE, AND THE TOWN OF RIVERDALE PARK.

(III) If the housing is converted from student housing to multi–family housing for the general population, the owner of the property shall pay, at the time of the conversion, the school facilities surcharge in accordance with the laws at the time of the conversion.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 167

(Senate Bill 600)

AN ACT concerning

Workers' Compensation Commission – Authorization for Release of Medical Information – Work–Related Injury or Occupational Disease

FOR the purpose of requiring certain claim application forms that are filed with the Workers' Compensation Commission for an alleged work–related injury or occupational disease to include an authorization for the release to certain persons of certain medical information ~~to be filed with the Workers' Compensation Commission when a claim is filed for an alleged work–related injury or occupational disease~~; providing that an authorization includes the release of certain information, is effective for a certain period of time, and does not restrict the redisclosure of certain medical information or written material

to certain persons; requiring a health care provider to disclose certain medical information on receipt of a certain authorization filed with the Commission; and generally relating to the authorization for the release of medical information ~~in a certain manner~~ and the filing of workers' compensation claims.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 4–303
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–709, 9–710, and 9–711
Annotated Code of Maryland
(1999 Replacement Volume and 2006 Supplement)

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

Article – Health – General

4–303.

(a) A health care provider shall disclose a medical record on the authorization of a person in interest in accordance with this section.

(b) Except as otherwise provided in **[**subsection (c)**]** **SUBSECTIONS (C) AND (D)** of this section, an authorization shall:

(1) Be in writing, dated, and signed by the person in interest;

(2) State the name of the health care provider;

(3) Identify to whom the information is to be disclosed;

(4) State the period of time that the authorization is valid, which may not exceed 1 year, except:

(i) In cases of criminal justice referrals, in which case the authorization shall be valid until 30 days following final disposition; or

(ii) In cases where the patient on whom the medical record is kept is a resident of a nursing home, in which case the authorization shall be valid until revoked, or for any time period specified in the authorization; and

(5) Apply only to a medical record developed by the health care provider unless in writing:

(i) The authorization specifies disclosure of a medical record that the health care provider has received from another provider; and

(ii) The other provider has not prohibited redisclosure.

(c) A health care provider shall disclose a medical record on receipt of a preauthorized form that is part of an application for insurance.

(D) A HEALTH CARE PROVIDER SHALL DISCLOSE A MEDICAL RECORD ON RECEIPT OF AN AUTHORIZATION FOR THE RELEASE OF RELEVANT MEDICAL INFORMATION THAT IS INCLUDED WITH THE CLAIM APPLICATION FORM FILED WITH THE WORKERS' COMPENSATION COMMISSION IN ACCORDANCE WITH § 9–709(A), § 9–710(B), OR § 9–711(A) OF THE LABOR AND EMPLOYMENT ARTICLE.

[(d)**]** **(E)** (1) Except in cases of criminal justice referrals, a person in interest may revoke an authorization in writing.

(2) A revocation of an authorization becomes effective on the date of receipt by the health care provider.

(3) A disclosure made before the effective date of a revocation is not affected by the revocation.

[(e)**]** **(F)** A copy of the following shall be entered in the medical record of a patient or recipient:

(1) A written authorization;

(2) Any action taken in response to an authorization; and

(3) Any revocation of an authorization.

Article – Labor and Employment

9–709.

(a) **(1)** Except as provided in subsection (c) of this section, if a covered employee suffers an accidental personal injury, the covered employee, within 60 days after the date of the accidental personal injury, shall file with the Commission:

~~(1)~~ **(I)** a claim application form; **[**and~~]~~

~~**(2) AN AUTHORIZATION FOR THE SIMULTANEOUS RELEASE OF ALL RELEVANT MEDICAL INFORMATION; AND**~~

[(2)**]** ~~**(3)**~~ **(II)** if the covered employee was attended by a physician chosen by the covered employee, the report of the physician.

(2) (I) A CLAIM APPLICATION FORM FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE AN AUTHORIZATION BY THE CLAIMANT FOR THE RELEASE, TO THE CLAIMANT'S ATTORNEY, THE CLAIMANT'S EMPLOYER, AND THE INSURER OF THE CLAIMANT'S EMPLOYER, OR AN AGENT OF THE CLAIMANT'S ATTORNEY, THE CLAIMANT'S EMPLOYER, OR THE INSURER OF THE CLAIMANT'S EMPLOYER, OF MEDICAL INFORMATION THAT IS RELEVANT TO:

1. THE MEMBER OF THE BODY THAT WAS INJURED, AS INDICATED ON THE CLAIM APPLICATION FORM; AND

2. THE DESCRIPTION OF HOW THE ACCIDENTAL PERSONAL INJURY OCCURRED, AS INDICATED ON THE CLAIM APPLICATION FORM.

(II) AN AUTHORIZATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. INCLUDES THE RELEASE OF INFORMATION RELATING TO THE HISTORY, FINDINGS, OFFICE AND PATIENT CHARTS, FILES, EXAMINATION AND PROGRESS NOTES, AND PHYSICAL EVIDENCE;

2. IS EFFECTIVE FOR 1 YEAR FROM THE DATE THE CLAIM IS FILED; AND

3. DOES NOT RESTRICT THE REDISCLOSURE OF MEDICAL INFORMATION OR WRITTEN MATERIAL RELATING TO THE AUTHORIZATION TO A MEDICAL MANAGER, HEALTH CARE PROFESSIONAL, OR CERTIFIED REHABILITATION PRACTITIONER.

(b) (1) Unless excused by the Commission under paragraph (2) of this subsection, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(2) The Commission may excuse a failure to file a claim in accordance with subsection (a) of this section if the Commission finds:

(i) that the employer or its insurer has not been prejudiced by the failure to file the claim; or

(ii) another sufficient reason.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, if a covered employee fails to file a claim within 2 years after the date of the accidental personal injury, the claim is completely barred.

(c) If a covered employee is disabled due to an accidental personal injury from ionizing radiation, the covered employee shall file a claim with the Commission within 2 years after:

(1) the date of disablement; or

(2) the date when the covered employee first knew that the disablement was due to ionizing radiation.

(d) (1) If it is established that a failure to file a claim in accordance with this section was caused by fraud or by facts and circumstances amounting to an estoppel, the covered employee shall file a claim with the Commission within 1 year after:

(i) the date of the discovery of the fraud; or

(ii) the date when the facts and circumstances that amount to estoppel ceased to operate.

(2) Failure to file a claim in accordance with paragraph (1) of this subsection bars a claim under this title.

9–710.

(a) This section does not apply to a claim for death due to an accidental personal injury from ionizing radiation.

(b) **(1)** If a covered employee dies from an accidental personal injury, the dependents of the covered employee or an individual on their behalf shall, within 18 months after the date of death, file with the Commission:

~~(1)~~ **(I)** a claim application form;

~~**(2) AN AUTHORIZATION FOR THE SIMULTANEOUS RELEASE OF ALL RELEVANT MEDICAL INFORMATION;**~~

[(2)**]** ~~**(3)**~~ **(II)** proof of death;

[(3)**]** ~~**(4)**~~ **(III)** certificates of any physician who attended the covered employee; and

[(4)**]** ~~**(5)**~~ **(IV)** any other proof that the Commission may require by regulation.

(2) (I) A CLAIM APPLICATION FORM FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE AN AUTHORIZATION BY THE CLAIMANT FOR THE RELEASE, TO THE CLAIMANT'S ATTORNEY, THE COVERED EMPLOYEE'S EMPLOYER, AND THE INSURER OF THE COVERED EMPLOYEE'S EMPLOYER, OR AN AGENT OF THE CLAIMANT'S ATTORNEY, THE COVERED EMPLOYEE'S EMPLOYER, OR THE INSURER OF THE COVERED EMPLOYEE'S EMPLOYER, OF MEDICAL INFORMATION THAT IS RELEVANT TO:

1. THE MEMBER OF THE BODY THAT WAS INJURED, AS INDICATED ON THE CLAIM APPLICATION FORM; AND

2. THE DESCRIPTION OF HOW THE ACCIDENTAL PERSONAL INJURY OCCURRED, AS INDICATED ON THE CLAIM APPLICATION FORM.

(II) AN AUTHORIZATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. INCLUDES THE RELEASE OF INFORMATION RELATING TO THE HISTORY, FINDINGS, OFFICE AND PATIENT CHARTS, FILES, EXAMINATION AND PROGRESS NOTES, AND PHYSICAL EVIDENCE;

2. IS EFFECTIVE FOR 1 YEAR FROM THE DATE THE CLAIM IS FILED; AND

3. DOES NOT RESTRICT THE REDISCLOSURE OF MEDICAL INFORMATION OR WRITTEN MATERIAL RELATING TO THE AUTHORIZATION TO A MEDICAL MANAGER, HEALTH CARE PROFESSIONAL, OR CERTIFIED REHABILITATION PRACTITIONER.

(c) (1) If it is established that a failure to file a claim in accordance with this section was caused by fraud or by facts and circumstances amounting to an

estoppel, the dependents of the covered employee or an individual on their behalf shall file a claim **[**application**]** with the Commission within 1 year after:

(i) the date of the discovery of the fraud; or

(ii) the date when the facts and circumstances that amount to estoppel cease to operate.

(2) Failure to file a claim **[**application**]** in accordance with paragraph (1) of this subsection bars a claim under this title.

9–711.

(a) **(1)** If a covered employee suffers a disablement or death as a result of an occupational disease, the covered employee or the dependents of the covered employee shall file a claim **APPLICATION FORM ~~AND AN AUTHORIZATION FOR THE SIMULTANEOUS RELEASE OF ALL RELEVANT MEDICAL INFORMATION~~** with the Commission within 2 years, or in the case of pulmonary dust disease within 3 years, after the date:

~~(1)~~ **(I)** of disablement or death; or

~~(2)~~ **(II)** when the covered employee or the dependents of the covered employee first had actual knowledge that the disablement was caused by the employment.

(2) (I) A CLAIM APPLICATION FORM FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE AN AUTHORIZATION BY THE CLAIMANT FOR THE RELEASE, TO THE CLAIMANT'S ATTORNEY, THE CLAIMANT'S OR COVERED EMPLOYEE'S EMPLOYER, AND THE INSURER OF THE CLAIMANT'S OR COVERED EMPLOYEE'S EMPLOYER, OR AN AGENT OF THE CLAIMANT'S ATTORNEY, THE CLAIMANT'S OR COVERED EMPLOYEE'S EMPLOYER, OR THE INSURER OF THE CLAIMANT'S OR COVERED EMPLOYEE'S EMPLOYER, OF MEDICAL INFORMATION THAT IS RELEVANT TO:

1. THE MEMBER OF THE BODY THAT WAS INJURED, AS INDICATED ON THE CLAIM APPLICATION FORM; AND

2. THE DESCRIPTION OF HOW THE OCCUPATIONAL DISEASE OCCURRED, AS INDICATED ON THE CLAIM APPLICATION FORM.

(II) AN AUTHORIZATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. INCLUDES THE RELEASE OF INFORMATION RELATING TO THE HISTORY, FINDINGS, OFFICE AND PATIENT CHARTS, FILES, EXAMINATION AND PROGRESS NOTES, AND PHYSICAL EVIDENCE;

2. IS EFFECTIVE FOR 1 YEAR FROM THE DATE THE CLAIM IS FILED; AND

3. DOES NOT RESTRICT THE REDISCLOSURE OF MEDICAL INFORMATION OR WRITTEN MATERIAL RELATING TO THE AUTHORIZATION TO A MEDICAL MANAGER, HEALTH CARE PROFESSIONAL, OR CERTIFIED REHABILITATION PRACTITIONER.

(b) Unless waived under subsection (c) of this section, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(c) The defense of failure to file a claim in accordance with subsection (a) of this section is waived if the employer or its insurer:

(1) fails to raise the defense of the failure to file the claim at a hearing on the claim before the Commission makes any award or decision;

(2) pays compensation for the disability or death resulting from the occupational disease; or

(3) by its affirmative conduct leads the covered employee or other claimant to reasonably believe that the requirement of filing a claim has been waived.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 168

(Senate Bill 601)

AN ACT concerning

Health Insurance – Health Care Providers – Reimbursement ~~by Carriers~~ and Charges

FOR the purpose of prohibiting certain carriers from requiring ~~certain~~ health care providers that ~~deliver~~ provide health care services through a certain group practice or ~~other~~ health care ~~entity~~ facility to be considered participating providers or to accept ~~the~~ a certain reimbursement fee schedule ~~applicable under the contract between the group practice or other health care entity and the carrier for certain health care services delivered by the health care provider~~ under certain circumstances; requiring a certain provider to give certain notice to an enrollee; and generally relating to ~~reimbursement of health care providers by carriers~~ health care provider reimbursement and charges.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–112(a)(1), (3), (4), and (6)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to
Article – Insurance
Section 15–112(o)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

15–112.

(a) (1) In this section the following words have the meanings indicated.

(3) (i) "Carrier" means:

1. an insurer;

2. a nonprofit health service plan;

3. a health maintenance organization;

4. a dental plan organization; or

5. any other person that provides health benefit plans subject to regulation by the State.

(ii) "Carrier" includes an entity that arranges a provider panel for a carrier.

(4) "Enrollee" means a person entitled to health care benefits from a carrier.

(6) "Provider" means a health care practitioner or group of health care practitioners licensed, certified, or otherwise authorized by law to provide health care services.

~~**(O) A CARRIER MAY NOT REQUIRE A PROVIDER THAT DELIVERS HEALTH CARE SERVICES THROUGH A GROUP PRACTICE OR OTHER HEALTH CARE ENTITY TO ACCEPT THE REIMBURSEMENT FEE SCHEDULE APPLICABLE UNDER THE CONTRACT BETWEEN THE GROUP PRACTICE OR OTHER HEALTH CARE ENTITY AND THE CARRIER FOR HEALTH CARE SERVICES THE PROVIDER DELIVERS:**~~

~~**(1) TO ENROLLEES OF THE CARRIER THROUGH A SEPARATE INDIVIDUAL, GROUP, OR OTHER HEALTH CARE PRACTICE ARRANGEMENT; AND**~~

~~**(2) USING A DIFFERENT FEDERAL TAX IDENTIFICATION NUMBER THAN THAT USED BY THE GROUP PRACTICE OR OTHER HEALTH CARE ENTITY.**~~

(O) (1) A CARRIER MAY NOT REQUIRE A PROVIDER THAT PROVIDES HEALTH CARE SERVICES THROUGH A GROUP PRACTICE OR HEALTH CARE FACILITY THAT PARTICIPATES ON THE CARRIER'S PROVIDER PANEL UNDER A CONTRACT WITH THE CARRIER TO BE CONSIDERED A PARTICIPATING PROVIDER OR ACCEPT THE REIMBURSEMENT FEE SCHEDULE APPLICABLE UNDER THE CONTRACT WHEN:

(I) PROVIDING HEALTH CARE SERVICES TO ENROLLEES OF THE CARRIER THROUGH AN INDIVIDUAL OR GROUP PRACTICE OR HEALTH CARE FACILITY THAT DOES NOT HAVE A CONTRACT WITH THE CARRIER; AND

(II) BILLING FOR HEALTH CARE SERVICES PROVIDED TO ENROLLEES OF THE CARRIER USING A DIFFERENT FEDERAL TAX IDENTIFICATION NUMBER THAN THAT USED BY THE GROUP PRACTICE OR HEALTH CARE FACILITY UNDER A CONTRACT WITH THE CARRIER.

(2) A NONPARTICIPATING PROVIDER SHALL NOTIFY AN ENROLLEE:

(I) THAT THE PROVIDER DOES NOT PARTICIPATE ON THE PROVIDER PANEL OF THE ENROLLEE'S CARRIER; AND

(II) OF THE ANTICIPATED TOTAL CHARGES FOR THE HEALTH CARE SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 169

(House Bill 947)

AN ACT concerning

Health Insurance – Health Care Providers – Reimbursement ~~by Carriers~~ and Charges

FOR the purpose of prohibiting certain carriers from requiring ~~certain~~ health care providers that ~~deliver~~ provide health care services through a certain group practice or ~~other~~ health care ~~entity~~ facility to be considered participating providers or to accept ~~the~~ a certain reimbursement fee schedule ~~applicable under the contract between the group practice or other health care entity and the carrier for certain health care services delivered by the health care provider~~ under certain circumstances; requiring a certain provider to give certain notice to an enrollee; and generally relating to ~~reimbursement of health care providers by carriers~~ health care provider reimbursement and charges.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 15–112(a)(1), (3), (4), and (6)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to
Article – Insurance
Section 15–112(o)

Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

15–112.

(a) (1) In this section the following words have the meanings indicated.

(3) (i) "Carrier" means:

1. an insurer;

2. a nonprofit health service plan;

3. a health maintenance organization;

4. a dental plan organization; or

5. any other person that provides health benefit plans subject to regulation by the State.

(ii) "Carrier" includes an entity that arranges a provider panel for a carrier.

(4) "Enrollee" means a person entitled to health care benefits from a carrier.

(6) "Provider" means a health care practitioner or group of health care practitioners licensed, certified, or otherwise authorized by law to provide health care services.

~~**(O) A CARRIER MAY NOT REQUIRE A PROVIDER THAT DELIVERS HEALTH CARE SERVICES THROUGH A GROUP PRACTICE OR OTHER HEALTH CARE ENTITY TO ACCEPT THE REIMBURSEMENT FEE SCHEDULE APPLICABLE UNDER THE CONTRACT BETWEEN THE GROUP PRACTICE OR OTHER HEALTH CARE ENTITY AND THE CARRIER FOR HEALTH CARE SERVICES THE PROVIDER DELIVERS:**~~

~~**(1) TO ENROLLEES OF THE CARRIER THROUGH A SEPARATE INDIVIDUAL, GROUP, OR OTHER HEALTH CARE PRACTICE ARRANGEMENT; AND**~~

~~**(2) USING A DIFFERENT FEDERAL TAX IDENTIFICATION NUMBER THAN THAT USED BY THE GROUP PRACTICE OR OTHER HEALTH CARE ENTITY.**~~

(O) (1) A CARRIER MAY NOT REQUIRE A PROVIDER THAT PROVIDES HEALTH CARE SERVICES THROUGH A GROUP PRACTICE OR HEALTH CARE FACILITY THAT PARTICIPATES ON THE CARRIER'S PROVIDER PANEL UNDER A CONTRACT WITH THE CARRIER TO BE CONSIDERED A PARTICIPATING PROVIDER OR ACCEPT THE REIMBURSEMENT FEE SCHEDULE APPLICABLE UNDER THE CONTRACT WHEN:

(I) PROVIDING HEALTH CARE SERVICES TO ENROLLEES OF THE CARRIER THROUGH AN INDIVIDUAL OR GROUP PRACTICE OR HEALTH CARE FACILITY THAT DOES NOT HAVE A CONTRACT WITH THE CARRIER; ~~**OR**~~ ***AND***

(II) BILLING FOR HEALTH CARE SERVICES PROVIDED TO ENROLLEES OF THE CARRIER USING A DIFFERENT FEDERAL TAX IDENTIFICATION NUMBER THAN THAT USED BY THE GROUP PRACTICE OR HEALTH CARE FACILITY UNDER A CONTRACT WITH THE CARRIER.

(2) A NONPARTICIPATING PROVIDER SHALL NOTIFY AN ENROLLEE:

(I) THAT THE PROVIDER DOES NOT PARTICIPATE ON THE PROVIDER PANEL OF THE ENROLLEE'S CARRIER; AND

(II) OF THE ANTICIPATED TOTAL CHARGES FOR THE HEALTH CARE SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 170

(Senate Bill 635)

AN ACT concerning

Condominiums – Conversion of Rental Facilities – Notice Requirements

FOR the purpose of providing that~~, in a conversion of rental facilities to condominiums, if a tenant who is entitled to receive a purchase offer does not receive the purchase offer at the same time as the tenant receives the notice of conversion, then a certain time period of continued residency~~ if a certain offer of the right to purchase rental property being converted to a condominium is not given to a tenant concurrently with the required notice of intent to create a condominium, the period in which the tenant is entitled to remain in the tenant's residence does not begin until the tenant receives the purchase offer; requiring that ~~a certain~~ the written notice of conversion given to a ~~certain~~ tenant include certain language relating to the time ~~frame a~~ period during which the tenant may remain ~~in a~~ in the tenant's residence if a purchase offer is not included with ~~a~~ the notice of conversion; providing that a purchase offer shall be considered to have been given to a tenant if delivered or mailed in a certain manner; and generally relating to notice requirements for the conversion of rental facilities to condominiums.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–102.1(a), (b), and (f) and 11–136(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Real Property~~
~~Section 11–102.1(b)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2006 Supplement)~~

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

Article – Real Property

11–102.1.

(a) (1) **(I)** Before a residential rental facility is subjected to a condominium regime, the owner, and the landlord of each tenant in possession of any portion of the residential rental facility as his residence, if other than the owner, shall give the tenant a notice in the form specified in subsection (f) of this section. The notice shall be given after registration with the Secretary of State under § 11–127 of this title and concurrently and together with any offer required to be given under § 11–136 of this title.

(II) IF AN OFFER REQUIRED TO BE GIVEN UNDER § 11–136 OF THIS TITLE IS NOT GIVEN TO A TENANT CONCURRENTLY WITH THE NOTICE DESCRIBED IN SUBPARAGRAPH ~~(I)~~ *(I)* OF THIS PARAGRAPH, THE 180–DAY PERIOD THAT IS TRIGGERED BY RECEIPT OF THE NOTICE UNDER THIS SECTION DOES NOT BEGIN UNTIL THE TENANT RECEIVES THE PURCHASE OFFER.

(2) The owner and the landlord, if other than the owner, shall inform in writing each tenant who first leases any portion of the premises as his residence after the giving of the notice required by this subsection that the notice has been given. The tenant shall be informed at or before the signing of lease or the taking of possession, whichever occurs first.

(3) A copy of the notice, together with a list of each tenant to whom the notice was given, shall be given to the Secretary of State at the time the notice is given to each tenant.

(b) The notice **AND THE PURCHASE OFFER** shall be considered to have been given to each tenant if delivered by hand to the tenant or mailed, certified mail, return receipt requested, postage prepaid, to the tenant's last–known address.

(f) The notice referred to in subsection (a) of this section shall be sufficient for the purposes of this section if it is in substantially the following form. As to rental facilities containing less than 10 units, "Section 2" of the notice is not required to be given.

"NOTICE OF INTENTION TO CREATE A CONDOMINIUM

..... (Date)

This is to inform you that the rental facility known as ..... may be converted to a condominium regime in accordance with the Maryland Condominium Act. You may be required to move out of your residence after 180 days have passed from the date of this notice, or in other words, after ..... (Date).

Section 1

Rights that apply to all tenants

If you are a tenant in this rental facility and you have not already given notice that you intend to move, you have the following rights, provided you have previously paid your rent and continue to pay your rent and abide by the other conditions of your lease.

(1) You may remain in your residence on the same rent, terms, and conditions of your existing lease until either the end of your lease term or until ..... (Date)

(the end of the 180–day period), whichever is later. If your lease term ends during the 180–day period, it will be extended on the same rent, terms, and conditions until ..... (Date) (the end of the 180–day period). In addition, certain households may be entitled to extend their leases beyond the 180 days as described in Section 2.

(2) You have the right to purchase your residence before it can be sold publicly. A purchase offer describing your right to purchase is ***REQUIRED TO BE*** included with this notice. **IF A PURCHASE OFFER IS NOT INCLUDED WITH THIS NOTICE, THE 180–DAY PERIOD THAT YOU MAY REMAIN IN YOUR RESIDENCE DOES NOT BEGIN UNTIL YOU RECEIVE THE PURCHASE OFFER.**

(3) If you do not choose to purchase your unit, and the annual income for all present members of your household did not exceed ..... (the applicable income eligibility figure or figures for the appropriate area) for 20...., you are entitled to receive $375 when you move out of your residence. You are also entitled to be reimbursed for moving expenses as defined in the Maryland Condominium Act over $375 up to $750 which are actually and reasonably incurred. If the annual income for all present members of your household did exceed ..... (the applicable income eligibility figure or figures for the appropriate area) for 20...., you are entitled to be reimbursed up to $750 for moving expenses as defined in the Maryland Condominium Act actually and reasonably incurred. To receive reimbursement for moving expenses, you must make a written request, accompanied by reasonable evidence of your expenses, within 30 days after you move. You are entitled to be reimbursed within 30 days after your request has been received.

(4) If you want to move out of your residence before the end of the 180–day period or the end of your lease, you may cancel your lease without penalty by giving at least 30 days prior written notice. However, once you give notice of when you intend to move, you will not have the right to remain in your residence beyond that date.

Section 2

Right to 3–year lease extension or 3–month rent payment
for certain individuals with disabilities and senior citizens

The developer who converts this rental facility to a condominium must offer extended leases to qualified households for up to 20 percent of the units in the rental facility. Households which receive extended leases will have the right to continue renting their residences for at least 3 years from the date of this notice. A household may cancel an extended lease by giving 3 months' written notice if more than 1 year remains on the lease, and 1 month's written notice if less than 1 year remains on the lease.

Rents under these extended leases may only be increased once a year and are limited by increases in the cost of living index. Read the enclosed lease to learn the additional rights and responsibilities of tenants under extended leases.

In determining whether your household qualifies for an extended lease, the following definitions apply:

(1) (i) "Disability" means:

1. A physical or mental impairment that substantially limits one or more of an individual's major life activities; or

2. A record of having a physical or mental impairment that substantially limits one or more of an individual's major life activities.

(ii) "Disability" does not include the current illegal use of or addiction to:

1. A controlled dangerous substance as defined in § 5–101 of the Criminal Law Article; or

2. A controlled substance as defined in 21 U.S.C. § 802.

(2) "Senior citizen" means a person who is at least 62 years old on the date of this notice.

(3) "Annual income" means the total income from all sources for all present members of your household for the income tax year immediately preceding the year in which this notice is issued but shall not include unreimbursed medical expenses if the tenant provides reasonable evidence of the unreimbursed medical expenses or consents in writing to authorize disclosure of relevant information regarding medical expense reimbursement at the time of applying for an extended lease. "Total income" means the same as "gross income" as defined in § 9–104(a)(7) of the Tax – Property Article.

(4) "Unreimbursed medical expenses" means the cost of medical expenses not otherwise paid for by insurance or some other third party, including medical and hospital insurance premiums, co–payments, and deductibles; Medicare A and B premiums; prescription medications; dental care; vision care; and nursing care provided at home or in a nursing home or home for the aged.

To qualify for an extended lease you must meet all of the following criteria:

(1) A member of the household must be an individual with a disability or a senior citizen and must be living in your unit as of the date of this notice and must

have been a member of your household for at least 12 months preceding the date of this notice; and

(2) Annual income for all present members of your household must not have exceeded ..... (the applicable income eligibility figure or figures for the appropriate area) for 20.....; and

(3) You must be current in your rental payments and otherwise in good standing under your existing lease.

If you meet all of these qualifications and desire an extended lease, then you must complete the enclosed form and execute the enclosed lease and return them. The completed form and executed lease must be received at the office listed below within 60 days of the date of this notice, or in other words, by ..... (Date). If your completed form and executed lease are not received within that time, you will not be entitled to an extended lease.

If the number of qualified households requesting extended leases exceeds the 20 percent limitation, priority will be given to qualified households who have lived in the rental facility for the longest time.

Due to the 20 percent limitation your application for an extended lease must be processed prior to your lease becoming final. Your lease will become final if it is determined that your household is qualified and falls within the 20 percent limitation.

If you return the enclosed form and lease by ..... (Date) you will be notified within 75 days of the date of this notice, or in other words, by ..... (Date), whether you are qualified and whether your household falls within the 20 percent limitation.

You may apply for an extended lease and, at the same time, choose to purchase your unit. If you apply for and receive an extended lease, your purchase contract will be void. If you do not receive an extended lease, your purchase contract will be effective and you will be obligated to buy your unit.

If you qualify for an extended lease, but due to the 20 percent limitation, your lease is not finalized, the developer must pay you an amount equal to 3 months rent within 15 days after you move. You are also entitled to up to $750 reimbursement for your moving expenses, as described in Section 1.

If you qualify for an extended lease, but do not want one, you are also entitled to both the moving expense reimbursement previously described, and the payment equal to 3 months' rent. In order to receive the 3 month rent payment, you must complete and return the enclosed form within 60 days of the date of this notice or by ..... (Date), but you should not execute the enclosed lease.

All application forms, executed leases, and moving expense requests should be addressed or delivered to:

.....

.....

....."

11–136.

(a) (1) An owner required to give notice under § 11–102.1 of this title shall offer in writing to each tenant entitled to receive that notice the right to purchase that portion of the property occupied by the tenant as his residence. The offer shall be at a price and on terms and conditions at least as favorable as the price, terms, and conditions offered for that portion of the property to any other person during the 180 day period following the giving of the notice required by § 11–102.1 of this title. Settlement cannot be required any earlier than 120 days after the offer is accepted by the tenant.

(2) The offer to each tenant shall be made concurrently with the giving of the notice required by § 11–102.1 of this title, shall be a part of that notice, and shall state at least the following:

(i) That the offer will terminate upon the earlier to occur of termination of the lease by the tenant or 60 days after delivery;

(ii) That acceptance of the offer by a tenant who meets the criteria for an extended lease under § 11–137(b) of this title is contingent upon the tenant not receiving an extended lease;

(iii) That settlement cannot be required any earlier than 120 days after acceptance by the tenant; and

(iv) That the household is entitled to reimbursement for moving expenses as provided in subsection (h) of this section. Delivery of a notice in the form specified in § 11–102.1(f) of this title meets the requirements of this subparagraph.

(3) IF THE OFFER TO THE TENANT UNDER THIS SUBSECTION IS NOT INCLUDED WITH THE NOTICE REQUIRED BY § 11–102.1 OF THIS TITLE, THE 180–DAY PERIOD DURING WHICH THE TENANT IS ENTITLED TO REMAIN IN THE TENANT'S RESIDENCE DOES NOT BEGIN UNTIL THE TENANT RECEIVES THE OFFER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 171

(House Bill 95)

AN ACT concerning

Condominiums – Conversion of Rental Facilities – Notice Requirements

FOR the purpose of providing that~~, in a conversion of rental facilities to condominiums, if a tenant who is entitled to receive a purchase offer does not receive the purchase offer at the same time as the tenant receives the notice of conversion, then a certain time period of continued residency~~ *if a certain offer of the right to purchase rental property being converted to a condominium is not given to a tenant concurrently with the required notice of intent to create a condominium, the period in which the tenant is entitled to remain in the tenant's residence* does not begin until the tenant receives the purchase offer; requiring that ~~a certain~~ *the* written notice *of conversion* given to a ~~certain~~ tenant include certain language relating to the time ~~frame a~~ *period during which the* tenant may remain ~~in a~~ *in the tenant's* residence if a purchase offer is not included with ~~a~~ *the* notice of conversion; *providing that a purchase offer shall be considered to have been given to a tenant if delivered or mailed in a certain manner;* and generally relating to notice requirements for the conversion of rental facilities to condominiums.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–102.1(a), (b), and (f) and 11–136(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Real Property~~
~~Section 11–102.1(b)~~
~~Annotated Code of Maryland~~
~~(2003 Replacement Volume and 2006 Supplement)~~

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

Article – Real Property

11–102.1.

(a) (1) **(I)** Before a residential rental facility is subjected to a condominium regime, the owner, and the landlord of each tenant in possession of any portion of the residential rental facility as his residence, if other than the owner, shall give the tenant a notice in the form specified in subsection (f) of this section. The notice shall be given after registration with the Secretary of State under § 11–127 of this title and concurrently and together with any offer required to be given under § 11–136 of this title.

(II) IF AN OFFER REQUIRED TO BE GIVEN UNDER § 11–136 OF THIS TITLE IS NOT GIVEN TO A TENANT CONCURRENTLY WITH THE NOTICE DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE 180–DAY PERIOD THAT IS TRIGGERED BY RECEIPT OF THE NOTICE UNDER THIS SECTION DOES NOT BEGIN UNTIL THE TENANT RECEIVES THE PURCHASE OFFER.

(2) The owner and the landlord, if other than the owner, shall inform in writing each tenant who first leases any portion of the premises as his residence after the giving of the notice required by this subsection that the notice has been given. The tenant shall be informed at or before the signing of lease or the taking of possession, whichever occurs first.

(3) A copy of the notice, together with a list of each tenant to whom the notice was given, shall be given to the Secretary of State at the time the notice is given to each tenant.

(b) The notice **AND *THE* PURCHASE OFFER** shall be considered to have been given to each tenant if delivered by hand to the tenant or mailed, certified mail, return receipt requested, postage prepaid, to the tenant's last–known address.

(f) The notice referred to in subsection (a) of this section shall be sufficient for the purposes of this section if it is in substantially the following form. As to rental facilities containing less than 10 units, "Section 2" of the notice is not required to be given.

"NOTICE OF INTENTION TO CREATE A CONDOMINIUM

.....(Date)

This is to inform you that the rental facility known as ..... may be converted to a condominium regime in accordance with the Maryland Condominium Act. You may be required to move out of your residence after 180 days have passed from the date of this notice, or in other words, after ..... (Date).

Section 1

Rights that apply to all tenants

If you are a tenant in this rental facility and you have not already given notice that you intend to move, you have the following rights, provided you have previously paid your rent and continue to pay your rent and abide by the other conditions of your lease.

(1) You may remain in your residence on the same rent, terms, and conditions of your existing lease until either the end of your lease term or until ..... (Date) (the end of the 180–day period), whichever is later. If your lease term ends during the 180–day period, it will be extended on the same rent, terms, and conditions until ..... (Date) (the end of the 180–day period). In addition, certain households may be entitled to extend their leases beyond the 180 days as described in Section 2.

(2) You have the right to purchase your residence before it can be sold publicly. A purchase offer describing your right to purchase is **REQUIRED TO BE** included with this notice. **IF A PURCHASE OFFER IS NOT INCLUDED WITH THIS NOTICE, THE 180–DAY PERIOD THAT YOU MAY REMAIN IN YOUR RESIDENCE DOES NOT BEGIN UNTIL YOU RECEIVE THE PURCHASE OFFER.**

(3) If you do not choose to purchase your unit, and the annual income for all present members of your household did not exceed ..... (the applicable income eligibility figure or figures for the appropriate area) for 20...., you are entitled to receive $375 when you move out of your residence. You are also entitled to be reimbursed for moving expenses as defined in the Maryland Condominium Act over $375 up to $750 which are actually and reasonably incurred. If the annual income for all present members of your household did exceed ..... (the applicable income eligibility figure or figures for the appropriate area) for 20...., you are entitled to be reimbursed up to $750 for moving expenses as defined in the Maryland Condominium Act actually and reasonably incurred. To receive reimbursement for moving expenses, you must make a written request, accompanied by reasonable evidence of your expenses, within 30 days after you move. You are entitled to be reimbursed within 30 days after your request has been received.

(4) If you want to move out of your residence before the end of the 180–day period or the end of your lease, you may cancel your lease without penalty by giving at least 30 days prior written notice. However, once you give notice of when you intend to move, you will not have the right to remain in your residence beyond that date.

Section 2

Right to 3–year lease extension or 3–month rent payment
for certain individuals with disabilities and senior citizens

The developer who converts this rental facility to a condominium must offer extended leases to qualified households for up to 20 percent of the units in the rental facility. Households which receive extended leases will have the right to continue renting their residences for at least 3 years from the date of this notice. A household may cancel an extended lease by giving 3 months' written notice if more than 1 year remains on the lease, and 1 month's written notice if less than 1 year remains on the lease.

Rents under these extended leases may only be increased once a year and are limited by increases in the cost of living index. Read the enclosed lease to learn the additional rights and responsibilities of tenants under extended leases.

In determining whether your household qualifies for an extended lease, the following definitions apply:

(1) (i) "Disability" means:

1. A physical or mental impairment that substantially limits one or more of an individual's major life activities; or

2. A record of having a physical or mental impairment that substantially limits one or more of an individual's major life activities.

(ii) "Disability" does not include the current illegal use of or addiction to:

1. A controlled dangerous substance as defined in § 5–101 of the Criminal Law Article; or

2. A controlled substance as defined in 21 U.S.C. § 802.

(2) "Senior citizen" means a person who is at least 62 years old on the date of this notice.

(3) "Annual income" means the total income from all sources for all present members of your household for the income tax year immediately preceding the year in which this notice is issued but shall not include unreimbursed medical expenses if the tenant provides reasonable evidence of the unreimbursed medical expenses or consents in writing to authorize disclosure of relevant information regarding medical expense reimbursement at the time of applying for an extended lease. "Total income"

means the same as "gross income" as defined in § 9–104(a)(7) of the Tax – Property Article.

(4) "Unreimbursed medical expenses" means the cost of medical expenses not otherwise paid for by insurance or some other third party, including medical and hospital insurance premiums, co–payments, and deductibles; Medicare A and B premiums; prescription medications; dental care; vision care; and nursing care provided at home or in a nursing home or home for the aged.

To qualify for an extended lease you must meet all of the following criteria:

(1) A member of the household must be an individual with a disability or a senior citizen and must be living in your unit as of the date of this notice and must have been a member of your household for at least 12 months preceding the date of this notice; and

(2) Annual income for all present members of your household must not have exceeded ..... (the applicable income eligibility figure or figures for the appropriate area) for 20.....; and

(3) You must be current in your rental payments and otherwise in good standing under your existing lease.

If you meet all of these qualifications and desire an extended lease, then you must complete the enclosed form and execute the enclosed lease and return them. The completed form and executed lease must be received at the office listed below within 60 days of the date of this notice, or in other words, by ..... (Date). If your completed form and executed lease are not received within that time, you will not be entitled to an extended lease.

If the number of qualified households requesting extended leases exceeds the 20 percent limitation, priority will be given to qualified households who have lived in the rental facility for the longest time.

Due to the 20 percent limitation your application for an extended lease must be processed prior to your lease becoming final. Your lease will become final if it is determined that your household is qualified and falls within the 20 percent limitation.

If you return the enclosed form and lease by ..... (Date) you will be notified within 75 days of the date of this notice, or in other words, by ..... (Date), whether you are qualified and whether your household falls within the 20 percent limitation.

You may apply for an extended lease and, at the same time, choose to purchase your unit. If you apply for and receive an extended lease, your purchase contract will

be void. If you do not receive an extended lease, your purchase contract will be effective and you will be obligated to buy your unit.

If you qualify for an extended lease, but due to the 20 percent limitation, your lease is not finalized, the developer must pay you an amount equal to 3 months rent within 15 days after you move. You are also entitled to up to $750 reimbursement for your moving expenses, as described in Section 1.

If you qualify for an extended lease, but do not want one, you are also entitled to both the moving expense reimbursement previously described, and the payment equal to 3 months' rent. In order to receive the 3 month rent payment, you must complete and return the enclosed form within 60 days of the date of this notice or by ..... (Date), but you should not execute the enclosed lease.

All application forms, executed leases, and moving expense requests should be addressed or delivered to:

.....

.....

....."

11–136.

(a) (1) An owner required to give notice under § 11–102.1 of this title shall offer in writing to each tenant entitled to receive that notice the right to purchase that portion of the property occupied by the tenant as his residence. The offer shall be at a price and on terms and conditions at least as favorable as the price, terms, and conditions offered for that portion of the property to any other person during the 180 day period following the giving of the notice required by § 11–102.1 of this title. Settlement cannot be required any earlier than 120 days after the offer is accepted by the tenant.

(2) The offer to each tenant shall be made concurrently with the giving of the notice required by § 11–102.1 of this title, shall be a part of that notice, and shall state at least the following:

(i) That the offer will terminate upon the earlier to occur of termination of the lease by the tenant or 60 days after delivery;

(ii) That acceptance of the offer by a tenant who meets the criteria for an extended lease under § 11–137(b) of this title is contingent upon the tenant not receiving an extended lease;

(iii) That settlement cannot be required any earlier than 120 days after acceptance by the tenant; and

(iv) That the household is entitled to reimbursement for moving expenses as provided in subsection (h) of this section. Delivery of a notice in the form specified in § 11–102.1(f) of this title meets the requirements of this subparagraph.

(3) IF THE OFFER TO THE TENANT UNDER THIS SUBSECTION IS NOT INCLUDED WITH THE NOTICE REQUIRED BY § 11–102.1 OF THIS TITLE, THE 180–DAY PERIOD *DURING WHICH THE TENANT IS ENTITLED TO REMAIN IN THE TENANT'S RESIDENCE* DOES NOT BEGIN UNTIL THE TENANT RECEIVES THE OFFER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 172

(Senate Bill 646)

AN ACT concerning

Mental Hygiene Facilities – Patient Rights

FOR the purpose of altering the requirement that individuals in certain facilities be free from certain restraints and seclusions; establishing that individuals in certain facilities be free from certain physical restraints and holds; ~~establishing certain rights for individuals in certain State–operated psychiatric facilities; providing that the rights established in a certain subtitle may not be limited by certain privilege systems; establishing that certain individuals, guardians, and persons may file certain complaints in certain courts; requiring that certain complainants granted injunctive relief be awarded certain costs and attorney's fees~~ providing that a certain requirement does not prohibit a certain action; requiring certain facilities to have a written policy specifying a certain method; requiring certain facilities to ensure that certain staff are trained in the method; and generally relating to patients rights in mental hygiene facilities.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 10–701

Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

~~BY adding to~~
~~Article – Health – General~~
~~Section 10–701.1~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2006 Supplement)~~

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

Article – Health – General

10–701.

(a) (1) In this subtitle the following words have the meanings indicated.

(2) "Facility" does not include an acute general care hospital that does not have a separately identified inpatient psychiatric service.

(3) (i) "Mental abuse" means any persistent course of conduct resulting in or maliciously intended to produce emotional harm.

(ii) "Mental abuse" does not include the performance of an accepted clinical procedure.

(b) It is the policy of this State that each mentally ill individual who receives any service in a facility has, in addition to any other rights, the rights provided in this subtitle.

(c) Each individual in a facility shall:

(1) Receive appropriate humane treatment and services in a manner that restricts the individual's personal liberty within a facility only to the extent necessary and consistent with the individual's treatment needs and applicable legal requirements;

(2) Receive treatment in accordance with the applicable individualized plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this subtitle;

(3) Be free from restraints or **[**locked door**]** seclusions except for restraints or **[**locked door**]** seclusions that are:

(i) **[**1.**]** Used only during an emergency **[**where the individual presents a danger to the life or safety of the individual or of others; or

2. Used only to prevent serious disruption to the therapeutic environment**]** **IN WHICH THE BEHAVIOR OF THE INDIVIDUAL ~~IS UNANTICIPATED AND~~ PLACES THE INDIVIDUAL OR OTHERS AT SERIOUS THREAT OF VIOLENCE OR INJURY**; and

(ii) 1. Ordered by a physician in writing; or

2. Directed by a registered nurse if a physician's order is obtained within 2 hours of the action;

(4) BE FREE FROM PHYSICAL RESTRAINT OR HOLD THAT:

(I) PLACES THE INDIVIDUAL FACE DOWN WITH PRESSURE APPLIED TO THE BACK;

(II) OBSTRUCTS THE AIRWAY OF THE INDIVIDUAL OR IMPAIRS THE INDIVIDUAL'S ABILITY TO BREATHE;

(III) OBSTRUCTS A STAFF MEMBER'S VIEW OF THE INDIVIDUAL'S FACE; OR

(IV) RESTRICTS THE INDIVIDUAL'S ABILITY TO COMMUNICATE DISTRESS;

[(4)**] (5)** Be free from mental abuse; and

[(5)**] (6)** Be protected from harm or abuse as provided in this subtitle.

~~**(D) SUBSECTION (C)(4) OF THIS SECTION DOES NOT PROHIBIT PLACING AN INDIVIDUAL MOMENTARILY FACE DOWN TO TRANSITION THE INDIVIDUAL TO A RESTRAINT POSITION.**~~

(D) NOTHING IN SUBSECTION (C)(4) OF THIS SECTION SHALL PROHIBIT STAFF FROM USING A TECHNIQUE FOR TRANSITIONING THE INDIVIDUAL TO A RESTRAINT POSITION THAT INVOLVES MOMENTARILY:

(1) PLACING AN INDIVIDUAL FACE DOWN; OR

(2) OBSTRUCTING THE VIEW OF AN INDIVIDUAL'S FACE.

(E) A FACILITY SHALL:

(1) HAVE A WRITTEN POLICY SPECIFYING THE METHOD USED TO ENSURE THAT AN INDIVIDUAL WHOSE PRIMARY LANGUAGE OR METHOD OF COMMUNICATION IS NONVERBAL IS ABLE TO EFFECTIVELY COMMUNICATE DISTRESS DURING A PHYSICAL RESTRAINT OR HOLD; AND

(2) ENSURE THAT ALL STAFF AT THE FACILITY WHO ARE AUTHORIZED TO PARTICIPATE IN A PHYSICAL RESTRAINT OR HOLD OF INDIVIDUALS ARE TRAINED IN THE METHOD SPECIFIED IN THE WRITTEN POLICY REQUIRED UNDER ITEM (1) *OF* THIS SUBSECTION.

~~(d)~~ **(F)** Subject to the provisions of §§ 4–301 through 4–309 of this article, the records of each individual in a facility are confidential.

~~(e)~~ **(G)** (1) Notwithstanding any other provision of law, when the State designated protection and advocacy agency for persons with developmental disabilities has received and documented a request for an investigation of a possible violation of the rights of an individual in a facility that is owned and operated by the Department or under contract to the Department to provide mental health services in the community under this subtitle, the executive director of the protection and advocacy agency or the executive director's designee:

(i) Before pursuing any investigation:

1. Shall interview the individual whose rights have been allegedly violated; and

2. Shall attempt to obtain written consent from the individual; and

(ii) If the individual is unable to give written consent but does not object to the investigation:

1. Shall document this fact; and

2. Shall request, in writing, access to the individual's records from the Director of the Mental Hygiene Administration.

(2) On receipt of the request for access to the individual's records, the Director of the Mental Hygiene Administration shall authorize access to the individual's records.

(3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the

executive director's designee, may pursue an investigation and as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

~~(H)~~ **(H)** (1) On admission to a facility, an individual shall be informed of the rights provided in this subtitle in language and terms that are appropriate to the individual's condition and ability to understand.

(2) A facility shall post notices in locations accessible to the individual and to visitors describing the rights provided in this subtitle in language and terms that may be readily understood.

~~(I)~~ **(I)** A facility shall implement an impartial, timely complaint procedure that affords an individual the ability to exercise the rights provided in this subtitle.

~~**10–701.1.**~~

~~**(A) IN ADDITION TO THE RIGHTS SPECIFIED IN THIS SUBTITLE, INDIVIDUALS IN STATE–OPERATED PSYCHIATRIC FACILITIES SHALL HAVE THE RIGHT TO:**~~

~~**(1) A SAFE ENVIRONMENT THAT IS ADEQUATELY STAFFED WITH TRAINED PROFESSIONALS;**~~

~~**(2) PROMPT MEDICAL CARE AND TREATMENT INCLUDING TREATMENT FOR ANY EMERGENCY MEDICAL CONDITION THAT WILL DETERIORATE FROM FAILURE TO PROVIDE SUCH TREATMENT;**~~

~~**(3) A COMPREHENSIVE ASSESSMENT TO IDENTIFY ANY CO–OCCURRING DISORDERS, DISABILITIES, AND HISTORIES OF TRAUMA;**~~

~~**(4) PARTICIPATE IN AND RECEIVE AN INDIVIDUAL TREATMENT AND DISCHARGE PLAN, WHICH IN ADDITION TO THE REQUIREMENTS OF § 10–706 OF THIS SUBTITLE, SPECIFICALLY ADDRESSES THE INDIVIDUAL'S NEEDS AS IDENTIFIED THROUGH THE ASSESSMENT;**~~

~~**(5) A SELF–DIRECTED PLAN OF ACTIVITIES THAT ARE SOOTHING AND CALMING TO THE INDIVIDUAL AND AVAILABLE ON REASONABLE REQUEST BY THE INDIVIDUAL, INCLUDING LISTENING TO MUSIC, READING, JOURNALING, WALKING, AND OTHER FORMS OF EXERCISE;**~~

~~**(6) CHOOSE FROM AN ADEQUATE ARRAY OF THERAPEUTIC PROGRAMS THAT PROMOTE RECOVERY;**~~

~~**(7) BE FREE FROM MEDICATION USED AS A SUBSTITUTE FOR THERAPEUTIC PROGRAMS, OR IN QUANTITIES THAT INTERFERE WITH THE PERSON'S ABILITY TO THINK OR ACT INDEPENDENTLY;**~~

~~**(8) REFUSE PROPOSED TREATMENT OR THERAPEUTIC PROGRAMS WITHOUT BEING SUBJECT TO PUNITIVE MEASURES, INCLUDING LOSS OF PRIVILEGE LEVEL BASED SOLELY ON THE REFUSAL, IF:**~~

~~**(I) THE INDIVIDUAL IS COMPETENT TO MAKE TREATMENT DECISIONS; AND**~~

~~**(II) TREATMENT IS NOT AUTHORIZED UNDER § 10–708 OF THIS SUBTITLE;**~~

~~**(9) HAVE TREATMENT PREFERENCES IN AN ADVANCE DIRECTIVE HONORED IF THE INDIVIDUAL IS FOUND CAPABLE OF MAKING AN INFORMED DECISION REGARDING TREATMENT UNDER § 5–606 OF THIS ARTICLE;**~~

~~**(10) HAVE A PRIVILEGE LEVEL SYSTEM USED BY A FACILITY INDIVIDUALIZED TO ACCOMMODATE ANY EXISTING LIMITATION IN COGNITIVE FUNCTION OR PHYSICAL DISABILITY;**~~

~~**(11) RELIGIOUS FREEDOM AND PRACTICE;**~~

~~**(12) REGULAR SOCIAL INTERACTION AND PARTICIPATION IN AVAILABLE COMMUNITY ACTIVITIES UNLESS:**~~

~~**(I) A COURT ORDER LIMITS THE INDIVIDUAL'S ABILITY TO PARTICIPATE; OR**~~

~~**(II) DOCUMENTED EVIDENCE SHOWS THAT THE INDIVIDUAL'S PRESENT CONDITION PREVENTS THE PARTICIPATION;**~~

~~**(13) PARTICIPATION IN PUBLICLY SUPPORTED EDUCATION PROGRAMS OR EDUCATION PROGRAMS THAT THE INDIVIDUAL FINANCES;**~~

~~**(14) ACCESS TO A TOILET AT ANY TIME;**~~

~~**(15) REGULAR PHYSICAL EXERCISE, RECREATIONAL OPPORTUNITIES, AND OUTDOOR ACTIVITIES;**~~

~~**(16) AN ADEQUATE ALLOWANCE OF NEAT, CLEAN, AND SEASONABLE PERSONAL CLOTHING IF THE INDIVIDUAL IS UNABLE TO PROVIDE THE CLOTHING;**~~

~~**(17) ADAPTIVE DEVICES INCLUDING EYEGLASSES, HEARING AIDS, DENTURES, WALKERS, WHEELCHAIRS, AND COMMUNICATION DEVICES; AND**~~

~~**(18) FOOD THAT IS NUTRITIOUS AND APPETIZING.**~~

~~**(B) THE RIGHTS PROVIDED IN THIS SUBTITLE MAY NOT BE LIMITED BY A PRIVILEGE LEVEL SYSTEM USED BY A FACILITY.**~~

~~**(C) (1) IN ADDITION TO ANY INTERNAL COMPLAINT MECHANISM THE FACILITY HAS, AN INDIVIDUAL MAY FILE A CIVIL COMPLAINT, INCLUDING A REQUEST FOR INJUNCTIVE RELIEF, IN A COURT OF COMPETENT JURISDICTION.**~~

~~**(2) AN ACTION UNDER THIS SUBSECTION MAY BE BROUGHT BY AN INDIVIDUAL, GUARDIAN, OR PERSON ACTING ON BEHALF OF SIMILARLY SITUATED INDIVIDUALS.**~~

~~**(3) A COMPLAINANT GRANTED INJUNCTIVE RELIEF SHALL BE AWARDED REASONABLE COSTS AND ATTORNEY'S FEES.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 173

(House Bill 640)

AN ACT concerning

Mental Hygiene Facilities – Patient Rights

FOR the purpose of altering the requirement that individuals in certain facilities be free from certain restraints and seclusions; establishing that individuals in certain facilities be free from certain physical restraints and holds; ~~establishing certain rights for individuals in certain State-operated psychiatric facilities; providing that the rights established in a certain subtitle may not be limited by~~

~~certain privilege systems; establishing that certain individuals, guardians, and persons may file certain complaints in certain courts; requiring that certain complainants granted injunctive relief be awarded certain costs and attorney's fees~~ providing that a certain requirement does not prohibit a certain action; requiring certain facilities to have a written policy specifying a certain method; requiring certain facilities to ensure that certain staff are trained in the method; and generally relating to patients rights in mental hygiene facilities.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 10–701
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

~~BY adding to~~
~~Article – Health – General~~
~~Section 10–701.1~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2006 Supplement)~~

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

Article – Health – General

10–701.

(a) (1) In this subtitle the following words have the meanings indicated.

(2) "Facility" does not include an acute general care hospital that does not have a separately identified inpatient psychiatric service.

(3) (i) "Mental abuse" means any persistent course of conduct resulting in or maliciously intended to produce emotional harm.

(ii) "Mental abuse" does not include the performance of an accepted clinical procedure.

(b) It is the policy of this State that each mentally ill individual who receives any service in a facility has, in addition to any other rights, the rights provided in this subtitle.

(c) Each individual in a facility shall:

(1) Receive appropriate humane treatment and services in a manner that restricts the individual's personal liberty within a facility only to the extent necessary and consistent with the individual's treatment needs and applicable legal requirements;

(2) Receive treatment in accordance with the applicable individualized plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this subtitle;

(3) Be free from restraints or **[**locked door**]** seclusions except for restraints or **[**locked door**]** seclusions that are:

(i) **[**1.**]** Used only during an emergency **[**where the individual presents a danger to the life or safety of the individual or of others; or

2. Used only to prevent serious disruption to the therapeutic environment**]** **IN WHICH THE BEHAVIOR OF THE INDIVIDUAL ~~IS UNANTICIPATED AND~~ PLACES THE INDIVIDUAL OR OTHERS AT SERIOUS THREAT OF VIOLENCE OR INJURY**; and

(ii) 1. Ordered by a physician in writing; or

2. Directed by a registered nurse if a physician's order is obtained within 2 hours of the action;

(4) BE FREE FROM PHYSICAL RESTRAINT OR HOLD THAT:

(I) PLACES THE INDIVIDUAL FACE DOWN WITH PRESSURE APPLIED TO THE BACK;

(II) OBSTRUCTS THE AIRWAY OF THE INDIVIDUAL OR IMPAIRS THE INDIVIDUAL'S ABILITY TO BREATHE;

(III) OBSTRUCTS A STAFF MEMBER'S VIEW OF THE INDIVIDUAL'S FACE; OR

(IV) RESTRICTS THE INDIVIDUAL'S ABILITY TO COMMUNICATE <u>DISTRESS</u>;

[(4)**] (5)** Be free from mental abuse; and

[(5)**] (6)** Be protected from harm or abuse as provided in this subtitle.

(D) NOTHING IN SUBSECTION (C)(4) OF THIS SECTION SHALL PROHIBIT STAFF FROM USING A TECHNIQUE FOR TRANSITIONING THE INDIVIDUAL TO A RESTRAINT POSITION THAT INVOLVES MOMENTARILY:

(1) PLACING AN INDIVIDUAL FACE DOWN; OR

(2) OBSTRUCTING THE VIEW OF AN INDIVIDUAL'S FACE.

(E) A FACILITY SHALL:

(1) HAVE A WRITTEN POLICY SPECIFYING THE METHOD USED TO ENSURE THAT AN INDIVIDUAL WHOSE PRIMARY LANGUAGE OR METHOD OF COMMUNICATION IS NONVERBAL IS ABLE TO EFFECTIVELY COMMUNICATE DISTRESS DURING A PHYSICAL RESTRAINT OR HOLD; AND

(2) ENSURE THAT ALL STAFF AT THE FACILITY WHO ARE AUTHORIZED TO PARTICIPATE IN A PHYSICAL RESTRAINT OR HOLD OF INDIVIDUALS ARE TRAINED IN THE METHOD SPECIFIED IN THE WRITTEN POLICY REQUIRED UNDER ITEM (1) OF THIS SUBSECTION.

~~(d)~~ **(F)** Subject to the provisions of §§ 4–301 through 4–309 of this article, the records of each individual in a facility are confidential.

~~(e)~~ **(G)** (1) Notwithstanding any other provision of law, when the State designated protection and advocacy agency for persons with developmental disabilities has received and documented a request for an investigation of a possible violation of the rights of an individual in a facility that is owned and operated by the Department or under contract to the Department to provide mental health services in the community under this subtitle, the executive director of the protection and advocacy agency or the executive director's designee:

(i) Before pursuing any investigation:

1. Shall interview the individual whose rights have been allegedly violated; and

2. Shall attempt to obtain written consent from the individual; and

(ii) If the individual is unable to give written consent but does not object to the investigation:

1. Shall document this fact; and

2. Shall request, in writing, access to the individual's records from the Director of the Mental Hygiene Administration.

(2) On receipt of the request for access to the individual's records, the Director of the Mental Hygiene Administration shall authorize access to the individual's records.

(3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the executive director's designee, may pursue an investigation and as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

~~(f)~~ **(H)**(1) On admission to a facility, an individual shall be informed of the rights provided in this subtitle in language and terms that are appropriate to the individual's condition and ability to understand.

(2) A facility shall post notices in locations accessible to the individual and to visitors describing the rights provided in this subtitle in language and terms that may be readily understood.

~~(g)~~ **(I)** A facility shall implement an impartial, timely complaint procedure that affords an individual the ability to exercise the rights provided in this subtitle.

~~**10–701.1.**~~

~~**(A) IN ADDITION TO THE RIGHTS SPECIFIED IN THIS SUBTITLE, INDIVIDUALS IN STATE–OPERATED PSYCHIATRIC FACILITIES SHALL HAVE THE RIGHT TO:**~~

~~**(1) A SAFE ENVIRONMENT THAT IS ADEQUATELY STAFFED WITH TRAINED PROFESSIONALS;**~~

~~**(2) PROMPT MEDICAL CARE AND TREATMENT INCLUDING TREATMENT FOR ANY EMERGENCY MEDICAL CONDITION THAT WILL DETERIORATE FROM FAILURE TO PROVIDE SUCH TREATMENT;**~~

~~**(3) A COMPREHENSIVE ASSESSMENT TO IDENTIFY ANY CO–OCCURRING DISORDERS, DISABILITIES, AND HISTORIES OF TRAUMA;**~~

~~**(4) PARTICIPATE IN AND RECEIVE AN INDIVIDUAL TREATMENT AND DISCHARGE PLAN, WHICH IN ADDITION TO THE REQUIREMENTS OF § 10–706 OF THIS SUBTITLE, SPECIFICALLY ADDRESSES THE INDIVIDUAL'S NEEDS AS IDENTIFIED THROUGH THE ASSESSMENT;**~~

~~**(5) A SELF–DIRECTED PLAN OF ACTIVITIES THAT ARE SOOTHING AND CALMING TO THE INDIVIDUAL AND AVAILABLE ON REASONABLE REQUEST BY THE INDIVIDUAL, INCLUDING LISTENING TO MUSIC, READING, JOURNALING, WALKING, AND OTHER FORMS OF EXERCISE;**~~

~~**(6) CHOOSE FROM AN ADEQUATE ARRAY OF THERAPEUTIC PROGRAMS THAT PROMOTE RECOVERY;**~~

~~**(7) BE FREE FROM MEDICATION USED AS A SUBSTITUTE FOR THERAPEUTIC PROGRAMS, OR IN QUANTITIES THAT INTERFERE WITH THE PERSON'S ABILITY TO THINK OR ACT INDEPENDENTLY;**~~

~~**(8) REFUSE PROPOSED TREATMENT OR THERAPEUTIC PROGRAMS WITHOUT BEING SUBJECT TO PUNITIVE MEASURES, INCLUDING LOSS OF PRIVILEGE LEVEL BASED SOLELY ON THE REFUSAL, IF:**~~

~~**(I) THE INDIVIDUAL IS COMPETENT TO MAKE TREATMENT DECISIONS; AND**~~

~~**(II) TREATMENT IS NOT AUTHORIZED UNDER § 10–708 OF THIS SUBTITLE;**~~

~~**(9) HAVE TREATMENT PREFERENCES IN AN ADVANCE DIRECTIVE HONORED IF THE INDIVIDUAL IS FOUND CAPABLE OF MAKING AN INFORMED DECISION REGARDING TREATMENT UNDER § 5–606 OF THIS ARTICLE;**~~

~~**(10) HAVE A PRIVILEGE LEVEL SYSTEM USED BY A FACILITY INDIVIDUALIZED TO ACCOMMODATE ANY EXISTING LIMITATION IN COGNITIVE FUNCTION OR PHYSICAL DISABILITY;**~~

~~**(11) RELIGIOUS FREEDOM AND PRACTICE;**~~

~~**(12) REGULAR SOCIAL INTERACTION AND PARTICIPATION IN AVAILABLE COMMUNITY ACTIVITIES UNLESS:**~~

~~**(I) A COURT ORDER LIMITS THE INDIVIDUAL'S ABILITY TO PARTICIPATE; OR**~~

~~**(II) DOCUMENTED EVIDENCE SHOWS THAT THE INDIVIDUAL'S PRESENT CONDITION PREVENTS THE PARTICIPATION;**~~

~~**(13) PARTICIPATION IN PUBLICLY SUPPORTED EDUCATION PROGRAMS OR EDUCATION PROGRAMS THAT THE INDIVIDUAL FINANCES;**~~

~~**(14) ACCESS TO A TOILET AT ANY TIME;**~~

~~**(15) REGULAR PHYSICAL EXERCISE, RECREATIONAL OPPORTUNITIES, AND OUTDOOR ACTIVITIES;**~~

~~**(16) AN ADEQUATE ALLOWANCE OF NEAT, CLEAN, AND SEASONABLE PERSONAL CLOTHING IF THE INDIVIDUAL IS UNABLE TO PROVIDE THE CLOTHING;**~~

~~**(17) ADAPTIVE DEVICES INCLUDING EYEGLASSES, HEARING AIDS, DENTURES, WALKERS, WHEELCHAIRS, AND COMMUNICATION DEVICES; AND**~~

~~**(18) FOOD THAT IS NUTRITIOUS AND APPETIZING.**~~

~~**(B) THE RIGHTS PROVIDED IN THIS SUBTITLE MAY NOT BE LIMITED BY A PRIVILEGE LEVEL SYSTEM USED BY A FACILITY.**~~

~~**(C) (1) IN ADDITION TO ANY INTERNAL COMPLAINT MECHANISM THE FACILITY HAS, AN INDIVIDUAL MAY FILE A CIVIL COMPLAINT, INCLUDING A REQUEST FOR INJUNCTIVE RELIEF, IN A COURT OF COMPETENT JURISDICTION.**~~

~~**(2) AN ACTION UNDER THIS SUBSECTION MAY BE BROUGHT BY AN INDIVIDUAL, GUARDIAN, OR PERSON ACTING ON BEHALF OF SIMILARLY SITUATED INDIVIDUALS.**~~

~~**(3) A COMPLAINANT GRANTED INJUNCTIVE RELIEF SHALL BE AWARDED REASONABLE COSTS AND ATTORNEY'S FEES.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 174

(Senate Bill 651)

AN ACT concerning

Medical Malpractice Liability Insurance – Garrett County Memorial Hospital – Subsidy for Family Practitioners Who Also Perform Obstetrical Services

FOR the purpose of requiring a certain subsidy for certain calendar years for medical professional liability insurance policies issued to family practitioners who have staff privileges at Garrett County Memorial Hospital and who also provide obstetrical services at the Hospital; requiring certain amounts to remain in the Rate Stabilization Account to pay for certain subsidies; requiring medical professional liability insurers to include, if applicable, a certain subsidy in the information required to be submitted to the Maryland Insurance Commissioner to receive money from the Rate Stabilization Account; providing a certain exception to the requirement that a certain disbursement from the Rate Stabilization Account be reduced by a certain amount and the prohibition on a disbursement from the Account to a certain entity under certain circumstances; providing for the termination of this Act; and generally relating to a subsidy for medical professional liability insurance policies issued to family practitioners in Garrett County who also provide obstetrical services in Garrett County.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 19–801(a) and (b), 19–802(a), (b), and (g), and 19–803
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 19–804 and 19–805
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

19–801.

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

(b) "Fund" means the Maryland Health Care Provider Rate Stabilization Fund.

19–802.

(a) There is a Maryland Health Care Provider Rate Stabilization Fund.

(b) The purposes of the Fund are to:

(1) retain health care providers in the State by allowing medical professional liability insurers to collect rates that are less than the rates approved under § 11–201 of this article;

(2) increase fee–for–service rates paid by the Maryland Medical Assistance Program to health care providers identified under § 19–807 of this subtitle;

(3) pay managed care organization health care providers identified under § 19–807 of this subtitle consistent with fee–for–service health care provider rates;

(4) increase capitation payments to managed care organizations participating in the Maryland Medical Assistance Program consistent with § 15–103(b)(18) of the Health – General Article; and

(5) during the period that an allocation is made to the Rate Stabilization Account, subsidize up to $350,000 annually to provide for the costs incurred by the Commissioner to administer the Fund.

(g) The Fund comprises:

(1) the Rate Stabilization Account from which disbursements shall be made to pay for health care provider rate subsidies; and

(2) the Medical Assistance Program Account from which disbursements shall be made to:

(i) provide an increase in fee–for–service health care provider rates paid by the Maryland Medical Assistance Program;

(ii) provide an increase for managed care organization health care providers consistent with fee–for–service health care provider rate increases;

(iii) provide an increase in capitation payments to managed care organizations participating in the Maryland Medical Assistance Program consistent with § 15–103(b)(18) of the Health – General Article; and

(iv) after fiscal year 2009, maintain rates for health care providers and generally to support the operations of the Maryland Medical Assistance Program.

19–803.

(a) The Commissioner shall administer the Fund.

(b) Notwithstanding § 2–114 of this article:

(1) the Commissioner shall deposit the revenue from the tax imposed on health maintenance organizations and managed care organizations under § 6–102 of this article in the Fund;

(2) during the period an allocation is made to the Rate Stabilization Account, the Commissioner may distribute up to $350,000 annually from the revenue estimated to be received by the Fund in a fiscal year to provide for the costs incurred by the Commissioner to administer the Fund;

(3) after distributing the amount required under paragraph (2) of this subsection, the Commissioner shall allocate the revenue and unallocated balance of the Fund according to the following schedule:

(i) in fiscal year 2005, $3,500,000 to the Medical Assistance Program Account;

(ii) in fiscal year 2006:

1. $52,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2005; and

2. $30,000,000 to the Medical Assistance Program Account;

(iii) in fiscal year 2007:

1. $45,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2006; and

2. $45,000,000 to the Medical Assistance Program Account;

(iv) in fiscal year 2008:

1. $35,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2007; and

2. $65,000,000 to the Medical Assistance Program Account;

(v) in fiscal year 2009:

1. $25,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2008; and

2. the remaining revenue to the Medical Assistance Program Account; and

(vi) in fiscal year 2010 and annually thereafter, 100% to the Medical Assistance Program Account.

(c) (1) Any revenue remaining in the Fund after fiscal year 2005 shall remain in the Fund until otherwise directed by law.

(2) If in any fiscal year the allocations made under this section exceed the revenues estimated for that year, amounts available in the unallocated balance of the Fund may be substituted to the extent of a Fund deficit.

(d) (1) If a medical professional liability insurer provides coverage to a health care provider and that insurer did not earn premiums in the previous calendar year in the State, that insurer shall be allocated 5% of the balance of the Rate Stabilization Account or a lesser amount as determined by the Commissioner.

(2) If an allocation is made under paragraph (1) of this subsection, the funds available to other medical professional liability insurers shall be reduced on a pro rata basis.

19–804.

(a) The order of preference for distribution from the Fund shall be as follows:

(1) disbursements from the Rate Stabilization Account to subsidize health care provider rates under § 19–805 of this subtitle;

(2) disbursements from the Medical Assistance Program Account sufficient to:

(i) pay for increased rates to health care providers identified under § 19–807(b)(2) of this subtitle; and

(ii) pay managed care organization health care providers identified under § 19–807(b)(2) of this subtitle consistent with the fee–for–service health care provider rate increases;

(3) disbursements to maintain the increase in health care provider reimbursements under § 19–807(b)(2) of this subtitle;

(4) disbursements to increase capitation payments to managed care organizations participating in the Maryland Medical Assistance Program consistent with § 15–103(b)(18) of the Health – General Article; and

(5) disbursements from the Medical Assistance Program Account to:

(i) increase fee–for–service health care provider rates under § 19–807 of this subtitle; and

(ii) pay managed care organization health care providers consistent with fee–for–service health care provider rates under § 19–807(b)(3) of this subtitle.

(b) Disbursements from the Rate Stabilization Account to a medical professional liability insurer may not exceed the amount necessary to provide a rate reduction, credit, or refund to health care providers.

(c) (1) Portions of the Rate Stabilization Account that exceed the amount necessary to pay for health care provider subsidies shall remain in the Rate Stabilization Account to be used:

(i) to pay for health care provider subsidies in calendar years 2006 through 2008; and

(ii) after the fiscal year 2009 allocation to the Rate Stabilization Account under § 19–803(b) of this subtitle, by the Medical Assistance Program Account for the purposes specified under § 19–807(b) of this subtitle.

(2) Any disbursements from the Rate Stabilization Account to a medical professional liability insurer that is not used to provide a rate reduction, credit, or refund to a health care provider shall be returned to the State Treasurer for reversion to the Fund.

(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, AMOUNTS NECESSARY TO PAY FOR HEALTH CARE PROVIDER SUBSIDIES UNDER § 19–805(B)(3) OF THIS SUBTITLE SHALL REMAIN IN THE RATE STABILIZATION ACCOUNT.

(d) A medical professional liability insurer shall reduce the subsidy paid to each health care provider electing to receive a subsidy if the balance of the Rate Stabilization Account is insufficient to pay health care provider subsidies.

19–805.

(a) (1) Participation in the Fund by a medical professional liability insurer shall be voluntary.

(2) On at least an annual basis, a medical professional liability insurer seeking reimbursement from the Rate Stabilization Account shall:

(i) determine the amount of the subsidy for each policyholder; and

(ii) send a written notice to each policyholder stating:

1. the amount of the estimated annual subsidy provided by the State; and

2. the procedure a health care provider shall follow if electing not to receive a rate reduction, credit, or refund.

(b) Subject to § 19–804(d) of this subtitle and subsection (c) of this section, the subsidy provided to each policyholder shall be:

(1) for medical professional liability insurance policies subject to rates that were approved for an initial effective date on or after January 1, 2005, but prior to January 1, 2006, the amount of a premium increase that is greater than 5% of the approved rates in effect 1 year prior to the effective date of the policy; **[**and**]**

(2) for medical professional liability insurance policies subject to rates that were approved for an initial effective date on or after January 1, 2006, a percentage of the policyholder's premium for the prior year that equals the quotient, measured as a percentage of the balance of the Rate Stabilization Account for the current calendar year divided by the aggregate amount of premiums for medical professional liability insurance that would have been paid by health care providers at the approved rate during the prior calendar year**; AND**

(3) IN ADDITION TO AMOUNTS PROVIDED UNDER ITEMS (1) AND (2) OF THIS SUBSECTION, FOR MEDICAL PROFESSIONAL LIABILITY INSURANCE POLICIES ISSUED TO FAMILY PRACTITIONERS WHO HAVE STAFF PRIVILEGES AT GARRETT COUNTY MEMORIAL HOSPITAL AND WHO ALSO PROVIDE OBSTETRICAL SERVICES AT GARRETT COUNTY MEMORIAL HOSPITAL, AN AMOUNT EQUAL TO 75% OF THE DIFFERENCE BETWEEN THE POLICYHOLDER'S PREMIUM FOR CALENDAR YEAR 2007, 2008, AND 2009 AND THE PREMIUM THAT OTHERWISE WOULD BE PAYABLE IN THOSE CALENDAR YEARS IF THE POLICYHOLDER WAS NOT PROVIDING OBSTETRICAL SERVICES.

(c) The State subsidy calculated under subsection (b) of this section may not include the amount of a rate increase resulting from a premium surcharge or the loss of a discount due to a health care provider's loss experience.

(d) A health care provider may elect not to receive a rate reduction, credit, or refund by:

(1) notifying the medical professional liability insurer within 15 days of receiving the notice under subsection (a) of this section of the health care provider's intent not to accept a rate reduction, credit, or refund; and

(2) paying, either in full, or on an installment basis, the amount of premium billed by the medical professional liability insurer.

(e) (1) On at least an annual basis, a medical professional liability insurer seeking reimbursement from the Rate Stabilization Account on behalf of health care providers shall apply to the Rate Stabilization Account on a form and in a manner approved by the Commissioner.

(2) The Commissioner may adopt regulations that specify the information that medical professional liability insurers shall submit to receive money from the Rate Stabilization Account.

(3) The information required shall include:

(i) by health care provider classification and geographic territory, the amount of the base premium rate charged by the insurer at the approved rate;

(ii) by health care provider classification and geographic territory, the amount of the base premium rate charged by the insurer reduced by the amount of the subsidy**, INCLUDING THE SUBSIDY PROVIDED UNDER SUBSECTION (B)(3) OF THIS SECTION, IF APPLICABLE**;

(iii) the number of health care providers in each classification and geographic territory;

(iv) the total amount of reimbursement requested from the Rate Stabilization Account;

(v) the name, classification, and geographic territory of each health care provider electing not to receive a rate reduction, credit, or refund; and

(vi) any other information the Commissioner considers necessary to disburse money from the Rate Stabilization Account.

(f) Within 60 days of receipt of a request for reimbursement from the Fund, the Commissioner shall disburse money from the Rate Stabilization Account on a quarterly basis to medical professional liability insurers to be used to provide a rate reduction, credit, or refund to health care providers.

(g) In anticipation of reimbursement or on reimbursement from the Rate Stabilization Account, a medical professional liability insurer shall provide a rate reduction, credit, or refund to a policyholder as follows:

(1) for premiums paid on an installment basis, the rate reduction or credit shall be applied against the base premium rate due on the next installment; and

(2) if the amount of the rate reduction or credit is more than the amount due on the next installment, or if a policy is paid in full, the policyholder may elect that either a refund be issued, or that a credit be applied against the base premium rate due on the policyholder's next renewal.

(h) **[**During**]** **EXCEPT FOR THE SUBSIDY PROVIDED UNDER SUBSECTION (B)(3) OF THIS SECTION, DURING** the period in which disbursements are made from the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds:

(1) a disbursement from the Rate Stabilization Account to a medical professional liability insurer conducting business as a mutual company shall be reduced by the value of a dividend that may be issued by the insurer; and

(2) a disbursement may not be made from the Rate Stabilization Account to the Medical Mutual Liability Insurance Society of Maryland during any period for which the Commissioner has determined, under § 24–212 of this article, that the surplus of the Society is excessive.

(i) The Commissioner or the Commissioner's designee shall conduct an annual audit to verify the information submitted by a medical professional liability insurer applying for reimbursement from the Rate Stabilization Account.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 3 years and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 175

(House Bill 372)

AN ACT concerning

Medical Malpractice Liability Insurance – Garrett County Memorial Hospital – Subsidy for Family Practitioners Who Also Perform Obstetrical Services

FOR the purpose of requiring a certain subsidy for certain calendar years for medical professional liability insurance policies issued to family practitioners who have staff privileges at Garrett County Memorial Hospital and who also provide obstetrical services at the Hospital; requiring certain amounts to remain in the Rate Stabilization Account to pay for certain subsidies; requiring medical professional liability insurers to include, if applicable, a certain subsidy in the information required to be submitted to the Maryland Insurance Commissioner to receive money from the Rate Stabilization Account; providing a certain exception to the requirement that a certain disbursement from the Rate Stabilization Account be reduced by a certain amount and the prohibition on a disbursement from the Account to a certain entity under certain circumstances; providing for the termination of this Act; and generally relating to a subsidy for medical professional liability insurance policies issued to family practitioners in Garrett County who also provide obstetrical services in Garrett County.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 19–801(a) and (b), 19–802(a), (b), and (g), and 19–803
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 19–804 and 19–805
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Insurance

19–801.

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

(b) "Fund" means the Maryland Health Care Provider Rate Stabilization Fund.

19–802.

(a) There is a Maryland Health Care Provider Rate Stabilization Fund.

(b) The purposes of the Fund are to:

(1) retain health care providers in the State by allowing medical professional liability insurers to collect rates that are less than the rates approved under § 11–201 of this article;

(2) increase fee–for–service rates paid by the Maryland Medical Assistance Program to health care providers identified under § 19–807 of this subtitle;

(3) pay managed care organization health care providers identified under § 19–807 of this subtitle consistent with fee–for–service health care provider rates;

(4) increase capitation payments to managed care organizations participating in the Maryland Medical Assistance Program consistent with § 15–103(b)(18) of the Health – General Article; and

(5) during the period that an allocation is made to the Rate Stabilization Account, subsidize up to $350,000 annually to provide for the costs incurred by the Commissioner to administer the Fund.

(g) The Fund comprises:

(1) the Rate Stabilization Account from which disbursements shall be made to pay for health care provider rate subsidies; and

(2) the Medical Assistance Program Account from which disbursements shall be made to:

(i) provide an increase in fee–for–service health care provider rates paid by the Maryland Medical Assistance Program;

(ii) provide an increase for managed care organization health care providers consistent with fee–for–service health care provider rate increases;

(iii) provide an increase in capitation payments to managed care organizations participating in the Maryland Medical Assistance Program consistent with § 15–103(b)(18) of the Health – General Article; and

(iv) after fiscal year 2009, maintain rates for health care providers and generally to support the operations of the Maryland Medical Assistance Program.

19–803.

(a) The Commissioner shall administer the Fund.

(b) Notwithstanding § 2–114 of this article:

(1) the Commissioner shall deposit the revenue from the tax imposed on health maintenance organizations and managed care organizations under § 6–102 of this article in the Fund;

(2) during the period an allocation is made to the Rate Stabilization Account, the Commissioner may distribute up to $350,000 annually from the revenue estimated to be received by the Fund in a fiscal year to provide for the costs incurred by the Commissioner to administer the Fund;

(3) after distributing the amount required under paragraph (2) of this subsection, the Commissioner shall allocate the revenue and unallocated balance of the Fund according to the following schedule:

(i) in fiscal year 2005, $3,500,000 to the Medical Assistance Program Account;

(ii) in fiscal year 2006:

1. $52,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2005; and

2. $30,000,000 to the Medical Assistance Program Account;

(iii) in fiscal year 2007:

1. $45,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2006; and

2. $45,000,000 to the Medical Assistance Program Account;

(iv) in fiscal year 2008:

1. $35,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2007; and

2. $65,000,000 to the Medical Assistance Program Account;

(v) in fiscal year 2009:

1. $25,000,000 to the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds in calendar year 2008; and

2. the remaining revenue to the Medical Assistance Program Account; and

(vi) in fiscal year 2010 and annually thereafter, 100% to the Medical Assistance Program Account.

(c) (1) Any revenue remaining in the Fund after fiscal year 2005 shall remain in the Fund until otherwise directed by law.

(2) If in any fiscal year the allocations made under this section exceed the revenues estimated for that year, amounts available in the unallocated balance of the Fund may be substituted to the extent of a Fund deficit.

(d) (1) If a medical professional liability insurer provides coverage to a health care provider and that insurer did not earn premiums in the previous calendar year in the State, that insurer shall be allocated 5% of the balance of the Rate Stabilization Account or a lesser amount as determined by the Commissioner.

(2) If an allocation is made under paragraph (1) of this subsection, the funds available to other medical professional liability insurers shall be reduced on a pro rata basis.

19–804.

(a) The order of preference for distribution from the Fund shall be as follows:

(1) disbursements from the Rate Stabilization Account to subsidize health care provider rates under § 19–805 of this subtitle;

(2) disbursements from the Medical Assistance Program Account sufficient to:

(i) pay for increased rates to health care providers identified under § 19–807(b)(2) of this subtitle; and

(ii) pay managed care organization health care providers identified under § 19–807(b)(2) of this subtitle consistent with the fee–for–service health care provider rate increases;

(3) disbursements to maintain the increase in health care provider reimbursements under § 19–807(b)(2) of this subtitle;

(4) disbursements to increase capitation payments to managed care organizations participating in the Maryland Medical Assistance Program consistent with § 15–103(b)(18) of the Health – General Article; and

(5) disbursements from the Medical Assistance Program Account to:

(i) increase fee–for–service health care provider rates under § 19–807 of this subtitle; and

(ii) pay managed care organization health care providers consistent with fee–for–service health care provider rates under § 19–807(b)(3) of this subtitle.

(b) Disbursements from the Rate Stabilization Account to a medical professional liability insurer may not exceed the amount necessary to provide a rate reduction, credit, or refund to health care providers.

(c) (1) Portions of the Rate Stabilization Account that exceed the amount necessary to pay for health care provider subsidies shall remain in the Rate Stabilization Account to be used:

(i) to pay for health care provider subsidies in calendar years 2006 through 2008; and

(ii) after the fiscal year 2009 allocation to the Rate Stabilization Account under § 19–803(b) of this subtitle, by the Medical Assistance Program Account for the purposes specified under § 19–807(b) of this subtitle.

(2) Any disbursements from the Rate Stabilization Account to a medical professional liability insurer that is not used to provide a rate reduction, credit, or refund to a health care provider shall be returned to the State Treasurer for reversion to the Fund.

(3) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, AMOUNTS NECESSARY TO PAY FOR HEALTH CARE PROVIDER SUBSIDIES UNDER § 19–805(B)(3) OF THIS SUBTITLE SHALL REMAIN IN THE RATE STABILIZATION ACCOUNT.

(d) A medical professional liability insurer shall reduce the subsidy paid to each health care provider electing to receive a subsidy if the balance of the Rate Stabilization Account is insufficient to pay health care provider subsidies.

19–805.

(a) (1) Participation in the Fund by a medical professional liability insurer shall be voluntary.

(2) On at least an annual basis, a medical professional liability insurer seeking reimbursement from the Rate Stabilization Account shall:

(i) determine the amount of the subsidy for each policyholder; and

(ii) send a written notice to each policyholder stating:

1. the amount of the estimated annual subsidy provided by the State; and

2. the procedure a health care provider shall follow if electing not to receive a rate reduction, credit, or refund.

(b) Subject to § 19–804(d) of this subtitle and subsection (c) of this section, the subsidy provided to each policyholder shall be:

(1) for medical professional liability insurance policies subject to rates that were approved for an initial effective date on or after January 1, 2005, but prior to January 1, 2006, the amount of a premium increase that is greater than 5% of the approved rates in effect 1 year prior to the effective date of the policy; **[**and**]**

(2) for medical professional liability insurance policies subject to rates that were approved for an initial effective date on or after January 1, 2006, a percentage of the policyholder's premium for the prior year that equals the quotient, measured as a percentage of the balance of the Rate Stabilization Account for the current calendar year divided by the aggregate amount of premiums for medical professional liability insurance that would have been paid by health care providers at the approved rate during the prior calendar year**; AND**

(3) IN ADDITION TO AMOUNTS PROVIDED UNDER ITEMS (1) AND (2) OF THIS SUBSECTION, FOR MEDICAL PROFESSIONAL LIABILITY INSURANCE POLICIES ISSUED TO FAMILY PRACTITIONERS WHO HAVE STAFF PRIVILEGES AT GARRETT COUNTY MEMORIAL HOSPITAL AND WHO ALSO PROVIDE OBSTETRICAL SERVICES AT GARRETT COUNTY MEMORIAL HOSPITAL, AN AMOUNT EQUAL TO 75% OF THE DIFFERENCE BETWEEN THE POLICYHOLDER'S PREMIUM FOR CALENDAR YEAR 2007, 2008, AND 2009 AND THE PREMIUM THAT OTHERWISE WOULD BE PAYABLE IN THOSE CALENDAR YEARS IF THE POLICYHOLDER WAS NOT PROVIDING OBSTETRICAL SERVICES.

(c) The State subsidy calculated under subsection (b) of this section may not include the amount of a rate increase resulting from a premium surcharge or the loss of a discount due to a health care provider's loss experience.

(d) A health care provider may elect not to receive a rate reduction, credit, or refund by:

(1) notifying the medical professional liability insurer within 15 days of receiving the notice under subsection (a) of this section of the health care provider's intent not to accept a rate reduction, credit, or refund; and

(2) paying, either in full, or on an installment basis, the amount of premium billed by the medical professional liability insurer.

(e) (1) On at least an annual basis, a medical professional liability insurer seeking reimbursement from the Rate Stabilization Account on behalf of health care providers shall apply to the Rate Stabilization Account on a form and in a manner approved by the Commissioner.

(2) The Commissioner may adopt regulations that specify the information that medical professional liability insurers shall submit to receive money from the Rate Stabilization Account.

(3) The information required shall include:

(i) by health care provider classification and geographic territory, the amount of the base premium rate charged by the insurer at the approved rate;

(ii) by health care provider classification and geographic territory, the amount of the base premium rate charged by the insurer reduced by the amount of the subsidy**, INCLUDING THE SUBSIDY PROVIDED UNDER SUBSECTION (B)(3) OF THIS SECTION, IF APPLICABLE**;

(iii) the number of health care providers in each classification and geographic territory;

(iv) the total amount of reimbursement requested from the Rate Stabilization Account;

(v) the name, classification, and geographic territory of each health care provider electing not to receive a rate reduction, credit, or refund; and

(vi) any other information the Commissioner considers necessary to disburse money from the Rate Stabilization Account.

(f) Within 60 days of receipt of a request for reimbursement from the Fund, the Commissioner shall disburse money from the Rate Stabilization Account on a quarterly basis to medical professional liability insurers to be used to provide a rate reduction, credit, or refund to health care providers.

(g) In anticipation of reimbursement or on reimbursement from the Rate Stabilization Account, a medical professional liability insurer shall provide a rate reduction, credit, or refund to a policyholder as follows:

(1) for premiums paid on an installment basis, the rate reduction or credit shall be applied against the base premium rate due on the next installment; and

(2) if the amount of the rate reduction or credit is more than the amount due on the next installment, or if a policy is paid in full, the policyholder may elect that either a refund be issued, or that a credit be applied against the base premium rate due on the policyholder's next renewal.

(h) **[**During**]** **EXCEPT FOR THE SUBSIDY PROVIDED UNDER SUBSECTION (B)(3) OF THIS SECTION, DURING** the period in which disbursements are made from the Rate Stabilization Account to pay for health care provider rate reductions, credits, or refunds:

(1) a disbursement from the Rate Stabilization Account to a medical professional liability insurer conducting business as a mutual company shall be reduced by the value of a dividend that may be issued by the insurer; and

(2) a disbursement may not be made from the Rate Stabilization Account to the Medical Mutual Liability Insurance Society of Maryland during any period for which the Commissioner has determined, under § 24–212 of this article, that the surplus of the Society is excessive.

(i) The Commissioner or the Commissioner's designee shall conduct an annual audit to verify the information submitted by a medical professional liability insurer applying for reimbursement from the Rate Stabilization Account.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 3 years and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 176

(Senate Bill 678)

AN ACT concerning

Maryland Human Relations Commission – Hearings and Civil Actions – Relief

FOR the purpose of altering various provisions of the Maryland Human Relations Commission law; ~~providing that an administrative law judge oversees certain proceedings before the Commission; providing~~ requiring certain cases to be heard by an administrative law judge, rather than a hearing examiner; requiring that a complaint of discrimination and certain documents ~~shall~~ be certified to the general counsel of the Commission rather than the Commission chairman; altering the circumstances under which a certification is required to be made; requiring that the Executive Director of the Commission, rather than the Commission chairman, cause a certain notice to be issued and served; ~~providing a process for electing to file a civil action rather than an administrative hearing concerning certain acts of discrimination;~~ authorizing a complainant to bring a civil action alleging a discriminatory act or elect to have a civil action brought by the Commission; providing a process for the filing of a civil action by the Commission or a complainant; expanding the relief available for certain acts of discrimination to include an award of certain compensatory damages, punitive damages, and ~~attorney~~ attorney's fees and expert witness fees under certain circumstances; ~~establishing that certain limitations on compensatory and punitive damages shall increase by a certain amount each year;~~ authorizing a complainant to demand a trial by jury under certain circumstances; providing a process for a certain person or the Commission to intervene in ~~a civil action brought by the Commission~~ certain civil actions; authorizing the court to award certain relief to an intervening ~~person~~ party; making stylistic and conforming changes; repealing certain obsolete provisions;

providing for the construction of this Act; providing for the application of this Act; and generally relating to hearings and relief under the Maryland Human Relations Commission law.

BY repealing and reenacting, with amendments,
Article 49B – Human Relations Commission
Section 11
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to
Article 49B – Human Relations Commission
Section 11A through 11D
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article 49B – Human Relations Commission

11.

(a) **(1)** In case of failure to reach an agreement for the **REMEDY AND** elimination of the acts of discrimination and upon the entry of findings to that effect, the entire file including the complaint and any and all findings made shall be certified to **THE GENERAL COUNSEL OF THE COMMISSION**.

(2) The **[**Chairman**]** **EXECUTIVE DIRECTOR OF THE COMMISSION** shall cause a written notice to be issued and served in the name of the Commission together with a copy of the complaint requiring the respondent to answer the charges of the complaint at a public hearing **[**before a hearing examiner at a time and place certified in the notice**]:**

(I) BEFORE AN ADMINISTRATIVE LAW JUDGE AT A TIME AND PLACE CERTIFIED IN THE NOTICE; OR

(II) IN A CIVIL ACTION ELECTED UNDER § 11A OF THIS SUBTITLE BY A COMPLAINANT.

(3) **[**The**]** **IF A CIVIL ACTION IS NOT ELECTED UNDER § 11A OF THIS SUBTITLE, THE** case shall **[**thereupon**]** be heard by **[**a hearing examiner**]** **AN ADMINISTRATIVE LAW JUDGE** and the hearing shall be held in the county where the alleged act of discrimination took place.

(4) A transcript of all testimony at the hearing shall be made.

(5) The case in support of the complaint shall be presented at the hearing by the general counsel of the Commission.

(b) **(1)** The respondent may file a written answer to the complaint and appear at the hearing in person, or otherwise, with or without counsel.

(2) The respondent may submit testimony and shall be fully heard.

(3) **[**He**]** **THE RESPONDENT** may examine and cross–examine witnesses.

(c) **(1)** The Commission may permit reasonable amendment to be made to any complaint or answer.

(2) Testimony taken at the hearing shall be under oath and recorded.

(d) (1) In the administration and enforcement of the provisions of these several subtitles, the Commission has power to:

(i) Administer oaths and to issue subpoenas;

(ii) Compel the attendance and testimony of witnesses; and

(iii) Compel the production of books, papers, records and documents relevant or necessary for proceedings under the particular subtitle.

(2) Any subpoena shall be served by:

(i) Certified mail, requesting restricted delivery – Show to whom, date, address of delivery; or

(ii) Personal service of process by:

1. An employee of the Commission;

2. Any person who is not a party and is not less than 18 years of age; or

3. The sheriff or deputy sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation against whom or which the subpoena is issued.

(3) (i) In case of disobedience to a subpoena, the Commission may apply to a circuit court in any county for an order requiring the attendance and testimony of witnesses and the production of books, papers, records, and documents.

(ii) In case of contumacy or refusal to obey a subpoena for the attendance of a witness or the production of books, papers, records, and documents, after notice to the person subpoenaed as a witness or directed to produce books, papers, records and documents, and upon a finding that the attendance and testimony of the witness or the production of the books, papers, records and documents is relevant or necessary for the proceedings of the Commission, the court may issue an order requiring the attendance and testimony of the witness and the production of the books, papers, records and documents.

(iii) Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(iv) An order issued by the court under this subsection shall be served on the person to whom it is directed by the sheriff or deputy sheriff of the political subdivision where the residence or main office of the person is located.

(e) **(1)** If **[**upon**], AFTER REVIEWING** all **OF** the evidence, the **[**hearing examiner**] ADMINISTRATIVE LAW JUDGE** finds that the respondent has engaged in any discriminatory act within the scope of **[**any of these subtitles**] THIS ARTICLE**, the **[**hearing examiner**] ADMINISTRATIVE LAW JUDGE** shall so state the findings.

(2) The **[**hearing examiner**] ADMINISTRATIVE LAW JUDGE** shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the discriminatory acts and to take affirmative action to effectuate the purposes of the particular subtitle.

(3) If the respondent is found to have engaged in or to be engaging in an unlawful employment practice charged in the complaint, the remedy may include**[**, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief that is deemed appropriate.**]:**

(I) ENJOINING THE RESPONDENT FROM ENGAGING IN THE DISCRIMINATORY ACT;

(II) ORDERING APPROPRIATE AFFIRMATIVE RELIEF, INCLUDING THE REINSTATEMENT OR HIRING OF EMPLOYEES, WITH OR WITHOUT BACK PAY;

(III) AWARDING COMPENSATORY DAMAGES; OR

(IV) ORDERING ANY OTHER EQUITABLE RELIEF THE COURT CONSIDERS APPROPRIATE.

(4) COMPENSATORY DAMAGES AWARDED UNDER THIS SUBSECTION ARE IN ADDITION TO:

(I) BACK PAY OR INTEREST ON BACK PAY THAT THE COMPLAINANT MAY RECOVER UNDER ANY OTHER PROVISION OF LAW; AND

(II) ANY OTHER EQUITABLE RELIEF THAT A COMPLAINANT MAY RECOVER UNDER ANY OTHER PROVISION OF LAW.

(5) THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT UNDER THIS SECTION, FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN, SUFFERING, INCONVENIENCE, MENTAL ANGUISH, LOSS OF ENJOYMENT OF LIFE, OR NONPECUNIARY LOSSES, MAY NOT EXCEED:

(I) $50,000 IF THE RESPONDENT EMPLOYS NOT FEWER THAN 15 AND NOT MORE THAN 100 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(II) $100,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 101 AND NOT MORE THAN 200 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(III) $200,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 201 AND NOT MORE THAN 500 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; AND

(IV) $300,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 501 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

~~**(6) (I) THE LIMITATIONS ON COMPENSATORY DAMAGES PROVIDED UNDER PARAGRAPH (5) OF THIS SUBSECTION SHALL INCREASE BY $15,000 ON JANUARY 1 OF EACH YEAR BEGINNING JANUARY 1, 2009.**~~

~~**(II) THE INCREASED AMOUNT APPLIES TO CAUSES OF ACTION ARISING BETWEEN JANUARY 1 AND DECEMBER 31 OF THE YEAR THE INCREASE TAKES EFFECT.**~~

~~**(7)**~~ **(6) [**The**] IN CASE OF AN** award of **[**monetary relief shall be limited to a 36–month period. The complainant may not be awarded monetary relief for losses incurred between the time of the Commission's final determination and the final determination by the circuit court or higher appellate court, as the case may be. Interim**] BACK PAY UNDER PARAGRAPH (3) OF THIS SUBSECTION, INTERIM** earning or amounts **[**earnable**] EARNED** with reasonable diligence by the person or persons discriminated against shall operate to reduce the **[**monetary relief**] BACK PAY** otherwise allowable.

~~**(8)**~~ **(7)** In cases of discrimination other than those involving employment, in addition to the award of civil penalties as specifically provided in this article, nonmonetary relief may be granted to the complainant, except that in no event shall an order be issued that substantially affects the cost, level, or type of any transportation services.

~~**(9)**~~ **(8)** In cases involving transportation services which are supported fully or partially with funds from the Maryland Department of Transportation, no order may be issued which would require costs, level, or type of transportation services different from or in excess of those required to meet U.S. Department of Transportation regulations adopted pursuant to Section 504 of the Rehabilitation Act of 1973, codified as 29 U.S.C. § 794, nor would any such order be enforceable under **[**Section 12(a)**] § 12(A)** of this subtitle.

[(f) The provisions of subsection (e) granting the authority to award monetary relief to a complainant shall apply only to those complaints filed with the Commission on or after July 1, 1977.**]**

[(g)**] (F)** If upon all the evidence, the **[**hearing examiner or the Commission**] ADMINISTRATIVE LAW JUDGE** finds that the respondent has not engaged in any alleged discriminatory act within the scope of the particular subtitle, **[**it**] THE ADMINISTRATIVE LAW JUDGE** shall state **[**its**] THE JUDGE'S** findings of fact and shall similarly issue and file an order dismissing the complaint.

11A.

(A) (1) WHEN A COMPLAINT IS FILED UNDER § 11 OF THIS SUBTITLE, A COMPLAINANT MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE COMPLAINT DETERMINED IN A CIVIL ACTION BROUGHT BY THE COMMISSION ON THE COMPLAINANT'S BEHALF, IF:

(I) THE COMMISSION FINDS THE RESPONDENT HAS ENGAGED IN, OR IS ENGAGING IN A DISCRIMINATORY ACT; AND

(II) THERE IS A FAILURE TO REACH AN AGREEMENT FOR THE REMEDY AND ELIMINATION OF THE DISCRIMINATORY ACT.

(2) THE ELECTION AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE NOT LATER THAN 30 DAYS AFTER THE COMPLAINANT OR RESPONDENT RECEIVES SERVICE UNDER § 11(A)(2) OF THIS SUBTITLE.

(3) IF AN ELECTION IS NOT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR A HEARING AS PROVIDED UNDER § 11(A)(3) OF THIS SUBTITLE.

(B) WHEN A COMPLAINT IS FILED UNDER § 11 OF THIS SUBTITLE, THE COMMISSION MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE COMPLAINT DETERMINED IN A CIVIL ACTION BROUGHT ON THE COMMISSION'S OWN BEHALF, IF:

(1) THE COMMISSION FINDS THE RESPONDENT HAS ENGAGED IN, OR IS ENGAGING IN A DISCRIMINATORY ACT; AND

(2) THERE IS A FAILURE TO REACH AN AGREEMENT FOR THE REMEDY AND ELIMINATION OF THE DISCRIMINATORY ACT.

(C) (1) IF A COMPLAINANT MAKES AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION, THAT INDIVIDUAL SHALL GIVE NOTICE OF THE ELECTION TO THE COMMISSION AND TO ALL OTHER COMPLAINANTS AND RESPONDENTS.

(2) IF THE COMMISSION MAKES AN ELECTION UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL GIVE NOTICE OF THE ELECTION TO ALL COMPLAINANTS AND RESPONDENTS.

(3) NOT LATER THAN 60 DAYS AFTER THE ELECTION IS MADE BY ANY PARTY, THE COMMISSION SHALL FILE A CIVIL ACTION IN THE COURT OF THE COUNTY WHERE THE ALLEGED ACT OF DISCRIMINATION TOOK PLACE.

(D) IF THE COURT FINDS THAT A DISCRIMINATORY ACT TOOK PLACE, THE COURT MAY PROVIDE THE REMEDIES SPECIFIED IN § 11(E)(3) THROUGH (6) OF THIS SUBTITLE.

(E) IF THE COMMISSION SEEKS COMPENSATORY DAMAGES UNDER THIS SECTION:

(1) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND

(2) THE COURT MAY NOT INFORM THE JURY OF THE LIMITATIONS ON COMPENSATORY DAMAGES IMPOSED UNDER § 11(E)(5) OF THIS SUBTITLE.

11B.

(A) IN ADDITION TO THE RIGHT TO MAKE AN ELECTION AUTHORIZED UNDER § 11A OF THIS SUBTITLE, A COMPLAINANT MAY BRING A CIVIL ACTION AGAINST THE RESPONDENT ALLEGING A DISCRIMINATORY ACT IF:

(1) THE COMPLAINANT INITIALLY FILED AN ADMINISTRATIVE CHARGE OR A COMPLAINT UNDER FEDERAL, STATE, OR LOCAL LAW ALLEGING A DISCRIMINATORY ACT BY THE RESPONDENT; AND

(2) AT LEAST 180 DAYS HAVE ELAPSED SINCE THE FILING OF THE ADMINISTRATIVE CHARGE OR COMPLAINT.

(B) A CIVIL ACTION UNDER THIS SECTION MAY BE FILED IN THE CIRCUIT COURT OF THE COUNTY WHERE THE ALLEGED ACT OF DISCRIMINATION TOOK PLACE.

(C) IN ADDITION TO THE RELIEF AUTHORIZED UNDER SUBSECTIONS (D) AND (E) OF THIS SECTION, THE COURT MAY AWARD PUNITIVE DAMAGES IF:

(1) THE RESPONDENT IS NOT A GOVERNMENT ENTITY OR POLITICAL SUBDIVISION; AND

(2) THE COURT FINDS THAT THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN AN UNLAWFUL EMPLOYMENT PRACTICE WITH ACTUAL MALICE.

(D) COMPENSATORY DAMAGES AWARDED UNDER THIS SECTION ARE IN ADDITION TO:

(1) BACK PAY OR INTEREST ON BACK PAY THAT THE COMPLAINANT IS ENTITLED TO RECOVER UNDER ANY OTHER PROVISION OF LAW; AND

(2) ANY OTHER EQUITABLE RELIEF THE COMPLAINANT IS ENTITLED TO RECOVER UNDER ANY OTHER PROVISION OF LAW.

(E) THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT UNDER THIS SECTION, FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN, SUFFERING, INCONVENIENCE, MENTAL ANGUISH, LOSS OF ENJOYMENT OF LIFE, AND OTHER NONPECUNIARY LOSSES, AND THE AMOUNT OF ~~PUNATIVE~~ *PUNITIVE* DAMAGES AWARDED UNDER THIS SECTION MAY NOT EXCEED:

(1) $50,000 IF THE RESPONDENT EMPLOYS NOT FEWER THAN 15 AND NOT MORE THAN 100 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(2) $100,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 101 AND NOT MORE THAN 200 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(3) $200,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 201 AND NOT MORE THAN 500 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; AND

(4) $300,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 501 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

~~(F) (1) THE LIMITATIONS ON COMPENSATORY AND PUNATIVE DAMAGES PROVIDED UNDER SUBSECTION (E) OF THIS SECTION SHALL INCREASE BY $15,000 ON JANUARY 1 OF EACH YEAR BEGINNING JANUARY 1, 2009.~~

~~(2) THE INCREASED AMOUNT APPLIES TO CAUSES OF ACTION ARISING BETWEEN JANUARY 1 AND DECEMBER 31 OF THE YEAR THE INCREASE TAKES EFFECT.~~

~~(G)~~ (F) IF A COMPLAINANT SEEKS COMPENSATORY OR PUNITIVE DAMAGES UNDER THIS SECTION:

(1) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND

(2) THE COURT MAY NOT INFORM THE JURY OF THE LIMITATIONS IMPOSED UNDER SUBSECTION (E) OF THIS SECTION.

~~(H)~~ (G) WHEN APPROPRIATE AND TO THE EXTENT AUTHORIZED UNDER LAW, IN A DISPUTE ARISING UNDER THIS SUBTITLE, IN WHICH THE COMPLAINANT SEEKS COMPENSATORY OR PUNITIVE DAMAGES, THE PARTIES ARE ENCOURAGED TO USE ALTERNATIVE MEANS OF DISPUTE RESOLUTION, INCLUDING SETTLEMENT NEGOTIATIONS OR MEDIATION.

11C.

(A) A PERSON MAY INTERVENE IN A CIVIL ACTION BROUGHT BY THE COMMISSION UNDER THIS SUBTITLE, IF THE ACTION INVOLVES:

(1) AN ALLEGED ACT OF DISCRIMINATION TO WHICH THE PERSON IS A PARTY; OR

(2) A CONCILIATION AGREEMENT TO WHICH THE PERSON IS A PARTY.

(B) THE COMMISSION MAY INTERVENE IN A CIVIL ACTION BROUGHT UNDER THIS SUBTITLE, IF:

(1) THE COMMISSION CERTIFIES THAT THE CASE IS OF GENERAL PUBLIC IMPORTANCE; AND

(2) TIMELY APPLICATION IS MADE.

(C) THE COURT MAY GRANT ANY APPROPRIATE RELIEF TO AN INTERVENING PARTY THAT IS AUTHORIZED TO BE GRANTED TO A PLAINTIFF IN A CIVIL ACTION UNDER § 11A OF THIS SUBTITLE.

11D.

(A) IN AN ACTION BROUGHT UNDER THIS SECTION, THE COURT, IN ITS DISCRETION, MAY AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES, EXPERT WITNESS FEES, AND COSTS.

(B) THIS SUBTITLE, INCLUDING THE LIMITATIONS ON DAMAGES, MAY NOT BE CONSTRUED TO LIMIT THE SCOPE OF ~~OR THE~~, OR THE ADMINISTRATIVE PROCEDURES OR RELIEF AVAILABLE UNDER, ANY OTHER PROVISION OF FEDERAL, STATE, OR LOCAL LAW.

(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO LIMIT §§ 40 THROUGH 43 OF THIS ARTICLE.

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 177

(House Bill 314)

AN ACT concerning

Maryland Human Relations Commission – Hearings and Civil Actions – Relief

FOR the purpose of altering various provisions of the Maryland Human Relations Commission law; ~~providing that an administrative law judge oversees certain proceedings before the Commission; providing~~ requiring certain cases to be heard by an administrative law judge, rather than a hearing examiner; requiring that a complaint of discrimination and certain documents ~~shall~~ be certified to the general counsel of the Commission rather than the Commission chairman; altering the circumstances under which a certification is required to be made; requiring that the Executive Director of the Commission, rather than the Commission chairman, cause a certain notice to be issued and served; ~~providing a process for electing to file a civil action rather than an administrative hearing concerning certain acts of discrimination;~~ authorizing a complainant to bring a civil action alleging a discriminatory act or elect to have a civil action brought by the Commission; providing a process for the filing of a civil action by the Commission or a complainant; expanding the relief available for certain acts of discrimination to include an award of certain compensatory damages, punitive damages, and ~~attorney~~ attorney's fees and expert witness fees under certain circumstances; ~~establishing that certain limitations on compensatory and punitive damages shall increase by a certain amount each year;~~ authorizing a complainant to demand a trial by jury under certain circumstances; providing a process for a certain person or the Commission to intervene in ~~a civil action brought by the Commission~~ certain civil actions; authorizing the court to award certain relief to an intervening ~~person~~ party; making stylistic and conforming changes; repealing certain obsolete provisions;

providing for the construction of this Act; providing for the application of this Act; and generally relating to hearings and relief under the Maryland Human Relations Commission law.

BY repealing and reenacting, with amendments,
Article 49B – Human Relations Commission
Section 11
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY adding to
Article 49B – Human Relations Commission
Section 11A through 11D
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

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

Article 49B – Human Relations Commission

11.

(a) **(1)** In case of failure to reach an agreement for the **REMEDY AND** elimination of the acts of discrimination and upon the entry of findings to that effect, the entire file including the complaint and any and all findings made shall be certified to **THE GENERAL COUNSEL OF THE COMMISSION**.

(2) The **[**Chairman**]** **EXECUTIVE DIRECTOR OF THE COMMISSION** shall cause a written notice to be issued and served in the name of the Commission together with a copy of the complaint requiring the respondent to answer the charges of the complaint at a public hearing **[**before a hearing examiner at a time and place certified in the notice**]:**

(I) BEFORE AN ADMINISTRATIVE LAW JUDGE AT A TIME AND PLACE CERTIFIED IN THE NOTICE; OR

(II) IN A CIVIL ACTION ELECTED UNDER § 11A OF THIS SUBTITLE BY A COMPLAINANT.

(3) **[**The**]** **IF A CIVIL ACTION IS NOT ELECTED UNDER § 11A OF THIS SUBTITLE, THE** case shall **[**thereupon**]** be heard by **[**a hearing examiner**]** **AN ADMINISTRATIVE LAW JUDGE** and the hearing shall be held in the county where the alleged act of discrimination took place.

(4) A transcript of all testimony at the hearing shall be made.

(5) The case in support of the complaint shall be presented at the hearing by the general counsel of the Commission.

(b) **(1)** The respondent may file a written answer to the complaint and appear at the hearing in person, or otherwise, with or without counsel.

(2) The respondent may submit testimony and shall be fully heard.

(3) **[**He**]** **THE RESPONDENT** may examine and cross–examine witnesses.

(c) **(1)** The Commission may permit reasonable amendment to be made to any complaint or answer.

(2) Testimony taken at the hearing shall be under oath and recorded.

(d) (1) In the administration and enforcement of the provisions of these several subtitles, the Commission has power to:

(i) Administer oaths and to issue subpoenas;

(ii) Compel the attendance and testimony of witnesses; and

(iii) Compel the production of books, papers, records and documents relevant or necessary for proceedings under the particular subtitle.

(2) Any subpoena shall be served by:

(i) Certified mail, requesting restricted delivery – Show to whom, date, address of delivery; or

(ii) Personal service of process by:

1. An employee of the Commission;

2. Any person who is not a party and is not less than 18 years of age; or

3. The sheriff or deputy sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation against whom or which the subpoena is issued.

(3) (i) In case of disobedience to a subpoena, the Commission may apply to a circuit court in any county for an order requiring the attendance and testimony of witnesses and the production of books, papers, records, and documents.

(ii) In case of contumacy or refusal to obey a subpoena for the attendance of a witness or the production of books, papers, records, and documents, after notice to the person subpoenaed as a witness or directed to produce books, papers, records and documents, and upon a finding that the attendance and testimony of the witness or the production of the books, papers, records and documents is relevant or necessary for the proceedings of the Commission, the court may issue an order requiring the attendance and testimony of the witness and the production of the books, papers, records and documents.

(iii) Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(iv) An order issued by the court under this subsection shall be served on the person to whom it is directed by the sheriff or deputy sheriff of the political subdivision where the residence or main office of the person is located.

(e) **(1)** If **[**upon**], AFTER REVIEWING** all **OF** the evidence, the **[**hearing examiner**] ADMINISTRATIVE LAW JUDGE** finds that the respondent has engaged in any discriminatory act within the scope of **[**any of these subtitles**] THIS ARTICLE**, the **[**hearing examiner**] ADMINISTRATIVE LAW JUDGE** shall so state the findings.

(2) The **[**hearing examiner**] ADMINISTRATIVE LAW JUDGE** shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the discriminatory acts and to take affirmative action to effectuate the purposes of the particular subtitle.

(3) If the respondent is found to have engaged in or to be engaging in an unlawful employment practice charged in the complaint, the remedy may include**[**, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief that is deemed appropriate.**]:**

(I) ENJOINING THE RESPONDENT FROM ENGAGING IN THE DISCRIMINATORY ACT;

(II) ORDERING APPROPRIATE AFFIRMATIVE RELIEF, INCLUDING THE REINSTATEMENT OR HIRING OF EMPLOYEES, WITH OR WITHOUT BACK PAY;

(III) AWARDING COMPENSATORY DAMAGES; OR

(IV) ORDERING ANY OTHER EQUITABLE RELIEF THE COURT CONSIDERS APPROPRIATE.

(4) COMPENSATORY DAMAGES AWARDED UNDER THIS SUBSECTION ARE IN ADDITION TO:

(I) BACK PAY OR INTEREST ON BACK PAY THAT THE COMPLAINANT MAY RECOVER UNDER ANY OTHER PROVISION OF LAW; AND

(II) ANY OTHER EQUITABLE RELIEF THAT A COMPLAINANT MAY RECOVER UNDER ANY OTHER PROVISION OF LAW.

(5) THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT UNDER THIS SECTION, FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN, SUFFERING, INCONVENIENCE, MENTAL ANGUISH, LOSS OF ENJOYMENT OF LIFE, OR NONPECUNIARY LOSSES, MAY NOT EXCEED:

(I) $50,000 IF THE RESPONDENT EMPLOYS NOT FEWER THAN 15 AND NOT MORE THAN 100 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(II) $100,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 101 AND NOT MORE THAN 200 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(III) $200,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 201 AND NOT MORE THAN 500 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; AND

(IV) $300,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 501 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

~~**(6) (I) THE LIMITATIONS ON COMPENSATORY DAMAGES PROVIDED UNDER PARAGRAPH (5) OF THIS SUBSECTION SHALL INCREASE BY $15,000 ON JANUARY 1 OF EACH YEAR BEGINNING JANUARY 1, 2009.**~~

~~**(II) THE INCREASED AMOUNT APPLIES TO CAUSES OF ACTION ARISING BETWEEN JANUARY 1 AND DECEMBER 31 OF THE YEAR THE INCREASE TAKES EFFECT.**~~

~~**(7)**~~ **(6) [**The**] IN CASE OF AN** award of **[**monetary relief shall be limited to a 36–month period. The complainant may not be awarded monetary relief for losses incurred between the time of the Commission's final determination and the final determination by the circuit court or higher appellate court, as the case may be. Interim**] BACK PAY UNDER PARAGRAPH (3) OF THIS SUBSECTION, INTERIM** earning or amounts **[**earnable**] EARNED** with reasonable diligence by the person or persons discriminated against shall operate to reduce the **[**monetary relief**] BACK PAY** otherwise allowable.

~~**(8)**~~ **(7)** In cases of discrimination other than those involving employment, in addition to the award of civil penalties as specifically provided in this article, nonmonetary relief may be granted to the complainant, except that in no event shall an order be issued that substantially affects the cost, level, or type of any transportation services.

~~**(9)**~~ **(8)** In cases involving transportation services which are supported fully or partially with funds from the Maryland Department of Transportation, no order may be issued which would require costs, level, or type of transportation services different from or in excess of those required to meet U.S. Department of Transportation regulations adopted pursuant to Section 504 of the Rehabilitation Act of 1973, codified as 29 U.S.C. § 794, nor would any such order be enforceable under **[**Section 12(a)**] § 12(A)** of this subtitle.

[(f) The provisions of subsection (e) granting the authority to award monetary relief to a complainant shall apply only to those complaints filed with the Commission on or after July 1, 1977.**]**

[(g)**] (F)** If upon all the evidence, the **[**hearing examiner or the Commission**] ADMINISTRATIVE LAW JUDGE** finds that the respondent has not engaged in any alleged discriminatory act within the scope of the particular subtitle, **[**it**] THE ADMINISTRATIVE LAW JUDGE** shall state **[**its**] THE JUDGE'S** findings of fact and shall similarly issue and file an order dismissing the complaint.

11A.

(A) (1) WHEN A COMPLAINT IS FILED UNDER § 11 OF THIS SUBTITLE, A COMPLAINANT MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE COMPLAINT DETERMINED IN A CIVIL ACTION BROUGHT BY THE COMMISSION ON THE COMPLAINANT'S BEHALF, IF:

(I) THE COMMISSION FINDS THE RESPONDENT HAS ENGAGED IN, OR IS ENGAGING IN A DISCRIMINATORY ACT; AND

(II) THERE IS A FAILURE TO REACH AN AGREEMENT FOR THE REMEDY AND ELIMINATION OF THE DISCRIMINATORY ACT.

(2) THE ELECTION AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE NOT LATER THAN 30 DAYS AFTER THE COMPLAINANT OR RESPONDENT RECEIVES SERVICE UNDER § 11(A)(2) OF THIS SUBTITLE.

(3) IF AN ELECTION IS NOT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR A HEARING AS PROVIDED UNDER § 11(A)(3) OF THIS SUBTITLE.

(B) WHEN A COMPLAINT IS FILED UNDER § 11 OF THIS SUBTITLE, THE COMMISSION MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE COMPLAINT DETERMINED IN A CIVIL ACTION BROUGHT ON THE COMMISSION'S OWN BEHALF, IF:

(1) THE COMMISSION FINDS THE RESPONDENT HAS ENGAGED IN, OR IS ENGAGING IN A DISCRIMINATORY ACT; AND

(2) THERE IS A FAILURE TO REACH AN AGREEMENT FOR THE REMEDY AND ELIMINATION OF THE DISCRIMINATORY ACT.

(C) (1) IF A COMPLAINANT MAKES AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION, THAT INDIVIDUAL SHALL GIVE NOTICE OF THE ELECTION TO THE COMMISSION AND TO ALL OTHER COMPLAINANTS AND RESPONDENTS.

(2) IF THE COMMISSION MAKES AN ELECTION UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL GIVE NOTICE OF THE ELECTION TO ALL COMPLAINANTS AND RESPONDENTS.

(3) NOT LATER THAN 60 DAYS AFTER THE ELECTION IS MADE BY ANY PARTY, THE COMMISSION SHALL FILE A CIVIL ACTION IN THE COURT OF THE COUNTY WHERE THE ALLEGED ACT OF DISCRIMINATION TOOK PLACE.

(D) IF THE COURT FINDS THAT A DISCRIMINATORY ACT TOOK PLACE, THE COURT MAY PROVIDE THE REMEDIES SPECIFIED IN § 11(E)(3) THROUGH (6) OF THIS SUBTITLE.

(E) IF THE COMMISSION SEEKS COMPENSATORY DAMAGES UNDER THIS SECTION:

(1) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND

(2) THE COURT MAY NOT INFORM THE JURY OF THE LIMITATIONS ON COMPENSATORY DAMAGES IMPOSED UNDER § 11(E)(5) OF THIS SUBTITLE.

11B.

(A) IN ADDITION TO THE RIGHT TO MAKE AN ELECTION AUTHORIZED UNDER § 11A OF THIS SUBTITLE, A COMPLAINANT MAY BRING A CIVIL ACTION AGAINST THE RESPONDENT ALLEGING A DISCRIMINATORY ACT IF:

(1) THE COMPLAINANT INITIALLY FILED AN ADMINISTRATIVE CHARGE OR A COMPLAINT UNDER FEDERAL, STATE, OR LOCAL LAW ALLEGING A DISCRIMINATORY ACT BY THE RESPONDENT; AND

(2) AT LEAST 180 DAYS HAVE ELAPSED SINCE THE FILING OF THE ADMINISTRATIVE CHARGE OR COMPLAINT.

(B) A CIVIL ACTION UNDER THIS SECTION MAY BE FILED IN THE CIRCUIT COURT OF THE COUNTY WHERE THE ALLEGED ACT OF DISCRIMINATION TOOK PLACE.

(C) IN ADDITION TO THE RELIEF AUTHORIZED UNDER SUBSECTIONS (D) AND (E) OF THIS SECTION, THE COURT MAY AWARD PUNITIVE DAMAGES IF:

(1) THE RESPONDENT IS NOT A GOVERNMENT ENTITY OR POLITICAL SUBDIVISION; AND

(2) THE COURT FINDS THAT THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN AN UNLAWFUL EMPLOYMENT PRACTICE WITH ACTUAL MALICE.

(D) COMPENSATORY DAMAGES AWARDED UNDER THIS SECTION ARE IN ADDITION TO:

(1) BACK PAY OR INTEREST ON BACK PAY THAT THE COMPLAINANT IS ENTITLED TO RECOVER UNDER ANY OTHER PROVISION OF LAW; AND

(2) ANY OTHER EQUITABLE RELIEF THE COMPLAINANT IS ENTITLED TO RECOVER UNDER ANY OTHER PROVISION OF LAW.

(E) THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT UNDER THIS SECTION, FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN, SUFFERING, INCONVENIENCE, MENTAL ANGUISH, LOSS OF ENJOYMENT OF LIFE, AND OTHER NONPECUNIARY LOSSES, AND THE AMOUNT OF ~~PUNATIVE~~ PUNITIVE DAMAGES AWARDED UNDER THIS SECTION MAY NOT EXCEED:

(1) $50,000 IF THE RESPONDENT EMPLOYS NOT FEWER THAN 15 AND NOT MORE THAN 100 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(2) $100,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 101 AND NOT MORE THAN 200 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(3) $200,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 201 AND NOT MORE THAN 500 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; AND

(4) $300,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 501 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.

~~(F) (1) THE LIMITATIONS ON COMPENSATORY AND PUNATIVE DAMAGES PROVIDED UNDER SUBSECTION (E) OF THIS SECTION SHALL INCREASE BY $15,000 ON JANUARY 1 OF EACH YEAR BEGINNING JANUARY 1, 2009.~~

~~(2) THE INCREASED AMOUNT APPLIES TO CAUSES OF ACTION ARISING BETWEEN JANUARY 1 AND DECEMBER 31 OF THE YEAR THE INCREASE TAKES EFFECT.~~

~~(G)~~ (F) IF A COMPLAINANT SEEKS COMPENSATORY OR PUNITIVE DAMAGES UNDER THIS SECTION:

(1) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND

(2) THE COURT MAY NOT INFORM THE JURY OF THE LIMITATIONS IMPOSED UNDER SUBSECTION (E) OF THIS SECTION.

~~(H)~~ (G) WHEN APPROPRIATE AND TO THE EXTENT AUTHORIZED UNDER LAW, IN A DISPUTE ARISING UNDER THIS SUBTITLE, IN WHICH THE COMPLAINANT SEEKS COMPENSATORY OR PUNITIVE DAMAGES, THE PARTIES ARE ENCOURAGED TO USE ALTERNATIVE MEANS OF DISPUTE RESOLUTION, INCLUDING SETTLEMENT NEGOTIATIONS OR MEDIATION.

11C.

(A) A PERSON MAY INTERVENE IN A CIVIL ACTION BROUGHT BY THE COMMISSION UNDER THIS SUBTITLE, IF THE ACTION INVOLVES:

(1) AN ALLEGED ACT OF DISCRIMINATION TO WHICH THE PERSON IS A PARTY; OR

(2) A CONCILIATION AGREEMENT TO WHICH THE PERSON IS A PARTY.

(B) THE COMMISSION MAY INTERVENE IN A CIVIL ACTION BROUGHT UNDER THIS SUBTITLE, IF:

(1) THE COMMISSION CERTIFIES THAT THE CASE IS OF GENERAL PUBLIC IMPORTANCE; AND

(2) TIMELY APPLICATION IS MADE.

(C) THE COURT MAY GRANT ANY APPROPRIATE RELIEF TO AN INTERVENING PARTY THAT IS AUTHORIZED TO BE GRANTED TO A PLAINTIFF IN A CIVIL ACTION UNDER § 11A OF THIS SUBTITLE.

11D.

(A) IN AN ACTION BROUGHT UNDER THIS SECTION, THE COURT, IN ITS DISCRETION, MAY AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES, EXPERT WITNESS FEES, AND COSTS.

(B) THIS SUBTITLE, INCLUDING THE LIMITATIONS ON DAMAGES, MAY NOT BE CONSTRUED TO LIMIT THE SCOPE OF ~~OR THE~~, OR THE ADMINISTRATIVE PROCEDURES OR RELIEF AVAILABLE UNDER, ANY OTHER PROVISION OF FEDERAL, STATE, OR LOCAL LAW.

(C) THIS SUBTITLE MAY NOT BE CONSTRUED TO LIMIT §§ 40 THROUGH 43 OF THIS ARTICLE.

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 cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 178

(Senate Bill 685)

AN ACT concerning

~~Cecil County~~ Criminal Procedure – Pretrial Release – ~~Use of Technology to Facilitate Pretrial Release Process~~ Posting of Bond Without Appearance of Defendant

FOR the purpose of allowing ~~the use of video conferencing technology to facilitate the pretrial release process~~ a defendant to post bond by means of electronic transmission or hand delivery of certain documentation without appearing before the commissioner or judge under certain circumstances if authorized by the County Administrative Judge or the ~~District Administrative Judge; requiring certain documents to be delivered to the appropriate court immediately after a certain proceeding~~ Chief Judge of the District Court; and generally relating to the pretrial release process.

BY adding to
Article – Criminal Procedure
Section 5–214
Annotated Code of Maryland
(2001 Volume and 2006 Supplement)

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

Article – Criminal Procedure

5–214.

~~**(A) THIS SECTION APPLIES ONLY IN CECIL COUNTY.**~~

~~**(B) VIDEO CONFERENCING PROCEDURES AND TECHNOLOGY MAY BE USED TO FACILITATE THE PRETRIAL RELEASE PROCESS**~~ **NOTWITHSTANDING MARYLAND RULE 4–217(G), AFTER A DEFENDANT HAS APPEARED IN PERSON BEFORE THE COMMISSIONER OR JUDGE IN A CASE, THE DEFENDANT MAY POST BOND BY MEANS OF ELECTRONIC TRANSMISSION OR HAND DELIVERY OF THE RELEVANT DOCUMENTATION WITHOUT APPEARING BEFORE THE COMMISSIONER OR JUDGE, IF AUTHORIZED BY:**

(1) IN THE CIRCUIT COURT, THE COUNTY ADMINISTRATIVE JUDGE; AND

(2) IN THE DISTRICT ~~COUNT~~ COURT, THE ~~DISTRICT ADMINISTRATIVE JUDGE~~ CHIEF JUDGE OF THE DISTRICT COURT.

~~**(C) IMMEDIATELY AFTER A PROCEEDING CONDUCTED THROUGH VIDEO CONFERENCING, ALL DOCUMENTS THAT ARE NOT A PART OF THE COURT FILE AND THAT WOULD BE A PART OF THE FILE IF THE PROCEEDING HAD BEEN CONDUCTED AT THE COURT SHALL BE ELECTRONICALLY TRANSMITTED OR HAND DELIVERED TO THE APPROPRIATE COURT.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 179

(Senate Bill 701)

AN ACT concerning

Public Safety – Maryland State Firemen's Association – Uses of Appropriation

FOR the purpose of altering the purposes for which the Maryland State Firemen's Association may use money appropriated in the State budget; altering the purposes for which the Volunteer Company Assistance Fund may be used for a certain fiscal year; and generally relating to the Maryland State Firemen's Association.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 8–205
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Public Safety

8–205.

(a) After consultation with the Association, the Governor may include in the State budget each year an amount for the purposes set forth in subsection (b) of this section.

(b) The Association may use money appropriated under subsection (a) of this section to:

(1) formulate, publish, and distribute the fire laws of Maryland **AND OTHER STATE AND FEDERAL STANDARDS, LAWS, GUIDELINES, AND RECOMMENDATIONS**;

(2) formulate, publish, and distribute an annual report and monthly or other timely bulletins and reports;

(3) **[**publish and distribute fire prevention material**]** **PURCHASE, PUBLISH, AND DISTRIBUTE FIRE PREVENTION, EMERGENCY SERVICES, AND SAFETY EDUCATION MATERIALS AND SPONSOR SEMINARS AND OTHER PUBLIC FORUMS TO DISSEMINATE THIS INFORMATION TO ASSOCIATION MEMBERS AND RESIDENTS OF THE STATE**;

(4) **[**keep**]** **MAINTAIN AND DISTRIBUTE** records that relate to the annual inspections of fire and rescue equipment and facilities; **[**and**]**

(5) establish and maintain a database on manpower availability and training, operational cost, equipment availability, response time, State and local financial support, and other relevant factors in providing fire and rescue services**;**

(6) MAINTAIN MEMBERSHIP THROUGH FEES, SUBSCRIPTIONS, AND MEETING ATTENDANCE IN ORGANIZATIONS THAT DISSEMINATE TRAINING AND EDUCATION AND PROVIDE GUIDANCE TO VOLUNTEER EMERGENCY

SERVICE ORGANIZATIONS AND THEIR MEMBERS AND REPRESENT THEIR INTERESTS ON A STATE AND NATIONAL LEVEL;

(7) PROVIDE FUEL, INSURANCE, AND MAINTENANCE TO VEHICLES OWNED AND OPERATED BY THE ASSOCIATION AND USED IN REPRESENTING THE VOLUNTEERS AND DISSEMINATING INFORMATION THROUGHOUT THE STATE;

(8) PROVIDE PROFESSIONAL SERVICES INCLUDING ACCOUNTING, AUDITING, AND LEGAL CONSULTATION AND OPERATIONAL COSTS ASSOCIATED WITH THE OBJECTIVES ESTABLISHED IN THIS SUBSECTION; AND

(9) PROMOTE, DISSEMINATE, AND ADVOCATE PROGRAMS AND SERVICES THAT PERTAIN TO IMPROVING THE SAFETY, HEALTH, AND WELLBEING OF FIRE AND RESCUE PERSONNEL THROUGHOUT THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any provisions of law, in fiscal year 2008, the Volunteer Company Assistance Fund established under § 8–202 of the Public Safety Article may be used for the purpose of providing grants to the Maryland State Firemen's Association for administrative expenses and grants to widows and orphans.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 180

(House Bill 1078)

AN ACT concerning

Public Safety – Maryland State Firemen's Association – Uses of Appropriation

FOR the purpose of altering the purposes for which the Maryland State Firemen's Association may use money appropriated in the State budget; altering the purposes for which the Volunteer Company Assistance Fund may be used for a certain fiscal year; and generally relating to the Maryland State Firemen's Association.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 8–205
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Public Safety

8–205.

(a) After consultation with the Association, the Governor may include in the State budget each year an amount for the purposes set forth in subsection (b) of this section.

(b) The Association may use money appropriated under subsection (a) of this section to:

(1) formulate, publish, and distribute the fire laws of Maryland **AND OTHER STATE AND FEDERAL STANDARDS, LAWS, GUIDELINES, AND RECOMMENDATIONS**;

(2) formulate, publish, and distribute an annual report and monthly or other timely bulletins and reports;

(3) **[**publish and distribute fire prevention material**]** **PURCHASE, PUBLISH, AND DISTRIBUTE FIRE PREVENTION, EMERGENCY SERVICES, AND SAFETY EDUCATION MATERIALS AND SPONSOR SEMINARS AND OTHER PUBLIC FORUMS TO DISSEMINATE THIS INFORMATION TO ASSOCIATION MEMBERS AND RESIDENTS OF THE STATE**;

(4) **[**keep**]** **MAINTAIN AND DISTRIBUTE** records that relate to the annual inspections of fire and rescue equipment and facilities; **[**and**]**

(5) establish and maintain a database on manpower availability and training, operational cost, equipment availability, response time, State and local financial support, and other relevant factors in providing fire and rescue services**;**

(6) MAINTAIN MEMBERSHIP THROUGH FEES, SUBSCRIPTIONS, AND MEETING ATTENDANCE IN ORGANIZATIONS THAT DISSEMINATE TRAINING AND EDUCATION AND PROVIDE GUIDANCE TO VOLUNTEER EMERGENCY

SERVICE ORGANIZATIONS AND THEIR MEMBERS AND REPRESENT THEIR INTERESTS ON A STATE AND NATIONAL LEVEL;

(7) PROVIDE FUEL, INSURANCE, AND MAINTENANCE TO VEHICLES OWNED AND OPERATED BY THE ASSOCIATION AND USED IN REPRESENTING THE VOLUNTEERS AND DISSEMINATING INFORMATION THROUGHOUT THE STATE;

(8) PROVIDE PROFESSIONAL SERVICES INCLUDING ACCOUNTING, AUDITING, AND LEGAL CONSULTATION AND OPERATIONAL COSTS ASSOCIATED WITH THE OBJECTIVES ESTABLISHED IN THIS SUBSECTION; AND

(9) PROMOTE, DISSEMINATE, AND ADVOCATE PROGRAMS AND SERVICES THAT PERTAIN TO IMPROVING THE SAFETY, HEALTH, AND WELLBEING OF FIRE AND RESCUE PERSONNEL THROUGHOUT THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any provisions of law, in fiscal year 2008 the Volunteer Company Assistance Fund established under § 8–202 of the Public Safety Article may be used for the purpose of providing grants to the Maryland State Firemen's Association for administrative expenses and grants to widows and orphans.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 181

(Senate Bill 702)

AN ACT concerning

~~Natural Resources – Yellow Perch – Harvest Restrictions~~
Yellow Perch Conservation and Sustainability Act

FOR the purpose of ~~prohibiting a person from installing, setting, operating, or maintaining in certain tributaries of the Chesapeake Bay at certain times certain fishing gear capable of catching yellow perch; establishing a certain exception to the prohibition; establishing a certain exception to the authority of the Department of Natural Resources to regulate a certain fishery resource exclusively through the adoption of a fishery management plan; requiring the~~

~~Department, in consultation with certain stakeholders, to report annually to the General Assembly on the environmental and economic impact of certain harvest restrictions on or before a certain date~~ requiring the Department of Natural Resources to adopt certain regulations relating to yellow perch by a certain date; requiring the yellow perch management strategy adopted under this Act to be based on certain objectives and measures; requiring the Department to incorporate certain objectives into a certain fishery management plan for yellow perch; requiring the Department in consultation with certain stakeholders, to prepare and submit to certain committees of the General Assembly a certain report related to fisheries on or before a certain date; and generally relating to fishery management in the State.

~~BY repealing and reenacting, with amendments,~~
~~Article – Natural Resources~~
~~Section 4–215(h)~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2006 Supplement)~~

BY adding to
Article – Natural Resources
Section ~~4–710(j)~~ 4–215.2
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, There is an immediate need to conserve ~~the dwindling stock of~~ and allocate yellow perch in the Chesapeake Bay and its tributaries for the purpose of sustaining the yellow perch population in the future and ensuring the continued economic viability of the yellow perch ~~commercial fishery~~ recreational and commercial fisheries; and

WHEREAS, Maryland's angling community is concerned about the State's regulatory efforts to manage this coveted fishery because of ~~questionable science–based~~ policies that ~~allow the~~ continue the current practices of commercial harvesting of yellow perch: (1) as the perch attempt to reach their ancestral spawning grounds; (2) at rates and with nets absent any appropriate limits; and (3) within tributaries previously restocked for yellow perch propagation purposes; and

WHEREAS, Markets for yellow perch harvested in Maryland are primarily located out of State; and

WHEREAS, The commercial harvest of yellow perch comprises ~~95%~~ the majority of the annual catch in Maryland and, under existing regulatory policies, is

therefore the most measurable threat to the future sustainability of the yellow perch fishery; now, therefore,

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

Article – Natural Resources

~~4–215.~~

~~(h) Notwithstanding any other provision of this title~~ **BUT EXCEPT AS PROVIDED IN § 4–710(H) OF THIS TITLE**, ~~once a fishery management plan has been adopted by regulation, the State's fishery resources shall be harvested in accordance with the conservation and management measures in the fishery management plan and any regulations implementing or amending that plan.~~

~~4–710.~~

~~(J) (1)~~ **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT INSTALL, SET, OPERATE, OR MAINTAIN IN A TIDAL OR NONTIDAL TRIBUTARY OF THE CHESAPEAKE BAY FROM JANUARY 1 THROUGH MARCH 20, INCLUSIVE, OF ANY YEAR ANY ENTRAPMENT GEAR, ENTANGLEMENT GEAR, OR NET CAPABLE OF CATCHING YELLOW PERCH.**

~~(2)~~ **A PERSON MAY USE THE FOLLOWING FISHING GEAR FOR HARVESTING BAIT IN THE TIDAL AND NONTIDAL TRIBUTARIES OF THE CHESAPEAKE BAY FROM JANUARY 1 THROUGH MARCH 20, INCLUSIVE, OF ANY YEAR:**

~~(I)~~ **A HAND OPERATED DIP NET;**

~~(II)~~ **A CAST OR THROW NET;**

~~(III)~~ **A MINNOW TRAP THAT HAS A MAXIMUM OPENING DIAMETER OF 1 INCH;**

~~(IV)~~ **A MINNOW SEINE; OR**

~~(V)~~ **AN EEL POT THAT HAS A MAXIMUM OPENING DIAMETER OF 1.5 INCHES.**

~~(3)~~ **THE DEPARTMENT, IN CONSULTATION WITH INTERESTED STAKEHOLDERS, SHALL REPORT TO THE GENERAL ASSEMBLY IN ACCORDANCE**

~~**WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE ON OR BEFORE DECEMBER 31, 2008, AND EACH YEAR THEREAFTER ON THE ENVIRONMENTAL AND ECONOMIC IMPACT OF THE HARVEST RESTRICTIONS FOR YELLOW PERCH UNDER THIS SECTION, FOR THE PURPOSE OF DETERMINING THE CONDITIONS OR CIRCUMSTANCES UNDER WHICH THE YELLOW PERCH RESTRICTIONS MAY BE REPEALED**~~

4–215.2.

(A) ON OR BEFORE JANUARY 1, 2008, THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:

(1) PROVIDE A MANAGEMENT STRATEGY FOR YELLOW PERCH THAT ENABLES YELLOW PERCH TO MIGRATE TO HISTORICAL SPAWNING RIVERS AND STREAMS BEFORE SPAWNING; AND

(2) EQUITABLY ALLOCATE HARVESTS OF YELLOW PERCH BETWEEN RECREATIONAL AND COMMERCIAL HARVESTERS.

(B) THE MANAGEMENT STRATEGY ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE BASED ON OBJECTIVES AND MANAGEMENT MEASURES THAT ARE DEVELOPED IN CONSULTATION WITH STAKEHOLDER ORGANIZATIONS AND THE ADVISORY COMMISSIONS ESTABLISHED UNDER § 4–204 OF THIS SUBTITLE.

(C) THE DEPARTMENT SHALL INCORPORATE THE OBJECTIVES AND MANAGEMENT MEASURES DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION INTO THE FISHERY MANAGEMENT PLAN FOR YELLOW PERCH ESTABLISHED UNDER § 4–215 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Natural Resources, in consultation with interested stakeholders, shall:

(1) analyze and develop findings regarding new funding mechanisms to help:

(i) underwrite the cost to the Department of researching, developing, managing, and enforcing the fishery policies of the State; and

(ii) promote the economic interests of the State's commercial fishing industry; and

(2) report the findings, in accordance with § 2–1246 of the State Government Article, to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee on or before November 1, 2007.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 182

(Senate Bill 746)

AN ACT concerning

Human Immunodeficiency Virus – Test Counseling and Informed Consent – Review

FOR the purpose of ~~altering certain requirements for obtaining written informed consent for human immunodeficiency virus (HIV) testing in accordance with Department of Health and Mental Hygiene regulations; clarifying that an informed consent for certain HIV testing be distinct from other consents; altering the manner in which a certain patient identifying number is obtained; requiring the Department to review and streamline certain regulations relating to certain HIV test counseling requirements and to adopt or revise regulations that address certain requirements;~~ requiring the AIDS Administration to convene a workgroup including certain stakeholders to review and make recommendations regarding certain Centers for Disease Control and Prevention guidelines regarding HIV/AIDS; requiring the workgroup to review and consider certain best practices and research and data; requiring the ~~Department~~ workgroup to report to the Governor and General Assembly on or before a certain date; ~~defining certain terms;~~ and generally relating to human immunodeficiency virus counseling and ~~testing~~ informed consent procedures.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Health – General
Section 18–336
Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

18–336.

(a) (1) In this section the following words have the meanings indicated.

(2) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome.

(3) "Health care provider" means a physician, nurse, or designee of a health care facility.

(b) Except as provided in Title 11, Subtitle 1, Part II of the Criminal Procedure Article or § 18–338.3 of this subtitle, before obtaining a fluid or tissue sample from the body of an individual for the purpose of testing the fluid or tissue for the presence of HIV infection, a health care provider shall:

(1) Obtain written informed consent from the individual ~~[~~on a uniform HIV informed consent form that the Department shall develop consistent with the requirements of the Department~~]~~ as established by regulations adopted by the Department; and

(2) Provide the individual with pretest counseling, including:

(i) Education about HIV infection and methods for preventing transmission;

(ii) Information about a physician's duty to warn; and

(iii) Assistance in accessing health care available to an individual who tests positive for the HIV infection.

(c) Refusal to consent to the HIV antibody test or a positive test result may not be used as the sole basis by an institution or laboratory to deny services or treatment.

(d) If the individual is unable to give informed consent, substitute consent may be given under § 5–605 of this article.

(e) A physician or physician's designee who obtains a positive result from an HIV antibody test conducted in accordance with the provisions of subsection (b) of this section shall:

(1) Notify the individual from whom the fluid or tissue sample was obtained of the positive result;

(2) Provide the individual with a copy of the Department's publication describing available counseling services;

(3) Counsel the individual to inform all sexual and needle–sharing partners of the individual's positive HIV status;

(4) Offer to assist in notifying the individual's sexual and needle–sharing partners; and

(5) If necessary, take action appropriate to comply with § 18–337 of this subtitle.

(f) The informed consent ~~[~~document~~]~~ ~~**FOR HIV DIAGNOSTIC TESTING**~~ shall be distinct ~~[~~and separate~~]~~ from all other ~~[~~consent forms~~]~~ ~~**CONSENTS**~~.

(g) A patient identifying number obtained from an anonymous ~~[~~and confidential test~~]~~ site which is approved by the Department of Health and Mental Hygiene may be evidence of a patient's informed consent in lieu of a patient's signature.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) In consultation with HIV-infected patients, AIDS advocacy organizations, and other stakeholders, the Department of Health and Mental Hygiene shall review and streamline the regulations relating to the pre–HIV test counseling and post–HIV test counseling requirements in health care settings. The Department shall adopt or revise the regulations that address these requirements.~~

(a) The AIDS Administration shall convene a workgroup that includes HIV infected individuals, HIV/AIDS advocacy organizations, HIV service providers, and other stakeholders to review and make recommendations regarding the Centers for Disease Control and Prevention guidelines regarding HIV/AIDS, including the guidelines relating to pre– and post–test counseling and written informed consent. The workgroup shall review and consider best practices and research and data regarding treatment for HIV/AIDS.

(b) The ~~Department of Health and Mental Hygiene~~ workgroup shall report to the Governor and the General Assembly on or before January 1, 2008, in accordance

with § 2–1246 of the State Government Article, on ~~the changes recommended to be made in regulations of the Department~~ any recommendations of the workgroup under subsection (a) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 183

(House Bill 781)

AN ACT concerning

Human Immunodeficiency Virus – Test Counseling and Informed Consent – Review

FOR the purpose of ~~altering certain requirements for obtaining written informed consent for human immunodeficiency virus (HIV) testing in accordance with Department of Health and Mental Hygiene regulations; clarifying that an informed consent for certain HIV testing be distinct from other consents; altering the manner in which a certain patient identifying number is obtained; requiring the Department to review and streamline certain regulations relating to certain HIV test counseling requirements and to adopt or revise regulations that address those certain requirements;~~ requiring the AIDS Administration to convene a workgroup including certain stakeholders to review and make recommendations regarding certain Centers for Disease Control and Prevention guidelines regarding HIV/AIDS; requiring the workgroup to review and consider certain best practices and research and data; requiring the ~~Department~~ workgroup to report to the Governor and General Assembly on or before a certain date; ~~defining certain terms;~~ and generally relating to human immunodeficiency virus counseling and ~~testing~~ informed consent procedures.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Health – General
Section 18–336
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health – General

18–336.

(a) (1) In this section the following words have the meanings indicated.

(2) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome.

(3) "Health care provider" means a physician, nurse, or designee of a health care facility.

(b) Except as provided in Title 11, Subtitle 1, Part II of the Criminal Procedure Article or § 18–338.3 of this subtitle, before obtaining a fluid or tissue sample from the body of an individual for the purpose of testing the fluid or tissue for the presence of HIV infection, a health care provider shall:

(1) Obtain written informed consent from the individual [on a uniform HIV informed consent form that the Department shall develop consistent with the requirements of the Department] as established by regulations adopted by the Department; and

(2) Provide the individual with pretest counseling, including:

(i) Education about HIV infection and methods for preventing transmission;

(ii) Information about a physician's duty to warn; and

(iii) Assistance in accessing health care available to an individual who tests positive for the HIV infection.

(c) Refusal to consent to the HIV antibody test or a positive test result may not be used as the sole basis by an institution or laboratory to deny services or treatment.

(d) If the individual is unable to give informed consent, substitute consent may be given under § 5–605 of this article.

(e) A physician or physician's designee who obtains a positive result from an HIV antibody test conducted in accordance with the provisions of subsection (b) of this section shall:

(1) Notify the individual from whom the fluid or tissue sample was obtained of the positive result;

(2) Provide the individual with a copy of the Department's publication describing available counseling services;

(3) Counsel the individual to inform all sexual and needle–sharing partners of the individual's positive HIV status;

(4) Offer to assist in notifying the individual's sexual and needle–sharing partners; and

(5) If necessary, take action appropriate to comply with § 18–337 of this subtitle.

(f) The informed consent **[**document**]** ~~**FOR HIV DIAGNOSTIC TESTING**~~ shall be distinct **[**and separate**]** from all other **[**consent forms**]** ~~**CONSENTS**~~.

(g) A patient identifying number obtained from an anonymous and confidential test site which is approved by the Department of Health and Mental Hygiene may be evidence of a patient's informed consent in lieu of a patient's signature.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) In consultation with HIV-infected patients, AIDS advocacy organizations, and other stakeholders, the Department of Health and Mental Hygiene shall review and streamline the regulations relating to the pre–HIV test counseling and post–HIV test counseling requirements testing and counseling procedures in health care settings. The Department shall adopt or revise the regulations that address these requirements.~~

(a) The AIDS Administration shall convene a workgroup that includes HIV infected individuals, HIV/AIDS advocacy organizations, HIV service providers, and other stakeholders to review and make recommendations regarding the Centers for Disease Control and Prevention guidelines regarding HIV/AIDS, including the guidelines relating to pre– and post–test counseling and written informed consent. The workgroup shall review and consider best practices and research and data regarding treatment for HIV/AIDS.

(b) The ~~Department of Health and Mental Hygiene~~ workgroup shall report to the Governor and the General Assembly on or before January 1, 2008, in accordance with § 2–1246 of the State Government Article, on ~~the changes recommended to be made in regulations of the Department~~ any recommendations of the workgroup under subsection (a) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 184

(Senate Bill 754)

AN ACT concerning

Vehicle Laws – Eluding a Police Officer – ~~Offenses, Penalties, and Forfeiture~~ *Crimes of Violence*

FOR the purpose of ~~establishing the offense of eluding a police officer in a motor vehicle and causing damage to the property of another person; establishing the offense of eluding a police officer in a motor vehicle~~ *prohibiting a driver of a motor vehicle from attempting to elude a police officer* if the officer is attempting to apprehend the driver for the commission of ~~a felony or~~ a crime of violence *for which the driver is subsequently convicted*; ~~making it a felony to commit certain offenses of eluding a police officer; establishing and altering certain penalties; authorizing a law enforcement officer to seize a motor vehicle that is used by an individual in the commission of certain violations of eluding a police officer; prohibiting a motor vehicle from being forfeited if it was used to commit the violation without the knowledge of the registered owner of the vehicle; authorizing a certain chief law enforcement officer to recommend forfeiture to a certain forfeiting authority only after the officer takes certain actions and after the individual accused of committing the violation is convicted; providing that a sworn affidavit from a certain law enforcement officer is admissible into evidence in a certain proceeding for a certain purpose; prohibiting the chief law enforcement officer from being subpoenaed under certain circumstances; requiring a certain forfeiting authority to surrender a certain motor vehicle under certain circumstances; requiring a certain forfeiting authority to file a certain complaint with the court~~ under certain circumstances; ~~requiring the court to schedule a certain hearing; requiring that the registered owner of a certain motor vehicle be sent a certain notice; requiring the court to take certain actions after making certain determinations; requiring a lienholder to sell a motor vehicle in a certain manner under certain circumstances; providing for the distribution of the proceeds of a certain sale; authorizing a political subdivision to sell a certain vehicle if no claim is lodged by a lienholder and directing the distribution of the proceeds of the sale; defining certain terms;~~

~~clarifying language; and generally relating to the offense of eluding a police officer.~~ *defining a certain term; clarifying language; and generally relating to a driver attempting to elude a police officer under certain circumstances and convictions for certain crimes of violence.*

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–904 and 27–101(p)
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

~~BY adding to~~
~~Article – Transportation~~
~~Section 27–114~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume and 2006 Supplement)~~

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

Article – Transportation

21–904.

(a) In this section, "visual or audible signal" includes a signal by hand, voice, emergency light or siren.

(b) If a police officer gives a visual or audible signal to stop and the police officer is in uniform, prominently displaying the police officer's badge or other insignia of office, a driver of a vehicle may not attempt to elude the police officer by:

(1) Willfully failing to stop the driver's vehicle;

(2) Fleeing on foot; or

(3) Any other means.

(c) If a police officer gives a visual or audible signal to stop and the police officer, whether or not in uniform, is in a vehicle appropriately marked as an official police vehicle, a driver of a vehicle may not attempt to elude the police officer by:

(1) Willfully failing to stop the driver's vehicle;

(2) Fleeing on foot; or

(3) Any other means.

(d) (1) ~~**A DRIVER MAY NOT COMMIT A VIOLATION OF SUBSECTION (B)(1) OR (C)(1) OF THIS SECTION THAT RESULTS IN DAMAGE TO THE PROPERTY OF ANOTHER PERSON.**~~

~~**(2)**~~ A driver may not **[**attempt to elude a police officer in**]** **COMMIT A** violation of subsection (b)(1) or (c)(1) of this section that results in bodily injury to another person.

[(2)**]** ~~**(3)**~~ A driver may not **[**attempt to elude a police officer in**]** **COMMIT A** violation of subsection (b)(1) or (c)(1) of this section that results in death of another person.

~~**(4) A VIOLATION OF THIS SUBSECTION IS A FELONY MISDEMEANOR.**~~

(E) (1) ***IN THIS SUBSECTION, "CRIME OF VIOLENCE" HAS THE MEANING STATED IN § 14–101 OF THE CRIMINAL LAW ARTICLE.***

(2) **A DRIVER MAY NOT COMMIT A VIOLATION OF SUBSECTION (B)(1) OR (C)(1) OF THIS SECTION WHILE THE DRIVER IS ATTEMPTING TO ELUDE A POLICE OFFICER WHO IS SIGNALING FOR THE DRIVER TO STOP FOR THE PURPOSE OF APPREHENDING THE DRIVER FOR THE COMMISSION OF A ~~FELONY OR A~~ CRIME OF VIOLENCE *FOR WHICH THE DRIVER IS SUBSEQUENTLY CONVICTED*.**

~~**(2) A VIOLATION OF THIS SUBSECTION IS A FELONY.**~~

27–101.

(p) (1) Except as **[**provided in paragraphs (2) and (3) of**]** **OTHERWISE PROVIDED IN** this subsection, any person who is convicted of a violation of any of the provisions of § 21–904 of this article ("Fleeing or eluding police") is subject to:

(i) For a first offense, a fine of not more than $1,000, or imprisonment for not more than 1 year, or both; and

(ii) For any subsequent offense, a fine of not more than $1,000, or imprisonment for not more than 2 years, or both.

(2) Any person who is convicted of a violation of § 21–904(d)(1) of this article is subject to a fine of not more than ~~**[**~~$5,000~~**]** **$10,000**~~, or imprisonment for not more than ~~**[**~~3~~**]** **10** years, or both.

(3) ~~**ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21–904(D)(2) OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN $15,000, OR IMPRISONMENT FOR NOT MORE THAN 15 YEARS, OR BOTH.**~~

~~**(4)**~~ Any person who is convicted of a violation of ~~**[**~~§ 21–904(d)(2)~~**]**~~ ~~**§ 21–904(D)(3)**~~ of this article is subject to a fine of not more than ~~**[**~~$5,000~~**]**~~ **$20,000**, or imprisonment for not more than ~~**[**~~10~~**]**~~ **20** years, or both.

~~**(5)**~~ ***(4)*** **ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 21–904(E) OF THIS ARTICLE IS SUBJECT TO A FINE OF NOT MORE THAN $5,000, OR IMPRISONMENT FOR NOT MORE THAN ~~5~~ *3* YEARS, OR BOTH.**

~~**27–114.**~~

~~**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(2) "CHIEF LAW ENFORCEMENT OFFICER" MEANS THE CHIEF LAW ENFORCEMENT OFFICER OF THE SEIZING UNIT.**~~

~~**(3) "FORFEITING AUTHORITY" MEANS THE OFFICE OR PERSON DESIGNATED BY AGREEMENT BETWEEN THE STATE'S ATTORNEY FOR A COUNTY AND THE CHIEF EXECUTIVE OFFICER OF THE POLITICAL SUBDIVISION THAT SEIZES A MOTOR VEHICLE.**~~

~~**(4) "SEIZING UNIT" MEANS THE LAW ENFORCEMENT UNIT THAT SEIZES A MOTOR VEHICLE.**~~

~~**(B) THIS SECTION APPLIES ONLY TO A MOTOR VEHICLE THAT IS USED BY AN INDIVIDUAL IN THE COMMISSION OF A VIOLATION UNDER § 21–904(D) OR (E) OF THIS ARTICLE.**~~

~~**(C) AN AUTHORIZED LAW ENFORCEMENT OFFICER MAY SEIZE AND RECOMMEND FORFEITURE OF A MOTOR VEHICLE WHEN MAKING AN ARREST OR ISSUING A CITATION FOR A VIOLATION UNDER § 21–904(D) OR (E) OF THIS ARTICLE.**~~

~~**(D) A MOTOR VEHICLE MAY NOT BE FORFEITED IF, WITHOUT THE KNOWLEDGE OF THE REGISTERED OWNER OF THE MOTOR VEHICLE, AN INDIVIDUAL WHO IS NOT THE REGISTERED OWNER USED THE VEHICLE TO COMMIT A VIOLATION UNDER § 21–904(D) OR (E) OF THIS ARTICLE.**~~

~~(E) (1) THE CHIEF LAW ENFORCEMENT OFFICER MAY RECOMMEND FORFEITURE OF A MOTOR VEHICLE TO THE FORFEITING AUTHORITY ONLY AFTER:~~

~~(I) THE CHIEF LAW ENFORCEMENT OFFICER:~~

~~1. DETERMINES FROM THE RECORDS OF THE ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED OWNERS AND SECURED PARTIES;~~

~~2. PERSONALLY REVIEWS THE FACTS AND CIRCUMSTANCES OF THE SEIZURE; AND~~

~~3. WRITES TO THE FORFEITING AUTHORITY THAT FORFEITURE IS WARRANTED; AND~~

~~(II) THE INDIVIDUAL ARRESTED OR CITED FOR THE COMMISSION OF A VIOLATION UNDER § 21-904(D) OR (E) OF THIS ARTICLE DURING WHICH THE MOTOR VEHICLE WAS SEIZED IS CONVICTED OF THE VIOLATION.~~

~~(2) IN A PROCEEDING FOR FORFEITURE OF A MOTOR VEHICLE, A SWORN AFFIDAVIT BY THE CHIEF LAW ENFORCEMENT OFFICER THAT THE REQUIREMENTS OF THIS SUBSECTION HAVE BEEN FOLLOWED IS ADMISSIBLE INTO EVIDENCE.~~

~~(3) THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE SUBPOENAED OR COMPELLED TO TESTIFY IF ANOTHER LAW ENFORCEMENT OFFICER WITH PERSONAL KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE SEIZURE AND THE RECOMMENDATION OF FORFEITURE TESTIFIES AT THE PROCEEDING.~~

~~(4) IF THE FORFEITING AUTHORITY DETERMINES INDEPENDENTLY OF THE DECISION OF THE SEIZING UNIT THAT THE MOTOR VEHICLE FALLS WITHIN THE SCOPE OF SUBSECTION (D) OF THIS SECTION, THE FORFEITING AUTHORITY SHALL SURRENDER THE MOTOR VEHICLE TO AN OWNER.~~

~~(F) (1) IF THE FORFEITING AUTHORITY DETERMINES THAT FORFEITURE IS APPROPRIATE, THE FORFEITING AUTHORITY SHALL FILE A COMPLAINT WITH THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MOTOR VEHICLE WAS SEIZED.~~

~~**(2) THE COURT SHALL SCHEDULE A HEARING ON THE FORFEITURE AT WHICH THE REGISTERED OWNER OF THE MOTOR VEHICLE SHALL BE GIVEN THE OPPORTUNITY TO TESTIFY.**~~

~~**(3) THE REGISTERED OWNER OF THE MOTOR VEHICLE SHALL BE SERVED NOTICE AT LEAST 10 DAYS BEFORE THE FORFEITURE HEARING.**~~

~~**(4) IF, AFTER A FULL HEARING, THE COURT DETERMINES:**~~

~~**(I) THAT THE MOTOR VEHICLE SHOULD NOT BE FORFEITED, THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE RELEASED TO A REGISTERED OWNER;**~~

~~**(II) THAT THE MOTOR VEHICLE SHOULD BE FORFEITED, THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE FORFEITED TO THE APPROPRIATE GOVERNING BODY; OR**~~

~~**(III) THAT THE MOTOR VEHICLE IS SUBJECT TO A LIEN CREATED WITHOUT ACTUAL KNOWLEDGE THAT THE MOTOR VEHICLE WAS USED IN A VIOLATION UNDER § 21–904(D) OR (E) OF THIS ARTICLE, THE COURT SHALL ORDER THAT THE MOTOR VEHICLE BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.**~~

~~**(G) (1) IF THE MOTOR VEHICLE IS RELEASED TO THE LIENHOLDER UNDER SUBSECTION (F)(4)(III) OF THIS SECTION, THE LIENHOLDER SHALL SELL THE MOTOR VEHICLE IN A COMMERCIALLY REASONABLE MANNER.**~~

~~**(2) THE PROCEEDS OF THE SALE OF THE MOTOR VEHICLE SHALL BE APPLIED IN THE FOLLOWING ORDER:**~~

~~**(I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING;**~~

~~**(II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING ALL REASONABLE COSTS INCIDENT TO THE SALE;**~~

~~**(III) TO PAYMENT OF ALL OTHER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR MAINTENANCE OF CUSTODY; AND**~~

~~**(IV) TO THE GENERAL FUND OF THE STATE OR THE POLITICAL SUBDIVISION THAT SEIZED THE MOTOR VEHICLE.**~~

~~**(II) IF A CLAIM IS NOT LODGED BY A LIENHOLDER:**~~

~~**(1) THE POLITICAL SUBDIVISION IN WHICH THE VEHICLE WAS SEIZED MAY SELL THE FORFEITED VEHICLE; AND**~~

~~**(2) THE PROCEEDS OF SALE SHALL BE APPLIED IN THE FOLLOWING ORDER:**~~

~~**(I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING; AND**~~

~~**(II) TO THE GENERAL FUND OF THE POLITICAL SUBDIVISION.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 185

(Senate Bill 756)

AN ACT concerning

Health Occupations – ~~Morticians – Exemption and Permit~~ Funeral Director Licenses

FOR the purpose of ~~providing that certain licensing requirements for practicing mortuary science do not limit the Maryland State Board of Morticians from issuing a permit to certain designees to handle, transport, and work with a dead human body in performing certain religious services without a mortician's license; subjecting certain designees to conditions and limitations the Board may specify; requiring the Board to adopt certain regulations; requiring the Board to submit a certain report on or before a certain date; exempting certain apprentices from assisting with embalming if a certain affidavit is submitted to the Board; providing for the termination of certain provisions of this Act; and generally relating to exceptions to the Maryland Morticians Act~~ renaming the State Board of Morticians to be the State Board of Morticians and Funeral Directors; requiring that an individual be licensed by the Board before the individual may practice funeral direction in this State; requiring the Board to

establish certain qualifications, examinations, and experience requirements for licensing funeral directors; requiring that certain practical examinations, competency demonstrations, and practical experience do not include embalming; requiring that applicants for certain apprentice licenses have certain sponsors; repealing certain renewal provisions for funeral directors licensed before a certain date; altering certain definitions; establishing certain legislative intent; and generally relating to funeral directors.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~7–301 and 7–306~~ 7–101, 7–201, 7–206(a) and (c)(2), 7–301 through 7–306, 7–308(e), 7–308.1, 7–401, 7–402, 7–408, and 7–409
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing
Article – Health Occupations
Section 7–307
Annotated Code of Maryland
(2005 Replacement Volume and 2006 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 who:

(1) Is a licensed mortician **OR FUNERAL DIRECTOR** practicing 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

(2) Provides direct supervision to an apprentice.

(d) "Board" means the Maryland State Board of Morticians **AND FUNERAL DIRECTORS**.

(e) (1) "Corporation" means a mortuary science business whose articles of incorporation are in good standing with the Maryland State Department of Assessments and Taxation, or its successor, the initial business for which the license is issued must have been incorporated on or before June 1, 1945 and have "Incorporated", "Inc.", or "Corporation" in its name.

(2) "Corporation" does not include, for purposes of issuing a corporation license, a "professional association" (P.A.) or a "professional corporation" (P.C.).

(f) "Courtesy card" means a license issued by the Board to licensed practitioners of mortuary science in other states, to make a removal of a dead human body in this State and to return the body to another state or country, to return dead bodies from another state or country to this State, to fill out the family history portion of the death certificate, and to sign the death certificate in the holder's capacity as a licensed practitioner of mortuary science.

(g) "Funeral director" means an individual who is licensed by the Board to practice all aspects of mortuary science except for embalming.

(h) "Funeral establishment" means any building, structure, or premises from which the business of **[**funeral directing or embalming**]** **PRACTICING MORTUARY SCIENCE** is conducted.

(i) (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.

(j) "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**.

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

(l) "Licensed funeral establishment" means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

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

(n) "Licensee" means an individual or entity licensed by the Board to practice mortuary science to the extent determined by the Board.

(o) "Mortician" means an individual who practices mortuary science.

(p) (1) "Practice funeral direction" means:

(i) To operate a funeral establishment; **[**or**]**

(II) FOR COMPENSATION, TO PREPARE A DEAD HUMAN BODY FOR DISPOSITION; OR

[(ii)**] (III)** For compensation, to arrange for or make final disposition of a dead human body.

(2) "Practice funeral direction" does not include, for **[**compensation:

(i) Disinfecting**]** **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) Otherwise preparing a dead human body for disposition**]**.

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

(i) To operate a funeral establishment;

(ii) For compensation, to prepare a dead human body for disposition**[**, including disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection**]**; 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.

[(2)**] (3)** "Practice mortuary science" does not include 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.

(r) "Pre–need contract" means an agreement between a consumer and a licensed funeral director, licensed mortician, or surviving spouse to provide any goods and services purchased prior to the time of death. Goods and services shall include:

(1) A service, including any form of preservation and disposition, that a mortician normally provides in the ordinary course of business; or

(2) Merchandise, including a casket, vault, or clothing, that a mortician normally provides in the ordinary course of business.

(s) "Surviving spouse" means the legal widow or widower of a licensed funeral director or licensed mortician, whose license was in good standing at the time of death, and who at the time of death, wholly or partly owned and operated a mortuary science business.

7–201.

There is a State Board of Morticians **AND FUNERAL DIRECTORS** in the Department.

7–206.

(a) There is a State Board of Morticians **AND FUNERAL DIRECTORS** Fund.

(c) (2) The Comptroller shall distribute the fees to the State Board of Morticians **AND FUNERAL DIRECTORS** Fund.

7–301.

(a) Except as provided in subsection (b) of this section, an individual shall be licensed by the Board before the individual may practice mortuary science in this State.

(b) This section does not:

(1) Limit the right of a school of medicine or dentistry to use and dispose of a dead human body or its parts;

(2) Limit the right of any person who is authorized by law to handle or dispose of a dead human body or its parts, if the person acts within the scope of that authorization;

(3) Affect the right of an authorized officer or employee of the United States or the District of Columbia to practice mortuary science in the course of that individual's duties;

(4) Apply to an individual who makes funeral arrangements in the course of the duties of that individual as an attorney; ~~[~~or~~]~~

~~(5) LIMIT THE RIGHT OF THE BOARD TO ISSUE A PERMIT TO AN AUTHORIZED DESIGNEE FROM A RELIGIOUS INSTITUTION TO HANDLE, TRANSPORT, AND WORK WITH A DEAD HUMAN BODY IN PERFORMING A RELIGIOUS FUNERAL SERVICE; OR~~

~~[~~(5)~~]~~ ~~(6)~~ ~~[~~(i)~~]~~ Limit the right of the Board to issue temporary permits to out–of–state licensed morticians **OR FUNERAL DIRECTORS** for teaching purposes involving an approved continuing education program or disaster situations as deemed necessary by the Board.

~~[~~(ii)~~]~~ ~~(C)~~ ~~(1)~~ A mortician **OR FUNERAL DIRECTOR** who is issued a temporary permit shall be subject to any conditions and limitations that the Board may specify in the permit and the provisions of this title.

~~(2) A DESIGNEE WHO IS ISSUED A PERMIT SHALL BE SUBJECT TO ANY CONDITIONS AND LIMITATIONS THAT THE BOARD MAY SPECIFY IN THE PERMIT.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Health Occupations**~~

7–302.

(a) **(1)** **[**A mortician**]** **AN INDIVIDUAL** shall be licensed by the Board before **[**practicing**]** **THE INDIVIDUAL MAY PRACTICE** mortuary science in this State.

[(b)**]** **(2)** A mortician license issued under this title authorizes the licensee to practice mortuary science while the license is effective.

(B) (1) AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE FUNERAL DIRECTION IN THIS STATE.

(2) A FUNERAL DIRECTOR LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO PRACTICE FUNERAL DIRECTION WHILE THE LICENSE IS EFFECTIVE.

7–303.

(a) **(1)** The Board shall determine the qualifications necessary for **[**a person**]** **AN INDIVIDUAL** to lawfully engage in the practice of mortuary science **OR FUNERAL DIRECTION** and to operate a funeral establishment within this State.

(2) Except as otherwise provided in this subtitle, to qualify for a mortician **OR FUNERAL DIRECTOR** license, an applicant shall be an individual who meets the requirements of this section.

(b) The Board shall examine all applications for licensure for the practice of mortuary science **OR FUNERAL DIRECTION** and shall issue the mortician **OR FUNERAL DIRECTOR** license to **[**any person**]** **AN INDIVIDUAL** who:

(1) Is judged to be of good moral character;

(2) Has completed not less than 1 year and not more than 2 years of licensed apprenticeship, unless the Board allowed extensions for additional 1–year terms;

(3) Except as otherwise provided in this section, has graduated with an associate of arts degree in mortuary science or its equivalent from a school accredited by the American Board of Funeral Service Education or approved by the Board, or has acquired at least an associate of arts degree and completed a course in mortuary science that is accredited by the American Board of Funeral Service Education or approved by the Board;

(4) Has passed the national board examination administered by the Conference of Funeral Service Examining Boards of the United States;

(5) **[**Has**]** **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, HAS** passed a written examination on Maryland law and regulations governing the practice of mortuary science and a practical examination demonstrating competency in **[**embalming**]** **THE PREPARATION OF DEAD HUMAN BODIES FOR FINAL DISPOSITION** and sanitary science; and

(6) Has submitted an application to the Board on the required form and has paid a fee set by the Board.

(C) FOR AN INDIVIDUAL APPLYING FOR A LICENSE TO PRACTICE FUNERAL DIRECTION, THE PRACTICAL EXAMINATION QUALIFICATION UNDER SUBSECTION (B)(5) OF THIS SECTION MAY NOT INCLUDE DEMONSTRATING COMPETENCY IN EMBALMING.

7–304.

(a) An applicant who otherwise qualifies for a mortician **OR FUNERAL DIRECTOR** license is entitled to be examined as provided in this section if the applicant:

(1) Holds an apprentice license; or

(2) Has completed the apprenticeship requirements of this title.

(b) The Board shall give examinations to applicants twice each year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) The written part of the examination shall include:

(i) The general and local laws of this State on the practice of mortuary science; and

(ii) The laws and regulations on infectious diseases.

(2) In the practical part of the examination:

(i) The Board shall provide a dead human body; and

(ii) **[**In**]** **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN** the presence of at least one third of the licensed members of the Board, each applicant shall demonstrate the applicant's knowledge and skill in

[embalming**]** **THE PREPARATION OF DEAD HUMAN REMAINS FOR FINAL DISPOSITION**.

(3) FOR INDIVIDUALS APPLYING FOR A LICENSE TO PRACTICE FUNERAL DIRECTION, A PRACTICAL EXAMINATION UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT INCLUDE DEMONSTRATING COMPETENCY IN EMBALMING.

(e) (1) An applicant shall pay to the Board an examination fee set by the Board.

(2) The payment of one examination fee entitles an applicant to take the examination twice.

(f) If an applicant fails the examination twice, the applicant may retake the examination if the applicant pays the appropriate fee.

(g) In addition to the written and practical examinations administered by the Board, an applicant must take and pass the national examination administered by the Conference of Funeral Service Examining Boards of the United States.

7–305.

(a) Subject to the provisions of this subsection, the Board may waive the examination and apprenticeship requirements of § 7–303 of this subtitle and issue a mortician **OR FUNERAL DIRECTOR** license to an applicant who is licensed to practice mortuary science **OR FUNERAL DIRECTION** in any other state.

(b) The Board may grant a waiver under this subsection only if the applicant:

(1) Pays the license fee required by the Board under § 7–303 of this subtitle;

(2) Was a licensed mortician **OR FUNERAL DIRECTOR** in good standing in the other state;

(3) Serves an apprenticeship consisting of 1,000 hours; and

(4) Passes the Maryland State written examination administered by the Board.

(c) The Board may grant a waiver only if the state in which the applicant is licensed:

(1) Grants a similar waiver to licensees of this State; and

(2) Has standards for a mortician **OR FUNERAL DIRECTOR** license that are not lower than those of this State.

7–306.

(a) An individual shall obtain an apprentice license from the Board before beginning an apprenticeship in this State.

(B) (1) AN APPLICANT FOR A MORTICIAN APPRENTICE LICENSE SHALL HAVE A SPONSOR WITH A CURRENT MORTICIAN LICENSE.

(2) AN APPLICANT FOR A FUNERAL DIRECTOR LICENSE SHALL HAVE A SPONSOR WITH A CURRENT MORTICIAN OR FUNERAL DIRECTOR LICENSE.

~~(b)~~ **(C)** An applicant for an apprentice license shall pay to the Board a fee set by the Board.

~~(c)~~ **(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 shall appear before the Board with the applicant's sponsor. The sponsor shall hold a current valid mortician license in Maryland and shall be employed by the same funeral home that employs the apprentice.

(3) The practical experience of an apprentice shall include:

(i) Participation in at least 20 funerals;

(ii) **[**Assistance**] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, ASSISTANCE** in the ~~embalming~~ **PREPARATION** 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.

(4) ~~**THE REQUIREMENT IN PARAGRAPH (3)(II) OF THIS SUBSECTION DOES NOT APPLY TO AN APPRENTICE WHO SUBMITS TO THE BOARD AN AFFIDAVIT STATING THAT:**~~

~~**(I) PARTICIPATION IN EMBALMING WOULD CONFLICT WITH THE RELIGIOUS BELIEFS OF THE APPRENTICE; AND**~~

~~**(II) THE APPRENTICE DOES NOT INTEND TO, WHEN HOLDING A LICENSE AS A MORTICIAN, PARTICIPATE IN EMBALMING**~~ **FOR AN APPRENTICE FUNERAL DIRECTOR, THE PRACTICAL EXPERIENCE UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION MAY NOT INCLUDE EMBALMING.**

[(4)**] (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 ~~embalming~~ **THE PREPARATION FOR DISPOSITION** of each decedent for whom the apprentice assisted in accordance with paragraph (3)(ii) of this subsection.

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

~~(d)~~ **(E)** 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**.

[7–307.

(a) The Board shall renew a funeral director license biannually only to an applicant:

(1) Whose license was issued before May 2, 1973;

(2) Who met the Board qualifications for a funeral director license;

(3) Who was issued a funeral director license by the Board;

(4) Who has renewed the funeral director license annually since May 2, 1973;

(5) Who applies for a funeral director license before May 1, 1980 on the form that the Board requires; and

(6) Who pays to the Board a license fee set by the Board.

(b) A funeral director license authorizes the licensee to practice funeral direction while the license is effective.**]**

7–308.

(e) The Board may issue a license under this section only if:

(1) The business is operated under the direct supervision of a licensed mortician **OR FUNERAL DIRECTOR**; and

(2) The embalming is done by a licensed mortician.

7–308.1.

(a) A personal representative of a deceased mortician's **OR FUNERAL DIRECTOR'S** estate shall be licensed by the Board before continuing operation of the mortuary science business.

(b) The Board shall issue an executor license to an applicant if the applicant:

(1) Is the appointed personal representative of a deceased mortician's **OR FUNERAL DIRECTOR'S** estate in accordance with the requirements established in Title 5 of the Estates and Trusts Article;

(2) Submits to the Board, within 30 days of the death of the licensed mortician or funeral director, written verification of the death of the licensee, written verification of appointment as a personal representative, and the application required by the Board; and

(3) Pays a fee set by the Board.

(c) Nothing in this section shall prevent a personal representative from selling the mortuary science business that was operated and wholly or partly owned by the licensed funeral director or licensed mortician.

(d) Except as provided in subsection (c) of this section, while an executor license is effective, it authorizes the licensee to:

(1) Continue operation of the mortuary science business that had been operated and wholly or partly owned by the deceased mortician or funeral director; and

(2) Assist with the planning and conducting of funeral services for that mortuary science business.

(e) The Board may issue a license under this section only if:

(1) The business is operated under the direct supervision of a licensed mortician **OR FUNERAL DIRECTOR**; and

(2) The embalming services are provided by a licensed mortician.

(f) Notwithstanding the provisions of § 7–314 of this subtitle, an executor license is valid for six months from the date of issuance and may not be renewed or reinstated after expiration.

(g) A personal representative who wishes to continue operation of a mortuary science business upon expiration of the executor license must qualify and be licensed as a mortician or a funeral director, or be the holder of a surviving spouse or corporation license.

7–401.

(a) Two or more licensed morticians **OR FUNERAL DIRECTORS** may practice mortuary science as a partnership.

(b) A partnership shall be conducted under the names of all the partners.

(c) Before practicing as a partnership, the licensees shall:

(1) Notify the Board that they will be practicing as a partnership; and

(2) Submit to the Board the name and address of each partner.

7–402.

(a) One or more licensed morticians **OR FUNERAL DIRECTORS** may practice mortuary science as a professional association.

(b) A professional association shall be conducted under the name authorized by the Department of Assessments and Taxation.

(c) Before practicing as a professional association, the licensee shall:

(1) Notify the Board; and

(2) Submit to the Board the name and address of each member of the professional association.

7–408.

(a) In this section, "mortician **AND FUNERAL DIRECTOR** rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a mortician **AND FUNERAL DIRECTOR** rehabilitation committee is a committee of the Board or a committee of any association representing morticians **AND FUNERAL DIRECTORS** that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to morticians **AND FUNERAL DIRECTORS**.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a mortician **AND FUNERAL DIRECTOR** rehabilitation committee evaluates and provides assistance to any mortician **OR FUNERAL DIRECTOR**, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the mortician **AND FUNERAL DIRECTOR** rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the mortician **AND FUNERAL DIRECTOR** rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a mortician **AND FUNERAL DIRECTOR** rehabilitation committee is not civilly liable for any action as a member of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee or for giving information to, participating in, or contributing to the function of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee.

7–409.

(a) All inspections of funeral establishments shall be unannounced and may take place at any time without notice from the Board.

(b) An unannounced inspection may include advance notice that an investigator may be in the region of the funeral establishment, if:

(1) The advance notice is no more than 14 days prior to the inspection;

(2) No specific date or time is provided for the inspection; and

(3) The advance notice is provided solely to ensure that a licensed mortician **OR FUNERAL DIRECTOR** will be on–site for the inspection.

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That the State Board of Morticians and Funeral Directors, in consultation with interested parties and stakeholders, shall adopt regulations to implement this Act. On or before January 1, 2008, the Board 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 on the implementation of the regulations.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) the State Board of Morticians and Funeral Directors shall renew funeral director licenses issued before September 30, 2007 under § 7–314 of the Health Occupations Article and regulate the funeral directors licensed before September 30, 2007 in the same manner as funeral directors licensed under this Act; and

(2) except for the practical experience of embalming, to become licensed as a funeral director under this Act, an individual shall complete all of the education, examination, and experience requirements required to become licensed as a mortician.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. ~~Section 1 of this Act shall remain effective for a period of 5 years and, at the end of September 30, 2012, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, April 24, 2007.

CHAPTER 186

(House Bill 457)

AN ACT concerning

Health Occupations – ~~Morticians – Exemption and Permit~~ Funeral Director Licenses

FOR the purpose of ~~providing that certain licensing requirements for practicing mortuary science do not limit the Maryland State Board of Morticians from issuing a permit to certain designees to handle, transport, and work with a dead human body in performing certain religious services without a mortician's license; subjecting certain designees to conditions and limitations the Board may specify; requiring the Board to adopt certain regulations; requiring the Board to submit a certain report on or before a certain date; exempting certain apprentices from assisting with embalming if a certain affidavit is submitted to the Board; providing for the termination of certain provisions of this Act; and generally relating to exceptions to the Maryland Morticians Act~~ renaming the State Board of Morticians to be the State Board of Morticians and Funeral Directors; requiring that an individual be licensed by the Board before the individual may practice funeral direction in this State; requiring the Board to establish certain qualifications, examinations, and experience requirements for licensing funeral directors; requiring that certain practical examinations, competency demonstrations, and practical experience do not include embalming; requiring that applicants for certain apprentice licenses have certain sponsors; repealing certain renewal provisions for funeral directors licensed before a certain date; altering certain definitions; establishing certain legislative intent; and generally relating to funeral directors.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~7–301 and 7–306~~ 7–101, 7–201, 7–206(a) and (c)(2), 7–301 through 7–306, 7–308(e), 7–308.1, 7–401, 7–402, 7–408, and 7–409
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing
Article – Health Occupations
Section 7–307
Annotated Code of Maryland
(2005 Replacement Volume and 2006 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 who:

(1) Is a licensed mortician **OR FUNERAL DIRECTOR** practicing 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

(2) Provides direct supervision to an apprentice.

(d) "Board" means the Maryland State Board of Morticians **AND FUNERAL DIRECTORS**.

(e) (1) "Corporation" means a mortuary science business whose articles of incorporation are in good standing with the Maryland State Department of Assessments and Taxation, or its successor, the initial business for which the license is issued must have been incorporated on or before June 1, 1945 and have "Incorporated", "Inc.", or "Corporation" in its name.

(2) "Corporation" does not include, for purposes of issuing a corporation license, a "professional association" (P.A.) or a "professional corporation" (P.C.).

(f) "Courtesy card" means a license issued by the Board to licensed practitioners of mortuary science in other states, to make a removal of a dead human body in this State and to return the body to another state or country, to return dead bodies from another state or country to this State, to fill out the family history portion of the death certificate, and to sign the death certificate in the holder's capacity as a licensed practitioner of mortuary science.

(g) "Funeral director" means an individual who is licensed by the Board to practice all aspects of mortuary science except for embalming.

(h) "Funeral establishment" means any building, structure, or premises from which the business of **[**funeral directing or embalming**]** **PRACTICING MORTUARY SCIENCE** is conducted.

(i) (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.

(j) "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**.

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

(l) "Licensed funeral establishment" means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

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

(n) "Licensee" means an individual or entity licensed by the Board to practice mortuary science to the extent determined by the Board.

(o) "Mortician" means an individual who practices mortuary science.

(p) (1) "Practice funeral direction" means:

(i) To operate a funeral establishment; **[**or**]**

(II) FOR COMPENSATION, TO PREPARE A DEAD HUMAN BODY FOR DISPOSITION; OR

[(ii)**]** **(III)** For compensation, to arrange for or make final disposition of a dead human body.

(2) "Practice funeral direction" does not include, for **[**compensation:

(i) Disinfecting**]** **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) Otherwise preparing a dead human body for disposition**]**.

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

(i) To operate a funeral establishment;

(ii) For compensation, to prepare a dead human body for disposition**[**, including disinfecting or preserving a dead human body or any of its parts by arterial or cavity injection**]**; 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.

[(2)**] (3)** "Practice mortuary science" does not include 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.

(r) "Pre–need contract" means an agreement between a consumer and a licensed funeral director, licensed mortician, or surviving spouse to provide any goods and services purchased prior to the time of death. Goods and services shall include:

(1) A service, including any form of preservation and disposition, that a mortician normally provides in the ordinary course of business; or

(2) Merchandise, including a casket, vault, or clothing, that a mortician normally provides in the ordinary course of business.

(s) "Surviving spouse" means the legal widow or widower of a licensed funeral director or licensed mortician, whose license was in good standing at the time of death, and who at the time of death, wholly or partly owned and operated a mortuary science business.

7–201.

There is a State Board of Morticians **AND FUNERAL DIRECTORS** in the Department.

7–206.

(a) There is a State Board of Morticians **AND FUNERAL DIRECTORS** Fund.

(c) (2) The Comptroller shall distribute the fees to the State Board of Morticians **AND FUNERAL DIRECTORS** Fund.

7–301.

(a) Except as provided in subsection (b) of this section, an individual shall be licensed by the Board before the individual may practice mortuary science in this State.

(b) This section does not:

(1) Limit the right of a school of medicine or dentistry to use and dispose of a dead human body or its parts;

(2) Limit the right of any person who is authorized by law to handle or dispose of a dead human body or its parts, if the person acts within the scope of that authorization;

(3) Affect the right of an authorized officer or employee of the United States or the District of Columbia to practice mortuary science in the course of that individual's duties;

(4) Apply to an individual who makes funeral arrangements in the course of the duties of that individual as an attorney; ~~[~~or~~]~~

~~(5) LIMIT THE RIGHT OF THE BOARD TO ISSUE A PERMIT TO AN AUTHORIZED DESIGNEE FROM A RELIGIOUS INSTITUTION TO HANDLE, TRANSPORT, AND WORK WITH A DEAD HUMAN BODY IN PERFORMING A RELIGIOUS FUNERAL SERVICE; OR~~

~~[~~(5)~~]~~ ~~(6) [~~(i)~~]~~ Limit the right of the Board to issue temporary permits to out–of–state licensed morticians **OR FUNERAL DIRECTORS** for teaching purposes involving an approved continuing education program or disaster situations as deemed necessary by the Board.

~~[~~(ii)~~]~~ ~~(C) (1)~~ A mortician **OR FUNERAL DIRECTOR** who is issued a temporary permit shall be subject to any conditions and limitations that the Board may specify in the permit and the provisions of this title.

~~(2) A DESIGNEE WHO IS ISSUED A PERMIT SHALL BE SUBJECT TO ANY CONDITIONS AND LIMITATIONS THAT THE BOARD MAY SPECIFY IN THE PERMIT.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~**Article – Health Occupations**~~

7–302.

(a) **(1)** **[**A mortician**]** **AN INDIVIDUAL** shall be licensed by the Board before **[**practicing**]** **THE INDIVIDUAL MAY PRACTICE** mortuary science in this State.

[(b)**]** **(2)** A mortician license issued under this title authorizes the licensee to practice mortuary science while the license is effective.

(B) (1) AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE FUNERAL DIRECTION IN THIS STATE.

(2) A FUNERAL DIRECTOR LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO PRACTICE FUNERAL DIRECTION WHILE THE LICENSE IS EFFECTIVE.

7–303.

(a) **(1)** The Board shall determine the qualifications necessary for **[**a person**] AN INDIVIDUAL** to lawfully engage in the practice of mortuary science **OR FUNERAL DIRECTION** and to operate a funeral establishment within this State.

(2) Except as otherwise provided in this subtitle, to qualify for a mortician **OR FUNERAL DIRECTOR** license, an applicant shall be an individual who meets the requirements of this section.

(b) The Board shall examine all applications for licensure for the practice of mortuary science **OR FUNERAL DIRECTION** and shall issue the mortician **OR FUNERAL DIRECTOR** license to **[**any person**] AN INDIVIDUAL** who:

(1) Is judged to be of good moral character;

(2) Has completed not less than 1 year and not more than 2 years of licensed apprenticeship, unless the Board allowed extensions for additional 1–year terms;

(3) Except as otherwise provided in this section, has graduated with an associate of arts degree in mortuary science or its equivalent from a school accredited by the American Board of Funeral Service Education or approved by the Board, or has acquired at least an associate of arts degree and completed a course in mortuary science that is accredited by the American Board of Funeral Service Education or approved by the Board;

(4) Has passed the national board examination administered by the Conference of Funeral Service Examining Boards of the United States;

(5) **[**Has**] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, HAS** passed a written examination on Maryland law and regulations governing the practice of mortuary science and a practical examination demonstrating competency in **[**embalming**] THE PREPARATION OF DEAD HUMAN BODIES FOR FINAL DISPOSITION** and sanitary science; and

(6) Has submitted an application to the Board on the required form and has paid a fee set by the Board.

(C) FOR AN INDIVIDUAL APPLYING FOR A LICENSE TO PRACTICE FUNERAL DIRECTION, THE PRACTICAL EXAMINATION QUALIFICATION UNDER SUBSECTION (B)(5) OF THIS SECTION MAY NOT INCLUDE DEMONSTRATING COMPETENCY IN EMBALMING.

7–304.

(a) An applicant who otherwise qualifies for a mortician **OR FUNERAL DIRECTOR** license is entitled to be examined as provided in this section if the applicant:

(1) Holds an apprentice license; or

(2) Has completed the apprenticeship requirements of this title.

(b) The Board shall give examinations to applicants twice each year, at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) The written part of the examination shall include:

(i) The general and local laws of this State on the practice of mortuary science; and

(ii) The laws and regulations on infectious diseases.

(2) In the practical part of the examination:

(i) The Board shall provide a dead human body; and

(ii) **[**In**]** **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN** the presence of at least one third of the licensed members of the Board, each applicant shall demonstrate the applicant's knowledge and skill in **[**embalming**]** **THE PREPARATION OF DEAD HUMAN REMAINS FOR FINAL DISPOSITION**.

(3) FOR INDIVIDUALS APPLYING FOR A LICENSE TO PRACTICE FUNERAL DIRECTION, A PRACTICAL EXAMINATION UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT INCLUDE DEMONSTRATING COMPETENCY IN EMBALMING.

(e) (1) An applicant shall pay to the Board an examination fee set by the Board.

(2) The payment of one examination fee entitles an applicant to take the examination twice.

(f) If an applicant fails the examination twice, the applicant may retake the examination if the applicant pays the appropriate fee.

(g) In addition to the written and practical examinations administered by the Board, an applicant must take and pass the national examination administered by the Conference of Funeral Service Examining Boards of the United States.

7–305.

(a) Subject to the provisions of this subsection, the Board may waive the examination and apprenticeship requirements of § 7–303 of this subtitle and issue a mortician **OR FUNERAL DIRECTOR** license to an applicant who is licensed to practice mortuary science **OR FUNERAL DIRECTION** in any other state.

(b) The Board may grant a waiver under this subsection only if the applicant:

(1) Pays the license fee required by the Board under § 7–303 of this subtitle;

(2) Was a licensed mortician **OR FUNERAL DIRECTOR** in good standing in the other state;

(3) Serves an apprenticeship consisting of 1,000 hours; and

(4) Passes the Maryland State written examination administered by the Board.

(c) The Board may grant a waiver only if the state in which the applicant is licensed:

(1) Grants a similar waiver to licensees of this State; and

(2) Has standards for a mortician **OR FUNERAL DIRECTOR** license that are not lower than those of this State.

7–306.

(a) An individual shall obtain an apprentice license from the Board before beginning an apprenticeship in this State.

(B) (1) AN APPLICANT FOR A MORTICIAN APPRENTICE LICENSE SHALL HAVE A SPONSOR WITH A CURRENT MORTICIAN LICENSE.

(2) AN APPLICANT FOR A FUNERAL DIRECTOR LICENSE SHALL HAVE A SPONSOR WITH A CURRENT MORTICIAN OR FUNERAL DIRECTOR LICENSE.

~~(b)~~ **(C)** An applicant for an apprentice license shall pay to the Board a fee set by the Board.

~~(c)~~ **(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 shall appear before the Board with the applicant's sponsor. The sponsor shall hold a current valid mortician license in Maryland and shall be employed by the same funeral home that employs the apprentice.

(3) The practical experience of an apprentice shall include:

(i) Participation in at least 20 funerals;

(ii) **[**Assistance**] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, ASSISTANCE** in the ~~embalming~~ **PREPARATION** 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.

(4) ~~THE REQUIREMENT IN PARAGRAPH (3)(II) OF THIS SUBSECTION DOES NOT APPLY TO AN APPRENTICE WHO SUBMITS TO THE BOARD AN AFFIDAVIT STATING THAT:~~

~~(I) PARTICIPATION IN EMBALMING WOULD CONFLICT WITH THE RELIGIOUS BELIEFS OF THE APPRENTICE; AND~~

~~**(II) THE APPRENTICE DOES NOT INTEND TO, WHEN HOLDING A LICENSE AS A MORTICIAN, PARTICIPATE IN EMBALMING**~~ **FOR AN APPRENTICE FUNERAL DIRECTOR, THE PRACTICAL EXPERIENCE UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION MAY NOT INCLUDE EMBALMING.**

[(4)**] (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 ~~embalming~~ **THE PREPARATION FOR DISPOSITION** of each decedent for whom the apprentice assisted in accordance with paragraph (3)(ii) of this subsection.

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

~~(d)~~ **(E)** 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**.

[7–307.

(a) The Board shall renew a funeral director license biannually only to an applicant:

(1) Whose license was issued before May 2, 1973;

(2) Who met the Board qualifications for a funeral director license;

(3) Who was issued a funeral director license by the Board;

(4) Who has renewed the funeral director license annually since May 2, 1973;

(5) Who applies for a funeral director license before May 1, 1980 on the form that the Board requires; and

(6) Who pays to the Board a license fee set by the Board.

(b) A funeral director license authorizes the licensee to practice funeral direction while the license is effective.**]**

7–308.

(e) The Board may issue a license under this section only if:

(1) The business is operated under the direct supervision of a licensed mortician **OR FUNERAL DIRECTOR**; and

(2) The embalming is done by a licensed mortician.

7–308.1.

(a) A personal representative of a deceased mortician's **OR FUNERAL DIRECTOR'S** estate shall be licensed by the Board before continuing operation of the mortuary science business.

(b) The Board shall issue an executor license to an applicant if the applicant:

(1) Is the appointed personal representative of a deceased mortician's **OR FUNERAL DIRECTOR'S** estate in accordance with the requirements established in Title 5 of the Estates and Trusts Article;

(2) Submits to the Board, within 30 days of the death of the licensed mortician or funeral director, written verification of the death of the licensee, written verification of appointment as a personal representative, and the application required by the Board; and

(3) Pays a fee set by the Board.

(c) Nothing in this section shall prevent a personal representative from selling the mortuary science business that was operated and wholly or partly owned by the licensed funeral director or licensed mortician.

(d) Except as provided in subsection (c) of this section, while an executor license is effective, it authorizes the licensee to:

(1) Continue operation of the mortuary science business that had been operated and wholly or partly owned by the deceased mortician or funeral director; and

(2) Assist with the planning and conducting of funeral services for that mortuary science business.

(e) The Board may issue a license under this section only if:

(1) The business is operated under the direct supervision of a licensed mortician **OR FUNERAL DIRECTOR**; and

(2) The embalming services are provided by a licensed mortician.

(f) Notwithstanding the provisions of § 7–314 of this subtitle, an executor license is valid for six months from the date of issuance and may not be renewed or reinstated after expiration.

(g) A personal representative who wishes to continue operation of a mortuary science business upon expiration of the executor license must qualify and be licensed as a mortician or a funeral director, or be the holder of a surviving spouse or corporation license.

7–401.

(a) Two or more licensed morticians **OR FUNERAL DIRECTORS** may practice mortuary science as a partnership.

(b) A partnership shall be conducted under the names of all the partners.

(c) Before practicing as a partnership, the licensees shall:

(1) Notify the Board that they will be practicing as a partnership; and

(2) Submit to the Board the name and address of each partner.

7–402.

(a) One or more licensed morticians **OR FUNERAL DIRECTORS** may practice mortuary science as a professional association.

(b) A professional association shall be conducted under the name authorized by the Department of Assessments and Taxation.

(c) Before practicing as a professional association, the licensee shall:

(1) Notify the Board; and

(2) Submit to the Board the name and address of each member of the professional association.

7–408.

(a) In this section, "mortician **AND FUNERAL DIRECTOR** rehabilitation committee" means a committee that:

(1) Is defined in subsection (b) of this section; and

(2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a mortician **AND FUNERAL DIRECTOR** rehabilitation committee is a committee of the Board or a committee of any association representing morticians **AND FUNERAL DIRECTORS** that:

(1) Is recognized by the Board; and

(2) Includes but is not limited to morticians **AND FUNERAL DIRECTORS**.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

(1) Solely for the Board; or

(2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a mortician **AND FUNERAL DIRECTOR** rehabilitation committee evaluates and provides assistance to any mortician **OR FUNERAL DIRECTOR**, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the mortician **AND FUNERAL DIRECTOR** rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the mortician **AND FUNERAL DIRECTOR** rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a mortician **AND FUNERAL DIRECTOR** rehabilitation committee is not civilly liable for any action as a member of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee or for giving information to, participating in, or contributing to the function of the mortician **AND FUNERAL DIRECTOR** rehabilitation committee.

7–409.

(a) All inspections of funeral establishments shall be unannounced and may take place at any time without notice from the Board.

(b) An unannounced inspection may include advance notice that an investigator may be in the region of the funeral establishment, if:

(1) The advance notice is no more than 14 days prior to the inspection;

(2) No specific date or time is provided for the inspection; and

(3) The advance notice is provided solely to ensure that a licensed mortician **OR FUNERAL DIRECTOR** will be on–site for the inspection.

SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That the State Board of Morticians and Funeral Directors, in consultation with interested parties and stakeholders, shall adopt regulations to implement this Act. On or before January 1, 2008, the Board 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 on the implementation of the regulations.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(1) the State Board of Morticians and Funeral Directors shall renew funeral director licenses issued before September 30, 2007 under § 7–314 of the Health Occupations Article and regulate the funeral directors licensed before September 30, 2007 in the same manner as funeral directors licensed under this Act; and

(2) except for the practical experience of embalming, to become licensed as a funeral director under this Act, an individual shall complete all of the education, examination, and experience requirements required to become licensed as a mortician.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. ~~Section 1 of this Act shall remain effective for a period of 5 years and, at the end of September 30, 2012, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, April 24, 2007.

CHAPTER 187

(Senate Bill 766)

AN ACT concerning

Environment – Phosphorus – Dishwashing Detergent

FOR the purpose of prohibiting a person from using, selling, manufacturing, or distributing for sale ~~a~~ certain dishwashing detergent that contains greater than a certain amount of phosphorus after a certain date; requiring the Department of the Environment to report to the Governor and General Assembly by a certain date; repealing certain obsolete language; and generally relating to phosphorus in dishwashing detergents.

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–1502
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1503
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

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

Article – Environment

9–1502.

This subtitle does not apply to a cleaning agent that is:

(1) A detergent used in dairy, beverage, or food processing cleaning equipment;

(2) A phosphoric acid product, including a sanitizer, brightener, acid cleaner, or metal conditioner;

(3) A detergent used in hospitals, veterinary hospitals or clinics, or health care facilities or in agricultural production;

(4) A detergent used by industry for metal cleaning or conditioning;

(5) Manufactured, stored, or distributed for use or sale outside of the State;

(6) Used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory; or

(7) Used in a commercial laundry that provides laundry services for a hospital, health care facility, or veterinary hospital.

9–1503.

(a) Except as provided in subsection (b) of this section, **[**after December 1, 1985,**]** a person may not use, sell, manufacture, or distribute for use or sale within the State any cleaning agent that contains more than 0.0 percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding 0.5 percent phosphorus that is incidental to manufacturing.

(b) **[**After December 1, 1985**]** **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION**, a person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than 0.0 percent phosphorus by weight, but does not exceed 8.7 percent phosphorus by weight that is:

(1) A detergent used in a dishwashing machine, whether commercial or household; or

(2) A substance the Secretary, by rule and regulation, excludes from the 0.0 percent phosphorus limitation of subsection (a) of this section based on a finding that compliance with this section would:

(i) Create a significant hardship on the user; or

(ii) Be unreasonable because of the lack of an adequate substitute cleaning agent.

(C) AFTER ~~DECEMBER 1, 2008~~ ~~JULY 1, 2009~~ *JANUARY 1, 2010*, A PERSON MAY NOT USE, SELL, MANUFACTURE, OR DISTRIBUTE FOR USE OR SALE WITHIN THE STATE ANY DETERGENT ~~USED~~ FOR USE IN A HOUSEHOLD DISHWASHING MACHINE~~, WHETHER COMMERCIAL OR HOUSEHOLD,~~ THAT CONTAINS MORE THAN 0.5 PERCENT PHOSPHORUS BY WEIGHT.

SECTION 2. AND BE IT FURTHER ENACTED, That, by December 1, 2008, the Maryland Department of the Environment shall report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on:

(1) the prospective availability of detergents containing 0.5 percent phosphorus or less, by weight, for use in commercial dishwashing machines; and

(2) a recommended date by which the use of such detergents in commercial dishwashing machines may be reasonably required.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 188

(House Bill 1131)

AN ACT concerning

Environment – Phosphorus – Dishwashing Detergent

FOR the purpose of prohibiting a person from using, selling, manufacturing, or distributing for sale ~~a~~ certain dishwashing detergent that contains greater than a certain amount of phosphorus after a certain date; requiring the Department of the Environment to report to the Governor and General Assembly by a certain date; repealing certain obsolete language; and generally relating to phosphorus in dishwashing detergents.

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–1502
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1503
Annotated Code of Maryland
(1996 Replacement Volume and 2006 Supplement)

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

Article – Environment

9–1502.

This subtitle does not apply to a cleaning agent that is:

(1) A detergent used in dairy, beverage, or food processing cleaning equipment;

(2) A phosphoric acid product, including a sanitizer, brightener, acid cleaner, or metal conditioner;

(3) A detergent used in hospitals, veterinary hospitals or clinics, or health care facilities or in agricultural production;

(4) A detergent used by industry for metal cleaning or conditioning;

(5) Manufactured, stored, or distributed for use or sale outside of the State;

(6) Used in any laboratory, including a biological laboratory, research facility, chemical laboratory, and engineering laboratory; or

(7) Used in a commercial laundry that provides laundry services for a hospital, health care facility, or veterinary hospital.

9–1503.

(a) Except as provided in subsection (b) of this section, **[**after December 1, 1985,**]** a person may not use, sell, manufacture, or distribute for use or sale within the State any cleaning agent that contains more than 0.0 percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding 0.5 percent phosphorus that is incidental to manufacturing.

(b) **[**After December 1, 1985**]** **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION**, a person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than 0.0 percent phosphorus by weight, but does not exceed 8.7 percent phosphorus by weight that is:

(1) A detergent used in a dishwashing machine, whether commercial or household; or

(2) A substance the Secretary, by rule and regulation, excludes from the 0.0 percent phosphorus limitation of subsection (a) of this section based on a finding that compliance with this section would:

(i) Create a significant hardship on the user; or

(ii) Be unreasonable because of the lack of an adequate substitute cleaning agent.

(C) AFTER ~~DECEMBER 1, 2008~~ JULY 1, 2010 *JANUARY 1, 2010*, A PERSON MAY NOT USE, SELL, MANUFACTURE, OR DISTRIBUTE FOR USE OR SALE WITHIN THE STATE ANY DETERGENT ~~USED~~ FOR USE IN A HOUSEHOLD DISHWASHING MACHINE~~, WHETHER COMMERCIAL OR HOUSEHOLD,~~ THAT CONTAINS MORE THAN 0.5 PERCENT PHOSPHORUS BY WEIGHT.

SECTION 2. AND BE IT FURTHER ENACTED, That, by December 1, 2008, the Maryland Department of the Environment shall report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on:

(1) the prospective availability of detergents containing 0.5 percent phosphorus or less, by weight, for use in commercial dishwashing machines; and

(2) a recommended date by which the use of such detergents in commercial dishwashing machines may be reasonably required.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 189

(Senate Bill 772)

AN ACT concerning

Prince George's County – State's Attorney's Office – Composition and Salaries

FOR the purpose of increasing the number of assistant State's Attorney positions in the State's Attorney's office for Prince George's County; increasing the maximum salaries of the deputy State's Attorneys, the assistant State's Attorneys, and the administrative assistant in the State's Attorney's office; and generally relating to the composition of and salaries in the office of the State's Attorney for Prince George's County.

BY repealing and reenacting, with amendments,
Article 10 – Legal Officials
Section 40(q)(2), (3), (4), and (7)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 10 – Legal Officials

40.

(q) In Prince George's County:

(2) The State's Attorney may appoint two deputy State's Attorneys and **[**73**]** **80** assistant State's Attorneys. The deputy State's Attorneys and assistant State's Attorneys serve at the pleasure of the State's Attorney.

(3) The annual salary of the deputy State's Attorneys shall be within the discretion of the State's Attorney, but may not exceed **[**$108,000**]** **$115,000**. The salaries are to be paid by the county on the certification of the State's Attorney to the County Executive and County Council.

(4) The annual salary of the assistant State's Attorneys shall be within the discretion of the State's Attorney, but may not exceed **[**$100,000**]** **$107,000**. The salaries are to be paid by the county on the certification of the State's Attorney to the County Executive and County Council.

(7) The State's Attorney may appoint an administrative assistant to serve at the pleasure of the State's Attorney. The annual salary of the administrative assistant shall be within the discretion of the State's Attorney, but may not exceed **[**$59,000**]** **$64,000**. The salary is to be paid by the county on the certification of the

State's Attorney to the County Executive and County Council. The administrative assistant is not subject to the rules and regulations of the county merit system, but shall be entitled to all benefits provided for county employees under the merit system.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 190

(Senate Bill 774)

AN ACT concerning

~~**Task Force on the HPV Vaccine**~~
Cervical Cancer Committee – HPV Vaccine Subcommittee

FOR the purpose of ~~establishing a Task Force on the HPV Vaccine; providing for the membership and staffing of the Task Force; providing that the members of the Task Force may not receive compensation but are entitled to a certain reimbursement; providing for the duties of the Task Force; requiring the Task Force to report certain 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 on the HPV Vaccine~~ establishing the human papillomavirus (HPV) vaccine subcommittee in the Cervical Cancer Committee of the Maryland Comprehensive Cancer Control Plan; providing for the membership of the HPV vaccine subcommittee; providing for the duties of the HPV vaccine subcommittee; requiring the HPV vaccine subcommittee to submit a certain report to the Committee on or before a certain date each year; requiring a certain report of the Committee to include the findings and recommendations of the HPV vaccine subcommittee; and generally relating to the HPV vaccine subcommittee of the Cervical Cancer Committee.

BY repealing and reenacting, with amendments,
Chapter 283 of the Acts of the General Assembly of 2004
Section 1

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

~~(a) There is a Task Force on the HPV Vaccine.~~

~~(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) one representative from the Maryland State Teachers Association, appointed by the Association;~~

~~(4) one representative of the Maryland Association of Boards of Education, appointed by the Association;~~

~~(5) one representative of the Maryland Association of County Health Officers, appointed by the Association;~~

~~(6) one physician member of the Medical Chirurgical Faculty of Maryland, appointed by the organization;~~

~~(7) one physician member of the Maryland Chapter of the American Academy of Pediatrics, appointed by the organization;~~

~~(8) one representative from a pharmaceutical company that manufactures the HPV vaccine, appointed by the company; and~~

~~(9) the following members, appointed by the Governor:~~

~~(i) one representative of the health insurance industry; and~~

~~(ii) two consumer members.~~

~~(c) The Task Force shall elect the chair of the Task Force from among its members.~~

~~(d) The Department of Health and Mental Hygiene 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) examine federal and State programs on the HPV vaccine; and~~

~~(2) recommend a plan to implement a HPV vaccine program in the State, including:~~

~~(i) the appropriate age requirements for a female to receive the HPV vaccine;~~

~~(ii) the use of a mandatory HPV vaccine for female children;~~

~~(iii) the availability and affordability of the HPV vaccine; and~~

~~(iv) a public education campaign for the HPV vaccine.~~

~~(g) The Task Force shall report its findings and recommendations to the Governor, and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee, and the House Health and Government Operations Committee on or before December 1, 2008.~~

Chapter 283 of the Acts of 2004

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Cervical Cancer Committee of the Maryland Comprehensive Cancer Control Plan.

(b) The Department of Health and Mental Hygiene shall provide staff for the Committee.

(c) The Committee shall:

(1) be briefed by the Department of Health and Mental Hygiene on the prevalence and burden of cervical cancer in the State;

(2) in collaboration with the Department of Health and Mental Hygiene and the State Council on Cancer Control:

(i) promote public awareness on the causes and nature of cervical cancer, personal risk factors, the value of prevention, early detection, options

for testing, treatment costs, new technology, medical care reimbursement, and physician education; and

(ii) examine new and emerging medicines, including vaccines, that are being developed in an effort to cure cervical cancer;

(3) identify and examine the limitations of existing programs, services, laws, and regulations with respect to:

(i) cervical cancer awareness; and

(ii) the availability of health insurance coverage and public services for the diagnosis and treatment of cervical cancer;

(4) develop a statewide comprehensive Cervical Cancer Prevention Plan and strategies for plan implementation and public promotion of the plan;

(5) facilitate coordination and communication among State and local agencies and organizations regarding achieving the goals of the Cervical Cancer Prevention Plan developed by the Committee; **AND**

(6) receive public testimony from individuals, local health departments, community–based organizations, and other public and private organizations to gather input on these individuals' and organizations':

(i) contributions to cervical cancer prevention, diagnosis, and treatment; and

(ii) ideas for improving cervical cancer prevention, diagnosis, and treatment in the State.

(D) (1) THERE IS A SUBCOMMITTEE ON THE HUMAN PAPILLOMAVIRUS (HPV) VACCINE IN THE COMMITTEE.

(2) THE HPV VACCINE SUBCOMMITTEE SHALL CONSIST OF THE FOLLOWING MEMBERS:

(I) ONE REPRESENTATIVE OF THE MARYLAND STATE DEPARTMENT OF EDUCATION, APPOINTED BY THE DEPARTMENT;

(II) ONE REPRESENTATIVE OF THE MARYLAND PTA, APPOINTED BY THE PTA;

(III) ONE REPRESENTATIVE OF THE MARYLAND STATE TEACHERS ASSOCIATION, APPOINTED BY THE ASSOCIATION;

(IV) ONE REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION, APPOINTED BY THE ASSOCIATION;

(V) ONE REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF COUNTY HEALTH OFFICERS, APPOINTED BY THE ASSOCIATION;

(VI) ONE REPRESENTATIVE OF THE SOCIETY FOR ADOLESCENT MEDICINE, APPOINTED BY THE SOCIETY;

(VII) ONE PHYSICIAN MEMBER OF THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND, APPOINTED BY THE ORGANIZATION;

(VIII) ONE PHYSICIAN MEMBER OF THE MARYLAND CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS, APPOINTED BY THE ORGANIZATION;

(IX) ONE REPRESENTATIVE OF THE CHILDREN'S NATIONAL MEDICAL CENTER, APPOINTED BY THE CENTER;

(X) ONE REPRESENTATIVE OF JOHNS HOPKINS INSTITUTIONS, APPOINTED BY THE ORGANIZATION; ~~AND~~

(XI) THE FOLLOWING MEMBERS, APPOINTED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE:

1. ONE REPRESENTATIVE OF THE HEALTH INSURANCE INDUSTRY; AND

2. ~~ONE PARENT OF A STUDENT IN A NONPUBLIC SCHOOL PROGRAM; AND~~

~~3.~~ TWO CONSUMER MEMBERS; AND

(XII) ONE PARENT OF A STUDENT IN A NONPUBLIC SCHOOL PROGRAM, APPOINTED BY THE MARYLAND COUNCIL FOR AMERICAN PRIVATE EDUCATION.

(3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL APPOINT THE CHAIR OF THE SUBCOMMITTEE.

(4) THE HPV VACCINE SUBCOMMITTEE SHALL:

(I) EXAMINE FEDERAL AND STATE PROGRAMS RELATING TO THE HPV VACCINE;

(II) DEVELOP A PUBLIC AWARENESS AND EDUCATION CAMPAIGN ABOUT THE HPV VACCINE WITH AN EMPHASIS ON PARENTAL EDUCATION;

(III) EVALUATE THE AVAILABILITY AND AFFORDABILITY OF THE HPV VACCINE, INCLUDING COVERAGE BY HEALTH INSURERS AND PUBLIC HEALTH PROGRAMS;

(IV) IDENTIFY BARRIERS TO THE ADMINISTRATION OF THE HPV VACCINE TO ALL RECOMMENDED INDIVIDUALS;

(V) IDENTIFY AND EVALUATE VARIOUS SOURCES OF RESOURCES TO COVER THE COSTS OF THE HPV VACCINE; AND

(VI) IDENTIFY AND EVALUATE APPROPRIATE MECHANISMS THE STATE MAY USE TO INCREASE ACCESS TO THE HPV VACCINE, INCLUDING MANDATING THE HPV VACCINE FOR ENROLLMENT IN SCHOOL.

(5) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE HPV VACCINE SUBCOMMITTEE SHALL SUBMIT A REPORT ON ITS FINDINGS AND RECOMMENDATIONS TO THE COMMITTEE.

[(d)**]** **(E)** The Committee shall present in the annual report of the State Council on Cancer Control its findings and recommendations**, INCLUDING THE FINDINGS AND RECOMMENDATIONS OF THE HPV VACCINE SUBCOMMITTEE,** to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before October 1 of each year beginning October 1, 2004.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. ~~It shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, April 24, 2007.

CHAPTER 191

(House Bill 1049)

AN ACT concerning

~~**Task Force on the HPV Vaccine**~~
Cervical Cancer Committee – HPV Vaccine Subcommittee

FOR the purpose of ~~establishing a Task Force on the HPV Vaccine; providing for the membership and staffing of the Task Force; providing that the members of the Task Force may not receive compensation but are entitled to a certain reimbursement; providing for the duties of the Task Force; requiring the Task Force to report certain 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 on the HPV Vaccine~~ establishing the human papillomavirus (HPV) vaccine subcommittee in the Cervical Cancer Committee of the Maryland Comprehensive Cancer Control Plan; providing for the membership of the HPV vaccine subcommittee; providing for the duties of the HPV vaccine subcommittee; requiring the HPV vaccine subcommittee to submit a certain report to the Committee on or before a certain date each year; requiring a certain report of the Committee to include the findings and recommendations of the HPV vaccine subcommittee; and generally relating to the HPV vaccine subcommittee of the Cervical Cancer Committee.

BY repealing and reenacting, with amendments,
Chapter 283 of the Acts of the General Assembly of 2004
Section 1

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

~~(a) There is a Task Force on the HPV Vaccine.~~

~~(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) one representative from the Maryland State Teachers Association, appointed by the Association;~~

~~(4) one representative of the Maryland Association of Boards of Education, appointed by the Association;~~

~~(5) one representative of the Maryland Association of County Health Officers, appointed by the Association;~~

~~(6) one physician member of the Medical Chirurgical Faculty of Maryland, appointed by the organization;~~

~~(7) one physician member of the Maryland Chapter of the American Academy of Pediatrics, appointed by the organization;~~

~~(8) one representative from a pharmaceutical company that manufactures the HPV vaccine, appointed by the company; and~~

~~(9) the following members, appointed by the Governor:~~

~~(i) one representative of the health insurance industry; and~~

~~(ii) two consumer members.~~

~~(c) The Task Force shall elect the chair of the Task Force from among its members.~~

~~(d) The Department of Health and Mental Hygiene 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) examine federal and State programs on the HPV vaccine; and~~

~~(2) recommend a plan to implement a HPV vaccine program in the State, including:~~

~~(i) the appropriate age requirements for a female to receive the HPV vaccine;~~

~~(ii) the use of a mandatory HPV vaccine for female children;~~

~~(iii) the availability and affordability of the HPV vaccine; and~~

~~(iv) a public education campaign for the HPV vaccine.~~

~~(g) The Task Force shall report its findings and recommendations to the Governor, and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee, and the House Health and Government Operations Committee on or before December 1, 2008.~~

Chapter 283 of the Acts of 2004

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Cervical Cancer Committee of the Maryland Comprehensive Cancer Control Plan.

(b) The Department of Health and Mental Hygiene shall provide staff for the Committee.

(c) The Committee shall:

(1) be briefed by the Department of Health and Mental Hygiene on the prevalence and burden of cervical cancer in the State;

(2) in collaboration with the Department of Health and Mental Hygiene and the State Council on Cancer Control:

(i) promote public awareness on the causes and nature of cervical cancer, personal risk factors, the value of prevention, early detection, options for testing, treatment costs, new technology, medical care reimbursement, and physician education; and

(ii) examine new and emerging medicines, including vaccines, that are being developed in an effort to cure cervical cancer;

(3) identify and examine the limitations of existing programs, services, laws, and regulations with respect to:

(i) cervical cancer awareness; and

(ii) the availability of health insurance coverage and public services for the diagnosis and treatment of cervical cancer;

(4) develop a statewide comprehensive Cervical Cancer Prevention Plan and strategies for plan implementation and public promotion of the plan;

(5) facilitate coordination and communication among State and local agencies and organizations regarding achieving the goals of the Cervical Cancer Prevention Plan developed by the Committee; **AND**

(6) receive public testimony from individuals, local health departments, community–based organizations, and other public and private organizations to gather input on these individuals' and organizations':

(i) contributions to cervical cancer prevention, diagnosis, and treatment; and

(ii) ideas for improving cervical cancer prevention, diagnosis, and treatment in the State.

(D) (1) THERE IS A SUBCOMMITTEE ON THE HUMAN PAPILLOMAVIRUS (HPV) VACCINE IN THE COMMITTEE.

(2) THE HPV VACCINE SUBCOMMITTEE SHALL CONSIST OF THE FOLLOWING MEMBERS:

(I) ONE REPRESENTATIVE OF THE MARYLAND STATE DEPARTMENT OF EDUCATION, APPOINTED BY THE DEPARTMENT;

(II) ONE REPRESENTATIVE OF THE MARYLAND PTA, APPOINTED BY THE PTA;

(III) ONE REPRESENTATIVE OF THE MARYLAND STATE TEACHERS ASSOCIATION, APPOINTED BY THE ASSOCIATION;

(IV) ONE REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION, APPOINTED BY THE ASSOCIATION;

(V) ONE REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF COUNTY HEALTH OFFICERS, APPOINTED BY THE ASSOCIATION;

(VI) ONE REPRESENTATIVE OF THE SOCIETY FOR ADOLESCENT MEDICINE, APPOINTED BY THE SOCIETY;

(VII) ONE PHYSICIAN MEMBER OF THE MEDICAL *AND* CHIRURGICAL FACULTY OF MARYLAND, APPOINTED BY THE ORGANIZATION;

(VIII) ONE PHYSICIAN MEMBER OF THE MARYLAND CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS, APPOINTED BY THE ORGANIZATION;

(IX) ONE REPRESENTATIVE OF CHILDREN'S NATIONAL MEDICAL CENTER, APPOINTED BY THE CENTER;

(X) ONE REPRESENTATIVE OF JOHNS HOPKINS INSTITUTIONS, APPOINTED BY THE ORGANIZATION; ~~AND~~

(XI) THE FOLLOWING MEMBERS, APPOINTED BY THE SECRETARY OF HEALTH AND MENTAL HYGIENE:

1. ONE REPRESENTATIVE OF THE HEALTH INSURANCE INDUSTRY; AND

2. TWO CONSUMER MEMBERS*; AND*

(XII) ONE PARENT OF A STUDENT IN A NONPUBLIC SCHOOL PROGRAM, APPOINTED BY THE MARYLAND COUNCIL FOR AMERICAN PRIVATE EDUCATION.

(3) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL APPOINT THE CHAIR OF THE SUBCOMMITTEE.

(4) THE HPV VACCINE SUBCOMMITTEE SHALL:

(I) EXAMINE FEDERAL AND STATE PROGRAMS RELATING TO THE HPV VACCINE;

(II) DEVELOP A PUBLIC AWARENESS AND EDUCATION CAMPAIGN ABOUT THE HPV VACCINE WITH AN EMPHASIS ON PARENTAL EDUCATION;

(III) EVALUATE THE AVAILABILITY AND AFFORDABILITY OF THE HPV VACCINE, INCLUDING COVERAGE BY HEALTH INSURERS AND PUBLIC HEALTH PROGRAMS;

(IV) IDENTIFY BARRIERS TO THE ADMINISTRATION OF THE HPV VACCINE TO ALL RECOMMENDED INDIVIDUALS; ~~AND~~

(V) IDENTIFY AND EVALUATE VARIOUS SOURCES OF RESOURCES TO COVER THE COSTS OF THE HPV VACCINE; AND

~~(V)~~ *(VI)* IDENTIFY AND EVALUATE APPROPRIATE MECHANISMS THE STATE MAY USE TO INCREASE ACCESS TO THE HPV VACCINE, INCLUDING MANDATING THE HPV VACCINE FOR ENROLLMENT IN SCHOOL.

(5) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE HPV VACCINE SUBCOMMITTEE SHALL SUBMIT A REPORT ON ITS FINDINGS AND RECOMMENDATIONS TO THE COMMITTEE.

[(d)**]** **(E)** The Committee shall present in the annual report of the State Council on Cancer Control its findings and recommendations**, INCLUDING THE FINDINGS AND RECOMMENDATIONS OF THE HPV VACCINE SUBCOMMITTEE,** to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before October 1 of each year beginning October 1, 2004.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. ~~It shall remain effective for a period of 1 year and 6 months and, at the end of December 31, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~

Approved by the Governor, April 24, 2007.

CHAPTER 192

(Senate Bill 775)

AN ACT concerning

Queen Anne's County – State's Attorney – Salary

FOR the purpose of altering the salary of the State's Attorney for Queen Anne's County; authorizing the State's Attorney to appoint one or more deputy State's Attorneys; specifying certain duties of the State's Attorney, a deputy State's Attorney, and an assistant State's Attorney; establishing that the State's

Attorney is entitled to certain expenses for certain purposes; providing that this Act does not apply to the salary or compensation of the incumbent State's Attorney for Queen Anne's County; ~~providing for a delayed effective date;~~ and generally relating to the State's Attorney for Queen Anne's County.

BY repealing and reenacting, with amendments,
Article 10 – Legal Officials
Section 40(r)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 10 – Legal Officials

40.

(r) (1) In Queen Anne's County, the annual salary of the State's Attorney is **[**90 percent of**]** **EQUAL TO** the salary of a judge of the District Court of Maryland. The salary shall be set prior to the date on which a newly elected State's Attorney first assumes his or her position during his or her term of office.

(2) The State's Attorney may not engage in the private practice of law at any time in any jurisdiction during the State's Attorney's tenure in office.

(3) The State's Attorney may not appear professionally in any criminal proceeding in this State, except in the performance of his or her position as State's Attorney.

(4) The State's Attorney may appoint one or more **DEPUTY OR** assistant State's Attorneys with the approval of the County Commissioners at a salary set by the County Commissioners.

[(5) The County Commissioners shall furnish the State's Attorney with an office and with a secretary, whose salary shall be determined by the County Commissioners. The County Commissioners shall furnish the State's Attorney with supplies and equipment for the office, as the County Commissioners shall deem appropriate. The County Commissioners shall reimburse the State's Attorney for any actual expenses of the office, which shall be shown by vouchers. The vouchers shall be presented to the County Commissioners for reimbursement.**]**

(5) THE STATE'S ATTORNEY, DEPUTY STATE'S ATTORNEYS, OR ASSISTANT STATE'S ATTORNEYS SHALL PRESENT CASES TO THE GRAND JURY AND PERFORM OTHER ACTS AND DUTIES IN RELATION TO THE GRAND JURY,

THE CIRCUIT COURT, INCLUDING THE JUVENILE COURT, AND THE DISTRICT COURT AS ARE NECESSARY AND PROPER IN THE JUDGMENT OF THE STATE'S ATTORNEY.

(6) IN ADDITION TO THE COMPENSATION PROVIDED FOR UNDER THIS SECTION, THE STATE'S ATTORNEY IS ENTITLED TO REASONABLE EXPENSES AS PROVIDED FOR IN THE QUEEN ANNE'S COUNTY BUDGET FOR THE OPERATION OF THE STATE'S ATTORNEY'S OFFICE AND THE PERFORMANCE OF THE STATE'S ATTORNEY'S DUTIES.

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 State's Attorney for Queen Anne's County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the State's Attorney for Queen Anne's County 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 ~~January 3, 2011~~ October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 193

(Senate Bill 777)

AN ACT concerning

Delmarva Advisory Council – Repeal

FOR the purpose of repealing provisions of law establishing Maryland's membership on the Delmarva Advisory Council; eliminating the representative of the Delmarva Advisory Council from the membership of the Executive Board of the Rural Maryland Council; requiring the Department of Legislative Services to provide certain notice of the enactment of this Act; and generally relating to the Delmarva Advisory Council.

BY repealing
Article 32B – Delmarva Advisory Council
Section 1–101 through 1–111 and the article "Article 32B. Delmarva Advisory Council"
Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)

BY repealing
Article 41 – Governor – Executive and Administrative Departments
Section 15–104(c)(2)(xii)
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

BY renumbering
Article 41 – Governor – Executive and Administrative Departments
Section 15–104(c)(2)(xiii) through (xxvii), respectively
to be Section 15–104(c)(2)(xii) through (xxvi), respectively
Annotated Code of Maryland
(2003 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1–101 through 1–111 and the article "Article 32B. Delmarva Advisory Council" of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 41 – Governor – Executive and Administrative Departments

15–104.

(c) (2) The Executive Board shall include:

[(xii) One representative of the Delmarva Advisory Council;**]**

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 15–104(c)(2)(xiii) through (xxvii), respectively, of Article 41 of the Annotated Code of Maryland be renumbered to be Section(s) 15–104(c)(2)(xii) through (xxvi), respectively.

SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Legislative Services shall notify the appropriate officials of the State of Delaware and the Commonwealth of Virginia of the enactment of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 194

(Senate Bill 813)

AN ACT concerning

Dorchester County – Appointment of Members of Fire Companies as Deputy Sheriffs

FOR the purpose of including Dorchester County in the list of counties in which the sheriff may appoint as deputy sheriffs certain members of certain fire companies to exercise the powers of deputy sheriffs at fires and while going to and from fires and appoint as deputy sheriffs certain members of certain fire companies to exercise the powers of deputy sheriffs at certain events; and generally relating to the appointment of members of fire companies as deputy sheriffs in Dorchester County.

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 7–301
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 7–302 and 7–303
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Public Safety

7–301.

In this subtitle, "commanding officer" means the captain, chief, or other officer in charge of a fire company or ambulance company.

7–302.

(a) This section applies only to Baltimore County, Caroline County, Cecil County, **DORCHESTER COUNTY,** Queen Anne's County, and Washington County.

(b) The sheriff of a county subject to this section may appoint as deputy sheriffs members of fire companies, whether volunteer, career, incorporated, or unincorporated, to exercise the powers of deputy sheriffs at fires and while going to and from fires.

(c) (1) The commanding officer may designate three members of the fire company to be appointed as deputy sheriffs.

(2) The commanding officer may be one of the three members designated under this subsection.

(d) (1) (i) Except in Caroline County, the sheriff of a county subject to this section shall appoint as deputy sheriff a member of the fire company designated under subsection (c) of this section on request of the designated member.

(ii) In Caroline County, the Sheriff of Caroline County may appoint the designated member as deputy sheriff.

(2) A request for appointment shall be accompanied by a written certificate of designation signed by the commanding officer.

(e) (1) Except as provided in paragraphs (2) and (3) of this subsection, a member of a fire company appointed as deputy sheriff under this section may exercise the powers of deputy sheriffs at fires and while going to and from fires.

(2) The powers of members appointed as deputy sheriffs do not apply and may not be exercised in a municipal corporation that maintains an organized police force.

(3) In Washington County, a member appointed as deputy sheriff has the powers necessary to perform the duties of deputy sheriffs while going to, functioning at, or returning from:

(i) fires;

(ii) accidents;

(iii) floods;

(iv) other emergencies; or

(v) other functions conducted by a fire company.

(f) (1) The appointment of a member of a fire company as deputy sheriff terminates if the member ceases to be a member of the fire company.

(2) The sheriff of a county subject to this section may remove a member appointed as deputy sheriff at any time for just cause.

(3) If a member appointed as deputy sheriff dies, resigns, is dismissed, refuses to serve, or is unable to serve, the commanding officer may designate another member of the fire company to be appointed as deputy sheriff.

(4) (i) Except in Caroline County, if the commanding officer designates another member of the fire company to be appointed as deputy sheriff, the sheriff of the county shall appoint that member as deputy sheriff, subject to subsections (d) and (e) of this section.

(ii) In Caroline County, the Sheriff of Caroline County may appoint the designated member as deputy sheriff.

(g) In Washington County, a member of a fire company appointed as deputy sheriff under this section is deemed an appointed official and shall be treated as an appointed official for purposes of Titles 22 and 23 of the State Personnel and Pensions Article.

7–303.

(a) (1) This section applies only to Allegany County, Carroll County, Cecil County, **DORCHESTER COUNTY,** Frederick County, Harford County, Kent County, Somerset County, Wicomico County, and Worcester County.

(2) Except as modified by this section, the provisions of § 7–302 of this subtitle apply to this section.

(b) (1) Except as provided in paragraph (2) of this subsection, the commanding officer may designate 12 members of a fire company to be appointed as deputy sheriffs.

(2) In Cecil County, the commanding officer may designate 20 members of a fire company to be appointed as deputy sheriffs.

(c) (1) The sheriff of a county subject to this section may require a member of a fire company appointed as deputy sheriff to demonstrate a satisfactory level of training in those areas of law enforcement commensurate with the duties of deputy sheriff described in this section.

(2) If the sheriff requires demonstration of a satisfactory level of training, then the sheriff must provide the training, at a time and place that the sheriff considers suitable.

(d) (1) The powers of members of fire companies appointed as deputy sheriffs under this section are limited to those necessary to perform the duties of deputy sheriffs while functioning at:

(i) parades;

(ii) accidents;

(iii) floods;

(iv) other emergencies; or

(v) public events conducted by or under the auspices of a fire company or the sheriff's department.

(2) The powers authorized under this subsection may be exercised:

(i) in a municipal corporation, subject to the discretion and control of the chief of the police force of the municipal corporation;

(ii) in other areas of the county; and

(iii) on State roads, subject to the discretion and control of the Department of State Police.

(3) A member appointed as deputy sheriff is deemed to be performing the duties of deputy sheriff when on duty and wearing a badge of authority.

(4) A member appointed as deputy sheriff may not use a weapon in the performance of duties authorized under this subsection.

(5) In Allegany County, Carroll County, Frederick County, and Harford County, a member appointed as deputy sheriff may also perform traffic control for public functions held by a municipal corporation, group, or committee on request for and approval of the services by the sheriff.

(e) (1) (i) A member appointed as deputy sheriff performing the duties of deputy sheriff in an emergency situation to which a fire company or ambulance company has been dispatched by the Allegany County Emergency Management Center in Allegany County, the Frederick County Central Alarm Board in Frederick County, or the Carroll County Emergency Operations Center in Carroll County, is subject to the authority of the commanding officer of that fire company or ambulance company.

(ii) If a member appointed as deputy sheriff is not a member in good standing of the fire company or ambulance company that has been dispatched, then the member may not perform the duties described in this section.

(2) A member appointed as deputy sheriff performing the duties of deputy sheriff at a public event conducted by or under the auspices of a fire company or ambulance company is subject to the authority of the commanding officer of that fire company or ambulance company.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 195

(Senate Bill 814)

AN ACT concerning

Wicomico County – Liquor Control Board – Salaries

FOR the purpose of altering the annual salaries of the chairman and members of the Wicomico County Liquor Control Board; providing that this Act does not apply to the salary or compensation of the incumbent chairman or members of the Board; and generally relating to the Wicomico County Liquor Control Board.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 15–201(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–201(h)(6)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 2B – Alcoholic Beverages

15–201.

(a) There is hereby constituted and established in each county a liquor control board, to be appointed and to have the tenure, compensation, powers and duties as provided in this subtitle; provided that in Montgomery County there is hereby constituted and established, effective July 1, 1951, a Department of Liquor Control, which shall be a department of the county government under the general supervision of the chief administrative officer, and which shall have the powers of a liquor control board as defined in § 15–205 of this subtitle. Whenever used in this subtitle the words "liquor control board" or "board" shall be construed to apply to the Department of Liquor Control in Montgomery County whenever such construction would be reasonable.

(h) Members of the several boards shall receive compensation as follows:

(6) Wicomico County – **[**$2,750**] $5,000** per annum, and a salary of **[**$3,500**] $6,000** per annum for the Chairman of the Board.

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 chairman or members in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the chairman or members 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 July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 196

(Senate Bill 841)

AN ACT concerning

Carroll County – Education – Organization of Teachers and Other Personnel

FOR the purpose of altering the definition of a "public school employee" in Carroll County, as it relates to the organization or certificated employees, to include a

supervisory noncertificated employee; providing that in Carroll County, beginning on a certain date, there may be no more than a certain number of units and all units shall be nonsupervisory units; and generally relating to the organization of teachers and other personnel in Carroll County.

BY repealing and reenacting, with amendments,
Article – Education
Section 6–401(d) and 6–505
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Education

6–401.

(d) (1) "Public school employee" means a certificated professional individual who is employed by a public school employer or an individual of equivalent status in Baltimore City, except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity as provided in § 6–408(b) of this subtitle.

(2) In Montgomery County, "public school employees" include:

(i) Certificated and noncertificated substitute teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 1978, and each year after; and

(ii) Home and hospital teachers employed by the public school employer for at least 7 days before March 1 of the school fiscal year ending June 30, 2000, and each year after.

(3) In Baltimore County, "public school employee" includes:

(i) A secondary school nurse, an elementary school nurse, and a special school nurse; and

(ii) Supervisory noncertificated employees as defined under § 6–501(h) of this title.

(4) In Frederick County, "public school employee" includes a social worker employed by a public school employer.

(5) In Prince George's County, "public school employee" includes home and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

(6) In Charles County **AND GARRETT COUNTY**, "public school employee" includes Junior Reserve Officer Training Corps (JROTC) instructors.

(7) IN CARROLL COUNTY, "PUBLIC SCHOOL EMPLOYEE" INCLUDES SUPERVISORY NONCERTIFICATED EMPLOYEES AS DEFINED UNDER § 6–501(H) OF THIS TITLE.

6–505.

(a) (1) Each public school employer may designate, as provided in this subtitle, which employee organization, if any, shall be the exclusive representative of all public school employees in a specified unit in the county.

(2) In Baltimore City, Garrett County, and Frederick County, the public school employer shall designate, as provided in this subtitle, which employee organization, if any, shall be the exclusive representative of all public school employees in a specified unit in the county.

(b) The public school employer shall determine the composition of the unit in negotiation with any employee organization that requests negotiation concerning the composition of the unit.

(c) (1) There may not be more than three units in a county and a unit may not include both supervisory and nonsupervisory employees.

(2) If a county has more than three recognized units and, as of July 1, 1974, the units have exclusive representation for collective negotiations, these units may continue as negotiating units.

(3) In Baltimore County, there shall only be three nonsupervisory units in addition to the supervisory unit defined under § 6–404(c)(2) of this title.

(4) IN CARROLL COUNTY, BEGINNING ON OCTOBER 1, 2007:

(I) THERE SHALL BE NO MORE THAN THREE UNITS; AND

(II) ALL UNITS SHALL BE NONSUPERVISORY UNITS.

(d) (1) All eligible public school employees shall:

(i) Be included in one of these units; and

(ii) Have the rights granted in this subtitle.

(2) Except for an individual who is designated as management personnel or a confidential employee under this subtitle, each public school employee is eligible for membership in one of the negotiating units.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 197

(Senate Bill 873)

AN ACT concerning

Task Force to Study State Assistance to Veterans

FOR the purpose of altering the process for the appointment of certain members of the Task Force to Study State Assistance to Veterans; extending the date by which the members of the Task Force ~~to Study State Assistance to Veterans~~ must be appointed; extending the dates by which the Task Force must report its interim and final findings and recommendations to certain officials; extending the termination date of the Task Force; clarifying language; and generally relating to the Task Force to Study State Assistance to Veterans.

BY repealing and reenacting, with amendments,
Chapter 290 of the Acts of the General Assembly of 2006
Section 3 and 5

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

Chapter 290 of the Acts of 2006

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force to Study State Assistance to Veterans.

(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 Secretary of Veterans Affairs, or the Secretary's designee;

(4) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(5) the Adjutant General of the Military, or the Adjutant General's designee; and

(6) the following seven members, ~~jointly~~ appointed by the ~~President of the Senate and the Speaker of the House~~ **GOVERNOR**:

(i) one member of the Maryland Congressional Delegation, or the member's designee;

(ii) one member of the Maryland Veterans Commission;

(iii) two veterans, one of whom is disabled and one of whom has separated from military service within the past 2 years;

(iv) one individual who is the surviving spouse or parent of a veteran;

(v) one individual with knowledge of providing health care services to veterans; and

(vi) a representative of the Maryland Higher Education Commission.

(c) The President of the Senate and the Speaker of the House shall jointly designate the chairman of the Task Force.

(d) The President of the Senate ~~and~~, the Speaker of the House**, AND THE GOVERNOR** shall make all appointments on or before July 1, **[**2006**] 2007**.

(e) The members of the Task Force shall represent geographic, ethnic, and cultural differences throughout the State.

(f) The Task Force may request assistance and information from any government unit or other expert that the Task Force considers appropriate.

(g) The Department of Legislative Services shall provide staff for the Task Force.

(h) 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.

(i) The Task Force shall study and make recommendations on veterans issues including:

(1) the efficacy of the services and benefits for veterans to determine how well the services and benefits help eligible individuals obtain benefits and whether these are being obtained in a timely manner;

(2) whether there are enough advocate offices to efficiently help all eligible individuals receive assistance;

(3) the potential impact of the increased number of veterans returning from military service in recent conflicts on services provided by the State;

(4) what services are provided to veterans, veterans' families and survivors and what services need to be provided including medical care, hospice care, and mental health services;

(5) the feasibility of establishing homes for veterans in the Crownsville Hospital Center and other regions of the State;

(6) the feasibility of establishing regional outreach and advocacy centers around the State and using existing service centers as outreach and advocacy centers;

(7) the identification of State and federal benefits and services and how to make them more comprehensive;

(8) how to improve outreach to women who are eligible to receive veteran–related benefits; and

(9) any issue regarding benefits and assistance to veterans that the Task Force determines is necessary.

(j) The Task Force shall submit an interim report to the Governor and**, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE,** the General Assembly, on or before December 1, **[**2006**] 2007**, and report its final findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before December 1, **[**2007**] 2008**.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2006. Section 3 of this Act shall remain effective for a period of **[**1 year, 6 months and 1 day**] 3 YEARS** and, at the end of **[**December 1, 2007**] MAY 31, 2009**, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 198

(House Bill 1181)

AN ACT concerning

Task Force to Study State Assistance to Veterans

FOR the purpose of *altering the process for the appointment of certain members of the Task Force to Study State Assistance to Veterans;* extending the date by which the members of the Task Force ~~to Study State Assistance to Veterans~~ must be appointed; extending the dates by which the Task Force must report its interim and final findings and recommendations to certain officials; extending the termination date of the Task Force; clarifying language; and generally relating to the Task Force to Study State Assistance to Veterans.

BY repealing and reenacting, with amendments,
Chapter 290 of the Acts of the General Assembly of 2006
Section 3 and 5

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

Chapter 290 of the Acts of 2006

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force to Study State Assistance to Veterans.

(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 Secretary of Veterans Affairs, or the Secretary's designee;

(4) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(5) the Adjutant General of the Military, or the Adjutant General's designee; and

(6) the following seven members, ~~jointly~~ appointed by the ~~President of the Senate and the Speaker of the House~~ ***GOVERNOR***:

(i) one member of the Maryland Congressional Delegation, or the member's designee;

(ii) one member of the Maryland Veterans Commission;

(iii) two veterans, one of whom is disabled and one of whom has separated from military service within the past 2 years;

(iv) one individual who is the surviving spouse or parent of a veteran;

(v) one individual with knowledge of providing health care services to veterans; and

(vi) a representative of the Maryland Higher Education Commission.

(c) The President of the Senate and the Speaker of the House shall jointly designate the chairman of the Task Force.

(d) The President of the Senate ~~and~~, the Speaker of the House***, AND THE GOVERNOR*** shall make all appointments on or before July 1, **[**2006**]** **2007**.

(e) The members of the Task Force shall represent geographic, ethnic, and cultural differences throughout the State.

(f) The Task Force may request assistance and information from any government unit or other expert that the Task Force considers appropriate.

(g) The Department of Legislative Services shall provide staff for the Task Force.

(h) 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.

(i) The Task Force shall study and make recommendations on veterans issues including:

(1) the efficacy of the services and benefits for veterans to determine how well the services and benefits help eligible individuals obtain benefits and whether these are being obtained in a timely manner;

(2) whether there are enough advocate offices to efficiently help all eligible individuals receive assistance;

(3) the potential impact of the increased number of veterans returning from military service in recent conflicts on services provided by the State;

(4) what services are provided to veterans, veterans' families and survivors and what services need to be provided including medical care, hospice care, and mental health services;

(5) the feasibility of establishing homes for veterans in the Crownsville Hospital Center and other regions of the State;

(6) the feasibility of establishing regional outreach and advocacy centers around the State and using existing service centers as outreach and advocacy centers;

(7) the identification of State and federal benefits and services and how to make them more comprehensive;

(8) how to improve outreach to women who are eligible to receive veteran–related benefits; and

(9) any issue regarding benefits and assistance to veterans that the Task Force determines is necessary.

(j) The Task Force shall submit an interim report to the Governor and***, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE,*** the General Assembly, on or before December 1, **[**2006**]** **2007**, and report its final findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on or before December 1, **[**2007**]** **2008**.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2006. Section 3 of this Act shall remain effective for a period of **[**1 year, 6 months and 1 day**]** **3 YEARS** and, at the end of **[**December 1, 2007**]** **MAY 31, 2009**, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 199

(Senate Bill 874)

AN ACT concerning

Baltimore City – New Shiloh Multipurpose Center Loan of 2001

FOR the purpose of amending the Baltimore City – New Shiloh Multipurpose Center Loan of 2001 to require that the loan proceeds be encumbered by the Board of Public Works or expended for certain purposes by a certain date; and generally relating to the Baltimore City – New Shiloh Multipurpose Center Loan of 2001.

BY repealing and reenacting, with amendments,
Chapter 297 of the Acts of the General Assembly of 2001
Section 1

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

Chapter 297 of the Acts of 2001

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Baltimore City – New Shiloh Multipurpose Center Loan of 2001 in a total principal amount equal to the lesser of (i) $1,000,000 or (ii) the amount of the matching fund provided in accordance with Section 1(5) below. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation bonds authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Code.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article.

(3) The cash proceeds of the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller and expended, on approval by the Board of Public Works, for the following public purposes, including any applicable architects' and engineers' fees: as a grant to the Board of Directors of New Shiloh Development Corporation, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, repair, renovation, reconstruction, and capital equipping of an existing building for use as the New Shiloh Multipurpose Center, located at 2100 Monroe Street in Baltimore, Maryland.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest on the bonds, as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) Prior to the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above, the grantee shall provide and expend a matching fund. No part of the grantee's matching fund may be provided, either directly or indirectly, from funds of the State, whether appropriated or unappropriated. No part of the fund may consist of real property or in kind contributions. The fund may consist of funds expended prior to the effective date of this Act. In case of any dispute as to the amount of the matching fund or what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final. The grantee has until June 1, 2003, to present evidence satisfactory to the Board of Public Works that a matching fund will

be provided. If satisfactory evidence is presented, the Board shall certify this fact and the amount of the matching fund to the State Treasurer, and the proceeds of the loan equal to the amount of the matching fund shall be expended for the purposes provided in this Act. Any amount of the loan in excess of the amount of the matching fund certified by the Board of Public Works shall be canceled and be of no further effect.

(6) No portion of the proceeds of the loan or any of the matching funds may be used for the furtherance of sectarian religious instruction, or in connection with the design, acquisition, or construction of any building used or to be used as a place of sectarian religious worship or instruction, or in connection with any program or department of divinity for any religious denomination. Upon the request of the Board of Public Works, the grantee shall submit evidence satisfactory to the Board that none of the proceeds of the loan or any matching funds have been or are being used for a purpose prohibited by this Act.

(7) THE PROCEEDS OF THE LOAN MUST BE ENCUMBERED BY THE BOARD OF PUBLIC WORKS OR EXPENDED FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 200

(Senate Bill 885)

AN ACT concerning

~~**State Ethics Commission – Regulated Lobbyist – Fees**~~
Ethics Law – Miscellaneous Provisions

FOR the purpose of altering the definition of interest to exclude certain additional qualified trusts and certain college savings plans; altering the fee that a regulated lobbyist must pay each time the lobbyist files a certain registration form with the State Ethics Commission; and generally relating to the ~~registration of regulated lobbyists~~ ethics law.

BY repealing and reenacting, without amendments,
Article – State Government
Section 15–703(a) and (d)

Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section ~~15–703(e)~~ 15–102(t) and 15–703(e)
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

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

Article – State Government

15–102.

(t) (1) "Interest" means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition.

(2) "Interest" does not include:

(i) an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(ii) an interest in a time or demand deposit in a financial institution;

(iii) an interest in an insurance policy, endowment policy, or annuity contract by which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period; or

(iv) a common trust fund or a trust that forms part of a pension or a profit–sharing plan that:

1. has more than 25 participants; and

2. is determined by the Internal Revenue Service to be a qualified trust **OR COLLEGE SAVINGS PLAN** under **[**§ 401 or § 501 of**]** the Internal Revenue Code.

15–703.

(a) (1) At the times specified in subsection (d) of this section, each regulated lobbyist shall register with the Ethics Commission on a form provided by the Ethics Commission.

(2) A regulated lobbyist shall register separately for each entity that has engaged the regulated lobbyist for lobbying purposes.

(d) (1) A regulated lobbyist who is not currently registered shall register within 5 days after first performing an act that requires registration under this subtitle.

(2) A regulated lobbyist shall file a new registration form on or before November 1 of each year if, on that date, the regulated lobbyist is engaged in lobbying.

(e) (1) Each registration form shall be accompanied by a fee of **[**$50**]** **$100**.

(2) The fee shall be credited to the Lobbyist Registration Fund established under § 15–210 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 201

(Senate Bill 886)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2005 – Calvert County – Old Wallville School

FOR the purpose of amending the Maryland Consolidated Capital Bond Loan of 2005 to change the authorized uses of a certain grant to the Board of Directors of the Friends of the Old Wallville School, Inc.

BY repealing and reenacting, with amendments,
Chapter 445 of the Acts of the General Assembly of 2005
Section 1(3) Item ZA01 (Y)

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

Chapter 445 of the Acts of 2005

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(Y) Old Wallville School. Provide a grant equal to the lesser of (i) $25,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Friends of the Old Wallville School, Inc. for the relocation from St. Leonard to Prince Frederick, and the renovation, repair, construction, reconstruction, and capital equipping**, INCLUDING RELATED LIGHTING AND LANDSCAPING,** of the Old Wallville School. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions (Calvert County) 25,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 202

(Senate Bill 891)

AN ACT concerning

Maryland Consolidated Capital Bond Loan of 2004 – Anne Arundel County – Carrie Weedon Science Center

FOR the purpose of altering the authorized uses of a certain grant to the Board of Directors of the Carrie Weedon Science Center Foundation, Inc.

BY repealing and reenacting, with amendments,
Chapter 204 of the Acts of the General Assembly of 2003, as amended by Chapter 432 of the Acts of the General Assembly of 2004
Section 13(3)(ii) Item A

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

Chapter 204 of the Acts of 2003, as amended by Chapter 432 of the Acts of 2004

SECTION 13. AND BE IT FURTHER ENACTED, That:

(3) (ii) $2,500,000 for the following projects initially approved by the House:

(A) Carrie Weedon Science Center. Provide a grant equal to the lesser of (i) $25,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Carrie Weedon Science Center Foundation, Inc. for the **[**replacement of the well, storage tank, plumbing equipment, and windows**]** **REPAIR, RENOVATION, CONSTRUCTION, RECONSTRUCTION, AND CAPITAL EQUIPPING OF THE CARRIE WEEDON SCIENCE CENTER, INCLUDING THE REPLACEMENT OF THE WINDOWS AND THE INSTALLATION OF AN HVAC SYSTEM**, located in Galesville (Anne Arundel County)..... 25,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 203

(Senate Bill 895)

AN ACT concerning

Public Safety Employees Killed in the Performance of Duties – ~~Helicopter Pilots and Aviation Maintenance Technicians~~ Public Safety Aviation Employees – Death Benefits

FOR the purpose of ~~defining the term "rescue squad member" as it relates~~ including certain public safety aviation employees within certain provisions relating to eligibility for certain death benefits and funeral expenses ~~so as to include certain helicopter pilots and aviation maintenance technicians~~; and generally relating to death benefits for public safety employees killed in the performance of duties.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–202
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Public Safety

1–202.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Child" means a natural or adopted, legitimate or illegitimate child or stepchild of the decedent.

(ii) "Child" includes a child or stepchild born posthumously.

(3) "Correctional officer" has the meaning stated in § 8–201(e)(1) of the Correctional Services Article.

(4) (i) "Law enforcement officer" has the meaning stated in § 3–101 of this article.

(ii) "Law enforcement officer" includes:

1. an officer who serves in a probationary status; and

2. an officer who serves at the pleasure of the appointing authority of a county or municipal corporation.

(5) "Performance of duties" includes, in the case of a volunteer or career firefighter**, PUBLIC SAFETY AVIATION EMPLOYEE,** or rescue squad member:

(i) actively participating in fighting a fire;

(ii) going to or from a fire;

(iii) performing other duties necessary to the operation or maintenance of the fire company;

(iv) actively participating in the ambulance, advanced life support, or rescue work of an advanced life support unit or a fire, ambulance, or rescue company, including going to or from an emergency or rescue; ~~and~~

(v) providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit**; AND**

(VI) ACTIVELY PARTICIPATING IN FLIGHT OPERATIONS AS A CREW MEMBER IN A ROTARY OR FIXED WING AIRCRAFT.

(6) "~~RESCUE SQUAD MEMBER~~ PUBLIC SAFETY AVIATION EMPLOYEE" INCLUDES A PILOT AND AVIATION MAINTENANCE TECHNICIAN EMPLOYED BY THE STATE.

[(6)**] (7)** "Stepchild" means a child of the surviving spouse who was living with or dependent for support on the decedent at the time of the decedent's death.

(a–1) For purposes of this section, an individual served in the Afghanistan or Iraq conflict if the individual was a member of the uniform services of the United States who served in:

(1) Afghanistan or contiguous air space, as defined in federal regulations, on or after October 24, 2001, and before a terminal date to be prescribed by the United States Secretary of Defense; or

(2) Iraq or contiguous waters or air space, as defined in federal regulations, on or after March 19, 2003, and before a terminal date to be prescribed by the United States Secretary of Defense.

(b) (1) Subject to subsection (c) of this section and paragraph (2) of this subsection, a death benefit of $125,000 shall be paid to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties on or after January 1, 2006:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a sworn member of the office of State Fire Marshal;

(v) **A PUBLIC SAFETY AVIATION EMPLOYEE; OR**

(VI) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict.

(2) For fiscal year 2009, and for each following fiscal year, the death benefit provided in the prior fiscal year shall be adjusted by any change in the calendar year preceding the fiscal year in the Consumer Price Index (all urban customers – United States city average – all items), as published by the United States Bureau of Labor Statistics.

(3) A death benefit under this subsection is in addition to:

(i) any workers' compensation benefits;

(ii) the proceeds of any form of life insurance, regardless of who paid the premiums on the insurance; and

(iii) the funeral benefit provided under subsection (d) of this section.

(c) (1) Whenever an individual identified in subsection (b)(1)(i) through ~~(iv)~~ **(V)** of this section dies as the direct and proximate result of a heart attack or stroke, the individual shall be presumed to have died as a direct and proximate result of a personal injury sustained in the performance of duties if:

(i) the individual, while on duty:

1. engaged in a situation that involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, **FLIGHT OPERATIONS AS A CREW MEMBER IN A ROTARY OR FIXED WING AIRCRAFT,** or other emergency response activity; or

2. participated in a training exercise that involved nonroutine stressful or strenuous physical activity;

(ii) the individual died as a result of a heart attack or stroke that the individual suffered:

1. while engaging or participating in an activity described in item (i)1 or 2 of this paragraph;

2. while still on duty after engaging or participating in an activity described in item (i)1 or 2 of this paragraph; or

3. not later than 24 hours after engaging or participating in an activity described in item (i)1 or 2 of this paragraph; and

(iii) the presumption is not overcome by competent medical evidence to the contrary.

(2) For purposes of paragraph (1) of this subsection, nonroutine stressful or strenuous physical activity does not include actions of a clerical, administrative, or nonmanual nature.

(d) (1) Reasonable funeral expenses, not exceeding $10,000, shall be paid to the surviving spouse, child, parent, or estate of each of the following individuals who is killed or dies in the performance of duties:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(IV) A PUBLIC SAFETY AVIATION EMPLOYEE; or

~~(iv)~~ **(V)** a sworn member of the office of State Fire Marshal.

(2) The funeral benefit under this subsection shall be reduced by the amount of any related workers' compensation benefits paid under § 9–689 of the Labor and Employment Article.

(e) (1) The Secretary of State shall issue a State flag to the family of a firefighter, policeman, member of the military, or sworn member of the office of State Fire Marshal who is killed in the performance of duty.

(2) (i) Except when the deceased is a member of the military, the flag shall be presented to the family of the deceased by the State Senator of the legislative district in which the deceased resided or served.

(ii) When the deceased is a member of the military, the flag shall be presented to the family of the deceased by the Department of Veterans Affairs.

(f) On a case–by–case basis, the Secretary of Public Safety and Correctional Services may award a death benefit under this section if:

(1) the decedent's death was caused by the decedent's intentional misconduct;

(2) the decedent intended to bring about the decedent's death; or

(3) the decedent's voluntary intoxication was the proximate cause of the decedent's death.

(g) If the Secretary of Public Safety and Correctional Services determines that the benefits under this section are to be paid, the benefits shall be paid:

(1) to the decedent's surviving spouse;

(2) if no individual is eligible under item (1) of this subsection, to each surviving child of the decedent in equal shares;

(3) (i) for a death benefit under subsection (b) of this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent, if the parent was a dependent as defined in § 152 of the Internal Revenue Code; or

(ii) for any other benefit under this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent; or

(4) if no individual is eligible under item (1), (2), or (3) of this subsection, to the decedent's estate.

(h) Payments under this section shall be made out of money that the Governor includes for that purpose in the State budget.

(i) A person aggrieved by a final decision of the Secretary of Public Safety and Correctional Services under this section may seek judicial review as provided for review of final decisions in Title 10, Subtitle 2 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 204

(Senate Bill 937)

AN ACT concerning

State Board for Certification of Residential Child Care Program Administrators – Fees

FOR the purpose of repealing the State Board for Certification of Residential Child Care Program Administrators Fund; requiring the Board to pay certain money collected by the Board into the General Fund of the State; and generally relating to fees and the State Board for Certification of Residential Child Care Program Administrators.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 20–206
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health Occupations

20–206.

(a) **[**There is a State Board for Certification of Residential Child Care Program Administrators Fund.

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

[(2) The fees charged shall be set to produce funds so as to approximate the cost of maintaining the Board.

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

(c) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the Fund.

(d) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this title.

(2) The Fund is a continuing, nonlapsing fund, not subject to § 7–302 of the State Finance and Procurement Article.

(3) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this title.

(4) Except as otherwise expressly provided by law, no other State money may be used to support the Fund.

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this title.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.**]**

(B) THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 205

(House Bill 1177)

AN ACT concerning

State Board for Certification of Residential Child Care Program Administrators – Fees

FOR the purpose of repealing the State Board for Certification of Residential Child Care Program Administrators Fund; requiring the Board to pay certain money collected by the Board into the General Fund of the State; and generally relating to fees and the State Board for Certification of Residential Child Care Program Administrators.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 20–206
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Health Occupations

20–206.

(a) **[**There is a State Board for Certification of Residential Child Care Program Administrators Fund.

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

[(2) The fees charged shall be set to produce funds so as to approximate the cost of maintaining the Board.

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

(c) (1) The Board shall pay all fees collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the Fund.

(d) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this title.

(2) The Fund is a continuing, nonlapsing fund, not subject to § 7–302 of the State Finance and Procurement Article.

(3) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this title.

(4) Except as otherwise expressly provided by law, no other State money may be used to support the Fund.

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this title.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.**]**

(B) THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 206

(Senate Bill 938)

AN ACT concerning

Public Health – Injury Reports – ~~Statewide Applicability~~ *Workgroup*

FOR the purpose of ~~repealing the provision that limits the applicability of certain injury reporting requirements to certain counties~~ *requiring certain entities to convene a certain workgroup to develop certain recommendations regarding*

certain injury reports; requiring the workgroup to make a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to a workgroup on certain injury reports.

~~BY repealing and reenacting, with amendments,~~
~~Article – Health – General~~
~~Section 20–701~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2006 Supplement)~~

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

~~Article – Health – General~~

~~20–701.~~

~~[~~~~(a) This section applies only in:~~

~~(1) Allegany County;~~

~~(2) Anne Arundel County;~~

~~(3) Charles County;~~

~~(4) Harford County;~~

~~(5) Kent County;~~

~~(6) Montgomery County;~~

~~(7) Prince George's County;~~

~~(8) Somerset County;~~

~~(9) Talbot County; and~~

~~(10) Wicomico County.~~**~~]~~**

~~[~~~~(b)~~**~~]~~** **~~(A)~~** ~~A physician, pharmacist, dentist, or nurse who treats an individual for an injury that was caused or shows evidence of having been caused by an automobile accident or a lethal weapon, or the individual in charge of a hospital that treats the injured individual, shall notify the county sheriff, the county police, or the Department of State Police of the injury as soon as practicable.~~

~~**[**(c)**] (B)** A report of injury shall include:~~

~~(1) The injured individual's name and address, if known;~~

~~(2) A description of the injury; and~~

~~(3) Any other facts concerning the matter that might assist in detecting crime.~~

~~**[**(d)**] (C)** An individual who fails to make a report required by this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $25.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Maryland Hospital Association, the Maryland State Medical Society, the Department of State Police, the Department of Health and Mental Hygiene, and other interested stakeholders shall convene a workgroup to develop recommendations regarding the reporting requirement of § 20–701 of the Health – General Article, including:

(i) whether the reporting requirement should be applicable throughout the State;

(ii) the health care providers or other individuals who should be subject to the reporting requirement and when those providers or other individuals should be required to report;

(iii) the types of injuries that should be reported; and

(iv) the penalties to be imposed for failing to report.

(b) On or before December 1, 2007, the workgroup shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the recommendations developed under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ *July* 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 207

(Senate Bill 954)

AN ACT concerning

Garrett County – Property Tax Credit – Society for the Preservation of St. Ann Mission

FOR the purpose of authorizing the governing body of Garrett County to grant, by law, a property tax credit against the county property tax imposed on certain real property owned by the Society for the Preservation of St. Ann Mission; providing for the application of this Act; and generally relating to authorization for a property tax credit in Garrett County for certain real property owned by the Society for the Preservation of St. Ann Mission.

BY adding to
Article – Tax – Property
Section 9–313(b)(7)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

9–313.

(b) **(7) THE GOVERNING BODY OF GARRETT COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY THAT IS:**

(I) OWNED BY THE SOCIETY FOR THE PRESERVATION OF ST. ANN MISSION; AND

(II) KNOWN AS ST. ANN MISSION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 208

(Senate Bill 962)

AN ACT concerning

Agricultural Ownership Entities – Homestead Tax Credit

FOR the purpose of altering certain definitions to include partners in certain general partnerships and shareholders of certain corporations within the definition of "homeowner" for purposes of a certain property tax credit under certain circumstances; defining a certain term; providing for the application of this Act; authorizing the State Department of Assessments and Taxation to accept certain applications on or before a certain date; and generally relating to including partners or shareholders in certain agricultural ownership entities within the definition of "homeowner" for purposes of a certain property tax credit under certain circumstances.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 9–105(a)(1)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–105(a)(3), (6), and (7) and (c)(4)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

BY adding to
Article – Tax – Property
Section 9–105(a)(8)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

9–105.

(a) (1) In this section the following words have the meanings indicated.

(3) "Homeowner" means an individual who has a legal interest in a dwelling or who is an active member of an agricultural **[**limited liability**]** **OWNERSHIP** entity that has a legal interest in a dwelling.

(6) "Agricultural **[**limited liability**]** **OWNERSHIP** entity" means a **FAMILY CORPORATION, GENERAL PARTNERSHIP,** limited liability company**,** or limited liability partnership that:

(i) owns real property that:

1. includes land receiving an agricultural use assessment under § 8–209 of this article; and

2. includes land used as a homesite that is part of or contiguous to a parcel described in item 1 of this item;

(ii) owns personal property used to operate the agricultural land; and

(iii) owns no other property.

(7) "Active member" means**:**

(I) A SHAREHOLDER IN A FAMILY CORPORATION;

(II) A PARTNER IN A GENERAL PARTNERSHIP; OR

(III) a member of a limited liability company or partner in a limited liability partnership who has or shares the authority to manage, control, and operate the limited liability company or limited liability partnership and who shares the assets and earnings of the limited liability company or limited liability partnership under an operating agreement under § 4A–402 of the Corporations and Associations Article or under a partnership agreement.

(8) "FAMILY CORPORATION" MEANS A CORPORATION THAT DOES NOT HAVE ANY STOCKHOLDERS OTHER THAN THE HOMEOWNER AND THE FOLLOWING MEMBERS OF THE HOMEOWNER'S FAMILY:

(I) A SPOUSE OR FORMER SPOUSE;

(II) A CHILD OR STEPCHILD;

(III) A PARENT OR STEPPARENT;

(IV) A BROTHER OR SISTER;

(V) A SON–IN–LAW, DAUGHTER–IN–LAW, STEPSON–IN–LAW, OR STEPDAUGHTER–IN–LAW;

(VI) A GRANDCHILD OR STEPGRANDCHILD; OR

(VII) A GRANDPARENT OR STEPGRANDPARENT.

(c) (4) (i) For a homeowner who is an active member of an agricultural **[**limited liability**]** **OWNERSHIP** entity to qualify for the property tax credit under this section:

1. the dwelling must have been owned and occupied by the active member:

A. at the time of its transfer to the agricultural **[**limited liability**]** **OWNERSHIP** entity; or

B. if the agricultural **[**limited liability**]** **OWNERSHIP** entity is a limited liability company and the dwelling was originally transferred to the agricultural **[**limited liability**]** **OWNERSHIP** entity as part of a conversion from a partnership under § 4A–211 of the Corporations and Associations Article, then at the time of its transfer to the former partnership; and

2. the agricultural **[**limited liability**]** **OWNERSHIP** entity and the active member who occupies the dwelling must file an application with the Department establishing initial eligibility for the credit on or before June 30 for the following taxable year and, at the request of the Department, must file an application in any future year to verify continued eligibility.

(ii) Failure to file a timely application may result in disqualification from the Homestead Tax Credit Program for the following taxable year.

(iii) The credit may only be granted to one dwelling owned by the agricultural **[**limited liability**]** **OWNERSHIP** entity.

(iv) Participation in the credit program as the active member of an agricultural **[**limited liability**]** **OWNERSHIP** entity disqualifies any other dwellings owned by the active member for the credit.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 30, 2007, the State Department of Assessments and Taxation may accept applications for the Homestead Tax Credit under § 9–105 of the Tax – Property Article for the taxable year beginning July 1, 2007, from a shareholder in a family corporation or a partner in a general partnership who is eligible for the credit as a result of Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 209

(House Bill 1386)

AN ACT concerning

Agricultural Ownership Entities – Homestead Tax Credit

FOR the purpose of altering certain definitions to include partners in certain general partnerships and shareholders of certain corporations within the definition of "homeowner" for purposes of a certain property tax credit under certain circumstances; defining a certain term; providing for the application of this Act; authorizing the State Department of Assessments and Taxation to accept certain applications on or before a certain date; and generally relating to including partners or shareholders in certain agricultural ownership entities within the definition of "homeowner" for purposes of a certain property tax credit under certain circumstances.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 9–105(a)(1)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–105(a)(3), (6), and (7) and (c)(4)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

BY adding to
Article – Tax – Property
Section 9–105(a)(8)
Annotated Code of Maryland
(2001 Replacement Volume and 2006 Supplement)

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

Article – Tax – Property

9–105.

(a) (1) In this section the following words have the meanings indicated.

(3) "Homeowner" means an individual who has a legal interest in a dwelling or who is an active member of an agricultural **[**limited liability**]** **OWNERSHIP** entity that has a legal interest in a dwelling.

(6) "Agricultural **[**limited liability**]** **OWNERSHIP** entity" means a **FAMILY CORPORATION, GENERAL PARTNERSHIP,** limited liability company**,** or limited liability partnership that:

(i) owns real property that:

1. includes land receiving an agricultural use assessment under § 8–209 of this article; and

2. includes land used as a homesite that is part of or contiguous to a parcel described in item 1 of this item;

(ii) owns personal property used to operate the agricultural land; and

(iii) owns no other property.

(7) "Active member" means**:**

(I) A SHAREHOLDER IN A FAMILY CORPORATION;

(II) A PARTNER IN A GENERAL PARTNERSHIP; OR

(III) a member of a limited liability company or partner in a limited liability partnership who has or shares the authority to manage, control, and

operate the limited liability company or limited liability partnership and who shares the assets and earnings of the limited liability company or limited liability partnership under an operating agreement under § 4A–402 of the Corporations and Associations Article or under a partnership agreement.

(8) "FAMILY CORPORATION" MEANS A CORPORATION THAT DOES NOT HAVE ANY STOCKHOLDERS OTHER THAN THE HOMEOWNER AND THE FOLLOWING MEMBERS OF THE HOMEOWNER'S FAMILY:

(I) A SPOUSE OR FORMER SPOUSE;

(II) A CHILD OR STEPCHILD;

(III) A PARENT OR STEPPARENT;

(IV) A BROTHER OR SISTER;

(V) A SON–IN–LAW, DAUGHTER–IN–LAW, STEPSON–IN–LAW, OR STEPDAUGHTER–IN–LAW;

(VI) A GRANDCHILD OR STEPGRANDCHILD; OR

(VII) A GRANDPARENT OR STEPGRANDPARENT.

(c) (4) (i) For a homeowner who is an active member of an agricultural **[**limited liability**]** **OWNERSHIP** entity to qualify for the property tax credit under this section:

1. the dwelling must have been owned and occupied by the active member:

A. at the time of its transfer to the agricultural **[**limited liability**]** **OWNERSHIP** entity; or

B. if the agricultural **[**limited liability**]** **OWNERSHIP** entity is a limited liability company and the dwelling was originally transferred to the agricultural **[**limited liability**]** **OWNERSHIP** entity as part of a conversion from a partnership under § 4A–211 of the Corporations and Associations Article, then at the time of its transfer to the former partnership; and

2. the agricultural **[**limited liability**]** **OWNERSHIP** entity and the active member who occupies the dwelling must file an application with the Department establishing initial eligibility for the credit on or before June 30 for the

following taxable year and, at the request of the Department, must file an application in any future year to verify continued eligibility.

(ii) Failure to file a timely application may result in disqualification from the Homestead Tax Credit Program for the following taxable year.

(iii) The credit may only be granted to one dwelling owned by the agricultural **[**limited liability**]** **OWNERSHIP** entity.

(iv) Participation in the credit program as the active member of an agricultural **[**limited liability**]** **OWNERSHIP** entity disqualifies any other dwellings owned by the active member for the credit.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before September 30, 2007, the State Department of Assessments and Taxation may accept applications for the Homestead Tax Credit under § 9–105 of the Tax – Property Article for the taxable year beginning July 1, 2007, from a shareholder in a family corporation or a partner in a general partnership who is eligible for the credit as a result of Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007, and shall be applicable to all taxable years beginning after June 30, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 210

(Senate Bill 974)

AN ACT concerning

Department of State Police – Disposal of Property – Holding Period

FOR the purpose of *providing that certain requirements relating to disposal of personal property in the possession of the Department of State Police do not apply to personal property retained by the Department for use as evidence in a criminal proceeding and do not supersede certain provisions for seizure and forfeiture;* altering the period of time that certain property is required to be in the possession of the Department ~~of State Police~~ before the Department is required to give certain notice of the sale of the property to certain persons and certain

lienholders; and generally relating to the disposal of property by the Department of State Police.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 2–311
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Public Safety

2–311.

(a) ***(1)*** This section does not apply to personal property purchased or otherwise acquired for use by the Department or to contraband.

(2) THIS SECTION DOES NOT APPLY TO PERSONAL PROPERTY RETAINED BY THE DEPARTMENT FOR USE AS EVIDENCE IN A CRIMINAL PROSECUTION.

(3) THIS SECTION DOES NOT SUPERSEDE THE PROVISIONS FOR SEIZURE AND FORFEITURE CONTAINED IN TITLES 12 AND 13 OF THE CRIMINAL PROCEDURE ARTICLE.

(b) ~~The~~ ***(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE*** Department shall hold personal property that comes into the possession of the Department until the Department determines that the property is no longer needed in connection with a prosecution.

(2) PERSONAL PROPERTY THAT IS USED AS EVIDENCE IN A CRIMINAL PROSECUTION SHALL BE RETAINED BY THE DEPARTMENT IN THE SAME MANNER AS OTHER EVIDENCE RETAINED BY THE DEPARTMENT.

(c) After the Department determines that personal property is no longer needed in connection with a prosecution, the Department shall deliver the property to the person who satisfactorily establishes the right to possession of the property and gives a proper receipt for the property.

(d) (1) At any time after personal property has been in the possession of the Department for **[**6**]** **3** months and the Department determines that the property is no longer needed in connection with a prosecution, the Department shall:

(i) give notice of the sale of the property by registered or certified mail to those persons entitled to its possession and to those lienholders whose names and addresses can be ascertained by the exercise of reasonable diligence; and

(ii) publish a description of the property and the time, place, and terms of the sale of the property in a newspaper of general circulation in Baltimore City in each of two successive weeks.

(2) After complying with the requirements of paragraph (1) of this subsection, the Department may sell the property at public auction.

(3) The terms and manner of sale may be established by rule.

(e) The certificate of the Department that personal property has been sold under this section is sufficient evidence of title to the property for all purposes, including the right to obtain a certificate of title or registration from an appropriate unit of the State.

(f) (1) The amount received from the sale of personal property in accordance with this section shall be distributed in the following order of priority:

(i) first, to the Department in an amount equal to the expense of sale and all expenses incurred while the property was in the possession of the Department;

(ii) second, to lienholders in order of their priority; and

(iii) third, to the General Fund subject to paragraphs (2) and (3) of this subsection.

(2) At any time within 3 years after the date of a sale under this section, a person who submits satisfactory proof of the right to possession of the property shall be paid, without interest, the amount distributed to the General Fund under paragraph (1)(iii) of this subsection.

(3) A claim under paragraph (2) of this subsection is barred if more than 3 years has passed since the date of a sale under this section.

(g) This section does not create or recognize any cause, action, or defense or abridge any immunity now or in the future held by the Department, the Secretary, or an employee of the Department.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 211

(Senate Bill 984)

AN ACT concerning

Vehicle Laws – Motor Vehicle and Bicycle Racing Events – Approval

FOR the purpose of authorizing motor vehicle racing on a highway under the jurisdiction of the State Highway Administration or a local authority if the State Highway Administration or local authority approves the racing event, subject to certain conditions; authorizing the approval of a motor vehicle or bicycle racing event only if the sponsors of the event indemnify the State and local governments against certain loss and provide certain liability insurance, the county or other local jurisdiction in which the event is held provides written authorization for the event, and the highway on which the event is held is closed in a certain manner; authorizing the State Highway Administration or a local authority to exempt participants in an approved motor vehicle racing event from certain provisions of law; making this Act an emergency measure; providing for the termination of this Act; and generally relating to approval of motor vehicle and bicycle racing events.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 21–1116
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 21–1211
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

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

Article – Transportation

21–1116.

(a) Except as provided in § 21–1211 of this title, on any highway or on any private property that is used by the public in general, a person may not drive a vehicle in a race or speed contest, whether or not on a wager or for a prize or reward.

(b) Except as provided in § 21–1211 of this title, a person may not participate as a timekeeper or flagman in any race or speed contest specified in subsection (a) of this section.

21–1211.

(a) When the State Highway Administration or a local authority approves a **MOTOR VEHICLE OR** bicycle racing event on a highway or a highway bridge under its respective jurisdiction, **MOTOR VEHICLE OR** bicycle racing shall be lawful.

(b) The State Highway Administration or a local authority may approve a **MOTOR VEHICLE OR** bicycle racing event only **IF:**

(1) THE RACING EVENT IS HELD under conditions that:

[(1)**] (I)** Provide reasonable safety for race participants, spectators, and other highway or highway bridge users; and

[(2)**] (II)** Prevent unreasonable interference with traffic flow that would seriously inconvenience other highway or highway bridge users**;**

(2) THE SPONSORS OF THE RACING EVENT:

(I) INDEMNIFY THE STATE AND LOCAL GOVERNMENTS FROM ANY LOSS ARISING OUT OF OR RELATING TO THE RACING EVENT; AND

(II) PROVIDE COMPREHENSIVE LIABILITY INSURANCE, IN AN AMOUNT TO BE DETERMINED BY THE STATE HIGHWAY ADMINISTRATION OR LOCAL AUTHORITY WITH JURISDICTION OVER THE HIGHWAY ON WHICH THE RACING EVENT IS TO BE HELD, FOR THE BENEFIT OF THE STATE AND LOCAL GOVERNMENTS, SPECTATORS, AND OTHER HIGHWAY OR HIGHWAY BRIDGE USERS;

(3) THE COUNTY OR OTHER LOCAL JURISDICTION IN WHICH THE RACING EVENT IS HELD PROVIDES WRITTEN AUTHORIZATION FOR THE RACING EVENT; AND

(4) THE HIGHWAY ON WHICH THE RACING EVENT IS HELD IS CLOSED, IN A MANNER APPROVED BY THE STATE HIGHWAY ADMINISTRATION OR LOCAL AUTHORITY WITH JURISDICTION OVER THE HIGHWAY, WITH APPROPRIATE ACCESS MEASURES IN PLACE.

(c) If traffic control adequately assures the safety of participants, spectators, and other highway or highway bridge users, the State Highway Administration or a local authority may exempt participants in an approved **MOTOR VEHICLE OR** bicycle racing event from compliance with other provisions of the Maryland Vehicle Law that otherwise would be applicable to the participants in the **MOTOR VEHICLE OR** bicycle racing event.

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. It shall remain effective through September 30, 2009, and at the end of September 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 212

(Senate Bill 987)

AN ACT concerning

Maryland HIV/AIDS Reporting Act

FOR the purpose of requiring certain physicians to report certain information to the Secretary of Health and Mental Hygiene and to certain health officers; requiring certain laboratories to report certain information to the Secretary; requiring certain institutions to report certain information to certain health officers; providing that certain reports, proceedings, records, or files are not discoverable and are not admissible in evidence in any civil action; making certain reports confidential; repealing certain authority for compiling or distributing certain lists of names of patients in certain reports; requiring certain custodians of public records to deny access to certain reports; establishing certain penalties for certain violations relating to the disclosure or acquisition of certain information; providing that a person is liable for actual damages arising out of certain offenses under certain circumstances; providing certain immunity from liability; defining certain terms; making this Act an emergency measure; and generally relating to reporting of diseases.

BY repealing and reenacting, with amendments,
Article – Health – General

Section 18–201.1, 18–205, 18–207, and 18–215
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article – Health – General
Section 18–202.1
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–617(b)
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, The Ryan White HIV/AIDS Treatment Modernization Act of 2006 (H.R. 6143) became law on December 19, 2006, and the federal funding calculations for HIV care services will now be based on the names–based reporting of actual living HIV/AIDS cases; now, therefore

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

Article – Health – General

18–201.1.

(a) A physician who has diagnosed a patient under the physician's care with **HUMAN IMMUNODEFICIENCY VIRUS INFECTION OR** acquired immunodeficiency syndrome according to the current definition published in the morbidity and mortality weekly report by the Centers for Disease Control and Prevention of the Department of Health and Human Services shall submit immediately a report to the health officer for the county where the physician cares for that patient.

(b) The report shall:

(1) Be on the form that the Secretary provides;

(2) Identify the disease;

(3) State the name, age, race, sex, and residence address of the patient; and

(4) Be signed by the physician.

(C) (1) A PHYSICIAN SHALL SUBMIT A REPORT AS DESCRIBED IN SUBSECTION (B) OF THIS SECTION TO THE SECRETARY WITHIN 48 HOURS OF THE BIRTH OF AN INFANT WHOSE MOTHER HAS TESTED POSITIVE FOR THE HUMAN IMMUNODEFICIENCY VIRUS.

(2) IF A NEWBORN INFANT DOES NOT BECOME HIV POSITIVE AFTER 18 MONTHS FROM THE DATE THAT THE REPORT REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION WAS SUBMITTED, THE SECRETARY SHALL HAVE THE NEWBORN INFANT'S NAME REMOVED FROM THE HIV REGISTRY.

[(c)**] (D)** (1) All physician reports required under this section are:

(i) Confidential and subject to Title 4, Subtitle 1 of this article; and

(ii) Not medical records under Title 4, Subtitle 3 of this article, but are subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.

(2) THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES RELATING TO THE REPORTS REQUIRED UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

[(2)**] (3)** This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties pursuant to State or federal law where the Secretary determines the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.

18–202.1.

(A) IN THIS SECTION, "INSTITUTION" INCLUDES:

(1) A HOSPITAL;

(2) A NURSING HOME;

(3) A HOSPICE FACILITY;

(4) A MEDICAL CLINIC IN A CORRECTIONAL FACILITY;

(5) AN INPATIENT PSYCHIATRIC FACILITY; AND

(6) AN INPATIENT DRUG REHABILITATION FACILITY.

(B) WHEN AN INSTITUTION HAS AN INDIVIDUAL IN THE CARE OF THE INSTITUTION WITH A DIAGNOSIS OF HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNODEFICIENCY SYNDROME ACCORDING TO THE CURRENT DEFINITION PUBLISHED IN THE MORBIDITY AND MORTALITY WEEKLY REPORT BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION, A CLINICAL OR INFECTION CONTROL PRACTITIONER ~~IMMEDIATELY~~ SHALL SUBMIT A REPORT WITHIN 48 HOURS TO THE HEALTH OFFICER FOR THE COUNTY WHERE THE INSTITUTION IS LOCATED.

(C) THE REPORT SHALL:

(1) BE ON THE FORM THAT THE SECRETARY PROVIDES;

~~(1)~~ (2) IDENTIFY THE DISEASE;

~~(2)~~ (3) STATE THE NAME, AGE, RACE, SEX, AND RESIDENCE ADDRESS OF THE INDIVIDUAL WITH THE DISEASE;

~~(3)~~ (4) STATE THE NAME OF THE ADMINISTRATIVE HEAD OF THE INSTITUTION; AND

~~(4)~~ (5) STATE THE ADDRESS OF THE INSTITUTION.

(D) (1) ALL INSTITUTION REPORTS REQUIRED UNDER THIS SECTION ARE:

(I) CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; AND

(II) NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE, BUT ARE SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF TITLE 4, SUBTITLE 1 OF THIS ARTICLE.

(2) THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES RELATING TO THE REPORTS REQUIRED UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

(3) THIS SUBSECTION DOES NOT APPLY TO A DISCLOSURE BY THE SECRETARY TO ANOTHER GOVERNMENTAL AGENCY PERFORMING ITS LAWFUL DUTIES IN ACCORDANCE WITH STATE OR FEDERAL LAW WHERE THE

SECRETARY DETERMINES THE AGENCY TO WHOM THE INFORMATION IS DISCLOSED WILL MAINTAIN THE CONFIDENTIALITY OF THE DISCLOSURE.

18–205.

(a) In this section, "invasive disease" means a disease in which an organism is detected in a specimen taken from a normally sterile body site.

(b) (1) The director of a medical laboratory located in this State shall submit a report to the health officer for the county where the laboratory is located within 48 hours after an examination of a human specimen shows evidence of any disease or condition listed in subsection (c) of this section.

(2) The director of a medical laboratory located outside of this State that performs a medical laboratory test on a human specimen acquired from a person in this State shall submit a report to the Secretary within 48 hours after an examination of that specimen shows evidence of any disease or condition listed in subsection (c) of this section.

(c) The diseases or conditions reportable by a medical laboratory director under this section are:

(1) Amoebiasis.

(2) Anthrax.

(3) Arbovirus infection (all types).

(4) Bacteremia in newborns.

(5) Botulism.

(6) Brucellosis.

(7) Campylobacter infection.

(8) CD 4+ count**[**, if less than 200/MM3**]**.

(9) Chlamydia infection.

(10) Cholera.

(11) Coccidioidomycosis.

(12) Creutzfeldt–Jakob Disease.

(13) Cryptosporidiosis.

(14) Cyclosporiasis.

(15) Dengue fever.

(16) Diphtheria.

(17) Ehrlichiosis.

(18) Encephalitis, infectious.

(19) E. Coli 0157:H7 infection.

(20) Giardiasis.

(21) Gonorrhea.

(22) Haemophilus influenzae, invasive disease.

(23) Hansen disease (leprosy).

(24) Hantavirus infection.

(25) Hepatitis, viral, types A, B, C, and other types.

(26) Human immunodeficiency virus infection.

(27) Isosporiasis.

(28) Legionellosis.

(29) Leptospirosis.

(30) Listeriosis.

(31) Lyme disease.

(32) Malaria.

(33) Measles.

(34) Meningococcal invasive disease.

(35) Meningitis, infectious.

(36) Microsporidiosis.

(37) Mumps.

(38) Pertussis.

(39) Pesticide related illness.

(40) Plague.

(41) Poliomyelitis.

(42) Psittacosis.

(43) Q fever.

(44) Rabies.

(45) Ricin toxin.

(46) Rocky Mountain spotted fever.

(47) Rubella and congenital rubella syndrome.

(48) Salmonellosis (nontyphoid fever types).

(49) Severe acute respiratory syndrome.

(50) Shiga–like toxin production.

(51) Shigellosis.

(52) Smallpox and other orthopox viruses.

(53) Staphylococcal enterotoxin.

(54) Streptococcal invasive disease, group A.

(55) Streptococcal invasive disease, group B.

(56) Streptococcus pneumoniae, invasive disease.

(57) Syphilis.

(58) Trichinosis.

(59) Tuberculosis.

(60) Tularemia.

(61) Typhoid fever.

(62) Varicella (chickenpox), fatal cases only.

(63) Vibriosis, noncholera.

(64) Viral hemorrhagic fevers (all types).

(65) Yellow fever.

(66) Yersiniosis.

(d) (1) When more than 1 specimen is taken from a patient during 1 disease episode, the director of the medical laboratory need not report every test result of a specimen that shows evidence of the same disease in that patient if:

(i) At least 1 positive test result is reported; and

(ii) The health officer has approved the reporting of less than all test results.

(2) The director of the medical laboratory need not report vibriosis, noncholera, under subsection (c)(62) of this section if the disease is found in a specimen obtained from the patient's teeth, gingival tissues, or oral mucosa.

(e) The report shall:

(1) Be either in the form that the Department prescribes or on the form that the Department provides; and

(2) State at a minimum:

(i) The date, type, and result of the test that shows evidence of a disease required to be reported;

(ii) **[**1. Except as provided in item 2 of this item, the**]** **THE** name, age, sex, and residence address of the patient from whom the specimen was taken; and

[2. For reports of human immunodeficiency virus infection and CD 4+ count under 200/MM3, the unique patient identifying number, age, sex, and zip code of residence of the patient; and**]**

(iii) The name and address of the physician who requested the test.

(f) This section does not relieve **[**an attending physician**]** **A PERSON** of the duty to report under § 18–201**, § 18–201.1, § 18–202, OR § 18–202.1** of this subtitle.

(g) (1) A health officer shall inform the Secretary of each laboratory examination report received under subsection (b)(1) of this section.

(2) The Secretary shall inform the health officer of the jurisdiction where the patient resides of a laboratory examination report received under this section from a medical laboratory located outside this State.

(h) The Secretary, a health officer, or an agent of the Secretary or health officer may discuss a laboratory report with the attending physician, but, if the physician is reasonably available, may communicate with a patient only with the consent of the attending physician.

(i) (1) **[**All**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL** laboratory reports required under this section are:

(i) Confidential;

(ii) Not open to public inspection; and

(iii) Subject to subpoena or discovery in a criminal or civil proceeding only pursuant to a court order sealing the court record.

(2) REPORTS SUBMITTED UNDER THIS SECTION RELATING TO HUMAN IMMUNODEFICIENCY VIRUS AND ACQUIRED IMMUNODEFICIENCY SYNDROME ARE:

(I) CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; AND

(II) NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE, BUT ARE SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF TITLE 4, SUBTITLE 1 OF THIS ARTICLE.

(3) THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES SUBMITTED UNDER THIS SECTION RELATED TO HIV/AIDS ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

[(2)**] (4)** This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress where the Secretary determines that:

(i) The agency to whom the information is disclosed will maintain the confidentiality of the disclosure; and

(ii) The disclosure is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.

(j) To assure compliance with this section, the Secretary, a health officer, or an agent of the Secretary or health officer may inspect pertinent laboratory records.

[(k) (1) Except as provided in paragraph (2) of this subsection, a director of a medical laboratory, the Secretary, a health officer, or an agent of the director, Secretary, or health officer may compile or distribute a reproducible list of any of the names of patients that are in reports required under this section.

(2) A director of a medical laboratory, the Secretary, a health officer, or an agent of the director, Secretary, or health officer may not compile or distribute a reproducible list of any of the names of patients in reports relating to human immunodeficiency virus infection or CD 4+ count, if less than 200/MM3.**]**

18–207.

(a) (1) In this section the following words have the meanings indicated.

(2) "HIV/AIDS case report" means an abstract of the medical record of a patient diagnosed with human immunodeficiency virus or acquired immunodeficiency syndrome which contains:

(i) Reasonably obtained patient demographic information, including **NAME AND** risk factors;

(ii) Relevant information on the:

1. Initial diagnosis;

2. Treatment and referral; and

3. Clinical condition; **AND**

(iii) Facility and other provider identification information**[**; and

(iv) For reports of HIV, the unique identifier of the patient, but not the patient's name**]**.

(3) "Report" means:

(i) A laboratory examination report for HIV or CD 4+ count as required by § 18–205 of this subtitle;

(ii) A **[**physician**]** report for **HIV OR** AIDS as required by § 18–201.1**, § 18–202, OR § 18–202.1** of this subtitle; or

(iii) An HIV/AIDS case report.

(4) "Designated anonymous HIV test site" means an HIV counseling and testing site approved by the Department of Health and Mental Hygiene as a site where a patient may have an anonymous HIV test.

(b) (1) Except for a designated anonymous HIV test site, a facility or office that orders a test for HIV and receives a test result that documents the presence of HIV as defined by the CDC laboratory criteria shall, upon the Secretary's request, make available to the Secretary, or an agent of the Secretary, the information necessary to compile an HIV/AIDS case report.

(2) A report or information assembled or obtained under this section **[**shall be confidential**]:**

(I) IS CONFIDENTIAL and subject to Title 4, Subtitle 1 of this article**[**.**]; AND**

[(i)**] (II) [**A report in this section is**] IS** not a medical record under Title 4, Subtitle 3 of this article, but is subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.

[(ii)**] (III)** This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties pursuant to State or federal law where the Secretary determines that the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.

(3) THE REPORT AND ANY PROCEEDINGS, RECORDS, OR FILES RELATING TO THE REPORTS REQUIRED UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

[(c) The director of a medical laboratory in which serum samples are tested for human immunodeficiency virus may not disclose, directly or indirectly, the identity of any individual tested for human immunodeficiency virus in any report submitted to the Department or the health officer for the county where the laboratory is located.**]**

18–215.

(a) In addition to any other penalty provided by law, a physician who fails to submit the report required under § 18–204 of this subtitle, on conviction, is subject to a fine not exceeding $10.

(b) A person who violates any provision of § 18–202 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50.

(c) In addition to any other penalty provided by law, a physician who fails to submit the report required under § 18–201 of this subtitle, on conviction, is subject to a fine not exceeding $100.

(d) A person who violates any provision of § 18–205 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

(E) ~~EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (F) OF THIS SECTION, A~~ A HEALTH CARE PROVIDER OR ANY OTHER PERSON, INCLUDING AN OFFICER OR EMPLOYEE OF A GOVERNMENTAL UNIT, WHO KNOWINGLY AND WILLFULLY DISCLOSES PERSONAL IDENTIFYING HEALTH INFORMATION ACQUIRED FOR THE PURPOSES OF HIV AND AIDS REPORTING UNDER § 18–201.1, § 18–202.1, § 18–205, OR § 18–207 OF THIS SUBTITLE TO ANY PERSON WHO IS NOT AUTHORIZED TO RECEIVE PERSONAL IDENTIFYING HEALTH INFORMATION UNDER THIS SUBTITLE OR OTHERWISE IN VIOLATION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 FOR THE FIRST OFFENSE AND NOT EXCEEDING $5,000 FOR EACH SUBSEQUENT CONVICTION FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE.

(F) (1) A HEALTH CARE PROVIDER OR ANY OTHER PERSON, INCLUDING AN OFFICER OR EMPLOYEE OF A GOVERNMENTAL UNIT, WHO KNOWINGLY AND WILLFULLY REQUESTS OR OBTAINS INFORMATION ON HIV AND AIDS DEVELOPED UNDER § 18–201.1, § 18–202.1, § 18–205, OR § 18–207

OF THIS SUBTITLE UNDER FALSE PRETENSES OR THROUGH DECEPTION ON CONVICTION, IS SUBJECT TO:

(I) A FINE NOT EXCEEDING $100,000, IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR BOTH; AND

(II) IF THE OFFENSE IS COMMITTED WITH INTENT TO SELL, TRANSFER, OR USE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION FOR COMMERCIAL ADVANTAGE, PERSONAL GAIN, OR MALICIOUS HARM, A FINE NOT EXCEEDING $250,000, IMPRISONMENT FOR NOT MORE THAN 10 YEARS, OR BOTH.

(2) THIS SUBSECTION DOES NOT APPLY TO AN OFFICER OR EMPLOYEE OF A GOVERNMENTAL UNIT THAT IS CONDUCTING A CRIMINAL INVESTIGATION.

(G) A HEALTH CARE PROVIDER OR ANY OTHER PERSON WHO KNOWINGLY VIOLATES SUBSECTION (E) OR (F) OF THIS SECTION IS LIABLE FOR ACTUAL DAMAGES.

(H) A PHYSICIAN, LABORATORY, OR INSTITUTION AS DEFINED IN § 18–202.1 OF THIS SUBTITLE THAT IN GOOD FAITH SUBMITS A REPORT OR OTHERWISE DISCLOSES INFORMATION IN ACCORDANCE WITH THIS SUBTITLE IS NOT LIABLE IN ANY ACTION ARISING FROM THE DISCLOSURE OF THE INFORMATION.

Article – State Government

10–617.

(b) (1) In this subsection, "disability" has the meaning stated in Article 49B, § 20 of the Code.

(2) Subject to paragraph (3) of this subsection, a custodian shall deny inspection of the part of a public record that contains:

(i) medical or psychological information about an individual, other than an autopsy report of a medical examiner; **[**or**]**

(ii) personal information about an individual with a disability or an individual perceived to have a disability**; OR**

(III) ANY REPORT ON HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNODEFICIENCY SYNDROME SUBMITTED IN ACCORDANCE WITH TITLE 18 OF THE HEALTH – GENERAL ARTICLE.

(3) A custodian shall permit the person in interest to inspect the public record to the extent permitted under § 4–304(a) of the Health – General Article.

(4) **[**This**] EXCEPT FOR PARAGRAPH (2)(III) OF THIS SUBSECTION, THIS** subsection does not apply to:

(i) a nursing home as defined in § 19–1401 of the Health – General Article; or

(ii) an assisted living facility as defined in § 19–1801 of the Health – General Article.

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.

Approved by the Governor, April 24, 2007.

CHAPTER 213

(House Bill 1270)

AN ACT concerning

Maryland HIV/AIDS Reporting Act

FOR the purpose of requiring certain physicians to report certain information to the Secretary of Health and Mental Hygiene and to certain health officers; requiring certain laboratories to report certain information to the Secretary; requiring certain institutions to report certain information to certain health officers; providing that certain reports, proceedings, records, or files are not discoverable and are not admissible in evidence in any civil action; making certain reports confidential; repealing certain authority for compiling or distributing certain lists of names of patients in certain reports; requiring certain custodians of public records to deny access to certain reports; establishing certain penalties for certain violations relating to the disclosure or

acquisition of certain information; providing that a person is liable for actual damages arising out of certain offenses under certain circumstances; providing certain immunity from liability; defining certain terms; making this Act an emergency measure; and generally relating to reporting of diseases.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–201.1, 18–205, 18–207, and 18–215
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article – Health – General
Section 18–202.1
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–617(b)
Annotated Code of Maryland
(2004 Replacement Volume and 2006 Supplement)

Preamble

WHEREAS, The Ryan White HIV/AIDS Treatment Modernization Act of 2006 (H.R. 6143) became law on December 19, 2006, and the federal funding calculations for HIV care services will now be based on the names–based reporting of actual living HIV/AIDS cases; now, therefore

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

Article – Health – General

18–201.1.

(a) A physician who has diagnosed a patient under the physician's care with **HUMAN IMMUNODEFICIENCY VIRUS INFECTION OR** acquired immunodeficiency syndrome according to the current definition published in the morbidity and mortality weekly report by the Centers for Disease Control and Prevention of the Department of Health and Human Services shall submit immediately a report to the health officer for the county where the physician cares for that patient.

(b) The report shall:

(1) Be on the form that the Secretary provides;

(2) Identify the disease;

(3) State the name, age, race, sex, and residence address of the patient; and

(4) Be signed by the physician.

(C) (1) A PHYSICIAN SHALL SUBMIT A REPORT AS DESCRIBED IN SUBSECTION (B) OF THIS SECTION TO THE SECRETARY WITHIN 48 HOURS OF THE BIRTH OF AN INFANT WHOSE MOTHER HAS TESTED POSITIVE FOR THE HUMAN IMMUNODEFICIENCY VIRUS.

(2) IF A NEWBORN INFANT DOES NOT BECOME HIV POSITIVE AFTER 18 MONTHS FROM THE DATE THAT THE REPORT REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION WAS SUBMITTED, THE SECRETARY SHALL HAVE THE NEWBORN INFANT'S NAME REMOVED FROM THE HIV REGISTRY.

[(c)**](D)** (1) All physician reports required under this section are:

(i) Confidential and subject to Title 4, Subtitle 1 of this article; and

(ii) Not medical records under Title 4, Subtitle 3 of this article, but are subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.

(2) THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES RELATING TO THE REPORTS REQUIRED UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

[(2)**] (3)** This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties pursuant to State or federal law where the Secretary determines the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.

18–202.1.

(A) IN THIS SECTION, "INSTITUTION" INCLUDES:

(1) A HOSPITAL;

(2) A NURSING HOME;

(3) A HOSPICE FACILITY;

(4) A MEDICAL CLINIC IN A CORRECTIONAL FACILITY;

(5) AN INPATIENT PSYCHIATRIC FACILITY; AND

(6) AN INPATIENT DRUG REHABILITATION FACILITY.

(B) WHEN AN INSTITUTION HAS AN INDIVIDUAL IN THE CARE OF THE INSTITUTION WITH A DIAGNOSIS OF HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNODEFICIENCY SYNDROME ACCORDING TO THE CURRENT DEFINITION PUBLISHED IN THE MORBIDITY AND MORTALITY WEEKLY REPORT BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION, A CLINICAL OR INFECTION CONTROL PRACTITIONER ~~IMMEDIATELY~~ SHALL SUBMIT A REPORT WITHIN 48 HOURS TO THE HEALTH OFFICER FOR THE COUNTY WHERE THE INSTITUTION IS LOCATED.

(C) THE REPORT SHALL:

(1) BE ON THE FORM THAT THE SECRETARY PROVIDES;

~~(1)~~ (2) IDENTIFY THE DISEASE;

~~(2)~~ (3) STATE THE NAME, AGE, RACE, SEX, AND RESIDENCE ADDRESS OF THE INDIVIDUAL WITH THE DISEASE;

~~(3)~~ (4) STATE THE NAME OF THE ADMINISTRATIVE HEAD OF THE INSTITUTION; AND

~~(4)~~ (5) STATE THE ADDRESS OF THE INSTITUTION.

(D) (1) ALL INSTITUTION REPORTS REQUIRED UNDER THIS SECTION ARE:

(I) CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; AND

(II) NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE, BUT ARE SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF TITLE 4, SUBTITLE 1 OF THIS ARTICLE.

(2) THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES RELATING TO THE REPORTS REQUIRED UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

(3) THIS SUBSECTION DOES NOT APPLY TO A DISCLOSURE BY THE SECRETARY TO ANOTHER GOVERNMENTAL AGENCY PERFORMING ITS LAWFUL DUTIES IN ACCORDANCE WITH STATE OR FEDERAL LAW WHERE THE SECRETARY DETERMINES THE AGENCY TO WHOM THE INFORMATION IS DISCLOSED WILL MAINTAIN THE CONFIDENTIALITY OF THE DISCLOSURE.

18–205.

(a) In this section, "invasive disease" means a disease in which an organism is detected in a specimen taken from a normally sterile body site.

(b) (1) The director of a medical laboratory located in this State shall submit a report to the health officer for the county where the laboratory is located within 48 hours after an examination of a human specimen shows evidence of any disease or condition listed in subsection (c) of this section.

(2) The director of a medical laboratory located outside of this State that performs a medical laboratory test on a human specimen acquired from a person in this State shall submit a report to the Secretary within 48 hours after an examination of that specimen shows evidence of any disease or condition listed in subsection (c) of this section.

(c) The diseases or conditions reportable by a medical laboratory director under this section are:

(1) Amoebiasis.

(2) Anthrax.

(3) Arbovirus infection (all types).

(4) Bacteremia in newborns.

(5) Botulism.

(6) Brucellosis.

(7) Campylobacter infection.

(8) CD 4+ count**[**, if less than 200/MM3**]**.

(9) Chlamydia infection.

(10) Cholera.

(11) Coccidioidomycosis.

(12) Creutzfeldt–Jakob Disease.

(13) Cryptosporidiosis.

(14) Cyclosporiasis.

(15) Dengue fever.

(16) Diphtheria.

(17) Ehrlichiosis.

(18) Encephalitis, infectious.

(19) E. Coli 0157:H7 infection.

(20) Giardiasis.

(21) Gonorrhea.

(22) Haemophilus influenzae, invasive disease.

(23) Hansen disease (leprosy).

(24) Hantavirus infection.

(25) Hepatitis, viral, types A, B, C, and other types.

(26) Human immunodeficiency virus infection.

(27) Isosporiasis.

(28) Legionellosis.

(29) Leptospirosis.

(30) Listeriosis.

(31) Lyme disease.

(32) Malaria.

(33) Measles.

(34) Meningococcal invasive disease.

(35) Meningitis, infectious.

(36) Microsporidiosis.

(37) Mumps.

(38) Pertussis.

(39) Pesticide related illness.

(40) Plague.

(41) Poliomyelitis.

(42) Psittacosis.

(43) Q fever.

(44) Rabies.

(45) Ricin toxin.

(46) Rocky Mountain spotted fever.

(47) Rubella and congenital rubella syndrome.

(48) Salmonellosis (nontyphoid fever types).

(49) Severe acute respiratory syndrome.

(50) Shiga–like toxin production.

(51) Shigellosis.

(52) Smallpox and other orthopox viruses.

(53) Staphylococcal enterotoxin.

(54) Streptococcal invasive disease, group A.

(55) Streptococcal invasive disease, group B.

(56) Streptococcus pneumoniae, invasive disease.

(57) Syphilis.

(58) Trichinosis.

(59) Tuberculosis.

(60) Tularemia.

(61) Typhoid fever.

(62) Varicella (chickenpox), fatal cases only.

(63) Vibriosis, noncholera.

(64) Viral hemorrhagic fevers (all types).

(65) Yellow fever.

(66) Yersiniosis.

(d) (1) When more than 1 specimen is taken from a patient during 1 disease episode, the director of the medical laboratory need not report every test result of a specimen that shows evidence of the same disease in that patient if:

(i) At least 1 positive test result is reported; and

(ii) The health officer has approved the reporting of less than all test results.

(2) The director of the medical laboratory need not report vibriosis, noncholera, under subsection (c)(62) of this section if the disease is found in a specimen obtained from the patient's teeth, gingival tissues, or oral mucosa.

(e) The report shall:

(1) Be either in the form that the Department prescribes or on the form that the Department provides; and

(2) State at a minimum:

(i) The date, type, and result of the test that shows evidence of a disease required to be reported;

(ii) **[**1. Except as provided in item 2 of this item, the**]** **THE** name, age, sex, and residence address of the patient from whom the specimen was taken; and

[2. For reports of human immunodeficiency virus infection and CD 4+ count under 200/MM3, the unique patient identifying number, age, sex, and zip code of residence of the patient; and**]**

(iii) The name and address of the physician who requested the test.

(f) This section does not relieve **[**an attending physician**]** **A PERSON** of the duty to report under § 18–201**, § 18–201.1, § 18–202, OR § 18–202.1** of this subtitle.

(g) (1) A health officer shall inform the Secretary of each laboratory examination report received under subsection (b)(1) of this section.

(2) The Secretary shall inform the health officer of the jurisdiction where the patient resides of a laboratory examination report received under this section from a medical laboratory located outside this State.

(h) The Secretary, a health officer, or an agent of the Secretary or health officer may discuss a laboratory report with the attending physician, but, if the physician is reasonably available, may communicate with a patient only with the consent of the attending physician.

(i) (1) **[**All**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL** laboratory reports required under this section are:

(i) Confidential;

(ii) Not open to public inspection; and

(iii) Subject to subpoena or discovery in a criminal or civil proceeding only pursuant to a court order sealing the court record.

(2) REPORTS SUBMITTED UNDER THIS SECTION RELATING TO HUMAN IMMUNODEFICIENCY VIRUS AND ACQUIRED IMMUNODEFICIENCY SYNDROME ARE:

(I) CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; AND

(II) NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE, BUT ARE SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF TITLE 4, SUBTITLE 1 OF THIS ARTICLE.

(3) THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES SUBMITTED UNDER THIS SECTION RELATED TO HIV/AIDS ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

[(2)**] (4)** This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress where the Secretary determines that:

(i) The agency to whom the information is disclosed will maintain the confidentiality of the disclosure; and

(ii) The disclosure is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.

(j) To assure compliance with this section, the Secretary, a health officer, or an agent of the Secretary or health officer may inspect pertinent laboratory records.

[(k) (1) Except as provided in paragraph (2) of this subsection, a director of a medical laboratory, the Secretary, a health officer, or an agent of the director, Secretary, or health officer may compile or distribute a reproducible list of any of the names of patients that are in reports required under this section.

(2) A director of a medical laboratory, the Secretary, a health officer, or an agent of the director, Secretary, or health officer may not compile or distribute a reproducible list of any of the names of patients in reports relating to human immunodeficiency virus infection or CD 4+ count, if less than 200/MM3.**]**

18–207.

(a) (1) In this section the following words have the meanings indicated.

(2) "HIV/AIDS case report" means an abstract of the medical record of a patient diagnosed with human immunodeficiency virus or acquired immunodeficiency syndrome which contains:

(i) Reasonably obtained patient demographic information, including **NAME AND** risk factors;

(ii) Relevant information on the:

1. Initial diagnosis;

2. Treatment and referral; and

3. Clinical condition; **AND**

(iii) Facility and other provider identification information**[**; and

(iv) For reports of HIV, the unique identifier of the patient, but not the patient's name**]**.

(3) "Report" means:

(i) A laboratory examination report for HIV or CD 4+ count as required by § 18–205 of this subtitle;

(ii) A **[**physician**]** report for **HIV OR** AIDS as required by § 18–201.1**, *§* 18–202, OR § 18–202.1** of this subtitle; or

(iii) An HIV/AIDS case report.

(4) "Designated anonymous HIV test site" means an HIV counseling and testing site approved by the Department of Health and Mental Hygiene as a site where a patient may have an anonymous HIV test.

(b) (1) Except for a designated anonymous HIV test site, a facility or office that orders a test for HIV and receives a test result that documents the presence of HIV as defined by the CDC laboratory criteria shall, upon the Secretary's request, make available to the Secretary, or an agent of the Secretary, the information necessary to compile an HIV/AIDS case report.

(2) A report or information assembled or obtained under this section **[**shall be confidential**]:**

(I) IS CONFIDENTIAL and subject to Title 4, Subtitle 1 of this article**[**.**]; AND**

[(i)**] (II) [**A report in this section is**] IS** not a medical record under Title 4, Subtitle 3 of this article, but is subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.

[(ii)**] (III)** This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties pursuant to State or federal law where the Secretary determines that the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.

(3) THE REPORT AND ANY PROCEEDINGS, RECORDS, OR FILES RELATING TO THE REPORTS REQUIRED UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL ACTION.

[(c) The director of a medical laboratory in which serum samples are tested for human immunodeficiency virus may not disclose, directly or indirectly, the identity of any individual tested for human immunodeficiency virus in any report submitted to the Department or the health officer for the county where the laboratory is located.**]**

18–215.

(a) In addition to any other penalty provided by law, a physician who fails to submit the report required under § 18–204 of this subtitle, on conviction, is subject to a fine not exceeding $10.

(b) A person who violates any provision of § 18–202 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50.

(c) In addition to any other penalty provided by law, a physician who fails to submit the report required under § 18–201 of this subtitle, on conviction, is subject to a fine not exceeding $100.

(d) A person who violates any provision of § 18–205 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

(E) ~~EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (F) OF THIS SECTION, A~~ A HEALTH CARE PROVIDER OR ANY OTHER PERSON, INCLUDING AN OFFICER OR EMPLOYEE OF A GOVERNMENTAL UNIT, WHO KNOWINGLY AND WILLFULLY DISCLOSES PERSONAL IDENTIFYING HEALTH INFORMATION ACQUIRED FOR THE PURPOSES OF HIV AND AIDS REPORTING UNDER § 18–201.1, § 18–202.1, § 18–205, OR § 18–207 OF THIS SUBTITLE TO ANY PERSON WHO IS NOT AUTHORIZED TO RECEIVE PERSONAL IDENTIFYING HEALTH INFORMATION UNDER THIS SUBTITLE OR OTHERWISE IN VIOLATION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 FOR THE FIRST OFFENSE AND NOT EXCEEDING $5,000 FOR EACH SUBSEQUENT CONVICTION FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE.

(F) (1) A HEALTH CARE PROVIDER OR ANY OTHER PERSON, INCLUDING AN OFFICER OR EMPLOYEE OF A GOVERNMENTAL UNIT, WHO KNOWINGLY AND WILLFULLY REQUESTS OR OBTAINS INFORMATION ON HIV AND AIDS DEVELOPED UNDER § 18–201.1, § 18–202.1, § 18–205, OR § 18–207 OF THIS SUBTITLE UNDER FALSE PRETENSES OR THROUGH DECEPTION ON CONVICTION, IS SUBJECT TO:

(I) A FINE NOT EXCEEDING $100,000, IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR BOTH; AND

(II) IF THE OFFENSE IS COMMITTED WITH INTENT TO SELL, TRANSFER, OR USE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION FOR COMMERCIAL ADVANTAGE, PERSONAL GAIN, OR MALICIOUS HARM, A FINE NOT EXCEEDING $250,000, IMPRISONMENT FOR NOT MORE THAN 10 YEARS, OR BOTH.

(2) THIS SUBSECTION DOES NOT APPLY TO AN OFFICER OR EMPLOYEE OF A GOVERNMENTAL UNIT THAT IS CONDUCTING A CRIMINAL INVESTIGATION.

(G) A HEALTH CARE PROVIDER OR ANY OTHER PERSON WHO KNOWINGLY VIOLATES SUBSECTION (E) OR (F) OF THIS SECTION IS LIABLE FOR ACTUAL DAMAGES.

(H) A PHYSICIAN, LABORATORY, OR INSTITUTION AS DEFINED IN § 18–202.1 OF THIS SUBTITLE THAT IN GOOD FAITH SUBMITS A REPORT OR OTHERWISE DISCLOSES INFORMATION IN ACCORDANCE WITH THIS SUBTITLE IS NOT LIABLE IN ANY ACTION ARISING FROM THE DISCLOSURE OF THE INFORMATION.

Article – State Government

10–617.

(b) (1) In this subsection, "disability" has the meaning stated in Article 49B, § 20 of the Code.

(2) Subject to paragraph (3) of this subsection, a custodian shall deny inspection of the part of a public record that contains:

(i) medical or psychological information about an individual, other than an autopsy report of a medical examiner; **[**or**]**

(ii) personal information about an individual with a disability or an individual perceived to have a disability**; OR**

(III) ANY REPORT ON HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNODEFICIENCY SYNDROME SUBMITTED IN ACCORDANCE WITH TITLE 18 OF THE HEALTH – GENERAL ARTICLE.

(3) A custodian shall permit the person in interest to inspect the public record to the extent permitted under § 4–304(a) of the Health – General Article.

(4) **[**This**] EXCEPT FOR PARAGRAPH (2)(III) OF THIS SUBSECTION, THIS** subsection does not apply to:

(i) a nursing home as defined in § 19–1401 of the Health – General Article; or

(ii) an assisted living facility as defined in § 19–1801 of the Health – General Article.

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.

Approved by the Governor, April 24, 2007.

CHAPTER 214

(Senate Bill 998)

AN ACT concerning

Baltimore County – Alcoholic Beverages – Multiple License Holdings

FOR the purpose of increasing the number of certain Class B licenses for hotels and restaurants in Baltimore County that a single person may obtain under certain circumstances; providing that a person may have a direct or indirect interest in a license; specifying certain circumstances that evidence an indirect interest; authorizing the issuance of an additional license to a license holder under certain circumstances; increasing the number of licenses that a single person

may obtain for hotels and restaurants in the Liberty Road Commercial Revitalization District in the county; making certain stylistic changes; and generally relating to alcoholic beverages licenses in Baltimore County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–102(b–3B) and (b–3C)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 2B – Alcoholic Beverages

9–102.

(b–3B) (1) Notwithstanding any other provision of this section or § 8–204(l) of this article, in Baltimore County, an individual**[**, for the use of**]** **OR** a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the county, may obtain **[**an additional Class B license up to a total of four**]** **A DIRECT OR INDIRECT INTEREST IN:**

(I) NOT MORE THAN SIX Class B (on–sale –– hotels and restaurants) beer, wine and liquor licenses under this article**; OR**

(II) IF ONE OF THE RESTAURANTS FOR WHICH A LICENSE IS ISSUED IS LOCATED IN THE LIBERTY ROAD COMMERCIAL REVITALIZATION DISTRICT IN ACCORDANCE WITH SUBSECTION (B–3C) OF THIS SECTION, NOT MORE THAN SEVEN CLASS B (ON–SALE — HOTELS AND RESTAURANTS) BEER, WINE AND LIQUOR LICENSES UNDER THIS ARTICLE.

(2) FOR AN APPLICANT TO OBTAIN A LICENSE UNDER THIS SUBSECTION:

(I) THE APPLICANT SHALL APPLY[, by making application**]** in the regular manner and **[**paying**]** **PAY** the usual fee**; AND**

(II) **[**if the**]** **THE** restaurants for which the licenses are sought **SHALL**:

[(i)**]** **1.** Meet the requirements of the rules and regulations of the Board of License Commissioners regarding the availability and issuance of licenses;

[(ii)**] 2.** Meet the definition requirements of "restaurant" established under the regulations of the Board of License Commissioners;

[(iii)**] 3.** Have a minimum seating capacity of 190 persons for dining;

[(iv)**] 4.** Have a cocktail lounge or bar area seating capacity that does not exceed **[**10 percent**] 10%** of the seating capacity for dining; and

[(v)**] 5.** Have no more than **[**20 percent**] 20%** of sales in alcoholic beverages in connection with the business.

(3) AN INDIRECT INTEREST IS PRESUMED TO EXIST BETWEEN TWO INDIVIDUALS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, LIMITED PARTNERSHIPS, JOINT VENTURES, ASSOCIATIONS, OR OTHER COMBINATION OF PERSONS, IF THEY:

(I) HAVE A COMMON PARENT COMPANY;

(II) ARE PARTIES TO A FRANCHISE AGREEMENT, LICENSING AGREEMENT, OR CONCESSION AGREEMENT;

(III) ARE PART OF A CHAIN OF BUSINESSES THAT IS COMMONLY OWNED AND OPERATED;

(IV) SHARE A DIRECTOR, STOCKHOLDER, PARTNER, OR MEMBER;

(V) SHARE A DIRECTOR, STOCKHOLDER, PARTNER, OR MEMBER OF A PARENT OR SUBSIDIARY;

(VI) SHARE, DIRECTLY OR INDIRECTLY, PROFIT FROM THE SALE OF ALCOHOLIC BEVERAGES; OR

(VII) SHARE A TRADE NAME, TRADEMARK, LOGO OR THEME, OR MODE OF OPERATION IDENTIFIABLE BY THE PUBLIC.

[(2)**] (4)** Off–sale privileges may not be conferred by these licenses.

[(3)**] (5) (I) [**Nothing**] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, NOTHING** contained in this section may be construed to authorize the issuance of more than **[**four**] SIX** licenses to an individual **[**for the use of**] OR** a sole proprietorship, partnership, corporation,

unincorporated association, or limited liability company in the county under this article, including Class B (on–sale –– hotels and restaurants), Class B (SB) restaurant — service bar beer, wine and liquor (on–sale), Class B (TTC) restaurant beer, wine and liquor (on–sale), and Class BDR (deluxe restaurant) (on–sale) beer, wine and liquor licenses.

(II) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A SEVENTH LICENSE TO A PERSON IF THE LICENSE IS FOR A RESTAURANT LOCATED IN THE LIBERTY ROAD COMMERCIAL REVITALIZATION DISTRICT IN ACCORDANCE WITH SUBSECTION (B–3C) OF THIS SECTION.

(b–3C) (1) Notwithstanding any other provision of this section or § 8–204(l) of this article, in Baltimore County, an individual**[**, for the use of**]** **OR** a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the county, may obtain **[**an additional Class B license up to a total of five**]** **A DIRECT OR INDIRECT INTEREST IN NOT MORE THAN SEVEN** Class B (on–sale — hotels and restaurants) beer, wine and liquor licenses under this article, by making application in the regular manner and paying the usual fee if the restaurant for which the additional license is sought:

(i) Meets the requirements of the rules and regulations of the Board of License Commissioners regarding the availability and issuance of licenses;

(ii) Meets the definition requirements of "restaurant" established under the regulations of the Board of License Commissioners;

(iii) Has a minimum seating capacity of 190 persons for dining;

(iv) Has a cocktail lounge or bar area seating capacity that does not exceed **[**10 percent**]** **10%** of the seating capacity for dining;

(v) Has no more than **[**20 percent**]** **20%** of sales in alcoholic beverages in connection with the business; and

(vi) Is located in the Liberty Road Commercial Revitalization District as defined by the County Council on October 18, 1999.

(2) AN INDIRECT INTEREST IS PRESUMED TO EXIST BETWEEN TWO INDIVIDUALS, CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, LIMITED PARTNERSHIPS, JOINT VENTURES, ASSOCIATIONS, OR OTHER COMBINATION OF PERSONS, IF AT LEAST ONE OF THE CONDITIONS LISTED IN SUBSECTION (B–3B)(3) OF THIS SECTION IS PRESENT.

[(2)**](3)** Off–sale privileges may not be conferred by these licenses.

[(3)**](4)** Nothing contained in this section may be construed to authorize the issuance of more than **[**five**]** **SEVEN** licenses **[**to**]** **FOR** an individual **[**for the use of**]** **OR** a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the county under this article, including Class B (hotels and restaurants) beer, wine and liquor (on–sale) licenses, Class B (SB) (restaurant — service bar) beer, wine and liquor (on–sale) licenses, Class B (TTC) (restaurant) beer, wine and liquor (on–sale) licenses, Class B (OMTC) licenses, Class B (TRD) licenses, and Class BDR (deluxe restaurant) beer, wine and liquor (on–sale) licenses.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 215

(Senate Bill 1008)

AN ACT concerning

Town of Brookview (Dorchester County) – Urban Renewal Authority for Slum Clearance

FOR the purpose of authorizing the Town of Brookview, Dorchester County, to undertake and carry out certain urban renewal projects for slum clearance and redevelopment; prohibiting certain land or property from being taken for certain purposes without just compensation first being paid to the party entitled to the compensation; declaring that certain land or property taken in connection with certain urban renewal powers is needed for public uses or purposes; authorizing the legislative body of the Town of Brookview by ordinance to elect to have certain urban renewal powers exercised by a certain public body; imposing certain requirements for the initiation and approval of an urban renewal area; providing for the disposal of property in an urban renewal area; authorizing the municipal corporation to issue certain bonds under certain circumstances; clarifying that a certain appendix may be amended or repealed only by the General Assembly of Maryland; defining certain terms; and generally relating to urban renewal authority for slum clearance for the Town of Brookview in Dorchester County.

BY adding to

Chapter 16 – Charter of the Town of Brookview
Section A1–101 through A1–114 and the heading "Appendix I – Urban Renewal Authority for Slum Clearance"
Public Local Laws of Maryland – Compilation of Municipal Charters
(1990 Replacement Edition and 2005 Supplement)

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

Chapter 16 – Charter of the Town of Brookview

APPENDIX I – URBAN RENEWAL AUTHORITY FOR SLUM CLEARANCE

A1–101. DEFINITIONS.

(A) IN THIS APPENDIX THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BLIGHTED AREA" MEANS AN AREA OR SINGLE PROPERTY IN WHICH THE BUILDING OR BUILDINGS HAVE DECLINED IN PRODUCTIVITY BY REASON OF OBSOLESCENCE, DEPRECIATION, OR OTHER CAUSES TO AN EXTENT THEY NO LONGER JUSTIFY FUNDAMENTAL REPAIRS AND ADEQUATE MAINTENANCE.

(C) "BONDS" MEANS ANY BONDS (INCLUDING REFUNDING BONDS), NOTES, INTERIM CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, DEBENTURES, OR OTHER OBLIGATIONS.

(D) "FEDERAL GOVERNMENT" MEANS THE UNITED STATES OF AMERICA OR ANY AGENCY OR INSTRUMENTALITY, CORPORATE OR OTHERWISE, OF THE UNITED STATES OF AMERICA.

(E) "MUNICIPALITY" MEANS THE TOWN OF BROOKVIEW, MARYLAND.

(F) "PERSON" MEANS ANY INDIVIDUAL, FIRM, PARTNERSHIP, CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK ASSOCIATION, OR BODY POLITIC. IT INCLUDES ANY TRUSTEE, RECEIVER, ASSIGNEE, OR OTHER PERSON ACTING IN SIMILAR REPRESENTATIVE CAPACITY.

(G) "SLUM AREA" MEANS ANY AREA OR SINGLE PROPERTY WHERE DWELLINGS PREDOMINATE WHICH, BY REASON OF DEPRECIATION, OVERCROWDING, FAULTY ARRANGEMENT OR DESIGN, LACK OF VENTILATION, LIGHT, OR SANITARY FACILITIES, OR ANY COMBINATION OF THESE FACTORS, ARE DETRIMENTAL TO THE PUBLIC SAFETY, HEALTH, OR MORALS.

(H) "URBAN RENEWAL AREA" MEANS A SLUM AREA OR A BLIGHTED AREA OR A COMBINATION OF THEM WHICH THE MUNICIPALITY DESIGNATES AS APPROPRIATE FOR AN URBAN RENEWAL PROJECT.

(I) "URBAN RENEWAL PLAN" MEANS A PLAN, AS IT EXISTS FROM TIME TO TIME, FOR AN URBAN RENEWAL PROJECT. THE PLAN SHALL BE SUFFICIENTLY COMPLETE TO INDICATE ANY LAND ACQUISITION, DEMOLITION, AND REMOVAL OF STRUCTURES, REDEVELOPMENT, IMPROVEMENTS, AND REHABILITATION AS MAY BE PROPOSED TO BE CARRIED OUT IN THE URBAN RENEWAL AREA, ZONING AND PLANNING CHANGES, IF ANY, LAND USES, MAXIMUM DENSITY, AND BUILDING REQUIREMENTS.

(J) "URBAN RENEWAL PROJECT" MEANS UNDERTAKINGS AND ACTIVITIES OF A MUNICIPALITY IN AN URBAN RENEWAL AREA FOR THE ELIMINATION AND FOR THE PREVENTION OF THE DEVELOPMENT OR SPREAD OF SLUMS AND BLIGHT, AND MAY INVOLVE SLUM CLEARANCE AND REDEVELOPMENT IN AN URBAN RENEWAL AREA, OR REHABILITATION OR CONSERVATION IN AN URBAN RENEWAL AREA, OR ANY COMBINATION OR PART OF THEM IN ACCORDANCE WITH AN URBAN RENEWAL PLAN. THESE UNDERTAKINGS AND ACTIVITIES MAY INCLUDE:

(1) ACQUISITION OF A SLUM AREA OR A BLIGHTED AREA OR PORTION OF THEM;

(2) DEMOLITION AND REMOVAL OF BUILDINGS AND IMPROVEMENTS;

(3) INSTALLATION, CONSTRUCTION OR RECONSTRUCTION OF STREETS, UTILITIES, PARKS, PLAYGROUNDS, AND OTHER IMPROVEMENTS NECESSARY FOR CARRYING OUT THE URBAN RENEWAL OBJECTIVES OF THIS APPENDIX IN ACCORDANCE WITH THE URBAN RENEWAL PLAN;

(4) DISPOSITION OF ANY PROPERTY ACQUIRED IN THE URBAN RENEWAL AREA, INCLUDING SALE, INITIAL LEASING, OR RETENTION BY THE MUNICIPALITY ITSELF, AT ITS FAIR VALUE FOR USES IN ACCORDANCE WITH THE URBAN RENEWAL PLAN;

(5) CARRYING OUT PLANS FOR A PROGRAM OF VOLUNTARY OR COMPULSORY REPAIR AND REHABILITATION OF BUILDINGS OR OTHER IMPROVEMENTS IN ACCORDANCE WITH THE URBAN RENEWAL PLAN;

(6) ACQUISITION OF ANY OTHER REAL PROPERTY IN THE URBAN RENEWAL AREA WHERE NECESSARY TO ELIMINATE UNHEALTHFUL, UNSANITARY, OR UNSAFE CONDITIONS, LESSEN DENSITY, ELIMINATE OBSOLETE OR OTHER USES DETRIMENTAL TO THE PUBLIC WELFARE, OR OTHERWISE TO REMOVE OR PREVENT THE SPREAD OF BLIGHT OR DETERIORATION, OR TO PROVIDE LAND FOR NEEDED PUBLIC FACILITIES; AND

(7) THE PRESERVATION, IMPROVEMENT, OR EMBELLISHMENT OF HISTORIC STRUCTURES OR MONUMENTS.

A1–102. POWERS.

(A) THE MUNICIPALITY MAY UNDERTAKE AND CARRY OUT URBAN RENEWAL PROJECTS.

(B) THESE PROJECTS SHALL BE LIMITED:

(1) TO SLUM CLEARANCE IN SLUM OR BLIGHTED AREAS AND REDEVELOPMENT OR THE REHABILITATION OF SLUM OR BLIGHTED AREAS;

(2) TO ACQUIRE IN CONNECTION WITH THOSE PROJECTS, WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY, LAND AND PROPERTY OF EVERY KIND AND ANY RIGHT, INTEREST, FRANCHISE, EASEMENT, OR PRIVILEGE, INCLUDING LAND OR PROPERTY AND ANY RIGHT OR INTEREST ALREADY DEVOTED TO PUBLIC USE, BY PURCHASE, LEASE, GIFT, CONDEMNATION, OR ANY OTHER LEGAL MEANS; AND

(3) TO SELL, LEASE, CONVEY, TRANSFER, OR OTHERWISE DISPOSE OF ANY OF THE LAND OR PROPERTY, REGARDLESS OF WHETHER OR NOT IT HAS BEEN DEVELOPED, REDEVELOPED, ALTERED, OR IMPROVED AND IRRESPECTIVE OF THE MANNER OR MEANS IN OR BY WHICH IT MAY HAVE BEEN ACQUIRED, TO ANY PRIVATE, PUBLIC, OR QUASI–PUBLIC CORPORATION, PARTNERSHIP, ASSOCIATION, PERSON, OR OTHER LEGAL ENTITY.

(C) LAND OR PROPERTY TAKEN BY THE MUNICIPALITY FOR ANY OF THESE PURPOSES OR IN CONNECTION WITH THE EXERCISE OF ANY OF THE POWERS WHICH ARE GRANTED BY THIS APPENDIX TO THE MUNICIPALITY BY EXERCISING THE POWER OF EMINENT DOMAIN MAY NOT BE TAKEN WITHOUT JUST COMPENSATION, AS AGREED ON BETWEEN THE PARTIES, OR AWARDED BY A JURY, BEING FIRST PAID OR TENDERED TO THE PARTY ENTITLED TO THE COMPENSATION.

(D) ALL LAND OR PROPERTY NEEDED OR TAKEN BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN BY THE MUNICIPALITY FOR ANY OF THESE PURPOSES OR IN CONNECTION WITH THE EXERCISE OF ANY OF THE POWERS GRANTED BY THIS APPENDIX IS DECLARED TO BE NEEDED OR TAKEN FOR PUBLIC USES AND PURPOSES.

(E) ANY OR ALL OF THE ACTIVITIES AUTHORIZED PURSUANT TO THIS APPENDIX CONSTITUTE GOVERNMENTAL FUNCTIONS UNDERTAKEN FOR PUBLIC USES AND PURPOSES AND THE POWER OF TAXATION MAY BE EXERCISED, PUBLIC FUNDS EXPENDED, AND PUBLIC CREDIT EXTENDED IN FURTHERANCE OF THEM.

A1–103. ADDITIONAL POWERS.

THE MUNICIPALITY HAS THE FOLLOWING ADDITIONAL POWERS. THESE POWERS ARE DECLARED TO BE NECESSARY AND PROPER TO CARRY INTO FULL FORCE AND EFFECT THE SPECIFIC POWERS GRANTED IN THIS APPENDIX AND TO FULLY ACCOMPLISH THE PURPOSES AND OBJECTS CONTEMPLATED BY THE PROVISIONS OF THIS SECTION:

(1) TO MAKE OR HAVE MADE ALL SURVEYS AND PLANS NECESSARY TO THE CARRYING OUT OF THE PURPOSES OF THIS APPENDIX AND TO ADOPT OR APPROVE, MODIFY, AND AMEND THOSE PLANS. THESE PLANS MAY INCLUDE, BUT ARE NOT LIMITED TO:

(I) PLANS FOR CARRYING OUT A PROGRAM OF VOLUNTARY OR COMPULSORY REPAIR AND REHABILITATION OF BUILDINGS AND IMPROVEMENTS;

(II) PLANS FOR THE ENFORCEMENT OF CODES AND REGULATIONS RELATING TO THE USE OF LAND AND THE USE AND OCCUPANCY OF BUILDINGS AND IMPROVEMENTS AND TO THE COMPULSORY REPAIR, REHABILITATION, DEMOLITION, OR REMOVAL OF BUILDINGS AND IMPROVEMENTS; AND

(III) APPRAISALS, TITLE SEARCHES, SURVEYS, STUDIES, AND OTHER PLANS AND WORK NECESSARY TO PREPARE FOR THE UNDERTAKING OF URBAN RENEWAL PROJECTS AND RELATED ACTIVITIES; AND TO APPLY FOR, ACCEPT, AND UTILIZE GRANTS OF FUNDS FROM THE FEDERAL GOVERNMENT OR OTHER GOVERNMENTAL ENTITY FOR THOSE PURPOSES;

(2) TO PREPARE PLANS FOR THE RELOCATION OF PERSONS (INCLUDING FAMILIES, BUSINESS CONCERNS, AND OTHERS) DISPLACED FROM AN URBAN RENEWAL AREA, AND TO MAKE RELOCATION PAYMENTS TO OR WITH RESPECT TO THOSE PERSONS FOR MOVING EXPENSES AND LOSSES OF PROPERTY FOR WHICH REIMBURSEMENT OR COMPENSATION IS NOT OTHERWISE MADE, INCLUDING THE MAKING OF PAYMENTS FINANCED BY THE FEDERAL GOVERNMENT;

(3) TO APPROPRIATE WHATEVER FUNDS AND MAKE WHATEVER EXPENDITURES AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS APPENDIX, INCLUDING, BUT NOT LIMITED:

(I) TO THE PAYMENT OF ANY AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH, OR INCIDENTAL TO, THE ACQUISITION OF LAND OR PROPERTY, AND FOR THE DEMOLITION, REMOVAL, RELOCATION, RENOVATION, OR ALTERATION OF LAND, BUILDINGS, STREETS, HIGHWAYS, ALLEYS, UTILITIES, OR SERVICES, AND OTHER STRUCTURES OR IMPROVEMENTS, AND FOR THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION, RELOCATION, OR REPAIR OF STREETS, HIGHWAYS, ALLEYS, UTILITIES, OR SERVICES, IN CONNECTION WITH URBAN RENEWAL PROJECTS;

(II) TO LEVY TAXES AND ASSESSMENTS FOR THOSE PURPOSES;

(III) TO BORROW MONEY AND TO APPLY FOR AND ACCEPT ADVANCES, LOANS, GRANTS, CONTRIBUTIONS, AND ANY OTHER FORM OF FINANCIAL ASSISTANCE FROM THE FEDERAL GOVERNMENT, THE STATE, COUNTY, OR OTHER PUBLIC BODIES, OR FROM ANY SOURCES, PUBLIC OR PRIVATE, FOR THE PURPOSES OF THIS APPENDIX, AND TO GIVE WHATEVER SECURITY AS MAY BE REQUIRED FOR THIS FINANCIAL ASSISTANCE; AND

(IV) TO INVEST ANY URBAN RENEWAL FUNDS HELD IN RESERVES OR SINKING FUNDS OR ANY OF THESE FUNDS NOT REQUIRED FOR IMMEDIATE DISBURSEMENT IN PROPERTY OR SECURITIES WHICH ARE LEGAL INVESTMENTS FOR OTHER MUNICIPAL FUNDS;

(4) (I) TO HOLD, IMPROVE, CLEAR, OR PREPARE FOR REDEVELOPMENT ANY PROPERTY ACQUIRED IN CONNECTION WITH URBAN RENEWAL PROJECTS;

(II) TO MORTGAGE, PLEDGE, HYPOTHECATE, OR OTHERWISE ENCUMBER THAT PROPERTY; AND

(III) TO INSURE OR PROVIDE FOR THE INSURANCE OF THE PROPERTY OR OPERATIONS OF THE MUNICIPALITY AGAINST ANY RISKS OR HAZARDS, INCLUDING THE POWER TO PAY PREMIUMS ON ANY INSURANCE;

(5) TO MAKE AND EXECUTE ALL CONTRACTS AND OTHER INSTRUMENTS NECESSARY OR CONVENIENT TO THE EXERCISE OF ITS POWERS UNDER THIS APPENDIX, INCLUDING THE POWER TO ENTER INTO AGREEMENTS WITH OTHER PUBLIC BODIES OR AGENCIES (THESE AGREEMENTS MAY EXTEND OVER ANY PERIOD, NOTWITHSTANDING ANY PROVISION OR RULE OF LAW TO THE CONTRARY), AND TO INCLUDE IN ANY CONTRACT FOR FINANCIAL ASSISTANCE WITH THE FEDERAL GOVERNMENT FOR OR WITH RESPECT TO AN URBAN RENEWAL PROJECT AND RELATED ACTIVITIES ANY CONDITIONS IMPOSED PURSUANT TO FEDERAL LAWS AS THE MUNICIPALITY CONSIDERS REASONABLE AND APPROPRIATE;

(6) TO ENTER INTO ANY BUILDING OR PROPERTY IN ANY URBAN RENEWAL AREA IN ORDER TO MAKE INSPECTIONS, SURVEYS, APPRAISALS, SOUNDINGS, OR TEST BORINGS, AND TO OBTAIN AN ORDER FOR THIS PURPOSE FROM THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MUNICIPALITY IS SITUATED IN THE EVENT ENTRY IS DENIED OR RESISTED;

(7) TO PLAN, REPLAN, INSTALL, CONSTRUCT, RECONSTRUCT, REPAIR, CLOSE, OR VACATE STREETS, ROADS, SIDEWALKS, PUBLIC UTILITIES, PARKS, PLAYGROUNDS, AND OTHER PUBLIC IMPROVEMENTS IN CONNECTION WITH AN URBAN RENEWAL PROJECT; AND TO MAKE EXCEPTIONS FROM BUILDING REGULATIONS;

(8) TO GENERALLY ORGANIZE, COORDINATE, AND DIRECT THE ADMINISTRATION OF THE PROVISIONS OF THIS APPENDIX AS THEY APPLY TO THE MUNICIPALITY IN ORDER THAT THE OBJECTIVE OF REMEDYING SLUM AND BLIGHTED AREAS AND PREVENTING ITS CAUSES WITHIN THE MUNICIPALITY MAY BE PROMOTED AND ACHIEVED MOST EFFECTIVELY; AND

(9) TO EXERCISE ALL OR ANY PART OR COMBINATION OF THE POWERS GRANTED IN THIS APPENDIX.

A1–104. ESTABLISHMENT OF URBAN RENEWAL AGENCY.

(A) A MUNICIPALITY MAY ITSELF EXERCISE ALL THE POWERS GRANTED BY THIS APPENDIX, OR MAY, IF ITS LEGISLATIVE BODY BY ORDINANCE

DETERMINES THE ACTION TO BE IN THE PUBLIC INTEREST, ELECT TO HAVE THE POWERS EXERCISED BY A SEPARATE PUBLIC BODY OR AGENCY.

(B) IN THE EVENT THE LEGISLATIVE BODY MAKES THAT DETERMINATION, IT SHALL PROCEED BY ORDINANCE TO ESTABLISH A PUBLIC BODY OR AGENCY TO UNDERTAKE IN THE MUNICIPALITY THE ACTIVITIES AUTHORIZED BY THIS APPENDIX.

(C) THE ORDINANCE SHALL INCLUDE PROVISIONS ESTABLISHING THE NUMBER OF MEMBERS OF THE PUBLIC BODY OR AGENCY, THE MANNER OF THEIR APPOINTMENT AND REMOVAL, AND THE TERMS OF THE MEMBERS AND THEIR COMPENSATION.

(D) THE ORDINANCE MAY INCLUDE WHATEVER ADDITIONAL PROVISIONS RELATING TO THE ORGANIZATION OF THE PUBLIC BODY OR AGENCY AS MAY BE NECESSARY.

(E) IN THE EVENT THE LEGISLATIVE BODY ENACTS THIS ORDINANCE, ALL OF THE POWERS BY THIS APPENDIX GRANTED TO THE MUNICIPALITY, FROM THE EFFECTIVE DATE OF THE ORDINANCE, ARE VESTED IN THE PUBLIC BODY OR AGENCY ESTABLISHED BY THE ORDINANCE.

A1–105. POWERS WITHHELD FROM THE AGENCY.

THE AGENCY MAY NOT:

(1) PASS A RESOLUTION TO INITIATE AN URBAN RENEWAL PROJECT PURSUANT TO SECTIONS A1–102 AND A1–103 OF THIS APPENDIX;

(2) ISSUE GENERAL OBLIGATION BONDS PURSUANT TO SECTION A1–111 OF THIS APPENDIX; OR

(3) APPROPRIATE FUNDS OR LEVY TAXES AND ASSESSMENTS PURSUANT TO SECTION A1–103(3) OF THIS APPENDIX.

A1–106. INITIATION OF PROJECT.

IN ORDER TO INITIATE AN URBAN RENEWAL PROJECT, THE LEGISLATIVE BODY OF THE MUNICIPALITY SHALL ADOPT A RESOLUTION WHICH:

(1) FINDS THAT ONE OR MORE SLUM OR BLIGHTED AREAS EXIST IN THE MUNICIPALITY;

(2) LOCATES AND DEFINES THE SLUM OR BLIGHTED AREA; AND

(3) FINDS THAT THE REHABILITATION, REDEVELOPMENT, OR A COMBINATION OF THEM, OF THE AREA OR AREAS, IS NECESSARY AND IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, MORALS, OR WELFARE OF THE RESIDENTS OF THE MUNICIPALITY.

A1–107. PREPARATION AND APPROVAL OF PLAN FOR URBAN RENEWAL PROJECT.

(A) IN ORDER TO CARRY OUT THE PURPOSES OF THIS APPENDIX, THE MUNICIPALITY SHALL HAVE PREPARED AN URBAN RENEWAL PLAN FOR SLUM OR BLIGHTED AREAS IN THE MUNICIPALITY, AND SHALL APPROVE THE PLAN FORMALLY. THE MUNICIPALITY SHALL HOLD A PUBLIC HEARING ON AN URBAN RENEWAL PROJECT AFTER PUBLIC NOTICE OF IT BY PUBLICATION IN A NEWSPAPER HAVING A GENERAL CIRCULATION WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY. THE NOTICE SHALL DESCRIBE THE TIME, DATE, PLACE, AND PURPOSE OF THE HEARING, SHALL GENERALLY IDENTIFY THE URBAN RENEWAL AREA COVERED BY THE PLAN, AND SHALL OUTLINE THE GENERAL SCOPE OF THE URBAN RENEWAL PROJECT UNDER CONSIDERATION. FOLLOWING THE HEARING, THE MUNICIPALITY MAY APPROVE AN URBAN RENEWAL PROJECT AND THE PLAN THEREFOR IF IT FINDS THAT:

(1) A FEASIBLE METHOD EXISTS FOR THE LOCATION OF ANY FAMILIES OR NATURAL PERSONS WHO WILL BE DISPLACED FROM THE URBAN RENEWAL AREA IN DECENT, SAFE, AND SANITARY DWELLING ACCOMMODATIONS WITHIN THEIR MEANS AND WITHOUT UNDUE HARDSHIP TO THE FAMILIES OR NATURAL PERSONS;

(2) THE URBAN RENEWAL PLAN CONFORMS SUBSTANTIALLY TO THE MASTER PLAN OF THE MUNICIPALITY AS A WHOLE; AND

(3) THE URBAN RENEWAL PLAN WILL AFFORD MAXIMUM OPPORTUNITY, CONSISTENT WITH THE SOUND NEEDS OF THE MUNICIPALITY AS A WHOLE, FOR THE REHABILITATION OR REDEVELOPMENT OF THE URBAN RENEWAL AREA BY PRIVATE ENTERPRISE.

(B) AN URBAN RENEWAL PLAN MAY BE MODIFIED AT ANY TIME. IF MODIFIED AFTER THE LEASE OR SALE OF REAL PROPERTY IN THE URBAN RENEWAL PROJECT AREA, THE MODIFICATION MAY BE CONDITIONED ON WHATEVER APPROVAL OF THE OWNER, LESSEE, OR SUCCESSOR IN INTEREST AS

THE MUNICIPALITY CONSIDERS ADVISABLE. IN ANY EVENT, IT SHALL BE SUBJECT TO WHATEVER RIGHTS AT LAW OR IN EQUITY AS A LESSEE OR PURCHASER, OR THE SUCCESSOR OR SUCCESSORS IN INTEREST, MAY BE ENTITLED TO ASSERT. WHERE THE PROPOSED MODIFICATION WILL CHANGE SUBSTANTIALLY THE URBAN RENEWAL PLAN AS APPROVED PREVIOUSLY BY THE MUNICIPALITY, THE MODIFICATION SHALL BE APPROVED FORMALLY BY THE MUNICIPALITY, AS IN THE CASE OF AN ORIGINAL PLAN.

(C) ON THE APPROVAL BY THE MUNICIPALITY OF AN URBAN RENEWAL PLAN OR OF ANY MODIFICATION OF IT, THE PLAN OR MODIFICATION SHALL BE CONSIDERED TO BE IN FULL FORCE AND EFFECT FOR THE RESPECTIVE URBAN RENEWAL AREA. THE MUNICIPALITY MAY HAVE THE PLAN OR MODIFICATION CARRIED OUT IN ACCORDANCE WITH ITS TERMS.

A1–108. DISPOSAL OF PROPERTY IN URBAN RENEWAL AREA.

(A) THE MUNICIPALITY, BY ORDINANCE, MAY SELL, LEASE, OR OTHERWISE TRANSFER REAL PROPERTY OR ANY INTEREST IN IT ACQUIRED BY IT FOR AN URBAN RENEWAL PROJECT TO ANY PERSON FOR RESIDENTIAL, RECREATIONAL, COMMERCIAL, INDUSTRIAL, EDUCATIONAL, OR OTHER USES OR FOR PUBLIC USE, OR IT MAY RETAIN THE PROPERTY OR INTEREST FOR PUBLIC USE, IN ACCORDANCE WITH THE URBAN RENEWAL PLAN AND SUBJECT TO WHATEVER COVENANTS, CONDITIONS, AND RESTRICTIONS, INCLUDING COVENANTS RUNNING WITH THE LAND, AS IT CONSIDERS NECESSARY OR DESIRABLE TO ASSIST IN PREVENTING THE DEVELOPMENT OR SPREAD OF FUTURE SLUMS OR BLIGHTED AREAS OR TO OTHERWISE CARRY OUT THE PURPOSES OF THIS APPENDIX. THE PURCHASERS OR LESSEES AND THEIR SUCCESSORS AND ASSIGNS SHALL BE OBLIGATED TO DEVOTE THE REAL PROPERTY ONLY TO THE USES SPECIFIED IN THE URBAN RENEWAL PLAN, AND MAY BE OBLIGATED TO COMPLY WITH WHATEVER OTHER REQUIREMENTS THE MUNICIPALITY DETERMINES TO BE IN THE PUBLIC INTEREST, INCLUDING THE OBLIGATION TO BEGIN WITHIN A REASONABLE TIME ANY IMPROVEMENTS ON THE REAL PROPERTY REQUIRED BY THE URBAN RENEWAL PLAN. THE REAL PROPERTY OR INTEREST MAY NOT BE SOLD, LEASED, OTHERWISE TRANSFERRED, OR RETAINED AT LESS THAN ITS FAIR VALUE FOR USES IN ACCORDANCE WITH THE URBAN RENEWAL PLAN. IN DETERMINING THE FAIR VALUE OF REAL PROPERTY FOR USES IN ACCORDANCE WITH THE URBAN RENEWAL PLAN, THE MUNICIPALITY SHALL TAKE INTO ACCOUNT AND GIVE CONSIDERATION TO THE USES PROVIDED IN THE PLAN, THE RESTRICTIONS ON, AND THE COVENANTS, CONDITIONS, AND OBLIGATIONS ASSUMED BY THE PURCHASER OR LESSEE OR BY THE MUNICIPALITY RETAINING THE PROPERTY, AND THE OBJECTIVES OF THE PLAN FOR THE PREVENTION OF THE

RECURRENCE OF SLUM OR BLIGHTED AREAS. IN ANY INSTRUMENT OR CONVEYANCE TO A PRIVATE PURCHASER OR LESSEE, THE MUNICIPALITY MAY PROVIDE THAT THE PURCHASER OR LESSEE MAY NOT SELL, LEASE, OR OTHERWISE TRANSFER THE REAL PROPERTY WITHOUT THE PRIOR WRITTEN CONSENT OF THE MUNICIPALITY UNTIL THE PURCHASER OR LESSEE HAS COMPLETED THE CONSTRUCTION OF ANY OR ALL IMPROVEMENTS WHICH THE PURCHASER OR LESSEE HAS BEEN OBLIGATED TO CONSTRUCT ON THE PROPERTY. REAL PROPERTY ACQUIRED BY THE MUNICIPALITY WHICH, IN ACCORDANCE WITH THE PROVISIONS OF THE URBAN RENEWAL PLAN, IS TO BE TRANSFERRED, SHALL BE TRANSFERRED AS RAPIDLY AS FEASIBLE IN THE PUBLIC INTEREST CONSISTENT WITH THE CARRYING OUT OF THE PROVISIONS OF THE URBAN RENEWAL PLAN. ANY CONTRACT FOR THE TRANSFER AND THE URBAN RENEWAL PLAN (OR ANY PART OR PARTS OF THE CONTRACT OR PLAN AS THE MUNICIPALITY DETERMINES) MAY BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE MUNICIPALITY IS SITUATED IN A MANNER SO AS TO AFFORD ACTUAL OR CONSTRUCTIVE NOTICE OF IT.

(B) THE MUNICIPALITY, BY ORDINANCE, MAY DISPOSE OF REAL PROPERTY IN AN URBAN RENEWAL AREA TO PRIVATE PERSONS. THE MUNICIPALITY MAY, BY PUBLIC NOTICE BY PUBLICATION IN A NEWSPAPER HAVING A GENERAL CIRCULATION IN THE COMMUNITY, INVITE PROPOSALS FROM AND MAKE AVAILABLE ALL PERTINENT INFORMATION TO PRIVATE REDEVELOPERS OR ANY PERSONS INTERESTED IN UNDERTAKING TO REDEVELOP OR REHABILITATE AN URBAN RENEWAL AREA, OR ANY PART THEREOF. THE NOTICE SHALL IDENTIFY THE AREA, OR PORTION THEREOF, AND SHALL STATE THAT PROPOSALS SHALL BE MADE BY THOSE INTERESTED WITHIN A SPECIFIED PERIOD. THE MUNICIPALITY SHALL CONSIDER ALL REDEVELOPMENT OR REHABILITATION PROPOSALS AND THE FINANCIAL AND LEGAL ABILITY OF THE PERSONS MAKING PROPOSALS TO CARRY THEM OUT, AND MAY NEGOTIATE WITH ANY PERSONS FOR PROPOSALS FOR THE PURCHASE, LEASE, OR OTHER TRANSFER OF ANY REAL PROPERTY ACQUIRED BY THE MUNICIPALITY IN THE URBAN RENEWAL AREA. THE MUNICIPALITY MAY ACCEPT ANY PROPOSAL AS IT DEEMS TO BE IN THE PUBLIC INTEREST AND IN FURTHERANCE OF THE PURPOSES OF THIS APPENDIX. THEREAFTER, THE MUNICIPALITY MAY EXECUTE AND DELIVER CONTRACTS, DEEDS, LEASES, AND OTHER INSTRUMENTS AND TAKE ALL STEPS NECESSARY TO EFFECTUATE THE TRANSFERS.

(C) THE MUNICIPALITY MAY OPERATE TEMPORARILY AND MAINTAIN REAL PROPERTY ACQUIRED BY IT IN AN URBAN RENEWAL AREA FOR OR IN CONNECTION WITH AN URBAN RENEWAL PROJECT PENDING THE DISPOSITION OF THE PROPERTY AS AUTHORIZED IN THIS APPENDIX, WITHOUT REGARD TO

THE PROVISIONS OF SUBSECTION (A), FOR USES AND PURPOSES CONSIDERED DESIRABLE EVEN THOUGH NOT IN CONFORMITY WITH THE URBAN RENEWAL PLAN.

(D) ANY INSTRUMENT EXECUTED BY THE MUNICIPALITY AND PURPORTING TO CONVEY ANY RIGHT, TITLE, OR INTEREST IN ANY PROPERTY UNDER THIS APPENDIX SHALL BE PRESUMED CONCLUSIVELY TO HAVE BEEN EXECUTED IN COMPLIANCE WITH THE PROVISIONS OF THIS APPENDIX INSOFAR AS TITLE OR OTHER INTEREST OF ANY BONA FIDE PURCHASERS, LESSEES, OR TRANSFEREES OF THE PROPERTY IS CONCERNED.

A1–109. EMINENT DOMAIN.

CONDEMNATION OF LAND OR PROPERTY UNDER THE PROVISIONS OF THIS APPENDIX SHALL BE IN ACCORDANCE WITH THE PROCEDURE PROVIDED IN THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

A1–110. ENCOURAGEMENT OF PRIVATE ENTERPRISE.

THE MUNICIPALITY, TO THE EXTENT IT DETERMINES TO BE FEASIBLE IN CARRYING OUT THE PROVISIONS OF THIS APPENDIX, SHALL AFFORD MAXIMUM OPPORTUNITY TO THE REHABILITATION OR REDEVELOPMENT OF ANY URBAN RENEWAL AREA BY PRIVATE ENTERPRISE CONSISTENT WITH THE SOUND NEEDS OF THE MUNICIPALITY AS A WHOLE. THE MUNICIPALITY SHALL GIVE CONSIDERATION TO THIS OBJECTIVE IN EXERCISING ITS POWERS UNDER THIS APPENDIX.

A1–111. GENERAL OBLIGATION BONDS.

FOR THE PURPOSE OF FINANCING AND CARRYING OUT AN URBAN RENEWAL PROJECT AND RELATED ACTIVITIES, THE MUNICIPALITY MAY ISSUE AND SELL ITS GENERAL OBLIGATION BONDS. ANY BONDS ISSUED BY THE MUNICIPALITY PURSUANT TO THIS SECTION SHALL BE ISSUED IN THE MANNER AND WITHIN THE LIMITATIONS PRESCRIBED BY APPLICABLE LAW FOR THE ISSUANCE AND AUTHORIZATION OF GENERAL OBLIGATION BONDS BY THE MUNICIPALITY, AND ALSO WITHIN LIMITATIONS DETERMINED BY THE MUNICIPALITY.

A1–112. REVENUE BONDS.

(A) IN ADDITION TO THE AUTHORITY CONFERRED BY SECTION A1–111 OF THIS APPENDIX, THE MUNICIPALITY MAY ISSUE REVENUE BONDS TO

FINANCE THE UNDERTAKING OF ANY URBAN RENEWAL PROJECT AND RELATED ACTIVITIES. ALSO, IT MAY ISSUE REFUNDING BONDS FOR THE PAYMENT OR RETIREMENT OF THE BONDS ISSUED PREVIOUSLY BY IT. THE BONDS SHALL BE MADE PAYABLE, AS TO BOTH PRINCIPAL AND INTEREST, SOLELY FROM THE INCOME, PROCEEDS, REVENUES, AND FUNDS OF THE MUNICIPALITY DERIVED FROM OR HELD IN CONNECTION WITH THE UNDERTAKING AND CARRYING OUT OF URBAN RENEWAL PROJECTS UNDER THIS APPENDIX. HOWEVER, PAYMENT OF THE BONDS, BOTH AS TO PRINCIPAL AND INTEREST, MAY BE FURTHER SECURED BY A PLEDGE OF ANY LOAN, GRANT, OR CONTRIBUTION FROM THE FEDERAL GOVERNMENT OR OTHER SOURCE, IN AID OF ANY URBAN RENEWAL PROJECTS OF THE MUNICIPALITY UNDER THIS APPENDIX, AND BY A MORTGAGE OF ANY URBAN RENEWAL PROJECT, OR ANY PART OF A PROJECT, TITLE TO WHICH IS IN THE MUNICIPALITY. IN ADDITION, THE MUNICIPALITY MAY ENTER INTO AN INDENTURE OF TRUST WITH ANY PRIVATE BANKING INSTITUTION OF THIS STATE HAVING TRUST POWERS AND MAY MAKE IN THE INDENTURE OF TRUST COVENANTS AND COMMITMENTS REQUIRED BY ANY PURCHASER FOR THE ADEQUATE SECURITY OF THE BONDS.

(B) BONDS ISSUED UNDER THIS SECTION DO NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION, ARE NOT SUBJECT TO THE PROVISIONS OF ANY OTHER LAW OR CHARTER RELATING TO THE AUTHORIZATION, ISSUANCE, OR SALE OF BONDS, AND ARE EXEMPTED SPECIFICALLY FROM THE RESTRICTIONS CONTAINED IN SECTIONS 9, 10, AND 11 OF ARTICLE 31 (DEBT – PUBLIC) OF THE ANNOTATED CODE OF MARYLAND. BONDS ISSUED UNDER THE PROVISIONS OF THIS APPENDIX ARE DECLARED TO BE ISSUED FOR AN ESSENTIAL PUBLIC AND GOVERNMENTAL PURPOSE AND, TOGETHER WITH INTEREST ON THEM AND INCOME FROM THEM, ARE EXEMPT FROM ALL TAXES.

(C) BONDS ISSUED UNDER THIS SECTION SHALL BE AUTHORIZED BY RESOLUTION OR ORDINANCE OF THE LEGISLATIVE BODY OF THE MUNICIPALITY. THEY MAY BE ISSUED IN ONE OR MORE SERIES AND SHALL:

(1) BEAR A DATE OR DATES;

(2) MATURE AT A TIME OR TIMES;

(3) BEAR INTEREST AT A RATE OR RATES;

(4) BE IN A DENOMINATION OR DENOMINATIONS;

(5) BE IN A FORM EITHER WITH OR WITHOUT COUPON OR REGISTERED;

(6) CARRY A CONVERSION OR REGISTRATION PRIVILEGE;

(7) HAVE A RANK OR PRIORITY;

(8) BE EXECUTED IN A MANNER;

(9) BE PAYABLE IN A MEDIUM OF PAYMENT, AT A PLACE OR PLACES, AND BE SUBJECT TO TERMS OF REDEMPTION (WITH OR WITHOUT PREMIUM);

(10) BE SECURED IN A MANNER; AND

(11) HAVE OTHER CHARACTERISTICS, AS ARE PROVIDED BY THE RESOLUTION, TRUST INDENTURE, OR MORTGAGE ISSUED PURSUANT TO IT.

(D) THESE BONDS MAY NOT BE SOLD AT LESS THAN PAR VALUE AT PUBLIC SALES WHICH ARE HELD AFTER NOTICE IS PUBLISHED PRIOR TO THE SALE IN A NEWSPAPER HAVING A GENERAL CIRCULATION IN THE AREA IN WHICH THE MUNICIPALITY IS LOCATED AND IN WHATEVER OTHER MEDIUM OF PUBLICATION AS THE MUNICIPALITY MAY DETERMINE. THE BONDS MAY BE EXCHANGED ALSO FOR OTHER BONDS ON THE BASIS OF PAR. HOWEVER, THE BONDS MAY NOT BE SOLD TO THE FEDERAL GOVERNMENT AT PRIVATE SALE AT LESS THAN PAR, AND, IN THE EVENT LESS THAN ALL OF THE AUTHORIZED PRINCIPAL AMOUNT OF THE BONDS IS SOLD TO THE FEDERAL GOVERNMENT, THE BALANCE MAY NOT BE SOLD AT PRIVATE SALE AT LESS THAN PAR AT AN INTEREST COST TO THE MUNICIPALITY WHICH DOES NOT EXCEED THE INTEREST COST TO THE MUNICIPALITY OF THE PORTION OF THE BONDS SOLD TO THE FEDERAL GOVERNMENT.

(E) IN CASE ANY OF THE PUBLIC OFFICIALS OF THE MUNICIPALITY WHOSE SIGNATURES APPEAR ON ANY BONDS OR COUPONS ISSUED UNDER THIS APPENDIX CEASE TO BE OFFICIALS OF THE MUNICIPALITY BEFORE THE DELIVERY OF THE BONDS OR IN THE EVENT ANY OF THE OFFICIALS HAVE BECOME SUCH AFTER THE DATE OF ISSUE OF THEM, THE BONDS ARE VALID AND BINDING OBLIGATIONS OF THE MUNICIPALITY IN ACCORDANCE WITH THEIR TERMS. ANY PROVISION OF ANY LAW TO THE CONTRARY NOTWITHSTANDING, ANY BONDS ISSUED PURSUANT TO THIS APPENDIX ARE FULLY NEGOTIABLE.

(F) IN ANY SUIT, ACTION, OR PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF ANY BOND ISSUED UNDER THIS APPENDIX, OR THE SECURITY FOR IT, ANY BOND WHICH RECITES IN SUBSTANCE THAT IT HAS BEEN ISSUED BY THE MUNICIPALITY IN CONNECTION WITH AN URBAN RENEWAL PROJECT SHALL BE CONSIDERED CONCLUSIVELY TO HAVE BEEN ISSUED FOR THAT PURPOSE, AND THE PROJECT SHALL BE CONSIDERED CONCLUSIVELY TO HAVE BEEN PLANNED, LOCATED, AND CARRIED OUT IN ACCORDANCE WITH THE PROVISIONS OF THIS APPENDIX.

(G) ALL BANKS, TRUST COMPANIES, BANKERS, SAVINGS BANKS, AND INSTITUTIONS, BUILDING AND LOAN ASSOCIATIONS, SAVINGS AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES, AND OTHER PERSONS CARRYING ON A BANKING OR INVESTMENT BUSINESS; ALL INSURANCE COMPANIES, INSURANCE ASSOCIATIONS, AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS; AND ALL EXECUTORS, ADMINISTRATORS, CURATORS, TRUSTEES, AND OTHER FIDUCIARIES, MAY LEGALLY INVEST ANY SINKING FUNDS, MONEYS, OR OTHER FUNDS BELONGING TO THEM OR WITHIN THEIR CONTROL IN ANY BONDS OR OTHER OBLIGATIONS ISSUED BY THE MUNICIPALITY PURSUANT TO THIS APPENDIX. HOWEVER, THE BONDS AND OTHER OBLIGATIONS SHALL BE SECURED BY AN AGREEMENT BETWEEN THE ISSUER AND THE FEDERAL GOVERNMENT IN WHICH THE ISSUER AGREES TO BORROW FROM THE FEDERAL GOVERNMENT AND THE FEDERAL GOVERNMENT AGREES TO LEND TO THE ISSUER, PRIOR TO THE MATURITY OF THE BONDS OR OTHER OBLIGATIONS, MONEYS IN AN AMOUNT WHICH (TOGETHER WITH ANY OTHER MONEYS COMMITTED IRREVOCABLY TO THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS OR OTHER OBLIGATIONS) WILL SUFFICE TO PAY THE PRINCIPAL OF THE BONDS OR OTHER OBLIGATIONS WITH INTEREST TO MATURITY ON THEM. THE MONEYS UNDER THE TERMS OF THE AGREEMENT SHALL BE REQUIRED TO BE USED FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND THE INTEREST ON THE BONDS OR OTHER OBLIGATIONS AT THEIR MATURITY. THE BONDS AND OTHER OBLIGATIONS SHALL BE AUTHORIZED SECURITY FOR ALL PUBLIC DEPOSITS. THIS SECTION AUTHORIZES ANY PERSONS OR PUBLIC OR PRIVATE POLITICAL SUBDIVISIONS AND OFFICERS TO USE ANY FUNDS OWNED OR CONTROLLED BY THEM FOR THE PURCHASE OF ANY BONDS OR OTHER OBLIGATIONS. WITH REGARD TO LEGAL INVESTMENTS, THIS SECTION MAY NOT BE CONSTRUED TO RELIEVE ANY PERSON OF ANY DUTY OF EXERCISING REASONABLE CARE IN SELECTING SECURITIES.

A1–113. SHORT TITLE.

THIS APPENDIX SHALL BE KNOWN AND MAY BE CITED AS THE BROOKVIEW URBAN RENEWAL AUTHORITY FOR SLUM CLEARANCE ACT.

A1–114. AUTHORITY TO AMEND OR REPEAL.

THIS APPENDIX, ENACTED PURSUANT TO ARTICLE III, SECTION 61 OF THE MARYLAND CONSTITUTION, MAY BE AMENDED OR REPEALED ONLY BY THE GENERAL ASSEMBLY OF MARYLAND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 216

(Senate Bill 1010)

AN ACT concerning

Town of Galestown (Dorchester County) – Urban Renewal Authority for Slum Clearance

FOR the purpose of authorizing the Town of Galestown, Dorchester County, to undertake and carry out certain urban renewal projects for slum clearance and redevelopment; prohibiting certain land or property from being taken for certain purposes without just compensation first being paid to the party entitled to the compensation; declaring that certain land or property taken in connection with certain urban renewal powers is needed for public uses or purposes; authorizing the legislative body of the Town of Galestown by ordinance to elect to have certain urban renewal powers exercised by a certain public body; imposing certain requirements for the initiation and approval of an urban renewal area; providing for the disposal of property in an urban renewal area; authorizing the municipal corporation to issue certain bonds under certain circumstances; clarifying that a certain appendix may be amended or repealed only by the General Assembly of Maryland; defining certain terms; and generally relating to urban renewal authority for slum clearance for the Town of Galestown in Dorchester County.

BY adding to
Chapter 61 – Charter of the Town of Galestown
Section A1–101 through A1–114 and the heading "Appendix I – Urban Renewal Authority for Slum Clearance"
Public Local Laws of Maryland – Compilation of Municipal Charters

(1990 Replacement Edition and 2005 Supplement)

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

Chapter 61 – Charter of the Town of Galestown

APPENDIX I – URBAN RENEWAL AUTHORITY FOR SLUM CLEARANCE

A1–101. DEFINITIONS.

(A) IN THIS APPENDIX THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BLIGHTED AREA" MEANS AN AREA OR SINGLE PROPERTY IN WHICH THE BUILDING OR BUILDINGS HAVE DECLINED IN PRODUCTIVITY BY REASON OF OBSOLESCENCE, DEPRECIATION, OR OTHER CAUSES TO AN EXTENT THEY NO LONGER JUSTIFY FUNDAMENTAL REPAIRS AND ADEQUATE MAINTENANCE.

(C) "BONDS" MEANS ANY BONDS (INCLUDING REFUNDING BONDS), NOTES, INTERIM CERTIFICATES, CERTIFICATES OF INDEBTEDNESS, DEBENTURES, OR OTHER OBLIGATIONS.

(D) "FEDERAL GOVERNMENT" MEANS THE UNITED STATES OF AMERICA OR ANY AGENCY OR INSTRUMENTALITY, CORPORATE OR OTHERWISE, OF THE UNITED STATES OF AMERICA.

(E) "MUNICIPALITY" MEANS THE TOWN OF GALESTOWN, MARYLAND.

(F) "PERSON" MEANS ANY INDIVIDUAL, FIRM, PARTNERSHIP, CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK ASSOCIATION, OR BODY POLITIC. IT INCLUDES ANY TRUSTEE, RECEIVER, ASSIGNEE, OR OTHER PERSON ACTING IN SIMILAR REPRESENTATIVE CAPACITY.

(G) "SLUM AREA" MEANS ANY AREA OR SINGLE PROPERTY WHERE DWELLINGS PREDOMINATE WHICH, BY REASON OF DEPRECIATION, OVERCROWDING, FAULTY ARRANGEMENT OR DESIGN, LACK OF VENTILATION, LIGHT, OR SANITARY FACILITIES, OR ANY COMBINATION OF THESE FACTORS, ARE DETRIMENTAL TO THE PUBLIC SAFETY, HEALTH, OR MORALS.

(H) "URBAN RENEWAL AREA" MEANS A SLUM AREA OR A BLIGHTED AREA OR A COMBINATION OF THEM WHICH THE MUNICIPALITY DESIGNATES AS APPROPRIATE FOR AN URBAN RENEWAL PROJECT.

(I) "URBAN RENEWAL PLAN" MEANS A PLAN, AS IT EXISTS FROM TIME TO TIME, FOR AN URBAN RENEWAL PROJECT. THE PLAN SHALL BE SUFFICIENTLY COMPLETE TO INDICATE ANY LAND ACQUISITION, DEMOLITION, AND REMOVAL OF STRUCTURES, REDEVELOPMENT, IMPROVEMENTS, AND REHABILITATION AS MAY BE PROPOSED TO BE CARRIED OUT IN THE URBAN RENEWAL AREA, ZONING AND PLANNING CHANGES, IF ANY, LAND USES, MAXIMUM DENSITY, AND BUILDING REQUIREMENTS.

(J) "URBAN RENEWAL PROJECT" MEANS UNDERTAKINGS AND ACTIVITIES OF A MUNICIPALITY IN AN URBAN RENEWAL AREA FOR THE ELIMINATION AND FOR THE PREVENTION OF THE DEVELOPMENT OR SPREAD OF SLUMS AND BLIGHT, AND MAY INVOLVE SLUM CLEARANCE AND REDEVELOPMENT IN AN URBAN RENEWAL AREA, OR REHABILITATION OR CONSERVATION IN AN URBAN RENEWAL AREA, OR ANY COMBINATION OR PART OF THEM IN ACCORDANCE WITH AN URBAN RENEWAL PLAN. THESE UNDERTAKINGS AND ACTIVITIES MAY INCLUDE:

(1) ACQUISITION OF A SLUM AREA OR A BLIGHTED AREA OR PORTION OF THEM;

(2) DEMOLITION AND REMOVAL OF BUILDINGS AND IMPROVEMENTS;

(3) INSTALLATION, CONSTRUCTION OR RECONSTRUCTION OF STREETS, UTILITIES, PARKS, PLAYGROUNDS, AND OTHER IMPROVEMENTS NECESSARY FOR CARRYING OUT THE URBAN RENEWAL OBJECTIVES OF THIS APPENDIX IN ACCORDANCE WITH THE URBAN RENEWAL PLAN;

(4) DISPOSITION OF ANY PROPERTY ACQUIRED IN THE URBAN RENEWAL AREA, INCLUDING SALE, INITIAL LEASING, OR RETENTION BY THE MUNICIPALITY ITSELF, AT ITS FAIR VALUE FOR USES IN ACCORDANCE WITH THE URBAN RENEWAL PLAN;

(5) CARRYING OUT PLANS FOR A PROGRAM OF VOLUNTARY OR COMPULSORY REPAIR AND REHABILITATION OF BUILDINGS OR OTHER IMPROVEMENTS IN ACCORDANCE WITH THE URBAN RENEWAL PLAN;

(6) ACQUISITION OF ANY OTHER REAL PROPERTY IN THE URBAN RENEWAL AREA WHERE NECESSARY TO ELIMINATE UNHEALTHFUL, UNSANITARY, OR UNSAFE CONDITIONS, LESSEN DENSITY, ELIMINATE OBSOLETE OR OTHER USES DETRIMENTAL TO THE PUBLIC WELFARE, OR OTHERWISE TO REMOVE OR PREVENT THE SPREAD OF BLIGHT OR DETERIORATION, OR TO PROVIDE LAND FOR NEEDED PUBLIC FACILITIES; AND

(7) THE PRESERVATION, IMPROVEMENT, OR EMBELLISHMENT OF HISTORIC STRUCTURES OR MONUMENTS.

A1–102. POWERS.

(A) THE MUNICIPALITY MAY UNDERTAKE AND CARRY OUT URBAN RENEWAL PROJECTS.

(B) THESE PROJECTS SHALL BE LIMITED:

(1) TO SLUM CLEARANCE IN SLUM OR BLIGHTED AREAS AND REDEVELOPMENT OR THE REHABILITATION OF SLUM OR BLIGHTED AREAS;

(2) TO ACQUIRE IN CONNECTION WITH THOSE PROJECTS, WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY, LAND AND PROPERTY OF EVERY KIND AND ANY RIGHT, INTEREST, FRANCHISE, EASEMENT, OR PRIVILEGE, INCLUDING LAND OR PROPERTY AND ANY RIGHT OR INTEREST ALREADY DEVOTED TO PUBLIC USE, BY PURCHASE, LEASE, GIFT, CONDEMNATION, OR ANY OTHER LEGAL MEANS; AND

(3) TO SELL, LEASE, CONVEY, TRANSFER, OR OTHERWISE DISPOSE OF ANY OF THE LAND OR PROPERTY, REGARDLESS OF WHETHER OR NOT IT HAS BEEN DEVELOPED, REDEVELOPED, ALTERED, OR IMPROVED AND IRRESPECTIVE OF THE MANNER OR MEANS IN OR BY WHICH IT MAY HAVE BEEN ACQUIRED, TO ANY PRIVATE, PUBLIC, OR QUASI–PUBLIC CORPORATION, PARTNERSHIP, ASSOCIATION, PERSON, OR OTHER LEGAL ENTITY.

(C) LAND OR PROPERTY TAKEN BY THE MUNICIPALITY FOR ANY OF THESE PURPOSES OR IN CONNECTION WITH THE EXERCISE OF ANY OF THE POWERS WHICH ARE GRANTED BY THIS APPENDIX TO THE MUNICIPALITY BY EXERCISING THE POWER OF EMINENT DOMAIN MAY NOT BE TAKEN WITHOUT JUST COMPENSATION, AS AGREED ON BETWEEN THE PARTIES, OR AWARDED BY A JURY, BEING FIRST PAID OR TENDERED TO THE PARTY ENTITLED TO THE COMPENSATION.

(D) ALL LAND OR PROPERTY NEEDED OR TAKEN BY THE EXERCISE OF THE POWER OF EMINENT DOMAIN BY THE MUNICIPALITY FOR ANY OF THESE PURPOSES OR IN CONNECTION WITH THE EXERCISE OF ANY OF THE POWERS GRANTED BY THIS APPENDIX IS DECLARED TO BE NEEDED OR TAKEN FOR PUBLIC USES AND PURPOSES.

(E) ANY OR ALL OF THE ACTIVITIES AUTHORIZED PURSUANT TO THIS APPENDIX CONSTITUTE GOVERNMENTAL FUNCTIONS UNDERTAKEN FOR PUBLIC USES AND PURPOSES AND THE POWER OF TAXATION MAY BE EXERCISED, PUBLIC FUNDS EXPENDED, AND PUBLIC CREDIT EXTENDED IN FURTHERANCE OF THEM.

A1–103. ADDITIONAL POWERS.

THE MUNICIPALITY HAS THE FOLLOWING ADDITIONAL POWERS. THESE POWERS ARE DECLARED TO BE NECESSARY AND PROPER TO CARRY INTO FULL FORCE AND EFFECT THE SPECIFIC POWERS GRANTED IN THIS APPENDIX AND TO FULLY ACCOMPLISH THE PURPOSES AND OBJECTS CONTEMPLATED BY THE PROVISIONS OF THIS SECTION:

(1) TO MAKE OR HAVE MADE ALL SURVEYS AND PLANS NECESSARY TO THE CARRYING OUT OF THE PURPOSES OF THIS APPENDIX AND TO ADOPT OR APPROVE, MODIFY, AND AMEND THOSE PLANS. THESE PLANS MAY INCLUDE, BUT ARE NOT LIMITED TO:

(I) PLANS FOR CARRYING OUT A PROGRAM OF VOLUNTARY OR COMPULSORY REPAIR AND REHABILITATION OF BUILDINGS AND IMPROVEMENTS;

(II) PLANS FOR THE ENFORCEMENT OF CODES AND REGULATIONS RELATING TO THE USE OF LAND AND THE USE AND OCCUPANCY OF BUILDINGS AND IMPROVEMENTS AND TO THE COMPULSORY REPAIR, REHABILITATION, DEMOLITION, OR REMOVAL OF BUILDINGS AND IMPROVEMENTS; AND

(III) APPRAISALS, TITLE SEARCHES, SURVEYS, STUDIES, AND OTHER PLANS AND WORK NECESSARY TO PREPARE FOR THE UNDERTAKING OF URBAN RENEWAL PROJECTS AND RELATED ACTIVITIES; AND TO APPLY FOR, ACCEPT, AND UTILIZE GRANTS OF FUNDS FROM THE FEDERAL GOVERNMENT OR OTHER GOVERNMENTAL ENTITY FOR THOSE PURPOSES;

(2) TO PREPARE PLANS FOR THE RELOCATION OF PERSONS (INCLUDING FAMILIES, BUSINESS CONCERNS, AND OTHERS) DISPLACED FROM AN URBAN RENEWAL AREA, AND TO MAKE RELOCATION PAYMENTS TO OR WITH RESPECT TO THOSE PERSONS FOR MOVING EXPENSES AND LOSSES OF PROPERTY FOR WHICH REIMBURSEMENT OR COMPENSATION IS NOT OTHERWISE MADE, INCLUDING THE MAKING OF PAYMENTS FINANCED BY THE FEDERAL GOVERNMENT;

(3) TO APPROPRIATE WHATEVER FUNDS AND MAKE WHATEVER EXPENDITURES AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS APPENDIX, INCLUDING, BUT NOT LIMITED:

(I) TO THE PAYMENT OF ANY AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH, OR INCIDENTAL TO, THE ACQUISITION OF LAND OR PROPERTY, AND FOR THE DEMOLITION, REMOVAL, RELOCATION, RENOVATION, OR ALTERATION OF LAND, BUILDINGS, STREETS, HIGHWAYS, ALLEYS, UTILITIES, OR SERVICES, AND OTHER STRUCTURES OR IMPROVEMENTS, AND FOR THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION, RELOCATION, OR REPAIR OF STREETS, HIGHWAYS, ALLEYS, UTILITIES, OR SERVICES, IN CONNECTION WITH URBAN RENEWAL PROJECTS;

(II) TO LEVY TAXES AND ASSESSMENTS FOR THOSE PURPOSES;

(III) TO BORROW MONEY AND TO APPLY FOR AND ACCEPT ADVANCES, LOANS, GRANTS, CONTRIBUTIONS, AND ANY OTHER FORM OF FINANCIAL ASSISTANCE FROM THE FEDERAL GOVERNMENT, THE STATE, COUNTY, OR OTHER PUBLIC BODIES, OR FROM ANY SOURCES, PUBLIC OR PRIVATE, FOR THE PURPOSES OF THIS APPENDIX, AND TO GIVE WHATEVER SECURITY AS MAY BE REQUIRED FOR THIS FINANCIAL ASSISTANCE; AND

(IV) TO INVEST ANY URBAN RENEWAL FUNDS HELD IN RESERVES OR SINKING FUNDS OR ANY OF THESE FUNDS NOT REQUIRED FOR IMMEDIATE DISBURSEMENT IN PROPERTY OR SECURITIES WHICH ARE LEGAL INVESTMENTS FOR OTHER MUNICIPAL FUNDS;

(4) (I) TO HOLD, IMPROVE, CLEAR, OR PREPARE FOR REDEVELOPMENT ANY PROPERTY ACQUIRED IN CONNECTION WITH URBAN RENEWAL PROJECTS;

(II) TO MORTGAGE, PLEDGE, HYPOTHECATE, OR OTHERWISE ENCUMBER THAT PROPERTY; AND

(III) TO INSURE OR PROVIDE FOR THE INSURANCE OF THE PROPERTY OR OPERATIONS OF THE MUNICIPALITY AGAINST ANY RISKS OR HAZARDS, INCLUDING THE POWER TO PAY PREMIUMS ON ANY INSURANCE;

(5) TO MAKE AND EXECUTE ALL CONTRACTS AND OTHER INSTRUMENTS NECESSARY OR CONVENIENT TO THE EXERCISE OF ITS POWERS UNDER THIS APPENDIX, INCLUDING THE POWER TO ENTER INTO AGREEMENTS WITH OTHER PUBLIC BODIES OR AGENCIES (THESE AGREEMENTS MAY EXTEND OVER ANY PERIOD, NOTWITHSTANDING ANY PROVISION OR RULE OF LAW TO THE CONTRARY), AND TO INCLUDE IN ANY CONTRACT FOR FINANCIAL ASSISTANCE WITH THE FEDERAL GOVERNMENT FOR OR WITH RESPECT TO AN URBAN RENEWAL PROJECT AND RELATED ACTIVITIES ANY CONDITIONS IMPOSED PURSUANT TO FEDERAL LAWS AS THE MUNICIPALITY CONSIDERS REASONABLE AND APPROPRIATE;

(6) TO ENTER INTO ANY BUILDING OR PROPERTY IN ANY URBAN RENEWAL AREA IN ORDER TO MAKE INSPECTIONS, SURVEYS, APPRAISALS, SOUNDINGS, OR TEST BORINGS, AND TO OBTAIN AN ORDER FOR THIS PURPOSE FROM THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MUNICIPALITY IS SITUATED IN THE EVENT ENTRY IS DENIED OR RESISTED;

(7) TO PLAN, REPLAN, INSTALL, CONSTRUCT, RECONSTRUCT, REPAIR, CLOSE, OR VACATE STREETS, ROADS, SIDEWALKS, PUBLIC UTILITIES, PARKS, PLAYGROUNDS, AND OTHER PUBLIC IMPROVEMENTS IN CONNECTION WITH AN URBAN RENEWAL PROJECT; AND TO MAKE EXCEPTIONS FROM BUILDING REGULATIONS;

(8) TO GENERALLY ORGANIZE, COORDINATE, AND DIRECT THE ADMINISTRATION OF THE PROVISIONS OF THIS APPENDIX AS THEY APPLY TO THE MUNICIPALITY IN ORDER THAT THE OBJECTIVE OF REMEDYING SLUM AND BLIGHTED AREAS AND PREVENTING ITS CAUSES WITHIN THE MUNICIPALITY MAY BE PROMOTED AND ACHIEVED MOST EFFECTIVELY; AND

(9) TO EXERCISE ALL OR ANY PART OR COMBINATION OF THE POWERS GRANTED IN THIS APPENDIX.

A1–104. ESTABLISHMENT OF URBAN RENEWAL AGENCY.

(A) A MUNICIPALITY MAY ITSELF EXERCISE ALL THE POWERS GRANTED BY THIS APPENDIX, OR MAY, IF ITS LEGISLATIVE BODY BY ORDINANCE

DETERMINES THE ACTION TO BE IN THE PUBLIC INTEREST, ELECT TO HAVE THE POWERS EXERCISED BY A SEPARATE PUBLIC BODY OR AGENCY.

(B) IN THE EVENT THE LEGISLATIVE BODY MAKES THAT DETERMINATION, IT SHALL PROCEED BY ORDINANCE TO ESTABLISH A PUBLIC BODY OR AGENCY TO UNDERTAKE IN THE MUNICIPALITY THE ACTIVITIES AUTHORIZED BY THIS APPENDIX.

(C) THE ORDINANCE SHALL INCLUDE PROVISIONS ESTABLISHING THE NUMBER OF MEMBERS OF THE PUBLIC BODY OR AGENCY, THE MANNER OF THEIR APPOINTMENT AND REMOVAL, AND THE TERMS OF THE MEMBERS AND THEIR COMPENSATION.

(D) THE ORDINANCE MAY INCLUDE WHATEVER ADDITIONAL PROVISIONS RELATING TO THE ORGANIZATION OF THE PUBLIC BODY OR AGENCY AS MAY BE NECESSARY.

(E) IN THE EVENT THE LEGISLATIVE BODY ENACTS THIS ORDINANCE, ALL OF THE POWERS BY THIS APPENDIX GRANTED TO THE MUNICIPALITY, FROM THE EFFECTIVE DATE OF THE ORDINANCE, ARE VESTED IN THE PUBLIC BODY OR AGENCY ESTABLISHED BY THE ORDINANCE.

A1–105. POWERS WITHHELD FROM THE AGENCY.

THE AGENCY MAY NOT:

(1) PASS A RESOLUTION TO INITIATE AN URBAN RENEWAL PROJECT PURSUANT TO SECTIONS A1–102 AND A1–103 OF THIS APPENDIX;

(2) ISSUE GENERAL OBLIGATION BONDS PURSUANT TO SECTION A1–111 OF THIS APPENDIX; OR

(3) APPROPRIATE FUNDS OR LEVY TAXES AND ASSESSMENTS PURSUANT TO SECTION A1–103(3) OF THIS APPENDIX.

A1–106. INITIATION OF PROJECT.

IN ORDER TO INITIATE AN URBAN RENEWAL PROJECT, THE LEGISLATIVE BODY OF THE MUNICIPALITY SHALL ADOPT A RESOLUTION WHICH:

(1) FINDS THAT ONE OR MORE SLUM OR BLIGHTED AREAS EXIST IN THE MUNICIPALITY;

(2) LOCATES AND DEFINES THE SLUM OR BLIGHTED AREA; AND

(3) FINDS THAT THE REHABILITATION, REDEVELOPMENT, OR A COMBINATION OF THEM, OF THE AREA OR AREAS, IS NECESSARY AND IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, MORALS, OR WELFARE OF THE RESIDENTS OF THE MUNICIPALITY.

A1–107. PREPARATION AND APPROVAL OF PLAN FOR URBAN RENEWAL PROJECT.

(A) IN ORDER TO CARRY OUT THE PURPOSES OF THIS APPENDIX, THE MUNICIPALITY SHALL HAVE PREPARED AN URBAN RENEWAL PLAN FOR SLUM OR BLIGHTED AREAS IN THE MUNICIPALITY, AND SHALL APPROVE THE PLAN FORMALLY. THE MUNICIPALITY SHALL HOLD A PUBLIC HEARING ON AN URBAN RENEWAL PROJECT AFTER PUBLIC NOTICE OF IT BY PUBLICATION IN A NEWSPAPER HAVING A GENERAL CIRCULATION WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY. THE NOTICE SHALL DESCRIBE THE TIME, DATE, PLACE, AND PURPOSE OF THE HEARING, SHALL GENERALLY IDENTIFY THE URBAN RENEWAL AREA COVERED BY THE PLAN, AND SHALL OUTLINE THE GENERAL SCOPE OF THE URBAN RENEWAL PROJECT UNDER CONSIDERATION. FOLLOWING THE HEARING, THE MUNICIPALITY MAY APPROVE AN URBAN RENEWAL PROJECT AND THE PLAN THEREFOR IF IT FINDS THAT:

(1) A FEASIBLE METHOD EXISTS FOR THE LOCATION OF ANY FAMILIES OR NATURAL PERSONS WHO WILL BE DISPLACED FROM THE URBAN RENEWAL AREA IN DECENT, SAFE, AND SANITARY DWELLING ACCOMMODATIONS WITHIN THEIR MEANS AND WITHOUT UNDUE HARDSHIP TO THE FAMILIES OR NATURAL PERSONS;

(2) THE URBAN RENEWAL PLAN CONFORMS SUBSTANTIALLY TO THE MASTER PLAN OF THE MUNICIPALITY AS A WHOLE; AND

(3) THE URBAN RENEWAL PLAN WILL AFFORD MAXIMUM OPPORTUNITY, CONSISTENT WITH THE SOUND NEEDS OF THE MUNICIPALITY AS A WHOLE, FOR THE REHABILITATION OR REDEVELOPMENT OF THE URBAN RENEWAL AREA BY PRIVATE ENTERPRISE.

(B) AN URBAN RENEWAL PLAN MAY BE MODIFIED AT ANY TIME. IF MODIFIED AFTER THE LEASE OR SALE OF REAL PROPERTY IN THE URBAN RENEWAL PROJECT AREA, THE MODIFICATION MAY BE CONDITIONED ON WHATEVER APPROVAL OF THE OWNER, LESSEE, OR SUCCESSOR IN INTEREST AS

THE MUNICIPALITY CONSIDERS ADVISABLE. IN ANY EVENT, IT SHALL BE SUBJECT TO WHATEVER RIGHTS AT LAW OR IN EQUITY AS A LESSEE OR PURCHASER, OR THE SUCCESSOR OR SUCCESSORS IN INTEREST, MAY BE ENTITLED TO ASSERT. WHERE THE PROPOSED MODIFICATION WILL CHANGE SUBSTANTIALLY THE URBAN RENEWAL PLAN AS APPROVED PREVIOUSLY BY THE MUNICIPALITY, THE MODIFICATION SHALL BE APPROVED FORMALLY BY THE MUNICIPALITY, AS IN THE CASE OF AN ORIGINAL PLAN.

(C) ON THE APPROVAL BY THE MUNICIPALITY OF AN URBAN RENEWAL PLAN OR OF ANY MODIFICATION OF IT, THE PLAN OR MODIFICATION SHALL BE CONSIDERED TO BE IN FULL FORCE AND EFFECT FOR THE RESPECTIVE URBAN RENEWAL AREA. THE MUNICIPALITY MAY HAVE THE PLAN OR MODIFICATION CARRIED OUT IN ACCORDANCE WITH ITS TERMS.

A1–108. DISPOSAL OF PROPERTY IN URBAN RENEWAL AREA.

(A) THE MUNICIPALITY, BY ORDINANCE, MAY SELL, LEASE, OR OTHERWISE TRANSFER REAL PROPERTY OR ANY INTEREST IN IT ACQUIRED BY IT FOR AN URBAN RENEWAL PROJECT TO ANY PERSON FOR RESIDENTIAL, RECREATIONAL, COMMERCIAL, INDUSTRIAL, EDUCATIONAL, OR OTHER USES OR FOR PUBLIC USE, OR IT MAY RETAIN THE PROPERTY OR INTEREST FOR PUBLIC USE, IN ACCORDANCE WITH THE URBAN RENEWAL PLAN AND SUBJECT TO WHATEVER COVENANTS, CONDITIONS, AND RESTRICTIONS, INCLUDING COVENANTS RUNNING WITH THE LAND, AS IT CONSIDERS NECESSARY OR DESIRABLE TO ASSIST IN PREVENTING THE DEVELOPMENT OR SPREAD OF FUTURE SLUMS OR BLIGHTED AREAS OR TO OTHERWISE CARRY OUT THE PURPOSES OF THIS APPENDIX. THE PURCHASERS OR LESSEES AND THEIR SUCCESSORS AND ASSIGNS SHALL BE OBLIGATED TO DEVOTE THE REAL PROPERTY ONLY TO THE USES SPECIFIED IN THE URBAN RENEWAL PLAN, AND MAY BE OBLIGATED TO COMPLY WITH WHATEVER OTHER REQUIREMENTS THE MUNICIPALITY DETERMINES TO BE IN THE PUBLIC INTEREST, INCLUDING THE OBLIGATION TO BEGIN WITHIN A REASONABLE TIME ANY IMPROVEMENTS ON THE REAL PROPERTY REQUIRED BY THE URBAN RENEWAL PLAN. THE REAL PROPERTY OR INTEREST MAY NOT BE SOLD, LEASED, OTHERWISE TRANSFERRED, OR RETAINED AT LESS THAN ITS FAIR VALUE FOR USES IN ACCORDANCE WITH THE URBAN RENEWAL PLAN. IN DETERMINING THE FAIR VALUE OF REAL PROPERTY FOR USES IN ACCORDANCE WITH THE URBAN RENEWAL PLAN, THE MUNICIPALITY SHALL TAKE INTO ACCOUNT AND GIVE CONSIDERATION TO THE USES PROVIDED IN THE PLAN, THE RESTRICTIONS ON, AND THE COVENANTS, CONDITIONS, AND OBLIGATIONS ASSUMED BY THE PURCHASER OR LESSEE OR BY THE MUNICIPALITY RETAINING THE PROPERTY, AND THE OBJECTIVES OF THE PLAN FOR THE PREVENTION OF THE

RECURRENCE OF SLUM OR BLIGHTED AREAS. IN ANY INSTRUMENT OR CONVEYANCE TO A PRIVATE PURCHASER OR LESSEE, THE MUNICIPALITY MAY PROVIDE THAT THE PURCHASER OR LESSEE MAY NOT SELL, LEASE, OR OTHERWISE TRANSFER THE REAL PROPERTY WITHOUT THE PRIOR WRITTEN CONSENT OF THE MUNICIPALITY UNTIL THE PURCHASER OR LESSEE HAS COMPLETED THE CONSTRUCTION OF ANY OR ALL IMPROVEMENTS WHICH THE PURCHASER OR LESSEE HAS BEEN OBLIGATED TO CONSTRUCT ON THE PROPERTY. REAL PROPERTY ACQUIRED BY THE MUNICIPALITY WHICH, IN ACCORDANCE WITH THE PROVISIONS OF THE URBAN RENEWAL PLAN, IS TO BE TRANSFERRED, SHALL BE TRANSFERRED AS RAPIDLY AS FEASIBLE IN THE PUBLIC INTEREST CONSISTENT WITH THE CARRYING OUT OF THE PROVISIONS OF THE URBAN RENEWAL PLAN. ANY CONTRACT FOR THE TRANSFER AND THE URBAN RENEWAL PLAN (OR ANY PART OR PARTS OF THE CONTRACT OR PLAN AS THE MUNICIPALITY DETERMINES) MAY BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE MUNICIPALITY IS SITUATED IN A MANNER SO AS TO AFFORD ACTUAL OR CONSTRUCTIVE NOTICE OF IT.

(B) THE MUNICIPALITY, BY ORDINANCE, MAY DISPOSE OF REAL PROPERTY IN AN URBAN RENEWAL AREA TO PRIVATE PERSONS. THE MUNICIPALITY MAY, BY PUBLIC NOTICE BY PUBLICATION IN A NEWSPAPER HAVING A GENERAL CIRCULATION IN THE COMMUNITY, INVITE PROPOSALS FROM AND MAKE AVAILABLE ALL PERTINENT INFORMATION TO PRIVATE REDEVELOPERS OR ANY PERSONS INTERESTED IN UNDERTAKING TO REDEVELOP OR REHABILITATE AN URBAN RENEWAL AREA, OR ANY PART THEREOF. THE NOTICE SHALL IDENTIFY THE AREA, OR PORTION THEREOF, AND SHALL STATE THAT PROPOSALS SHALL BE MADE BY THOSE INTERESTED WITHIN A SPECIFIED PERIOD. THE MUNICIPALITY SHALL CONSIDER ALL REDEVELOPMENT OR REHABILITATION PROPOSALS AND THE FINANCIAL AND LEGAL ABILITY OF THE PERSONS MAKING PROPOSALS TO CARRY THEM OUT, AND MAY NEGOTIATE WITH ANY PERSONS FOR PROPOSALS FOR THE PURCHASE, LEASE, OR OTHER TRANSFER OF ANY REAL PROPERTY ACQUIRED BY THE MUNICIPALITY IN THE URBAN RENEWAL AREA. THE MUNICIPALITY MAY ACCEPT ANY PROPOSAL AS IT DEEMS TO BE IN THE PUBLIC INTEREST AND IN FURTHERANCE OF THE PURPOSES OF THIS APPENDIX. THEREAFTER, THE MUNICIPALITY MAY EXECUTE AND DELIVER CONTRACTS, DEEDS, LEASES, AND OTHER INSTRUMENTS AND TAKE ALL STEPS NECESSARY TO EFFECTUATE THE TRANSFERS.

(C) THE MUNICIPALITY MAY OPERATE TEMPORARILY AND MAINTAIN REAL PROPERTY ACQUIRED BY IT IN AN URBAN RENEWAL AREA FOR OR IN CONNECTION WITH AN URBAN RENEWAL PROJECT PENDING THE DISPOSITION OF THE PROPERTY AS AUTHORIZED IN THIS APPENDIX, WITHOUT REGARD TO

THE PROVISIONS OF SUBSECTION (A), FOR USES AND PURPOSES CONSIDERED DESIRABLE EVEN THOUGH NOT IN CONFORMITY WITH THE URBAN RENEWAL PLAN.

(D) ANY INSTRUMENT EXECUTED BY THE MUNICIPALITY AND PURPORTING TO CONVEY ANY RIGHT, TITLE, OR INTEREST IN ANY PROPERTY UNDER THIS APPENDIX SHALL BE PRESUMED CONCLUSIVELY TO HAVE BEEN EXECUTED IN COMPLIANCE WITH THE PROVISIONS OF THIS APPENDIX INSOFAR AS TITLE OR OTHER INTEREST OF ANY BONA FIDE PURCHASERS, LESSEES, OR TRANSFEREES OF THE PROPERTY IS CONCERNED.

A1–109. EMINENT DOMAIN.

CONDEMNATION OF LAND OR PROPERTY UNDER THE PROVISIONS OF THIS APPENDIX SHALL BE IN ACCORDANCE WITH THE PROCEDURE PROVIDED IN THE REAL PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

A1–110. ENCOURAGEMENT OF PRIVATE ENTERPRISE.

THE MUNICIPALITY, TO THE EXTENT IT DETERMINES TO BE FEASIBLE IN CARRYING OUT THE PROVISIONS OF THIS APPENDIX, SHALL AFFORD MAXIMUM OPPORTUNITY TO THE REHABILITATION OR REDEVELOPMENT OF ANY URBAN RENEWAL AREA BY PRIVATE ENTERPRISE CONSISTENT WITH THE SOUND NEEDS OF THE MUNICIPALITY AS A WHOLE. THE MUNICIPALITY SHALL GIVE CONSIDERATION TO THIS OBJECTIVE IN EXERCISING ITS POWERS UNDER THIS APPENDIX.

A1–111. GENERAL OBLIGATION BONDS.

FOR THE PURPOSE OF FINANCING AND CARRYING OUT AN URBAN RENEWAL PROJECT AND RELATED ACTIVITIES, THE MUNICIPALITY MAY ISSUE AND SELL ITS GENERAL OBLIGATION BONDS. ANY BONDS ISSUED BY THE MUNICIPALITY PURSUANT TO THIS SECTION SHALL BE ISSUED IN THE MANNER AND WITHIN THE LIMITATIONS PRESCRIBED BY APPLICABLE LAW FOR THE ISSUANCE AND AUTHORIZATION OF GENERAL OBLIGATION BONDS BY THE MUNICIPALITY, AND ALSO WITHIN LIMITATIONS DETERMINED BY THE MUNICIPALITY.

A1–112. REVENUE BONDS.

(A) IN ADDITION TO THE AUTHORITY CONFERRED BY SECTION A1–111 OF THIS APPENDIX, THE MUNICIPALITY MAY ISSUE REVENUE BONDS TO

FINANCE THE UNDERTAKING OF ANY URBAN RENEWAL PROJECT AND RELATED ACTIVITIES. ALSO, IT MAY ISSUE REFUNDING BONDS FOR THE PAYMENT OR RETIREMENT OF THE BONDS ISSUED PREVIOUSLY BY IT. THE BONDS SHALL BE MADE PAYABLE, AS TO BOTH PRINCIPAL AND INTEREST, SOLELY FROM THE INCOME, PROCEEDS, REVENUES, AND FUNDS OF THE MUNICIPALITY DERIVED FROM OR HELD IN CONNECTION WITH THE UNDERTAKING AND CARRYING OUT OF URBAN RENEWAL PROJECTS UNDER THIS APPENDIX. HOWEVER, PAYMENT OF THE BONDS, BOTH AS TO PRINCIPAL AND INTEREST, MAY BE FURTHER SECURED BY A PLEDGE OF ANY LOAN, GRANT, OR CONTRIBUTION FROM THE FEDERAL GOVERNMENT OR OTHER SOURCE, IN AID OF ANY URBAN RENEWAL PROJECTS OF THE MUNICIPALITY UNDER THIS APPENDIX, AND BY A MORTGAGE OF ANY URBAN RENEWAL PROJECT, OR ANY PART OF A PROJECT, TITLE TO WHICH IS IN THE MUNICIPALITY. IN ADDITION, THE MUNICIPALITY MAY ENTER INTO AN INDENTURE OF TRUST WITH ANY PRIVATE BANKING INSTITUTION OF THIS STATE HAVING TRUST POWERS AND MAY MAKE IN THE INDENTURE OF TRUST COVENANTS AND COMMITMENTS REQUIRED BY ANY PURCHASER FOR THE ADEQUATE SECURITY OF THE BONDS.

(B) BONDS ISSUED UNDER THIS SECTION DO NOT CONSTITUTE AN INDEBTEDNESS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION, ARE NOT SUBJECT TO THE PROVISIONS OF ANY OTHER LAW OR CHARTER RELATING TO THE AUTHORIZATION, ISSUANCE, OR SALE OF BONDS, AND ARE EXEMPTED SPECIFICALLY FROM THE RESTRICTIONS CONTAINED IN SECTIONS 9, 10, AND 11 OF ARTICLE 31 (DEBT – PUBLIC) OF THE ANNOTATED CODE OF MARYLAND. BONDS ISSUED UNDER THE PROVISIONS OF THIS APPENDIX ARE DECLARED TO BE ISSUED FOR AN ESSENTIAL PUBLIC AND GOVERNMENTAL PURPOSE AND, TOGETHER WITH INTEREST ON THEM AND INCOME FROM THEM, ARE EXEMPT FROM ALL TAXES.

(C) BONDS ISSUED UNDER THIS SECTION SHALL BE AUTHORIZED BY RESOLUTION OR ORDINANCE OF THE LEGISLATIVE BODY OF THE MUNICIPALITY. THEY MAY BE ISSUED IN ONE OR MORE SERIES AND SHALL:

(1) BEAR A DATE OR DATES;

(2) MATURE AT A TIME OR TIMES;

(3) BEAR INTEREST AT A RATE OR RATES;

(4) BE IN A DENOMINATION OR DENOMINATIONS;

(5) BE IN A FORM EITHER WITH OR WITHOUT COUPON OR REGISTERED;

(6) CARRY A CONVERSION OR REGISTRATION PRIVILEGE;

(7) HAVE A RANK OR PRIORITY;

(8) BE EXECUTED IN A MANNER;

(9) BE PAYABLE IN A MEDIUM OF PAYMENT, AT A PLACE OR PLACES, AND BE SUBJECT TO TERMS OF REDEMPTION (WITH OR WITHOUT PREMIUM);

(10) BE SECURED IN A MANNER; AND

(11) HAVE OTHER CHARACTERISTICS, AS ARE PROVIDED BY THE RESOLUTION, TRUST INDENTURE, OR MORTGAGE ISSUED PURSUANT TO IT.

(D) THESE BONDS MAY NOT BE SOLD AT LESS THAN PAR VALUE AT PUBLIC SALES WHICH ARE HELD AFTER NOTICE IS PUBLISHED PRIOR TO THE SALE IN A NEWSPAPER HAVING A GENERAL CIRCULATION IN THE AREA IN WHICH THE MUNICIPALITY IS LOCATED AND IN WHATEVER OTHER MEDIUM OF PUBLICATION AS THE MUNICIPALITY MAY DETERMINE. THE BONDS MAY BE EXCHANGED ALSO FOR OTHER BONDS ON THE BASIS OF PAR. HOWEVER, THE BONDS MAY NOT BE SOLD TO THE FEDERAL GOVERNMENT AT PRIVATE SALE AT LESS THAN PAR, AND, IN THE EVENT LESS THAN ALL OF THE AUTHORIZED PRINCIPAL AMOUNT OF THE BONDS IS SOLD TO THE FEDERAL GOVERNMENT, THE BALANCE MAY NOT BE SOLD AT PRIVATE SALE AT LESS THAN PAR AT AN INTEREST COST TO THE MUNICIPALITY WHICH DOES NOT EXCEED THE INTEREST COST TO THE MUNICIPALITY OF THE PORTION OF THE BONDS SOLD TO THE FEDERAL GOVERNMENT.

(E) IN CASE ANY OF THE PUBLIC OFFICIALS OF THE MUNICIPALITY WHOSE SIGNATURES APPEAR ON ANY BONDS OR COUPONS ISSUED UNDER THIS APPENDIX CEASE TO BE OFFICIALS OF THE MUNICIPALITY BEFORE THE DELIVERY OF THE BONDS OR IN THE EVENT ANY OF THE OFFICIALS HAVE BECOME SUCH AFTER THE DATE OF ISSUE OF THEM, THE BONDS ARE VALID AND BINDING OBLIGATIONS OF THE MUNICIPALITY IN ACCORDANCE WITH THEIR TERMS. ANY PROVISION OF ANY LAW TO THE CONTRARY NOTWITHSTANDING, ANY BONDS ISSUED PURSUANT TO THIS APPENDIX ARE FULLY NEGOTIABLE.

(F) IN ANY SUIT, ACTION, OR PROCEEDING INVOLVING THE VALIDITY OR ENFORCEABILITY OF ANY BOND ISSUED UNDER THIS APPENDIX, OR THE SECURITY FOR IT, ANY BOND WHICH RECITES IN SUBSTANCE THAT IT HAS BEEN ISSUED BY THE MUNICIPALITY IN CONNECTION WITH AN URBAN RENEWAL PROJECT SHALL BE CONSIDERED CONCLUSIVELY TO HAVE BEEN ISSUED FOR THAT PURPOSE, AND THE PROJECT SHALL BE CONSIDERED CONCLUSIVELY TO HAVE BEEN PLANNED, LOCATED, AND CARRIED OUT IN ACCORDANCE WITH THE PROVISIONS OF THIS APPENDIX.

(G) ALL BANKS, TRUST COMPANIES, BANKERS, SAVINGS BANKS, AND INSTITUTIONS, BUILDING AND LOAN ASSOCIATIONS, SAVINGS AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES, AND OTHER PERSONS CARRYING ON A BANKING OR INVESTMENT BUSINESS; ALL INSURANCE COMPANIES, INSURANCE ASSOCIATIONS, AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS; AND ALL EXECUTORS, ADMINISTRATORS, CURATORS, TRUSTEES, AND OTHER FIDUCIARIES, MAY LEGALLY INVEST ANY SINKING FUNDS, MONEYS, OR OTHER FUNDS BELONGING TO THEM OR WITHIN THEIR CONTROL IN ANY BONDS OR OTHER OBLIGATIONS ISSUED BY THE MUNICIPALITY PURSUANT TO THIS APPENDIX. HOWEVER, THE BONDS AND OTHER OBLIGATIONS SHALL BE SECURED BY AN AGREEMENT BETWEEN THE ISSUER AND THE FEDERAL GOVERNMENT IN WHICH THE ISSUER AGREES TO BORROW FROM THE FEDERAL GOVERNMENT AND THE FEDERAL GOVERNMENT AGREES TO LEND TO THE ISSUER, PRIOR TO THE MATURITY OF THE BONDS OR OTHER OBLIGATIONS, MONEYS IN AN AMOUNT WHICH (TOGETHER WITH ANY OTHER MONEYS COMMITTED IRREVOCABLY TO THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS OR OTHER OBLIGATIONS) WILL SUFFICE TO PAY THE PRINCIPAL OF THE BONDS OR OTHER OBLIGATIONS WITH INTEREST TO MATURITY ON THEM. THE MONEYS UNDER THE TERMS OF THE AGREEMENT SHALL BE REQUIRED TO BE USED FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND THE INTEREST ON THE BONDS OR OTHER OBLIGATIONS AT THEIR MATURITY. THE BONDS AND OTHER OBLIGATIONS SHALL BE AUTHORIZED SECURITY FOR ALL PUBLIC DEPOSITS. THIS SECTION AUTHORIZES ANY PERSONS OR PUBLIC OR PRIVATE POLITICAL SUBDIVISIONS AND OFFICERS TO USE ANY FUNDS OWNED OR CONTROLLED BY THEM FOR THE PURCHASE OF ANY BONDS OR OTHER OBLIGATIONS. WITH REGARD TO LEGAL INVESTMENTS, THIS SECTION MAY NOT BE CONSTRUED TO RELIEVE ANY PERSON OF ANY DUTY OF EXERCISING REASONABLE CARE IN SELECTING SECURITIES.

A1–113. SHORT TITLE.

THIS APPENDIX SHALL BE KNOWN AND MAY BE CITED AS THE GALESTOWN URBAN RENEWAL AUTHORITY FOR SLUM CLEARANCE ACT.

A1–114. AUTHORITY TO AMEND OR REPEAL.

THIS APPENDIX, ENACTED PURSUANT TO ARTICLE III, SECTION 61 OF THE MARYLAND CONSTITUTION, MAY BE AMENDED OR REPEALED ONLY BY THE GENERAL ASSEMBLY OF MARYLAND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 217

(Senate Bill 1012)

AN ACT concerning

Natural Resources – Fishery Management Reform Act

FOR the purpose of altering the fees for certain fishing licenses for tidal and nontidal waters; ~~requiring~~ authorizing the Governor to include a certain appropriation in the budget bill beginning with a certain year and each year thereafter for the State Fisheries Management and Protection Fund and the Fisheries Research and Development Fund; ~~requiring the appropriation to be based on a certain percentage of the increase in license fees beginning with a certain fiscal year;~~ stating the findings and intent of the General Assembly relating to fishing resources; establishing the Task Force on Fishery Management; providing for the membership and staffing of the Task Force; requiring the Task Force to review and evaluate the processes for fishery management and make certain recommendations to the Governor and the General Assembly by a certain date; requiring the Task Force to assist the Department of Natural Resources in developing regulations, policies, and suggested legislation to implement certain recommendations; prohibiting a member of the Task Force from receiving certain compensation, but authorizing certain expenses; ~~authorizing the Governor to include certain money for certain funds in a certain supplemental budget;~~ urging the Department to follow a certain provision of law; ~~stating the intent of the General Assembly relating to the increase in fishing license fees;~~ providing for the termination of this Act; and generally relating to fisheries and fishing resources managed by the Department of Natural Resources.

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 4–208, 4–209, 4–604(g)(1)(i) and (2)(i), and 4–745(a)(2) and (d)(2)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 4–745(b)(5)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY adding to
Article – Natural Resources
Section 4–215.2 and 4–215.3
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

4–208.

(a) In this section, "Fund" means the State Fisheries Management and Protection Fund.

(b) There is a State Fisheries Management and Protection Fund in the Department.

(c) The purpose of the Fund is to finance the scientific investigation, protection, propagation, and management of nontidal finfish.

(d) The Department shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) Any money received for a fish and fisheries license, stamp, permit, or application fee under this title, unless otherwise provided; **[**and**]**

(2) Any investment earnings of the Fund**; AND**

(3) MONEY APPROPRIATED FROM THE GENERAL FUND OF THE STATE IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION.

(g) The Fund may be used only for:

(1) The scientific investigation, protection, propagation, and management of nontidal finfish; and

(2) Administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(h) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(J) ~~(1)~~ BEGINNING WITH FISCAL YEAR 2009 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR ~~SHALL~~ MAY INCLUDE IN THE BUDGET BILL AN APPROPRIATION FROM THE GENERAL FUND FOR THE FUND.

~~(2) THE APPROPRIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON A 50% MATCH ON THE PROCEEDS FROM THE INCREASE IN THE LICENSE FEES UNDER § 4–604(G) OF THIS TITLE.~~

4–209.

(a) In this section, "Fund" means the Fisheries Research and Development Fund.

(b) There is a Fisheries Research and Development Fund in the Department.

(c) The purpose of the Fund is to:

(1) Finance the replenishment of fisheries resources and related research; and

(2) Match federal funds available for research and development of fisheries resources.

(d) The Department shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) Any money received under this title for:

(i) Commercial licenses and permits;

(ii) Service fees, taxes, and royalties paid to the State for oyster shells and clam shells removed from the bottom beneath the tidal waters of the State;

(iii) The sale of seed oysters under § 4–1103 of this title; and

(iv) Any fine or forfeiture collected under § 4–1202 of this title;

(2) Any investment earnings of the Fund; **[**and**]**

(3) Money received from any other source**; AND**

(4) MONEY APPROPRIATED FROM THE GENERAL FUND OF THE STATE IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION.

(g) Subject to §§ 4–701(o), 4–1020, 4–1028, and 4–1035 of this title, the Fund may be used for:

(1) Replenishing fisheries resources and related research;

(2) Matching federal funds available for research and development of fisheries resources; and

(3) Administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(h) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(J) ~~(1)~~ BEGINNING WITH FISCAL YEAR 2009 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR ~~SHALL~~ MAY INCLUDE IN THE BUDGET BILL AN APPROPRIATION FROM THE GENERAL FUND FOR THE FUND.

~~(2) THE APPROPRIATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON A 50% MATCH ON THE PROCEEDS FROM THE INCREASE IN THE LICENSE FEES UNDER § 4–745 OF THIS TITLE.~~

4–215.2.

(A) THE GENERAL ASSEMBLY FINDS THAT ROBUST FISHING RESOURCES ARE CRITICAL TO THE ECONOMY OF THE STATE AND VITAL TO A TREASURED HERITAGE AND WAY OF LIFE.

(B) THE GENERAL ASSEMBLY INTENDS THAT THE DEPARTMENT SHALL MANAGE THE FISHERIES UNDER § 4–215 OF THIS SUBTITLE TO OPTIMIZE THE YIELD OF FISHERY RESOURCES FOR THE BENEFIT OF ALL CITIZENS OF THE STATE.

4–215.3.

(A) THERE IS A TASK FORCE ON FISHERY MANAGEMENT.

(B) (1) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS:

(I) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY'S DESIGNEE;

(II) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

1. ~~TWO REPRESENTATIVES~~ ONE REPRESENTATIVE FROM THE CHESAPEAKE GUIDES ASSOCIATION;

2. TWO REPRESENTATIVES FROM THE COASTAL CONSERVATION ASSOCIATION MARYLAND;

3. ~~THREE REPRESENTATIVES FROM THE MARYLAND AQUATIC RESOURCE COALITION~~ ONE REPRESENTATIVE FROM THE MARYLAND BASS FEDERATION NATION;

4. ONE REPRESENTATIVE FROM THE MID–ATLANTIC COUNCIL OF TROUT UNLIMITED;

5. TWO REPRESENTATIVES FROM THE MARYLAND SALTWATER SPORTFISHERMEN'S ASSOCIATION;

~~4.~~ 6. TWO REPRESENTATIVES FROM THE MARYLAND CHARTER BOAT ASSOCIATION;

~~5.~~ 7. TWO REPRESENTATIVES FROM THE MARYLAND WATERMEN'S ASSOCIATION; AND

~~6.~~ 8. TWO REPRESENTATIVES FROM COMMUNITIES THAT ARE LOCATED ON THE CHESAPEAKE BAY AND ITS TRIBUTARIES AND THAT RELY ON FISHING FOR THEIR LOCAL ECONOMIES; AND

(III) A PEER REVIEW PANEL THAT CONSISTS OF THREE EXPERTS IN STATE FISHERY MANAGEMENT APPOINTED BY THE GOVERNOR IN CONSULTATION WITH THE AMERICAN FISHERIES SOCIETY.

(2) THE PEER REVIEW PANEL UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION SHALL SUPPORT AND PROVIDE EXPERTISE FOR THE TASK FORCE AND THE DEPARTMENT WITH THE DEVELOPMENT OF THE REPORT REQUIRED UNDER THIS SECTION.

(C) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE TASK FORCE.

(D) THE TASK FORCE MAY ESTABLISH SUBCOMMITTEES AS IT DETERMINES NECESSARY TO FULFILL ITS DUTIES.

(E) THE DEPARTMENT OF NATURAL RESOURCES SHALL PROVIDE STAFF FOR THE TASK FORCE.

(F) A MEMBER OF THE TASK FORCE MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE TASK FORCE, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) THE TASK FORCE SHALL:

(1) OVERSEE A FULL REVIEW OF CURRENT FISHERY MANAGEMENT PROCESSES AND DEVELOP RECOMMENDATIONS FOR METHODS TO IMPROVE, MODERNIZE, AND STREAMLINE FISHERY MANAGEMENT, INCLUDING:

(I) DEVELOPING A SET OF RECOMMENDATIONS FOR THE 2009 LEGISLATIVE SESSION OF THE GENERAL ASSEMBLY THAT INCORPORATES THE IMPROVEMENTS SUGGESTED FOR FISHERY MANAGEMENT; AND

(II) WORKING WITH THE DEPARTMENT TO DEVELOP REGULATIONS AND POLICY, AND ANY FOLLOW–UP LEGISLATION FOR THE 2010 LEGISLATIVE SESSION OF THE GENERAL ASSEMBLY THAT IS NECESSARY TO IMPLEMENT THE RECOMMENDATIONS; AND

(2) ON OR BEFORE DECEMBER 1, 2008, SUBMIT A REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

4–604.

(g) (1) The following annual license fees shall apply:

(i) Resident..... **[**$10.50**] $20.50**

(2) For a nonresident:

(i) The fee for an annual angler's license is the greater of:

1. **[**$20.50**] $30.50**; or

2. A fee equal to the fee charged a Maryland resident by the nonresident's home state for a similar license; and

4–745.

(a) (2) The license may be obtained from the Department or from any authorized agent of the Department. The following annual license fees shall apply:

(i) Resident..... **[**$9**] $15**

(ii) Short–term license valid for 5 consecutive days from date of issue..... $6

(iii) Nonresident..... **[**$14**] $15**

(iv) Resident and nonresident blind persons..... No fee

(b) (5) In the preparation of plans for the expenditure of license receipts, the Secretary annually shall solicit the advice and opinions of the Department's Sport Fisheries Advisory Commission, representative fishing and boating associations, and other interested parties.

(d) (2) (i) The Department may provide by regulation for issuance of an annual special Chesapeake Bay sport fishing license, which when permanently affixed to a boat registered in any state shall authorize any person on the boat to fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries, except that such a license may not be used on a boat that has been hired to take such persons fishing.

(ii) The annual fee for this special license shall be **[**$40**] $50**.

(iii) If a boat owner purchases the special license under this paragraph, the boat owner may fish anywhere in the Chesapeake Bay, whether the boat owner is fishing in the owner's boat, in another person's boat, on land, or elsewhere. The Department shall issue a complimentary Chesapeake Bay sport fishing license to the boat owner who purchases a special license under this paragraph. If a boat to which the special license is affixed has more than one owner, then only the individual applicant who signs the application for the special license shall be entitled to a complimentary Chesapeake Bay sport fishing license under this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly of Maryland urges the Department to recognize and abide by the provision of law under § 4–745(b)(5) of the Natural Resources Article that requires the Department to consult with stakeholders through the Sports Fisheries Advisory Commission before spending the proceeds from fishing license fees.

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Governor may include money for the State Fisheries Management and Protection Fund and the Fisheries Research and Development Fund in a supplemental budget for fiscal year 2008.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the General Assembly intends that the increase in fishing license fees under Section 1 of this Act be subject to the inclusion of an appropriation for the State Fisheries Management and Protection Fund and the Fisheries Research and Development Fund beginning in the~~

~~fiscal 2009 State budget, as required under Section 1 of this Act, and if the funds are not included in the budget, the General Assembly may take appropriate measures to restore the amounts of the fishing license fees to amounts in effect as of June 30, 2007.~~

SECTION ~~5.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007. It shall remain effective for a period of 3 years and, at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2007.

CHAPTER 218

(Senate Bill 1017)

AN ACT concerning

Crimes – Tobacco Paraphernalia – Distribution to ~~and Possession by~~ Minors

FOR the purpose of prohibiting the distribution of tobacco paraphernalia to a minor; ~~prohibiting a minor from distributing, possessing, or purchasing tobacco paraphernalia unless the minor is acting as an agent of the minor's employer within the scope of employment; prohibiting a minor from using false identification to obtain or attempt to obtain tobacco paraphernalia;~~ defining a certain term; making this Act an emergency measure; and generally relating to prohibiting persons from distributing tobacco paraphernalia to minors ~~and minors from possessing tobacco paraphernalia~~.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section ~~10–101,~~ 10–101 and 10–107(b) and (c)~~, and 10–108(b) and (c)~~
Annotated Code of Maryland
(2002 Volume and 2006 Supplement)

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

Article – Criminal Law

10–101.

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

(b) "Distribute" means to:

(1) give, sell, deliver, dispense, issue, or offer to give, sell, deliver, dispense, or issue; or

(2) cause or hire a person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense, or issue.

(c) **(1) "TOBACCO PARAPHERNALIA" MEANS ANY OBJECT USED, INTENDED FOR USE, OR DESIGNED FOR USE IN INHALING OR OTHERWISE INTRODUCING TOBACCO PRODUCTS INTO THE HUMAN BODY.**

(2) "TOBACCO PARAPHERNALIA" INCLUDES:

(I) A CIGARETTE ROLLING PAPER;

(II) A METAL, WOODEN, ACRYLIC, GLASS, STONE, PLASTIC, OR CERAMIC PIPE WITH OR WITHOUT SCREEN, PERMANENT SCREEN, OR PUNCTURED METAL BOWL;

(III) A WATER PIPE;

(IV) A CARBURETION TUBE OR DEVICE;

(V) A SMOKING OR CARBURETION MASK;

(VI) AN OBJECT KNOWN AS A ROACH CLIP USED TO HOLD BURNING MATERIAL, SUCH AS A CIGARETTE THAT HAS BECOME TOO SMALL OR TOO SHORT TO BE HELD IN THE HAND;

(VII) A CHAMBER PIPE;

(VIII) A CARBURETOR PIPE;

(IX) AN ELECTRIC PIPE;

(X) AN AIR–DRIVEN PIPE;

(XI) A CHILLUM;

(XII) A BONG; AND

(XIII) AN ICE PIPE OR CHILLER.

(D) (1) "Tobacco product" means a substance containing tobacco.

(2) "Tobacco product" includes cigarettes, cigars, smoking tobacco, snuff, smokeless tobacco, and candy–like products that contain tobacco.

[(d)**] (E)** "Venereal disease" includes gonorrhea, syphilis, chancroid, and any diseased condition of the human genitalia caused by, related to, or resulting from a venereal disease.

10–107.

(b) (1) This subsection does not apply to the distribution of a tobacco product **OR TOBACCO PARAPHERNALIA** to a minor who is acting solely as the agent of the minor's employer if the employer distributes tobacco products **OR TOBACCO PARAPHERNALIA** for commercial purposes.

(2) A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to a minor:

(i) a tobacco product;

(ii) **[**a cigarette rolling paper**] TOBACCO PARAPHERNALIA**; or

(iii) a coupon redeemable for a tobacco product.

(c) A person not described in subsection (b)(2) of this section may not:

(1) purchase for or sell a tobacco product to a minor; or

(2) distribute **[**a cigarette rolling paper**] TOBACCO PARAPHERNALIA** to a minor.

~~10–108.~~

~~(b) This section does not apply to the possession of a tobacco product or **[**cigarette rolling paper**] TOBACCO PARAPHERNALIA** by a minor who is acting as the agent of the minor's employer within the scope of employment.~~

~~(c) A minor may not:~~

~~(1) use or possess a tobacco product or **[**cigarette rolling paper**] TOBACCO PARAPHERNALIA**; or~~

~~(2) obtain or attempt to obtain a tobacco product or [cigarette rolling paper] **TOBACCO PARAPHERNALIA** by using a form of identification that:~~

~~(i) is falsified; or~~

~~(ii) identifies an individual other than the minor.~~

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.

Approved by the Governor, April 24, 2007.

CHAPTER 219

(Senate Bill 1025)

AN ACT concerning

Election Law – Presidential Primary Election Date

FOR the purpose of altering the date of the statewide primary election in the year in which the President of the United States is elected; making miscellaneous technical and clarifying changes to conform to the change in the date for the statewide presidential primary election, including provisions relating to deadlines for the filing of a certificate of candidacy, the submission of a delegate selection plan, candidate withdrawal, and petition candidates and including provisions relating to the certification of certain candidates by the Secretary of State; altering the schedule for the filing of certain campaign finance reports in the year of a presidential primary; and generally relating to the statewide presidential primary election.

BY repealing and reenacting, with amendments,
Article – Election Law
Section ~~8–201~~ 5–303(a), 5–502, 8–201, 8–501, 8–502, and 13–309(a)
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)

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

Article – Election Law

5–303.

(a) Except as provided in subsections (b) and (c) of this section, a certificate of candidacy shall be filed **[**as follows:

(1) for candidates for offices other than delegate to the Democratic National Convention,**]** not later than **[**~~9~~**]** ~~**8**~~ *9* p.m. on the Monday that is 10 weeks or 70 days before the day on which the primary election will be held**[**; and

(2) for candidates for delegate to the Democratic National Convention, between 9 a.m. on the first regular business day of the year in which the President of the United States is elected and 5 p.m. on the day that is 1 week later than that day**]**.

5–502.

(a) Subject to § 5–402 of this title, an individual who has filed a certificate of candidacy may withdraw the candidacy by filing a certificate of withdrawal on the form prescribed by the State Board within 10 days after the filing date established under § 5–303 of this title.

(b) **[**An individual who has filed a certificate of candidacy and a petition in accordance with § 8–502(d) of this article, or a candidate for delegate to the Democratic National Convention subject to § 5–303(a)(2) of this title, may withdraw the candidacy by filing a certificate of withdrawal on the form prescribed by the State Board within 4 days after the filing date established under § 5–303 of this title.

(c)**]** An individual who has filed a certificate of candidacy for the special election to fill a vacancy for Representative in Congress may withdraw the certificate on the prescribed form within 2 days after the filing date established in the proclamation issued by the Governor.

8–201.

(a) (1) There shall be a statewide primary election in every even–numbered year.

(2) A primary election shall be held:

(i) in the year in which the Governor is elected, on the second Tuesday after the first Monday in September; and

(ii) in the year in which the President of the United States is elected, on the **[**first**]** **SECOND** Tuesday in **[**March**]** **FEBRUARY**.

(b) In Baltimore City, there shall be a primary election for municipal offices on the second Tuesday following the first Monday in September in the year following the election of the Governor.

8–501.

(a) Delegates and alternate delegates to the national presidential nominating convention of a political party shall be selected as provided in the national party rules of the party.

(b) The State central committee of each political party shall certify to the State Board, not later than **[**January 1 in the year of**]** **OCTOBER 1 IN THE YEAR PRECEDING** the election:

(1) the number of delegates and alternate delegates to be selected in the State and the mode or modes of selection; and

(2) in the case of a principal political party:

(i) if delegates are to be elected by district, the number of delegates to be elected from each district;

(ii) provisions for placing on the ballot the name of a presidential candidate, or the word "uncommitted", adjacent to the name of each candidate for delegate;

(iii) provisions for how, if a candidate for delegate withdraws in accordance with **[**§ 5–502(b)**]** **§ 5–502** of this article and the withdrawing candidate's name would have appeared on the ballot adjacent to the name of a presidential candidate, that presidential candidate will designate a replacement candidate for delegate no later than **[**2**]** **5** days after the deadline established in **[**§ 5–502(b)**]** **§ 5–502** of this article; and

(iv) any other provisions of the national party rules of the party that relate to the election of delegates or alternate delegates at the primary election.

8–502.

(a) This section applies to the placement on the ballot in the primary election of the names of individuals who are candidates for nomination by principal political parties to the office of President of the United States.

(b) An individual who desires to run in the primary election may be placed on the ballot only:

(1) by direction of the Secretary of State in accordance with subsection (c) of this section; or

(2) by filing, in accordance with subsection (d) of this section, a petition containing the signatures of at least 400 registered voters from each congressional district in the State.

(c) (1) **[**(i) Except as provided in subparagraph (ii) of this paragraph, the**]** **THE** Secretary of State shall certify to the State Board the names of candidates for nomination by a principal political party during the period beginning 90 days before the primary election and ending 80 days before the primary election.

[(ii) The Secretary of State shall certify to the State Board the names of candidates for the Democratic Party nomination on the first business day in the year of the election.**]**

(2) The Secretary of State shall certify the name of a presidential candidate on the ballot when the Secretary has determined, in the Secretary's sole discretion and consistent with party rules, that the candidate's candidacy is generally advocated or recognized in the news media throughout the United States or in Maryland, unless the candidate executes and files with the Secretary of State an affidavit stating without qualification that the candidate is not and does not intend to become a candidate for the office in the Maryland primary election.

(d) A candidate who seeks to be placed on the ballot by the petition process specified in subsection (b)(2) of this section shall file the petition, in the form prescribed by the State Board, **[**as follows:

(1) for candidates for the nomination of the Democratic Party, not later than 5 p.m. on the day that is 1 week later than the first business day of the year of the election; and

(2) for candidates for the nomination of any other principal political party, at least**]** **ON THE MONDAY THAT IS** 70 days before the day of the election.

(e) The State Board shall establish a procedure for the Democratic presidential primary through which votes may be cast as uncommitted to any presidential candidate.

(f) The names of the candidates for President qualifying under this section shall be certified to the local boards by the State Board and shall be printed on all ballots used for the primary election.

13–309.

(a) Subject to other provisions of this subtitle, a campaign finance entity shall file campaign finance reports as follows:

(1) except for a ballot issue committee, on or before the fourth Tuesday immediately preceding **[**a**]** **EACH** primary election **EXCEPT A PRESIDENTIAL PRIMARY ELECTION**;

(2) except for a ballot issue committee, on or before the second Friday immediately preceding a primary election;

(3) on or before the second Friday immediately preceding a general election; and

(4) on or before the third Tuesday after a general election.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 220

(Senate Bill 1027)

AN ACT concerning

Vehicle Laws – Race–Based Traffic Stops – Sunset Extension and Reporting Requirements

FOR the purpose of extending the termination date for certain provisions of law concerning the collection, analysis, and reporting of certain information relating to traffic stops; extending the period of time during which law enforcement officers must record and report to the Maryland Justice Analysis Center certain information relating to traffic stops; extending the period of time during which the Maryland Justice Analysis Center must analyze and report on information relating to certain traffic stops; extending the deadline for the Maryland Justice Analysis Center to issue a final report; and generally relating to information relating to traffic stops.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 25–113
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Chapter 343 of the Acts of the General Assembly of 2001, as amended by Chapter 25 of the Acts of the General Assembly of 2006
Section 3 and 4

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

Article – Transportation

25–113.

(a) (1) In this section the following words have the meanings indicated.

(2) "Law enforcement agency" means an agency that is listed in § 3–101(e) of the Public Safety Article and that, in accordance with subsection (c) of this section, is subject to the provisions of this section.

(3) "Law enforcement officer" means any person who, in an official capacity, is authorized by law to make arrests and who is an employee of a law enforcement agency that is subject to this section.

(4) "Maryland Justice Analysis Center" means the center operated by the Department of Criminology and Criminal Justice at the University of Maryland, College Park.

(5) "Police Training Commission" means the unit within the Department of Public Safety and Correctional Services established under § 3–202 of the Public Safety Article.

(6) (i) Subject to subparagraph (ii) of this paragraph, "traffic stop" means any instance when a law enforcement officer stops the driver of a motor vehicle and detains the driver for any period of time for a violation of the Maryland Vehicle Law.

(ii) "Traffic stop" does not include:

1. A checkpoint or roadblock stop;

2. A stop of multiple vehicles due to a traffic accident or emergency situation requiring the stopping of vehicles for public safety purposes; or

3. A stop based on the use of radar, laser, or vascar technology.

(b) The Police Training Commission, in consultation with the Maryland Justice Analysis Center, shall develop:

(1) A model format for the efficient recording of data required under subsection (d) of this section on an electronic device, or by any other means, for use by a law enforcement agency;

(2) Guidelines that each law enforcement agency may use as a management tool to evaluate data collected by its officers for use in counseling and improved training;

(3) A standardized format that each law enforcement agency shall use in reporting data to the Maryland Justice Analysis Center under subsection (e) of this section; and

(4) On or before July 1, 2002, a model policy against race–based traffic stops that a law enforcement agency covered under subsection (c)(1) of this section can use in developing its policy in accordance with subsection (g) of this section.

(c) (1) Subject to paragraph (2) of this subsection, this section applies to each law enforcement agency that:

(i) On January 1, 2002, has 100 or more law enforcement officers;

(ii) On January 1, 2003, has 50 or more law enforcement officers; and

(iii) On January 1, 2004, has 1 or more law enforcement officers.

(2) Except as provided in subsection (e)(2) of this section, this section does not apply to a law enforcement agency that, on or before July 1, 2001, has entered into an agreement with the United States Department of Justice that requires it to collect data on the race or ethnicity of the drivers of motor vehicles stopped.

(d) Each time a law enforcement officer makes a traffic stop, that officer shall report the following information to the law enforcement agency that employs the officer using the format developed by the law enforcement agency under subsection (b)(1) of this section:

(1) The date, location, and the time of the stop;

(2) The approximate duration of the stop;

(3) The traffic violation or violations alleged to have been committed that led to the stop;

(4) Whether a search was conducted as a result of the stop;

(5) If a search was conducted, the reason for the search, whether the search was consensual or nonconsensual, whether the person was searched, and whether the person's property was searched;

(6) Whether any contraband or other property was seized in the course of the search;

(7) Whether a warning, safety equipment repair order, or citation was issued as a result of the stop;

(8) If a warning, safety equipment repair order, or citation was issued, the basis for issuing the warning, safety equipment repair order, or citation;

(9) Whether an arrest was made as a result of either the stop or the search;

(10) If an arrest was made, the crime charged;

(11) The state in which the stopped vehicle is registered;

(12) The gender of the driver;

(13) The date of birth of the driver;

(14) The state and, if available on the driver's license, the county of residence of the driver; and

(15) The race or ethnicity of the driver as:

(i) Asian;

(ii) Black;

(iii) Hispanic;

(iv) White; or

(v) Other.

(e) (1) A law enforcement agency shall:

(i) Compile the data described in subsection (d) of this section for the calendar year as a report in the format required under subsection (b)(3) of this section; and

(ii) Submit the report to the Maryland Justice Analysis Center no later than March 1 of the following calendar year.

(2) A law enforcement agency that is exempt under subsection (c)(2) of this section shall submit to the Maryland Justice Analysis Center copies of reports it submits to the United States Department of Justice in lieu of the report required under paragraph (1) of this subsection.

(f) (1) The Maryland Justice Analysis Center shall analyze the annual reports of law enforcement agencies submitted under subsection (e) of this section based on a methodology developed in consultation with the Police Training Commission.

(2) The Maryland Justice Analysis Center shall submit a report of the findings to the Governor, the General Assembly as provided in § 2–1246 of the State Government Article, and each law enforcement agency before September 1 of each year.

(g) (1) A law enforcement agency shall adopt a policy against race–based traffic stops that is to be used as a management tool to promote nondiscriminatory law enforcement and in the training and counseling of its officers.

(2) The policy shall prohibit the practice of using an individual's race or ethnicity as the sole justification to initiate a traffic stop. However, the policy shall make clear that it may not be construed to alter the authority of a law enforcement officer to make an arrest, conduct a search or seizure, or otherwise fulfill the officer's law enforcement obligations.

(3) The policy shall provide for the law enforcement agency to periodically review data collected by its officers under subsection (d) of this section and to review the annual report of the Maryland Justice Analysis Center for purposes of paragraph (1) of this subsection.

(h) (1) If a law enforcement agency fails to comply with the reporting provisions of this section, the Maryland Justice Analysis Center shall report the noncompliance to the Police Training Commission.

(2) The Police Training Commission shall contact the law enforcement agency and request that the agency comply with the required reporting provisions.

(3) If the law enforcement agency fails to comply with the required reporting provisions within 30 days after being contacted by the Police Training Commission, the Maryland Justice Analysis Center and the Police Training Commission jointly shall report the noncompliance to the Governor and the Legislative Policy Committee of the General Assembly.

Chapter 343 of the Acts of 2001, as amended by Chapter 25 of the Acts of 2006

SECTION 3. AND BE IT FURTHER ENACTED, That, beginning January 1, 2002, data shall be collected under Section 1 of this Act through December 31, **[**2007**]** **2009**, and the Maryland Justice Analysis Center shall issue a final report on or before August 31, **[**2008**]** **2010**.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2001. It shall remain effective for a period of **[**7**]** **9** years and 2 months and, at the end of August 31, **[**2008**]** **2010**, 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 this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 221

(Senate Bill 1030)

AN ACT concerning

Critical Areas – Applications for Variances – Local Jurisdictions

FOR the purpose of clarifying that certain provisions of law apply to a local jurisdiction during the consideration, processing, and decision on an application for a certain variance notwithstanding any provision, or lack of provision, in the local jurisdiction's local laws and ordinances; providing for the application of

this Act; and generally relating to applications for variances in the Chesapeake Bay and Atlantic Coastal Bays Critical Area Program.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1808(d)
Annotated Code of Maryland
(2000 Replacement Volume and 2006 Supplement)

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

Article – Natural Resources

8–1808.

(d) (1) In this subsection, "unwarranted hardship" means that, without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

(2) (i) In considering an application for a variance, a local jurisdiction shall presume that the specific development activity in the critical area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the local jurisdiction's program.

(ii) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, a local jurisdiction may consider that fact.

(3) (i) An applicant has the burden of proof and the burden of persuasion to overcome the presumption established under paragraph (2)(i) of this subsection.

(ii) 1. Based on competent and substantial evidence, a local jurisdiction shall make written findings as to whether the applicant has overcome the presumption established under paragraph (2)(i) of this subsection.

2. With due regard for the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

A. The applicant;

B. The local jurisdiction or any other government agency; or

C. Any other person deemed appropriate by the local jurisdiction.

(4) A variance to a local jurisdiction's critical area program may not be granted unless:

(i) Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of the critical area program would result in unwarranted hardship to the applicant;

(ii) The local jurisdiction finds that the applicant has satisfied each one of the variance provisions; and

(iii) Without the variance, the applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the critical area program.

(5) This subsection does not apply to building permits or activities that comply with a buffer exemption plan or buffer management plan of a local jurisdiction which has been approved by the Commission.

(6) NOTWITHSTANDING ANY PROVISION OF A LOCAL LAW OR ORDINANCE, OR THE LACK OF A PROVISION IN A LOCAL LAW OR ORDINANCE, ALL OF THE PROVISIONS OF THIS SUBSECTION SHALL APPLY TO, AND SHALL BE APPLIED BY, A LOCAL JURISDICTION IN THE CONSIDERATION, PROCESSING, AND DECISION ON AN APPLICATION FOR A VARIANCE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any applications for variances under the Chesapeake Bay and Atlantic Coastal Bays Critical Area Program, except for property in the North Shore Community of Anne Arundel County for which a variance was applied for in 2003.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 222

(House Bill 121)

AN ACT concerning

Somerset County – Alcoholic Beverages – License Fees

FOR the purpose of increasing by a certain amount the annual fees for all retail alcoholic beverages licenses in Somerset County; and generally relating to alcoholic beverages in Somerset County.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 3–101(u), 3–201(u), 3–301(u), 3–401(u), 4–201(b)(6), 5–101(u), 5–201(u), 5–301(u), 5–401(u), 6–201(u)(2), 6–301(u)(2), 6–401(u), 7–101(s)(5), and 8–312(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 3–201(a)(1), 3–301(a)(1), 3–401(a)(1), 4–201(a)(15), 5–201(a)(1), 5–301(a)(1), 5–401(a)(1), 6–201(a)(1) and (u)(1), 6–301(a)(1) and (u)(1), 6–401(a)(1), 7–101(s)(1), and 8–312(a) and (b)
Annotated Code of Maryland
(2005 Replacement Volume and 2006 Supplement)

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

Article 2B – Alcoholic Beverages

3–101.

(u) (1) This subsection applies in Somerset County.

(2) The annual license fee for a 6 day license is **[**$110**]** **$126**.

(3) The annual license fee for a 7 day license is **[**$137.50**]** **$158**.

(4) A person may not hold a license under the provisions of this section upon any premises having any direct or indirect connection with any drug or

pharmaceutical dispensing business, or other business establishments of a type commonly known as or referred to as drugstore.

3–201.

(a) (1) A Class B license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer at retail at any hotel or restaurant at the place described in the license for consumption on the premises or elsewhere.

(u) In Somerset County the annual license fee is **[**$220**] $253**.

3–301.

(a) (1) A Class C beer license shall be issued by the local licensing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer at retail to bona fide members and their guests, at any club, at the place described in the license for consumption on the premises only.

(u) In Somerset County the annual license fee is **[**$27.50**] $32**.

3–401.

(a) (1) A Class D beer license shall be issued by the license issuing authority of the county in which the place of business is located. The holder of the license may keep for sale and sell beer at retail at the place described in the license. The beer may be consumed on the premises or elsewhere, but a license may not be issued for any drugstore.

(u) In Somerset County the annual license fee is **[**$220**] $253**.

4–201.

(a) A Class A light wine license may be issued only in:

(15) Somerset County;

(b) (6) In Somerset County, the annual fee for this license is **[**$55**] $63**.

5–101.

(u) (1) This subsection applies only in Somerset County.

(2) The annual license fee for a 6 day license is **[**$165**] $190**.

(3) The annual license fee for a 7 day license is **[**$192.50**] $221**.

(4) A person may not hold a license under the provisions of this subsection upon any premises having any direct or indirect connection with any drug or pharmaceutical, or other business establishments of a type commonly known as or referred to as drugstore.

5–201.

(a) (1) A Class B 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 holder may keep for sale and sell beer and light wines at retail at any hotel or restaurant, at the place described in the license, for consumption on the premises or elsewhere.

(u) In Somerset County the annual license fee is **[**$220**] $253**.

5–301.

(a) (1) Except as provided in subsection (n) of this section, a Class C 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 holder of the license may keep for sale and sell beer and light wines at retail to bona fide members and their guests, at any club, at the place described in the license, for consumption on the premises only.

(u) In Somerset County the annual license fee is **[**$38.50**] $45**.

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.

(u) In Somerset County the annual license fee is **[**$220**] $253**.

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.

(u) (1) This subsection applies only in Somerset County.

(2) The annual license fee is **[**$1,100**]** **$1,265** for a restaurant or for a hotel.

6–301.

(a) (1) Except as provided in subsection (n) of this section, a Class C beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at any club, at the place described in the license, for consumption on the premises only.

(u) (1) This subsection applies only in Somerset County.

(2) The annual license fee is **[**$275**]** **$316**.

6–401.

(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.

(u) (1) In Somerset County the annual license fee is **[**$1,100**]** **$1,265**.

(2) Spirituous liquors may be sold for on–sale consumption only, but beer and wine may be sold for both on– and off–sale consumption.

7–101.

(s) (1) This subsection applies only in Somerset County.

(5) (i) The fee for a special beer, beer and light wine, or beer, wine and liquor license is **[**$55**]** **$63** for each license for an initial 2–day period.

(ii) After the initial 2–day period, the fee for each additional day is **[**$27.50**]** **$32**.

8–312.

(a) The provisions of this section apply only in Somerset County.

(b) The Liquor Licensing Board may issue a special Maryland Wine Festival (MWF) license.

(f) The license fee is **[**$16.50**] $19**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, April 24, 2007.

CHAPTER 223

(House Bill 164)

AN ACT concerning

Education – Relocatable Classrooms – Indoor Air Quality Standards

FOR the purpose of requiring the Board of Public Works, in consultation with the Department of General Services *and the Department of Housing and Community Development*, to adopt regulations to establish certain standards and specifications to enhance the indoor air quality of certain relocatable classrooms; *providing for the application of this Act;* and generally relating to regulations governing the indoor air quality of relocatable classrooms.

BY repealing and reenacting, without amendments,
Article – Education
Section 5–301(a)
Annotated Code of Maryland
(2006 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~
~~Article – Education~~
~~Section 5–301(b)~~
~~Annotated Code of Maryland~~
~~(2006 Replacement Volume)~~

BY adding to
Article – Education
Section 5–301(b–1)
Annotated Code of Maryland
(2006 Replacement Volume)

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

Article – Education

5–301.

(a) In this subtitle, "Interagency Committee" means the Interagency Committee on School Construction established under § 5–302 of this subtitle.

~~(b) (1) For the purposes of this section other than subsection (c), the Board of Public Works shall define by regulation what constitutes an eligible and ineligible public school construction or capital improvement cost.~~

~~(2) (i) The purchase of relocatable classrooms shall be an eligible public school construction or capital cost.~~

~~(ii) The Board of Public Works, IN CONSULTATION WITH THE DEPARTMENT OF GENERAL SERVICES,~~ shall adopt regulations that define relocatable classrooms and establish the minimum specifications for relocatable classrooms which may be purchased ~~OR LEASED~~ using State ~~OR LOCAL~~ funds.

~~(III) THE REGULATIONS REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL INCLUDE CRITERIA DESIGNED TO ENHANCE INDOOR AIR QUALITY FOR THE OCCUPANTS OF THE RELOCATABLE CLASSROOMS, INCLUDING SPECIFICATIONS THAT:~~

(B–1) THE BOARD OF PUBLIC WORKS, IN CONSULTATION WITH THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, SHALL ADOPT REGULATIONS ESTABLISHING CRITERIA DESIGNED TO ENHANCE INDOOR AIR QUALITY FOR THE OCCUPANTS OF RELOCATABLE CLASSROOMS PURCHASED OR LEASED USING STATE OR LOCAL FUNDS, INCLUDING SPECIFICATIONS THAT:

~~1.~~ ***(1)*** **REQUIRE EACH UNIT TO INCLUDE APPROPRIATE AIR BARRIERS TO LIMIT INFILTRATION;**

~~2.~~ ***(2)*** **REQUIRE THAT EACH UNIT BE CONSTRUCTED IN A MANNER THAT PROVIDES PROTECTION AGAINST WATER DAMAGE THROUGH THE USE OF PROPER ROOFING MATERIALS, EXTERIOR SHEATHING, WATER DRAINAGE SYSTEMS, AND FLASHING;**

~~3.~~ *(3)* **REQUIRE THAT EACH UNIT PROVIDE CONTINUOUS FORCED VENTILATION WHEN THE UNIT IS OCCUPIED;**

~~4.~~ *(4)* **REQUIRE EACH UNIT TO INCLUDE A PROGRAMMABLE THERMOSTAT;**

~~5.~~ *(5)* **REQUIRE EACH UNIT TO BE OUTFITTED WITH ~~AN~~ ENERGY EFFICIENT LIGHTING AND HEATING AND AIR–CONDITIONING ~~SYSTEM~~ *SYSTEMS*; AND**

~~6.~~ *(6)* **MANDATE THAT EACH UNIT BE CONSTRUCTED WITH BUILDING MATERIALS THAT CONTAIN LOW AMOUNTS OF VOLATILE ORGANIC COMPOUNDS (VOC).**

[~~(iii)~~**](IV)** ~~In the budgets for fiscal years 2006 through 2008, the Governor shall include $1,000,000 for public school construction, in excess of the estimates of funding for public school construction contained in the fiscal year 2005 through fiscal year 2009 Capital Improvement Plan, to be used to fund the State share of the cost of purchasing relocatable classrooms.~~

~~(3)~~ ~~(i) The Board of Public Works shall include modular construction as an approved public school construction or capital cost.~~

~~(ii) The Board of Public Works, at the recommendation of the Interagency Committee on School Construction, shall adopt regulations that:~~

~~1. Define modular construction; and~~

~~2. Establish the minimum specifications required for approval of modular construction as a public school construction or capital improvement cost.~~

~~(4) The cost of acquiring land may not be considered a construction or capital improvement cost and may not be paid by the State.~~

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 relocatable classrooms purchased or leased before the effective date of this Act.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 24, 2007.