

**LAWS**  
**OF THE**  
**STATE OF MARYLAND**  
**ENACTED**

At the Session of the General Assembly Begun and Held in the  
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**VOLUME II**

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The Department of Legislative Services  
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## CHAPTER 129

(Senate Bill 417)

AN ACT concerning

### **Public Service Commission - Energy Efficiency and Conservation Programs and Services - ~~Prohibition of Surcharge Without Customer Consent~~ Notification and Report**

FOR the purpose of ~~prohibiting the Public Service Commission from approving any program or service for the use and conservation of energy that requires or allows a gas company or an electric company to provide a product or service to a gas customer or an electric customer for which the customer would be charged a surcharge without a certain consent; requiring a gas company or an electric company under certain circumstances to separately state a certain surcharge and clearly describe the purpose of the surcharge on a customer's bill; requiring, under certain circumstances, a gas company or an electric company to refund the amount of the surcharge or credit the amount of the surcharge; requiring electric companies and gas companies to provide certain customers with notice of certain energy efficiency and conservation charges and benefits in a certain manner with a certain frequency; requiring the Public Service Commission to report to the General Assembly on the status of certain energy efficiency and conservation programs on certain dates; making a stylistic change; making this Act an emergency measure; and generally relating to energy efficiency and conservation programs and services approved by the Public Service Commission.~~

BY repealing and reenacting, with amendments,  
Article - Public Utility Companies  
Section 7-211  
Annotated Code of Maryland  
(1998 Volume and 2007 Supplement)

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

#### **Article - Public Utility Companies**

7-211.

(a) Subject to review and approval by the Commission, each gas company and electric company shall develop and implement programs and services to encourage

and promote the efficient use and conservation of energy by consumers, gas companies, and electric companies.

(b) The Commission shall:

(1) require each gas company and electric company to establish any program or service that the Commission deems appropriate and cost effective to encourage and promote the efficient use and conservation of energy;

(2) adopt rate-making policies that provide cost recovery and, in appropriate circumstances, reasonable financial incentives for gas companies and electric companies to establish programs and services that encourage and promote the efficient use and conservation of energy; and

(3) ensure that adoption of electric customer choice under Subtitle 5 of this title does not adversely impact the continuation of cost effective energy conservation and efficiency programs.

~~(c) (1) THE COMMISSION MAY NOT APPROVE ANY PROGRAM OR SERVICE FOR THE USE AND CONSERVATION OF ENERGY THAT REQUIRES OR ALLOWS A GAS COMPANY OR AN ELECTRIC COMPANY TO PROVIDE, DIRECTLY OR INDIRECTLY, A PRODUCT OR A SERVICE TO A GAS CUSTOMER OR AN ELECTRIC CUSTOMER FOR WHICH THE CUSTOMER WOULD BE ASSESSED A SURCHARGE ON THE CUSTOMER'S GAS BILL OR ELECTRIC BILL WITHOUT THE PRIOR WRITTEN CONSENT OF THE CUSTOMER.~~

~~(2) IF A CUSTOMER CONSENTS TO A SURCHARGE FOR A PRODUCT OR A SERVICE FOR THE USE AND CONSERVATION OF ENERGY, THE GAS COMPANY OR THE ELECTRIC COMPANY SHALL, ON THE CUSTOMER'S BILL:~~

~~(i) SEPARATELY STATE THE SURCHARGE; AND~~

~~(ii) CLEARLY DESCRIBE THE PURPOSE OF THE SURCHARGE AT LEAST ONCE EACH YEAR, EACH ELECTRIC COMPANY AND GAS COMPANY SHALL NOTIFY AFFECTED CUSTOMERS OF THE ENERGY EFFICIENCY AND CONSERVATION CHARGES IMPOSED AND BENEFITS CONFERRED BY:~~

~~(1) PUBLICATION ON THE COMPANY'S WEBSITE; AND~~

~~(2) INCLUSION WITH BILLING INFORMATION SUCH AS A BILL INSERT OR BILL MESSAGE.~~

~~[(c)] (D) (1) On or before February 1, ~~2001~~, 2009, AND EVERY 2 YEARS THEREAFTER~~ the Commission, in consultation with the Maryland Energy

Administration, shall report, ~~subject to~~ IN ACCORDANCE WITH § 2-1246 of the State Government Article, to the General Assembly on:

(i) the status of programs and services to encourage and promote the efficient use and conservation of energy; and

(ii) a recommendation for the appropriate funding level to adequately fund these programs and services.

(2) In determining whether a program or service encourages and promotes the efficient use and conservation of energy, the Commission shall consider, among other factors:

(i) the impact on jobs;

(ii) the impact on the environment;

(iii) the impact on rates; and

(iv) the cost-effectiveness.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, if on or after September 1, 2007, a gas company or an electric company has collected any surcharge for a product or a service for the use and conservation of energy without the prior written consent of the customer surcharged, the gas company or the electric company shall refund the amount of the surcharge to the customer or credit the amount of the surcharge to the customer's account.~~

SECTION ~~3~~ 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, 2008.



## CHAPTER 130

(House Bill 608)

AN ACT concerning

**Public Service Commission – Energy Efficiency and Conservation Programs  
and Services – ~~Prohibition of Surcharge Without Customer Consent~~  
Notification and Report**

FOR the purpose of ~~prohibiting the Public Service Commission from approving any program or service for the use and conservation of energy that requires or allows a gas company or an electric company to provide a product or service to a gas customer or an electric customer for which the customer would be charged a surcharge without a certain consent; requiring a gas company or an electric company under certain circumstances to separately state a certain surcharge and clearly describe the purpose of the surcharge on a customer's bill; requiring, under certain circumstances, a gas company or an electric company to refund the amount of the surcharge or credit the amount of the surcharge; requiring electric companies and gas companies to provide certain customers with notice of certain energy efficiency and conservation charges and benefits in a certain manner with a certain frequency; requiring the Public Service Commission to report to the General Assembly on the status of certain energy efficiency and conservation programs on certain dates; making a stylistic change; making this Act an emergency measure; and generally relating to energy efficiency and conservation programs and services approved by the Public Service Commission.~~

BY repealing and reenacting, with amendments,  
Article – Public Utility Companies  
Section 7-211  
Annotated Code of Maryland  
(1998 Volume and 2007 Supplement)

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

**Article – Public Utility Companies**

7-211.

(a) Subject to review and approval by the Commission, each gas company and electric company shall develop and implement programs and services to encourage and promote the efficient use and conservation of energy by consumers, gas companies, and electric companies.

(b) The Commission shall:

(1) require each gas company and electric company to establish any program or service that the Commission deems appropriate and cost effective to encourage and promote the efficient use and conservation of energy;

(2) adopt rate-making policies that provide cost recovery and, in appropriate circumstances, reasonable financial incentives for gas companies and electric companies to establish programs and services that encourage and promote the efficient use and conservation of energy; and

(3) ensure that adoption of electric customer choice under Subtitle 5 of this title does not adversely impact the continuation of cost effective energy conservation and efficiency programs.

~~(C) (1) THE COMMISSION MAY NOT APPROVE ANY PROGRAM OR SERVICE FOR THE USE AND CONSERVATION OF ENERGY THAT REQUIRES OR ALLOWS A GAS COMPANY OR AN ELECTRIC COMPANY TO PROVIDE, DIRECTLY OR INDIRECTLY, A PRODUCT OR A SERVICE TO A GAS CUSTOMER OR AN ELECTRIC CUSTOMER FOR WHICH THE CUSTOMER WOULD BE ASSESSED A SURCHARGE ON THE CUSTOMER'S GAS BILL OR ELECTRIC BILL WITHOUT THE PRIOR WRITTEN CONSENT OF THE CUSTOMER.~~

~~(2) IF A CUSTOMER CONSENTS TO A SURCHARGE FOR A PRODUCT OR A SERVICE FOR THE USE AND CONSERVATION OF ENERGY, THE GAS COMPANY OR THE ELECTRIC COMPANY SHALL, ON THE CUSTOMER'S BILL:~~

~~(i) SEPARATELY STATE THE SURCHARGE; AND~~

~~(ii) CLEARLY DESCRIBE THE PURPOSE OF THE SURCHARGE AT LEAST ONCE EACH YEAR, EACH ELECTRIC COMPANY AND GAS COMPANY SHALL NOTIFY AFFECTED CUSTOMERS OF THE ENERGY EFFICIENCY AND CONSERVATION CHARGES IMPOSED AND BENEFITS CONFERRED BY:~~

~~(1) PUBLICATION ON THE COMPANY'S WEBSITE; AND~~

~~(2) INCLUSION WITH BILLING INFORMATION SUCH AS A BILL INSERT OR BILL MESSAGE.~~

~~[(c)] (D) (1) On or before February 1, ~~2004~~ 2009, AND EVERY 2 YEARS THEREAFTER, the Commission, in consultation with the Maryland Energy Administration, shall report, ~~subject to~~ IN ACCORDANCE WITH § 2-1246 of the State Government Article, to the General Assembly on:~~

~~(i) the status of programs and services to encourage and promote the efficient use and conservation of energy; and~~

~~(ii) a recommendation for the appropriate funding level to adequately fund these programs and services.~~



(2) In determining whether a program or service encourages and promotes the efficient use and conservation of energy, the Commission shall consider, among other factors:

- (i) the impact on jobs;
- (ii) the impact on the environment;
- (iii) the impact on rates; and
- (iv) the cost-effectiveness.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, if on or after September 1, 2007, a gas company or an electric company has collected any surcharge for a product or a service for the use and conservation of energy without the prior written consent of the customer surcharged, the gas company or the electric company shall refund the amount of the surcharge to the customer or credit the amount of the surcharge to the customer's account.~~

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 24, 2008.

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## CHAPTER 131

(House Bill 374)

AN ACT concerning

### **EmPOWER Maryland Energy Efficiency Act of 2008**

FOR the purpose of establishing the State goal of achieving certain percentage reductions in per capita electricity consumption and peak demand by the end of a certain year; requiring the Public Service Commission to make certain calculations each year and to report those calculations to the General Assembly each year as part of its annual report; requiring certain municipal electric utilities and ~~small~~ certain rural electric cooperatives to include certain

programs or services to encourage and promote the efficient use and conservation of energy as part of their service to their customers; requiring that, by certain dates, the ~~Public Service~~ Commission shall adopt regulations or issue orders requiring each electric company to procure or provide to certain customers certain energy efficiency and conservation ~~measures~~ programs and services that are designed to achieve certain energy reduction targets by certain dates; requiring electric companies to submit to the Commission a certain plan by certain dates; requiring electric companies to consult with the Maryland Energy Administration regarding certain plans; requiring the Administration to provide certain findings to the Commission; requiring the Commission to review certain plans by a certain time; authorizing the Commission and the Administration to request certain information; *prohibiting the Commission from requiring or allowing an electric company to require an electric customer to allow the electric company to control the amount of the electric customer's electricity usage; requiring the Commission, by regulation or order, to require certain electric companies to implement certain rate adjustment mechanisms for certain customers* requiring the Commission to monitor and analyze the impact of certain programs and services; requiring the Commission to direct electric companies to include certain information in a certain annual update and certain demand response programs for certain customers; requiring the Commission to submit certain reports to the Governor and the General Assembly by certain dates; requiring the Commission to evaluate certain technology and authorizing the Commission to require its implementation; *authorizing the Commission to impose a certain special assessment on certain electric companies for a certain fiscal year; authorizing amounts collected from a special assessment to be expended in accordance with an approved budget amendment for certain expenses*; requiring the Administration, on or before a certain date, to review the anticipated achievement of certain goals for a certain purpose and, after providing opportunity for public comment, *report its findings to certain committees; requiring the Administration, on or before a certain date, to study the feasibility of setting certain targets for natural gas companies and, after providing opportunity for public comment, report its findings to certain committees*; defining certain terms; and generally relating to energy efficiency and demand management ~~measures~~ programs and services.

BY repealing and reenacting, with amendments,  
 Article – Public Utility Companies  
 Section 7-211 ~~and 7-510(c)(4)(ii)2.C.~~  
 Annotated Code of Maryland  
 (1998 Volume and 2007 Supplement)

~~BY adding to~~  
~~Article – Public Utility Companies~~  
~~Section 7-213 and 7-214~~  
~~Annotated Code of Maryland~~

~~(1998 Volume and 2007 Supplement)~~

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

**Article - Public Utility Companies**

7-211.

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

(2) “DEMAND RESPONSE PROGRAM” MEANS A PROGRAM ESTABLISHED BY AN ELECTRIC COMPANY THAT PROMOTES CHANGES IN ELECTRIC USAGE BY CUSTOMERS FROM THEIR NORMAL CONSUMPTION PATTERNS IN RESPONSE TO:

(I) CHANGES IN THE PRICE OF ELECTRICITY OVER TIME;  
OR

(II) INCENTIVES DESIGNED TO INDUCE LOWER ELECTRICITY USE AT TIMES OF HIGH WHOLESALE MARKET PRICES OR WHEN SYSTEM RELIABILITY IS JEOPARDIZED.

(3) “ELECTRICITY CONSUMPTION” AND “ELECTRICITY CONSUMED” MEAN THE SUM OF RETAIL ELECTRICITY SALES TO ALL CUSTOMERS AND REPORTED ELECTRICITY LOSSES WITHIN THE ELECTRIC DISTRIBUTION SYSTEM.

~~(2)~~ (4) “PEAK DEMAND” MEANS THE HIGHEST LEVEL OF ELECTRICITY DEMAND IN THE STATE MEASURED IN MEGAWATTS DURING THE PERIOD FROM MAY 1 TO SEPTEMBER 30 ON A WEATHER-NORMALIZED BASIS.

(5) “PER CAPITA ELECTRICITY CONSUMPTION” MEANS THE RESULT CALCULATED BY DIVIDING THE TOTAL GIGAWATT-HOURS OF ELECTRICITY CONSUMED BY ELECTRICITY CUSTOMERS IN THE STATE AS OF DECEMBER 31 OF A YEAR, AS DETERMINED BY THE COMMISSION, BY THE POPULATION OF THE STATE AS OF DECEMBER 31 OF THAT YEAR, AS DETERMINED BY THE DEPARTMENT OF PLANNING.

~~(3)~~ (6) “PLAN” MEANS AN ELECTRICITY SAVINGS AND DEMAND REDUCTION PLAN AND COST RECOVERY PROPOSAL.

**(B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:**

**(1) ENERGY EFFICIENCY IS AMONG THE LEAST EXPENSIVE WAYS TO MEET THE GROWING ELECTRICITY DEMANDS OF THE STATE; AND**

**(2) TO PROVIDE AFFORDABLE, RELIABLE, AND CLEAN ENERGY FOR CONSUMERS OF MARYLAND, IT IS THE GOAL OF THE STATE TO ACHIEVE THE FOLLOWING ENERGY EFFICIENCY, CONSERVATION, AND DEMAND RESPONSE TARGETS, BASED ON 2007 ELECTRICITY CONSUMPTION:**

**(I) A 15% REDUCTION IN PER CAPITA ELECTRICITY CONSUMPTION BY THE END OF 2015; AND**

**(II) A 15% REDUCTION IN PER CAPITA PEAK DEMAND BY THE END OF 2015.**

**(C) BEGINNING WITH THE 2008 CALENDAR YEAR AND EACH YEAR THEREAFTER, THE COMMISSION SHALL CALCULATE:**

**(1) THE PER CAPITA ELECTRICITY CONSUMPTION FOR THAT YEAR; AND**

**(2) THE PEAK DEMAND FOR THAT YEAR.**

**[(a)] ~~(C)~~ (D)** Subject to review and approval by the Commission, each gas company and electric company shall develop and implement programs and services to encourage and promote the efficient use and conservation of energy by consumers, gas companies, and electric companies.

**~~(D)~~ (E)** **AS DIRECTED BY THE COMMISSION, EACH MUNICIPAL ELECTRIC UTILITY AND ~~SMALL-RURAL~~ EACH ELECTRIC COOPERATIVE THAT SERVES A POPULATION OF LESS THAN 250,000 IN ITS DISTRIBUTION TERRITORY SHALL INCLUDE ~~THESE~~ ENERGY EFFICIENCY AND CONSERVATION PROGRAMS OR SERVICES AS PART OF THEIR SERVICE TO THEIR CUSTOMERS.**

**[(b)] ~~(E)~~ (F)** The Commission shall:

**(1)** require each gas company and electric company to establish any program or service that the Commission deems appropriate and cost effective to encourage and promote the efficient use and conservation of energy;

**(2)** adopt rate-making policies that provide cost recovery and, in appropriate circumstances, reasonable financial incentives for gas companies and

electric companies to establish programs and services that encourage and promote the efficient use and conservation of energy; and

(3) ensure that adoption of electric customer choice under Subtitle 5 of this title does not adversely impact the continuation of cost effective energy conservation and efficiency programs.

~~(F)~~ **(G) ON EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, ON OR BEFORE DECEMBER 31, 2008, BY REGULATION OR ORDER, THE COMMISSION SHALL:**

**(1) TO THE EXTENT THAT THE COMMISSION DETERMINES THAT COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND SERVICES ARE AVAILABLE, FOR EACH AFFECTED CLASS, REQUIRE EACH ELECTRIC COMPANY TO PROCURE OR PROVIDE FOR ITS ELECTRICITY CUSTOMERS COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION MEASURES PROGRAMS AND SERVICES WITH PROJECTED AND VERIFIABLE ENERGY ELECTRICITY SAVINGS THAT ARE DESIGNED TO ACHIEVE THE FOLLOWING:**

~~(1)~~ **A TARGETED REDUCTION OF AT LEAST 5% BY THE END OF 2011 AND 10% BY THE END OF 2015 OF PER CAPITA ELECTRICITY CONSUMED IN THE ELECTRIC COMPANY'S SERVICE TERRITORY DURING 2007; AND**

**(2) REQUIRE EACH ELECTRIC COMPANY TO IMPLEMENT A COST-EFFECTIVE DEMAND RESPONSE PROGRAM IN THE ELECTRIC COMPANY'S SERVICE TERRITORY THAT IS DESIGNED TO ACHIEVE A TARGETED REDUCTION OF AT LEAST 5% BY THE END OF 2011, 10% BY THE END OF 2013, AND 15% BY THE END OF 2015, IN PER CAPITA PEAK DEMAND OF ELECTRICITY CONSUMED IN THE ELECTRIC COMPANY'S SERVICE TERRITORY DURING 2007.**

~~(G)~~ **(H) (1) (i) ON OR BEFORE ~~OCTOBER~~ JULY 1, 2008, AND EVERY 3 YEARS THEREAFTER, EACH ELECTRIC COMPANY SHALL ~~SUBMIT TO THE COMMISSION AN ELECTRICITY SAVINGS AND DEMAND REDUCTION PLAN AND COST RECOVERY PROPOSAL FOR THE 3 SUBSEQUENT CALENDAR YEARS~~ CONSULT WITH THE MARYLAND ENERGY ADMINISTRATION REGARDING THE DESIGN AND ADEQUACY OF THE ELECTRIC COMPANY'S PLAN TO ACHIEVE THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGETS SPECIFIED IN SUBSECTION (G) OF THIS SECTION.**

**(ii) AN ELECTRIC COMPANY SHALL PROVIDE THE MARYLAND ENERGY ADMINISTRATION WITH ANY ADDITIONAL INFORMATION REGARDING THE PLAN, AS REQUESTED.**

(2) ON OR BEFORE SEPTEMBER 1, 2008, AND EVERY 3 YEARS THEREAFTER, AN ELECTRIC COMPANY SHALL SUBMIT ITS PLAN TO THE COMMISSION THAT DETAILS THE ELECTRIC COMPANY'S PROPOSALS FOR ACHIEVING THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGETS SPECIFIED IN SUBSECTION (G) OF THIS SECTION FOR THE 3 SUBSEQUENT CALENDAR YEARS.

(3) THE COMMISSION SHALL CONSIDER ANY WRITTEN FINDINGS PROVIDED BY THE MARYLAND ENERGY ADMINISTRATION REGARDING THE DESIGN AND ADEQUACY OF THE PLAN.

~~(H)~~ (4) EACH ELECTRIC COMPANY SHALL PROVIDE ANNUAL UPDATES TO THE COMMISSION AND THE MARYLAND ENERGY ADMINISTRATION ON PLAN IMPLEMENTATION AND PROGRESS TOWARDS ACHIEVING THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGETS SPECIFIED IN SUBSECTION (F) (G) OF THIS SECTION.

~~(2) BEFORE SUBMITTING THE PLAN TO THE COMMISSION, EACH ELECTRIC COMPANY SHALL CONSULT WITH THE MARYLAND ENERGY ADMINISTRATION REGARDING PROGRAM DESIGN AND ADEQUACY OF THE PLANS TO ACHIEVE THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGETS SPECIFIED IN SUBSECTION (F) OF THIS SECTION.~~

~~(3)~~ (5) (I) THE PLAN SHALL INCLUDE A DESCRIPTION OF THE THE PROPOSED ENERGY EFFICIENCY AND CONSERVATION MEASURES PROGRAMS AND SERVICES AND THE PROPOSED DEMAND RESPONSE PROGRAM, ANTICIPATED COSTS, PROJECTED ELECTRICITY SAVINGS, AND ANY OTHER INFORMATION REQUESTED BY THE COMMISSION.

(II) THE PLAN SHALL ADDRESS RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SECTORS AS APPROPRIATE, INCLUDING LOW-INCOME COMMUNITIES AND LOW- TO MODERATE-INCOME COMMUNITIES.

~~(4) BEFORE THE COMMISSION TAKES ACTION ON THE PLAN, THE MARYLAND ENERGY ADMINISTRATION SHALL PROVIDE WRITTEN FINDINGS TO THE COMMISSION WITH RESPECT TO PROGRAM DESIGN AND THE ADEQUACY OF THE PLAN TO ACHIEVE THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGETS SPECIFIED IN SUBSECTION (F) OF THIS SECTION.~~

~~(5)~~ (6) THE COMMISSION SHALL REVIEW EACH ELECTRIC COMPANY'S PLAN TO DETERMINE IF THE PLAN IS ADEQUATE AND

COST-EFFECTIVE IN ACHIEVING THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGETS SPECIFIED IN SUBSECTION ~~(F)~~ (G) OF THIS SECTION.

~~(6) THE COMMISSION AND THE MARYLAND ENERGY ADMINISTRATION MAY REQUEST ADDITIONAL INFORMATION FROM AN ELECTRIC COMPANY REGARDING ITS PLAN.~~

(I) (1) IN DETERMINING WHETHER A PROGRAM OR SERVICE ENCOURAGES AND PROMOTES THE EFFICIENT USE AND CONSERVATION OF ENERGY, THE COMMISSION SHALL CONSIDER THE:

- (I) COST-EFFECTIVENESS;
- (II) IMPACT ON RATES OF EACH RATEPAYER CLASS;
- (III) IMPACT ON JOBS; AND
- (IV) IMPACT ON THE ENVIRONMENT.

(2) THE COMMISSION SHALL MONITOR AND ANALYZE THE IMPACT OF EACH PROGRAM AND SERVICE TO ENSURE THAT THE OUTCOME OF EACH PROGRAM AND SERVICE PROVIDES THE BEST POSSIBLE RESULTS.

(3) IN MONITORING AND ANALYZING THE IMPACT OF A PROGRAM OR SERVICE UNDER PARAGRAPH (2) OF THIS SUBSECTION, IF THE COMMISSION FINDS THAT THE OUTCOME OF THE PROGRAM OR SERVICES MAY NOT BE PROVIDING THE BEST POSSIBLE RESULTS, THE COMMISSION SHALL DIRECT THE ELECTRIC COMPANY TO INCLUDE IN ITS ANNUAL UPDATE UNDER SUBSECTION (H)(4) OF THIS SECTION SPECIFIC MEASURES TO ADDRESS THE FINDINGS.

(J) (1) AT LEAST ONCE EACH YEAR, EACH ELECTRIC COMPANY AND GAS COMPANY SHALL NOTIFY AFFECTED CUSTOMERS OF THE ENERGY EFFICIENCY AND CONSERVATION CHARGES IMPOSED AND BENEFITS CONFERRED.

(2) THE NOTICE SHALL BE PROVIDED BY PUBLICATION ON THE COMPANY'S WEBSITE AND INCLUSION WITH BILLING INFORMATION SUCH AS A BILL INSERT OR BILL MESSAGE.

~~[(c)] (H) (4) (K) On or before [February 1, 2001] FEBRUARY 15, 2009, AND EVERY 3 YEARS THEREAFTER MARCH 1 OF EACH YEAR, the~~

Commission, in consultation with the Maryland Energy Administration, shall report, subject to § 2-1246 of the State Government Article, to the General Assembly on:

~~(i) (1)~~ the status of programs and services to encourage and promote the efficient use and conservation of energy, INCLUDING AN EVALUATION OF THE IMPACT OF THE PROGRAMS AND SERVICES THAT ARE DIRECTED TO LOW-INCOME COMMUNITIES, LOW- TO MODERATE-INCOME COMMUNITIES TO THE EXTENT POSSIBLE, AND OTHER PARTICULAR CLASSES OF RATEPAYERS; and

~~(ii) (2)~~ a recommendation for the appropriate funding level to adequately fund these programs and services; AND

(3) IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBSECTION SUBSECTION (C) OF THIS SECTION, THE PER CAPITA ELECTRICITY CONSUMPTION AND THE PEAK DEMAND FOR THE PREVIOUS CALENDAR YEAR.

(L) NOTWITHSTANDING ANY OTHER LAW, THE COMMISSION MAY NOT REQUIRE OR ALLOW AN ELECTRIC COMPANY TO REQUIRE AN ELECTRIC CUSTOMER TO AUTHORIZE THE ELECTRIC COMPANY TO CONTROL THE AMOUNT OF THE ELECTRIC CUSTOMER'S ELECTRICITY USAGE, INCLUDING THROUGH CONTROL OF THE ELECTRIC CUSTOMER'S THERMOSTAT.

~~(2) In determining whether a program or service encourages and promotes the efficient use and conservation of energy, the Commission shall consider, among other factors:~~

- ~~(i) the impact on jobs;~~
- ~~(ii) the impact on the environment;~~
- ~~(iii) the impact on rates; and~~
- ~~(iv) the cost-effectiveness.~~

~~7-213.~~

~~(A) IN THIS SECTION, "RATE DECOUPLING" MEANS A RATE ADJUSTMENT MECHANISM THAT SEPARATES A UTILITY COMPANY'S AGREED ON FIXED COSTS, INCLUDING ALLOWED EARNINGS, FROM THE ACTUAL VOLUME OF UNIT SALES THAT OCCUR.~~

~~(B) ON OR BEFORE DECEMBER 31, 2008, BY REGULATION OR ORDER, THE COMMISSION SHALL REQUIRE EACH ELECTRIC COMPANY TO IMPLEMENT~~



~~RATE DECOUPLING FOR CUSTOMERS IN THE ELECTRIC COMPANY'S SERVICE TERRITORY.~~

~~7-214.~~

~~(A) IN THIS SECTION, "DEMAND RESPONSE PROGRAM" MEANS A PROGRAM ESTABLISHED BY AN ELECTRIC COMPANY THAT PROMOTES CHANGES IN ELECTRIC USAGE BY CUSTOMERS FROM THEIR NORMAL CONSUMPTION PATTERNS IN RESPONSE TO:~~

~~(1) CHANGES IN THE PRICE OF ELECTRICITY OVER TIME; OR~~

~~(2) INCENTIVES DESIGNED TO INDUCE LOWER ELECTRICITY USE AT TIMES OF HIGH WHOLESALE MARKET PRICES OR WHEN SYSTEM RELIABILITY IS JEOPARDIZED.~~

~~(B) ON OR BEFORE DECEMBER 31, 2008, BY REGULATION OR ORDER, THE COMMISSION SHALL REQUIRE EACH ELECTRIC COMPANY TO IMPLEMENT A DEMAND RESPONSE PROGRAM FOR RESIDENTIAL CUSTOMERS IN THE ELECTRIC COMPANY'S SERVICE TERRITORY.~~

~~7-510.~~

~~(c) (4) (ii) 2. C. By regulation or order, as a part of the competitive process, the Commission shall require [or allow] the procurement of cost effective energy efficiency and conservation measures and services [with projected and verifiable energy savings to offset anticipated demand to be served by standard offer service,] IN ACCORDANCE WITH §§ 7-211(B) AND (E) AND 7-214 OF THIS SUBTITLE and SHALL REQUIRE OR ALLOW the imposition of other cost effective demand side management programs.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Public Service Commission shall evaluate whether advance meter technology, commonly known as "smart meters," and digital automation of the components of the entire power supply system, commonly known as "smart grid," are cost-effective in reducing consumption and peak demand of electricity in Maryland. If smart meter or smart grid technology are found to be cost-effective, the Commission may require, by regulation or order, each electric company to implement as appropriate smart meter or smart grid technology in its service territory.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) Notwithstanding any other provision of law, for fiscal year 2009 only, in addition to the amounts appropriated in the budget bill for fiscal 2009 and in

accordance with § 2-110 of the Public Utility Companies Article, the Public Service Commission may impose up to \$300,000 as a special assessment for the Commission and the Office of the People's Counsel to accomplish the requirements of this Act.

(b) Of the \$300,000 that may be collected under paragraph (1) of this subsection:

(1) up to \$250,000 may be expended in accordance with an approved budget amendment for consultants, personnel, and related expenses of the Commission, as deemed necessary by the Commission to accomplish the requirements of this Act; and

(2) up to \$50,000 may be expended in accordance with an approved budget amendment for consultants, personnel, and related expenses of the Office of the People's Counsel, as deemed necessary by the Office of the People's Counsel to accomplish the requirements of this Act.

(c) The special assessment shall be imposed only on those electric companies otherwise subject to the assessment under § 2-110 of the Public Utility Companies Article.

(d) The bill sent to each electric company subject to the assessment shall equal the product of multiplying:

(1) the amount authorized to be collected under this subsection; and

(2) the ratio of gross operating revenues of the entity subject to the assessment to the total gross operating revenues for all entities subject to the assessment.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That, on or before December 31, 2012, the Maryland Energy Administration, in consultation with the Public Service Commission, shall:

(1) review the anticipated achievement of the goals specified under § 7-211(b)(2) of the Public Utility Companies Article as enacted by this Act for purposes of determining whether electricity consumption and peak demand reduction targets should be set beyond 2015; and

(2) after providing opportunity for public comment, report its findings, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, on or before December 31, 2012, the Maryland Energy Administration, in consultation with the Public Service Commission, shall:

(1) study the feasibility of setting energy savings targets in 2015 and 2020 for natural gas companies; and

(2) after providing opportunity for public comment, report its findings, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~3~~ ~~5~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 132

(House Bill 377)

AN ACT concerning

### **Solar and Geothermal Tax Incentive and Grant Program**

FOR the purpose of altering the grant amounts awarded under the Solar Energy Grant Program and the Geothermal Heat Pump Grant Program in the Maryland Energy Administration; authorizing the Administration to adjust the grant amounts under the programs under certain circumstances; exempting from the sales and use tax a sale of certain geothermal equipment and solar energy equipment; exempting from the State and local property tax certain ~~geothermal property and~~ solar energy property; requiring that certain geothermal property be assessed at no more than a certain value; defining certain terms; repealing a certain State property tax exemption; providing for the application of certain provisions of this Act; and generally relating to State and local solar and geothermal energy incentives.

BY repealing and reenacting, with amendments,

Article – State Government

Section 9-2007 and 9-2008

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY adding to

Article – Tax – General

Section 11-230

Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY adding to  
Article – Tax – Property  
Section 7-242  
Annotated Code of Maryland  
(2007 Replacement Volume)

BY repealing  
Article – Tax – Property  
Section 7-308  
Annotated Code of Maryland  
(2007 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Tax – Property  
Section 8-240  
Annotated Code of Maryland  
(2007 Replacement Volume)

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

**Article – State Government**

9-2007.

(a) (1) In this section the following words have the meanings indicated.

**(2) “INSTALLED ELECTRICITY GENERATION CAPACITY” MEANS THE MAXIMUM DIRECT CURRENT POWER OUTPUT IN WATTS OF THE ARRAY OF PHOTOVOLTAIC MODULES RATED UNDER STANDARD TEST CONDITION.**

**[(2)] (3) “Photovoltaic property” means solar energy property WITH AN INSTALLED ELECTRICITY GENERATION CAPACITY OF 20 KILOWATTS OR LESS that uses a solar photovoltaic process to generate electricity and that meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Maryland Energy Administration.**

**[(3)] (4) “Program” means the Solar Energy Grant Program.**

**[(4)] (5) (i) “Solar energy property” means equipment that uses solar energy:**

1. to generate electricity;
2. to heat or cool a structure or provide hot water for use in a structure; or
3. to provide solar process heat.

(ii) "Solar energy property" does not include a swimming pool, hot tub, or any other energy storage medium that has a function other than storage.

[(5)] (6) "Solar water heating property" means solar energy property that:

(i) when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within the structure; and

(ii) meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Maryland Energy Administration.

(b) There is a Solar Energy Grant Program in the Administration.

(c) The purpose of the Program is to provide grants to individuals, local governments, and businesses for a portion of the costs of acquiring and installing photovoltaic property and solar water heating property.

(d) The Administration shall:

- (1) administer the Program;
- (2) establish application procedures for the Program; and
- (3) award grants from the Program.

(e) A grant awarded under the Program may not exceed:

(1) for photovoltaic property ~~installed on residential property~~, the lesser of [\$3,000 or 20% of the total installed cost of the photovoltaic property] **\$2,500 PER KILOWATT OF INSTALLED ELECTRICITY GENERATION CAPACITY OR \$10,000; AND**

(2) ~~for photovoltaic property installed on nonresidential property, the lesser of \$5,000 or 20% of the total installed cost of the photovoltaic property; and~~

~~(3)~~ for solar water heating property, the lesser of [\$2,000 or 20%] **\$3,000 OR 30%** of the total installed cost of the solar water heating property.

**(F) SUBJECT TO THE LIMITATIONS IN SUBSECTION (E) OF THIS SECTION, THE ADMINISTRATION MAY ADJUST THE GRANT AMOUNTS UNDER THE PROGRAM TO REFLECT MARKET CONDITIONS AND THE PREVAILING PRICES OF PHOTOVOLTAIC PROPERTY AND SOLAR WATER HEATING PROPERTY.**

9-2008.

(a) (1) In this section the following words have the meanings indicated.

(2) "Geothermal heat pump" means a heating and cooling device that is installed using ground loop technology.

(3) "Program" means the Geothermal Heat Pump Grant Program.

**(4) "TON" MEANS 1 STANDARD TON OF REFRIGERATION EQUAL TO 12,000 BRITISH THERMAL UNITS OF HEAT REMOVAL PER HOUR.**

(b) There is a Geothermal Heat Pump Grant Program in the Administration.

(c) The purpose of the Program is to provide grants to individuals for a portion of the cost of acquiring and installing a geothermal heat pump.

(d) The Administration shall:

(1) administer the Program;

(2) establish application procedures for the Program; and

(3) award grants from the Program.

(e) A grant awarded under the Program may not exceed [\$1,000] **THE LESSER OF:**

**(1) \$1,000 PER TON OR \$3,000 FOR A RESIDENTIAL SYSTEM; AND**

**(2) \$1,000 PER TON OR \$10,000 FOR A NONRESIDENTIAL SYSTEM.**

**(F) SUBJECT TO THE LIMITATIONS IN SUBSECTION(E) OF THIS SECTION, THE ADMINISTRATION MAY ADJUST THE GRANT AMOUNTS UNDER THE PROGRAM TO REFLECT MARKET CONDITIONS AND THE PREVAILING PRICES OF GEOTHERMAL HEAT PUMP SYSTEMS.**

## Article - Tax - General

## 11-230.

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

(2) "GEOHERMAL EQUIPMENT" MEANS EQUIPMENT THAT USES GROUND LOOP TECHNOLOGY TO HEAT AND COOL A STRUCTURE.

(3) (I) "SOLAR ENERGY EQUIPMENT" MEANS EQUIPMENT THAT USES SOLAR ENERGY TO HEAT OR COOL A STRUCTURE, GENERATE ELECTRICITY TO BE USED IN A STRUCTURE, OR PROVIDE HOT WATER FOR USE IN A STRUCTURE.

(II) "SOLAR ENERGY EQUIPMENT" DOES NOT INCLUDE EQUIPMENT THAT IS PART OF A NONSOLAR ENERGY SYSTEM OR THAT USES ANY TYPE OF RECREATIONAL FACILITY OR EQUIPMENT AS A STORAGE MEDIUM.

(B) THE SALES AND USE TAX DOES NOT APPLY TO A SALE OF GEOHERMAL EQUIPMENT OR SOLAR ENERGY EQUIPMENT.

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

## Article - Tax - Property

## 7-242.

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

~~(2) "GEOHERMAL PROPERTY" MEANS A DEVICE THAT IS INSTALLED USING GROUND LOOP TECHNOLOGY TO HEAT AND COOL A STRUCTURE.~~

~~(3) "SOLAR SOLAR ENERGY PROPERTY" MEANS EQUIPMENT THAT IS INSTALLED TO USE SOLAR ENERGY TO HEAT OR COOL A STRUCTURE, GENERATE ELECTRICITY TO BE USED IN THE A STRUCTURE, OR PROVIDE HOT WATER FOR USE IN THE A STRUCTURE.~~

**(B) ~~GEOTHERMAL PROPERTY OR~~ EXCEPT AS PROVIDED IN § 8-240 OF THIS ARTICLE, SOLAR ENERGY PROPERTY IS NOT SUBJECT TO REAL PROPERTY TAX.**

[7-308.

(a) In this section, "dwelling" has the meaning stated in § 9-105 of this article.

(b) Real property is not subject to the State property tax if the property is a solar energy device installed to heat or cool a dwelling, generate electricity to be used in the dwelling, or provide hot water for use in the dwelling.]

8-240.

(a) If no conventional heating and cooling system exists in a building, a solar energy OR GEOTHERMAL heating and cooling system shall be assessed to the owner of the real property on which it is located at not more than the value of a conventional system.

(b) If a solar energy OR GEOTHERMAL heating and cooling system is installed in addition to a conventional system in a building, the combined system may be assessed to the owner of the real property on which it is located at not more than the value of the conventional system.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be applicable to all taxable years beginning after June 30, 2008.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 133**

**(Senate Bill 1013)**

AN ACT concerning



**Public Service Commission – Nuclear Decommissioning, Electric Industry  
Restructuring, and Acquisition and Financing Approvals**

FOR the purpose of authorizing the Public Service Commission to exercise certain authority as set forth in certain provisions of federal law under certain circumstances; providing for the construction of certain provisions of this Act; granting the circuit court jurisdiction to enforce certain provisions of law; providing for the application of certain provisions of this Act; authorizing the Commission to authorize the taking, holding, or acquiring of certain capital stock of a ~~certain~~ gas and electric company by a ~~certain~~ stock corporation or ~~certain~~ public utility under certain circumstances; providing that certain provisions of law apply to a gas and electric company; requiring a ~~certain~~ gas and electric company to provide the Commission with a copy of a certain document that is filed with a certain federal agency or commission under certain circumstances; requiring the Commission to provide a ~~certain~~ gas and electric company with certain confidentiality and other protections under certain circumstances; prohibiting a person from acquiring power to exercise certain influence over the policies and actions of a ~~certain~~ gas and electric company without prior authorization of the Commission under certain circumstances; providing that a person may not be considered to have acquired certain power to exercise substantial influence over the policies and actions of a gas and electric company under certain circumstances; authorizing the Commission to order compliance with, and take certain actions authorized by, certain provisions with respect to a ~~certain~~ gas and electric company under certain circumstances; requiring the Commission to consider a certain factor in considering a certain acquisition; requiring the Commission to issue a certain order within a certain time period after the filing of a certain application under certain circumstances; providing that, unless the Commission finds that a certain period should be extended by a certain time period, the failure of the Commission to issue a certain order within a certain time period shall be considered to be an approval of a certain acquisition; repealing a certain requirement of the Commission to conduct certain hearings, provide to certain customers funds for mitigation of certain rate increases, and require that certain funds be in the form of a nonbypassable credit on certain customer bills; altering the date by which a certain electric company shall determine and apply certain residential electric credits; altering the time periods during which an electric company shall determine and apply a certain credit; altering the form of a certain credit; requiring a certain electric company to determine and apply certain suspensions for a certain time period by a certain date under certain circumstances; altering the time frame within which a certain electric company must cease collecting a certain component of a certain charge; altering the time frame within which a certain credit of a certain nuclear decommissioning charge collected is to be imputed as if deposited in a certain trust fund and is to be credited against certain electric customer bills; providing that a one-time total credit of a certain amount be divided in a certain manner and credited against

certain residential electric customer bills by a certain date; providing that a certain nuclear decommissioning charge may be altered only in a certain manner under certain circumstances; providing that certain residential electric customer suspensions may not be recovered through electric rates; providing that certain ratepayers may not bear certain financial obligations with regard to a certain nuclear power plant under certain circumstances; providing that ratepayers shall be deemed to have paid a certain amount in accordance with a certain agreement under certain circumstances; providing that certain nuclear decommissioning rights and obligations shall be deemed fully extinguished and satisfied under certain circumstances; requiring a certain gas and electric company to implement certain depreciation accruals until certain circumstances exist; ~~providing that certain electric generation facilities constructed after a certain date shall be owned by an electric company; providing that power generated by certain electric generation facilities shall be first offered for sale to certain electric companies; providing that the Commission has jurisdiction over the sale of power generated from certain electric generation facilities;~~ requiring the Commission to review certain regulations; ~~providing for the construction of this Act;~~ declaring that the provisions of this Act are not severable; and generally relating to nuclear decommissioning, electric industry restructuring, and acquisition and financing approvals of public service companies.

BY repealing and reenacting, with amendments,  
 Article – Public Utility Companies  
 Section 3–109, 6–101(c), and 6–105  
 Annotated Code of Maryland  
 (1998 Volume and 2007 Supplement)

BY repealing  
 Chapter 5 of the Acts of the General Assembly of the Special Session of 2006, as amended by Chapter 549 of the Acts of the General Assembly of 2007  
 Section 5

BY repealing and reenacting, with amendments,  
 Chapter 549 of the Acts of the General Assembly of 2007  
 Section 2(a)(1) and (3)

BY repealing and reenacting, with amendments,  
 Chapter 5 of the Acts of the General Assembly of the Special Session of 2006  
 Section 6

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

**Article – Public Utility Companies**

3-109.

(a) On the request of a party to a proceeding in which a hearing is required or held, the Commission shall issue subpoenas to compel the attendance and testimony of witnesses and the production of documents at a hearing or deposition to be taken by the party.

(b) On its own motion, the Commission may issue a subpoena to compel the attendance and testimony of witnesses and the production of documents at a hearing or deposition to be taken by the Commission.

(c) A subpoena shall be signed and issued by a commissioner or the Executive Secretary of the Commission.

**(D) (1) THE COMMISSION MAY EXERCISE THE FULL AUTHORITY SET FORTH IN 42 U.S.C. § 16453(A) THROUGH (C) AS IF SET FORTH IN THIS ARTICLE.**

**(2) NOTHING IN THE GRANT OF AUTHORITY SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION MAY BE CONSTRUED TO PREEMPT OR LIMIT ANY OTHER AUTHORITY OF THE COMMISSION UNDER THIS ARTICLE.**

**(3) IN ADDITION TO THE AUTHORITY GRANTED TO THE COMMISSION UNDER FEDERAL LAW TO ENFORCE THE PROVISIONS OF 42 U.S.C. § 16453, THE CIRCUIT COURTS OF THE STATE HAVE JURISDICTION TO ENFORCE COMPLIANCE WITH THIS SUBSECTION.**

6-101.

(c) (1) This subsection does not apply to the formation of a holding company by a public service company in a corporate reorganization that involves an exchange of stock of the public service company for stock in the holding company.

(2) In this subsection, a company controlling a public service company is deemed a public service company of the same class as the controlled public service company.

(3) Without prior authorization of the Commission, a public service company may not take, hold, or acquire any part of the capital stock of a public service company that:

- (i) operates in Maryland; and
- (ii) is of the same class as the acquiring company.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, a stock corporation may not take, hold, or acquire more than 10% of the total capital stock of a public service company that operates in Maryland unless:

1. the stock is acquired as collateral security; and
2. the Commission approves the acquisition.

(ii) The Commission may authorize a public service company of the same class to take, hold, or acquire more than 10% of the total capital stock of a public service company that operates in Maryland.

(5) A public service company may not be a party to a violation of this subsection.

**(6) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, § 6-105 OF THIS SUBTITLE SHALL APPLY, AND THE PROVISIONS OF THIS SUBSECTION DO NOT APPLY, TO THE ACQUISITION, OWNERSHIP, OR DISPOSITION OF ANY CAPITAL STOCK ~~OF~~ OR VOTING SECURITIES OF A COMPANY THAT CONTROLS, DIRECTLY OR INDIRECTLY, A GAS AND ELECTRIC COMPANY.**

**(7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, THE COMMISSION MAY AUTHORIZE, IN ACCORDANCE WITH § 6-105 OF THIS SUBTITLE, THE TAKING, HOLDING, OR ACQUIRING OF ALL OR ANY PART OF THE CAPITAL STOCK OF A GAS AND ELECTRIC COMPANY THAT OPERATES IN THE STATE BY A STOCK CORPORATION OR A PUBLIC SERVICE COMPANY THAT IS NOT OF THE SAME CLASS AS THE GAS AND ELECTRIC COMPANY.**

6-105.

(a) In this section, "affiliate" has the meaning stated in § 7-501 of this article.

(b) (1) The General Assembly finds that:

(i) existing legislation requires the approval by the Commission of the acquisition by one public service company of another public service company's stocks and obligations, but does not require the Commission's approval of these acquisitions by persons not engaged in the public utility business in the State; and

(ii) an attempt by a person not engaged in the public utility business in the State to acquire the power to exercise any substantial influence over the policies and actions of a public service company that provides electricity or gas in

the State could result in harm to the customers of the public service company, including the degradation of utility services, higher rates, weakened financial structure, and diminution of utility assets.

(2) The General Assembly declares that it is the policy of the State to regulate acquisitions by persons that are not engaged in the public utility business in the State of the power to exercise any substantial influence over the policies and actions of a public service company that provides electricity or gas in the State in order to prevent unnecessary and unwarranted harm to the customers of the public service company.

(c) This section applies to the acquisition of an electric company, **GAS AND ELECTRIC COMPANY**, or a gas company that operates in Maryland.

(d) **(1) A GAS AND ELECTRIC COMPANY, AT THE SAME TIME AS A FILING BY THE COMPANY OR WITHIN 10 DAYS AFTER RECEIPT BY THE COMPANY, SHALL PROVIDE THE COMMISSION WITH A COPY OF ANY DOCUMENT REGARDING THE ACQUISITION OF VOTING SECURITIES OF THE GAS AND ELECTRIC COMPANY OR ANY COMPANY THAT OWNS OR CONTROLS THE GAS AND ELECTRIC COMPANY, FILED OR RECEIVED BY THE COMPANY, THAT IS FILED WITH:**

- (I) THE SECURITIES AND EXCHANGE COMMISSION;**
- (II) THE FEDERAL ENERGY REGULATORY COMMISSION;**
- (III) THE NUCLEAR REGULATORY COMMISSION;**
- (IV) THE DEPARTMENT OF JUSTICE;**
- (V) THE FEDERAL TRADE COMMISSION; OR**
- (VI) ANY SUCCESSOR AGENCY.**

**(2) THE COMMISSION SHALL PROVIDE THE GAS AND ELECTRIC COMPANY WITH THE SAME CONFIDENTIALITY AND OTHER PROTECTIONS PROVIDED BY THE FEDERAL AGENCY WITH WHICH THE FILING WAS MADE.**

**(E) (1)** Without prior authorization from the Commission, a person may not acquire, directly or indirectly, the power to exercise any substantial influence over the policies and actions of an electric company, **GAS AND ELECTRIC COMPANY**, or gas company, if the person would become an affiliate of the electric company, **GAS AND ELECTRIC COMPANY**, or gas company as a result of the acquisition.

**(2) FOR THE PURPOSES OF THIS SUBSECTION, A PERSON MAY NOT BE CONSIDERED TO HAVE ACQUIRED, DIRECTLY OR INDIRECTLY, THE POWER TO EXERCISE ANY SUBSTANTIAL INFLUENCE OVER THE POLICIES AND ACTIONS OF A GAS AND ELECTRIC COMPANY IF THE PERSON:**

**(I) AFTER ANY ACQUISITION OF VOTING INTERESTS OF A COMPANY THAT OWNS OR CONTROLS A GAS AND ELECTRIC COMPANY, DIRECTLY OR INDIRECTLY, OWNS, CONTROLS, OR HAS THE RIGHT TO VOTE, OR DIRECT THE VOTING OF, NOT MORE THAN 20% OF THE OUTSTANDING VOTING INTERESTS OF A COMPANY THAT OWNS OR CONTROLS A GAS AND ELECTRIC COMPANY; AND**

**(II) DOES NOT HAVE THE RIGHT TO DESIGNATE MORE THAN 20% OF THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A COMPANY THAT OWNS OR CONTROLS A GAS AND ELECTRIC COMPANY.**

**(3) PARAGRAPH (2) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO APPLY TO THE ACQUISITION OF ANY VOTING INTERESTS OF A GAS AND ELECTRIC COMPANY.**

**(4) IF A PERSON THAT ACQUIRES VOTING SECURITIES OF A COMPANY THAT OWNS OR CONTROLS A GAS AND ELECTRIC COMPANY AFTER THE ACQUISITION ACTUALLY EXERCISES SUBSTANTIAL INFLUENCE OVER THE POLICIES AND ACTIONS OF A GAS AND ELECTRIC COMPANY, THE COMMISSION MAY ORDER COMPLIANCE WITH, AND TAKE ANY ACTIONS AUTHORIZED BY, OTHER PROVISIONS OF THIS ARTICLE WITH RESPECT TO THE GAS AND ELECTRIC COMPANY.**

**[(e)] (F) An application for authorization under subsection [(d)] (E) of this section must include detailed information regarding:**

- (1) the applicant's identity and financial ability;**
- (2) the background of the key personnel associated with the applicant;**
- (3) the source and amounts of funds or other consideration to be used in the acquisition;**
- (4) the applicant's compliance with federal law in carrying out the acquisition;**

(5) whether the applicant or the key personnel associated with the applicant have violated any State or federal statutes regulating the activities of public service companies;

(6) all documents relating to the transaction giving rise to the application;

(7) the applicant's experience in operating public service companies providing electricity;

(8) the applicant's plan for operating the public service company;

(9) how the acquisition will serve the customers of the public service company in the public interest, convenience, and necessity; and

(10) any other information that the Commission may specify by regulation or order.

**[(f)] (G)** (1) The Commission promptly shall:

(i) examine and investigate each application received under this section; and

(ii) undertake any proceedings necessary or convenient to review the application in accordance with Title 3 of this article and issue an order concerning the acquisition.

(2) The Commission shall consider the following factors in considering an acquisition under this section:

(i) the potential impact of the acquisition on rates and charges paid by customers and on the services and conditions of operation of the public service company;

(ii) the potential impact of the acquisition on continuing investment needs for the maintenance of utility services, plant, and related infrastructure;

(iii) the proposed capital structure that will result from the acquisition, including allocation of earnings from the public service company;

(iv) the potential effects on employment by the public service company;

(v) the projected allocation of any savings that are expected to the public service company between stockholders and rate payers;

(vi) issues of reliability, quality of service, and quality of customer service;

(vii) the potential impact of the acquisition on community investment;

(viii) affiliate and cross-subsidization issues;

(ix) the use or pledge of utility assets for the benefit of an affiliate;

(x) jurisdictional and choice-of-law issues; [and]

(xi) **WHETHER IT IS NECESSARY TO REVISE THE COMMISSION'S RING FENCING AND CODE OF CONDUCT REGULATIONS IN LIGHT OF THE ACQUISITION; AND**

(XII) any other issues the Commission considers relevant to the assessment of acquisition in relation to the public interest, convenience, and necessity.

(3) (i) If the Commission finds that the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers, the Commission shall issue an order granting the application.

(ii) The Commission may condition an order authorizing the acquisition on the applicant's satisfactory performance or adherence to specific requirements.

(4) If the Commission does not find that the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers, the Commission shall issue an order denying the application.

(5) The applicant bears the burden of showing that granting the acquisition is consistent with the public interest, convenience, and necessity, including benefits and no harm to consumers.

**(6) (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS SUBPARAGRAPH, THE COMMISSION SHALL ISSUE AN ORDER WITH RESPECT TO THE APPLICATION NO LATER THAN 180 DAYS AFTER THE FILING OF THE APPLICATION FOR AUTHORIZATION.**



**(II) UNLESS THE COMMISSION FINDS, BASED ON GOOD CAUSE, THAT THE 180-DAY PERIOD SHOULD BE EXTENDED FOR AN ADDITIONAL 45 DAYS, FAILURE OF THE COMMISSION TO ISSUE AN ORDER WITHIN THE 180-DAY PERIOD SHALL BE CONSIDERED TO BE AN APPROVAL OF THE ACQUISITION BY THE COMMISSION.**

**[(g)] (H)** Nothing in this section prohibits dissemination by any party of information concerning the acquisition if the dissemination does not otherwise conflict with federal or State law.

**Chapter 5 of the Acts of the Special Session of 2006, as amended by Chapter 549 of the Acts of 2007**

[SECTION 5. AND BE IT FURTHER ENACTED, That:

The Public Service Commission shall:

- (1) conduct hearings, including the use of any necessary outside experts and consultants, to reevaluate the general regulatory structure, agreements, orders, and other prior actions of the Public Service Commission under the Electric Customer Choice and Competition Act of 1999, including the determination of and allowances for stranded costs;
- (2) provide to residential customers of the Baltimore Gas and Electric Company funds for mitigation of rate increases resulting from any adjustment, in favor of those customers, to allowances for stranded costs for assets that were transferred from Baltimore Gas and Electric Company to an affiliate; and
- (3) require that any funds for mitigating rates for residential electric customers under item (2) of this subsection must be in the form of a nonbypassable credit on the customer's bill, and may not be recovered subsequently from those customers in rates or otherwise.]

**Chapter 549 of the Acts of 2007**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) Notwithstanding the reporting dates established under [Section 5(b) and] Section 7(c) of Chapter 5 of the Acts of the General Assembly of the First Special Session of 2006 prior to the amendment of those sections by this Act, the Public Service Commission shall initiate new proceedings to review and evaluate the requirements under [Section 5 and] Section 7 of Chapter 5 of the Acts of the General Assembly of the First Special Session of 2006, as amended by this Act.

(3) The review and evaluation shall include any orders that were issued by the Commission relating to the requirements of [Section 5 and] Section 7 of Chapter 5 of the Acts of the General Assembly of the Special Session of 2006, prior to the amendment of those sections by this Act and may include review and evaluation of the open record for any case pending before the Commission relating to the requirements of those sections.

### **Chapter 5 of the Acts of the General Assembly of the Special Session of 2006**

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) Starting [January 1, 2007,] **JUNE 1, 2008**, the investor-owned electric company incorporated in Maryland whose parent is involved in a merger on the effective date of this Act shall determine and apply **THE FOLLOWING** residential electric credits [totaling \$38,661,980 each year] **AND SUSPENSIONS** for [a period of 10 years] **THE SPECIFIED PERIODS** to the bills of all residential electric customers of the electric company[.

(b) The credits shall be in the form of a nonbypassable credit or suspension on a customer's bill, derived as follows]:

(1) for [a] **THE** period [of 10 years,] **BEGINNING JUNE 1, 2010, UNTIL THE END OF DECEMBER 31, 2016**, the electric company shall [suspend the collection of] **CEASE COLLECTING** the residential return component of the administrative charge collected by the electric company for providing standard offer service under § 7-510(c)(3) of the Public Utility Companies Article, which shall be deemed an annual **CREDIT** value of \$20 million; [and]

(2) [for a period of 10 years,] **UNTIL THE END OF DECEMBER 31, 2016**, a credit of the \$18,661,980 annual nuclear decommissioning charge collected, without otherwise disturbing the agreement approved by the Maryland Public Service Commission in Order No. 75757, to be imputed as [deposits] **IF DEPOSITED** in the Nuclear Decommissioning Trust Fund and to be credited against residential electric customer bills; **AND**

(3) **A ONE-TIME TOTAL CREDIT OF \$187 MILLION TO BE DIVIDED INTO EQUAL DOLLAR AMOUNTS AND CREDITED AGAINST RESIDENTIAL ELECTRIC CUSTOMER BILLS NO LATER THAN DECEMBER 31, 2008.**

[(c)] **(B)** The **ANNUAL** nuclear decommissioning charge **OF \$18,661,980** described in subsection [(b)(2)] **(A)(2)** of this section may not be altered during the [10-year] period of the credit **DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, EXCEPT THAT FOR AMOUNTS COLLECTED AFTER JUNE 1, 2008, UNTIL THE END OF DECEMBER 31, 2016, THE COMMISSION MAY AUTHORIZE A TRUE-UP BASED**

ON ACTUAL SALES VOLUMES ON A PROSPECTIVE BASIS ONLY AS PART OF AN ELECTRIC DISTRIBUTION BASE RATE CASE TO ENSURE THE ANNUAL COLLECTION OF \$18,661,980.

[(d)] (C) [residential] THE RESIDENTIAL electric customer credits AND SUSPENSIONS DESCRIBED IN THIS SECTION may not be recovered through electric rates.

(D) AS LONG AS SUBSECTIONS (A)(1), (A)(2), (B), AND (E) OF THIS SECTION REMAIN IN FULL FORCE AND EFFECT AND ARE IMPLEMENTED BY THE COMMISSION IN ACCORDANCE WITH THEIR TERMS:

(1) RATEPAYERS MAY NOT BEAR ANY FINANCIAL OBLIGATION WITH REGARD TO THE DECOMMISSIONING OF CALVERT CLIFFS NUCLEAR POWER PLANT UNITS 1 AND 2 AND RELATED FACILITIES;

(2) RATEPAYERS SHALL BE DEEMED TO HAVE PAID \$520 MILLION IN 1993 DOLLARS IN ACCORDANCE WITH THE AGREEMENT APPROVED BY THE COMMISSION IN ORDER No. 75757; AND

(3) ALL NUCLEAR DECOMMISSIONING RIGHTS AND OBLIGATIONS IN ACCORDANCE WITH THE AGREEMENT APPROVED BY THE COMMISSION IN ORDER No. 75757 SHALL BE DEEMED FULLY EXTINGUISHED AND SATISFIED.

(E) THE RESIDENTIAL RETURN COMPONENT OF THE ADMINISTRATIVE CHARGE FOR PROVIDING STANDARD OFFER SERVICE UNDER § 7-510(C)(3) OF THE PUBLIC UTILITY COMPANIES ARTICLE SHALL BE IN ACCORDANCE WITH ORDER No. 78400 FOR THE PERIOD JUNE 1, 2008, TO MAY 31, 2010.

(F) UNTIL NEW BASE RATES BECOME EFFECTIVE IN ACCORDANCE WITH THE FIRST ELECTRIC DISTRIBUTION RATE CASE FOR AN INVESTOR-OWNED GAS AND ELECTRIC COMPANY INCORPORATED IN THE STATE, EACH GAS AND ELECTRIC COMPANY SHALL IMPLEMENT THE COMMISSION STAFF'S RECOMMENDED DEPRECIATION ACCRUALS SET FORTH ON SCHEDULE A OF THE SETTLEMENT AGREEMENT BY THE GAS AND ELECTRIC COMPANY AND THE COMMISSION, AMONG OTHER PARTIES, DATED ON OR ABOUT APRIL 1, 2008.

~~SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other law:~~

~~(1) any new electric generation facility constructed in the State after the effective date of this Act shall be owned by an electric company in the State and~~

~~may not be owned by an electric supplier or an affiliate of an electric company in the State;~~

~~(2) power generated from an electric generation facility in the State constructed after the effective date of this Act shall be first offered for sale to an electric company in the State; and~~

~~(3) the Public Service Commission has jurisdiction over the sale of power generated from an electric generation facility in the State constructed after the effective date of this Act.~~

SECTION ~~2.~~ ~~3.~~ 2. AND BE IT FURTHER ENACTED, That the Public Service Commission shall review its regulations regarding ring fencing and code of conduct for electric companies, gas companies, and gas and electric companies operating in the State.

~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed to limit the Public Service Commission's regulatory authority with regard to the regulation of the Maryland electricity markets, customer choice, standard offer service, rates, rate design, or codes of conduct.~~

SECTION ~~3.~~ ~~4.~~ ~~5.~~ 3. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of Article 1, § 23 of the Annotated Code of Maryland, the provisions of this Act are not severable, and if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, no other provision or application of this Act may be given effect.

SECTION ~~4.~~ ~~5.~~ ~~6.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 134

(Senate Bill 203)

AN ACT concerning

**Department of Labor, Licensing, and Regulation – Consolidation of Workforce Development Functions – Transfer of Adult Education and Literacy Services and Education Programs for Correctional Facilities**

FOR the purpose of transferring adult education and literacy services functions administered by the State Department of Education to the Department of Labor, Licensing, and Regulation; transferring education programs for correctional institutions to the Department of Labor, Licensing, and Regulation; creating and renaming certain units within the Department of Labor, Licensing, and Regulation; establishing the Workforce Creation and Adult Education Transition Council; providing for the membership of the Transition Council; providing for the duties of the Transition Council; requiring the Transition Council to submit a certain report by a certain date; requiring certain regulations to be adopted; requiring the Secretary of the Department of Labor, Licensing, and Regulation to appoint certain directors; designating the Department of Labor, Licensing, and Regulation as the responsible agency for certain federal funding purposes; altering a certain definition; defining certain terms; requiring the Department of Labor, Licensing, and Regulation to be responsible for the development of a certain State plan and its submission to the federal Department of Education; declaring that the State assents to certain federal acts; requiring the State Treasurer to be the custodian of certain money received under certain federal acts; requiring the departments to cooperate with certain federal agencies to administer certain federal acts and take certain actions in connection with certain federal acts; requiring that certain services, programs, and grants in the State transfer to the Department of Labor, Licensing, and Regulation by a certain date; requiring that certain funds be included in a certain budget for a certain fiscal year; authorizing the Governor to transfer certain appropriations; authorizing certain grants and funding contracts to continue for a certain time period under certain circumstances; requiring the departments to consult over certain grants and contracts; providing for the transfer of certain employees under certain circumstances; providing certain provisions to effectuate the transfer of the functions and units required by this Act; making the provisions of this Act severable; and generally relating to the transfer of certain functions of State government and the administration of workforce development services.

BY repealing and reenacting, with amendments,

Article – Correctional Services

Section 3–507

Annotated Code of Maryland

(1999 Volume and 2007 Supplement)

BY repealing

Article – Education

Section 4–110, 5–218, 7–205.1, 7–206, and 22–101 through 22–105

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Education  
Section 21–201 and 21–202  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 8–301, 8–302, 8–303, 8–902, 11–102, and 11–104  
Annotated Code of Maryland  
(1999 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article – Labor and Employment  
Section 11–101  
Annotated Code of Maryland  
(1999 Replacement Volume and 2007 Supplement)

BY repealing  
Article – Labor and Employment  
Section 11–103 and 11–105  
Annotated Code of Maryland  
(1999 Replacement Volume and 2007 Supplement)

BY adding to  
Article – Labor and Employment  
Section 11–801 through ~~11–807~~ 11–808 to be under the new subtitle “Subtitle 8. Adult Education and Literacy Services”; and 11–901 through ~~11–905~~ 11–907 to be under the new subtitle “Subtitle 9. Correctional Institutions”  
Annotated Code of Maryland  
(1999 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The United States Department of Labor estimates a shortage of more than 10,000,000 skilled workers by 2012 throughout the nation; and

WHEREAS, 80% of the fastest growing occupations between 2008 and 2014 are expected to be filled by individuals with postsecondary education and training; and

WHEREAS, Large numbers of our nation’s adults do not demonstrate sufficient literacy and mathematical skills to fully participate in an increasingly competitive work environment; and

WHEREAS, Only one in four adults with less than a high school education currently participates in any kind of education or training; and

WHEREAS, Maryland ranks near the bottom in the United States in per-student State spending on adult education; and

WHEREAS, In Maryland, there are nearly 750,000 Marylanders with limited literacy skills, no high school diploma, or ineffective English language skills in need of services; and

WHEREAS, The 2003-2004 Maryland Adult Education Score Card shows that only 3 percent to 5 percent of Marylanders in need of adult education receive it; and

WHEREAS, The adult population in need of additional education is substantially similar to those served by the workforce one-stop system; and

WHEREAS, Historically, adult education was in the sole purview of the K-12 educational system, but over the past 15 years, there has been an increasing recognition nationally that adult education and workforce development must be better linked; and

WHEREAS, There are many different State agencies involved in adult education programming for various groups, but there are insufficient systems of accountability for adult education funding and outcomes; and

WHEREAS, Employers are increasingly turning to ex-offenders to address workforce needs, and the correctional system must increase the number of people served by educational programs that lead to job opportunities upon release; and

WHEREAS, Current adult education programs in Maryland are not fully progressing students to the posthigh school skill levels necessary to be competitive in our current and future economy; and

WHEREAS, Recognizing the importance of linking adult education and workforce creation, a number of states have transferred responsibility for adult education from their K-12 educational systems to state workforce development agencies; and

WHEREAS, Maryland requires an adult education system that aligns adult education, career preparation, postsecondary education, and workforce development; now, therefore,

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

**Article - Correctional Services**

3-507.

(a) The Department shall include the budget for Maryland Correctional Enterprises in the Department's budget.

(b) (1) Maryland Correctional Enterprises may establish a revolving fund to contain an amount that the Treasurer approves.

(2) (i) For each of fiscal years 2006 through 2009, the first \$1,000,000 in the revolving fund in excess of the amount required to operate Maryland Correctional Enterprises shall be transferred to a special fund to be used by the [State Department of Education] **DEPARTMENT OF LABOR, LICENSING, AND REGULATION** for the operation of educational programs in correctional institutions.

(ii) Money from the revolving fund shall supplement and may not supplant funding for the operation of educational programs in correctional institutions.

(3) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the revolving fund may be used for general operating expenses and the purchase of capital assets.

(ii) The revolving fund may be used to provide financial assistance, up to \$250,000 in a fiscal year, to the Division of Correction to establish and operate employment readiness training programs and transitional services to rehabilitate inmates currently or previously employed by Maryland Correctional Enterprises.

(4) The revolving fund established under paragraph (1) of this subsection is not subject to § 7-302 of the State Finance and Procurement Article.

(5) Maryland Correctional Enterprises shall submit an annual statement to the Comptroller and the Treasurer that provides an accurate and detailed accounting of all receipts and disbursements from the revolving fund.

(c) General Fund money may be appropriated to Maryland Correctional Enterprises to be used for the direct expenses of training inmates.

**Article - Education**

[4-110.



(a) In accordance with the applicable rules and regulations of the State Board, each county board may establish and maintain day and evening schools for adults.

(b) The purpose of these schools for adults is to:

(1) Provide a general program of continuing education for the improvement of the civic, occupational, and general intelligence of adults; and

(2) Enable adults to make a wise use of their leisure time.

(c) A full-time student, at the student's own expense, may register for adult education courses, if space is available, and if that student secures the written permission of the county superintendent or his designee.]

[5-218.

(a) (1) The Department shall distribute competitive grants for adult education and literacy services in accordance with the State Plan for Adult Education and Family Literacy.

(2) The grants distributed under this section shall be based on need and performance.

(3) Grants under this section may be used for adult education and literacy services, including:

(i) GED instruction;

(ii) The Maryland Adult External High School Program under § 7-205.1 of this article;

(iii) English for Speakers of Other Languages;

(iv) Family literacy; and

(v) Basic skills and literacy instruction.

(b) (1) Subject to paragraph (2) of this subsection, funding for the competitive grants under this section shall be as provided in the State budget.

(2) (i) In fiscal year 2007, the Governor shall include an appropriation in the State budget equal to an increase of \$1,500,000 over the fiscal year 2005 appropriation for the Department to distribute as Literacy Works grants in

order to reduce the waiting list for adult education and literacy services to the extent possible.

(ii) In fiscal year 2008, the Governor shall include an appropriation in the State Budget equal to an increase of \$1,500,000 over the fiscal year 2007 appropriation for the Department to distribute as Literacy Works grants for adult education and literacy services.]

[7-205.1.

(a) In this section, "Program" means the Maryland Adult External High School Program established for the citizens of Maryland under regulations adopted by the State Board.

(b) According to these regulations:

(1) The State Board recognizes demonstrated competencies in adults, regardless of whether these competencies were acquired in a formal school setting; and

(2) In response to this recognition of competencies, the Department provides alternative requirements and methods of obtaining a Maryland high school diploma.

(c) (1) Because the Program is a valuable service that is provided to the citizens of Maryland, for each fiscal year the Governor shall include in the annual budget bill submitted to the General Assembly, including any proposed supplemental budget, a General Fund appropriation for the Maryland Adult External High School Program in an amount not less than the amount of the Governor's General Fund appropriation for the Program in fiscal year 2006.

(2) For each fiscal year the Governor shall include federal funds, to the extent available, for the Program in an amount not less than the amount of the Governor's federal fund appropriation for the Program in fiscal year 2006.]

[7-206.

(a) An individual may obtain a high school diploma by examination as provided in this section if the individual:

(1) Has not obtained a high school certificate or diploma;

(2) Has resided in this State or on a federal reservation in this State for at least 3 months, except that the State Board may waive this residence requirement if it considers the waiver justified;

(3) Is 16 years old or older; and

(4) Has withdrawn from a regular full-time public or private school program for at least 3 months, except that the State Board may waive the 3-month withdrawal requirement if the State Board considers the waiver justified.

(b) The State Board shall examine individuals for a high school diploma at least twice each year at places throughout this State that are reasonably convenient for the applicants.

(c) The examination shall:

(1) Be offered in appropriate high school subject areas; and

(2) Be of a comprehensive nature as determined by the State Board.

(d) An individual who fails an examination may take retests.

(e) A member of the armed forces may earn the Maryland high school diploma by taking the examinations furnished by the United States Armed Forces Institute and given by the appropriate service officer.

(f) The diploma shall be awarded in accordance with the rules and regulations adopted by the State Board.]

21-201.

In this subtitle, "federal acts" means:

(1) The Smith-Hughes Act;

(2) The George-Barden Act;

(3) The ~~Vocational Education Act of 1963~~ **CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT**;

(4) **THE ADULT EDUCATION AND FAMILY LITERACY ACT**;

(5) **THE WORKFORCE INVESTMENT ACT**;

[(4)] (6) Any other career and technology education act of the United States Congress; and

[(5)] (7) Any amendments to any of these acts.

21-202.

- (a) The State of Maryland assents to the federal acts.
- (b) The State Treasurer shall:
  - (1) Be the custodian of any money received under the federal acts; and
  - (2) Disburse this money in accordance with the federal acts.
- (c) The State Board of Education **AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, AS APPROPRIATE**, shall:
  - (1) Cooperate with the appropriate federal agencies in administering the federal acts;
  - (2) Do anything necessary to secure the benefits of the federal acts;
  - ~~and~~
  - (3) **FACILITATE THE TRANSFER OF FEDERAL FUNDS TO THE APPROPRIATE OPERATIONAL ENTITY; AND**
  - (4) Represent this State in all matters relating to the administration of the federal acts.

[22-101.

- (a) There is an Education Coordinating Council for Correctional Institutions under the jurisdiction of the Department of Public Safety and Correctional Services which is within the State Department of Education for administrative and budgetary purposes.
- (b)
  - (1) The Council consists of 5 members.
  - (2) One of the members shall be a resident of this State appointed by the Governor for a term of 4 years and until a successor is appointed and qualifies.
  - (3) The following officials shall serve ex officio:
    - (i) The State Superintendent of Schools;
    - (ii) The Secretary of Public Safety and Correctional Services;
    - (iii) The Secretary of Higher Education; and

(iv) The county superintendent of schools from a county where a correctional institution of the Division of Correction is located, who shall be selected by the State Superintendent.

(c) Each member of the Council:

(1) Serves without compensation; and

(2) Is entitled to reimbursement for expenses in accordance with the Standard State Travel Regulations.

(d) (1) The State Superintendent shall serve as chairman of the Council.

(2) The Council shall designate the time and place of its meetings and may adopt rules for the conduct of its meetings.

(3) The State Department of Education shall provide technical and clerical assistance and support to the Council.]

[22-102.

(a) The Education Coordinating Council for Correctional Institutions shall develop and recommend an educational program for each correctional institution in the Division of Correction. The programs shall meet the special needs and circumstances of the inmates in the institution.

(b) (1) The Council shall adopt regulations for all correctional institutions in the Division of Correction for the implementation of a mandatory education program for all inmates who fail to attain a minimum educational standard as set forth in this subsection.

(2) The regulations adopted by the Council shall require that:

(i) The educational standard shall be the attainment of a General Education Diploma (G.E.D.) or a verified high school diploma;

(ii) The regulations shall only apply to any inmate who:

1. Is received by the Division of Correction after July 1, 1987;

2. Has 18 months or more remaining to be served before a mandatory supervision release date;

3. Is not exempted due to a medical, developmental, or learning disability; and

4. Does not possess a General Education Diploma (G.E.D.) or a verified high school diploma;

(iii) Any inmate who is not exempted under subparagraph (ii)3 of this subsection shall participate in:

1. The mandatory education program for at least 120 calendar days; or

2. A vocational training program; and

(iv) The Division of Correction shall report to the Parole Commission the academic progress of an inmate in the mandatory education program.

(c) On or before October 30 of each year, the Council shall report its activities to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly.

(d) (1) The Council shall actively advocate and promote the interests of educational programs and opportunities in correctional institutions. The Council shall seek to ensure that a quality education and equal educational opportunity are available to all inmates at correctional institutions.

(2) The Council shall on a regular basis review the program of instruction used in educational programs at correctional institutions to ensure that the unique educational needs of the populations of correctional institutions are being satisfactorily met.

(3) The Council shall include in its review:

(i) Curriculum guides;

(ii) Courses of study;

(iii) Resource materials;

(iv) Textbooks;

(v) Supplementary readers;

(vi) Materials of instruction;

- (vii) Visual and auditory aids;
- (viii) Supplies;
- (ix) Teacher performance; and
- (x) Other teaching aids.

(4) Based on their review, the Council shall recommend and advocate improvements to the educational programs at correctional institutions.]

[22-103.

(a) The State Superintendent shall appoint a Director of educational programs for correctional institutions.

(b) The Director shall receive the salary provided in the budget of the Department.

(c) The Director shall:

(1) Implement and operate the educational programs, developed by the Council, in the correctional institutions;

(2) Meet with and advise the Council about these programs; and

(3) Consult with the Commissioner of Correction and the warden of each institution about the operation of these programs.]

[22-104.

(a) Notwithstanding any other provision of law, Patuxent Institution is a correctional institution within the Division of Correction and under the jurisdiction of the Education Coordinating Council for Correctional Institutions for the funding of educational programs only.

(b) Funds for the operation of the educational programs in correctional institutions shall be provided in the budget of the State Department of Education.

(c) The Department of Public Safety and Correctional Services and other State agencies may contribute to these programs.

(d) Funds appropriated for educational programs in correctional institutions may not be diverted, by budget amendment or otherwise, to any other purpose.]

[22-105.

This subtitle does not affect the other jurisdiction of the State Board of Education, the State Superintendent of Schools, the Maryland Higher Education Commission, or the Secretary of Higher Education.]

**Article - Labor and Employment**

8-301.

This title shall be administered under the supervision of the Secretary by 2 coordinate units, the [Office] **DIVISION** of Unemployment Insurance and the [Office of Employment Services] **DIVISION OF WORKFORCE DEVELOPMENT**, established by the Secretary.

8-302.

(a) There is [an Office] **A DIVISION** of Unemployment Insurance.

(b) The [Office] **DIVISION** of Unemployment Insurance shall perform any function that the Secretary assigns to it to carry out this title.

8-303.

(a) (1) "Public employment office" means an employment office that does not charge a fee to provide services and is:

(i) operated by the [State] **DEPARTMENT**; or

(ii) maintained as part of a **LOCAL**, [State] **STATE**, or federal system of employment offices.

(2) "Public employment office" includes a branch public employment office.

(b) The General Assembly accepts the provisions of the Wagner-Peyser Act for establishment of a national employment system and for cooperation in promotion of the system in conformity with § 4 of the Act.

(c) [There is an Office of Employment Services in the Division of Employment and Training that] **THE DIVISION OF WORKFORCE DEVELOPMENT, ESTABLISHED UNDER § 11-102 OF THIS ARTICLE**, is the unit of the State designated to carry out § 4 of the Wagner-Peyser Act.



[(d) (1) The head of the Office of Employment Services is the Director who shall be appointed by the Secretary in accordance with:

(i) the provisions of the State Personnel and Pensions Article;  
and

(ii) regulations adopted by the United States Secretary of Labor.

(2) The Director shall devote full-time to the duties of office.

(3) The Director is entitled to the salary provided in the State budget.

(4) The Director shall:

(i) cooperate with any official or unit of the federal government that has any responsibility under the Wagner-Peyser Act; and

(ii) take any action necessary to secure for the State the benefits under the Wagner-Peyser Act for promotion and maintenance of a system of public employment offices.]

[(e) (D) The Secretary shall employ a staff for the [Office of Employment Services] **DIVISION OF WORKFORCE DEVELOPMENT** in accordance with § 8-304 of this subtitle and regulations adopted by the United States Secretary of Labor.

[(f) (E) As necessary for administration of this title, the [Office of Employment Services] **DIVISION OF WORKFORCE DEVELOPMENT** shall establish and maintain public employment offices that do not charge a fee to individuals who seek employment.

[(g) (F) To establish and maintain public employment offices, the Secretary:

(1) may enter into an agreement with the Railroad Retirement Board or any other federal unit that is responsible for administration of an unemployment insurance law, a political subdivision of the State, or any private not-for-profit organization; and

(2) as part of the agreement, may accept money, services, or office space as a contribution to the Unemployment Insurance Administration Fund.

[(h) (G) Money in the Unemployment Insurance Administration Fund that the State receives under the Wagner-Peyser Act is available to the [Office of Employment Services] **DIVISION OF WORKFORCE DEVELOPMENT** for use under this section in accordance with that Act.

8-902.

(a) To be eligible for benefits, [in accordance with the regulations of the Secretary,] an individual shall[:

(1) register for work at an] **ENROLL WITH A PUBLIC** employment office]; and

(2) report to the employment office] **IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS TITLE.**

(b) Subject to § 8-808(b) of this title, by regulation, the Secretary may alter or waive the requirements of subsection (a) of this section for:

(1) an individual attached to a regular job; or

(2) an individual for whom the Secretary finds that compliance with those requirements would be oppressive or inconsistent with the purposes of this title.

11-101.

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

(b) "Department" means the Department of Labor, Licensing, and Regulation.

(c) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

11-102.

(a) There is a Division of [Employment and Training] **WORKFORCE DEVELOPMENT** within the Department of Labor, Licensing, and Regulation.

(b) The Division has the powers, duties, responsibilities, and functions provided in the laws of this State.

(c) The Division has the general purpose of advancing the economic welfare of the people by coordinating the State's public and private resources for employment and job training.

[11-103.

(a) (1) With the approval of the Governor, the Secretary shall appoint a Director of the Division of Employment and Training. The Director shall hold office at the Secretary's pleasure.

(2) The Director may be removed by the Secretary, with the approval of the Governor.

(3) Any such removal by the Secretary of Labor, Licensing, and Regulation is final and is not subject to any appeal.

(b) The Director shall be selected because of known experience and interest in employment and job training.

(c) The Director shall operate this Division under the direction of the Secretary in accordance with the provisions of law relating to the establishment of the Department.]

**[11-104.] 11-103.**

(a) The Division shall:

(1) [administer Title 8 of this article;

(2)] promote apprenticeship and training programs;

[[3)] (2) administer job training, placement, and service programs;

[[4)] (3) implement the provisions of the [Maryland] Workforce Investment Act;

[[5)] (4) oversee any other units established pursuant to State or federal employment, training, or manpower statutes; and

[[6)] (5) administer those programs assigned to the Division by law or designated by the Secretary.

(b) The Division shall meet and confer on a regular basis with representatives of the State's community colleges, appointed by the Maryland Association of Community Colleges, to assure that job training activities and resources are effectively coordinated.

**[11-105.**

The Director of the Division shall receive the salary and have the deputies, assistants, and employees provided in the State budget.]

**SUBTITLE 8. ADULT EDUCATION AND LITERACY SERVICES.**

**11-801.**

**(A) THERE IS AN ADULT EDUCATION AND LITERACY SERVICES OFFICE IN THE DIVISION OF WORKFORCE DEVELOPMENT OF THE DEPARTMENT.**

**(B) THE ADULT EDUCATION AND LITERACY SERVICES OFFICE SHALL BE THE SOLE AGENCY IN THE STATE RESPONSIBLE FOR ADMINISTERING AND SUPERVISING POLICY AND FUNDING FOR ADULT EDUCATION AND LITERACY.**

**11-802.**

**THE ADULT EDUCATION AND LITERACY SERVICES OFFICE, WITH THE APPROVAL OF THE SECRETARY, MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

**11-803.**

**(A) THERE IS A WORKFORCE CREATION AND ADULT EDUCATION TRANSITION COUNCIL IN THE DEPARTMENT TO COORDINATE THE INTEGRATION OF ADULT EDUCATION AND LITERACY SERVICES WITH THE DIVISION OF WORKFORCE DEVELOPMENT AND ITS PROGRAMS.**

**(B) THE TRANSITION COUNCIL SHALL CONSIST OF THE FOLLOWING MEMBERS:**

**(1) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT;**

**(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER;**

**(3) THE SECRETARY, WHO SHALL SERVE AS ~~CHAIR~~ COCHAIR;**

**~~(2)~~ (4) THE SECRETARY OF THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;**

**~~(3)~~ (5) THE SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;**

~~(4)~~ (6) THE STATE SUPERINTENDENT OF ~~SCHOOLS~~ SCHOOLS,  
WHO SHALL SERVE AS COCHAIR;

~~(5)~~ (7) THE SECRETARY OF HIGHER EDUCATION;

~~(6)~~ (8) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF  
MARYLAND;

~~(7)~~ (9) A REPRESENTATIVE OF THE MARYLAND ASSOCIATION  
FOR ADULT COMMUNITY AND CONTINUING EDUCATION;

~~(8)~~ (10) A REPRESENTATIVE OF THE MARYLAND WORKFORCE  
DEVELOPMENT ASSOCIATION;

~~(9)~~ (11) A REPRESENTATIVE OF THE MARYLAND ASSOCIATION  
OF COMMUNITY COLLEGES; ~~AND~~

~~(10)~~ (12) THE CHAIR OF THE GOVERNOR'S WORKFORCE  
INVESTMENT ~~BOARD~~ BOARD; AND

(13) TEN MEMBERS APPOINTED BY THE GOVERNOR, INCLUDING  
REPRESENTATIVES FROM THE FOLLOWING COMMUNITIES OF INTEREST:

(I) FAMILY LITERACY;

(II) ADULT BASIC EDUCATION;

(III) CAREER AND TECHNICAL EDUCATION;

(IV) WORKPLACE LITERACY;

(V) CORRECTIONAL EDUCATION;

(VI) COMMUNITY LIBRARIES;

(VII) ENGLISH AS A SECOND LANGUAGE PROVIDERS;

(VIII) ORGANIZED LABOR;

(IX) EMPLOYERS; AND

(X) NONPROFIT ORGANIZATIONS INVOLVED IN PROGRAMS  
TO PROMOTE ECONOMIC SELF-SUFFICIENCY.

(c) THE TRANSITION COUNCIL SHALL:

~~(1) ENSURE A SEAMLESS MERGER OF THE STATE'S ADULT EDUCATION AND LITERACY PROGRAMS WITH THE STATE'S WORKFORCE DEVELOPMENT AND JOB TRAINING PROGRAMS;~~

~~(2) DEVELOP A REVISED STATE PLAN FOR ADULT EDUCATION IN CONSULTATION WITH COMMUNITY BASED STAKEHOLDERS, THE BUSINESS COMMUNITY AND STAKEHOLDERS AT THE LOCAL LEVEL IN ALL AREAS OF THE STATE;~~

~~(3) DEVELOP STRATEGIES TO ALIGN ADULT EDUCATION PROGRAMS WITH COMPLEMENTARY PROGRAMS FUNDED UNDER THE WORKFORCE INVESTMENT ACT SO AS TO MAXIMIZE THE BENEFITS AND MINIMIZE DUPLICATION OF SERVICES;~~

~~(4) IDENTIFY BEST PRACTICES THAT ENABLE ADULT STUDENTS TO TRANSITION FROM ADULT EDUCATION PROGRAMS INTO POSTSECONDARY EDUCATION, JOB TRAINING PROGRAMS, AND EMPLOYMENT OPPORTUNITIES;~~

~~(5) DEVELOP STRATEGIES TO PROVIDE AN INTEGRATED APPROACH TO EDUCATION AND JOB TRAINING PROGRAMS TO ALLOW FORMER OFFENDERS TO TRANSITION INTO THE WORKFORCE; AND~~

~~(6) WORK WITH OTHER DEPARTMENTS IN STATE GOVERNMENT AND OTHER STAKEHOLDERS TO IDENTIFY POPULATIONS THAT NEED EDUCATION AND JOB TRAINING TO TRANSITION INTO THE WORKFORCE.~~

(1) DEVELOP A PLAN FOR THE SEAMLESS TRANSITION OF THE ADULT EDUCATION, LITERACY, AND CORRECTIONAL EDUCATION PROGRAMS FROM THE STATE DEPARTMENT OF EDUCATION TO THE DEPARTMENT;

(2) ACTIVELY ASSIST IN THE DEVELOPMENT OF A NEW STATE PLAN FOR ADULT EDUCATION;

(3) IDENTIFY EXISTING ADULT EDUCATION PROGRAMS IN OTHER UNITS OF STATE GOVERNMENT AND DEVELOP STRATEGIES TO MAKE THE AGENCIES PART OF A COORDINATED PROGRAM;

(4) RECOMMEND A FRAMEWORK FOR A NEW STATE SYSTEM OF DELIVERING ADULT EDUCATION AND WORKFORCE PROGRAMS THROUGH THE DEPARTMENT THAT;

(I) PROVIDES FOR THE EFFECTIVE ALIGNMENT OF ADULT EDUCATION, LITERACY, AND CORRECTIONAL EDUCATION PROGRAMS WITH WORKFORCE DEVELOPMENT PROGRAMS;

(II) TRACKS OUTCOMES OF ADULT EDUCATION STUDENTS;  
AND

(III) IS CONSISTENT WITH APPLICABLE FEDERAL LAWS;

(5) REVIEW THE OVERLAPPING RESPONSIBILITIES OF CORRECTIONAL EDUCATION AS THEY RELATE TO IMPLEMENTATION OF ADULT CORRECTIONAL EDUCATION AND JUVENILE SERVICES EDUCATION;

(6) DETERMINE THE ADVISABILITY OF TRANSFERRING CORRECTIONAL EDUCATION SERVICES IN LIGHT OF THE POTENTIAL NEGATIVE IMPACT THE TRANSFER COULD HAVE ON THE EFFECTIVE OPERATION OF JUVENILE SERVICES EDUCATION; AND

(7) RECOMMEND THE COMPOSITION AND RESPONSIBILITIES OF A STATE ADVISORY COUNCIL ON ADULT EDUCATION, LITERACY, AND WORKFORCE DEVELOPMENT.

(D) THE DEPARTMENT SHALL PROVIDE STAFF TO THE TRANSITION COUNCIL.

(E) (1) ~~THE ON OR BEFORE DECEMBER 31, 2008, THE~~ TRANSITION COUNCIL SHALL COMPLETE ITS WORK ~~ON OR BEFORE DECEMBER 31, 2009~~ AND SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO THE PROVISIONS OF § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, ON ITS ACTIVITIES AND RECOMMENDATIONS.

(2) THE REPORT SHALL INCLUDE A SUMMARY OF THE PLAN FOR THE SEAMLESS TRANSITION OF THE ADULT EDUCATION, LITERACY, AND CORRECTIONAL EDUCATION PROGRAMS FROM THE STATE DEPARTMENT OF EDUCATION INCLUDING:

(I) STRATEGIES FOR ENSURING PROGRAM CONTINUITY FOR CLIENTS OF THE AFFECTED PROGRAMS;

(II) STRATEGIES FOR ENSURING CONTINUITY IN THE STATE ADMINISTRATION OF AFFECTED GRANT PROGRAMS;

(III) PROVISIONS REGARDING AFFECTED EMPLOYEES, INCLUDING A SPECIFIC ANALYSIS OF THE TRANSFER OF EMPLOYEES WITH SHARED RESPONSIBILITIES FOR ADULT CORRECTIONAL EDUCATION AND JUVENILE SERVICES EDUCATION SUCH AS GRANT MANAGERS AND PROGRAM COORDINATORS;

(IV) STRATEGIES FOR COORDINATING THE ACTIVITIES AND RESPONSIBILITIES OF UNITS OF STATE GOVERNMENT INVOLVED IN ADMINISTERING THE TRANSFERRED PROGRAMS; AND

(V) STRATEGIES FOR ADDRESSING POTENTIAL CHALLENGES TO IMPLEMENTING THE TRANSITION OF THE AFFECTED PROGRAMS IN A MANNER THAT ENSURES THE CONTINUED DELIVERY OF QUALITY CONTENT TO CLIENTS OF THE AFFECTED PROGRAMS.

**11-804.**

THE DEPARTMENT SHALL BE RESPONSIBLE FOR THE DEVELOPMENT OF THE STATE PLAN FOR ADULT EDUCATION AND LITERACY SERVICES AND ITS SUBMISSION TO THE FEDERAL DEPARTMENT OF EDUCATION.

**11-805.**

(A) IN ACCORDANCE WITH THE APPLICABLE RULES AND REGULATIONS OF THE DEPARTMENT, EACH COUNTY BOARD OF EDUCATION MAY ESTABLISH AND MAINTAIN DAY AND EVENING SCHOOLS FOR ADULTS.

(B) THE PURPOSE OF THESE SCHOOLS FOR ADULTS IS TO PROVIDE:

(1) A GENERAL PROGRAM OF CONTINUING EDUCATION FOR THE IMPROVEMENT OF THE CIVIC, OCCUPATIONAL, AND GENERAL INTELLIGENCE OF ADULTS; AND

(2) PROGRAMS TO ENABLE ADULTS TO MAKE A WISE USE OF THEIR LEISURE TIME.

(C) A FULL-TIME STUDENT, AT THE STUDENT'S OWN EXPENSE, MAY REGISTER FOR ADULT EDUCATION COURSES, IF SPACE IS AVAILABLE, AND IF THAT STUDENT SECURES THE WRITTEN PERMISSION OF THE SUPERINTENDENT OF SCHOOLS, OR THE SUPERINTENDENT'S DESIGNEE, OF THE COUNTY IN WHICH THE STUDENT REGISTERS.

**~~11-805.~~ 11-806.**



(A) (1) THE ADULT EDUCATION AND LITERACY SERVICES OFFICE SHALL DISTRIBUTE COMPETITIVE GRANTS FOR ADULT EDUCATION AND LITERACY SERVICES IN ACCORDANCE WITH THE STATE PLAN FOR ADULT EDUCATION AND FAMILY LITERACY.

(2) THE GRANTS DISTRIBUTED UNDER THIS SECTION SHALL BE BASED ON NEED AND PERFORMANCE.

(3) GRANTS UNDER THIS SECTION MAY BE USED FOR ADULT EDUCATION AND LITERACY SERVICES, INCLUDING:

(i) GED INSTRUCTION;

(ii) THE MARYLAND ADULT EXTERNAL HIGH SCHOOL PROGRAM UNDER ~~§ 11-806 OF THIS ARTICLE~~ § 11-807 OF THIS SUBTITLE;

(iii) WORKPLACE LITERACY SERVICES;

(iv) ENGLISH FOR SPEAKERS OF OTHER LANGUAGES;

(v) FAMILY LITERACY; AND

(vi) LITERACY INSTRUCTION.

(B) FUNDING FOR THE COMPETITIVE GRANTS UNDER THIS SECTION SHALL BE AS PROVIDED IN THE STATE BUDGET.

~~11-806.~~ 11-807.

(A) IN THIS SECTION, "PROGRAM" MEANS THE MARYLAND ADULT EXTERNAL HIGH SCHOOL PROGRAM ESTABLISHED FOR THE CITIZENS OF MARYLAND UNDER REGULATIONS ADOPTED BY THE ~~DEPARTMENT~~ SECRETARY IN CONSULTATION WITH THE STATE BOARD OF EDUCATION.

(B) (1) THE DEPARTMENT AND THE STATE BOARD OF EDUCATION RECOGNIZE DEMONSTRATED COMPETENCIES IN ADULTS, WHETHER OR NOT THOSE COMPETENCIES WERE ACQUIRED IN A FORMAL SCHOOL SETTING.

(2) IN RESPONSE TO ITS RECOGNITION OF COMPETENCIES, THE DEPARTMENT SHALL PROVIDE ALTERNATIVE REQUIREMENTS AND METHODS OF OBTAINING A MARYLAND HIGH SCHOOL DIPLOMA.

**(3) THE STATE BOARD OF EDUCATION SHALL AWARD DIPLOMAS TO THE INDIVIDUALS MEETING THE REQUIREMENTS OF THIS SUBTITLE.**

**(c) (1) FOR EACH FISCAL YEAR THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL SUBMITTED TO THE GENERAL ASSEMBLY, INCLUDING ANY PROPOSED SUPPLEMENTAL BUDGET, A GENERAL FUND APPROPRIATION FOR THE MARYLAND ADULT EXTERNAL HIGH SCHOOL PROGRAM IN AN AMOUNT NOT LESS THAN THE AMOUNT OF THE GOVERNOR'S GENERAL FUND APPROPRIATION FOR THE PROGRAM IN FISCAL YEAR 2006.**

**(2) IN EACH ANNUAL BUDGET, THE GOVERNOR SHALL INCLUDE FEDERAL FUNDS, TO THE EXTENT AVAILABLE, FOR THE PROGRAM IN AN AMOUNT NOT LESS THAN THE AMOUNT OF THE GOVERNOR'S FEDERAL FUND APPROPRIATION FOR THE PROGRAM IN FISCAL YEAR 2006.**

**~~11-807.~~ 11-808.**

**(A) AN INDIVIDUAL MAY OBTAIN A HIGH SCHOOL DIPLOMA BY EXAMINATION AS PROVIDED IN THIS SECTION IF THE INDIVIDUAL:**

**(1) HAS NOT OBTAINED A HIGH SCHOOL DIPLOMA;**

**(2) HAS RESIDED IN THIS STATE OR ON A FEDERAL RESERVATION IN THIS STATE FOR AT LEAST 3 MONTHS, PROVIDED THAT THE STATE BOARD OF EDUCATION MAY WAIVE THE RESIDENCE REQUIREMENT IF THE STATE BOARD CONSIDERS THE WAIVER JUSTIFIED;**

**(3) IS 16 YEARS OLD OR OLDER; AND**

**(4) HAS WITHDRAWN FROM A REGULAR FULL-TIME PUBLIC OR PRIVATE SCHOOL PROGRAM FOR AT LEAST 3 MONTHS, PROVIDED THAT THE STATE BOARD OF EDUCATION MAY WAIVE THE WITHDRAWAL REQUIREMENT IF THE STATE BOARD CONSIDERS THE WAIVER JUSTIFIED.**

**(B) THE DEPARTMENT SHALL REQUIRE INDIVIDUALS WHO ARE PURSUING A HIGH SCHOOL DIPLOMA UNDER THIS SUBTITLE TO TAKE AN EXAMINATION AT LEAST TWICE EACH YEAR AT PLACES THROUGHOUT THE STATE THAT ARE REASONABLY CONVENIENT FOR THE APPLICANTS.**

**(C) THE EXAMINATION SHALL:**

**(1) BE OFFERED IN APPROPRIATE HIGH SCHOOL SUBJECT AREAS;**

**AND**

(2) BE OF A COMPREHENSIVE NATURE AS DETERMINED BY THE STATE BOARD OF EDUCATION.

(D) AN INDIVIDUAL WHO FAILS AN EXAMINATION MAY REPEAT TAKING THE EXAMINATION.

(E) A MEMBER OF THE ARMED FORCES MAY EARN A MARYLAND HIGH SCHOOL DIPLOMA BY TAKING THE EXAMINATIONS FURNISHED BY THE UNITED STATES ARMED FORCES INSTITUTE AND GIVEN BY THE APPROPRIATE SERVICE OFFICER.

(F) THE DIPLOMA SHALL BE AWARDED IN ACCORDANCE WITH THE REGULATIONS ADOPTED BY THE ~~DEPARTMENT~~ SECRETARY AND THE STATE BOARD OF EDUCATION.

**SUBTITLE 9. CORRECTIONAL INSTITUTIONS.**

**11-901.**

(A) THERE IS AN EDUCATION AND WORKFORCE TRAINING COORDINATING COUNCIL FOR CORRECTIONAL INSTITUTIONS UNDER THE JURISDICTION OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES AND THE DEPARTMENT.

(B) (1) THE COUNCIL CONSISTS OF ~~SIX~~ SEVEN MEMBERS.

(2) ONE OF THE MEMBERS OF THE COUNCIL SHALL BE A RESIDENT OF THIS STATE APPOINTED BY THE GOVERNOR FOR A TERM OF 4 YEARS WHO SHALL SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) THE FOLLOWING OFFICIALS SHALL SERVE EX OFFICIO:

(I) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;

(II) THE SECRETARY OF LABOR, LICENSING, AND REGULATION;

(III) THE STATE SUPERINTENDENT OF SCHOOLS;

(IV) THE SECRETARY OF HIGHER EDUCATION; ~~AND~~

(V) AN OFFICIAL FROM A LOCAL CORRECTIONAL FACILITY;

AND

~~(v)~~ (VI) THE COUNTY SUPERINTENDENT OF SCHOOLS FROM A COUNTY WHERE A CORRECTIONAL INSTITUTION OF THE DIVISION OF CORRECTION IS LOCATED, WHO SHALL BE SELECTED BY THE STATE SUPERINTENDENT.

(C) EACH MEMBER OF THE COUNCIL:

(1) SERVES WITHOUT COMPENSATION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES IN ACCORDANCE WITH THE STANDARD STATE TRAVEL REGULATIONS.

(D) (1) THE SECRETARY OF PUBLIC SAFETY AND CORRECTION AND THE SECRETARY SHALL SERVE AS COCHAIRS OF THE COUNCIL.

(2) THE COUNCIL SHALL DESIGNATE THE TIME AND PLACE OF ITS MEETINGS AND MAY ADOPT RULES FOR THE CONDUCT OF ITS MEETINGS.

(3) THE COUNCIL SHALL BE WITHIN THE DEPARTMENT FOR ADMINISTRATIVE AND BUDGETARY PURPOSES.

(4) THE DEPARTMENT SHALL PROVIDE TECHNICAL AND CLERICAL ASSISTANCE AND SUPPORT TO THE COUNCIL.

**11-902.**

(A) THE EDUCATION AND WORKFORCE TRAINING COORDINATING COUNCIL FOR CORRECTIONAL INSTITUTIONS SHALL DEVELOP AND RECOMMEND AN EDUCATIONAL AND WORKFORCE TRAINING PROGRAM FOR EACH CORRECTIONAL INSTITUTION IN THE DIVISION OF CORRECTION. THE PROGRAMS SHALL MEET THE SPECIAL NEEDS AND CIRCUMSTANCES OF THE INMATES IN EACH CORRECTIONAL INSTITUTION.

(B) (1) THE COUNCIL SHALL ADOPT REGULATIONS FOR ALL CORRECTIONAL INSTITUTIONS IN THE DIVISION OF CORRECTION FOR THE IMPLEMENTATION OF A MANDATORY EDUCATION PROGRAM FOR ALL INMATES WHO FAIL TO ATTAIN A MINIMUM EDUCATIONAL STANDARD AS SET FORTH IN THIS SUBSECTION.

(2) THE REGULATIONS ADOPTED BY THE COUNCIL SHALL:

**(I) REQUIRE THAT THE EDUCATIONAL STANDARD SHALL BE THE ATTAINMENT OF A GENERAL EDUCATIONAL DEVELOPMENT (GED) DIPLOMA OR A VERIFIED HIGH SCHOOL DIPLOMA;**

**(II) APPLY ONLY TO ANY INMATE WHO:**

**1. WAS RECEIVED BY THE DIVISION OF CORRECTION AFTER JULY 1, 1987;**

**2. HAS 18 MONTHS OR MORE REMAINING TO BE SERVED BEFORE A MANDATORY SUPERVISION RELEASE DATE;**

**3. IS NOT EXEMPTED DUE TO A MEDICAL, DEVELOPMENTAL, OR LEARNING DISABILITY; AND**

**4. DOES NOT POSSESS A GENERAL EDUCATIONAL DEVELOPMENT (GED) DIPLOMA OR A VERIFIED HIGH SCHOOL DIPLOMA;**

**(III) REQUIRE ANY INMATE WHO IS NOT EXEMPTED UNDER ITEM (II)3 OF THIS PARAGRAPH TO PARTICIPATE IN:**

**1. THE MANDATORY EDUCATION PROGRAM FOR AT LEAST 120 CALENDAR DAYS; OR**

**2. A WORKFORCE SKILLS TRAINING PROGRAM; AND**

**(IV) THE DIVISION OF CORRECTION SHALL REPORT TO THE PAROLE COMMISSION THE ACADEMIC PROGRESS OF AN INMATE IN THE MANDATORY EDUCATION PROGRAM.**

**(c) (1) THE COUNCIL SHALL ADOPT REGULATIONS FOR ALL CORRECTIONAL INSTITUTIONS IN THE DIVISION OF CORRECTION FOR THE IMPLEMENTATION OF A MANDATORY WORKFORCE SKILLS TRAINING PROGRAM FOR ALL INMATES AS PROVIDED IN THIS SUBSECTION.**

**(2) THE REGULATIONS SHALL APPLY ONLY TO AN INMATE WHO:**

**(I) HAS 18 MONTHS OR MORE REMAINING TO BE SERVED BEFORE A MANDATORY SUPERVISION RELEASE DATE; AND**

**(II) IS NOT EXEMPTED DUE TO A MEDICAL, DEVELOPMENTAL, OR LEARNING DISABILITY.**

**(3) THE DIVISION OF CORRECTION SHALL REPORT TO THE PAROLE COMMISSION THE ACADEMIC PROGRESS OF AN INMATE IN THE MANDATORY WORKFORCE SKILLS TRAINING PROGRAM.**

**(D) ON OR BEFORE OCTOBER 30 OF EACH YEAR, THE COUNCIL SHALL REPORT ITS ACTIVITIES TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.**

**(E) (1) (I) THE COUNCIL SHALL ACTIVELY ADVOCATE AND PROMOTE THE INTERESTS OF EDUCATIONAL PROGRAMS AND WORKFORCE SKILLS TRAINING OPPORTUNITIES IN CORRECTIONAL INSTITUTIONS.**

**(II) THE COUNCIL SHALL SEEK TO ENSURE THAT A QUALITY EDUCATION, EQUAL EDUCATIONAL OPPORTUNITY, AND WORKFORCE SKILLS TRAINING ARE AVAILABLE TO ALL INMATES AT CORRECTIONAL INSTITUTIONS.**

**(2) THE COUNCIL, ON A REGULAR BASIS, SHALL REVIEW THE EDUCATIONAL AND WORKFORCE SKILLS TRAINING PROGRAMS AT CORRECTIONAL INSTITUTIONS TO ENSURE THAT THE UNIQUE EDUCATIONAL AND TRAINING NEEDS OF THE POPULATIONS OF THE CORRECTIONAL INSTITUTIONS ARE BEING SATISFACTORILY MET.**

**(3) THE COUNCIL SHALL INCLUDE IN ITS REVIEW:**

- (I) CURRICULUM GUIDES;**
- (II) COURSES OF STUDY;**
- (III) RESOURCE MATERIALS;**
- (IV) TEXTBOOKS;**
- (V) SUPPLEMENTARY READERS;**
- (VI) MATERIALS OF INSTRUCTION;**
- (VII) VISUAL AND AUDITORY AIDS;**
- (VIII) SUPPLIES;**
- (IX) TEACHER PERFORMANCE; AND**

(X) OTHER TEACHING AIDS.

(4) BASED ON ITS REVIEW, THE COUNCIL SHALL RECOMMEND AND ADVOCATE IMPROVEMENTS TO THE EDUCATIONAL AND WORKFORCE SKILLS TRAINING PROGRAMS AT CORRECTIONAL INSTITUTIONS.

**11-903.**

(A) THE DEPARTMENT IS RESPONSIBLE FOR THE PROVISION OF EDUCATION AND WORKFORCE SKILLS TRAINING PROGRAMS IN THE ADULT CORRECTIONAL INSTITUTIONS IN THE STATE.

(B) ~~THE SECRETARY OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION~~ SHALL APPOINT A DIRECTOR OF EDUCATIONAL PROGRAMS AND A DIRECTOR OF WORKFORCE SKILLS TRAINING FOR CORRECTIONAL INSTITUTIONS.

~~(B)~~ (C) EACH DIRECTOR SHALL RECEIVE THE SALARY PROVIDED IN THE BUDGET OF THE DEPARTMENT.

~~(C)~~ (D) THE DIRECTORS SHALL:

(1) IMPLEMENT AND OPERATE THE EDUCATIONAL AND WORKFORCE SKILLS TRAINING PROGRAMS DEVELOPED BY THE COUNCIL IN THE CORRECTIONAL INSTITUTIONS;

(2) MEET WITH AND ADVISE THE COUNCIL ABOUT THE PROGRAMS; AND

(3) CONSULT WITH THE COMMISSIONER OF CORRECTION AND THE WARDEN OF EACH INSTITUTION ABOUT THE OPERATION OF THE PROGRAMS.

**11-904.**

IN THIS SUBTITLE, "FEDERAL ACTS" MEANS THE ACTS OF CONGRESS THAT AUTHORIZE FUNDING FOR EDUCATION, LIBRARY SERVICES, AND WORKFORCE DEVELOPMENT TRAINING FOR INMATES IN ADULT CORRECTIONAL FACILITIES, AND ANY AMENDMENTS TO THOSE ACTS.

**11-905.**

(A) THE STATE OF MARYLAND ASSENTS TO THE FEDERAL ACTS.

**(B) THE STATE TREASURER SHALL:**

**(1) BE THE CUSTODIAN OF ANY MONEY RECEIVED UNDER THE FEDERAL ACTS; AND**

**(2) DISBURSE THIS MONEY IN ACCORDANCE WITH THE FEDERAL ACTS.**

**(C) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION AND THE STATE BOARD OF EDUCATION, AS APPROPRIATE, SHALL:**

**(1) COOPERATE WITH THE APPROPRIATE FEDERAL AGENCIES IN ADMINISTERING THE FEDERAL ACTS;**

**(2) DO ANYTHING NECESSARY TO SECURE THE BENEFITS OF THE FEDERAL ACTS;**

**(3) FACILITATE THE TRANSFER OF FUNDS TO THE APPROPRIATE OPERATIONAL AGENCY; AND**

**(4) REPRESENT THIS STATE IN ALL MATTERS RELATING TO THE ADMINISTRATION OF THE FEDERAL ACTS.**

**11-906.**

**(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PATUXENT INSTITUTION IS A CORRECTIONAL INSTITUTION WITHIN THE DIVISION OF CORRECTION AND UNDER THE JURISDICTION OF THE ~~EDUCATION COORDINATING COUNCIL~~ EDUCATION AND WORKFORCE TRAINING AND COORDINATING COUNCIL FOR CORRECTIONAL INSTITUTIONS FOR THE FUNDING OF EDUCATIONAL PROGRAMS ONLY.**

**(B) FUNDS FOR THE OPERATION OF THE EDUCATIONAL AND WORKFORCE SKILLS TRAINING PROGRAMS IN CORRECTIONAL INSTITUTIONS SHALL BE PROVIDED IN THE BUDGET OF THE DEPARTMENT.**

**(C) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES AND OTHER STATE AGENCIES MAY CONTRIBUTE TO THE PROGRAMS IDENTIFIED UNDER SUBSECTION (B) OF THIS SECTION.**



(D) FUNDS APPROPRIATED FOR EDUCATIONAL AND WORKFORCE SKILLS TRAINING PROGRAMS IN CORRECTIONAL INSTITUTIONS MAY NOT BE DIVERTED BY BUDGET AMENDMENT OR OTHERWISE TO ANY OTHER PURPOSE.

~~11-905.~~ 11-907.

THIS SUBTITLE DOES NOT AFFECT THE PROVISIONS OF LAW RELATING TO THE POWERS, DUTIES, AND AUTHORITY OF THE STATE BOARD OF EDUCATION, THE STATE SUPERINTENDENT OF SCHOOLS, THE MARYLAND HIGHER EDUCATION COMMISSION, OR THE SECRETARY OF HIGHER EDUCATION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Labor, Licensing, and Regulation is the successor of the State Department of Education as provided in this Act, and the Secretary of Labor, Licensing, and Regulation is the successor of the State Board of Education and the State Superintendent, as provided in this Act. In every law, executive order, rule, regulation, policy or document created by an official, employee, or unit of this State, the names and titles of those agencies and officials mean the names and terms of the successor agency or official, as provided in this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) (1) The responsibility for the provision of adult education and literary services in the State shall be transferred to the Department of Labor, Licensing, and Regulation on July 1, 2009.

(2) The responsibility for the provision of education and workforce skills training programs in the adult correctional institutions in the State shall be transferred to the Department of Labor, Licensing, and Regulation on July 1, 2009.

(b) (1) Funding for the services and programs transferred to the Department under subsection (a) of this section shall be included in the fiscal 2010 budget of the Department.

(2) Federal fund grants directed to the State through other State agencies shall be transferred to the Department on July 1, 2009.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That all employees in the Adult Education and Literacy Branch and the Correctional Education Program of the State Department of Education whose positions are transferred to the Department of Labor, Licensing, and Regulation shall be, with the exception of employees responsible for or engaged in the education of juveniles in accordance with Title 22, Subtitle 3 of the Education Article, shall have their positions and position identification numbers transferred to the Department of Labor, Licensing, and Regulation on ~~the effective~~

~~date of this Act~~ July 1, 2009, without any diminution of their rights, benefits, or employment status, including, if any, merit system and retirement status.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That the Governor may transfer any related administrative functions and employees of the State Department of Education to the Department of Labor, Licensing, and Regulation as necessary to carry out the provisions of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That, pursuant to § 7-209(e)(2)(iv) of the State Finance and Procurement Article, the Governor is authorized to transfer appropriations, including general funds, special funds, and federal funds, from the State Department of Education to the Department of Labor, Licensing, and Regulation as necessary to carry out the provisions of this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the availability of State or federal funds, the consent of the grantees or contractors, and satisfactory performance of services, all adult education, family literacy, and correctional education grants and funding contracts, within the scope of Section 1 of this Act and awarded prior to the effective date of this Act, shall be continued, without the need for rebidding, through Fiscal Year 2009 and Fiscal Year 2010.

SECTION 8. AND BE IT FURTHER ENACTED, That any new grants or funding contracts awarded between July 1, 2008 and June 30, 2009 for adult education, family literacy, and correctional education, within the scope of Section 1 of this Act, shall be awarded only after consultation between the State Department of Education and the Department of Labor, Licensing, and Regulation.

SECTION ~~5~~ 9. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction affected by or flowing from any statute here amended, repealed, or transferred, and validly entered into before the effective date of this Act and every right, duty, or interest flowing from it remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced pursuant to law.

SECTION ~~6~~ 10. AND BE IT FURTHER ENACTED, That, except as otherwise provided in this Act, all rules and regulations, proposed rules and regulations, standards and guidelines, forms, plans, memberships, special funds, appropriations, grants, applications for grants, contracts, property, administrative and judicial proceedings, rights to sue and be sued, and all other duties and responsibilities associated with those functions transferred by this Act shall continue in effect under the Secretary of Labor, Licensing, and Regulation, or the appropriate unit with the Department, until completed, withdrawn, cancelled, modified, or otherwise changed pursuant to law.

SECTION ~~7~~ 11. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provisions or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~8~~ 12. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 135

(Senate Bill 348)

AN ACT concerning

### **Renewable Energy Portfolio Standard - Tier 1 Renewable Source - Poultry Litter**

FOR the purpose of expanding the definition of a Tier 1 renewable source to include poultry litter-to-energy; altering the definition of a Tier 2 renewable source to exclude the incineration of poultry litter; providing that poultry litter-to-energy is eligible for inclusion in meeting the Tier 1 renewable energy portfolio standard only if the source is connected with the electric distribution grid serving Maryland; repealing a certain limitation on the eligibility of energy produced from certain sources for inclusion in meeting the renewable energy portfolio standard; and generally relating to poultry litter and Tier 1 renewable sources applied to the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,  
 Article – Public Utility Companies  
 Section 7-701(g)  
 Annotated Code of Maryland  
 (1998 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Public Utility Companies  
 Section 7-701(l) and (m) and ~~7-704(a)(4)~~ 7-704(a)(2)(i)1. and (4)  
 Annotated Code of Maryland  
 (1998 Volume and 2007 Supplement)

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

**Article - Public Utility Companies**

7-701.

(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.

(l) "Tier 1 renewable source" means one or more of the following types of energy sources:

- (1) solar;
- (2) wind;
- (3) qualifying biomass;
- (4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;
- (5) geothermal;
- (6) ocean, including energy from waves, tides, currents, and thermal differences;
- (7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection; [and]
- (8) 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; AND

**(9) POULTRY LITTER-TO-ENERGY.**

(m) "Tier 2 renewable source" means one or more of the following types of energy sources:

- (1) hydroelectric power other than pump storage generation; AND
- (2) [incineration of poultry litter; and

(3)] waste-to-energy.

7-704.

(a) (2) (i) 1. Except as provided in subsubparagraph 2 of this subparagraph, energy from a Tier 1 renewable source under § 7-701(l)(1) OR (9) 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.

~~(a)~~ (4) [(i)] Energy from a Tier 2 renewable source under § 7-701(m)(1) or [(3)] (2) 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.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 136

(House Bill 1166)

AN ACT concerning

### **Renewable Energy Portfolio Standard - Tier 1 Renewable Source - Poultry Litter**

FOR the purpose of expanding the definition of a Tier 1 renewable source to include poultry litter-to-energy; altering the definition of a Tier 2 renewable source to exclude the incineration of poultry litter; providing that poultry litter-to-energy is eligible for inclusion in meeting the Tier 1 renewable energy portfolio standard

*only if the source is connected with the electric distribution grid serving Maryland*; repealing a certain limitation on the eligibility of energy produced from certain sources for inclusion in meeting the renewable energy portfolio standard; and generally relating to poultry litter and Tier 1 renewable sources applied to the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,  
Article – Public Utility Companies  
Section 7-701(g)  
Annotated Code of Maryland  
(1998 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Public Utility Companies  
Section 7-701(l) and (m) and ~~7-704(a)(4)~~ 7-704(a)(2)(i)1. and (4)  
Annotated Code of Maryland  
(1998 Volume and 2007 Supplement)

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

**Article – Public Utility Companies**

7-701.

(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.

(l) “Tier 1 renewable source” means one or more of the following types of energy sources:

- (1) solar;
- (2) wind;
- (3) qualifying biomass;
- (4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;
- (5) geothermal;
- (6) ocean, including energy from waves, tides, currents, and thermal differences;

(7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection; [and]

(8) 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; AND

**(9) POULTRY LITTER-TO-ENERGY.**

(m) “Tier 2 renewable source” means one or more of the following types of energy sources:

- (1) hydroelectric power other than pump storage generation; AND
- (2) [incineration of poultry litter; and
- (3)] waste-to-energy.

7-704.

(a) (2) (i) 1. Except as provided in subparagraph 2 of this subparagraph, energy from a Tier 1 renewable source under § 7-701(l)(1) OR (9) 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.

~~(a)~~ (4) [(i)] Energy from a Tier 2 renewable source under § 7-701(m)(1) or [(3)] **(2)** 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.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

## CHAPTER 137

(House Bill 1337)

AN ACT concerning

### Maryland Clean Energy Center

FOR the purpose of establishing a Maryland Clean Energy Center in the State; providing for the powers, purposes, and duties of the Center; establishing a Board of Directors of the Center, with certain membership, powers, duties, and officers; providing for the staffing of the Center, including appointment of an Executive Director with certain duties; providing that the Attorney General is the legal advisor of the Center; providing for the application of certain laws to the Center; providing for the effect of a certain determination of the Board; requiring the establishment of certain financial controls for the Center; authorizing the Center to exercise certain powers, including those relating to grants, projects, and borrowing; requiring the Center to act as a clearinghouse of information regarding clean energy for certain purposes; exempting the Center from certain taxes; providing that the books and records of the Center are subject to audit in a certain manner; requiring the Center to report each year to certain persons; establishing a Maryland Clean Energy Technology Incubator Program in the Center for certain purposes; requiring the Center to adopt certain standards for the Program in a certain manner; authorizing the Center to award certain financial assistance to certain entities; requiring matching contributions for certain assistance; authorizing the Center to issue bonds and other evidences of indebtedness in certain manners; authorizing the Center to authorize certain persons to take certain actions regarding bond issuance for certain purposes, subject to certain limitations; providing for the contents of a certain trust agreement for certain purposes; authorizing the pledging of certain revenues for certain purposes in a certain manner; authorizing certain persons to invest in certain bonds; providing that certain bonds are not a debt or liability or a pledge of the faith and credit of the State or of a political subdivision; authorizing the Center to fix and collect certain rates, rents, fees, and charges for certain purposes; providing for the application of certain proceeds; authorizing the issuance of certain refunding bonds in a certain manner; authorizing the issuance of certain negotiable bond anticipation notes for certain purposes in a certain manner; providing for the enforcement of certain rights by certain persons; providing that certain projects, property, and bonds are exempt from certain taxes under certain circumstances; stating findings and intent of the General Assembly; defining certain terms; providing



for the construction of this Act; and generally relating to the Maryland Clean Energy Center.

BY adding to

Article – Economic Development

Section 10–801 through 10–854 to be under the new subtitle “Subtitle 8. Maryland Clean Energy Center”

(As enacted by Chapter 306 (H.B. 1050) of the Acts of the General Assembly of 2008)

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

**Article – Economic Development**

**SUBTITLE 8. MARYLAND CLEAN ENERGY CENTER.**

**PART I. GENERAL PROVISIONS.**

**10–801.**

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

(B) “ADMINISTRATION” MEANS THE MARYLAND ENERGY ADMINISTRATION.

(C) “BOARD” MEANS THE BOARD OF DIRECTORS OF THE CENTER.

(D) (1) “BOND” MEANS A BOND ISSUED BY THE CENTER UNDER THIS SUBTITLE.

(2) “BOND” INCLUDES A REVENUE BOND, A REVENUE REFUNDING BOND, A NOTE, AND ANY OTHER OBLIGATION, WHETHER A GENERAL OR LIMITED OBLIGATION OF THE CENTER.

(E) “CENTER” MEANS THE MARYLAND CLEAN ENERGY CENTER.

(F) “CLEAN ENERGY” INCLUDES:

(1) SOLAR PHOTOVOLTAIC TECHNOLOGY;

(2) SOLAR HEATING;

- (3) GEOTHERMAL;
  - (4) WIND;
  - (5) BIOFUELS;
  - (6) ETHANOL;
  - (7) OTHER QUALIFYING BIOMASS AS DEFINED IN § 7-701 OF THE PUBLIC UTILITY COMPANIES ARTICLE;
  - (8) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND THERMAL DIFFERENCES;
  - (9) A FUEL CELL THAT PRODUCES ENERGY FROM BIOFUELS, ETHANOL, OR OTHER QUALIFYING BIOMASS;
  - (10) ENERGY EFFICIENCY AND CONSERVATION;
  - (11) ANY OTHER TECHNOLOGY OR SERVICE THAT THE CENTER DETERMINES WILL CONTRIBUTE DIRECTLY OR INDIRECTLY TO THE PRODUCTION OF ENERGY FROM RENEWABLE OR SUSTAINABLE SOURCES, OR TO THE IMPROVEMENT OF EFFICIENCY IN THE USE OF ENERGY; AND
  - (12) DEPLOYMENT OF ANY OF THE TECHNOLOGIES OR SERVICES LISTED IN ITEMS (1) THROUGH (11) OF THIS SUBSECTION.
- (G) "COST", WITH RESPECT TO A PROJECT FINANCED UNDER THIS SUBTITLE, INCLUDES:
- (1) THE PURCHASE PRICE OF A PROJECT;
  - (2) THE COST TO ACQUIRE ANY RIGHT, TITLE, OR INTEREST IN A PROJECT;
  - (3) THE COST OF ANY IMPROVEMENT;
  - (4) THE COST OF ANY PROPERTY, RIGHT, EASEMENT, AND FRANCHISE;
  - (5) THE COST OF DEMOLITION, REMOVAL, OR RELOCATION OF STRUCTURES;

**(6) THE COST OF ACQUIRING LAND TO WHICH THE STRUCTURES MAY BE MOVED;**

**(7) THE COST OF EQUIPMENT;**

**(8) FINANCING CHARGES;**

**(9) INTEREST BEFORE AND DURING CONSTRUCTION AND, IF THE CENTER DETERMINES, FOR A LIMITED PERIOD AFTER THE COMPLETION OF CONSTRUCTION;**

**(10) RESERVES FOR PRINCIPAL AND INTEREST AND FOR IMPROVEMENTS;**

**(11) THE COST OF REVENUE AND COST ESTIMATES, ARCHITECTURAL, ENGINEERING, FINANCIAL, AND LEGAL SERVICES, PLANS, SPECIFICATIONS, STUDIES, SURVEYS, AND OTHER EXPENSES NECESSARY OR INCIDENT TO DETERMINING THE FEASIBILITY OF IMPROVING A PROJECT; AND**

**(12) OTHER EXPENSES AS NECESSARY OR INCIDENT TO:**

**(I) FINANCING A PROJECT;**

**(II) ACQUIRING AND IMPROVING A PROJECT; AND**

**(III) PLACING A PROJECT IN OPERATION.**

**(H) “DIRECTOR” MEANS THE DIRECTOR OF THE ADMINISTRATION.**

**(I) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE MARYLAND CLEAN ENERGY CENTER.**

**(J) “FINANCE” INCLUDES REFINANCE.**

**(K) “GOVERNMENTAL UNIT” MEANS:**

**(1) A COUNTY;**

**(2) A MUNICIPAL CORPORATION;**

**(3) A STATE UNIT;**

**(4) A LOCAL UNIT; OR**

(5) ANY OTHER PUBLIC BODY OR UNIT ESTABLISHED IN ACCORDANCE WITH A STATE OR LOCAL LAW, ORDINANCE, OR RESOLUTION.

~~(K)~~ (L) "IMPROVE" MEANS TO ADD, ALTER, CONSTRUCT, EQUIP, EXPAND, EXTEND, IMPROVE, INSTALL, RECONSTRUCT, REHABILITATE, REMODEL, OR REPAIR.

~~(L)~~ (M) "IMPROVEMENT" MEANS ADDITION, ALTERATION, CONSTRUCTION, EQUIPPING, EXPANSION, EXTENSION, IMPROVEMENT, INSTALLATION, RECONSTRUCTION, REHABILITATION, REMODELING, OR REPAIR.

~~(M)~~ "GOVERNMENTAL UNIT" MEANS:

~~(1) A COUNTY;~~

~~(2) A MUNICIPAL CORPORATION;~~

~~(3) A STATE UNIT;~~

~~(4) A LOCAL UNIT; OR~~

~~(5) ANY OTHER PUBLIC BODY OR UNIT ESTABLISHED IN ACCORDANCE WITH A STATE OR LOCAL LAW, ORDINANCE, OR RESOLUTION.~~

(N) (1) "PROJECT" MEANS ANY PROPERTY, THE ACQUISITION OR IMPROVEMENT OF WHICH THE BOARD, IN ITS SOLE DISCRETION, DETERMINES BY RESOLUTION WILL ACCOMPLISH AT LEAST ONE OF THE PURPOSES LISTED IN § 10-802(B) OF THIS SUBTITLE, WHETHER OR NOT THE PROPERTY:

(I) IS OR WILL BE USED OR OPERATED FOR PROFIT OR NOT FOR PROFIT;

(II) IS OR WILL BE LOCATED ON A SINGLE SITE OR MULTIPLE SITES; OR

(III) MAY BE FINANCED BY BONDS, THE INTEREST ON WHICH IS EXEMPT FROM INCOME TAXATION UNDER FEDERAL LAW.

(2) "PROJECT" INCLUDES:

(I) LAND OR AN INTEREST IN LAND;

(II) STRUCTURES, EQUIPMENT, FURNISHINGS, RAIL OR MOTOR VEHICLES, BARGES, AND BOATS;

(III) PROPERTY AND RIGHTS RELATED TO PROPERTY, APPURTENANCES, RIGHTS-OF-WAY, FRANCHISES, AND EASEMENTS;

(IV) PROPERTY THAT IS FUNCTIONALLY RELATED AND SUBORDINATE TO A PROJECT; AND

(V) PATENTS, LICENSES, AND OTHER RIGHTS NECESSARY OR USEFUL IN THE IMPROVEMENT OR OPERATION OF A PROJECT.

(O) (1) "REVENUES" MEANS THE INCOME, REVENUE, AND OTHER MONEY THE CENTER RECEIVES FROM OR IN CONNECTION WITH A PROJECT, AND ALL OTHER INCOME OF THE CENTER.

(2) "REVENUES" INCLUDES GRANTS, RENTALS, RATES, FEES, AND CHARGES FOR THE USE OF THE SERVICES FURNISHED OR AVAILABLE.

(P) (1) "TRUST AGREEMENT" MEANS AN AGREEMENT ENTERED INTO BY THE CENTER TO SECURE A BOND.

(2) "TRUST AGREEMENT" MAY INCLUDE A BOND CONTRACT, BOND RESOLUTION, OR OTHER CONTRACT WITH OR FOR THE BENEFIT OF A BONDHOLDER.

**10-802.**

(A) THE GENERAL ASSEMBLY FINDS THAT:

(1) THE UNITED STATES AS A WHOLE, AND THE STATE IN PARTICULAR, ARE FACING INCREASED ENERGY COSTS BASED ON MANY FACTORS, INCLUDING RISING FUEL COSTS, LIMITED INVESTMENT IN GENERATION AND TRANSMISSION FACILITIES, AND A COMPLEX COMBINATION OF MARKET-BASED AND OTHER REGULATORY MECHANISMS THAT BALANCE ENVIRONMENTAL, ECONOMIC, HEALTH, AND WELFARE INTERESTS;

(2) CONTINUED EXCLUSIVE RELIANCE ON TRADITIONAL FORMS OF ELECTRICITY SUPPLY ENTRENCHES THE STATE'S DEPENDENCE ON FOSSIL FUELS, WORKING AGAINST THE STATE'S POLICY OF DECREASING GREENHOUSE GAS PRODUCTION, AS EVIDENCED BY THE STATE'S ACCESSION TO THE REGIONAL GREENHOUSE GAS INITIATIVE;

**(3) "CLEAN ENERGY", A BROAD TERM THAT INCLUDES A WIDE AND VARIED MIXTURE OF STRATEGIES AND TECHNIQUES TO PRODUCE USEFUL ENERGY FROM RENEWABLE AND SUSTAINABLE SOURCES IN A MANNER THAT MINIMIZES FOSSIL FUEL USE AND HARMFUL EMISSIONS, AND TO INCREASE THE EFFICIENT USE OF ENERGY DERIVED FROM ALL SOURCES, OFFERS MANY DIFFERENT OPPORTUNITIES FOR RESIDENTS OF THE STATE TO SUCCEED IN ENTREPRENEURIAL AND OTHER COMMERCIAL ACTIVITY, TO THE OVERALL ECONOMIC AND ENVIRONMENTAL BENEFIT OF THE ENTIRE STATE, AS MEASURED IN IMPROVED AIR AND WATER QUALITY, MODERATED ENERGY EXPENDITURES, AND INCREASED STATE AND LOCAL TAX RECEIPTS;**

**(4) MANY INDIVIDUALS AND BUSINESSES IN THE STATE POSSESS TALENTS AND INTEREST IN THE CLEAN ENERGY TECHNOLOGY SECTOR, WHICH MAY FORM THE BASIS FOR ENCOURAGING DEVELOPMENT AND DEPLOYMENT OF SUSTAINABLE AND RENEWABLE ENERGY TECHNOLOGIES IN THE STATE, THE NATION, AND THE WORLD;**

**(5) THE STATE WILL BENEFIT FROM A TARGETED EFFORT TO ESTABLISH AND INCUBATE CLEAN ENERGY INDUSTRIES IN THE STATE, INCLUDING FINANCIAL ASSISTANCE, INFORMATION SHARING, AND TECHNICAL SUPPORT FOR ENTREPRENEURS IN THE MANUFACTURE AND INSTALLATION OF CLEAN ENERGY TECHNOLOGY; AND**

**(6) IT IS IN THE PUBLIC INTEREST TO ESTABLISH A PUBLIC CORPORATION TO UNDERTAKE THE TASKS OF PROMOTING CLEAN ENERGY INDUSTRIES IN THE STATE, DEVELOPING INCUBATORS FOR THOSE INDUSTRIES, PROVIDING FINANCIAL ASSISTANCE, AND ALSO PROVIDING INFORMATION SHARING AND TECHNICAL ASSISTANCE.**

**(B) THE PURPOSES OF THIS SUBTITLE ARE TO:**

**(1) ENCOURAGE THE DEVELOPMENT OF CLEAN ENERGY INDUSTRIES IN THE STATE;**

**(2) ENCOURAGE THE DEPLOYMENT OF CLEAN ENERGY TECHNOLOGIES IN THE STATE;**

**(3) HELP RETAIN AND ATTRACT BUSINESS ACTIVITY AND COMMERCE IN THE CLEAN ENERGY TECHNOLOGY INDUSTRY SECTOR IN THE STATE;**

**(4) PROMOTE ECONOMIC DEVELOPMENT; AND**

(5) PROMOTE THE HEALTH, SAFETY, AND WELFARE OF RESIDENTS OF THE STATE.

(c) THE GENERAL ASSEMBLY INTENDS THAT:

(1) THE CENTER OPERATE AND EXERCISE ITS CORPORATE POWERS IN ALL AREAS OF THE STATE;

(2) WITHOUT LIMITING ITS AUTHORITY TO OTHERWISE EXERCISE ITS CORPORATE POWERS, THE CENTER EXERCISE ITS CORPORATE POWERS TO ASSIST GOVERNMENTAL UNITS AND STATE AND LOCAL ECONOMIC DEVELOPMENT AGENCIES TO CONTRIBUTE TO THE EXPANSION, MODERNIZATION, AND RETENTION OF EXISTING ENTERPRISES IN THE STATE AS WELL AS THE ATTRACTION OF NEW BUSINESS TO THE STATE;

(3) THE CENTER COOPERATE WITH PRIVATE INDUSTRIES AND LOCAL GOVERNMENTS IN MAXIMIZING NEW ECONOMIC OPPORTUNITIES FOR RESIDENTS OF THE STATE; AND

(4) THE CENTER ACCOMPLISH AT LEAST ONE OF THE PURPOSES LISTED IN SUBSECTION (B) OF THIS SECTION AND COMPLEMENT EXISTING STATE MARKETING AND FINANCIAL ASSISTANCE PROGRAMS BY:

(i) OWNING PROJECTS;

(ii) LEASING PROJECTS TO OTHER PERSONS; OR

(iii) LENDING THE PROCEEDS OF BONDS TO OTHER PERSONS TO FINANCE THE COSTS OF ACQUIRING OR IMPROVING PROJECTS THAT THE PERSONS OWN OR WILL OWN.

**10-803.**

*(A)* THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS PURPOSES.

*(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO LIMIT OR RESTRICT THE DUTIES, PROGRAMS, OR AUTHORITY OF THE MARYLAND ENERGY ADMINISTRATION.*

**10-804. RESERVED.**

**10-805. RESERVED.**

**PART II. MARYLAND CLEAN ENERGY CENTER.**

**10-806.**

**(A) THERE IS A MARYLAND CLEAN ENERGY CENTER.**

**(B) THE CENTER IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.**

**(C) THE EXERCISE BY THE CENTER OF THE POWERS CONFERRED BY THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL GOVERNMENTAL FUNCTION.**

**(D) THE PURPOSES OF THE CENTER ARE TO:**

**(1) PROMOTE ECONOMIC DEVELOPMENT AND JOBS IN THE CLEAN ENERGY INDUSTRY SECTOR IN THE STATE;**

**(2) PROMOTE THE DEPLOYMENT OF CLEAN ENERGY TECHNOLOGY IN THE STATE;**

**(3) SERVE AS AN INCUBATOR FOR THE DEVELOPMENT OF CLEAN ENERGY INDUSTRY IN THE STATE;**

**(4) COLLECT, ANALYZE, AND DISSEMINATE INDUSTRY DATA; AND**

**(5) PROVIDE OUTREACH AND TECHNICAL SUPPORT TO FURTHER THE CLEAN ENERGY INDUSTRY IN THE STATE.**

**(E) THE CENTER SHALL COORDINATE WITH THE MARYLAND ENERGY ADMINISTRATION AND MAY NOT DUPLICATE THE PROGRAMS OR ACTIVITIES OF THE ADMINISTRATION WITHOUT CONSENT OF THE ADMINISTRATION.**

**10-807.**

**(A) A BOARD OF DIRECTORS SHALL MANAGE THE CENTER AND EXERCISE ITS CORPORATE POWERS.**

**(B) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:**

**(1) THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE; AND**



**(2) EIGHT MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:**

**(I) TWO REPRESENTING THE NOT-FOR-PROFIT CLEAN ENERGY RESEARCH SECTOR OF THE STATE;**

**(II) TWO WITH EXPERTISE IN VENTURE CAPITAL FINANCING;**

**(III) TWO REPRESENTING CLEAN ENERGY INDUSTRIES IN THE STATE; AND**

**(IV) TWO MEMBERS OF THE GENERAL PUBLIC.**

**(C) A MEMBER OF THE BOARD SHALL RESIDE IN THE STATE.**

**(D) IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR SHALL CONSIDER:**

**(1) DIVERSITY; AND**

**(2) ALL GEOGRAPHIC REGIONS OF THE STATE.**

**(E) A MEMBER OF THE BOARD:**

**(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD; BUT**

**(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

**(F) (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS AND BEGINS ON JULY 1.**

**(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS ON OCTOBER 1, 2008.**

**(3) AT THE END OF A TERM, AN APPOINTED 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.

(G) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

**10-808.**

~~(A)~~ FROM AMONG ITS MEMBERS, THE BOARD SHALL ELECT A CHAIR, A VICE CHAIR, AND A TREASURER.

~~(B) THE CHAIR, VICE CHAIR, AND TREASURER SERVE AT THE PLEASURE OF THE GOVERNOR.~~

**10-809.**

(A) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(B) (1) SIX MEMBERS OF THE BOARD ARE A QUORUM.

(2) THE BOARD MAY ACT WITH AN AFFIRMATIVE VOTE OF FIVE BOARD MEMBERS.

**10-810.**

(A) (1) THE BOARD SHALL ESTABLISH AN ADVISORY COMMITTEE.

(2) THE ADVISORY COMMITTEE CONSISTS OF INDIVIDUALS THAT THE BOARD CONSIDERS WILL ASSIST THE CENTER IN STUDYING AND DEVELOPING POLICIES TO FURTHER THE PURPOSES OF THIS SUBTITLE.

(B) THE BOARD MAY ESTABLISH OTHER COMMITTEES AS APPROPRIATE.

(C) (1) THE MEMBERSHIP OF A COMMITTEE MAY INCLUDE INDIVIDUALS WHO ARE NOT BOARD MEMBERS.

(2) THE BOARD MAY ESTABLISH THE TERM AND MANNER OF SELECTION OF THE MEMBERSHIP OF A COMMITTEE.

**10-811.**

**(A) (1) SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR.**

**(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD.**

**(3) THE BOARD SHALL DETERMINE THE SALARY OF THE EXECUTIVE DIRECTOR.**

**(B) (1) THE EXECUTIVE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE CENTER.**

**(2) THE EXECUTIVE DIRECTOR SHALL MANAGE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE CENTER IN ACCORDANCE WITH POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.**

**(C) THE EXECUTIVE DIRECTOR, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL:**

**(1) ATTEND ALL MEETINGS OF THE BOARD;**

**(2) ACT AS SECRETARY TO THE BOARD;**

**(3) KEEP MINUTES OF ALL PROCEEDINGS OF THE BOARD;**

**(4) APPROVE ALL SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE EXPENSES OF THE CENTER, ITS EMPLOYEES, AND ITS CONSULTANTS;**

**(5) APPROVE ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE CENTER; AND**

**(6) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING OUT THIS SUBTITLE.**

**10-812.**

**(A) THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE CENTER.**

**(B) WITH THE APPROVAL OF THE ATTORNEY GENERAL, THE CENTER MAY RETAIN ANY NECESSARY LAWYERS.**

**10-813.**

**THE CENTER MAY RETAIN ANY NECESSARY ACCOUNTANTS, ENGINEERS, FINANCIAL ADVISORS, OR OTHER CONSULTANTS.**

**10-814.**

**(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B), (C), AND (E) OF THIS SECTION, THE CENTER IS EXEMPT FROM:**

**(1) TITLE 10 AND DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

**(2) §§ 10-505 AND 10-507 OF THE STATE GOVERNMENT ARTICLE.**

**(B) THE CENTER IS SUBJECT TO THE PUBLIC INFORMATION ACT.**

**(C) THE BOARD AND THE OFFICERS AND EMPLOYEES OF THE CENTER ARE SUBJECT TO THE PUBLIC ETHICS LAW.**

**(D) THE OFFICERS AND EMPLOYEES OF THE CENTER ARE NOT SUBJECT TO THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.**

**(E) THE CENTER, ITS BOARD, AND EMPLOYEES ARE SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(F) THE CENTER IS A PUBLIC BODY UNDER TITLE 5, SUBTITLE 4 OF THIS ARTICLE, THE MARYLAND INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY ACT, FOR PURPOSES OF APPLYING FOR, RECEIVING, AND MAKING AGREEMENTS IN CONNECTION WITH:**

**(1) A LOAN;**

**(2) A GRANT;**

**(3) INSURANCE; OR**

**(4) ANY OTHER FORM OF FINANCIAL ASSISTANCE.**

**10-815.**

**A FINDING BY THE BOARD CONCERNING THE PUBLIC PURPOSE OF AN ACTION, THE LEGISLATIVE INTENT EXPRESSED UNDER THIS SUBTITLE, OR THE APPROPRIATENESS OF THE ACTION IN SERVING THE PUBLIC PURPOSE AND SATISFYING THE LEGISLATIVE INTENT IS CONCLUSIVE IN A PROCEEDING THAT INVOLVES THE VALIDITY OR ENFORCEABILITY OF:**

- (1) AN AGREEMENT ENTERED INTO BY THE CENTER UNDER THIS SUBTITLE;**
- (2) A BOND; OR**
- (3) ANY SECURITY RELATING TO A BOND.**

**10-816.**

**(A) THE CENTER SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.**

**(B) THE FISCAL YEAR OF THE CENTER BEGINS ON JULY 1 AND ENDS ON THE FOLLOWING JUNE 30.**

**10-817.**

**(A) THE CENTER MAY CREATE AND ADMINISTER THE ACCOUNTS THAT IT REQUIRES.**

**(B) THE CENTER SHALL DEPOSIT ITS MONEY INTO A STATE OR NATIONAL BANK OR A FEDERALLY INSURED SAVINGS AND LOAN ASSOCIATION THAT HAS A TOTAL PAID-IN CAPITAL OF AT LEAST \$1,000,000.**

**(C) THE CENTER MAY DESIGNATE THE TRUST DEPARTMENT OF A STATE BANK, NATIONAL BANK, OR SAVINGS AND LOAN ASSOCIATION AS A DEPOSITORY TO RECEIVE SECURITIES THAT THE CENTER OWNS OR ACQUIRES.**

**(D) UNLESS AN AGREEMENT OR COVENANT BETWEEN THE CENTER AND THE HOLDERS OF ITS OBLIGATIONS LIMITS CLASSES OF INVESTMENTS, THE CENTER MAY INVEST ITS MONEY IN BONDS OR OTHER OBLIGATIONS OF, OR GUARANTEED AS TO PRINCIPAL AND INTEREST BY, THE UNITED STATES, THE STATE, OR A GOVERNMENTAL UNIT.**

**10-818.**

**(A) (1) THE EXECUTIVE DIRECTOR AND EACH OTHER OFFICER AUTHORIZED BY THE CENTER MAY:**

**(I) ALLOW COPIES TO BE MADE OF THE MINUTES AND RECORDS OF THE CENTER; AND**

**(II) CERTIFY RECORDS UNDER SEAL SHOWING THAT THE COPIES ARE TRUE COPIES.**

**(2) A PERSON MAY RELY ON THE CERTIFIED RECORD.**

**(B) THE RECORDS OF THE CENTER ARE PUBLIC RECORDS SUBJECT TO REASONABLE INSPECTION.**

**10-819.**

**THE CENTER MAY:**

**(1) ADOPT BYLAWS FOR THE CONDUCT OF ITS BUSINESS;**

**(2) ADOPT A SEAL;**

**(3) MAINTAIN OFFICES AT A PLACE IT DESIGNATES IN THE STATE;**

**(4) ACCEPT LOANS, GRANTS, OR ASSISTANCE OF ANY KIND FROM THE FEDERAL OR STATE GOVERNMENT, A LOCAL GOVERNMENT, A COLLEGE OR UNIVERSITY, OR A PRIVATE SOURCE;**

**(5) ENTER INTO CONTRACTS AND OTHER LEGAL INSTRUMENTS;**

**(6) SUE OR BE SUED;**

**(7) ACQUIRE, PURCHASE, HOLD, LEASE AS LESSEE, AND USE:**

**(I) A FRANCHISE, PATENT, OR LICENSE;**

**(II) ANY REAL, PERSONAL, MIXED, TANGIBLE, OR INTANGIBLE PROPERTY; OR**

**(III) AN INTEREST IN THE PROPERTY LISTED IN THIS ITEM;**

**(8) SELL, LEASE AS LESSOR, TRANSFER, LICENSE, ASSIGN, OR DISPOSE OF PROPERTY OR A PROPERTY INTEREST THAT IT ACQUIRES;**

**(9) FIX AND COLLECT RATES, RENTALS, FEES, ROYALTIES, AND CHARGES FOR SERVICES AND RESOURCES IT PROVIDES OR MAKES AVAILABLE;**

**(10) CREATE, OWN, CONTROL, OR BE A MEMBER OF A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER ENTITY, WHETHER OPERATED FOR PROFIT OR NOT FOR PROFIT;**

**(11) EXERCISE POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND**

**(12) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS SUBTITLE.**

**10-820.**

**THE CENTER MAY MAKE GRANTS TO OR PROVIDE EQUITY INVESTMENT FINANCING FOR CLEAN ENERGY TECHNOLOGY-BASED BUSINESSES.**

**10-821.**

**THE CENTER MAY:**

**(1) ACQUIRE, DEVELOP, IMPROVE, MANAGE, MARKET, LICENSE, SUBLICENSE, MAINTAIN, LEASE AS LESSOR OR LESSEE, OR OPERATE A PROJECT IN THE STATE TO CARRY OUT ITS PURPOSES;**

**(2) ACQUIRE, DIRECTLY OR INDIRECTLY, FROM A PERSON OR GOVERNMENTAL UNIT, BY PURCHASE, GIFT, OR DEVISE ANY PROPERTY, RIGHTS-OF-WAY, FRANCHISES, EASEMENTS, OR OTHER INTERESTS IN LAND, INCLUDING SUBMERGED LAND AND RIPARIAN RIGHTS:**

**(I) AS NECESSARY OR CONVENIENT TO IMPROVE OR OPERATE A PROJECT TO CARRY OUT ITS PURPOSES; AND**

**(II) ON THE TERMS AND AT THE PRICES THAT IT CONSIDERS REASONABLE; AND**

**(3) ENTER INTO A PROJECT WITH A MANUFACTURER TO CARRY OUT ITS PURPOSES.**

**10-822.**

**THE CENTER MAY:**

**(1) BORROW MONEY AND ISSUE BONDS TO FINANCE ANY PART OF THE COST OF A PROJECT OR FOR ANY OTHER CORPORATE PURPOSE OF THE CENTER;**

**(2) SECURE THE PAYMENT OF ANY PORTION OF THE BORROWING BY PLEDGE OF OR MORTGAGE OR DEED OF TRUST ON PROPERTY OR REVENUES OF THE CENTER;**

**(3) COMBINE PROJECTS FOR FINANCING, MAKE AGREEMENTS WITH OR FOR THE BENEFIT OF THE BONDHOLDERS OR WITH OTHERS IN CONNECTION WITH THE ISSUANCE OR FUTURE ISSUANCE OF BONDS, AS THE CENTER CONSIDERS ADVISABLE; AND**

**(4) OTHERWISE PROVIDE FOR THE SECURITY OF BONDS AND THE RIGHTS OF BONDHOLDERS.**

**10-823.**

**(A) THE CENTER SHALL SERVE AS A CLEARINGHOUSE FOR INFORMATION AND MATERIALS THAT MAY BE PERTINENT TO CLEAN ENERGY TECHNOLOGY, EDUCATION, AND DEPLOYMENT IN THE STATE, FOR PERSONS ENGAGED IN THE CLEAN ENERGY INDUSTRY AS DEVELOPERS, MANUFACTURERS, AND INSTALLERS, AS WELL AS FOR CONSUMERS AND FINANCIAL INSTITUTIONS, INCLUDING INFORMATION ON AVAILABLE FEDERAL, STATE, AND PRIVATE FINANCIAL ASSISTANCE AND TECHNICAL ASSISTANCE.**

**(B) THE CENTER MAY:**

**(1) COOPERATE WITH AND PROVIDE ASSISTANCE TO LOCAL GOVERNMENTS, INSTRUMENTALITIES, AND RESEARCH ENTITIES IN THE STATE; AND**

**(2) COORDINATE CLEAN ENERGY TECHNOLOGY DEVELOPMENT, EDUCATION, AND DEPLOYMENT ACTIVITIES WITH PROGRAMS OF THE FEDERAL GOVERNMENT AND OF GOVERNMENTAL UNITS AND PUBLIC AND PRIVATE ENTITIES IN AND OUTSIDE THE STATE.**

**10-824.**



**THE CENTER IS EXEMPT FROM STATE AND LOCAL TAXES.**

**10-825.**

**THE BOOKS AND RECORDS OF THE CENTER ARE SUBJECT TO AUDIT:**

**(1) AT ANY TIME BY THE STATE; AND**

**(2) EACH YEAR BY AN INDEPENDENT AUDITOR THAT THE OFFICE OF LEGISLATIVE AUDITS APPROVES.**

**10-826.**

**(A) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE CENTER SHALL REPORT TO THE GOVERNOR, THE ADMINISTRATION, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

**(B) THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE CENTER'S OPERATIONS AND A SUMMARY OF THE CENTER'S ACTIVITIES DURING THE PRECEDING FISCAL YEAR.**

**10-827. RESERVED.**

**10-828. RESERVED.**

**PART III. MARYLAND CLEAN ENERGY TECHNOLOGY INCUBATOR PROGRAM.**

**10-829.**

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

**(B) "FINANCIAL ASSISTANCE" MEANS A GRANT, LOAN, CREDIT ENHANCEMENT, OR SIMILAR ASSISTANCE.**

**(C) "PROGRAM" MEANS THE MARYLAND CLEAN ENERGY TECHNOLOGY INCUBATOR PROGRAM.**

**10-830.**

(A) THERE IS A MARYLAND CLEAN ENERGY TECHNOLOGY INCUBATOR PROGRAM.

(B) THE CENTER SHALL ADMINISTER THE PROGRAM.

**10-831.**

THE PURPOSE OF THE PROGRAM IS TO PROMOTE ENTREPRENEURSHIP AND THE CREATION OF JOBS IN CLEAN ENERGY TECHNOLOGY-RELATED INDUSTRY BY ESTABLISHING AND OPERATING EFFECTIVE INCUBATORS THROUGHOUT THE STATE THAT PROVIDE ADEQUATE PHYSICAL SPACE DESIGNED, AND PROGRAMS INTENDED, TO INCREASE OR ACCELERATE BUSINESS SUCCESS IN THE FIELD OF CLEAN ENERGY TECHNOLOGY.

**10-832.**

(A) TO CARRY OUT THE PURPOSES OF THE PROGRAM, THE CENTER SHALL AWARD FINANCIAL ASSISTANCE UNDER THIS PART.

(B) THE CENTER SHALL CONSULT WITH THE ADMINISTRATION, THE DEPARTMENT, AND OTHER APPROPRIATE GOVERNMENTAL UNITS IN THE DEVELOPMENT OF THE PROGRAM.

**10-833.**

THE CENTER MAY AWARD FINANCIAL ASSISTANCE USING MONEY PROVIDED BY THE FEDERAL GOVERNMENT, THE STATE, A GOVERNMENTAL UNIT, OR ANY PERSON.

**10-834.**

(A) AFTER CONSULTING WITH THE DIRECTOR, THE CENTER SHALL ADOPT STANDARDS TO AWARD FINANCIAL ASSISTANCE.

(B) THE STANDARDS SHALL AUTHORIZE THE AWARD OF FINANCIAL ASSISTANCE TO:

(1) SUPPORT THE DEVELOPMENT AND USE OF BEST PRACTICES IN THE INCUBATION PROCESS;

(2) PROVIDE STRATEGIC PLANNING, NEEDS ASSESSMENTS, AND FEASIBILITY STUDIES; OR

**(3) HELP ACQUIRE OR IMPROVE NEW OR EXPANDED SPACE OR IMPROVE EXISTING SPACE FOR AN INCUBATOR, INCLUDING PROVIDING OR HELPING ANOTHER WITH:**

- (I) ACQUISITION OF LAND;**
- (II) ACQUISITION OF ARCHITECTURAL OR ENGINEERING SERVICES;**
- (III) PAYMENT OF ADMINISTRATIVE COSTS;**
- (IV) DEVELOPMENT OR UPGRADING OF COMMUNICATIONS INFRASTRUCTURE;**
- (V) ACQUISITION OF FURNISHINGS OR EQUIPMENT; OR**
- (VI) ACQUISITION OF OTHER ITEMS ASSOCIATED WITH TENANT BUILD-OUT.**

**10-835.**

**THE CENTER MAY AWARD FINANCIAL ASSISTANCE TO:**

- (1) A LOCAL GOVERNMENT;**
  - (2) AN AGENCY, INSTRUMENTALITY, OR NOT-FOR-PROFIT CORPORATION THAT THE LOCAL GOVERNMENT DESIGNATES;**
  - (3) A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY;**
  - (4) THE MARYLAND ECONOMIC DEVELOPMENT CORPORATION;**
- OR**
- (5) A NOT-FOR-PROFIT ENTITY OPERATING AN INCUBATOR IN THE STATE.**

**10-836.**

**(A) A RECIPIENT OF FINANCIAL ASSISTANCE UNDER § 10-834(B)(3) OF THIS SUBTITLE SHALL PROVIDE MATCHING FUNDS OR IN-KIND CONTRIBUTIONS FOR THE PROJECT AT LEAST EQUAL TO THE FINANCIAL ASSISTANCE AWARDED.**

**(B) THE CENTER MAY WAIVE THE REQUIREMENT OF SUBSECTION (A) OF THIS SECTION FOR GOOD CAUSE SHOWN.**

**10-837.**

**UNLESS TWO-THIRDS OF THE MEMBERSHIP OF THE BOARD APPROVE, THE CENTER MAY NOT AWARD FINANCIAL ASSISTANCE WITHIN A SINGLE COUNTY UNDER § 10-834(B)(3) OF THIS SUBTITLE THAT EXCEEDS A TOTAL OF \$1,000,000 IN A SINGLE FISCAL YEAR.**

**10-838. RESERVED.**

**10-839. RESERVED.**

**PART IV. BONDS.**

**10-840.**

**(A) (1) THE CENTER MAY PERIODICALLY:**

**(I) ISSUE BONDS FOR ANY CORPORATE PURPOSE, INCLUDING OPERATING EXPENSES;**

**(II) REFUND THOSE BONDS;**

**(III) PURCHASE ITS BONDS WITH ANY FUNDS AVAILABLE;**

**AND**

**(IV) HOLD, PLEDGE, CANCEL, OR RESELL BONDS.**

**(2) BY RESOLUTION, THE BOARD MAY AUTHORIZE THE CHAIR, VICE CHAIR, ONE OF ITS MEMBERS, OR A COMMITTEE OF ITS MEMBERS TO DETERMINE, PROVIDE FOR, OR APPROVE ANY MATTERS RELATING TO BONDS THAT THE BOARD CONSIDERS APPROPRIATE INCLUDING:**

**(I) SPECIFYING, DETERMINING, PRESCRIBING, AND APPROVING MATTERS, DOCUMENTS, AND PROCEDURES THAT RELATE TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS;**

**(II) CREATING SECURITY FOR THE BONDS;**

(III) PROVIDING FOR THE ADMINISTRATION OF BOND ISSUES; AND

(IV) TAKING OTHER ACTIONS IT CONSIDERS APPROPRIATE CONCERNING THE BONDS.

(3) THE POWER GRANTED IN PARAGRAPH (2) OF THIS SUBSECTION IS IN ADDITION TO POWERS CONFERRED ON THE BOARD BY THIS SUBTITLE AND DOES NOT LIMIT ANY POWER OF THE BOARD UNDER THIS SUBTITLE.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE BOARD MAY AUTHORIZE THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

(II) IF THE BOARD AUTHORIZES THE EXECUTIVE DIRECTOR TO TAKE ANY OF THE ACTIONS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD SHALL PRESCRIBE LIMITS WITHIN WHICH THE EXECUTIVE DIRECTOR MAY EXERCISE DISCRETION.

(B) (1) EXCEPT AS OTHERWISE PROVIDED BY THE CENTER, EACH ISSUE OF ITS BONDS IS A GENERAL OBLIGATION OF THE CENTER PAYABLE FROM ANY REVENUES OR MONEYS OF THE CENTER THAT ARE AVAILABLE AND NOT OTHERWISE PLEDGED.

(2) THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION ARE SUBJECT TO ANY AGREEMENTS WITH:

(I) HOLDERS OF PARTICULAR BONDS PLEDGING ANY PARTICULAR REVENUES OR MONEYS; AND

(II) ANY PARTICIPATING INSTITUTION.

(C) FOR EACH ISSUE OF ITS BONDS, THE CENTER SHALL PASS A RESOLUTION THAT:

(1) SPECIFIES AND DESCRIBES THE PROJECT FOR WHICH THE PROCEEDS OF THE BOND ISSUANCE ARE INTENDED;

(2) GENERALLY DESCRIBES THE PUBLIC PURPOSE AND THE FINANCING TRANSACTION TO BE ACCOMPLISHED;

**(3) SPECIFIES THE MAXIMUM PRINCIPAL AMOUNT OF THE BONDS THAT MAY BE ISSUED BY THE CENTER; AND**

**(4) IMPOSES ANY TERMS OR CONDITIONS ON THE ISSUANCE AND SALE OF THE BONDS THAT THE CENTER CONSIDERS APPROPRIATE.**

**(D) SUBJECT TO ANY PROVISION FOR THEIR REGISTRATION, BONDS ARE NEGOTIABLE INSTRUMENTS FOR ALL PURPOSES REGARDLESS OF WHETHER THEY ARE PAYABLE FROM A SPECIAL FUND.**

**(E) (1) THE BONDS MAY BE:**

**(I) SERIAL BONDS;**

**(II) TERM BONDS; OR**

**(III) BOTH IN THE DISCRETION OF THE CENTER.**

**(2) SUBJECT TO ANY DELEGATION UNDER SUBSECTION (A)(2) OF THIS SECTION, THE RESOLUTION AUTHORIZING BONDS MAY PROVIDE:**

**(I) THE DATES OF THE BONDS;**

**(II) THE MATURITY DATES OF THE BONDS;**

**(III) THE INTEREST RATES ON THE BONDS;**

**(IV) THE TIME AT WHICH THE BONDS WILL BE PAYABLE;**

**(V) THE DENOMINATIONS OF THE BONDS;**

**(VI) WHETHER THE BONDS WILL BE IN A COUPON OR REGISTERED FORM;**

**(VII) ANY REGISTRATION PRIVILEGES OF THE BONDS;**

**(VIII) THE MANNER OF EXECUTION OF THE BONDS;**

**(IX) THE PLACE AT WHICH THE BONDS WILL BE PAYABLE;**

**AND**

**(X) ANY TERMS OF REDEMPTION OF THE BONDS.**

**(3) THE BONDS SHALL MATURE WITHIN A PERIOD NOT TO EXCEED 50 YEARS AFTER THEIR DATE.**

**(4) THE BONDS SHALL BE PAYABLE IN UNITED STATES CURRENCY.**

**(F) THE BONDS MAY BE SOLD BY COMPETITIVE OR NEGOTIATED SALE AT A PRICE DETERMINED BY THE CENTER.**

**(G) PENDING PREPARATION OF THE DEFINITIVE BONDS, THE CENTER MAY ISSUE INTERIM RECEIPTS OR CERTIFICATES THAT WILL BE EXCHANGED FOR DEFINITIVE BONDS.**

**(H) (1) A TRUST AGREEMENT AUTHORIZING BONDS MAY CONTAIN PROVISIONS THAT ARE PART OF THE CONTRACT WITH THE BONDHOLDERS.**

**(2) THE PROVISIONS MAY INCLUDE:**

**(I) PLEDGING THE FOLLOWING TO SECURE PAYMENT OF BONDS, SUBJECT TO ANY EXISTING AGREEMENTS WITH BONDHOLDERS:**

- 1. THE FULL FAITH AND CREDIT OF THE CENTER;**
- 2. THE FULL FAITH AND CREDIT OF A PARTICIPATING INSTITUTION;**
- 3. REVENUES OF A PROJECT;**
- 4. A REVENUE-PRODUCING CONTRACT THE CENTER HAS MADE WITH A PERSON OR PUBLIC ENTITY; OR**
- 5. THE PROCEEDS OF THE SALE OF BONDS;**

**(II) THE RENTALS, FEES, AND OTHER CHARGES, THE AMOUNTS TO BE RAISED IN EACH YEAR, AND THE USE AND DISPOSITION OF THE REVENUES;**

**(III) THE SETTING ASIDE OF RESERVES AND SINKING FUNDS AND THEIR DISPOSITION;**

**(IV) LIMITS ON THE RIGHT OF THE CENTER OR ITS AGENTS TO RESTRICT AND REGULATE THE USE OF A PROJECT;**

(V) LIMITS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF BONDS MAY BE APPLIED;

(VI) LIMITS ON ISSUING ADDITIONAL BONDS, THE TERMS UNDER WHICH ADDITIONAL BONDS MAY BE ISSUED AND SECURED, AND REFUNDING OUTSTANDING BONDS;

(VII) THE PROCEDURE TO AMEND OR ABROGATE THE TERMS OF A CONTRACT WITH BONDHOLDERS AND THE REQUIREMENTS FOR CONSENT;

(VIII) LIMITS ON THE AMOUNT OF PROJECT REVENUES TO BE EXPENDED FOR OPERATING, ADMINISTRATIVE, OR OTHER EXPENSES OF THE CENTER;

(IX) THE ACTS OR OMISSIONS THAT CONSTITUTE DEFAULT BY THE CENTER AND THE RIGHTS AND REMEDIES OF THE BONDHOLDERS IN THE EVENT OF A DEFAULT;

(X) THE CONVEYANCE OR MORTGAGING OF A PROJECT AND ITS SITE TO SECURE THE BONDHOLDERS; AND

(XI) CREATION AND DISPOSITION OF A COLLATERAL FUND, INSTEAD OF CONVEYANCE OR MORTGAGE, FOR THE PURPOSE OF SECURING THE BONDHOLDERS.

(I) THE MEMBERS OF THE BOARD AND A PERSON EXECUTING THE BONDS MAY NOT BE HELD LIABLE PERSONALLY ON THE BONDS.

**10-841.**

(A) THE CENTER MAY SECURE BONDS BY A TRUST AGREEMENT.

(B) THE CORPORATE TRUSTEE UNDER A TRUST AGREEMENT MAY BE A TRUST COMPANY OR A BANK THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(C) IN ADDITION TO THE PROVISIONS DESCRIBED IN § 10-840(H) OF THIS SUBTITLE, THE TRUST AGREEMENT MAY CONTAIN:

(1) EITHER:

(I) A PROVISION CONVEYING OR MORTGAGING ALL OR A PORTION OF THE PROJECT; OR



(II) A PROVISION CREATING A COLLATERAL ACCOUNT;

(2) OTHER PROVISIONS THAT THE CENTER CONSIDERS REASONABLE AND PROPER FOR THE SECURITY OF BONDHOLDERS; AND

(3) A PROVISION THAT RESTRICTS THE INDIVIDUAL RIGHT OF ACTION BY BONDHOLDERS.

(D) AN EXPENSE INCURRED IN CARRYING OUT THE TRUST AGREEMENT OR A RESOLUTION MAY BE TREATED AS PART OF THE COST OF THE OPERATION OF A PROJECT.

**10-842.**

**BONDS ARE SECURITIES:**

(1) IN WHICH ANY OF THE FOLLOWING PERSONS MAY LEGALLY AND PROPERLY INVEST MONEY, INCLUDING CAPITAL THAT THE PERSON OWNS OR CONTROLS:

(I) AN OFFICER OR UNIT OF THE STATE OR A POLITICAL SUBDIVISION;

(II) A BANK, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, INVESTMENT COMPANY, OR OTHER PERSON CONDUCTING A BANKING BUSINESS;

(III) AN INSURANCE COMPANY, INSURANCE ASSOCIATION, OR OTHER PERSON CONDUCTING AN INSURANCE BUSINESS;

(IV) A PERSONAL REPRESENTATIVE, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY; AND

(V) ANY OTHER PERSON; AND

(2) THAT MAY BE DEPOSITED WITH AND RECEIVED BY A UNIT OF THE STATE OR A POLITICAL SUBDIVISION FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OBLIGATIONS OF THE STATE IS AUTHORIZED BY LAW.

**10-843.**

(A) A BOND:

(1) IS NOT:

(i) A DEBT OR LIABILITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; OR

(ii) A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE; AND

(2) IS PAYABLE SOLELY FROM MONEY AVAILABLE IN ACCORDANCE WITH THIS SUBTITLE.

(B) EACH BOND SHALL STATE ON ITS FACE THAT:

(1) THE STATE AND ITS POLITICAL SUBDIVISIONS ARE NOT OBLIGED TO PAY THE BOND OR THE INTEREST ON THE BOND EXCEPT FROM REVENUES OF THE PROJECT OR THE PORTION OF THE PROJECT FOR WHICH THE BOND IS ISSUED; AND

(2) THE FAITH, CREDIT, AND TAXING POWER OF THE STATE AND ITS POLITICAL SUBDIVISIONS ARE NOT PLEDGED TO PAY THE PRINCIPAL OF OR THE INTEREST ON THE BOND.

(C) THE ISSUANCE OF BONDS DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE STATE OR ITS POLITICAL SUBDIVISIONS:

(1) TO LEVY OR PLEDGE A TAX TO PAY THE BONDS; OR

(2) TO MAKE AN APPROPRIATION TO PAY THE BONDS.

(D) THIS SECTION DOES NOT PREVENT THE CENTER FROM PLEDGING ITS FULL FAITH AND CREDIT TO PAY BONDS.

**10-844.**

(A) THE CENTER MAY:

(1) FIX AND COLLECT RATES, RENTS, FEES, AND CHARGES FOR THE USE OF A PROJECT AND FOR THE SERVICES FURNISHED OR TO BE FURNISHED BY A PROJECT; AND

(2) CONTRACT WITH A PERSON OR GOVERNMENTAL ENTITY TO EXERCISE ITS AUTHORITY UNDER THIS SECTION.

**(B) THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE CENTER UNDER THIS SECTION SHALL BE FIXED AND ADJUSTED SO THAT THE AGGREGATE AMOUNT OF THE RATES, RENTS, FEES, AND CHARGES FROM THE PROJECT, WHEN ADDED TO OTHER AVAILABLE MONEY, IS SUFFICIENT TO:**

**(1) PAY FOR MAINTAINING, REPAIRING, AND OPERATING THE PROJECT;**

**(2) PAY THE PRINCIPAL OF AND THE INTEREST ON THE BONDS THAT THE CENTER ISSUED FOR THE PROJECT AS THEY BECOME DUE AND PAYABLE; AND**

**(3) CREATE AND MAINTAIN RESERVES REQUIRED OR PROVIDED FOR IN A TRUST AGREEMENT.**

**(C) THE RATES, RENTS, FEES, AND CHARGES ESTABLISHED BY THE CENTER UNDER THIS SECTION ARE NOT SUBJECT TO SUPERVISION OR REGULATION BY ANY UNIT OF THE STATE OTHER THAN THE CENTER.**

**10-845.**

**(A) (1) ANY PLEDGE OF REVENUES AND OTHER MONEY UNDER § 10-840(H) OF THIS SUBTITLE IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.**

**(2) (I) THE REVENUE OR MONEY THAT THE CENTER PLEDGES AND RECEIVES IS SUBJECT IMMEDIATELY TO THE LIEN OF THE PLEDGE.**

**(II) NEITHER PHYSICAL DELIVERY OF THE REVENUE OR MONEY NOR ANY OTHER ACT IS REQUIRED TO VALIDATE THE LIEN.**

**(3) THE LIEN OF THE PLEDGE IS VALID AND BINDING AGAINST EACH PARTY WITH A CLAIM AGAINST THE CENTER IN TORT, CONTRACT, OR OTHERWISE, REGARDLESS OF WHETHER THE PARTY HAS NOTICE OF THE LIEN.**

**(B) THE TRUST AGREEMENT AND ANY OTHER AGREEMENT OR LEASE CREATING A PLEDGE UNDER THIS SECTION NEED NOT BE FILED OR RECORDED, EXCEPT IN THE RECORDS OF THE CENTER.**

**10-846.**

(A) PROCEEDS FROM THE SALE OF BONDS AND OTHER REVENUES RECEIVED UNDER THIS SUBTITLE ARE TRUST FUNDS TO BE HELD AND APPLIED SOLELY AS PROVIDED IN THIS SUBTITLE.

(B) (1) EACH OFFICER, BANK, OR TRUST COMPANY THAT RECEIVES MONEY FROM THE CENTER UNDER THIS SUBTITLE SHALL ACT AS TRUSTEE OF THE MONEY AND SHALL HOLD AND APPLY THE MONEY FOR THE PURPOSES SPECIFIED UNDER THIS SUBTITLE.

(2) THE OFFICER, BANK, OR TRUST COMPANY HOLDING MONEY IS SUBJECT TO:

(I) ANY REGULATION ADOPTED UNDER THIS SUBTITLE;  
AND

(II) THE TRUST AGREEMENT SECURING THE BONDS.

10-847.

(A) (1) THE CENTER MAY ISSUE BONDS TO REFUND OUTSTANDING BONDS OF THE CENTER, INCLUDING PAYING:

(I) ANY REDEMPTION PREMIUM;

(II) INTEREST ACCRUED OR TO ACCRUE TO THE DATE OF REDEMPTION, PURCHASE, OR MATURITY OF THE BONDS; AND

(III) IF CONSIDERED ADVISABLE BY THE CENTER, ANY PART OF THE COST OF ACQUIRING OR IMPROVING A PROJECT.

(2) REFUNDING BONDS MAY BE ISSUED FOR ANY CORPORATE PURPOSE, INCLUDING:

(I) REALIZING SAVINGS IN THE EFFECTIVE COSTS OF DEBT SERVICE, DIRECTLY OR THROUGH A DEBT RESTRUCTURING; OR

(II) ALLEVIATING A POTENTIAL OR ACTUAL DEFAULT.

(B) A REFUNDING BOND THAT THE CENTER ISSUES UNDER THIS SECTION SHALL BE ISSUED IN THE SAME MANNER AND IS SUBJECT TO THIS SUBTITLE TO THE SAME EXTENT AS ANY OTHER BOND.

(c) (1) THE CENTER MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES IN AN AMOUNT GREATER THAN THE AMOUNT OF THE BONDS TO BE REFUNDED.

(2) (i) IN ADDITION TO OTHER SOURCES OF PAYMENT THAT THE CENTER DETERMINES, REFUNDING BONDS MAY BE PAYABLE FROM ESCROWED BOND PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS.

(ii) ESCROWED BOND PROCEEDS AND EARNINGS AND PROFITS ON INVESTMENTS USED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH CONSTITUTE REVENUES OF A PROJECT UNDER THIS SUBTITLE.

**10-848.**

(A) THE CENTER MAY ISSUE NEGOTIABLE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF BONDS FOR ANY CORPORATE PURPOSE.

(B) BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION SHALL BE ISSUED IN THE SAME MANNER AS BONDS.

(C) BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION AND THE RESOLUTION AUTHORIZING THEM MAY CONTAIN ANY PROVISIONS, CONDITIONS, OR LIMITATIONS THAT MAY BE INCLUDED IN A TRUST AGREEMENT.

(D) THE CENTER MAY ISSUE BOND ANTICIPATION NOTES TO PAY ANY OTHER BOND ANTICIPATION NOTES.

(E) BOND ANTICIPATION NOTES SHALL BE PAID FROM:

(1) REVENUES OF THE CENTER;

(2) MONEY AVAILABLE AND NOT OTHERWISE PLEDGED; OR

(3) THE PROCEEDS OF THE SALE OF THE BONDS IN ANTICIPATION OF WHICH THE NOTES WERE ISSUED.

**10-849.**

(A) THE CENTER SHALL CONVEY TITLE TO A PROJECT AND RELEASE COLLATERAL IN ACCORDANCE WITH THIS SECTION WHEN THE FOLLOWING CONDITIONS ARE MET:

(1) (I) THE PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO FINANCE THE PROJECT, INCLUDING ANY REFUNDING BONDS, HAVE BEEN FULLY PAID AND RETIRED; OR

(II) ADEQUATE PROVISION HAS BEEN MADE TO FULLY PAY AND RETIRE THE BONDS;

(2) ALL OTHER CONDITIONS OF THE TRUST AGREEMENT HAVE BEEN SATISFIED; AND

(3) THE LIEN OF THE TRUST AGREEMENT HAS BEEN RELEASED.

(B) ON SATISFACTION OF THE CONDITIONS UNDER SUBSECTION (A) OF THIS SECTION, THE CENTER PROMPTLY SHALL EXECUTE ANY DEEDS, CONVEYANCES, RELEASES, AND DOCUMENTS AND TAKE ANY OTHER ACTION NECESSARY TO CONVEY TITLE TO THE PROJECT TO THE PARTICIPATING INSTITUTION AND RELEASE COLLATERAL FREE OF ALL LIENS AND ENCUMBRANCES CREATED THROUGH THE CENTER.

**10-850.**

(A) A BONDHOLDER, A HOLDER OF ANY COUPONS ATTACHED TO BONDS, OR A TRUSTEE UNDER A TRUST AGREEMENT SECURING THE BONDS MAY SUE TO:

(1) PROTECT AND ENFORCE RIGHTS UNDER THE LAWS OF THE STATE OR A TRUST AGREEMENT; AND

(2) ENFORCE AND COMPEL THE PERFORMANCE OF DUTIES BY THE CENTER OR ITS OFFICER, EMPLOYEE, OR AGENT THAT THIS SUBTITLE OR A TRUST AGREEMENT REQUIRES, INCLUDING FIXING AND COLLECTING RATES, RENTS, FEES, AND CHARGES THAT THE TRUST AGREEMENT REQUIRES.

(B) THE RIGHTS UNDER THIS SECTION ARE SUBJECT TO ANY TRUST AGREEMENT.

**10-851.**

(A) THE CENTER, ITS AGENT, OR ITS LESSEE IS NOT REQUIRED TO PAY A TAX OR ASSESSMENT ON:

(1) A PROJECT OR PROPERTY THAT IT ACQUIRES OR USES UNDER THIS SUBTITLE; OR

(2) THE INCOME FROM THAT PROJECT OR PROPERTY.

(B) THE PRINCIPAL OF AND INTEREST ON BONDS, THE TRANSFER OF BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING PROFITS MADE IN THEIR SALE OR TRANSFER, ARE FOREVER EXEMPT FROM ALL STATE AND LOCAL TAXES.

10-852. RESERVED.

10-853. RESERVED.

PART V. SHORT TITLE.

10-854.

THIS SUBTITLE MAY BE CITED AS THE “MARYLAND CLEAN ENERGY CENTER ACT”.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Board of Directors shall expire as follows:

- (1) two in 2010;
- (2) two in 2011;
- (3) two in 2012; and
- (4) two in 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Clean Energy Center established by this Act not rely on funding from appropriations made from the General Fund. Nothing in this Section may be construed to limit the ability of the Center to seek and obtain funding from the Department of Business and Economic Development and from other State units and programs for economic and community development, however funded, or from federal programs involving a requirement for matching State funds.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

## CHAPTER 138

(House Bill 117)

AN ACT concerning

### **Real Property - ~~Installation of Solar Panels Collector Systems - Clarification~~ Restriction on Use and Solar Easement**

FOR the purpose of ~~defining certain terms relating to the application of a restrictive covenant as to the installation of solar collection panels in certain locations; prohibiting a condominium council of unit owners from establishing bylaws that impose restriction on use from imposing unreasonable limitations on the installation of a solar collection panels in collector system under certain locations; establishing the right of a condominium unit owner or a lot owner in a development to negotiate with neighboring unit owners or lot owners to obtain a solar easement for a unit or lot that has installed a solar energy system; establishing certain requirements for an instrument creating a solar easement circumstances; authorizing a property owner who has installed or intends to install a solar collector system to negotiate to obtain a solar easement in writing; requiring any written instrument creating a solar easement to include certain provisions; requiring a written instrument creating a solar easement to be recorded under certain circumstances; exempting a restriction on use on certain historic properties from the applicability of this Act; defining certain terms; and generally relating to enabling the installation and access to sunlight of solar energy collector systems.~~

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 2-119, ~~11-104(e), and 11-125(f)~~  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, without amendments,  
Article – Real Property  
Section 11-104(a)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)~~

~~BY adding to  
Article – Real Property  
Section 11-125(f) through (h) and 11B-111.6  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)~~



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

**Article – Real Property**

2-119.

(a) **(1)** ~~IN THIS SECTION, “RESTRICTIVE COVENANT” INCLUDES THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

**(2)** ~~“RESTRICTION ON USE” INCLUDES ANY COVENANT, RESTRICTION, OR CONDITION CONTAINED IN:~~

~~(1)~~ **(I)** A DEED;

~~(2)~~ **(II)** A DECLARATION;

~~(3)~~ **(III)** A CONTRACT;

~~(4)~~ **(IV)** THE BYLAWS OR RULES OF A CONDOMINIUM OR HOMEOWNERS ASSOCIATION;

~~(5)~~ **(V)** A SECURITY INSTRUMENT; OR

~~(6)~~ **(VI)** ANY OTHER INSTRUMENT AFFECTING:

~~(H)~~ **1.** THE TRANSFER OR SALE OF REAL PROPERTY; OR

~~(H)~~ **2.** ANY OTHER INTEREST IN REAL PROPERTY.

**(3)** ~~“SOLAR COLLECTOR SYSTEM” MEANS A SOLAR COLLECTOR OR OTHER SOLAR ENERGY DEVICE, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE FOR THE COLLECTION, STORAGE, AND DISTRIBUTION OF SOLAR ENERGY FOR ELECTRICITY GENERATION, SPACE HEATING, SPACE COOLING, OR WATER HEATING.~~

**(4)** ~~“SOLAR EASEMENT” MEANS AN INTEREST IN LAND THAT:~~

**(i)** ~~IS CONVEYED OR ASSIGNED IN PERPETUITY; AND~~

**(ii)** ~~LIMITS THE USE OF THE LAND TO PRESERVE THE RECEIPT OF SUNLIGHT ACROSS THE LAND FOR THE USE OF A PROPERTY OWNER’S SOLAR COLLECTOR SYSTEM.~~

(B) (1) ~~A restrictive covenant~~ RESTRICTION ON USE regarding land use, ~~which becomes effective after July 1, 1980,~~ may not impose or act to impose unreasonable limitations on the installation of ~~solar collection panels~~ A SOLAR COLLECTOR SYSTEM on the roof or exterior walls of improvements, PROVIDED THAT THE PROPERTY OWNER OWNS OR HAS THE RIGHT TO EXCLUSIVE USE OF THE ROOF OR EXTERIOR WALLS.

(2) ~~AN~~ FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, AN UNREASONABLE LIMITATION INCLUDES A LIMITATION THAT:

(I) SIGNIFICANTLY INCREASES THE COST OF THE SOLAR COLLECTOR SYSTEM; OR

(II) SIGNIFICANTLY DECREASES THE EFFICIENCY OF THE SOLAR COLLECTOR SYSTEM;

~~(III) SIGNIFICANTLY DECREASES THE SPECIFIED PERFORMANCE OF THE SYSTEM; OR.~~

~~(IV) DOES NOT ALLOW FOR AN ALTERNATIVE SYSTEM OF COMPARABLE COST, EFFICIENCY, AND ENERGY CONSERVATION BENEFITS.~~

(C) (1) A PROPERTY OWNER WHO HAS INSTALLED OR INTENDS TO INSTALL A SOLAR COLLECTOR SYSTEM MAY NEGOTIATE TO OBTAIN A SOLAR EASEMENT IN WRITING.

(2) ANY WRITTEN INSTRUMENT CREATING A SOLAR EASEMENT SHALL INCLUDE:

(I) A DESCRIPTION OF THE DIMENSIONS OF THE SOLAR EASEMENT EXPRESSED IN MEASURABLE TERMS, INCLUDING VERTICAL OR HORIZONTAL ANGLES MEASURED IN DEGREES OR THE HOURS OF THE DAY ON SPECIFIED DATES WHEN DIRECT SUNLIGHT TO A SPECIFIED SURFACE OF A SOLAR COLLECTOR SYSTEM MAY NOT BE OBSTRUCTED;

(II) THE RESTRICTIONS PLACED ON VEGETATION, STRUCTURES, AND OTHER OBJECTS THAT WOULD IMPAIR THE PASSAGE OF SUNLIGHT THROUGH THE SOLAR EASEMENT; AND

(III) THE TERMS UNDER WHICH THE SOLAR EASEMENT MAY BE REVISED OR TERMINATED.

**(3) A WRITTEN INSTRUMENT CREATING A SOLAR EASEMENT SHALL BE RECORDED IN THE LAND RECORDS OF THE COUNTY WHERE THE PROPERTY IS LOCATED.**

~~[(b)]~~ **(D)** This section does not apply to a ~~restrictive covenant~~ **RESTRICTION ON USE** on historic property that is listed by:

~~(1) The Maryland Inventory of Historic Properties; or~~

~~(2) The~~ **IN, OR DETERMINED BY THE DIRECTOR OF THE MARYLAND HISTORICAL TRUST TO BE ELIGIBLE FOR INCLUSION IN, THE** Maryland Register of Historic Properties.

~~11-104.~~

~~(a) The administration of every condominium shall be governed by bylaws which shall be recorded with the declaration. If the council of unit owners is incorporated, these bylaws shall be the bylaws of that corporation.~~

~~(c) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE bylaws also may contain any other provision regarding the management and operation of the condominium including any restriction on or requirement respecting the use and maintenance of the units and the common elements.~~

~~(2) THE BYLAWS MAY NOT IMPOSE OR ACT TO IMPOSE UNREASONABLE LIMITATIONS ON THE INSTALLATION OF SOLAR COLLECTION PANELS ON THE ROOF OR EXTERIOR WALLS OF A UNIT.~~

~~(3) AN UNREASONABLE LIMITATION INCLUDES A LIMITATION THAT:~~

~~(i) SIGNIFICANTLY INCREASES THE COST OF THE SYSTEM;~~

~~(ii) SIGNIFICANTLY DECREASES THE EFFICIENCY OF THE SYSTEM;~~

~~(iii) SIGNIFICANTLY DECREASES THE SPECIFIED PERFORMANCE OF THE SYSTEM; OR~~

~~(iv) DOES NOT ALLOW FOR AN ALTERNATIVE SYSTEM OF COMPARABLE COST, EFFICIENCY, AND ENERGY CONSERVATION BENEFITS.~~

~~11-125.~~

~~(F) (1) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(2) "SOLAR EASEMENT" MEANS AN INTEREST IN LAND THAT:~~

~~(I) IS CONVEYED OR ASSIGNED IN PERPETUITY; AND~~

~~(II) LIMITS THE USE OF THE LAND TO PRESERVE THE RECEIPT OF SUNLIGHT ACROSS THE LAND FOR THE USE OF A UNIT OWNER'S SOLAR ENERGY SYSTEM;~~

~~(3) "SOLAR ENERGY SYSTEM" MEANS:~~

~~(I) A SOLAR COLLECTOR OR OTHER SOLAR ENERGY DEVICE, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE FOR THE COLLECTION, STORAGE, AND DISTRIBUTION OF SOLAR ENERGY FOR ELECTRICITY GENERATION, SPACE HEATING, SPACE COOLING, OR WATER HEATING; OR~~

~~(II) A STRUCTURAL DESIGN FEATURE OF A UNIT, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE FOR THE COLLECTION, STORAGE, AND DISTRIBUTION OF SOLAR ENERGY FOR ELECTRICITY GENERATION, SPACE HEATING, SPACE COOLING, OR WATER HEATING.~~

~~(G) A UNIT OWNER WHO OWNS A UNIT THAT HAS INSTALLED A SOLAR ENERGY SYSTEM MAY NEGOTIATE WITH NEIGHBORING UNIT OWNERS TO OBTAIN A SOLAR EASEMENT THAT SHALL BE RECORDED IN WRITING.~~

~~(H) ANY WRITTEN INSTRUMENT CREATING A SOLAR EASEMENT SHALL INCLUDE:~~

~~(1) A DESCRIPTION OF THE DIMENSIONS OF THE EASEMENT EXPRESSED IN MEASURABLE TERMS, INCLUDING VERTICAL OR HORIZONTAL ANGLES MEASURED IN DEGREES OR THE HOURS OF THE DAY ON SPECIFIED DATES WHEN DIRECT SUNLIGHT TO A SPECIFIED SURFACE OF A SOLAR ENERGY SYSTEM MAY NOT BE OBSTRUCTED;~~

~~(2) THE RESTRICTIONS PLACED ON VEGETATION, STRUCTURES, AND OTHER OBJECTS THAT WOULD IMPAIR THE PASSAGE OF SUNLIGHT THROUGH THE EASEMENT; AND~~

~~(3) THE TERMS UNDER WHICH THE EASEMENT MAY BE REVISED OR TERMINATED.~~

~~[(f)] (1) (1) The declaration or bylaws may give the council of unit owners authority to grant easements, rights of way, licenses, leases in excess of 1 year, or similar interests affecting the common elements of the condominium if the grant is approved by the affirmative vote of unit owners having 66 2/3 percent or more of the votes, and with the express written consent of the mortgagees holding an interest in those units as to which unit owners vote affirmatively. Any easement, right of way, license, or similar interest granted by the council of unit owners under this subsection shall state that the grant was approved by unit owners having at least 66 2/3 percent of the votes, and by the corresponding mortgagees.~~

~~(2) The board of directors may, by majority vote, grant easements, rights of way, licenses, leases in excess of 1 year, or similar interests for the provision of utility services or communication systems for the exclusive benefit of units within the condominium regime. These actions by the board of directors are subject to the following requirements:~~

~~(i) The action shall be taken at a meeting of the board held after at least 30 days' notice to all unit owners and mortgagees of record with the condominium;~~

~~(ii) At the meeting, the board may not act until all unit owners and mortgagees shall be afforded a reasonable opportunity to present their views on the proposed easement, right of way, license, lease, or similar interest;~~

~~(iii) The easement, right of way, license, lease, or similar interest shall contain the following provisions:~~

~~1. The service or system shall be installed or affixed to the premises at no cost to the individual unit owners or the council of unit owners other than charges normally paid for like services by residents of similar or comparable dwelling units within the same area;~~

~~2. The unit owners and council of unit owners shall be indemnified for any damage arising out of the installation of the service or system; and~~

~~3. The board of directors shall be provided the right to approve of the design for installation of the service or system in order to insure that the installation conforms to any conditions which are reasonable to protect the safety, functioning, and appearance of the premises.~~

~~(3) By majority vote, the board of directors may grant to the State perpetual easements, rights of way, licenses, leases in excess of 1 year, or similar~~

~~interests affecting the common elements of the condominium for bulkhead construction, dune construction or restoration, beach replenishment, or periodic maintenance and replacement construction, on Maryland's ocean beaches, including rights in the State to restrict access to dune areas. These actions by the board of directors are subject to the following requirements:~~

~~(i) The action shall be taken at a meeting of the board held after at least 30 days' notice to all unit owners and mortgagees of record with the condominium; and~~

~~(ii) At the meeting, the board may not act until all unit owners and mortgagees shall be afforded a reasonable opportunity to present their views on the proposed easement, right of way, license, lease, or similar interest.~~

~~(4) By majority vote, the board of directors may settle an eminent domain proceeding or grant to the State or any county, municipality, or agency or instrumentality thereof with condemnation authority, perpetual easements, rights of way, licenses, leases in excess of 1 year, or similar interests affecting the common elements of the condominium for road, highway, sidewalk, bikeway, storm drain, sewer, water, utility, and similar public purposes. These actions by the board of directors are subject to the following requirements:~~

~~(i) The action shall be taken at a meeting of the board held after at least 60 days' notice to all unit owners and all first mortgagees listed with the condominium;~~

~~(ii) The notice shall include information provided by the condemnation authority that describes the purpose and the extent of the property being acquired for public use; and~~

~~(iii) At the meeting, the board may not act until all unit owners and mortgagees in attendance have been afforded a reasonable opportunity to present their views on the proposed easement, right of way, license, lease, or similar interest.~~

~~(5) The action of the board of directors granting any easement, right of way, license, lease, or similar interest under paragraphs (2), (3), or (4) of this subsection shall not be final until the following have occurred:~~

~~(i) Within 15 days after the vote by the board to grant an easement, right of way, license, lease, or similar interest, a petition may be filed with the board of directors signed by the unit owners having at least 15 percent of the votes calling for a special meeting of unit owners to vote on the question of a disapproval of the action of the board of directors granting such easement, right of way, license, lease, or similar interest. If no such petition is received within 15 days, the decision of the board shall be final;~~

~~(ii) If a qualifying petition is filed, a special meeting shall be held no less than 15 days or more than 30 days from receipt of the petition. At the special meeting, if a quorum is not present, the decision of the board of directors shall be final;~~

~~(iii) 1. If a special meeting is held and 50 percent of the unit owners present and voting disapprove the grant, and the unit owners voting to disapprove the grant are more than 33 percent of the total votes in the condominium, then the grant shall be void; or~~

~~2. If the vote of the unit owners is not more than 33 percent of the total votes in the condominium, the decision of the board or council to make the grant shall be final;~~

~~(iv) Mortgagees shall receive notice of and be entitled to attend and speak at such special meeting; and~~

~~(v) Any easement, right of way, license, lease, or similar interest granted by the board of directors under the provisions of this subsection shall state that the grant was approved in accordance with the provisions of this subsection.~~

~~(6) The provisions of this subsection are applicable to all condominiums, regardless of the date they were established.~~

### ~~11B-111.6.~~

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

~~(2) "SOLAR EASEMENT" MEANS AN INTEREST IN LAND THAT:~~

~~(I) IS CONVEYED OR ASSIGNED IN PERPETUITY; AND~~

~~(II) LIMITS THE USE OF THE LAND TO PRESERVE THE RECEIPT OF SUNLIGHT ACROSS THE LAND FOR THE USE OF A LOT OWNER'S SOLAR ENERGY SYSTEM.~~

~~(3) "SOLAR ENERGY SYSTEM" MEANS:~~

~~(I) A SOLAR COLLECTOR OR OTHER SOLAR ENERGY DEVICE, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE FOR THE COLLECTION, STORAGE, AND DISTRIBUTION OF SOLAR ENERGY FOR~~

~~ELECTRICITY GENERATION, SPACE HEATING, SPACE COOLING, OR WATER HEATING; OR~~

~~(H) A STRUCTURAL DESIGN FEATURE OF A BUILDING, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE FOR THE COLLECTION, STORAGE, AND DISTRIBUTION OF SOLAR ENERGY FOR ELECTRICITY GENERATION, SPACE HEATING, SPACE COOLING, OR WATER HEATING.~~

~~(B) A LOT OWNER WHO OWNS A DWELLING UNIT THAT HAS INSTALLED A SOLAR ENERGY SYSTEM MAY NEGOTIATE WITH NEIGHBORING LOT OWNERS TO OBTAIN A SOLAR EASEMENT THAT SHALL BE RECORDED IN WRITING.~~

~~(C) ANY WRITTEN INSTRUMENT CREATING A SOLAR EASEMENT SHALL INCLUDE:~~

~~(1) A DESCRIPTION OF THE DIMENSIONS OF THE EASEMENT EXPRESSED IN MEASURABLE TERMS, INCLUDING VERTICAL OR HORIZONTAL ANGLES MEASURED IN DEGREES OR THE HOURS OF THE DAY ON SPECIFIED DATES WHEN DIRECT SUNLIGHT TO A SPECIFIED SURFACE OF A SOLAR ENERGY SYSTEM MAY NOT BE OBSTRUCTED;~~

~~(2) THE RESTRICTIONS PLACED ON VEGETATION, STRUCTURES, AND OTHER OBJECTS THAT WOULD IMPAIR THE PASSAGE OF SUNLIGHT THROUGH THE EASEMENT; AND~~

~~(3) THE TERMS UNDER WHICH THE EASEMENT MAY BE REVISED OR TERMINATED.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 139

(House Bill 140)

AN ACT concerning



### **Income Tax – Credit for Cellulosic Ethanol Technology Research and Development**

FOR the purpose of allowing a credit against the State income tax for certain cellulosic ethanol technology research and development expenses paid or incurred by an individual or corporation; providing for applications to the Department of Business and Economic Development for approval of the credit and certification by the Department to taxpayers of approved credit amounts; limiting the total amount of credits that the Department may approve for any calendar year to a certain amount; requiring the Department to approve a prorated credit for each applicant if the total amount applied for exceeds the maximum that may be approved; providing that certain unused credits may be carried forward to certain taxable years; requiring a certain addition modification if a certain credit is claimed; requiring the Comptroller to adopt certain regulations; requiring the Department and the Comptroller jointly to adopt certain regulations; defining certain terms; providing for the application of this Act; and generally relating to certain credits against the State income tax based on certain expenses paid or incurred for certain cellulosic ethanol technology research and development conducted in the State.

BY repealing and reenacting, without amendments,  
Article – Tax – General  
Section 10–205(a) and 10–306(a)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY adding to  
Article – Tax – General  
Section 10–205(j), 10–306(f), and 10–726  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

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

#### **Article – Tax – General**

10–205.

(a) In addition to the modification under § 10–204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

**(J) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF A CREDIT CLAIMED UNDER § 10–726 OF THIS TITLE FOR**

**RESEARCH AND DEVELOPMENT EXPENSES FOR CELLULOSIC ETHANOL TECHNOLOGY.**

10-306.

(a) In addition to the modification under § 10-305 of this subtitle, the amounts under this section are added to the federal taxable income of a corporation to determine Maryland modified income.

**(F) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF A CREDIT CLAIMED UNDER § 10-726 OF THIS TITLE FOR RESEARCH AND DEVELOPMENT EXPENSES FOR CELLULOSIC ETHANOL TECHNOLOGY.**

**10-726.**

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

**(2) "CELLULOSIC ETHANOL TECHNOLOGY" MEANS TECHNOLOGY THAT IS USED TO DEVELOP CELLULOSIC BIOMASS FOR CONVERSION TO ETHANOL FUEL.**

**(3) "DEPARTMENT" MEANS THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT.**

**(4) "QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES" MEANS EXPENSES PAID OR INCURRED FOR CELLULOSIC ETHANOL TECHNOLOGY RESEARCH AND DEVELOPMENT THAT IS CONDUCTED IN THE STATE.**

**(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO 10% OF THE QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES PAID OR INCURRED BY THE INDIVIDUAL OR CORPORATION DURING THE TAXABLE YEAR.**

**(C) (1) BY SEPTEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES WERE PAID OR INCURRED, AN INDIVIDUAL OR CORPORATION SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT FOR THE CREDIT ALLOWED UNDER THIS SECTION.**

(2) (I) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DEPARTMENT UNDER THIS SECTION MAY NOT EXCEED ~~\$3,000,000~~ \$250,000 FOR ANY CALENDAR YEAR.

(II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY ALL INDIVIDUALS AND CORPORATIONS UNDER THIS SECTION EXCEEDS THE MAXIMUM SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL APPROVE A CREDIT UNDER 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 IN THE CALENDAR YEAR.

(3) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE END OF THE TAXABLE YEAR IN WHICH THE QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES WERE PAID OR INCURRED, THE DEPARTMENT SHALL CERTIFY TO THE INDIVIDUAL OR CORPORATION THE AMOUNT OF THE RESEARCH AND DEVELOPMENT TAX CREDIT APPROVED BY THE DEPARTMENT FOR THE INDIVIDUAL OR CORPORATION UNDER THIS SECTION.

(4) TO CLAIM THE APPROVED CREDIT ALLOWED UNDER THIS SECTION, AN INDIVIDUAL OR CORPORATION SHALL:

(I) FILE AN AMENDED INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES WERE PAID OR 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 15TH TAXABLE YEAR AFTER THE TAXABLE YEAR IN WHICH THE QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES WERE PAID OR 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 SHARE OF THE QUALIFIED RESEARCH AND DEVELOPMENT 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.**

**(F) (1) THE DEPARTMENT 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) THE CREDIT UNDER THIS SECTION DOES NOT APPLY TO ANY QUALIFIED RESEARCH AND DEVELOPMENT EXPENSES PAID OR INCURRED AFTER DECEMBER 31, 2016.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008, and shall be applicable to all taxable years beginning after December 31, 2007.

Approved by the Governor, April 24, 2008.

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## CHAPTER 140

(Senate Bill 565)

AN ACT concerning

### Income Tax Credit - Bio-Heating Oil

FOR the purpose of allowing an individual or corporation to claim a certain credit against the State income tax for each gallon of heating oil with a certain blend of biodiesel purchased for certain uses; limiting the amount of the credit for a certain tax year; requiring the Maryland Energy Administration to administer a certain initial credit certificate; requiring the Maryland Energy Administration to provide to the Comptroller certain information about taxpayers applying for certain credit certificates; requiring the Maryland Energy Administration to adopt certain regulations; requiring the Maryland Energy Administration to conduct a certain public relations campaign; providing for the application of this Act; providing for the termination of this Act; and generally relating to heating oil blended with biodiesel.

BY adding to

Article – Tax – General

Section 10-726

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

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

**Article – Tax – General**

**10-726.**

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

(2) “BIO-HEATING OIL” MEANS HEATING OIL WITH A BLEND OF AT LEAST 5% BIODIESEL.

(3) “ADMINISTRATION” MEANS THE MARYLAND ENERGY ADMINISTRATION.

(B) AN INDIVIDUAL OR CORPORATION THAT RECEIVES AN INITIAL CREDIT CERTIFICATE UNDER SUBSECTION (D) OF THIS SECTION FROM THE ADMINISTRATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR A TAXABLE YEAR IN AN AMOUNT EQUAL TO ~~5~~ 3 CENTS FOR EACH GALLON OF BIO-HEATING OIL PURCHASED FOR SPACE OR WATER HEATING.

(C) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

(I) \$500; OR

(II) THE STATE INCOME TAX FOR THAT TAXABLE YEAR.

(2) THE UNUSED AMOUNT OF THE CREDIT FOR ANY TAXABLE YEAR MAY NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.

(D) (1) ON APPLICATION BY A TAXPAYER, THE MARYLAND ENERGY ADMINISTRATION SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR THE NUMBER OF GALLONS OF BIO-HEATING OIL PURCHASED BY THE TAXPAYER FOR SPACE OR WATER HEATING.

(2) THE INITIAL CREDIT CERTIFICATE ISSUED UNDER THIS SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF CREDIT THAT MAY BE CLAIMED BY THE TAXPAYER.

(3) ON JANUARY 1, 2009, AND EACH YEAR THEREAFTER, THE ADMINISTRATION SHALL PROVIDE TO THE COMPTROLLER A LIST OF ALL TAXPAYERS IN THE PRIOR TAX YEAR THAT HAVE BEEN ISSUED AN INITIAL CREDIT CERTIFICATE AND SHALL SPECIFY FOR EACH TAXPAYER THE MAXIMUM AMOUNT OF CREDIT ALLOWED.

(4) THE MARYLAND ENERGY ADMINISTRATION SHALL ADOPT REGULATIONS TO ADMINISTER THE INITIAL CREDIT CERTIFICATE REQUIRED UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, utilizing existing resources, the Maryland Energy Administration shall conduct a public relations campaign in every county of the State to promote the use of heating oil blended with biodiesel.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008, and shall be applicable to all taxable years beginning after December 31, 2007, but before January 1, 2013. It shall remain effective for a period of 5 years and, at the end of June 30, 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 24, 2008.

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## CHAPTER 141

(Senate Bill 442)

AN ACT concerning

### Environment - Clean Air Permit Fees

FOR the purpose of ~~prohibiting all~~ altering the circumstances under which certain moneys in the Maryland Clean Air Fund ~~from reverting or being transferred to~~ must be deposited in the General Fund; increasing the maximum amount of a certain fee; ~~eliminating~~ increasing the cap on a certain fee in certain years; eliminating the cap on a certain fee after a certain year; clarifying the calculation of certain fees; altering a certain definition; removing obsolete

language; making stylistic changes; and generally relating to air quality and permit fees.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section ~~2-107~~ 2-101(h), 2-107, and 2-403  
Annotated Code of Maryland  
(2007 Replacement Volume and 2007 Supplement)

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

**Article – Environment**

2-101.

(h) “Regulated emissions” means the actual rate of emissions, in tons per year, of any registered pollutant emitted by a source, to be calculated using criteria consistent with 40 CFR 70 (operating permit program)[, and subject to a limit of 4,000 tons per year of any single pollutant].

2-107.

(a) There is a Maryland Clean Air Fund.

(b) All application fees, permit fees, renewal fees, and funds collected by the Department under this title or Title 6, Subtitle 4 of this article, including any civil or administrative penalty or any fine imposed by a court under these provisions, shall be paid into the Maryland Clean Air Fund.

(c) (1) Subject to the appropriation process in the annual operating budget, the Department shall use the Maryland Clean Air Fund for:

(i) Activities conducted under this title that are related to identifying, monitoring, and regulating air pollution in this State, including program development of these activities as provided in the State budget; and

(ii) Providing grants to local governments to supplement funding for programs conducted by local governments that are consistent with this title and the State program.

(2) Subject to Title 10, Subtitle 1 of the State Government Article (Administrative Procedure Act – Regulations), the Department shall adopt rules and regulations for the management and use of the money in the Fund.



(3) At the end of the fiscal year, the Department shall prepare an annual report on the Maryland Clean Air Fund that includes an accounting of all financial receipts and expenditures to and from the Fund and shall:

(i) Provide a copy of the report to the General Assembly, as provided under § 2-1246 of the State Government Article; and

(ii) Upon request, make the report available to permit holders under this title.

(4) ~~When the Fund equals or exceeds a maximum limit of \$750,000~~ **\$2,000,000**, additional moneys received for the Fund by the Department shall be deposited to the General Fund. ~~MONEYS IN THE FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.~~

2-403.

(a) (1) The Department, by regulation, shall require and collect a fee for each permit issued under § 2-401 of this subtitle.

(2) In adopting the regulations under this section, the Department shall consult with industry to determine that the permit fee is reasonable and directly related to the actual cost of the permitting and regulatory activity, and does not exceed a certain dollar amount.

(b) (1) The amount of the fees shall cover:

(i) The reasonable cost of reviewing and acting on the application for the permits;

(ii) The reasonable costs incurred in implementing and enforcing the terms and conditions of the permits, exclusive of any court costs or other costs associated with any enforcement actions; and

(iii) The costs identified in § 502(b)(3) of the Clean Air Act Amendments of 1990.

(2) Fees assessed and collected under this section shall be used exclusively for the development and administration of the permit program under this subtitle.

(c) ~~(1)~~ The fee established under this section may not exceed~~:~~

~~(i) For calendar year 1993, \$15 per ton of regulated emissions;~~

~~(ii) For calendar year 1994, \$18 per ton of regulated emissions;~~

~~(iii) For calendar year 1995, \$20 per ton of regulated emissions;~~

and

~~(iv) For calendar year 1996 and each calendar year thereafter, \$25 per ton of regulated emissions.~~

~~(2) The fee established under this section may not exceed, for any single source, \$200,000]~~

(I) \$50 PER TON OF REGULATED EMISSIONS; AND

(II) \$500,000 FOR ANY SINGLE SOURCE IN CALENDAR YEARS 2008 AND 2009.

(2) FOR PURPOSES OF CALCULATING FEES UNDER THIS SECTION, CARBON DIOXIDE EMISSIONS SHALL BE EXCLUDED.

(3) [For purposes of this section, starting in calendar year 1997, the dollar amounts used in] **THE FEE ESTABLISHED UNDER** this section may be adjusted to reflect changes in the Consumer Price Index, as authorized by 40 CFR Part 70 (Operating Permit Program).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 142

(House Bill 1056)

AN ACT concerning

### Environment - Water Management Administration - Wetlands and Waterways Program Fees

FOR the purpose of establishing certain application fees for certain applications related to activities in wetlands and waterways; making certain permits subject to a certain application fee refund process; exempting certain persons and activities from the application fees; establishing the Wetlands and Waterways Program Fund; clarifying certain provisions of the Tidal Wetlands

Compensation Fund; defining certain terms; requiring the Department of the Environment to conduct certain reviews and submit certain reports and a certain plan to certain legislative committees by certain dates; altering certain definitions; and generally relating to the Wetlands and Waterways Program.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 1–607, 16–101(i), and 16–205  
Annotated Code of Maryland  
(2007 Replacement Volume and 2007 Supplement)

BY adding to  
Article – Environment  
Section 5–203.1  
Annotated Code of Maryland  
(2007 Replacement Volume and 2007 Supplement)

#### Preamble

WHEREAS, It is essential to the health and vitality of the Chesapeake and Atlantic Coastal Bays that all wetlands and waterways within the State are adequately protected through the permitting and licensing programs administered by the Maryland Department of the Environment; and

WHEREAS, Constraints on the Department’s General Fund appropriation have limited the Department’s effective protection of the State’s water resources and have delayed the processing of permits, which in turn has negatively impacted Maryland business interests; and

WHEREAS, The assessment of application fees will enable the Department to render permit decisions more quickly and efficiently, even though current processing delays are often the result of requirements outside the control of the Department, including review by other governmental agencies, procedures for public participation, and the failure of an applicant to submit complete and timely information to the Department; and

WHEREAS, It is the intent of the General Assembly that the goals of the statewide Nontidal Wetlands Protection Act be furthered and that the joint permitting process with the U.S. Army Corps of Engineers be improved so as to meet the goals and deadlines of the Act more effectively and promptly; and

WHEREAS, It is the intent of the General Assembly that the most equitable way to fund the full and effective administration of a statewide Wetlands and Waterways Program in the Department is through reasonable application fees and General Fund appropriations; now, therefore,

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

**Article - Environment**

1-607.

(a) (1) This subsection applies to applications for all licenses and permits issued, or required to be reissued, by the Department.

(2) On or before January 1, 1998, and each year thereafter, in consultation with interested parties, the Department shall publish expected review times for each licensing and permitting program.

(3) On or before January 1, 1998, for each licensing and permitting program, the Department shall offer assistance and information to persons which may include:

(i) Written lists of information and materials required with applications;

(ii) Written lists of common application questions and mistakes;

(iii) Preapplication meetings with prospective applicant to address technical issues;

(iv) Written receipts to the applicant upon submission of an application; and

(v) The status of active applications.

(b) (1) This subsection applies to permits which are:

(I) [identified] **IDENTIFIED** in § 1-601(a) of this subtitle; **OR**

(II) **ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE.**

(2) The Department shall provide to the applicant:

(i) A notice of completed application; or

(ii) If the Department determines that the application is incomplete, the reasons, in writing, that the application was determined to be incomplete.

(3) (I) **[The] FOR PERMITS IDENTIFIED IN § 1-601(A) OF THIS SUBTITLE, THE** notice of completed application shall include an estimated time for issuance of the tentative determination if requested by the applicant.

(II) **FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE NOTICE OF COMPLETED APPLICATION SHALL INCLUDE AN ESTIMATE OF THE DATE BY WHICH THE DEPARTMENT WILL GRANT, DENY, OR CONDITION THE PERMIT.**

(4) A permit applicant may apply to the Department for a refund of all or a portion of the application fee if:

(i) 1. **[The] FOR PERMITS IDENTIFIED IN § 1-601(A) OF THIS SUBTITLE, THE** Department fails to issue a tentative determination regarding the application within the estimated time provided in the notice of completed application; **OR**

**2. FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE DEPARTMENT FAILS TO GRANT, DENY, OR CONDITION A PERMIT WITHIN THE TIME PERIODS PROVIDED UNDER § 5-906 OF THIS ARTICLE;**

(ii) The applicant demonstrates that the delay was caused solely by the Department and was not the result of procedures or requirements outside control of the Department, including:

1. Reviews by federal, local, or other State government agencies;

2. Procedures for public participation; or

3. The failure of the applicant to submit information to the Department in a timely manner; and

(iii) 1. **[The] FOR PERMITS IDENTIFIED IN § 1-601(A) OF THIS SUBTITLE, THE** applicant applies to the Department within 60 days after the estimated time for issuance of a tentative determination; **OR**

**2. FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE APPLICANT APPLIES TO THE DEPARTMENT WITHIN 60 DAYS AFTER THE DATE BY WHICH THE DEPARTMENT WAS TO HAVE GRANTED, DENIED, OR CONDITIONED A PERMIT UNDER THE TIME PERIODS PROVIDED UNDER § 5-906 OF THIS ARTICLE.**

(5) The Secretary, or the Secretary's designee, shall review the refund request and determine if a refund of any amount is appropriate.

(6) If the Secretary denies the refund request, the Department shall provide the applicant a written explanation of the denial and of the procedures and requirements outside the control of the Department on which the denial was based within 60 days.

**5-203.1.**

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

**(2) "MAJOR PROJECT" MEANS A PROJECT THAT:**

**(I) PROPOSES TO PERMANENTLY IMPACT 5,000 SQUARE FEET OR MORE OF WETLANDS OR WATERWAYS, INCLUDING THE 100-YEAR FLOODPLAIN;**

**(II) IS LOCATED IN AN AREA IDENTIFIED AS POTENTIALLY IMPACTING THREATENED OR ENDANGERED SPECIES OR SPECIES IN NEED OF CONSERVATION BY A GEOGRAPHICAL INFORMATION SYSTEM DATABASE THAT:**

**1. INCLUDES SENSITIVE SPECIES PROJECT REVIEW AREAS AND WATERFOWL CONCENTRATION AND STAGING AREAS;**

**2. HAS BEEN DEVELOPED AND MAINTAINED BY THE DEPARTMENT OF NATURAL RESOURCES; AND**

**3. IS USED BY THE DEPARTMENT TO SCREEN INCOMING APPLICATIONS;**

**(III) IS LOCATED IN AN AREA THAT HAS BEEN IDENTIFIED AS POTENTIALLY IMPACTING HISTORICAL OR ARCHEOLOGICAL RESOURCES BY A GEOGRAPHICAL INFORMATION SYSTEM DATABASE THAT:**

**1. INCLUDES MARYLAND ARCHEOLOGICAL SITES, THE MARYLAND INVENTORY OF HISTORIC PROPERTIES, THE NATIONAL REGISTER OF HISTORIC PLACES, THE MARYLAND HISTORICAL TRUST PRESERVATION EASEMENTS, THE ANNAPOLIS MARYLAND INVENTORY OF HISTORIC PROPERTIES, AND THE ANNAPOLIS MARYLAND INVENTORY OF HISTORIC PROPERTIES STREET MAP;**

**2. HAS BEEN DEVELOPED AND MAINTAINED BY THE MARYLAND HISTORICAL TRUST; AND**

**3. IS USED BY THE DEPARTMENT TO SCREEN INCOMING APPLICATIONS;**

**(IV) IS LOCATED IN AN AREA IDENTIFIED AS POTENTIALLY IMPACTING A NONTIDAL WETLAND OF SPECIAL STATE CONCERN BY A GEOGRAPHICAL INFORMATION SYSTEM DATABASE THAT:**

**1. HAS BEEN DEVELOPED AND MAINTAINED BY THE DEPARTMENT OF NATURAL RESOURCES; AND**

**2. IS USED BY THE DEPARTMENT TO SCREEN INCOMING APPLICATIONS;**

**(V) IS ADJACENT TO USE III OR USE IV WATERS, AS DEFINED IN REGULATION BY THE DEPARTMENT; OR**

**(VI) REQUIRES THE ISSUANCE OF A PUBLIC NOTICE BY THE DEPARTMENT.**

**(3) "MINOR PROJECT" MEANS A PROJECT THAT:**

**(I) PROPOSES TO PERMANENTLY IMPACT LESS THAN 5,000 SQUARE FEET OF WETLANDS OR WATERWAYS, INCLUDING THE 100-YEAR FLOODPLAIN; AND**

**(II) DOES NOT MEET THE DEFINITION OF A MAJOR PROJECT.**

**(B) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, ALL APPLICATIONS FOR WETLANDS AND WATERWAYS AUTHORIZATIONS ISSUED BY THE DEPARTMENT UNDER §§ 5-503, 5-906, 16-202, 16-302, AND 16-307 OF THIS ARTICLE OR WETLANDS LICENSES ISSUED BY THE BOARD OF PUBLIC WORKS UNDER § 16-202 OF THIS ARTICLE SHALL BE ACCOMPANIED BY AN APPLICATION FEE AS FOLLOWS:**

**(I) FOR AN APPLICATION FOR A MINOR PROJECT OR GENERAL PERMIT.....\$750;**

(II) FOR AN APPLICATION FOR A MINOR MODIFICATION.....\$500;

(III) FOR AN APPLICATION FOR A MAJOR PROJECT OR MAJOR MODIFICATION WITH A PROPOSED PERMANENT IMPACT OF:

1. LESS THAN 1/4 ACRE.....\$1,500;

2. AT LEAST 1/4 ACRE, BUT LESS THAN 1/2 ACRE.....\$3,000;

3. AT LEAST 1/2 ACRE, BUT LESS THAN 3/4 ACRE.....\$4,500;

4. AT LEAST 3/4 ACRE, BUT LESS THAN 1 ACRE.....\$6,000; AND

5. 1 ACRE OR MORE.....THE IMPACT AREA IN ACRES MULTIPLIED BY \$7,500.

(2) THE FOLLOWING ARE EXEMPT FROM THE APPLICATION FEES ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) REGULATED ACTIVITIES CONDUCTED BY THE STATE, A MUNICIPAL CORPORATION, COUNTY, BICOUNTY OR MULTICOUNTY AGENCY UNDER ARTICLE 28 OR ARTICLE 29 OF THE CODE, OR A UNIT OF THE STATE, A MUNICIPAL CORPORATION, OR A COUNTY;

(II) PERFORMANCE OF AGRICULTURAL BEST MANAGEMENT PRACTICES CONTAINED IN A SOIL CONSERVATION AND WATER QUALITY PLAN APPROVED BY THE APPROPRIATE SOIL CONSERVATION DISTRICT;

(III) PERFORMANCE OF FORESTRY BEST MANAGEMENT PRACTICES CONTAINED IN AN EROSION AND SEDIMENT CONTROL PLAN:

1. PREPARED BY A REGISTERED FORESTER; AND

2. APPROVED BY THE APPROPRIATE SOIL CONSERVATION DISTRICT; AND

(IV) STREAM RESTORATION, VEGETATIVE SHORELINE STABILIZATION, WETLAND CREATION, OR OTHER PROJECT IN WHICH THE



PRIMARY EFFECT IS TO ENHANCE THE STATE'S WETLAND OR WATER RESOURCES.

(3) FOR PURPOSES OF THIS SUBSECTION, A MINING ACTIVITY UNDERTAKEN ON AFFECTED LAND AS IDENTIFIED IN A PERMIT ISSUED UNDER TITLE 15 OF THIS ARTICLE SHALL BE:

(i) DEEMED TO BE A MINOR PROJECT; AND

(ii) SUBJECT TO THE APPROPRIATE APPLICATION FEE UNDER PARAGRAPH (1)(i) AND (ii) OF THIS SUBSECTION.

(4) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, THE FEES IMPOSED UNDER THIS SUBSECTION MAY NOT BE MODIFIED PRIOR TO JANUARY 1, 2012.

(5) (i) THE DEPARTMENT MAY ADJUST THE FEES ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX, ~~AS AUTHORIZED BY 40 C.F.R. PART 70 (OPERATING PERMIT PROGRAM)~~ FOR ALL "URBAN CONSUMERS" FOR THE EXPENDITURE CATEGORY "ALL ITEMS NOT SEASONALLY ADJUSTED", AND FOR ALL REGIONS.

(ii) THE ANNUAL CONSUMER PRICE INDEX FOR THE PERIOD ENDING EACH DECEMBER, AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR, SHALL BE USED TO ADJUST THE FEES ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(c) (1) THERE IS A WETLANDS AND WATERWAYS PROGRAM FUND.

(2) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(3) ~~(i) AT THE END OF EACH FISCAL YEAR, ANY UNSPENT OR UNENCUMBERED BALANCE IN THE FUND SHALL REVERT TO THE GENERAL FUND OF THE STATE, IN ACCORDANCE WITH § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

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

(4) THE FUND CONSISTS OF ALL:

(I) APPLICATION FEES COLLECTED BY THE DEPARTMENT UNDER THIS SECTION;

(II) MONETARY COMPENSATION PAID TO THE STATE IN CONJUNCTION WITH A WETLANDS LICENSE OTHER THAN THAT COMPENSATION SPECIFIED IN § 16-205(c)(2) OF THIS ARTICLE;

(III) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND; AND

(IV) INVESTMENT EARNINGS, INTEREST, AND ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(5) IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, THE DEPARTMENT SHALL USE THE WETLANDS AND WATERWAYS PROGRAM FUND FOR ACTIVITIES RELATED TO:

(I) THE ISSUANCE OF AUTHORIZATIONS BY THE DEPARTMENT UNDER §§ 5-503, 5-906, 16-202, 16-302, AND 16-307 OF THIS ARTICLE OR THE ISSUANCE OF WETLANDS LICENSES BY THE BOARD OF PUBLIC WORKS UNDER § 16-202 OF THIS ARTICLE;

(II) THE MANAGEMENT, CONSERVATION, PROTECTION, AND PRESERVATION OF THE STATE'S WETLANDS AND WATERWAY RESOURCES; AND

(III) PROGRAM DEVELOPMENT ASSOCIATED WITH TITLE 5 AND TITLE 16 OF THIS ARTICLE, AS PROVIDED BY THE STATE BUDGET.

(D) ~~BY~~ ON OR BEFORE DECEMBER 31 OF EACH YEAR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT SHALL PREPARE AND SUBMIT AN ANNUAL REPORT TO THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, AND THE SENATE BUDGET AND TAXATION COMMITTEE ON THE WETLANDS AND WATERWAYS PROGRAM FUND, INCLUDING AN ACCOUNTING OF FINANCIAL RECEIPTS DEPOSITED INTO THE FUND AND EXPENDITURES FROM THE FUND.

(E) THE DEPARTMENT SHALL:

(1) PRIORITIZE THE USE OF THE WETLANDS AND WATERWAYS PROGRAM FUND TO IMPROVE THE LEVEL OF SERVICE TO THE REGULATED COMMUNITY; AND

**(2) IDENTIFY AND IMPLEMENT MEASURES THAT WILL REDUCE DELAYS AND DUPLICATION IN THE ADMINISTRATION OF THE WETLANDS AND WATERWAYS PERMIT PROCESS, INCLUDING THE PROCESSING OF APPLICATIONS FOR WETLANDS AND WATERWAYS PERMITS IN ACCORDANCE WITH § 1-607 OF THE ENVIRONMENT ARTICLE.**

16-101.

(i) "Person" means any natural person, partnership, joint-stock company, unincorporated association or society, THE FEDERAL GOVERNMENT, the State, any unit of the State, a political subdivision, or other corporation of any type.

16-205.

(a) The Board may require as a condition to issuance of a wetlands license that compensation be made to the State, of a kind and in an amount deemed appropriate by the Board.

(b) Monetary compensation received by the State in conjunction with a wetlands license may not be applied to the State Annuity Bond Fund Account.

(c) (1) There is created a special fund, known as the Tidal Wetlands Compensation Fund.

(2) The following money shall be deposited in the Tidal Wetlands Compensation Fund:

(i) [Any monetary compensation paid to the State in conjunction with a wetlands license, including compensation paid by an applicant instead of engaging in the creation, restoration, or enhancement of a tidal wetland] **ANY MONETARY PAYMENT BY A LICENSEE IN LIEU OF CREATING, RESTORING, OR ENHANCING TIDAL WETLANDS THAT IS REQUIRED BY THE DEPARTMENT OR THE BOARD AS A CONDITION OF A PERMIT OR LICENSE;**

(ii) Any penalty imposed by a court in accordance with this title;  
and

(iii) Any penalty imposed by the Department under this title.

(d) Funds in the Tidal Wetlands Compensation Fund may be appropriated only for [acquisition and conservation of wetland areas by the State, including cost sharing assistance to landowners in the management and control of phragmites under

Title 8, Subtitle 21 of the Natural Resources Article] **THE CREATION, RESTORATION, OR ENHANCEMENT OF TIDAL WETLANDS, INCLUDING:**

- (1) ACQUISITION OF LAND OR EASEMENTS;**
- (2) MAINTENANCE OF MITIGATION SITES;**
- (3) PURCHASE OF CREDITS IN MITIGATION BANKS;**
- (4) MANAGEMENT OF INVASIVE OR NUISANCE SPECIES IDENTIFIED BY THE DEPARTMENT;**
- (5) COST SHARING ASSISTANCE TO LANDOWNERS IN THE MANAGEMENT AND CONTROL OF PHRAGMITES UNDER TITLE 8, SUBTITLE 21 OF THE NATURAL RESOURCES ARTICLE; AND**
- (6) CONTRACTUAL SERVICES NECESSARY TO ACCOMPLISH THE INTENT OF THIS SUBSECTION.**

(e) Funds [appropriated in the budget for wetlands acquisition and conservation under this section] **CREDITED AND ANY INTEREST ACCRUED TO THE FUND:**

- (1) Shall remain available until expended; and
- (2) May not [be reverted] **REVERT TO THE GENERAL FUND** under any other provision of law.

**(F) ALL MONETARY COMPENSATION PAID TO THE STATE IN CONJUNCTION WITH A WETLANDS LICENSE OTHER THAN THAT SPECIFIED UNDER SUBSECTION (C)(2) OF THIS SECTION SHALL BE DEPOSITED IN THE WETLANDS AND WATERWAYS PROGRAM FUND ESTABLISHED UNDER § 5-203.1 OF THIS ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the Environment shall:

(a) (1) In conjunction with representatives of the U.S. Army Corps of Engineers and any other federal and State agencies involved in the joint permitting process, review the current wetlands and waterways joint permitting process and develop an action plan with recommendations for improvement in the joint process to meet the goals and deadlines under § 5-906(j) of the Environment Article more effectively and promptly, including an assessment of any gaps that may exist in

meeting the goals and deadlines under § 5-906(j) of the Environment Article and specific measures for resolving those gaps by January 1, 2010;

(2) In accordance with § 2-1246 of the State Government Article, submit the action plan to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee by January 1, 2009; and

(3) On or before January 1, 2010, in accordance with § 2-1246 of the State Government Article, submit a report to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee demonstrating that the measures identified in the action plan have been implemented to achieve compliance with the goals and deadlines under § 5-906(j) of the Environment Article; and

(b) On or before January 1, 2011, convene a work group consisting of interested stakeholders to review and assess whether the Wetlands and Waterways Program, due to the enactment of this Act, successfully improved the level of service to the regulated community, including:

(1) Reviewing the number of new positions assigned to the Program;

(2) Reviewing the Program's progress in improving permit turnaround time frames and permit backlogs and any enhanced services provided to the regulated community as a result of this Act;

(3) Analyzing the long-term funding needs of the Wetlands and Waterways Program;

(4) Determining whether the application fees provided by this Act are adequate to support an effective program; and

(5) On or before December 1, 2011, in accordance with § 2-1246 of the State Government Article, reporting the findings and recommendation of the work group to the Legislative Policy Committee, the House Environmental Matters Committee, and the Senate Education, Health, and Environmental Affairs Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

# CHAPTER 143

(Senate Bill 823)

AN ACT concerning

## Carroll County - Green Building Tax Credit

FOR the purpose of authorizing the ~~Board of County Commissioners~~ *governing body* of Carroll County to grant, by ~~ordinance~~ *law*, a green building tax credit against ~~certain taxes~~ *the county property tax* owed to the County by certain individuals and business and corporate entities that make certain environmentally friendly improvements to ~~imposed on certain~~ non-residential properties ~~in the County~~ *on which a person installs certain environmentally friendly technologies*; requiring the ~~County Commissioners~~ *governing body* to establish certain eligibility criteria for the tax credit; requiring the ~~County Commissioners~~ *governing body* to establish the amount of the tax credit; authorizing the ~~County Commissioners~~ *governing body* to define environmentally friendly or "green" technologies; ~~requiring the environmentally friendly or "green" technologies to include certain technologies~~ *to establish the type of work and type of environmental technologies that will qualify for the tax credit*; requiring the ~~County Commissioners~~ *governing body* to establish a procedure for applying for the County tax credit; and generally relating to the authority of the ~~County Commissioners~~ *governing body of Carroll County* to establish a green building tax credit against ~~certain taxes owed to Carroll County~~ *the county property tax imposed on certain property*.

BY adding to

~~The Public Local Laws of Carroll County~~

~~Section 9-104~~

~~Article 7 - Revenue and Taxes~~

~~(2004 Edition and November 2007 Supplement, as amended)~~

~~Article - Tax - Property~~

~~Section 9-308(e)~~

~~Annotated Code of Maryland~~

~~(2007 Replacement Volume)~~

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

~~Article 7 - Carroll County~~ Article - Tax - Property

~~9-104.~~ 9-308.

~~(A) (E) (1) THE BOARD OF COUNTY COMMISSIONERS GOVERNING BODY OF CARROLL COUNTY IS AUTHORIZED TO GRANT A CREDIT ON THE TAXES OWED TO THE COUNTY FOR CERTAIN CLASSES OF PERSONS, BUSINESSES, OR CORPORATE ENTITIES WHO CONSTRUCT, RENOVATE, UPGRADE, OR REHABILITATE NON-RESIDENTIAL PROPERTIES TO INCLUDE~~ MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON NONRESIDENTIAL PROPERTY ON WHICH A PERSON INSTALLS ENVIRONMENTALLY FRIENDLY OR "GREEN" TECHNOLOGIES IN THE COUNTY, AS DEFINED BY ORDINANCE, INCLUDING CONSERVING WATER, INCORPORATING RECYCLED OR RECYCLABLE MATERIALS, AND INCORPORATING RENEWABLE AND ENERGY EFFICIENT POWER GENERATION.

~~(B) (2) THE COUNTY COMMISSIONERS SHALL BY ORDINANCE GOVERNING BODY, BY LAW, MAY:~~

- ~~(1) (I)~~ SET THE AMOUNT OF THE TAX CREDIT;
- ~~(2) (II)~~ ESTABLISH ELIGIBILITY CRITERIA FOR THE TAX CREDIT;
- ~~(3) (III)~~ ESTABLISH THE TYPE OF WORK THAT SHALL QUALIFY FOR THE TAX CREDIT;
- ~~(4) (IV)~~ ESTABLISH THE TYPE OF ENVIRONMENTAL TECHNOLOGIES THAT WILL QUALIFY FOR THE TAX CREDIT; AND
- ~~(5) (V)~~ SET FORTH REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 144

(Senate Bill 101)

AN ACT concerning

**Real Property – Homeowners Associations – Amendment of  
Governing Documents**

FOR the purpose of authorizing the governing documents of ~~a~~ certain homeowners ~~association~~ associations to be amended by a certain percentage of votes and at a certain frequency, unless the governing document provides for a lower percentage and a greater frequency; defining a certain term; and generally relating to amendment of the governing documents of a homeowners association.

BY renumbering

Article – Real Property  
Section 11B–116  
to be Section 11B–117  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)

BY adding to

Article – Real Property  
Section 11B–116  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 11B–116 of Article – Real Property of the Annotated Code of Maryland be renumbered to be Section(s) 11B–117.

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

**Article – Real Property**

**11B–116.**

**(A) IN THIS SECTION, “GOVERNING DOCUMENT” INCLUDES:**

- (1) A DECLARATION;**
- (2) BYLAWS;**
- (3) A DEED AND AGREEMENT; AND**
- (4) RECORDED COVENANTS AND RESTRICTIONS.**



(B) NOTWITHSTANDING THE PROVISIONS OF A GOVERNING DOCUMENT, A HOMEOWNERS ASSOCIATION CREATED BEFORE JANUARY 1, 1960, MAY AMEND THE GOVERNING DOCUMENT: ONCE EVERY 5 YEARS, OR MORE FREQUENTLY IF ALLOWED BY THE GOVERNING DOCUMENT, BY THE AFFIRMATIVE VOTE OF LOT OWNERS HAVING AT LEAST TWO-THIRDS OF THE VOTES IN THE DEVELOPMENT, OR BY A LOWER PERCENTAGE IF REQUIRED IN THE GOVERNING DOCUMENT.

~~(1) UNLESS A LOWER PERCENTAGE IS REQUIRED IN THE GOVERNING DOCUMENT, BY THE AFFIRMATIVE VOTE OF LOT OWNERS HAVING AT LEAST TWO-THIRDS OF THE VOTES IN THE DEVELOPMENT; AND~~

~~(2) UNLESS A GREATER FREQUENCY IS ALLOWED BY THE GOVERNING DOCUMENT, AT LEAST ONCE EVERY 5 YEARS.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 145

(House Bill 1129)

AN ACT concerning

**Real Property - Homeowners Associations - Amendment of  
Governing Documents**

FOR the purpose of authorizing the governing documents of certain homeowners associations to be amended by a certain percentage of votes and at a certain frequency, unless the governing document provides for a lower percentage and a greater frequency; defining a certain term; and generally relating to amendment of the governing documents of a homeowners association.

BY renumbering

Article - Real Property

Section 11B-116

to be Section 11B-117

Annotated Code of Maryland

(2003 Replacement Volume and 2007 Supplement)

BY adding to

Article – Real Property  
Section 11B–116  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 11B–116 of Article – Real Property of the Annotated Code of Maryland be renumbered to be Section(s) 11B–117.

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

**Article – Real Property**

**11B–116.**

(A) IN THIS SECTION, “GOVERNING DOCUMENT” INCLUDES:

- (1) A DECLARATION;
- (2) BYLAWS;
- (3) A DEED AND AGREEMENT; AND
- (4) RECORDED COVENANTS AND RESTRICTIONS.

(B) NOTWITHSTANDING THE PROVISIONS OF A GOVERNING DOCUMENT, A HOMEOWNERS ASSOCIATION CREATED BEFORE JANUARY 1, 1960, MAY AMEND THE GOVERNING DOCUMENT: ONCE EVERY 5 YEARS, OR MORE FREQUENTLY IF ALLOWED BY THE GOVERNING DOCUMENT, BY THE AFFIRMATIVE VOTE OF LOT OWNERS HAVING AT LEAST TWO–THIRDS OF THE VOTES IN THE DEVELOPMENT, OR BY A LOWER PERCENTAGE IF REQUIRED IN THE GOVERNING DOCUMENT.

~~(1) UNLESS A LOWER PERCENTAGE IS REQUIRED IN THE GOVERNING DOCUMENT, BY THE AFFIRMATIVE VOTE OF LOT OWNERS HAVING AT LEAST TWO–THIRDS OF THE VOTES IN THE DEVELOPMENT; AND~~

~~(2) UNLESS A GREATER FREQUENCY IS ALLOWED BY THE GOVERNING DOCUMENT, AT LEAST ONCE EVERY 5 YEARS.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 146

(Senate Bill 117)

AN ACT concerning

### **Baltimore County – State’s Attorney – Salary**

FOR the purpose of ~~clarifying~~ establishing the salary of the State’s Attorney for Baltimore County beginning with the State’s Attorney elected in a certain year; providing that the salary be increased annually by a certain ~~amount~~ percentage until a certain date; clarifying language; providing that this Act does not apply to the salary or compensation of the incumbent State’s Attorney for Baltimore County; and generally relating to the State’s Attorney for Baltimore County.

BY repealing and reenacting, without amendments,

Article – Criminal Procedure

Section 15–404(a)

Annotated Code of Maryland

(2001 Volume and 2007 Supplement)

(As enacted by Chapter 15 (S.B. 37) of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 15–404(b)

Annotated Code of Maryland

(2001 Volume and 2007 Supplement)

(As enacted by Chapter 15 (S.B. 37) of the Acts of the General Assembly of 2008)

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

### **Article – Criminal Procedure**

15–404.

(a) This section applies only in Baltimore County.

(b) ~~(1)~~ (1) Subject to Article III, § 35 of the Maryland Constitution, ~~and AND~~ PARAGRAPH (2) OF THIS SUBSECTION, beginning with the term of the State's Attorney who was elected to that position in 1982, the State's Attorney's salary~~†~~:

~~(1)~~ (I) is equal to the salary of a circuit court judge; and

~~(2)~~ (II) shall be increased 5% each year during the State's Attorney's term of office~~†~~.

~~(1) (2) (I)~~ BEGINNING ON JANUARY 2, 2008 BEGINNING WITH THE TERM OF THE STATE'S ATTORNEY ELECTED TO THAT POSITION IN 2010, THE SALARY OF THE STATE'S ATTORNEY IS \$194,276; AND

~~(2) (II)~~ IN FOR THE YEAR BEGINNING ON JANUARY 1, 2012, AND EACH YEAR THEREAFTER UNTIL JANUARY 1, 2023, THE SALARY SHALL BE INCREASED BY THE SAME ANNUAL COST OF LIVING INCREASE RECEIVED BY BALTIMORE COUNTY EMPLOYEES 1%.

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 Baltimore 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 Baltimore County shall take effect at the beginning of the next following term of office.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 147

(House Bill 123)

AN ACT concerning

### Baltimore County – State's Attorney – Salary

FOR the purpose of ~~clarifying~~ establishing the salary of the State's Attorney for Baltimore County beginning with the State's Attorney elected in a certain year;

providing that the salary be increased annually by a certain ~~amount~~ percentage until a certain date; clarifying language; providing that this Act does not apply to the salary or compensation of the incumbent State's Attorney for Baltimore County; and generally relating to the State's Attorney for Baltimore County.

BY repealing and reenacting, without amendments,

Article – Criminal Procedure

Section 15–404(a)

Annotated Code of Maryland

(2001 Volume and 2007 Supplement)

(As enacted by Chapter 15 (S.B. 37) of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 15–404(b)

Annotated Code of Maryland

(2001 Volume and 2007 Supplement)

(As enacted by Chapter 15 (S.B. 37) of the Acts of the General Assembly of 2008)

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

### Article – Criminal Procedure

15–404.

(a) This section applies only in Baltimore County.

(b) ~~(1)~~ Subject to Article III, § 35 of the Maryland Constitution, ~~and~~ **AND PARAGRAPH (2) OF THIS SUBSECTION,** beginning with the term of the State's Attorney who was elected to that position in 1982, the State's Attorney's salary~~†~~:

~~(1)~~ **(I)** is equal to the salary of a circuit court judge; and

~~(2)~~ **(II)** shall be increased 5% each year during the State's Attorney's term of office.~~†~~

~~(1)~~ **(2)** ~~(I)~~ ~~BEGINNING ON JANUARY 2, 2008~~ **BEGINNING WITH THE TERM OF THE STATE'S ATTORNEY ELECTED TO THAT POSITION IN 2010, THE SALARY OF THE STATE'S ATTORNEY IS \$194,276; AND**

~~(2)~~ **(II)** ~~IN~~ **FOR THE YEAR BEGINNING ON JANUARY 1, 2012, AND EACH YEAR THEREAFTER UNTIL JANUARY 1, 2023, THE SALARY SHALL BE**

~~INCREASED BY THE SAME ANNUAL COST OF LIVING INCREASE RECEIVED BY BALTIMORE COUNTY EMPLOYEES 1%.~~

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 Baltimore 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 Baltimore County shall take effect at the beginning of the next following term of office.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 148

(Senate Bill 121)

AN ACT concerning

**Anne Arundel County - Health Department - License Fees for Food Establishments**

FOR the purpose of requiring the Anne Arundel County Council to provide for a certain license fee schedule based on certain anticipated costs; adding Anne Arundel County to the list of counties that are exempt from limitations on the amount a county may charge for certain fees to obtain a license to operate a food establishment; and generally relating to certain license fees in Anne Arundel County.

BY repealing and reenacting, with amendments,  
Article - Health - General  
Section 21-308  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article - Health - General**

21-308.

(a) In this section, “on-farm home processing facility” means a home or domestic kitchen located on an individual’s farm that manufactures and processes foods for commercial sale.

(b) (1) For any license issued for which the authority to conduct a program under this subtitle has been delegated to a county health department:

(i) A county governing body or the Mayor and City Council of Baltimore City may AND THE ANNE ARUNDEL COUNTY COUNCIL SHALL provide for a license fee schedule based on the anticipated cost of licensing, inspecting, and regulating food establishments and may provide for exemptions from the license fee schedule; and

(ii) All license fees shall be paid to the local health department or chief financial officer of the county governing body or Baltimore City.

(2) Except in **ANNE ARUNDEL COUNTY**, Baltimore City, Montgomery County, and Prince George’s County, a license fee under this subsection may not exceed:

(i) \$300; or

(ii) \$70 for a seasonal food processing operation that:

1. Uses only food that is grown on the property of the licensee; and

2. Is in operation for not more than a 3-month continuous period in the calendar year.

(3) A seasonal food processing operation may obtain a food establishment license for a fee of \$70 under paragraph (2)(ii) of this subsection only twice in a calendar year.

(c) (1) An on-farm home processing facility may obtain an on-farm home processing plant license for a fee established in regulations.

(2) An on-farm home processing facility that obtains an on-farm home processing plant license may manufacture or process only foods provided for in regulations of the department.

(d) For any other food establishment license, the Secretary shall establish a license fee in accordance with § 2-104 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 149

(Senate Bill 131)

AN ACT concerning

### **Municipal Corporations – Hotel Rental Tax**

FOR the purpose of authorizing a municipal corporation to impose a tax on certain charges for sleeping accommodations paid to hotels in the municipal corporation, subject to certain limitations; authorizing a municipal corporation to set the rate of the tax, subject to a certain limitation; authorizing a municipal corporation to provide for the administration and collection of the tax, to provide for additional exemptions from the tax, and to impose penalties for failure to collect, report, or pay the tax; requiring a municipal corporation that imposes a hotel rental tax to make a certain distribution in a certain manner; authorizing a county that has the authority to impose a hotel rental tax to impose a lower tax rate for hotels within a municipal corporation that imposes a hotel rental tax; defining certain terms; and generally relating to authorization for a municipal corporation to impose a hotel rental tax.

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions  
Section 9-608  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

### **Article 24 – Political Subdivisions – Miscellaneous Provisions**

**9-608.**



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

(2) "HOTEL" HAS THE MEANING STATED IN § 9-301 OF THIS TITLE.

(3) "HOTEL RENTAL TAX" MEANS THE TAX AUTHORIZED UNDER THIS SECTION.

(4) (I) "TRANSIENT CHARGE" MEANS A HOTEL CHARGE FOR SLEEPING ACCOMMODATIONS FOR A PERIOD NOT EXCEEDING 4 CONSECUTIVE MONTHS.

(II) "TRANSIENT CHARGE" DOES NOT INCLUDE ANY HOTEL CHARGE FOR SERVICES OR FOR ACCOMMODATIONS OTHER THAN SLEEPING ACCOMMODATIONS.

(B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A MUNICIPAL CORPORATION MAY IMPOSE, BY ORDINANCE OR RESOLUTION, A TAX ON A TRANSIENT CHARGE PAID TO A HOTEL LOCATED IN THAT MUNICIPAL CORPORATION.

(2) (I) IN THIS PARAGRAPH, "HOTEL RENTAL TAX REVENUE SHARING ARRANGEMENT" INCLUDES:

1. A REQUIREMENT UNDER THE PROVISIONS OF § 9-318 OF THIS TITLE THAT A COUNTY DISTRIBUTE REVENUE FROM A COUNTY HOTEL RENTAL TAX TO A MUNICIPAL CORPORATION; OR

2. ANY OTHER HOTEL RENTAL TAX REVENUE SHARING REQUIREMENT, AGREEMENT, OR ARRANGEMENT BETWEEN A COUNTY AND A MUNICIPAL CORPORATION.

(II) A MUNICIPAL CORPORATION IN A COUNTY THAT HAS A HOTEL RENTAL TAX REVENUE SHARING ARRANGEMENT BETWEEN THE MUNICIPAL CORPORATION AND THE COUNTY MAY NOT IMPOSE A HOTEL RENTAL TAX UNDER THIS SECTION.

(3) A MUNICIPAL CORPORATION MAY NOT IMPOSE A TAX ON A TRANSIENT CHARGE PAID TO A HOTEL IF:

(I) THE HOTEL HAS 10 OR FEWER SLEEPING ROOMS; OR

**(II) THE MUNICIPAL CORPORATION IS LOCATED WITHIN A COUNTY THAT:**

**1. DISTRIBUTES AT LEAST 50% OF TOTAL HOTEL TAX REVENUES TO PROMOTE TOURISM WITHIN THE COUNTY; OR**

**2. DOES NOT IMPOSE A TAX ON A TRANSIENT CHARGE PAID TO A HOTEL.**

**(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MUNICIPAL CORPORATION SHALL SET THE RATE OF THE HOTEL RENTAL TAX.**

**(2) THE HOTEL RENTAL TAX FOR A MUNICIPAL CORPORATION MAY NOT EXCEED 2%.**

**(D) A MUNICIPAL CORPORATION THAT IMPOSES A HOTEL RENTAL TAX MAY:**

**(1) PROVIDE FOR THE ADMINISTRATION AND COLLECTION OF THE TAX;**

**(2) PROVIDE FOR ADDITIONAL EXEMPTIONS FROM THE TAX; AND**

**(3) IMPOSE PENALTIES FOR FAILURE TO COLLECT, REPORT, OR PAY THE TAX.**

**(E) A MUNICIPAL CORPORATION THAT IMPOSES A HOTEL RENTAL TAX UNDER THIS SECTION SHALL DISTRIBUTE TO A CONVENTION AND VISITORS BUREAU IN THE COUNTY WHERE THE MUNICIPAL CORPORATION IS LOCATED AT LEAST THE SAME PERCENTAGE OF THE HOTEL RENTAL TAX COLLECTED THAT THE COUNTY DISTRIBUTES TO THE CONVENTION AND VISITORS BUREAU FROM ANY COUNTY HOTEL RENTAL TAX.**

**~~(E)~~ (F) IF A COUNTY HAS THE AUTHORITY UNDER SUBTITLE 3 OF THIS TITLE OR ANY OTHER PROVISION OF LAW TO IMPOSE A TAX ON TRANSIENT CHARGES PAID TO HOTELS, TO ACCOMMODATE A TAX IMPOSED UNDER THIS SECTION BY A MUNICIPAL CORPORATION THE COUNTY MAY IMPOSE A TAX RATE ON TRANSIENT CHARGES PAID TO HOTELS LOCATED WITHIN THE MUNICIPAL CORPORATION THAT IS LOWER THAN THE TAX RATE IMPOSED ON TRANSIENT CHARGES PAID TO HOTELS OUTSIDE THE MUNICIPAL CORPORATION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 150

(Senate Bill 132)

AN ACT concerning

**Real Estate Salespersons – Qualifications for Licensure – Education Requirements**

FOR the purpose of including certain types of instruction as satisfying certain education requirements for licensure as a real estate salesperson; and generally relating to the education requirements for licensure as a real estate salesperson.

BY repealing and reenacting, without amendments,  
Article – Business Occupations and Professions  
Section 17–303(a)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Occupations and Professions  
Section 17–303(d)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

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

**Article – Business Occupations and Professions**

17–303.

(a) To qualify for a real estate salesperson license, an applicant shall be an individual who meets the requirements of this section.

(d) An applicant shall have completed successfully:

(1) a basic course in real estate approved by the Commission that:

- (i) does not require more than 60 clock hours of:
  - 1. classroom instruction; OR
  - 2. INSTRUCTION PROVIDED BY:
    - A. REMOTE ACCESS SATELLITE;
    - B. CLOSED-CIRCUIT VIDEO;
    - C. COMPUTER, INCLUDING TRANSMISSION OVER THE INTERNET AND THE WORLD WIDE WEB;
    - D. HOME STUDY; OR
    - E. ANY OTHER DELIVERY SYSTEM APPROVED BY THE COMMISSION; and
- (ii) includes a 3 clock hour course in real estate ethics approved by the Commission; or
- (2) if approved by the Commission as an alternative, courses in real estate subjects in any college, including a 3 clock hour course in real estate ethics approved by the Commission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 151

(House Bill 566)

AN ACT concerning

**Real Estate Salespersons – Qualifications for Licensure – Education Requirements**

FOR the purpose of including certain types of instruction as satisfying certain education requirements for licensure as a real estate salesperson; and generally relating to the education requirements for licensure as a real estate salesperson.

BY repealing and reenacting, without amendments,  
 Article – Business Occupations and Professions  
 Section 17–303(a)  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Business Occupations and Professions  
 Section 17–303(d)  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2007 Supplement)

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

**Article – Business Occupations and Professions**

17–303.

(a) To qualify for a real estate salesperson license, an applicant shall be an individual who meets the requirements of this section.

(d) An applicant shall have completed successfully:

(1) a basic course in real estate approved by the Commission that:

(i) does not require more than 60 clock hours of:

**1. classroom instruction; OR**

**2. INSTRUCTION PROVIDED BY:**

**A. REMOTE ACCESS SATELLITE;**

**B. CLOSED–CIRCUIT VIDEO;**

**C. COMPUTER, INCLUDING TRANSMISSION OVER THE INTERNET AND THE WORLD WIDE WEB;**

**D. HOME STUDY; OR**

**E. ANY OTHER DELIVERY SYSTEM APPROVED BY THE COMMISSION; and**

(ii) includes a 3 clock hour course in real estate ethics approved by the Commission; or

(2) if approved by the Commission as an alternative, courses in real estate subjects in any college, including a 3 clock hour course in real estate ethics approved by the Commission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 152**

**(Senate Bill 141)**

AN ACT concerning

### **Maryland Graduate and Professional Scholarship Program - Qualifications**

FOR the purpose of expanding eligibility under the Maryland Graduate and Professional Scholarship Program to include certain students attending certain institutions in the State offering a certain degree program in pharmacy; making a stylistic change; and generally relating to the Maryland Graduate and Professional Scholarship Program.

BY repealing and reenacting, with amendments,  
Article - Education  
Section 18-2601(b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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

#### **Article - Education**

18-2601.

- (b) A recipient of a graduate and professional scholarship shall:
- (1) Be a resident of the State;
  - (2) Demonstrate financial need according to criteria established by the Commission; and
  - (3) Attend one of the following institutions:
    - (i) The University of Maryland School of:
      1. Medicine;
      2. Dentistry;
      3. Law;
      4. Pharmacy; or
      5. Social [work] **WORK**;
    - (ii) The University of Baltimore School of Law;
    - (iii) The Johns Hopkins University School of Medicine;
    - (iv) Virginia–Maryland Regional College of Veterinary Medicine;
    - (v) Any institution of higher education in the State offering a master’s degree in nursing; [or]
    - (vi) Any institution of higher education in the State offering a master’s degree in social work; **OR**
- (VII) ANY INSTITUTION OF HIGHER EDUCATION IN THE STATE OFFERING A FIRST PROFESSIONAL DEGREE IN PHARMACY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

## CHAPTER 153

(Senate Bill 180)

AN ACT concerning

### **State Lottery – Purchasing, Selling, or Cashing Lottery Tickets or Prizes**

FOR the purpose of prohibiting the purchasing, selling, or cashing of lottery tickets or prizes validated by the State Lottery Agency under certain circumstances; prohibiting a licensed agent of the State Lottery Agency from paying a prize winner less than the lawful amount or seeking a certain payment, reimbursement, or cashing fee under certain circumstances; and generally relating to the purchase and redemption of State lottery tickets and prizes.

BY repealing and reenacting, with amendments,

Article – State Government

Section 9–124

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

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

### **Article – State Government**

9–124.

(a) This section does not prohibit:

(1) giving a State lottery ticket or share as a gift;

(2) buying a State lottery ticket or share as a gift for a minor; or

(3) the Agency from directly selling any State lottery ticket to the public as provided in § 9–111(d) of this subtitle.

(b) Except as otherwise provided in this section, a person or governmental unit may not:

(1) unless a licensed agent or employee of a licensed agent, sell a State lottery ticket or share;

(2) sell **OR PURCHASE:**



(I) a State lottery ticket or share at any price other than the price that the regulations of the Agency set; OR

(II) **THE PRIZE VALIDATED FOR PAYMENT BY THE AGENCY;**

(3) sell a State lottery ticket or share to a minor;

(4) knowingly present a counterfeit or altered State lottery ticket or share for payment; [or]

(5) knowingly transfer a counterfeit or altered State lottery ticket or share to another person to present for payment; OR

**(6) KNOWINGLY PURCHASE A STATE LOTTERY TICKET OR SHARE FROM ANOTHER PERSON WITH THE INTENT TO DECEIVE OR CIRCUMVENT THE PAYMENT OF PRIZE WINNINGS TO THE STATE, IN ACCORDANCE WITH:**

(I) **§ 11-616(B) OF THE CRIMINAL PROCEDURE ARTICLE;**

(II) **§ 10-113.1(A) OF THE FAMILY LAW ARTICLE; OR**

(III) **§ 10-905(C)(3) OF THE TAX - GENERAL ARTICLE.**

(c) (1) A licensed agent may not fail to report, as required by the Internal Revenue Service or the Agency, income tax information relating to holders of winning lottery tickets.

(2) For prizes of over \$600, a licensed agent may not fail to determine, through the Agency and prior to paying the prize whether a holder of a winning lottery ticket has been certified under:

(i) § 11-616(b) of the Criminal Procedure Article; or

(ii) § 10-113.1(a) of the Family Law Article.

(3) A licensed agent may not pay a prize to a holder of a winning lottery ticket if the Agency has notified the licensed agent that the holder has been certified under:

(i) § 11-616(b) of the Criminal Procedure Article; or

(ii) § 10-113.1 of the Family Law Article.

**(4) A LICENSED AGENT MAY NOT:**

**(I) PAY A PRIZE WINNER LESS THAN THE LAWFULLY DUE PRIZE AMOUNT;**

**(II) DECEIVE OR CONSPIRE WITH ANOTHER PERSON TO PAY LESS THAN THE LAWFULLY DUE PRIZE AMOUNT TO ANY PRIZE WINNER;**

**(III) SEEK PAYMENT OR CLAIM REIMBURSEMENT OF A CASHING FEE FOR CASHING A WINNING TICKET FOR LESS THAN THE LAWFULLY DUE PRIZE AMOUNT; OR**

**(IV) RECEIVE A CASHING FEE FOR CASHING A WINNING TICKET FILED IN ERROR.**

(d) A person who violates any provision of subsection (b) or (c) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 3 years or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 154**

**(Senate Bill 181)**

AN ACT concerning

**State Real Estate Commission – Summary Suspension of License – Grounds**

FOR the purpose of authorizing the State Real Estate Commission to suspend summarily a license if the licensee has been convicted of ~~certain crimes~~ a felony or fails to disclose that the licensee has been convicted of certain crimes; making this Act an emergency measure; and generally relating to the grounds for which the State Real Estate Commission may suspend summarily a license.

BY repealing and reenacting, without amendments,  
Article – Business Occupations and Professions  
Section 17–322(b)(24)

Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Occupations and Professions  
Section 17–328  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

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

**Article – Business Occupations and Professions**

17–322.

(b) Subject to the hearing provisions of § 17–324 of this subtitle, the Commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

(24) under the laws of the United States or of any state, is convicted of:

(i) a felony;

(ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide real estate brokerage services; or

(iii) a crime that constitutes a violation of any provision of this title;

17–328.

(a) Subject to the provisions of subsection (b) of this section, the Commission may order summarily the suspension of the license of a licensee if the licensee:

(1) fails to account promptly for any money held in trust; [or]

(2) on demand, fails to display to the Commission all records, books, and accounts of any money held in trust; ~~OR~~

**(3) HAS BEEN CONVICTED OF A CRIME AS DEFINED IN § 17-322(B)(24) OF THIS SUBTITLE FELONY UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE; OR**

**(4) WITHIN 10 DAYS AFTER THE CONVICTION OR WITHIN 10 DAYS FOLLOWING RELEASE FROM INCARCERATION AS A RESULT OF THE CONVICTION, WHICHEVER IS LATER, FAILS TO DISCLOSE TO THE COMMISSION THAT THE LICENSEE HAS BEEN CONVICTED OF A CRIME AS DEFINED IN § 17-322(B)(24) OF THIS SUBTITLE FELONY UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE.**

(b) The Commission may order summarily a suspension under this section only if the Commission gives the licensee:

(1) written notice of the suspension and the finding on which the suspension is based; and

(2) after the summary suspension is effective, an opportunity to be heard promptly before the Commission or, as provided under § 17-326 of this subtitle, before a hearing board.

(c) A summary suspension ordered by the Commission under this section:

(1) may start immediately or at any later date, as set by the order; and

(2) shall continue until:

(i) the licensee complies with the conditions set forth by the Commission in its order; or

(ii) the Commission orders a different disposition after a hearing held under this section.

(d) (1) Rather than order summarily a suspension of a license under this section, the Commission may elect not to suspend the license until after the licensee is given an opportunity for a hearing.

(2) If the Commission elects to give the licensee an opportunity for a hearing before suspending the license for the grounds set forth in this section, the Commission shall give notice and hold the hearing in the same manner as required under § 17-324 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2008~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 24, 2008.**

## CHAPTER 155

(Senate Bill 183)

AN ACT concerning

### **Prince George's County Board of Education – Repeal of Requirement for a Comprehensive Review**

FOR the purpose of repealing certain uncodified provisions of law relating to the conduct of a certain review of the Prince George's County Board of Education by a consultant; and generally relating to a review of the Prince George's County Board of Education.

BY repealing

Chapter 289 of the Acts of the General Assembly of 2002, as amended by  
Chapter 344 of the Acts of the General Assembly of 2005  
Section 17 and 18

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

#### **Chapter 289 of the Acts of 2002, as amended by Chapter 344 of the Acts of 2005**

[SECTION 17. AND BE IT FURTHER ENACTED, That, on or before June 1, 2007, a consultant shall conduct a comprehensive review of the Prince George's County public school system and the New Prince George's County Board of Education (New Board). The Prince George's County Board of Education (Board) and the Maryland State Department of Education shall jointly select and equally share the cost of the consultant and determine the scope of the comprehensive review. At a minimum, the comprehensive review shall evaluate both the educational and management reforms made by the New Board and shall determine whether there has been improvement in the management of and student achievement in the public schools in Prince George's County. The review may include recommendations to the General Assembly concerning the organizational structure of the Prince George's County public school system, in addition to recommendations to the Board concerning modifications to the master plan adopted in accordance with this Act. The consultant shall report the findings of the evaluation to the Governor, the County Executive of Prince George's County, the Board and, in accordance with § 2-1246 of the State Government Article, the General Assembly.]

[SECTION 18. AND BE IT FURTHER ENACTED, That the Prince George's County Board and the State Board of Education shall review the findings of the

comprehensive review set forth in Section 17 of this Act and shall conduct four public hearings throughout Prince George's County. On or before September 1, 2007, the Prince George's County Board and State Board of Education shall report to the General Assembly the results of the public hearings and the review of the final comprehensive review, and propose to the General Assembly any changes appropriate in the management structure and levels of funding of the Prince George's County public school system.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 156**

**(Senate Bill 184)**

AN ACT concerning

### **Family Law - Child Care Centers - Emergency Suspensions**

FOR the purpose of requiring the licensee or holder of a letter of compliance to cease operation of a child care center immediately upon delivery of an emergency suspension notice; repealing a provision requiring a stay of an emergency suspension under certain circumstances; authorizing the licensee or letter holder to request a certain hearing; making a conforming change; and generally relating to the regulation of child care centers by the Maryland State Department of Education.

BY repealing and reenacting, with amendments,

Article - Family Law

Section 5-580

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

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

### **Article - Family Law**

5-580.

(a) Subject to the hearing requirements of this section, the Department may deny a license or letter of compliance to any applicant or deny approval for a change under § 5-577 of this subtitle if the applicant or proposed change does not meet the requirements of this subtitle.

(b) Subject to the hearing requirements of this section and § 5-581 of this subtitle, the State Superintendent may suspend or revoke a license or letter of compliance if the licensee:

(1) violates a provision of this Part VII of this subtitle or any rule or regulation adopted under it; or

(2) does not meet the current requirements for a new license or letter of compliance.

(c) (1) Except as otherwise provided in subsection (d) of this section, before any action is taken under this section, the State Superintendent shall give the individual against whom the action is contemplated an opportunity for a public hearing before the State Superintendent.

(2) The hearing notice to be given to the individual shall be sent at least 10 days before the hearing.

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

(d) (1) (i) The State Superintendent may suspend the license or letter of compliance to operate a child care center on an emergency basis when the State Superintendent determines that this action is required to protect the health, safety, or welfare of a child in the child care center.

(ii) When the State Superintendent suspends a license or letter of compliance on an emergency basis, the State Superintendent shall deliver written notice of the suspension to the licensee stating the regulatory basis for the suspension.

(2) (i) Upon delivery of the emergency suspension notice, the licensee or letter holder shall cease **IMMEDIATELY** operation of the child care center [within 72 hours].

(ii) [The emergency suspension shall be stayed if the licensee or letter holder requests in writing, and within 72 hours of delivery of the notice,] **THE LICENSEE OR LETTER HOLDER MAY REQUEST** a hearing before the State Superintendent.

(3) (i) If a hearing is requested by the licensee or letter holder, the State Superintendent shall hold a hearing within 7 calendar days of the request for a

hearing. The hearing shall be held in accordance with the Administrative Procedure Act.

(ii) Within 7 calendar days of the hearing a decision concerning the emergency suspension shall be made by the State Superintendent.

(4) If the emergency suspension order is upheld by the State Superintendent, the licensee or letter holder shall **CONTINUE TO** cease operations until it is determined that the health, safety, or welfare of a child in the child care center is no longer threatened.

(5) Any person aggrieved by a decision of the State Superintendent to uphold an emergency suspension may appeal that decision directly to the circuit court in the county in which the child care center is located.

(e) The State Superintendent may petition the circuit court in the county in which the child care center is located to enjoin the activities and operations of a person who operates a child care center without a license or letter of compliance as required by this Part VII, including when a license or letter of compliance has been denied, revoked, or suspended in accordance with this Part VII.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 157**

**(Senate Bill 187)**

AN ACT concerning

### **Institutions of Postsecondary Education – Certificate of Approval**

FOR the purpose of authorizing the Maryland Higher Education Commission to require a certain fee from certain institutions of postsecondary education applying for certain certificates of approval; and generally relating to the approval of institutions of postsecondary education.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 11–105(o)



Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article – Education  
Section 11–202(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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

**Article – Education**

11–105.

(o) **(1) THE COMMISSION MAY REQUIRE AN APPLICATION FEE FROM AN INSTITUTION OF POSTSECONDARY EDUCATION SEEKING CERTIFICATION TO OPERATE IN THE STATE.**

**(2)** Subject to the provisions of § 11–203 of this title, the Commission may require bonds or other financial guaranties from institutions of postsecondary education seeking certification or recertification to operate in the State.

11–202.

(a) Except as provided in subsection (c) of this section, an institution of postsecondary education may not commence or continue to operate, do business, or function without a certificate of approval from the Commission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 158**

**(Senate Bill 193)**

AN ACT concerning

**Family Law – Social Services Administration – Definition**

FOR the purpose of altering the definition of "Administration" for purposes of certain provisions of law relating to child care and foster care to include certain units in the Department of Human Resources to which the Secretary of Human Resources has delegated certain responsibilities; and generally relating to child care and foster care.

BY repealing and reenacting, without amendments,  
Article – Family Law  
Section 5–501(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 5–501(b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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:

**(1) the Social Services Administration of the Department; OR**

**(2) ANY OTHER UNIT WITHIN THE DEPARTMENT TO WHICH THE SECRETARY OF HUMAN RESOURCES HAS DELEGATED IN WRITING SPECIFIED RESPONSIBILITIES OF THE ADMINISTRATION UNDER THIS SUBTITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

## CHAPTER 159

### (Senate Bill 194)

AN ACT concerning

#### **Department of Human Resources - New Hires Registry Quarterly Report - Repeal**

FOR the purpose of repealing an uncodified provision of law requiring the Department of Human Resources to establish a certain task force, to report to the General Assembly by a certain date, and to report quarterly to the Joint Committee on Welfare Reform; and generally relating to the development of a new hire registry.

BY repealing

Chapter 351 of the Acts of the General Assembly of 1996  
Section 16

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

#### **Chapter 351 of the Acts of 1996**

[SECTION 16. AND BE IT FURTHER ENACTED, That because the General Assembly recognizes that proposed congressional welfare reform legislation may mandate the development of a registry of new hires in each state, and that development of a new hire registry will permit data matching of employment records to child support enforcement cases and AFDC and food stamp records to bolster child support collections and reduce AFDC and food stamp eligibility error rates, the Department of Human Resources shall establish a task force of agency staff, staff from the Department of Labor, Licensing, and Regulation, the State Lottery Agency, and representatives of the business community to evaluate the burden on employers resulting from the development of a registry and to increase the voluntary registration of employers. The General Assembly is concerned with the potential burden imposed on employers by development of a registry. The task force should consider options for minimizing the impact of the reporting requirements on private sector employers as well as evaluating the electronic transfer of information. The Department of Human Resources should report to the General Assembly by September 15, 1996 on its findings, and continue reporting quarterly to the Joint Committee on Welfare Reform.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 160

(Senate Bill 196)

AN ACT concerning

### **State Commission of Real Estate Appraisers and Home Inspectors – Home Inspectors – Licensing, Disclosure, and Insurance Requirements**

FOR the purpose of altering the minimum number of hours and certain approval requirements of a certain training course that must be completed by certain applicants for a home inspector license; requiring a certain training course to include successful completion of a certain examination; altering the insurance requirements for certain applicants for a home inspector license; requiring proof of compliance with certain insurance requirements for the renewal of certain home inspector licenses; ~~requiring certain home inspectors to provide certain persons certain credentials and a certain disclosure~~ altering a certain disclosure requirement; requiring certain home inspectors to maintain a certain amount of general liability insurance; requiring certain applicants for a home inspector license to submit certain proof to the State Commission of Real Estate Appraisers and Home Inspectors with certain applications; prohibiting the Commission from issuing and renewing certain licenses under certain circumstances; requiring certain licensees to give the Commission certain notice within a certain time period; authorizing the Commission to impose certain sanctions on certain applicants and licensees for failure to maintain certain insurance; and generally relating to the licensing, disclosure, and insurance requirements for home inspectors.

BY repealing and reenacting, with amendments,

Article – Business Occupations and Professions

Section 16–3A–03, 16–3A–05, 16–3A–07, 16–4A–01, and 16–701.1

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY adding to

Article – Business Occupations and Professions

Section 16–4A–04

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

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

**Article - Business Occupations and Professions**

16-3A-03.

Effective July 1, 2002, an applicant for a home inspector license shall:

(1) have completed a minimum of ~~[48]~~ **72** hours of an [off-site] **ON-SITE** training course approved by a national home inspection organization [or] **AND the Commission THAT AT A MINIMUM REQUIRES SUCCESSFUL COMPLETION OF THE NATIONAL HOME INSPECTOR EXAMINATION OR ITS EQUIVALENT AS DETERMINED BY THE COMMISSION;**

(2) have a high school diploma or its equivalent;

(3) have [general liability] insurance [in an amount not less than \$50,000] **AS REQUIRED UNDER § 16-4A-04 OF THIS TITLE;**

(4) submit to the Commission an application on the form that the Commission provides; and

(5) pay to the Commission an application fee of \$50.

16-3A-05.

If an applicant qualifies for a home inspector license under this title, the Commission shall send the applicant a notice that states:

(1) the applicant has qualified for the license; and

(2) the Commission will issue the home inspector license to an applicant upon receipt of[:

(i) proof of general liability insurance in an amount not less than \$50,000; and

(ii)] a license fee not to exceed \$400.

16-3A-07.

(a) Unless a license is renewed for a 2-year term as provided in this section, the license expires on a staggered basis as determined by the Secretary.

(b) At least 1 month before a license expires, the Commission shall mail to the licensee, at the last known address of the licensee:

- (1) a renewal application form; and
- (2) a notice that states:
  - (i) the date on which the current license expires; and
  - (ii) the amount of the renewal fee.

(c) Before a license expires, the licensee may renew it for an additional 2-year term, if the licensee:

- (1) otherwise is entitled to be licensed;
- (2) pays to the Commission a renewal fee not to exceed \$400; [and]
- (3) submits a renewal application on the form that the Commission provides; AND

**(4) SUBMITS PROOF OF COMPLIANCE WITH THE INSURANCE REQUIREMENT OF § 16-4A-04 OF THIS TITLE.**

(d) The Commission shall renew the license of and issue a license to each licensee who meets the requirements of this section.

16-4A-01.

~~(a) PROMPTLY AFTER AGREEING TO PERFORM AN INSPECTION AND BEFORE A HOME IS INSPECTED, A HOME INSPECTOR SHALL PROVIDE THE PERSON THAT HAS ENTERED INTO A CONTRACT FOR THE PURCHASE OF THE PROPERTY:~~

~~(1) A LIST OF THE CREDENTIALS OF:~~

~~(i) THE HOME INSPECTOR; AND~~

~~(ii) THE INDIVIDUAL WHO WILL ACTUALLY PERFORM THE HOME INSPECTION IF THAT INDIVIDUAL IS DIFFERENT FROM THE HOME INSPECTOR; AND~~

~~(2) A DISCLOSURE IN 14-POINT BOLD TYPE THAT STATES:~~

~~“AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF THE OVERALL CONDITION OF A BUILDING. THE INSPECTION IS BASED ON OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE BUILDING AND ITS COMPONENTS ON THE DATE OF INSPECTION.”~~

~~THE RESULTS OF THIS HOME INSPECTION ARE NOT INTENDED TO MAKE ANY REPRESENTATION REGARDING LATENT OR CONCEALED DEFECTS THAT MAY EXIST, AND NO WARRANTY OR GUARANTY IS EXPRESSED OR IMPLIED.~~

~~IF THE PERSON CONDUCTING YOUR HOME INSPECTION IS NOT A LICENSED STRUCTURAL ENGINEER OR OTHER PROFESSIONAL WHOSE LICENSE AUTHORIZES THE RENDERING OF AN OPINION AS TO THE STRUCTURAL INTEGRITY OF A BUILDING OR ITS OTHER COMPONENT PARTS, YOU MAY BE ADVISED TO SEEK A PROFESSIONAL OPINION AS TO ANY DEFECTS OR CONCERNS MENTIONED IN THE REPORT.~~

~~ONLY HOME INSPECTIONS PERFORMED BY MARYLAND LICENSED HOME INSPECTORS WILL BE RECOGNIZED BY THE BUYER AS A VALID HOME INSPECTION UNDER A REAL ESTATE CONTRACT.”~~

~~(B)~~ A licensed home inspector shall give to each person for whom the licensee performs a home inspection for compensation or to the person’s representative, a written report that states:

- (1) the scope and the exclusions of the inspection;
- (2) the conditions observed during the home inspection that are subject to the adopted standards of practice and code of ethics approved by the Commission;
- (3) the license number of the licensee; and
- (4) a disclosure in 14-point bold type that includes the following statements:
  - (i) “An inspection is intended to assist in the evaluation of the overall condition of a building. The inspection is based on observation of the visible and apparent condition of the building and its components on the date of the inspection”;
  - (ii) “The results of this home inspection are not intended to make any representation regarding latent or concealed defects that may exist, and no warranty or guaranty is expressed or implied”;

(iii) "If your home inspector is not a licensed structural engineer or other professional whose license authorizes the rendering of an opinion as to structural integrity of a building or the condition of its components or systems, you may wish to seek the professional opinion of a licensed structural engineer or other professional regarding any possible defects or other observations set forth in this report"; and

(iv) ~~[(b)]~~ ~~A STATEMENT THAT~~ "Only home inspections performed by Maryland licensed home inspectors will be recognized ~~by the buyer~~ as a valid home inspection under a real estate contract".

~~[(b)]~~ ~~(C)~~ The licensee shall give the person or the person's representative the report:

(1) by the date set in a written agreement by the parties to the home inspection; or

(2) within 7 business days after the home inspection was performed, if no date was set in a written agreement by the parties to the home inspection.

~~[(c)]~~ ~~(D)~~ Any limitation of the liability of the licensee for any damages resulting from the report on the home inspection shall be agreed to in writing by the parties to the home inspection prior to the performance of the home inspection.

**16-4A-04.**

**(A) A HOME INSPECTOR LICENSED BY THE COMMISSION SHALL MAINTAIN GENERAL LIABILITY INSURANCE IN THE AMOUNT OF AT LEAST \$150,000.**

**(B) (1) AN APPLICANT SHALL SUBMIT PROOF OF THE INSURANCE REQUIRED UNDER THIS SECTION TO THE COMMISSION WITH THE LICENSE APPLICATION.**

**(2) THE COMMISSION MAY NOT ISSUE A LICENSE TO AN APPLICANT UNLESS THE APPLICANT SUBMITS PROOF OF THE INSURANCE.**

**(C) UNLESS AN APPLICANT MEETS THE INSURANCE REQUIREMENTS OF THIS SECTION, THE COMMISSION MAY NOT RENEW THE LICENSE.**

**(D) A LICENSEE SHALL GIVE THE COMMISSION NOTICE OF THE CANCELLATION OF INSURANCE REQUIRED UNDER THIS SECTION AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE CANCELLATION.**



16-701.1.

Subject to the hearing provisions of § 16-602 of this title, the Commission may deny a home inspector license to any applicant, reprimand any home inspector licensee, or suspend or revoke a home inspector license if the applicant or licensee:

- (1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) fraudulently or deceptively uses a license;
- (3) engages in conduct that demonstrates bad faith, incompetency, negligence or untrustworthiness, or that constitutes dishonest, fraudulent, or improper dealings;
- (4) under the laws of the United States or of any state, is convicted of:
  - (i) a felony; or
  - (ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide home inspection services;
- (5) FAILS TO MAINTAIN THE INSURANCE REQUIRED UNDER § 16-4A-04 OF THIS TITLE;**
- [(5)] (6)** violates any provision of this title;
- [(6)] (7)** violates any regulation adopted under this title; or
- [(7)] (8)** aids, abets, or assists any person in violating any provision of this title or any regulation adopted under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 161

(Senate Bill 197)

AN ACT concerning

**Harness Racing – Maryland Standardbred Race Fund**

FOR the purpose of repealing the requirement that a certain race funded by the Maryland Standardbred Fund be canceled by the State Racing Commission under certain circumstances; and generally relating to the State Racing Commission.

BY repealing

Article – Business Regulation

Section 11–636

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

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

**Article – Business Regulation**

[11–636.

(a) If there are fewer than 2 separate qualified entries in a Fund Race, the Commission shall cancel the Fund Race.

(b) If the Commission cancels a Fund Race, the Commission shall give notice to the licensee in time to allow the licensee to schedule a substitute race.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 162**

**(Senate Bill 198)**

AN ACT concerning

**Family Law – Child Support Collection Fee – ~~Repeal of Sunset~~**

FOR the purpose of ~~repealing~~ increasing the amount of child support payments that a family is required to receive before the Child Support Enforcement

Administration is authorized to deduct a certain collection fee; altering the termination date of a provision that authorizes the Child Support Enforcement Administration to deduct an annual collection fee from child support payments in certain cases; requiring the Secretary of Human Resources to notify the Department of Legislative Services if a certain federal requirement is repealed; and generally relating to child support enforcement.

BY repealing and reenacting, with amendments,

Article - Family Law

Section 10-110

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 483 of the Acts of the General Assembly of 2007  
Section 2

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

**Article - Family Law**

10-110.

(a) The Administration may:

(1) charge an initial application fee of not more than \$25 for support services;

(2) deduct from the child support payment to defray the cost of providing support enforcement services under:

(i) the Income Tax Refund Intercept Program under this subtitle; and

(ii) the Federal Treasury Offset Program;

(3) collect fees from the obligor to defray the costs of providing support enforcement services; and

(4) deduct from child support payments an annual collection fee of \$25 for cases in which the family never received temporary cash assistance and has received at least [\$500] **\$3,500** in child support payments during the federal fiscal year.

*(b) Except as provided in subsection (a) of this section, the Administration may not:*

- (1) collect fees from the child support obligee; or*
- (2) deduct fees from the child support payment.*

**Chapter 483 of the Acts of 2007**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. ~~It shall remain effective for a period of 1 year and, at the end of September 30, 2008~~ **IF THE REQUIREMENT ENACTED BY THE DEFICIT REDUCTION ACT OF 2005 (P.L. 109-171, § 7310) THAT THE STATE IMPOSE AN ANNUAL FEE OF \$25 FOR EACH CASE IN WHICH CHILD SUPPORT COLLECTION SERVICES ARE FURNISHED TO AN INDIVIDUAL WHO HAS NEVER RECEIVED TEMPORARY CASH ASSISTANCE AND FOR WHOM THE STATE HAS COLLECTED AT LEAST \$500 IS REPEALED, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect AS OF THE EFFECTIVE DATE OF THE REPEAL OF THE FEDERAL REQUIREMENT. IF THE FEDERAL REQUIREMENT IS REPEALED, THE SECRETARY OF HUMAN RESOURCES SHALL NOTIFY THE DEPARTMENT OF LEGISLATIVE SERVICES WITHIN 10 DAYS AFTER THE ENACTMENT OF THE REPEAL.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ October 1, 2008.

Approved by the Governor, April 24, 2008.

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**CHAPTER 163**

**(Senate Bill 259)**

AN ACT concerning

**Program Open Space - Attainment of Acquisition Goals - Increased Allocation for Local Government**

FOR the purpose of altering the amount a local government can spend on development projects after it has attained its acquisition goals under Program Open Space; providing for the termination of this Act; and generally relating to the apportionment of local government funds for Program Open Space.

BY repealing and reenacting, with amendments,  
 Article – Natural Resources  
 Section 5–905(c)(1)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

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

**Article – Natural Resources**

5–905.

(c) (1) (i) One half of any local governing body’s annual apportionment shall be used for acquisition or development projects provided that up to 20 percent of the funds authorized for acquisition or development projects under this subparagraph may be used for capital renewal as defined in § 5–901 of this subtitle.

(ii) If the Department and the Department of Planning certify that acquisition goals set forth in the current, approved local land preservation and recreation plan have been met and that such acreage attainment equals or exceeds the minimum recommended acreage goals developed for that jurisdiction under the Maryland Land Preservation and Recreation Plan, a local governing body may use up to [75] **100** percent of its future annual apportionment for development projects for a period of 5 years after attainment, provided that up to 20 percent of the funds authorized for use for development projects under this subparagraph may be used for capital renewal.

(iii) If a county determines that it qualifies for the additional funds for development and capital renewal projects under subparagraph (ii) of this paragraph, before the due date for all local governing bodies to submit revised local land preservation and recreation plans, that county may submit an interim local land preservation and recreation plan:

1. Prior to the submission under subsection (b)(2) of this section; and
2. In addition to the submission required under subsection (b)(2).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 2 years and, at the end of May 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 24, 2008.

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## CHAPTER 164

(Senate Bill 287)

AN ACT concerning

### **State Designations – Smith Island Cake – State Dessert**

FOR the purpose of designating Smith Island cake as the State dessert.

BY adding to

Article – State Government

Section 13–320

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

#### Preamble

WHEREAS, Smith Island, the State's only inhabited offshore island in the Chesapeake Bay, is home to residents whose primary livelihood comes from the Chesapeake Bay; and

WHEREAS, Smith Island has its own traditional cuisine, which includes its most famous dish – Smith Island cake; and

WHEREAS, Smith Island cake features eight to ten thin layers of cake separated by rich frosting, and is most commonly served as a yellow cake with chocolate icing, but also is made in other flavors like coconut, fig, and strawberry; and

WHEREAS, Smith Island cake has been served for generations at holidays, special events, and church dinners; and

WHEREAS, Smith Island cake is a unique State tradition; now, therefore,

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

#### **Article – State Government**

13-320.

**SMITH ISLAND CAKE IS THE STATE DESSERT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 165**

**(House Bill 315)**

AN ACT concerning

**State Designations – Smith Island Cake – State Dessert**

FOR the purpose of designating Smith Island cake as the State dessert.

BY adding to

Article – State Government

Section 13-320

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Smith Island, the State’s only inhabited offshore island in the Chesapeake Bay, is home to residents whose primary livelihood comes from the Chesapeake Bay; and

WHEREAS, Smith Island has its own traditional cuisine, which includes its most famous dish – Smith Island cake; and

WHEREAS, Smith Island cake features eight to ten thin layers of cake separated by rich frosting, and is most commonly served as a yellow cake with chocolate icing, but also is made in other flavors like coconut, fig, and strawberry; and

WHEREAS, Smith Island cake has been served for generations at holidays, special events, and church dinners; and

WHEREAS, Smith Island cake is a unique State tradition; now, therefore,

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

**Article – State Government**

**13-320.**

**SMITH ISLAND CAKE IS THE STATE DESSERT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 166**

**(Senate Bill 294)**

AN ACT concerning

**Criminal Law – Crimes Against a Law Enforcement Officer – Definition of Law Enforcement Officer**

FOR the purpose of altering the definition of a law enforcement officer for certain crimes against law enforcement officers; and generally relating to the crimes against law enforcement officers.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 3-201

Annotated Code of Maryland

(2002 Volume and 2007 Supplement)

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

**Article – Criminal Law**

**3-201.**

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



(b) “Assault” means the crimes of assault, battery, and assault and battery, which retain their judicially determined meanings.

(c) ~~[(1)]~~ “Law enforcement officer” ~~has the meaning stated in § 3–101(e)(1) of the Public Safety Article without application of § 3–101(e)(2).~~

(2) “Law enforcement officer” includes ~~]~~ **MEANS:**

~~(1) AN INDIVIDUAL WHO:~~

~~(i) IN AN OFFICIAL CAPACITY IS AUTHORIZED BY LAW TO MAKE ARRESTS; AND~~

~~(ii) IS A MEMBER OF:~~

- ~~1. THE DEPARTMENT OF STATE POLICE;~~
- ~~2. THE POLICE DEPARTMENT OF BALTIMORE CITY;~~
- ~~3. THE BALTIMORE CITY SCHOOL POLICE FORCE;~~
- ~~4. THE BALTIMORE CITY WATERSHED POLICE FORCE;~~
- ~~5. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A COUNTY;~~
- ~~6. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A MUNICIPAL CORPORATION;~~
- ~~7. THE OFFICE OF THE SHERIFF OF A COUNTY;~~
- ~~8. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A BICOUNTY AGENCY;~~
- ~~9. THE MARYLAND TRANSPORTATION AUTHORITY POLICE;~~
- ~~10. THE POLICE FORCES OF THE DEPARTMENT OF TRANSPORTATION;~~

- ~~11. THE POLICE FORCES OF THE DEPARTMENT OF NATURAL RESOURCES;~~
- ~~12. THE FIELD ENFORCEMENT BUREAU OF THE COMPTROLLER'S OFFICE;~~
- ~~13. THE HOUSING AUTHORITY OF BALTIMORE CITY POLICE FORCE;~~
- ~~14. THE CROFTON POLICE DEPARTMENT;~~
- ~~15. THE POLICE FORCE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;~~
- ~~16. THE POLICE FORCE OF THE DEPARTMENT OF GENERAL SERVICES;~~
- ~~17. THE POLICE FORCE OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION;~~
- ~~18. THE POLICE FORCES OF THE UNIVERSITY SYSTEM OF MARYLAND;~~
- ~~19. THE POLICE FORCE OF MORGAN STATE UNIVERSITY;~~
- ~~20. THE OFFICE OF STATE FIRE MARSHAL;~~
- ~~21. THE OCEAN PINES POLICE DEPARTMENT;~~
- ~~22. THE POLICE FORCE OF THE BALTIMORE CITY COMMUNITY COLLEGE;~~
- ~~23. THE MARYLAND TRANSIT ADMINISTRATION POLICE FORCE; AND~~
- ~~24. THE MATA METRO TRANSIT POLICE, SUBJECT TO THE JURISDICTIONAL LIMITATIONS UNDER ARTICLE XVI, § 76 OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY COMPACT, WHICH IS CODIFIED IN § 10-204 OF THE TRANSPORTATION ARTICLE; AND~~

~~(2)~~ (1) a correctional officer at a correctional facility; AND

**(II) AN OFFICER EMPLOYED BY THE WMATA METRO TRANSIT POLICE, SUBJECT TO THE JURISDICTIONAL LIMITATIONS UNDER ARTICLE XVI, § 76 OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY COMPACT, WHICH IS CODIFIED IN § 10-204 OF THE TRANSPORTATION ARTICLE.**

- (d) “Serious physical injury” means physical injury that:
- (1) creates a substantial risk of death; or
  - (2) causes permanent or protracted serious:
    - (i) disfigurement;
    - (ii) loss of the function of any bodily member or organ; or
    - (iii) impairment of the function of any bodily member or organ.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 167

(House Bill 348)

AN ACT concerning

**Criminal Law – Crimes Against a Law Enforcement Officer – Definition of Law Enforcement Officer**

FOR the purpose of altering the definition of a law enforcement officer for certain crimes against law enforcement officers; and generally relating to the crimes against law enforcement officers.

BY repealing and reenacting, with amendments,  
 Article – Criminal Law  
 Section 3-201  
 Annotated Code of Maryland  
 (2002 Volume and 2007 Supplement)

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

Article - Criminal Law

3-201.

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

(b) "Assault" means the crimes of assault, battery, and assault and battery, which retain their judicially determined meanings.

(c) ~~{(1)}~~ "Law enforcement officer" ~~{~~has the meaning stated in § 3-101(e)(1) of the Public Safety Article without application of § 3-101(e)(2).

(2) "Law enforcement officer" includes ~~MEANS:~~

~~(1) AN INDIVIDUAL WHO:~~

~~(i) IN AN OFFICIAL CAPACITY IS AUTHORIZED BY LAW TO MAKE ARRESTS; AND~~

~~(ii) IS A MEMBER OF:~~

~~1. THE DEPARTMENT OF STATE POLICE;~~

~~2. THE POLICE DEPARTMENT OF BALTIMORE CITY;~~

~~3. THE BALTIMORE CITY SCHOOL POLICE FORCE;~~

~~4. THE BALTIMORE CITY WATERSHED POLICE FORCE;~~

~~5. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A COUNTY;~~

~~6. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A MUNICIPAL CORPORATION;~~

~~7. THE OFFICE OF THE SHERIFF OF A COUNTY;~~

~~8. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A BICOUNTY AGENCY;~~

- ~~9. THE MARYLAND TRANSPORTATION AUTHORITY POLICE;~~
- ~~10. THE POLICE FORCES OF THE DEPARTMENT OF TRANSPORTATION;~~
- ~~11. THE POLICE FORCES OF THE DEPARTMENT OF NATURAL RESOURCES;~~
- ~~12. THE FIELD ENFORCEMENT BUREAU OF THE COMPTROLLER'S OFFICE;~~
- ~~13. THE HOUSING AUTHORITY OF BALTIMORE CITY POLICE FORCE;~~
- ~~14. THE CROFTON POLICE DEPARTMENT;~~
- ~~15. THE POLICE FORCE OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;~~
- ~~16. THE POLICE FORCE OF THE DEPARTMENT OF GENERAL SERVICES;~~
- ~~17. THE POLICE FORCE OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION;~~
- ~~18. THE POLICE FORCES OF THE UNIVERSITY SYSTEM OF MARYLAND;~~
- ~~19. THE POLICE FORCE OF MORGAN STATE UNIVERSITY;~~
- ~~20. THE OFFICE OF STATE FIRE MARSHAL;~~
- ~~21. THE OCEAN PINES POLICE DEPARTMENT;~~
- ~~22. THE POLICE FORCE OF THE BALTIMORE CITY COMMUNITY COLLEGE;~~
- ~~23. THE MARYLAND TRANSIT ADMINISTRATION POLICE FORCE; AND~~

~~24. THE WMATA METRO TRANSIT POLICE, SUBJECT TO THE JURISDICTIONAL LIMITATIONS UNDER ARTICLE XVI, § 76 OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY COMPACT, WHICH IS CODIFIED IN § 10-204 OF THE TRANSPORTATION ARTICLE; AND~~

~~(2) (I) a correctional officer at a correctional facility; AND~~

~~(II) AN OFFICER EMPLOYED BY THE WMATA METRO TRANSIT POLICE, SUBJECT TO THE JURISDICTIONAL LIMITATIONS UNDER ARTICLE XVI, § 76 OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY COMPACT, WHICH IS CODIFIED IN § 10-204 OF THE TRANSPORTATION ARTICLE.~~

(d) "Serious physical injury" means physical injury that:

(1) creates a substantial risk of death; or

(2) causes permanent or protracted serious:

(i) disfigurement;

(ii) loss of the function of any bodily member or organ; or

(iii) impairment of the function of any bodily member or organ.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 168

(Senate Bill 304)

AN ACT concerning

~~Consumer Products Safety - Lead and Mercury Reduction Act~~  
Statewide Advisory Commission on Immunizations - Influenza Vaccines - Study

FOR the purpose of ~~prohibiting certain persons from administering vaccines that contain more than a certain amount of mercury per dose; prohibiting the sale, offer for sale, or distribution in the State of certain drugs that contain mercury; prohibiting the sale, offer for sale, or distribution in the State of cosmetics that contain lead or mercury; providing for a delayed effective date; and generally relating to prohibitions against the administering of vaccines with specified levels of mercury and the sale of cosmetics and specified drugs that contain mercury~~ requiring the Statewide Advisory Commission on Immunizations to conduct a certain study; requiring the Commission to make a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to the Statewide Advisory Commission on Immunizations and a study on the influenza vaccine.

~~BY adding to~~

~~Article Health General~~

~~Section 18 405, 21 228, and 21 232~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2007 Supplement)~~

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

~~Article Health General~~

~~18 405.~~

~~A PERSON LAWFULLY ADMINISTERING A VACCINE MAY NOT ADMINISTER A VACCINE TO AN INDIVIDUAL IF THE VACCINE CONTAINS MORE THAN 1.25 MICROGRAMS OF MERCURY PER 0.5 MILLILITER DOSE.~~

~~21 228.~~

~~(A) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO THE SALE, OFFER FOR SALE, OR DISTRIBUTION OF A PRESCRIPTION DRUG.~~

~~(B) A PERSON MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE IN THE STATE A DRUG THAT CONTAINS MERCURY.~~

~~21 232.~~

~~A PERSON MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE IN THE STATE A COSMETIC THAT CONTAINS LEAD OR MERCURY.~~

(a) The Statewide Advisory Commission on Immunizations shall:

(1) Study the current availability and anticipated future availability of single-dose influenza vaccines for use in the State; and

(2) Identify the current and anticipated future cost differential between single-dose and multi-dose influenza vaccines; and

(b) On or before December 1, 2008, the Commission shall report its findings, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee, the Senate Finance Committee, and the House Health and Government Operations Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~January 1, 2009~~ June 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 169

(House Bill 586)

AN ACT concerning

~~Consumer Products Safety—Lead and Mercury Reduction Act~~  
Statewide Advisory Commission on Immunizations - Influenza Vaccines - Study

FOR the purpose of ~~prohibiting certain persons from administering vaccines that contain more than a certain amount of mercury per dose; prohibiting the sale, offer for sale, or distribution in the State of certain drugs that contain mercury; prohibiting the sale, offer for sale, or distribution in the State of cosmetics that contain lead or mercury; providing for a delayed effective date; and generally relating to prohibitions against the administering of vaccines with specified levels of mercury and the sale of cosmetics and specified drugs that contain mercury~~ requiring the Statewide Advisory Commission on Immunizations to conduct a certain study; requiring the Commission to make a certain report to certain committees of the General Assembly on or before a certain date; and generally relating to the Statewide Advisory Commission on Immunizations and a study on the influenza vaccine.

~~BY adding to~~  
~~Article—Health—General~~



~~Section 18-405, 21-228, and 21-232  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)~~

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

~~Article Health General~~

~~18-405.~~

~~A PERSON LAWFULLY ADMINISTERING A VACCINE MAY NOT ADMINISTER A VACCINE TO AN INDIVIDUAL IF THE VACCINE CONTAINS MORE THAN 1.25 MICROGRAMS OF MERCURY PER 0.5 MILLILITER DOSE.~~

~~21-228.~~

~~(A) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO THE SALE, OFFER FOR SALE, OR DISTRIBUTION OF A PRESCRIPTION DRUG.~~

~~(B) A PERSON MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE IN THE STATE A DRUG THAT CONTAINS MERCURY.~~

~~21-232.~~

~~A PERSON MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE IN THE STATE A COSMETIC THAT CONTAINS LEAD OR MERCURY.~~

(a) The Statewide Advisory Commission on Immunizations shall:

(1) Study the current availability and anticipated future availability of single-dose influenza vaccines for use in the State; and

(2) Identify the current and anticipated future cost differential between single-dose and multi-dose influenza vaccines; and

(b) On or before December 1, 2008, the Commission shall report its findings, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee, the Senate Finance Committee, and the House Health and Government Operations Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~January 1, 2009~~ June 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 170

(Senate Bill 308)

AN ACT concerning

### **Town of Berwyn Heights Employees – Participation in the Employees' Pension System**

FOR the purpose of requiring certain employees of the Town of Berwyn Heights to participate in the Employees' Pension System of the State of Maryland as of a certain date; providing that membership in the Employees' Pension System is optional for certain employees of the Town of Berwyn Heights; requiring certain employees of the Town of Berwyn Heights to make a certain election on a certain date; requiring certain employees of the Town of Berwyn Heights, in order to elect to be a member of the Employees' Pension System, to file a written application with the Board of Trustees of the State Retirement and Pension System; providing for certain employees of the Town of Berwyn Heights to receive service credit for certain prior service; providing that certain employees of the Town of Berwyn Heights who become members of the Employees' Pension System after a certain date may not receive certain service credit; and generally relating to employees of the Town of Berwyn Heights participating in the Employees' Pension System.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 23–201(a), 23–204(b), and 31–111  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY adding to  
Article – State Personnel and Pensions  
Section 23–204(e) and 31–111.4  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

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

### **Article – State Personnel and Pensions**

23-201.

(a) Except as provided in subsection (b) of this section, §§ 23-203 through 23-205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State's Attorney; and

(iv) a sheriff;

(3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) an additional employee or agent of the State Racing Commission authorized by § 11-207 of the Business Regulation Article;

(6) a permanent employee of the board of supervisors of elections of a county;

(7) a full-time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

(8) an employee of the Maryland Environmental Service who is a member of the Employees' Pension System on June 30, 1993, or transfers from the Employees' Retirement System on or after July 1, 1993;

(9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees' Pension System on July 1, 1991;

(10) a nonfaculty employee of the Baltimore City Community College who:

(i) is a member of the Employees' Pension System on October 1, 2002;

(ii) transfers from the Employees' Retirement System on or after October 1, 2002;

(iii) transfers from the Teachers' Pension System in accordance with § 23-202.1 of this subtitle; or

(iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;

(11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;

(12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:

(i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or

(ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;

(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;

(14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System; [and]

(15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System; AND

**(16) AN EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS ON OR AFTER THE DATE THAT THE TOWN OF BERWYN HEIGHTS BEGINS PARTICIPATION IN THE EMPLOYEES' PENSION SYSTEM.**

23-204.

(b) (1) **THIS SUBSECTION DOES NOT APPLY TO AN EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS.**

**(2)** (i) Except as provided in paragraph ~~(2)~~ **(3)** of this subsection, this subsection applies only to the employees of a participating governmental unit who:

1. are employed by the participating governmental unit on June 30, 2004; and
2. were employed by the participating governmental unit on the effective date of participation in the State systems.

(ii) Except as provided in paragraph ~~(2)~~ **(3)** of this subsection, membership in the Employees' Pension System is optional for an individual under subparagraph (i) of this paragraph until the individual ceases employment with the participating governmental unit that was employing the individual on June 30, 2004.

~~(2)~~ **(3)** Membership in the Employees' Pension System is not optional for individuals who are:

- (i) supportive service employees of the Board of Education of Kent County;
- (ii) employees of the Town of Oakland; ~~for~~
- (iii) employees of the City of Frostburg; ~~OR~~
- ~~(iv) EMPLOYEES OF THE TOWN OF BERWYN HEIGHTS.~~

**(E) (1) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO IS AN EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS ON JUNE 30, 2008.**

**(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS OPTIONAL FOR AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WHO ELECTS MEMBERSHIP ON JULY 1, 2008.**

**(3) TO ELECT TO BE A MEMBER OF THE EMPLOYEES' PENSION SYSTEM, AN INDIVIDUAL SHALL FILE A WRITTEN APPLICATION WITH THE BOARD OF TRUSTEES ON A FORM THAT THE BOARD OF TRUSTEES PROVIDES.**

31-111.

(a) Except as provided in subsection (b) of this section and [§§ 31-111.1 and 31-111.3] **§§ 31-111.1, 31-111.3, AND 31-111.4** of this subtitle, if an employee of a

participating governmental unit joins the Employees' Pension System within 1 year after the effective date, the employee is entitled to service credit for employment with the participating governmental unit before the effective date.

(b) If an employee of the Baltimore Metropolitan Council elects to become a member of the Employees' Retirement System or the Employees' Pension System, the employee may not receive credit for service from July 1, 1992, to the effective date unless the employee pays to the Board of Trustees the amount of the member contributions the employee would have made during that period, plus regular interest.

**31-111.4.**

(A) AN INDIVIDUAL WHO ELECTS MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM UNDER § 23-204(E) OF THIS ARTICLE AND IS AN EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS ON THE EFFECTIVE DATE SHALL RECEIVE ELIGIBILITY SERVICE AND CREDITABLE SERVICE IN THE EMPLOYEES' PENSION SYSTEM EQUAL TO ONE-THIRD OF THE INDIVIDUAL'S PERIOD OF EMPLOYMENT WITH THE TOWN OF BERWYN HEIGHTS BEFORE THE EFFECTIVE DATE, AS CERTIFIED BY THE TOWN OF BERWYN HEIGHTS AS OF THE EFFECTIVE DATE.

(B) IF AN EMPLOYEE OR FORMER EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS BECOMES A MEMBER OF THE EMPLOYEES' PENSION SYSTEM AT ANY TIME AFTER THE EFFECTIVE DATE, THE EMPLOYEE MAY NOT RECEIVE SERVICE CREDIT FOR EMPLOYMENT WITH THE TOWN OF BERWYN HEIGHTS BEFORE THE EFFECTIVE DATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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**CHAPTER 171**

**(House Bill 986)**

AN ACT concerning

**Town of Berwyn Heights Employees - Participation in the Employees' Pension System**

FOR the purpose of requiring certain employees of the Town of Berwyn Heights to participate in the Employees' Pension System of the State of Maryland as of a certain date; providing that membership in the Employees' Pension System is optional for certain employees of the Town of Berwyn Heights; requiring certain employees of the Town of Berwyn Heights to make ~~certain elections by a certain election on a certain date; requiring certain employees of the Town of Berwyn Heights to complete and file certain documents, in order to elect to be a member of the Employees' Pension System, to file a written application with the Board of Trustees of the State Retirement and Pension System by a certain date;~~ providing for certain employees of the Town of Berwyn Heights to receive service credit for certain prior service; providing that certain employees of the Town of Berwyn Heights who become members of the Employees' Pension System after a certain date may not receive certain service credit; and generally relating to employees of the Town of Berwyn Heights participating in the Employees' Pension System.

BY repealing and reenacting, with amendments,  
 Article – State Personnel and Pensions  
 Section 23–201(a), 23–204(b), and 31–111  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2007 Supplement)

BY adding to  
 Article – State Personnel and Pensions  
 Section 23–204(e) and 31–111.4  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2007 Supplement)

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

**Article – State Personnel and Pensions**

23–201.

(a) Except as provided in subsection (b) of this section, §§ 23–203 through 23–205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

- (ii) a register of wills;
  - (iii) a State's Attorney; and
  - (iv) a sheriff;
- (3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;
- (4) an employee of the Office of the Sheriff of Baltimore City;
- (5) an additional employee or agent of the State Racing Commission authorized by § 11-207 of the Business Regulation Article;
- (6) a permanent employee of the board of supervisors of elections of a county;
- (7) a full-time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;
- (8) an employee of the Maryland Environmental Service who is a member of the Employees' Pension System on June 30, 1993, or transfers from the Employees' Retirement System on or after July 1, 1993;
- (9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees' Pension System on July 1, 1991;
- (10) a nonfaculty employee of the Baltimore City Community College who:
- (i) is a member of the Employees' Pension System on October 1, 2002;
  - (ii) transfers from the Employees' Retirement System on or after October 1, 2002;
  - (iii) transfers from the Teachers' Pension System in accordance with § 23-202.1 of this subtitle; or
  - (iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;



(11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;

(12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:

(i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or

(ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;

(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;

(14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System; [and]

(15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System; AND

**(16) AN EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS ON OR AFTER THE DATE THAT THE TOWN OF BERWYN HEIGHTS BEGINS PARTICIPATION IN THE EMPLOYEES' PENSION SYSTEM.**

23-204.

**(b) (1) THIS SUBSECTION DOES NOT APPLY TO AN EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS.**

**(2)** (i) Except as provided in paragraph ~~(2)~~ **(3)** of this subsection, this subsection applies only to the employees of a participating governmental unit who:

1. are employed by the participating governmental unit on June 30, 2004; and

2. were employed by the participating governmental unit on the effective date of participation in the State systems.

(ii) Except as provided in paragraph ~~(2)~~ **(3)** of this subsection, membership in the Employees' Pension System is optional for an individual under

subparagraph (i) of this paragraph until the individual ceases employment with the participating governmental unit that was employing the individual on June 30, 2004.

~~(2)~~ **(3)** Membership in the Employees' Pension System is not optional for individuals who are:

- (i) supportive service employees of the Board of Education of Kent County;
- (ii) employees of the Town of Oakland; ~~{or}~~
- (iii) employees of the City of Frostburg; ~~OR~~
- ~~(iv) EMPLOYEES OF THE TOWN OF BERWYN HEIGHTS.~~

**(E) (1) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO IS AN EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS ON JUNE 30, 2008.**

**(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS OPTIONAL FOR AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WHO ELECTS MEMBERSHIP ON JULY 1, 2008.**

**(3) TO ELECT TO BE A MEMBER OF THE EMPLOYEES' PENSION SYSTEM, AN INDIVIDUAL SHALL FILE A WRITTEN APPLICATION WITH THE BOARD OF TRUSTEES ON A FORM THAT THE BOARD OF TRUSTEES PROVIDES.**

~~**(4) IF AN INDIVIDUAL DOES NOT ELECT MEMBERSHIP AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE INDIVIDUAL MAY NOT BECOME A MEMBER OF THE EMPLOYEES' PENSION SYSTEM.**~~

31-111.

(a) Except as provided in subsection (b) of this section and [§§ 31-111.1 and 31-111.3] **§§ 31-111.1, 31-111.3, AND 31-111.4** of this subtitle, if an employee of a participating governmental unit joins the Employees' Pension System within 1 year after the effective date, the employee is entitled to service credit for employment with the participating governmental unit before the effective date.

(b) If an employee of the Baltimore Metropolitan Council elects to become a member of the Employees' Retirement System or the Employees' Pension System, the employee may not receive credit for service from July 1, 1992, to the effective date unless the employee pays to the Board of Trustees the amount of the member contributions the employee would have made during that period, plus regular interest.

**31-111.4.**

(A) AN INDIVIDUAL WHO ELECTS MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM UNDER § 23-204(E) OF THIS ARTICLE AND IS AN EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS ON THE EFFECTIVE DATE SHALL RECEIVE ELIGIBILITY SERVICE AND CREDITABLE SERVICE IN THE EMPLOYEES' PENSION SYSTEM EQUAL TO ONE-THIRD OF THE INDIVIDUAL'S PERIOD OF EMPLOYMENT WITH THE TOWN OF BERWYN HEIGHTS BEFORE THE EFFECTIVE DATE, AS CERTIFIED BY THE TOWN OF BERWYN HEIGHTS AS OF THE EFFECTIVE DATE.

(B) IF AN EMPLOYEE OR FORMER EMPLOYEE OF THE TOWN OF BERWYN HEIGHTS BECOMES A MEMBER OF THE EMPLOYEES' PENSION SYSTEM AT ANY TIME AFTER THE EFFECTIVE DATE, THE EMPLOYEE MAY NOT RECEIVE SERVICE CREDIT FOR EMPLOYMENT WITH THE TOWN OF BERWYN HEIGHTS BEFORE THE EFFECTIVE DATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 172

(Senate Bill 326)

AN ACT concerning

### Calvert County - Sheriff - Pensions

FOR the purpose of ~~requiring that any individual who has served as Sheriff of Calvert County since a certain date and for a certain period of time receive a certain pension; requiring that the pension be paid at least at certain intervals of time; making stylistic changes;~~ permitting certain individuals serving as the Sheriff of Calvert County to participate in the Calvert County Employees' Savings Plan; and generally relating to pensions for sheriffs of Calvert County.

BY repealing and reenacting, ~~with~~ without amendments,  
 Article - Courts and Judicial Proceedings  
 Section 2-309(f)(4)  
 Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Courts and Judicial Proceedings

Section 2–309(f)(6)

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

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

**Article – Courts and Judicial Proceedings**

2–309.

(f) (4) (i) ~~Except as provided in subparagraph (ii) of this paragraph, any~~ ~~A~~ Sheriff of Calvert County who, since 1948, has served for three or more terms shall receive a pension when ~~he~~ ~~THE SHERIFF~~ leaves office in the annual amount of \$150 for each year served.

~~(ii)~~ ~~This~~ ~~A~~ pension ~~AUTHORIZED UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH~~ shall be paid ~~not less frequently than~~ ~~AT LEAST~~ once a month.

~~(ii)~~ This paragraph does not apply to a term of office that begins on or after July 1, 1988.

**(6) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL WHO:**

**1. ON OR AFTER JULY 1, 2008, SERVES AS THE SHERIFF OF CALVERT COUNTY; AND**

**2. AS THE SHERIFF OF CALVERT COUNTY DOES NOT PARTICIPATE IN THE EMPLOYEES’ PENSION SYSTEM UNDER TITLE 23 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

**(II) AN INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY PARTICIPATE IN THE CALVERT COUNTY EMPLOYEES’ SAVINGS PLAN.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

## CHAPTER 173

(Senate Bill 419)

AN ACT concerning

### **Agriculture – ~~Seed and Nursery Stock for Native Plants – Funding Wild~~ Pollinators Program**

FOR the purpose of establishing, ~~subject to funding in the State budget,~~ the Maryland ~~Native Plants~~ Wild Pollinators Program for certain purposes; requiring the Department of Agriculture to increase awareness and availability of ~~native plants~~ noninvasive plants that are pollinator friendly and provide certain grants under the Program; ~~providing for the termination of this Act; requiring the Governor to include a certain appropriation for the Program in the State budget for certain fiscal years;~~ and generally relating to increasing ~~the availability of seed and nursery stock for certain native plants~~ awareness of wild pollinators and availability of noninvasive plants that are pollinator friendly.

BY adding to

Article – Agriculture

Section 2-1301 to be under the new subtitle “Subtitle 13. Maryland ~~Native Plants~~ Wild Pollinators Program”

Annotated Code of Maryland  
(2007 Replacement Volume)

#### Preamble

WHEREAS, Pollinators are in precipitous decline around the world; and

WHEREAS, Nearly 80% of the world’s crop plants require pollination; and

WHEREAS, One of the obstacles to protecting and improving pollinator habitat is a chronic shortage of ~~native~~ noninvasive plants that are pollinator friendly, including seed and nursery stock for ~~native plants~~ noninvasive plants that are pollinator friendly; ~~providing for the termination of this Act;~~ now, therefore,

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

#### **Article – Agriculture**

#### **SUBTITLE 13. MARYLAND ~~NATIVE PLANTS~~ WILD POLLINATORS PROGRAM.**

2-1301.

(A) IN THIS SUBTITLE, "PROGRAM" MEANS THE MARYLAND ~~NATIVE PLANTS WILD POLLINATORS~~ PROGRAM.

(B) ~~THERE~~ SUBJECT TO FUNDING IN THE STATE BUDGET, THERE IS A MARYLAND ~~NATIVE PLANTS WILD POLLINATORS~~ PROGRAM WHICH IS ESTABLISHED IN THE DEPARTMENT FOR THE PURPOSE OF INCREASING ~~THE AVAILABILITY OF SEED AND NURSERY STOCK FOR NATIVE~~ AWARENESS OF WILD POLLINATORS AND THE AVAILABILITY OF NONINVASIVE PLANTS THAT ARE POLLINATOR FRIENDLY.

(C) UNDER THE PROGRAM, THE DEPARTMENT SHALL:

(1) INCREASE AWARENESS AMONG NURSERIES AND LAND MANAGERS OF ~~NATIVE PLANTS~~ NONINVASIVE PLANTS THAT ARE POLLINATOR FRIENDLY; AND

(2) PROVIDE GRANTS TO INCREASE THE AVAILABILITY OF SEED AND NURSERY STOCK FOR ~~NATIVE PLANTS~~ NONINVASIVE PLANTS THAT ARE POLLINATOR FRIENDLY.

~~(D) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET FOR EACH FISCAL YEAR BEGINNING WITH FISCAL YEAR 2010 AN APPROPRIATION OF \$150,000 FOR THE PROGRAM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 2 years and, at the end of September 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, 2008.

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## CHAPTER 174

(House Bill 208)

AN ACT concerning

**Agriculture – ~~Seed and Nursery Stock for Native Plants – Funding~~ Wild Pollinators Program**

FOR the purpose of establishing, ~~subject to funding in the State budget, the Maryland Native Plants~~ Wild Pollinators Program for certain purposes; requiring the Department of Agriculture to increase awareness ~~and availability of native plants~~ noninvasive plants that are pollinator friendly and provide certain grants under the Program; ~~providing for the termination of this Act; requiring the Governor to include a certain appropriation for the Program in the State budget for certain fiscal years;~~ and generally relating to increasing ~~the availability of seed and nursery stock for certain native plants~~ awareness of wild pollinators and availability of noninvasive plants that are pollinator friendly.

BY adding to

Article – Agriculture

Section 2-1301 to be under the new subtitle “Subtitle 13. Maryland ~~Native Plants~~ Wild Pollinators Program”

Annotated Code of Maryland  
(2007 Replacement Volume)

Preamble

WHEREAS, Pollinators are in precipitous decline around the world; and

WHEREAS, Nearly 80% of the world’s crop plants require pollination; and

WHEREAS, One of the obstacles to protecting and improving pollinator habitat is a chronic shortage of ~~native noninvasive plants~~ that are pollinator friendly, including seed and nursery stock for ~~native plants noninvasive plants that are pollinator friendly~~; now, therefore,

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

**Article – Agriculture**

**SUBTITLE 13. MARYLAND ~~NATIVE PLANTS~~ WILD POLLINATORS PROGRAM.**

**2-1301.**

(A) IN THIS SUBTITLE, “PROGRAM” MEANS THE MARYLAND ~~NATIVE PLANTS~~ WILD POLLINATORS PROGRAM.

(B) ~~THERE~~ SUBJECT TO FUNDING IN THE STATE BUDGET, THERE IS A MARYLAND ~~NATIVE PLANTS~~ WILD POLLINATORS PROGRAM WHICH IS

~~ESTABLISHED IN THE DEPARTMENT FOR THE PURPOSE OF INCREASING THE AVAILABILITY OF SEED AND NURSERY STOCK FOR NATIVE~~ AWARENESS OF WILD POLLINATORS AND THE AVAILABILITY OF NONINVASIVE PLANTS THAT ARE POLLINATOR FRIENDLY.

(C) UNDER THE PROGRAM, THE DEPARTMENT SHALL:

(1) INCREASE AWARENESS AMONG NURSERIES AND LAND MANAGERS OF ~~NATIVE PLANTS~~ NONINVASIVE PLANTS THAT ARE POLLINATOR FRIENDLY; AND

(2) PROVIDE GRANTS TO INCREASE THE AVAILABILITY OF SEED AND NURSERY STOCK FOR ~~NATIVE PLANTS~~ NONINVASIVE PLANTS THAT ARE POLLINATOR FRIENDLY.

~~(D) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET FOR EACH FISCAL YEAR BEGINNING WITH FISCAL YEAR 2010 AN APPROPRIATION OF \$150,000 FOR THE PROGRAM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 2 years and, at the end of September 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, 2008.

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## CHAPTER 175

(Senate Bill 428)

AN ACT concerning

**Education - Military Recruiters - Student Contact  
Information - Opportunity to Opt Out**

FOR the purpose of requiring public schools to provide notice to certain students or the parents or guardians of the students about the right not to release student contact information to military recruiters; requiring public schools to include the notice in a certain format, size, and type on the card requesting emergency contact information for the student; requesting the student or the parent or



guardian of the student to indicate ~~whether~~ if the student's contact information is not to be released to military recruiters; requiring the principal of a school to submit to the county board of education a list of students whose names are not submitted to military recruiters; and generally relating to the right not to release student contact information to military recruiters.

BY repealing and reenacting, with amendments,  
 Article – Education  
 Section 7–111  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)

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

**Article – Education**

7–111.

(A) [Each] **SUBJECT TO SUBSECTION (B) OF THIS SECTION**, EACH public school under the jurisdiction of a county board that provides access to its buildings and grounds or its student information directory to any person or group which makes students aware of occupational or educational options shall provide access on the same basis to official recruiting representatives of the military forces of this State and the United States for the purpose of informing students of educational and career opportunities available in the military.

(B) (1) **A PUBLIC SCHOOL SUBJECT TO THIS SECTION SHALL PROVIDE NOTICE TO EACH STUDENT AND TO THE PARENT OR GUARDIAN OF EACH STUDENT ENROLLED AT THE SCHOOL THAT, IN ACCORDANCE WITH FEDERAL LAW, THE STUDENT OR THE PARENT OR GUARDIAN OF THE STUDENT MAY REQUEST THAT THE STUDENT'S NAME, ADDRESS, AND TELEPHONE NUMBER NOT BE RELEASED TO MILITARY RECRUITERS.**

(2) **THE NOTICE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**

(i) **BE INCLUDED IN A CLEAR AND CONSPICUOUS MANNER AND IN THE SAME SIZE TYPE AS THE OTHER STATEMENTS ON THE CARD REQUESTING EMERGENCY CONTACT INFORMATION THAT IS DISTRIBUTED BY THE PUBLIC SCHOOL TO EACH STUDENT OR PARENT OR GUARDIAN OF THE STUDENT; AND**

(II) REQUEST THAT THE STUDENT OR THE PARENT OR GUARDIAN OF THE STUDENT INDICATE ~~WHETHER~~ IF THE STUDENT'S NAME, ADDRESS, AND TELEPHONE NUMBER IS NOT TO BE RELEASED TO MILITARY RECRUITERS BY CHECKING ~~ETHER THE BOX "RELEASE CONTACT INFORMATION" OR~~ THE BOX "DO NOT RELEASE CONTACT INFORMATION".

(3) ON OR BEFORE OCTOBER 1 AND MARCH 1 OF EACH SCHOOL YEAR, THE PRINCIPAL OF EACH PUBLIC SCHOOL IN A COUNTY SHALL SUBMIT A LIST TO THE COUNTY BOARD THAT INCLUDES THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH STUDENT WHOSE CONTACT INFORMATION IS NOT RELEASED TO MILITARY RECRUITERS AS DIRECTED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 176

(Senate Bill 431)

AN ACT concerning

~~Natural Resources Forest Conservation Act No Net Loss of Forest~~  
Task Force to Study a No Net Loss of Forest Policy

FOR the purpose of ~~requiring the Department of Natural Resources, on or before a certain date, to conduct a certain assessment, develop certain draft legislation, and submit the draft legislation to the Governor and General Assembly; and generally relating to the Forest Conservation Act~~ requesting that the Governor establish a Task Force to Study a No Net Loss of Forest Policy; requiring the Task Force to develop a certain plan and draft legislation; requiring the Task Force to submit the plan and draft legislation to the Governor and General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the conservation of forested lands in the State.

~~BY adding to~~  
~~Article Natural Resources~~  
~~Section 5-1614~~  
~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2007 Supplement)~~

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

~~Article – Natural Resources~~

~~5-1614.~~

~~ON OR BEFORE DECEMBER 1, 2008, THE DEPARTMENT SHALL:~~

~~(1) CONDUCT A COMPREHENSIVE ASSESSMENT OF THIS SUBTITLE;~~

~~(2) DEVELOP DRAFT LEGISLATION FOR THE 2009 LEGISLATIVE SESSION TO ENSURE THAT THERE IS A PROCESS TO ACHIEVE A NO NET LOSS OF FOREST IN THE STATE BEGINNING IN 2010; AND~~

~~(3) SUBMIT THE DRAFT LEGISLATION DEVELOPED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION TO THE GOVERNOR AND GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.~~

(a) The Governor is requested to establish a Task Force to Study a No Net Loss of Forest Policy to develop:

(1) a specific plan, including programs and other necessary actions, to achieve and maintain a policy of no net loss of forests; and

(2) draft legislation for the 2009 legislative session of the General Assembly to ensure that there is a process to achieve a no net loss of forest in the State beginning in 2010.

(b) The Task Force shall consist of representatives from:

(1) the Department of Natural Resources;

(2) the Department of Agriculture;

(3) the Department of Planning; and

(4) organizations representing:

(i) forest landowners;

- (ii) local governments;
- (iii) the development community;
- (iv) the forest products industry;
- (v) the agricultural community;
- (vi) the forest conservancy district boards; and
- (vii) forest conservation.

(c) The Department of Natural Resources shall provide staff support for the Task Force.

(d) On or before December 1, 2008, the Task Force shall submit the specific plan and draft legislation developed under subsection (a) of this section to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2008. It shall remain effective for a period of 1 year and, at the end of May 31, 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, 2008.**

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## CHAPTER 177

(Senate Bill 444)

AN ACT concerning

### **Corporate Income Tax - Reporting and Study**

FOR the purpose of altering the membership of a certain business tax study commission; limiting to certain taxable years a requirement for certain corporations engaged in manufacturing to submit certain reports as part of their income tax returns; altering the circumstances under which an individual is required to attach to an income tax return or otherwise file with the Comptroller a copy of the individual's federal income tax return; altering ~~certain definitions~~ a certain definition and repealing certain definitions for purposes of

certain requirements for certain corporations to submit certain reports to the Comptroller; altering the reporting requirements and limiting the reporting requirements to certain taxable years; ~~prohibiting the disclosure of certain information to certain governmental units or officials~~; repealing certain penalty provisions and authorizing the Comptroller to develop and implement a certain penalty system relating to certain reporting requirements; altering the due date for ~~a~~ certain annual ~~report~~ reports by the Comptroller; requiring a certain commission in consultation with the Comptroller to review certain requirements and definitions and submit certain recommendations to the Governor and General Assembly by a certain date; and generally relating to certain requirements for certain ~~corporations~~ persons to submit certain reports to the Comptroller.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10-110(c), 10-402(c)(2)(vi) and (vii), 10-804(e)(3)(ii), and 10-804.1

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 3 of the Acts of the General Assembly of the 2007 Special Session)

BY repealing and reenacting, with amendments,

Chapter 3 of the Acts of the General Assembly of the 2007 Special Session

Section 10

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

### Article – Tax – General

#### 10-110.

(c) The Commission shall be composed of [17] **19** members, as follows:

- (1) a chair, appointed by the Governor;
- (2) three members of the Senate Budget and Taxation Committee, appointed by the President of the Senate;
- (3) three members of the House Committee on Ways and Means, appointed by the Speaker of the House;
- (4) the Comptroller of the Treasury, or the Comptroller's designee;

(5) the Secretary of Business and Economic Development, or the Secretary's designee;

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

(7) the Director of the State Department of Assessments and Taxation, or the Director's designee;

(8) a representative of the Maryland Association of Counties;

(9) a representative of the Maryland Municipal League;

(10) a representative of the Maryland Chamber of Commerce; [and]

(11) A REPRESENTATIVE OF THE GREATER BALTIMORE COMMITTEE;

(12) A REPRESENTATIVE OF AN ORGANIZATION THAT REPRESENTS MARYLAND MANUFACTURERS, APPOINTED BY THE GOVERNOR; AND

[(11)] (13) three members of the public, each of whom shall be an attorney at law or an accountant knowledgeable about the State's business tax structure, appointed by the Governor.

10-402.

(c) (2) (vi) As part of its tax return for a taxable year beginning after December 31, 2005, **BUT BEFORE JANUARY 1, 2011**, each manufacturing corporation that has more than 25 employees and apports its income under this paragraph shall submit a report, in the form that the Comptroller requires by regulation, that describes for each taxable year as of the last day of the taxable year the following:

1. the difference in tax owed as a result of using the single sales factor apportionment method under this paragraph as compared to the tax owed using the 3-factor double weighted sales factor apportionment method in effect for the last taxable year beginning on or before December 31, 2000;

2. volume of sales in the State and worldwide;

3. taxable income in the State and worldwide; and

4. book value of plant, land, and equipment in the State and worldwide.

(vii) On or before [December 1, 2008] **MARCH 1, 2009**, and [December] **MARCH 1** of each year thereafter, and notwithstanding any confidentiality requirements, the Comptroller shall prepare and submit to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, a comprehensive report on the use of single sales factor apportionment by manufacturing corporations that provides, at a minimum:

1. the number of corporations filing tax returns for the taxable year that ended during the **SECOND** preceding calendar year that use single sales factor apportionment and the number of such corporations having a Maryland income tax liability for that taxable year;

2. the number of corporations paying less in Maryland income tax for that taxable year as a result of using single sales factor apportionment and the aggregate amount of Maryland income tax savings for all such corporations for that taxable year as a result of using single sales factor apportionment; and

3. the number of corporations paying more in Maryland income tax for the taxable year as a result of using single sales factor apportionment and the aggregate amount of additional Maryland income tax owed by those corporations for the taxable year as a result of using single sales factor apportionment.

~~10-804.1.~~ 10-804.

(e) Each person required under this subtitle to file an income tax return or estimated income tax declaration or return shall:

(3) attach to an income tax return or otherwise file with the Comptroller any records or statements that the Comptroller requires, including:

(ii) a copy of the federal income tax return:

1. for a corporation; **AND**

2. [for an individual who reports income or loss from a sole proprietorship (Schedule C of Form 1040) or income or loss from rental real estate and royalties, partnerships and S corporations, estates and trusts, or real estate mortgage investment conduits (Schedule E of Form 1040); and

3.] if the Comptroller requests, for an individual [other than one described in item 2 of this item];

10-804.1.

(a) ~~(1)~~ In this section ~~the following words have the meanings indicated:~~

~~(2)~~ ~~(I)~~ ~~“Corporate;~~

**(1)** ~~CORPORATE~~ **“CORPORATE group” means:**

~~{(i)}~~ ~~1.~~ an affiliated group or controlled group under § 1504 or § 1563 of the Internal Revenue Code; or

~~{(ii)}~~ ~~2.~~ an affiliated group of corporations:

~~{1.}~~ ~~A.~~ that is engaged in a unitary business; and

~~{2.}~~ ~~B.~~ more than 50% of the voting stock of each member of which is directly or indirectly owned by:

A.] a common owner or common owners, either corporate or [noncorporate;] ~~NONCORPORATE~~, or

[B.] ~~BY~~ one or more members of the group; AND

~~(H)~~ **(2)** ~~“CORPORATE CORPORATE GROUP” DOES NOT INCLUDE:~~

~~1.~~ **(I) ANY CORPORATION THAT, FOR ANY REASON, IS NOT SUBJECT TO UNITED STATES FEDERAL INCOME TAX;**

~~2.~~ **(II) AN INSURER AS DEFINED IN § 1-101 OF THE INSURANCE ARTICLE; OR**

~~3.~~ **(III) A REGULATED INVESTMENT COMPANY, AS DEFINED IN § 851(A) OF THE INTERNAL REVENUE CODE.**

~~(3) “Doing business in the State” [includes] MEANS engaging in any of the following activities, whether or not the corporation engaging in the activity is subject to the tax imposed under this title:~~

~~(i) owning or renting real or tangible personal property physically located in the State;~~

~~(ii) having employees, agents, or representatives acting on the corporation’s behalf in the State;~~

~~(iii) making sales of tangible personal property to purchasers that take possession of the property in the State;~~



~~[(iv) regularly and systematically performing services for customers located in the State;]~~

~~[(v)] (IV) regularly and systematically performing services in the State;~~

~~[(vi) earning income from intangible property that has a business situs in the State;]~~

~~[(vii)] (V) engaging in regular and systematic solicitation of sales in the State;~~

~~[(viii)] (VI) being a general or limited partner in a partnership engaged in any of the activities described in items (i) through [(vii)] (V) of this paragraph; or~~

~~[(ix)] (VII) being a member of a limited liability company engaged in any of the activities described in items (i) through [(vii)] (V) of this paragraph.~~

(4) ~~“Publicly traded corporation” means:~~

~~(i) a corporation that is regularly traded on an established securities market in the United States or a foreign country; or~~

~~(ii) a corporation more than 50% of the voting stock of which is owned, directly or indirectly, by a corporation, trust, association, or other business entity that is regularly traded on an established securities market in the United States or a foreign country.~~

(b) Each corporation that is required to file an income tax return under this title and is a member of a corporate group shall file with the Comptroller~~†~~:

~~(1) a statement identifying each member of the corporate group and stating for each member of the corporate group:~~

~~[(i)] (1) whether the member filed an income tax return under this title for the taxable year;~~

~~[(ii)] (2) the total volume of sales by the member worldwide for the taxable year; and~~

~~[(iii)] (3) the volume of sales made by the member in the State for the taxable year, if any; and~~

~~(2) a statement:~~

~~(i) identifying each state other than Maryland in which any member of the corporate group filed an income tax return for the taxable year; and~~

~~(ii) as to any state that requires combined or consolidated reporting for corporate income taxpayers, listing the members of the corporate group that are included in the combined or consolidated group for purposes of the income tax return or returns filed in that state];~~

~~(c) (1) Each publicly traded corporation that IS SUBJECT TO UNITED STATES FEDERAL INCOME TAX AND is doing business in the State shall file with the Comptroller a statement containing the following information:~~

~~(i) the name of the corporation and the street address of its principal executive office;~~

~~(ii) the name of any corporation that owns, directly or indirectly, 50% or more of the voting stock of the corporation and the street address of that corporation's principal executive office;~~

~~(iii) the corporation's 6 digit North American Industry Classification System code number; and~~

~~(iv) as specified by the Comptroller, information reported on or used in preparing the corporation's tax return filed under this title, or, in the case of a corporation not required to file a tax return under this title, the information that would be required to be reported on or used in preparing the tax return if the corporation were required to file an income tax return.~~

~~(2) In lieu of the information described in paragraph (1)(iv) of this subsection, a publicly traded corporation doing business in the State but not required to file a tax return under this title may elect to provide the following information:~~

~~(i) an explanation of why the corporation is not required to file a corporate income tax return in this State; and~~

~~(ii) a statement as to whether the corporation's total gross receipts from sales to purchasers in this State for the taxable year were:~~

~~1. less than \$10,000,000;~~

- ~~2.~~ at least \$10,000,000 but less than \$50,000,000;
- ~~3.~~ at least \$50,000,000 but less than \$100,000,000;
- ~~4.~~ at least \$100,000,000 but less than \$250,000,000; or
- ~~5.~~ at least \$250,000,000.

~~(3) If a publicly traded corporation is a member of a corporate group and the corporate group has worldwide gross receipts for the taxable year in excess of \$100,000,000, the statement required under this subsection shall include:~~

~~(i) the information specified under paragraph (1) or (2) of this subsection for each member of the corporate group[, whether or not the member is doing business in the State or] THAT is required to file an income tax return under this title; and~~

~~(ii) other information as specified by the Comptroller for the corporation and for each member of any corporate group of which the corporation is a member, including:~~

~~1. the members of the corporate group that would be included in the combined group using the "water's edge" method for purposes of combined reporting and the difference in Maryland income tax that would be owed if the corporation were required to use combined reporting using the "water's edge" method to determine its Maryland income tax;~~

~~2. the sales factor that would be calculated for this State and the difference in Maryland income tax that would be owed if the corporation were required to include in the numerator of the sales factor for purposes of apportioning income to the State all sales of property shipped from an office, store, warehouse, factory, or other place of storage in this State where:~~

~~A. the purchaser is the federal government; and~~

~~B. the property is shipped or delivered to a customer in a state in which the selling corporation is not subject to a state corporate income tax or state franchise tax measured by net income and could not be subjected to such a tax if the state were to impose it;~~

~~3. for any income that the taxpayer has identified[, on the income tax return filed under this title or on an income tax return filed in any state,] as income that is NONOPERATIONAL AND THEREFORE not apportionable;~~

~~A. the amount and source of that [nonapportionable] NONOPERATIONAL income; AND~~

~~[B. unless the principal executive office of the corporation is in this State, the state to which that nonapportionable income was allocated; and]~~

~~[C.] B. if the [principal executive office] COMMERCIAL DOMICILE of the corporation is in this State, the difference in tax that would be owed if the corporation were required to allocate 100% of the [nonapportionable] NONOPERATIONAL income to [Maryland;] MARYLAND TO THE FULLEST EXTENT ALLOWED UNDER THE UNITED STATES CONSTITUTION; AND~~

~~4. the full time equivalent employment of the corporation in the State on the last day of the taxable year and for the 3 previous taxable years]; and~~

~~5. if the corporation is incorporated in the United States or is an affiliate of a corporation incorporated in the United States, profits before tax reported on the Securities and Exchange Commission Form 10-K for the corporation or the corporate group of which the corporation is a member for the corporate fiscal year that contains the last day of the taxable year];~~

~~(4) IN LIEU OF THE INFORMATION REQUIRED UNDER PARAGRAPHS (1) THROUGH (3) OF THIS SUBSECTION, A CORPORATION MAY:~~

~~(i) (1) PROVIDE A COPY OF A A PRO FORMA "WATER'S EDGE" COMBINED REPORT CALCULATION CORPORATE INCOME TAX RETURN FILED IN ACCORDANCE WITH ANOTHER STATE'S COMBINED REPORTING INCOME TAX REQUIREMENTS, BUT REFLECTING THE MARYLAND APPORTIONMENT FACTOR NUMERATORS; AND~~

~~(ii) IDENTIFY THE DIFFERENCE IN THE MARYLAND TAX AMOUNT THAT WOULD BE OWED IF THE CORPORATION WERE REQUIRED TO USE THE OTHER STATE'S COMBINED REPORTING REQUIREMENTS TO DETERMINE ITS MARYLAND INCOME TAX REGULATIONS ADOPTED BY THE COMPTROLLER; AND~~

~~(2) IN A FORMAT SPECIFIED BY THE COMPTROLLER:~~

~~(i) THE SALES FACTOR THAT WOULD BE CALCULATED FOR THIS STATE AND THE DIFFERENCE IN MARYLAND INCOME TAX THAT WOULD BE OWED IF THE CORPORATION WERE REQUIRED TO INCLUDE IN THE NUMERATOR OF THE SALES FACTOR FOR PURPOSES OF APPORTIONING INCOME TO THE~~

STATE ALL SALES OF PROPERTY SHIPPED FROM AN OFFICE, STORE, WAREHOUSE, FACTORY, OR OTHER PLACE OF STORAGE IN THIS STATE WHERE:

1. THE PURCHASER IS THE FEDERAL GOVERNMENT;

OR

2. THE PROPERTY IS SHIPPED OR DELIVERED TO A CUSTOMER IN A STATE IN WHICH THE SELLING CORPORATION IS NOT SUBJECT TO A STATE CORPORATE INCOME TAX OR STATE FRANCHISE TAX MEASURED BY NET INCOME AND COULD NOT BE SUBJECTED TO SUCH A TAX IF THE STATE WERE TO IMPOSE IT; AND

(II) FOR ANY INCOME THAT THE TAXPAYER HAS IDENTIFIED, ON THE INCOME TAX RETURN FILED UNDER THIS TITLE OR ON AN INCOME TAX RETURN FILED IN ANY STATE, AS INCOME THAT IS NONOPERATIONAL AND THEREFORE NOT APPORTIONABLE:

1. THE AMOUNT AND SOURCE OF THAT NONOPERATIONAL INCOME; AND

2. IF THE COMMERCIAL DOMICILE OF THE CORPORATION IS IN THIS STATE, THE DIFFERENCE IN TAX THAT WOULD BE OWED IF THE CORPORATION WERE REQUIRED TO ALLOCATE 100% OF THE NONOPERATIONAL INCOME TO MARYLAND TO THE FULLEST EXTENT ALLOWED UNDER THE UNITED STATES CONSTITUTION.

~~(d)~~ **(C)** (1) The statements required under ~~subsections (b) and (c)~~ **SUBSECTION (B)** of this section:

(i) shall be filed annually, for all taxable years beginning after December 31, 2005, **BUT BEFORE JANUARY 1, 2011**, on or before dates specified by the Comptroller in an electronic format as specified by the Comptroller;

(ii) shall be:

1. made under oath and signed in the same manner as required for income tax returns under § 10-804 of this subtitle; and

2. subject to audit by the Comptroller in the course of and under the normal procedures applicable to corporate income tax return audits; and

(iii) notwithstanding any other provision of law, shall be treated as confidential taxpayer information subject to Title 13, Subtitle 2 of this article.

~~(2) INFORMATION CONTAINED IN THE STATEMENTS SUBMITTED UNDER THIS SECTION MAY NOT BE DISCLOSED TO ANY UNIT OR OFFICIAL OF THE FEDERAL GOVERNMENT OR OF ANY OTHER STATE OR LOCAL GOVERNMENT.~~

~~[(2)] (3) The statements required under this section for the members of a corporate group shall be submitted by the corporate group in one combined report that includes the information required under subsections (b) and (c) of this section for all members of the corporate group.~~

[(3)] ~~(4)~~ (2) The Comptroller shall develop and implement an oversight AND PENALTY system to ensure that corporations ~~doing business in the State, including those not required to file a return under this title,~~ provide the required disclosure statements in a timely and accurate manner.

[(4)] A person who is required to file a statement under this section who willfully fails to file the statement or who files a false statement is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both.]

~~(5)~~ (3) The Comptroller shall publish the name of, and penalty imposed on, any corporation failing to file a statement required under this section or filing an inaccurate statement.

~~(e)~~ (D) (1) A corporation submitting a statement required under this section may submit supplemental information that, in its sole judgment and discretion, could facilitate proper interpretation of the information included in the statement.

(2) A corporation shall file a supplemental statement under this section within 60 days after:

(i) the corporation files an amended tax return under this title;  
or

(ii) the corporation's tax liability for a tax year is changed as the result of an audit adjustment or final determination of liability by the Comptroller or by a court of law.

~~(E)~~ (E) (1) The Comptroller shall:

(i) collect, compile, and analyze the information submitted under this section;

(ii) use the information submitted under this section to provide analyses as requested by the Governor or the General Assembly relating to the corporate income tax or proposals for changes to the corporate income tax; and

(iii) on or before [December] **MARCH** 1 of each year, based on information provided in income tax returns and the data submitted under this subsection, submit a report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, concerning the corporate income tax.

(2) The report required under this subsection shall:

(i) summarize the information submitted under this section;  
and

(ii) provide detailed analyses of the characteristics of corporate taxpayers, including:

1. historical series of data and detailed reports for the reported year; and

2. the distribution of Maryland taxable income, income tax liability, and other elements of the corporate income tax such as tax credits, modifications to income, and net operating loss carryovers.

(3) The information provided in the report shall be provided by various categories, including:

(i) business category; and

(ii) various measures of size, such as taxable income, in-State and worldwide payroll, and in-State and worldwide gross receipts.

~~(E)~~ **(F)** The Comptroller shall adopt appropriate regulations to implement the provisions of this section.

### Chapter 3 of the Acts of the 2007 Special Session

SECTION 10. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, [except as otherwise provided in regulations that the Comptroller adopts,] the reports and statements required for a taxable year beginning before January 1, 2007, under §§ 10-402(c)(2)(vi) and 10-804.1 of the Tax – General Article as enacted by Section 6 of this Act shall be submitted as part of a corporation's tax return for the corporation's next taxable year beginning after December 31, 2006, and shall be reflected in the Comptroller's reports to be submitted in ~~DECEMBER OF~~

~~2008 AND MARCH OF 2009~~ to the Governor and General Assembly under §§ 10-402(c)(vii) and 10-804.1 of the Tax – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 15, 2008, the Maryland Business Tax Reform Commission established under § 10-110 of the Tax – General Article, in consultation with the Comptroller, shall review the requirements and definitions under § 10-804.1 of the Tax – General Article, as enacted by Section 1 of this Act, and submit its recommendations for any changes to that section to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 178

(House Bill 664)

AN ACT concerning

### **Corporate Income Tax - Reporting and Study**

FOR the purpose of altering the membership of a certain business tax study commission; limiting to certain taxable years a requirement for certain corporations engaged in manufacturing to submit certain reports as part of their income tax returns; altering the circumstances under which an individual is required to attach to an income tax return or otherwise file with the Comptroller a copy of the individual's federal income tax return; altering ~~certain definitions~~ a certain definition and repealing certain definitions for purposes of certain requirements for certain corporations to submit certain reports to the Comptroller; altering the reporting requirements and limiting the reporting requirements to certain taxable years; ~~prohibiting the disclosure of certain information to certain governmental units or officials;~~ repealing certain penalty provisions and authorizing the Comptroller to develop and implement a certain penalty system relating to certain reporting requirements; altering the due date for ~~a~~ certain annual ~~report~~ reports by the Comptroller; requiring a certain commission in consultation with the Comptroller to review certain requirements and definitions and submit certain recommendations to the Governor and General Assembly by a certain date; and generally relating to certain



requirements for certain ~~corporations~~ persons to submit certain reports to the Comptroller.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–110(c), 10–402(c)(2)(vi) and (vii), 10–804(e)(3)(ii), and 10–804.1

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 3 of the Acts of the General Assembly of the 2007 Special Session)

BY repealing and reenacting, with amendments,

Chapter 3 of the Acts of the General Assembly of the 2007 Special Session

Section 10

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

**Article – Tax – General**

10–110.

(c) The Commission shall be composed of [17] **19** members, as follows:

(1) a chair, appointed by the Governor;

(2) three members of the Senate Budget and Taxation Committee, appointed by the President of the Senate;

(3) three members of the House Committee on Ways and Means, appointed by the Speaker of the House;

(4) the Comptroller of the Treasury, or the Comptroller's designee;

(5) the Secretary of Business and Economic Development, or the Secretary's designee;

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

(7) the Director of the State Department of Assessments and Taxation, or the Director's designee;

(8) a representative of the Maryland Association of Counties;

(9) a representative of the Maryland Municipal League;

(10) a representative of the Maryland Chamber of Commerce; [and]

**(11) A REPRESENTATIVE OF THE GREATER BALTIMORE COMMITTEE;**

**(12) A REPRESENTATIVE OF AN ORGANIZATION THAT REPRESENTS MARYLAND MANUFACTURERS, APPOINTED BY THE GOVERNOR; AND**

[(11)] (13) three members of the public, each of whom shall be an attorney at law or an accountant knowledgeable about the State's business tax structure, appointed by the Governor.

10-402.

(c) (2) (vi) As part of its tax return for a taxable year beginning after December 31, 2005, BUT BEFORE JANUARY 1, 2011, each manufacturing corporation that has more than 25 employees and apportions its income under this paragraph shall submit a report, in the form that the Comptroller requires by regulation, that describes for each taxable year as of the last day of the taxable year the following:

1. the difference in tax owed as a result of using the single sales factor apportionment method under this paragraph as compared to the tax owed using the 3-factor double weighted sales factor apportionment method in effect for the last taxable year beginning on or before December 31, 2000;

2. volume of sales in the State and worldwide;

3. taxable income in the State and worldwide; and

4. book value of plant, land, and equipment in the State and worldwide.

(vii) On or before [December 1, 2008] MARCH 1, 2009, and [December] MARCH 1 of each year thereafter, and notwithstanding any confidentiality requirements, the Comptroller shall prepare and submit to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, a comprehensive report on the use of single sales factor apportionment by manufacturing corporations that provides, at a minimum:

1. the number of corporations filing tax returns for the taxable year that ended during the SECOND preceding calendar year that use single sales factor apportionment and the number of such corporations having a Maryland income tax liability for that taxable year;

2. the number of corporations paying less in Maryland income tax for that taxable year as a result of using single sales factor apportionment and the aggregate amount of Maryland income tax savings for all such corporations for that taxable year as a result of using single sales factor apportionment; and

3. the number of corporations paying more in Maryland income tax for the taxable year as a result of using single sales factor apportionment and the aggregate amount of additional Maryland income tax owed by those corporations for the taxable year as a result of using single sales factor apportionment.

~~10-804.1.~~ 10-804.

(e) Each person required under this subtitle to file an income tax return or estimated income tax declaration or return shall:

(3) attach to an income tax return or otherwise file with the Comptroller any records or statements that the Comptroller requires, including:

(ii) a copy of the federal income tax return:

1. for a corporation; AND

2. [for an individual who reports income or loss from a sole proprietorship (Schedule C of Form 1040) or income or loss from rental real estate and royalties, partnerships and S corporations, estates and trusts, or real estate mortgage investment conduits (Schedule E of Form 1040); and

3.] if the Comptroller requests, for an individual [other than one described in item 2 of this item];

~~10-804.1.~~

(a) ~~(1)~~ In this section ~~the following words have the meanings indicated:~~

~~(2)~~ ~~(1)~~ “Corporate;

**(1)** “CORPORATE group” means:

~~[(i)]~~ ~~1.~~ an affiliated group or controlled group under § 1504 or § 1563 of the Internal Revenue Code; or

~~[(ii)]~~ ~~2.~~ an affiliated group of corporations:

~~[1.]~~ ~~A.~~ that is engaged in a unitary business; and

~~{2.}~~ ~~B.~~ more than 50% of the voting stock of each member of which is directly or indirectly owned by [:

A.] a common owner or common owners, either corporate or [noncorporate;] **NONCORPORATE**, or

[B.] **BY** one or more members of the group~~;~~

~~(H)~~ ; AND

**(2) "CORPORATE CORPORATE GROUP" DOES NOT INCLUDE:**

**(I) ANY CORPORATION THAT, FOR ANY REASON, IS NOT SUBJECT TO UNITED STATES FEDERAL INCOME TAX;**

**(II) AN INSURER AS DEFINED IN § 1-101 OF THE INSURANCE ARTICLE; OR**

**(III) A REGULATED INVESTMENT COMPANY, AS DEFINED IN § 851(A) OF THE INTERNAL REVENUE CODE.**

~~(3) "Doing business in the State" [includes] MEANS engaging in any of the following activities, whether or not the corporation engaging in the activity is subject to the tax imposed under this title:~~

~~(i) owning or renting real or tangible personal property physically located in the State;~~

~~(ii) having employees, agents, or representatives acting on the corporation's behalf in the State;~~

~~(iii) making sales of tangible personal property to purchasers that take possession of the property in the State;~~

~~{(iv) regularly and systematically performing services for customers located in the State;}~~

~~{(v)} **(IV)** regularly and systematically performing services in the State;~~

~~{(vi) earning income from intangible property that has a business situs in the State;}~~

~~[(vii)] (V) engaging in regular and systematic solicitation of sales in the State;~~

~~[(viii)] (VI) being a general or limited partner in a partnership engaged in any of the activities described in items (i) through [(vii)] (V) of this paragraph; or~~

~~[(ix)] (VII) being a member of a limited liability company engaged in any of the activities described in items (i) through [(vii)] (V) of this paragraph.~~

(4) ~~“Publicly traded corporation” means:~~

~~(i) a corporation that is regularly traded on an established securities market in the United States or a foreign country; or~~

~~(ii) a corporation more than 50% of the voting stock of which is owned, directly or indirectly, by a corporation, trust, association, or other business entity that is regularly traded on an established securities market in the United States or a foreign country.~~

(b) Each corporation that is required to file an income tax return under this title and is a member of a corporate group shall file with the Comptroller~~†~~:

~~(1) a statement identifying each member of the corporate group and stating for each member of the corporate group:~~

~~[(i)] (1) whether the member filed an income tax return under this title for the taxable year;~~

~~[(ii)] (2) the total volume of sales by the member worldwide for the taxable year; and~~

~~[(iii)] (3) the volume of sales made by the member in the State for the taxable year, if any; and~~

~~(2) a statement:~~

~~(i) identifying each state other than Maryland in which any member of the corporate group filed an income tax return for the taxable year; and~~

~~(ii) as to any state that requires combined or consolidated reporting for corporate income taxpayers, listing the members of the corporate group~~

~~that are included in the combined or consolidated group for purposes of the income tax return or returns filed in that state].~~

~~(e) (1) Each publicly traded corporation that IS SUBJECT TO UNITED STATES FEDERAL INCOME TAX AND is doing business in the State shall file with the Comptroller a statement containing the following information:~~

~~(i) the name of the corporation and the street address of its principal executive office;~~

~~(ii) the name of any corporation that owns, directly or indirectly, 50% or more of the voting stock of the corporation and the street address of that corporation's principal executive office;~~

~~(iii) the corporation's 6 digit North American Industry Classification System code number; and~~

~~(iv) as specified by the Comptroller, information reported on or used in preparing the corporation's tax return filed under this title, or, in the case of a corporation not required to file a tax return under this title, the information that would be required to be reported on or used in preparing the tax return if the corporation were required to file an income tax return.~~

~~(2) In lieu of the information described in paragraph (1)(iv) of this subsection, a publicly traded corporation doing business in the State but not required to file a tax return under this title may elect to provide the following information:~~

~~(i) an explanation of why the corporation is not required to file a corporate income tax return in this State; and~~

~~(ii) a statement as to whether the corporation's total gross receipts from sales to purchasers in this State for the taxable year were:~~

- ~~1. less than \$10,000,000;~~
- ~~2. at least \$10,000,000 but less than \$50,000,000;~~
- ~~3. at least \$50,000,000 but less than \$100,000,000;~~
- ~~4. at least \$100,000,000 but less than \$250,000,000; or~~
- ~~5. at least \$250,000,000.~~

~~(3) If a publicly traded corporation is a member of a corporate group and the corporate group has worldwide gross receipts for the taxable year in excess of \$100,000,000, the statement required under this subsection shall include:~~

~~(i) the information specified under paragraph (1) or (2) of this subsection for each member of the corporate group[, whether or not the member is doing business in the State or] THAT is required to file an income tax return under this title; and~~

~~(ii) other information as specified by the Comptroller for the corporation and for each member of any corporate group of which the corporation is a member, including:~~

~~1. the members of the corporate group that would be included in the combined group using the "water's edge" method for purposes of combined reporting and the difference in Maryland income tax that would be owed if the corporation were required to use combined reporting using the "water's edge" method to determine its Maryland income tax;~~

~~2. the sales factor that would be calculated for this State and the difference in Maryland income tax that would be owed if the corporation were required to include in the numerator of the sales factor for purposes of apportioning income to the State all sales of property shipped from an office, store, warehouse, factory, or other place of storage in this State where:~~

~~A. the purchaser is the federal government; and~~

~~B. the property is shipped or delivered to a customer in a state in which the selling corporation is not subject to a state corporate income tax or state franchise tax measured by net income and could not be subjected to such a tax if the state were to impose it;~~

~~3. for any income that the taxpayer has identified[, on the income tax return filed under this title or on an income tax return filed in any state,] as income that is **NONOPERATIONAL AND THEREFORE** not apportionable;~~

~~A. the amount and source of that [nonapportionable] **NONOPERATIONAL** income; **AND**~~

~~[B. unless the principal executive office of the corporation is in this State, the state to which that nonapportionable income was allocated; and]~~

~~[C.] **B.** if the [principal executive office] **COMMERCIAL DOMICILE** of the corporation is in this State, the difference in tax that would be owed if the corporation were required to allocate 100% of the [nonapportionable]~~

~~NONOPERATIONAL income to [Maryland;] MARYLAND TO THE FULLEST EXTENT ALLOWED UNDER THE UNITED STATES CONSTITUTION; AND~~

~~4. the full-time equivalent employment of the corporation in the State on the last day of the taxable year and for the 3 previous taxable years; and~~

~~5. if the corporation is incorporated in the United States or is an affiliate of a corporation incorporated in the United States, profits before tax reported on the Securities and Exchange Commission Form 10-K for the corporation or the corporate group of which the corporation is a member for the corporate fiscal year that contains the last day of the taxable year].~~

~~(4) IN LIEU OF THE INFORMATION REQUIRED UNDER PARAGRAPHS (1) THROUGH (3) OF THIS SUBSECTION, A CORPORATION MAY:~~

~~(i) (1) PROVIDE A COPY OF A A PRO FORMA "WATER'S EDGE" COMBINED REPORT CALCULATION CORPORATE INCOME TAX RETURN FILED IN ACCORDANCE WITH ANOTHER STATE'S COMBINED REPORTING INCOME TAX REQUIREMENTS, BUT REFLECTING THE MARYLAND APPORTIONMENT FACTOR NUMERATORS; AND~~

~~(ii) IDENTIFY THE DIFFERENCE IN THE MARYLAND TAX AMOUNT THAT WOULD BE OWED IF THE CORPORATION WERE REQUIRED TO USE THE OTHER STATE'S COMBINED REPORTING REQUIREMENTS TO DETERMINE ITS MARYLAND INCOME TAX REGULATIONS ADOPTED BY THE COMPTROLLER; AND~~

~~(2) IN A FORMAT SPECIFIED BY THE COMPTROLLER:~~

~~(i) THE SALES FACTOR THAT WOULD BE CALCULATED FOR THIS STATE AND THE DIFFERENCE IN MARYLAND INCOME TAX THAT WOULD BE OWED IF THE CORPORATION WERE REQUIRED TO INCLUDE IN THE NUMERATOR OF THE SALES FACTOR FOR PURPOSES OF APPORTIONING INCOME TO THE STATE ALL SALES OF PROPERTY SHIPPED FROM AN OFFICE, STORE, WAREHOUSE, FACTORY, OR OTHER PLACE OF STORAGE IN THIS STATE WHERE:~~

~~1. THE PURCHASER IS THE FEDERAL GOVERNMENT;~~

~~OR~~

~~2. THE PROPERTY IS SHIPPED OR DELIVERED TO A CUSTOMER IN A STATE IN WHICH THE SELLING CORPORATION IS NOT SUBJECT TO A STATE CORPORATE INCOME TAX OR STATE FRANCHISE TAX MEASURED BY~~



NET INCOME AND COULD NOT BE SUBJECTED TO SUCH A TAX IF THE STATE WERE TO IMPOSE IT; AND

(II) FOR ANY INCOME THAT THE TAXPAYER HAS IDENTIFIED, ON THE INCOME TAX RETURN FILED UNDER THIS TITLE OR ON AN INCOME TAX RETURN FILED IN ANY STATE, AS INCOME THAT IS NONOPERATIONAL AND THEREFORE NOT APPORTIONABLE:

1. THE AMOUNT AND SOURCE OF THAT NONOPERATIONAL INCOME; AND

2. IF THE COMMERCIAL DOMICILE OF THE CORPORATION IS IN THIS STATE, THE DIFFERENCE IN TAX THAT WOULD BE OWED IF THE CORPORATION WERE REQUIRED TO ALLOCATE 100% OF THE NONOPERATIONAL INCOME TO MARYLAND TO THE FULLEST EXTENT ALLOWED UNDER THE UNITED STATES CONSTITUTION.

~~(d)~~ **(C)** (1) The statements required under ~~subsections (b) and (c)~~ **SUBSECTION (B)** of this section:

(i) shall be filed annually, for all taxable years beginning after December 31, 2005, **BUT BEFORE JANUARY 1, 2011**, on or before dates specified by the Comptroller in an electronic format as specified by the Comptroller;

(ii) shall be:

1. made under oath and signed in the same manner as required for income tax returns under § 10-804 of this subtitle; and

2. subject to audit by the Comptroller in the course of and under the normal procedures applicable to corporate income tax return audits; and

(iii) notwithstanding any other provision of law, shall be treated as confidential taxpayer information subject to Title 13, Subtitle 2 of this article.

~~(2) INFORMATION CONTAINED IN THE STATEMENTS SUBMITTED UNDER THIS SECTION MAY NOT BE DISCLOSED TO ANY UNIT OR OFFICIAL OF THE FEDERAL GOVERNMENT OR OF ANY OTHER STATE OR LOCAL GOVERNMENT.~~

~~[(2)] (3) The statements required under this section for the members of a corporate group shall be submitted by the corporate group in one combined report that includes the information required under subsections (b) and (c) of this section for all members of the corporate group.~~

~~[(3)]~~ ~~(4)~~ **(2)** The Comptroller shall develop and implement an oversight AND PENALTY system to ensure that corporations ~~doing business in the State, including those not required to file a return under this title,~~ provide the required disclosure statements in a timely and accurate manner.

**(4)** A person who is required to file a statement under this section who willfully fails to file the statement or who files a false statement is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both.]

~~(5)~~ **(3)** The Comptroller shall publish the name of, and penalty imposed on, any corporation failing to file a statement required under this section or filing an inaccurate statement.

~~(e)~~ **(D)** (1) A corporation submitting a statement required under this section may submit supplemental information that, in its sole judgment and discretion, could facilitate proper interpretation of the information included in the statement.

(2) A corporation shall file a supplemental statement under this section within 60 days after:

(i) the corporation files an amended tax return under this title;  
or

(ii) the corporation's tax liability for a tax year is changed as the result of an audit adjustment or final determination of liability by the Comptroller or by a court of law.

~~(f)~~ **(E)** (1) The Comptroller shall:

(i) collect, compile, and analyze the information submitted under this section;

(ii) use the information submitted under this section to provide analyses as requested by the Governor or the General Assembly relating to the corporate income tax or proposals for changes to the corporate income tax; and

(iii) on or before ~~[December]~~ **MARCH** 1 of each year, based on information provided in income tax returns and the data submitted under this subsection, submit a report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, concerning the corporate income tax.

(2) The report required under this subsection shall:

- and
- (i) summarize the information submitted under this section;
  - (ii) provide detailed analyses of the characteristics of corporate taxpayers, including:
    1. historical series of data and detailed reports for the reported year; and
    2. the distribution of Maryland taxable income, income tax liability, and other elements of the corporate income tax such as tax credits, modifications to income, and net operating loss carryovers.
- (3) The information provided in the report shall be provided by various categories, including:
- (i) business category; and
  - (ii) various measures of size, such as taxable income, in-State and worldwide payroll, and in-State and worldwide gross receipts.

~~(e)~~ **(F)** The Comptroller shall adopt appropriate regulations to implement the provisions of this section.

### Chapter 3 of the Acts of the 2007 Special Session

SECTION 10. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, [except as otherwise provided in regulations that the Comptroller adopts,] the reports and statements required for a taxable year beginning before January 1, 2007, under §§ 10-402(c)(2)(vi) and 10-804.1 of the Tax – General Article as enacted by Section 6 of this Act shall be submitted as part of a corporation's tax return for the corporation's next taxable year beginning after December 31, 2006, and shall be reflected in the Comptroller's reports to be submitted in ~~DECEMBER OF 2008 AND MARCH OF 2009~~ to the Governor and General Assembly under §§ 10-402(c)(vii) and 10-804.1 of the Tax – General Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 15, 2008, the Maryland Business Tax Reform Commission established under § 10-110 of the Tax – General Article, in consultation with the Comptroller, shall review the requirements and definitions under § 10-804.1 of the Tax – General Article, as enacted by Section 1 of this Act, and submit its recommendations for any changes to that section to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 179

(Senate Bill 456)

AN ACT concerning

### **Sales and Use Tax - Energy Star Product Exemptions - Boilers**

FOR the purpose of altering a certain definition under the sales and use tax to include boilers for purposes of a certain tax-free period during which an exemption from the sales and use tax is provided for the sale of certain appliances that meet or exceed certain applicable energy efficiency guidelines; and generally relating to exemptions from the sales and use tax.

BY repealing and reenacting, with amendments,

Article - Tax - General

Section 11-226

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 6 of the Acts of the General Assembly of the 2007 Special Session)

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

### **Article - Tax - General**

11-226.

(a) (1) In this subsection, "Energy Star product" means an air conditioner, clothes washer or dryer, furnace, heat pump, standard size refrigerator, compact fluorescent light bulb, dehumidifier, **BOILER**, or programmable thermostat that has been designated as meeting or exceeding the applicable Energy Star efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy.

(2) Beginning in calendar year 2011, the weekend that consists of the Saturday immediately preceding the third Monday in February through the third Monday in February each year shall be a tax-free weekend during which the exemption under paragraph (3) of this subsection shall apply.

(3) During the tax-free weekend established under paragraph (2) of this subsection, the sales and use tax does not apply to the sale of any:

- (i) Energy Star product; or
- (ii) solar water heater.

(b) The sales and use tax does not apply to the sale of a multifuel pellet stove designed to burn agricultural field corn.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 180

(House Bill 985)

AN ACT concerning

### Sales and Use Tax - Energy Star Product Exemptions - Boilers

FOR the purpose of altering a certain definition under the sales and use tax to include boilers for purposes of a certain tax-free period during which an exemption from the sales and use tax is provided for the sale of certain appliances that meet or exceed certain applicable energy efficiency guidelines; and generally relating to exemptions from the sales and use tax.

BY repealing and reenacting, with amendments,

Article - Tax - General

Section 11-226

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 6 of the Acts of the General Assembly of the 2007 Special Session)

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

**Article - Tax - General**

11-226.

(a) (1) In this subsection, "Energy Star product" means an air conditioner, clothes washer or dryer, furnace, heat pump, standard size refrigerator, compact fluorescent light bulb, dehumidifier, **BOILER**, or programmable thermostat that has been designated as meeting or exceeding the applicable Energy Star efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy.

(2) Beginning in calendar year 2011, the weekend that consists of the Saturday immediately preceding the third Monday in February through the third Monday in February each year shall be a tax-free weekend during which the exemption under paragraph (3) of this subsection shall apply.

(3) During the tax-free weekend established under paragraph (2) of this subsection, the sales and use tax does not apply to the sale of any:

- (i) Energy Star product; or
- (ii) solar water heater.

(b) The sales and use tax does not apply to the sale of a multifuel pellet stove designed to burn agricultural field corn.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 181**

**(Senate Bill 458)**

AN ACT concerning

**Tourism Promotion Act of 2008**

FOR the purpose of requiring the Maryland Tourism Development Board to provide certain grants to the destination marketing organizations and certain financial assistance to the Office of Tourism Development; ~~for a certain fiscal year, requiring the Governor to include in the annual budget bill a certain proposed General Fund appropriation to the Maryland Tourism Development Board Fund; beginning in a certain fiscal year, requiring the Governor to include in the annual budget bill a certain proposed General Fund appropriation based on certain prior fiscal year appropriations; beginning in a certain fiscal year, requiring the Treasurer to deposit annually into the Fund a certain additional amount derived from sales tax revenues collected on certain retail sale of tourist-oriented goods and services; specifying the calculation for the additional amount to be deposited into the Fund; limiting the total annual funding that may be deposited into the Fund from certain sources; providing that any amount that may not be deposited into the Fund due to the limitation shall be deposited into the General Fund; requiring the Comptroller, on or before a certain date each year, to make a certain calculation regarding certain annual sales and use tax revenues collected on the retail sale of tourist-oriented goods and services under certain codes after consultation with the Department of Business and Economic Development; requiring the Comptroller to report by a certain time on a certain calculation to the Governor, certain agencies, and the General Assembly; requiring the Governor to consider whether to include a certain appropriation to the Maryland Tourism Development Board Fund in the proposed State budget under certain circumstances; providing that certain funding is not required to be included in the State budget; stating the intent of the General Assembly; encouraging certain local government to reevaluate certain policies governing the means by which revenues derived from local hotel and motel taxes are shared between local governments and the destination marketing organizations; requiring that the annual operating budget of the Office shall continue to be financed from the General Fund with additional support consistent with this Act; requiring that on or before a certain date each year, the Department of Business and Economic Development shall report to certain persons on a certain analysis of the effectiveness of this Act and provide a certain recommendation; providing for the effective date of certain provisions of this Act; and generally relating to promoting tourism in Maryland.~~

~~BY repealing and reenacting, without amendments,  
 Article 83A — Department of Business and Economic Development  
 Section 4-206  
 Annotated Code of Maryland  
 (2003 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, with amendments,  
 Article 83A — Department of Business and Economic Development  
 Section 4-207 and 4-208  
 Annotated Code of Maryland~~

~~(2003 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 4-214 and 4-216

Annotated Code of Maryland

(As enacted by Ch. 306 (H.B. 1050) of the Acts of the General Assembly of 2008)

Preamble

WHEREAS, Maryland is known as “America in Miniature” with unsurpassed natural, cultural, and historical amenities waiting to be discovered; and

WHEREAS, Maryland’s \$11 billion travel and tourism industry represents the State’s fourth largest industry which recent reports show employs over 100,000 people and generates an estimated \$3 billion in salaries and wages and \$895 million in State tax revenues on an annual basis; and

WHEREAS, Studies indicate that every dollar spent marketing the State of Maryland converts into a \$28.24 return on investment to Maryland’s economy; and

WHEREAS, Neighboring states realize the economic value of self-promotion and are outspending Maryland in a concerted effort to capture a regional market share of visitor spending, especially by baby boomers with their disposable income who are moving into the 45 to 54 age group; and

WHEREAS, State funding for travel and tourism development and promotion in Maryland has fluctuated over the years largely because of shifting priorities, depressed revenue attainment, and less than a full understanding of the dollar potential associated with a well-financed, clearly understood marketing strategy; and

WHEREAS, Prevailing economic conditions, coupled with competition from neighboring states and the predictability of a measurable return on investment, call for a bold, innovative, and well-funded plan to strengthen Maryland’s standing as a premiere destination for travelers; and

WHEREAS, The General Assembly envisions the Tourism Promotion Act of 2008 as a timely investment in Maryland’s future that will generate much-needed revenues for State and local governments through the promotion of a State whose credit as “America in Miniature” is well-deserved; now, therefore,

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~~



~~4-206.~~

~~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;~~

~~(18) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, ANNUALLY PROVIDE GRANTS TO THE DESTINATION MARKETING ORGANIZATIONS, OF NOT LESS THAN \$2.5 MILLION IN TOTAL, FOR THE PURPOSE OF ATTRACTING VISITORS TO THE STATE; AND~~

~~(19) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, PROVIDE FINANCIAL ASSISTANCE TO THE OFFICE OF TOURISM DEVELOPMENT FOR PURPOSES CONSISTENT WITH THE INTENT OF THIS TITLE.~~

~~4-208.~~

- ~~(a) There is a Maryland Tourism Development Board Fund.~~
- ~~(b) The Fund is established to provide a continuing fund for the Board to fund programs relating to the planning, advertising, promotion, assistance, and development of the tourism industry in the State.~~
- ~~(c) The Fund is a special, continuous, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.~~
- ~~(d) The Treasurer shall invest and reinvest the Fund in the same manner as other State funds and credit any investment earnings to the General Fund.~~
- ~~(e) The Fund consists of:~~
- ~~(1) Moneys appropriated in the State budget to the Fund; and~~
  - ~~(2) All funds accepted by the Board in accordance with § 4-206 of this subtitle.~~
- ~~(f) Expenditures from the Fund may be made only by the Board in accordance with an appropriation.~~
- ~~(g) (1) In this subsection, "Governor's proposed General Fund appropriation" means the General Fund appropriation included by the Governor in the annual budget bill as submitted to the General Assembly, including any proposed supplemental budget, before any amendment by the General Assembly.~~
- ~~(2) The Governor shall include in the annual budget bill a proposed General Fund appropriation to the Fund in an amount not less than \$6,000,000 for fiscal year 2006 [and each fiscal year thereafter] THROUGH FISCAL YEAR 2009.~~

~~(3) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL A PROPOSED GENERAL FUND APPROPRIATION TO THE FUND IN AN AMOUNT NOT LESS THAN \$10,000,000 FOR FISCAL YEAR 2010.~~

~~(4) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL A PROPOSED GENERAL FUND APPROPRIATION TO THE FUND IN AN AMOUNT NOT LESS THAN THE PRIOR FISCAL YEAR'S GENERAL FUND APPROPRIATION MINUS 5%.~~

~~(H) (1) IN ADDITION TO THE PROPOSED GENERAL FUND APPROPRIATION TO THE FUND BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, THE TREASURER SHALL DEPOSIT INTO THE FUND AN AMOUNT, AS CALCULATED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THAT HAS BEEN DERIVED FROM SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES UNDER THE CLASSIFICATION CODES THE COMPTROLLER DEEMS APPLICABLE AFTER CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT.~~

~~(2) IF THE INCREASE IN THE AMOUNT OF SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES IN THE FISCAL YEAR 2 YEARS PRIOR TO THE FISCAL YEAR IN WHICH EACH DEPOSIT SHALL BE MADE INTO THE FUND UNDER PARAGRAPH (1) OF THIS SUBSECTION IS AT LEAST 3% OVER THE AMOUNT OF SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES IN THE FISCAL YEAR 3 YEARS PRIOR TO THE FISCAL YEAR IN WHICH EACH DEPOSIT SHALL BE MADE INTO THE FUND, THE COMPTROLLER SHALL CALCULATE THE AMOUNT THAT THE TREASURER IS TO DEPOSIT INTO THE FUND TO BE AN AMOUNT EQUAL TO ONE HALF OF THE AMOUNT OF THE SALES TAX REVENUES COLLECTED ABOVE A 3% INCREASE.~~

~~(I) (1) THE TOTAL ANNUAL FUNDING DEPOSITED INTO THE FUND UNDER SUBSECTIONS (G) AND (H) OF THIS SECTION IN ANY FISCAL YEAR MAY NOT EXCEED THE AMOUNT DEPOSITED INTO THE FUND UNDER SECTIONS (G) AND (H) OF THIS SECTION IN THE FISCAL YEAR IMMEDIATELY PRECEDING THE CURRENT FISCAL YEAR BY MORE THAN \$5,000,000.~~

~~(2) BASED ON THE LIMITATION OF THE AMOUNT THAT MAY BE DEPOSITED INTO THE FUND UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY AMOUNT OF SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF~~

~~TOURIST-ORIENTED GOODS AND SERVICES THAT MAY NOT BE DEPOSITED INTO THE FUND SHALL BE CREDITED TO THE GENERAL FUND.~~

Article - Economic Development

4-214.

The Board shall:

(1) set policies for spending money on tourism advertising, written and graphic materials, cooperative and matching promotional programs, and other tourism and travel developmental and promotional activities for the State; [and]

(2) spend money of the Fund to plan, advertise, promote, assist, and develop the tourism and travel industries in the State; AND

(3) BEGINNING IN FISCAL YEAR 2011, PROVIDE GRANTS OF NOT LESS THAN \$2,500,000 IN TOTAL EACH FISCAL YEAR TO DESTINATION MARKETING ORGANIZATIONS FOR THE PURPOSE OF ATTRACTING VISITORS TO THE STATE.

4-216.

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

(2) "TOURISM TAX INCREMENT" MEANS THE AMOUNT, IF ANY, BY WHICH THE TOURISM TAX REVENUES COLLECTED IN THE FISCAL YEAR 2 YEARS BEFORE A PARTICULAR FISCAL YEAR EXCEEDS THE TOURISM TAX REVENUES COLLECTED IN THE FISCAL YEAR 3 YEARS BEFORE THE PARTICULAR FISCAL YEAR.

(3) "TOURISM TAX REVENUES" MEANS SALES AND USE TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES, AS DETERMINED BY THE COMPTROLLER UNDER SUBSECTION (C)(3) OF THIS SECTION.

(B) The Governor shall include in the annual budget bill a proposed General Fund appropriation to the Fund in an amount not less than \$6,000,000 for each fiscal year.

(C) (1) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COMPTROLLER SHALL CALCULATE THE AMOUNT OF THE QUALIFYING TOURISM

TAX INCREMENT FOR THE CURRENT FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

**(2) THE QUALIFYING TOURISM TAX INCREMENT IS:**

**(i) IF THE TOURISM TAX INCREMENT EXCEEDS 3% OF THE TOURISM TAX REVENUES COLLECTED IN THE FISCAL YEAR 3 YEARS BEFORE THE CURRENT FISCAL YEAR, ONE-HALF OF THE AMOUNT OF THE TOURISM TAX INCREMENT ABOVE THE 3% INCREASE; OR**

**(ii) IF THE TOURISM TAX INCREMENT DOES NOT EXCEED 3%, ZERO.**

**(3) THE COMPTROLLER SHALL:**

**(i) DETERMINE THE CLASSIFICATION CODES THAT SHALL BE INCLUDED IN TOURISM TAX REVENUES UNDER THIS SUBSECTION AFTER CONSULTING WITH THE DEPARTMENT; AND**

**(ii) ON OR BEFORE AUGUST 1 OF EACH YEAR, REPORT THE AMOUNT OF THE QUALIFYING TOURISM TAX INCREMENT TO THE GOVERNOR, THE DEPARTMENT, THE DEPARTMENT OF BUDGET AND MANAGEMENT, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

**(4) THE GOVERNOR SHALL CONSIDER WHETHER TO INCLUDE THE AMOUNT OF THE QUALIFYING TOURISM TAX INCREMENT IN THE APPROPRIATION TO THE FUND IN THE PROPOSED STATE BUDGET FOR THE NEXT FISCAL YEAR, IN ADDITION TO THE AMOUNT TO BE INCLUDED IN THE BUDGET BILL UNDER SUBSECTION (B) OF THIS SECTION.**

**(5) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE FUNDING IN THE STATE BUDGET OF THE QUALIFYING TOURISM TAX INCREMENT.**

**(6) IF THE PROPOSED STATE BUDGET FOR A PARTICULAR FISCAL YEAR INCLUDES AN APPROPRIATION TO THE FUND UNDER THIS SUBSECTION, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE TOTAL ANNUAL FUNDING APPROPRIATED TO THE FUND IN ANY FISCAL YEAR NOT EXCEED BY MORE THAN \$5,000,000 THE SUM OF:**

**(i) THE PORTION OF THE QUALIFYING TOURISM TAX INCREMENT THAT THE GOVERNOR INCLUDED IN THE PROPOSED STATE BUDGET**

FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE PARTICULAR FISCAL YEAR; AND

(II) THE AMOUNT STATED IN SUBSECTION (B) OF THIS SECTION.

(D) ON OR BEFORE OCTOBER 1 OF EACH YEAR BEGINNING IN 2012, IN COOPERATION WITH THE BOARD AND THE MARYLAND ASSOCIATION OF DESTINATION MARKETING ORGANIZATIONS, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE EFFECTIVENESS OF THE FUNDING PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION IN INCREASING VISITOR ATTENDANCE AND VISITOR SPENDING IN MARYLAND.

SECTION 2. AND BE IT FURTHER ENACTED, That local governments in Maryland are encouraged to reevaluate their respective policies governing the means by which revenues derived from local hotel and motel taxes are shared between local governments and the destination marketing organizations consistent with the intent and purpose of this Act in order to increase visitor attendance and visitor spending throughout Maryland.

~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

~~(a) The annual operating budget of the Office of Tourism Development within the Department of Business and Economic Development shall continue to be financed from the General Fund, subject to approval through the normal budgetary process, with additional support consistent with this Act; and~~

~~(b) On or before October 1 of each year beginning with October 1, 2013, the Department of Business and Economic Development, in cooperation with the Maryland Tourism Development Board and the Maryland Association of Destination Marketing Organizations, shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on:~~

~~(1) The effectiveness of this Act from the standpoint of an analysis of its impact on increasing visitor attendance and visitor spending in Maryland; and~~

~~(2) Its recommendation whether the Office of Tourism Development is able to become fiscally self-sufficient through the Maryland Tourism Development Board Fund within a certain designated time frame.~~

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before August 1, 2008, the Comptroller shall calculate and report the amount of the qualifying tourism tax increment for fiscal year 2009 as provided under § 4-216(c) of the Economic Development Article, as enacted by this Act. For purposes of determining the

qualifying tourism tax increment under § 4-216 of the Economic Development Article, as enacted by this Act, for fiscal years 2010 and 2011 only, the Comptroller shall adjust the calculation of revenues based on a 5% sales and use tax rate for fiscal years 2008 and 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2008.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 182

**(Senate Bill 459)**

AN ACT concerning

### **Task Force to Review Physician Shortages in Rural Areas**

FOR the purpose of creating a Task Force to Review Physician Shortages in Rural Areas; providing for the composition, cochairs, and staffing of the Task Force; prohibiting a member of the Task Force from receiving compensation but authorizing members to be reimbursed for certain expenses; requiring the Task Force to study the recruitment and retention of certain physicians in certain rural areas, the funding of certain programs, certain academic recruitment programs, certain federal and State programs relating to physician distribution, and certain financial and tax incentives for physicians who practice in certain rural areas; requiring the Task Force to make certain recommendations; requiring the Task Force to report to the Governor and to certain committees of the General Assembly regarding certain findings and recommendations; requiring the University of Maryland School of Medicine to develop a certain pilot program; providing for the termination of this Act; and generally relating to the Task Force to Review Physician Shortages in Rural Areas.

#### Preamble

WHEREAS, Rural health care delivery is an important component of developing statewide health care delivery; and



WHEREAS, Based on a recent report by the Maryland Hospital Association there exists an extreme lack of coverage in rural areas of the State; and

WHEREAS, Although residents in rural areas comprise one-quarter of the United States population, they do not have the same level of access to basic primary health care services that is available to other Americans; and

WHEREAS, Health care delivery in rural communities is further complicated by poverty, inadequate transportation, large geographical distances, an aging population base, and economic decline; now, therefore,

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

(a) There is a Task Force to Review Physician Shortages in Rural Areas of the State.

(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 Health and Mental Hygiene, or the Secretary's designee;

(4) the Chair of the State Board of Physicians, or the Chair's designee;

(5) the Secretary of Higher Education, or the Secretary's designee;

(6) the Chancellor of the University System of Maryland, or the Chancellor's designee;

(7) the Dean of the University of Maryland School of Medicine, or the Dean's designee;

(8) the President of Johns Hopkins University, or the President's designee;

(9) one representative from a community college, selected and appointed by the Maryland Association of Community Colleges;

(10) one representative from MedChi, selected and appointed by MedChi;

(11) one primary care physician who practices in a rural area, selected and appointed by the Maryland Chapter of the American Academy of Family Practitioners;

~~(11)~~ (12) one representative of the Maryland Hospital Association, selected and appointed by the Maryland Hospital Association;

~~(12)~~ (13) three representatives of rural hospitals that serve southern Maryland, western Maryland, or the Eastern Shore of Maryland, selected and appointed by the Maryland Hospital Association; ~~and~~

(14) one representative of a rural long-term care facility, selected and appointed by Lifespan;

(15) one representative from the Rural Maryland Council, selected and appointed by the Rural Maryland Council; ~~and~~

~~(13)~~ (16) one representative from the Maryland Rural Health Association, selected and appointed by the Maryland Rural Health Association; and

(17) one pediatrician who practices in a rural area, selected and appointed by the Maryland Chapter of the American Academy of Pediatrics.

(c) The member appointed by the President of the Senate and the member appointed by the Speaker of the House shall serve as cochairs of the Task Force.

(d) ~~The Department of Health and Mental Hygiene~~ University of Maryland School of Medicine shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study the recruitment and retention of primary care physicians in rural areas of the State;

(2) study the funding of programs to encourage physician practice in rural areas;

(3) study new academic physician recruitment programs to enroll and encourage students interested in rural life and practice;

(4) study federal and State programs to equalize physician distribution across geographic areas;

(5) study financial and tax incentives for physicians who practice in rural underserved areas; ~~and~~

(6) make recommendations regarding collaborative approaches to support and enhance the Rural Residency Track Pilot Program developed by the University of Maryland School of Medicine in accordance with this Act; and

~~(6)~~ (7) make recommendations regarding what should be done to encourage more primary care physicians to practice in rural areas of the State.

(g) On or before December 1, 2008, the Task Force shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the House Health and Government Operations Committee, the Senate Education, Health, and Environmental Affairs Committee, and the Senate Finance Committee regarding its findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That, in order to encourage and accelerate the practice of primary care physicians in rural, underserved areas of the State, the University of Maryland School of Medicine shall develop a Rural Residency Track Pilot Program to place at least two Family and Community medical residents in a rural residency track. The pilot program shall:

(1) recognize the need to develop partnerships with rural hospitals, local providers, Federally Qualified Health Centers, and local health departments;

(2) use the telemedicine infrastructure to support resident training and patient care;

(3) in conjunction with Area Health Education Centers, seek to create a pipeline to attract more qualified students from rural areas to pursue healthcare careers; and

(4) identify resources and incentives needed to support the pilot program.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 1 year and 1 month and, at the end of June 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, 2008.

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## CHAPTER 183

(Senate Bill 492)

AN ACT concerning

### **Vehicular Crossings – Use by Pedestrians and Bicycles – Authorization**

FOR the purpose of authorizing the use of certain vehicular crossings under the jurisdiction of the Maryland Transportation Authority by pedestrians and bicycles when authorized by the Chairman of the Maryland Transportation Authority; and generally relating to the use of vehicular crossings.

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 21–1401  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 21–1405  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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

### **Article – Transportation**

21–1401.

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

(b) "Approach" means any roadway, overhead structure, ramp, bridge, causeway, entrance, and exit provided as a means of access to or departure from a vehicular crossing.

(c) "Bridge" means any bridge within the jurisdiction of the Maryland Transportation Authority.

(d) "Tunnel" means:

(1) The Baltimore Harbor Tunnel; and

(2) Any other tunnel within the jurisdiction of the Maryland Transportation Authority.

(e) "Vehicular crossing" means:

(1) Each tunnel and bridge within the jurisdiction of the Maryland Transportation Authority; and

(2) Each approach to these tunnels and bridges.

21-1405.

(a) [Pedestrians] **UNLESS AUTHORIZED BY THE CHAIRMAN OF THE MARYLAND TRANSPORTATION AUTHORITY, PEDESTRIANS** may not use any vehicular crossing.

(b) [Bicycles] **UNLESS AUTHORIZED BY THE CHAIRMAN OF THE MARYLAND TRANSPORTATION AUTHORITY, BICYCLES** may not use any vehicular crossing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 184

(Senate Bill 496)

AN ACT concerning

**Baltimore City – Alcoholic Beverages Licenses – Restaurants in Business  
Planned Unit Development**

FOR the purpose of authorizing the Board of Liquor License Commissioners of Baltimore City to issue a certain number of Class B beer, wine and liquor restaurant licenses in a business planned unit development in a specified area in Baltimore City; requiring the restaurants to have a certain minimum capital investment, seating capacity range, and average daily receipts from the sale of food that are at least a certain percentage of the total daily receipts of the restaurant; prohibiting sales for off-premises consumption; and generally relating to alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 9–204.1(c)(1)(iii) and (2)(i)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article 2B – Alcoholic Beverages**

9–204.1.

(c) (1) Except as provided in paragraph (2)(i) and (ii) of this subsection and subsection (h) of this section, the prohibitions in this section do not apply to special 1–day licenses or to Class B beer, wine and liquor restaurant licenses to bona fide restaurants having:

(iii) 1. In the following areas of the 46th alcoholic beverages district, average daily receipts from the sale of food that are at least 51% of the total daily receipts of the restaurant:

- A. Ward 1, precincts 2 and 3;
- B. Ward 2 in its entirety;
- C. Ward 3, precinct 3; and
- D. Ward 26, precinct 10;

2. For a restaurant in ward 26, precinct 8 of the 46th alcoholic beverages district, which at all times shall be coterminous with the 46th Legislative District in the Legislative Districting Plan of 2002 as ordered by the

Maryland Court of Appeals on June 21, 2002, if the restaurant has a minimum capital investment of \$700,000 and a seating capacity exceeding 150 persons, average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant;

3. For a restaurant anywhere in ward 4, precinct 1 or ward 22, precinct 1 of the 46th alcoholic beverages district, which at all times shall be coterminous with the 46th Legislative District in the Legislative Districting Plan of 2002 as ordered by the Maryland Court of Appeals on June 21, 2002, if the restaurant has a minimum capital investment of \$750,000, a seating capacity that exceeds 70 persons, average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant, and no sales for off-premises consumption; [and]

4. For not more than three restaurants in a residential planned unit development for Silo Point as approved by the Mayor and City Council of Baltimore City in Ordinance 04-697 on June 23, 2004, if the restaurant has a minimum capital investment of \$600,000, a seating capacity that exceeds 70 persons, average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant, and no sales for off-premises consumption; and

**5. FOR NOT MORE THAN THREE RESTAURANTS IN A BUSINESS PLANNED UNIT DEVELOPMENT IN WARD 24, PRECINCT 5 OF THE 46TH ALCOHOLIC BEVERAGES DISTRICT, WHICH AT ALL TIMES SHALL BE COTERMINOUS WITH THE 46TH LEGISLATIVE DISTRICT IN THE LEGISLATIVE DISTRICTING PLAN OF 2002 AS ORDERED BY THE MARYLAND COURT OF APPEALS ON JUNE 21, 2002, IF EACH RESTAURANT HAS A MINIMUM CAPITAL INVESTMENT OF ~~\$600,000~~ \$700,000, A SEATING CAPACITY THAT EXCEEDS ~~70~~ 75 PERSONS BUT IS NOT MORE THAN 150 PERSONS, AVERAGE DAILY RECEIPTS FROM THE SALE OF FOOD THAT ARE AT LEAST 65% OF THE TOTAL DAILY RECEIPTS OF THE RESTAURANT, AND NO SALES FOR OFF-PREMISES CONSUMPTION; AND**

(2) (i) The Board of Liquor License Commissioners for Baltimore City may not issue or transfer an alcoholic beverages license under paragraph (1) of this subsection for use in:

1. ~~[Ward] EXCEPT AS PROVIDED IN PARAGRAPH (1)(II)5 OF THIS SUBSECTION, WARD~~ 1, precinct 4 or 5 of the 46th alcoholic beverages district, which at all times shall be coterminous with the 46th Legislative District in the Legislative Districting Plan of 2002 as ordered by the Maryland Court of Appeals on June 21, 2002; or

2. ~~Ward~~ **EXCEPT AS PROVIDED IN PARAGRAPH (1)(II)5 OF THIS SUBSECTION, WARD** 24, precinct 5 of the ~~47th~~ 46th alcoholic

beverages district, which at all times shall be coterminous with the 46th Legislative District in the Legislative Districting Plan of 2002 as ordered by the Maryland Court of Appeals on June 21, 2002.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 185

(Senate Bill 511)

AN ACT concerning

**Health Occupations – Dental Hygiene Students – Exception From Licensure Requirements While Participating in Approved Educational Program**

FOR the purpose of providing that a certain licensure requirement does not apply to certain students of dental hygiene while engaged in certain approved educational programs in dental hygiene; and generally relating to an exception from licensure requirements for dental hygiene students.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 4–301  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article – Health Occupations**

4–301.

(a) (1) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice dentistry before the individual may practice dentistry on a human being in this State.



(2) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice dental hygiene before the individual may practice dental hygiene on a human being in this State.

(b) This section does not apply to:

(1) A student of dentistry while engaged in an educational program at an approved school of dentistry;

**(2) A STUDENT OF DENTAL HYGIENE WHILE ENGAGED IN AN APPROVED EDUCATIONAL PROGRAM IN DENTAL HYGIENE;**

[(2)] **(3)** A dentist while performing official duties in a federal dental service;

[(3)] **(4)** An individual licensed to practice dentistry in any other state or a foreign country, while the individual:

(i) Makes a clinical demonstration before a dental society, dental convention, association of dentists, or dental college; or

(ii) Performs professional duties on a specific case for which the individual is called into this State; or

[(4)] **(5)** A dental assistant, if the dental assistant:

(i) Subject to the rules and regulations adopted by the Board, performs only procedures that do not require the professional skills of a licensed dentist; and

(ii) Performs intraoral tasks only under the direct supervision of a licensed dentist who personally is present in the office area where the tasks are performed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 186

**(Senate Bill 533)**

AN ACT concerning

### Task Force to Study How to Improve Financial Literacy in the State

FOR the purpose of creating a Task Force to Study How to Improve Financial Literacy in the State; providing for the composition, co-chairs, and staffing of the Task Force; providing that a member of the Task Force may not receive compensation but may be reimbursed for certain expenses; requiring the Task Force to study the ability of certain consumers to understand certain financial concepts and the problems created for certain consumers by a lack of financial literacy or knowledge; requiring the Task Force to make certain recommendations; requiring the Task Force to report certain findings and recommendations to the Governor and to the General Assembly; providing for the termination of this Act; and generally relating to the Task Force to Study How to Improve Financial Literacy in the State.

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

(a) There is a Task Force to Study How to Improve Financial Literacy in the State.

(b) The Task Force consists of the following members:

(1) ~~three~~ two members of the Senate of Maryland, appointed by the President of the Senate;

(2) ~~three~~ two members of the House of Delegates, appointed by the Speaker of the House;

(3) the State Superintendent of Schools, or the Superintendent's designee;

(4) the Secretary of Housing and Community Development, or the Secretary's designee;

(5) the Chief of the Consumer Protection Division of the Office of the Attorney General, or the Chief's designee;

(6) the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, or the Commissioner's designee;

~~(4) (6)~~ (7) the following members, appointed jointly by the President of the Senate and the Speaker of the House:

(i) ~~one representative~~ two representatives of the Maryland State Teachers Association, one of whom teaches a course involving principles of financial literacy;

(ii) one representative of the American Federation of Teachers;

~~(ii)~~ (iii) one representative from the consumer credit counseling industry; and

~~(iii)~~ (iv) two representatives from a community development corporation or a community-focused nonprofit organization; and

~~(5)~~ ~~(7)~~ (8) the following members, appointed by the Governor:

(i) one representative of the Maryland State Board of Education;

(ii) one representative of the Maryland Council on Economic Education;

(iii) one representative of a State-chartered community bank;

(iv) one representative of a State-chartered credit union;

(v) one representative of a federal-chartered bank or savings bank that has a branch in Maryland;

(vi) one representative of a federal-chartered credit union headquartered in Maryland; and

(vii) one licensed mortgage broker holding the Maryland Association of Mortgage Brokers' "Lending Seal of Integrity".

(c) (1) The President of the Senate shall designate one of the members appointed from the Senate as co-chair of the Task Force.

(2) The Speaker of the House shall designate one of the members appointed from the House as co-chair of the Task Force.

(d) The Department of Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study the current ability of high school students to understand basic financial concepts;

(2) evaluate the current provision of financial literacy education in Maryland's public schools;

(3) assess the utility of financial literacy education as part of primary and secondary education;

~~(4)~~ (4) study the current ability of consumers over the age of 21 who have achieved a high school diploma to understand basic financial concepts;

~~(5)~~ (5) study the problems created for the average consumer by a lack of financial literacy or knowledge, including an inability to:

(i) determine how to set financial goals;

(ii) establish basic household budgets;

(iii) locate the best-priced financial services products relative to current economic situations;

(iv) understand how credit can improve or impede progress toward financial goals; and

(v) evaluate offers for products; and

~~(6)~~ (6) make recommendations regarding:

(i) how to address the problems identified under ~~paragraph (2)~~ item (5) of this subsection; and

(ii) the ~~utility~~ benefits and drawbacks of requiring financial literacy education as part of primary and secondary education.

(g) On or before December 1, 2008, the Task Force shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding its findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 1 year and, at the end of June 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, 2008.

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## CHAPTER 187

(House Bill 1242)

AN ACT concerning

### Task Force to Study How to Improve Financial Literacy in the State

FOR the purpose of creating a Task Force to Study How to Improve Financial Literacy in the State; providing for the composition, co-chairs, and staffing of the Task Force; providing that a member of the Task Force may not receive compensation but may be reimbursed for certain expenses; requiring the Task Force to study the ability of certain consumers to understand certain financial concepts and the problems created for certain consumers by a lack of financial literacy or knowledge; requiring the Task Force to make certain recommendations; requiring the Task Force to report certain findings and recommendations to the Governor and to the General Assembly; providing for the termination of this Act; and generally relating to the Task Force to Study How to Improve Financial Literacy in the State.

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

(a) There is a Task Force to Study How to Improve Financial Literacy in the State.

(b) The Task Force consists of the following members:

(1) ~~three~~ two members of the Senate of Maryland, appointed by the President of the Senate;

(2) ~~three~~ two members of the House of Delegates, appointed by the Speaker of the House;

(3) the State Superintendent of Schools, or the Superintendent's designee;

(4) the Secretary of Housing and Community Development, or the Secretary's designee;

(5) the Chief of the Consumer Protection Division of the Office of the Attorney General, or the Chief's designee;

(6) the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, or the Commissioner's designee;

~~(4)~~ (7) the following members, appointed jointly by the President of the Senate and the Speaker of the House:

(i) ~~one representative~~ two representatives of the Maryland State Teachers Association, one of whom teaches a course involving principles of financial literacy;

(ii) one representative of the American Federation of Teachers;

~~(ii)~~ (iii) one representative from the consumer credit counseling industry; and

~~(iii)~~ (iv) two representatives from a community development corporation or a community-focused nonprofit organization; and

~~(5)~~ (8) the following members, appointed by the Governor:

(i) one representative of the Maryland State Board of Education;

(ii) one representative of the Maryland Council on Economic Education;

(iii) one representative of a State-chartered community bank;

(iv) one representative of a State-chartered credit union;

(v) one representative of a federal-chartered bank or savings bank that has a branch in Maryland;

(vi) one representative of a federal-chartered credit union headquartered in Maryland; and

(vii) one licensed mortgage broker holding the Maryland Association of Mortgage Brokers' "Lending Seal of Integrity".

(c) (1) The President of the Senate shall designate one of the members appointed from the Senate as co-chair of the Task Force.

(2) The Speaker of the House shall designate one of the members appointed from the House as co-chair of the Task Force.

(d) The Department of Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study the current ability of high school students to understand basic financial concepts;

(2) evaluate the current provision of financial literacy education in Maryland's public schools;

(3) assess the utility of financial literacy education as part of primary and secondary education;

~~(4)~~ (4) study the current ability of consumers over the age of 21 who have achieved a high school diploma to understand basic financial concepts;

~~(5)~~ (5) study the problems created for the average consumer by a lack of financial literacy or knowledge, including an inability to:

(i) determine how to set financial goals;

(ii) establish basic household budgets;

(iii) locate the best-priced financial services products relative to current economic situations;

(iv) understand how credit can improve or impede progress toward financial goals; and

(v) evaluate offers for products; and

~~(3)~~ (6) make recommendations regarding:

(i) how to address the problems identified under ~~paragraph (2) item (5) of this subsection~~; and

(ii) the ~~utility~~ benefits and drawbacks of requiring financial literacy education as part of primary and secondary education.

(g) On or before December 1, 2008, the Task Force shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding its findings and recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008. It shall remain effective for a period of 1 year and, at the end of June 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, 2008.**

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## CHAPTER 188

(Senate Bill 546)

AN ACT concerning

**State Government – Commemorative Days – Maryland Charter Day and  
Annapolis Charter Day**

FOR the purpose of requiring the Governor annually to proclaim a certain day as Maryland Charter Day; requiring the Governor annually to proclaim a certain day as Annapolis Charter Day; and generally relating to commemorative days.

BY adding to

Article – State Government

Section 13-406 and 13-407

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)



## Preamble

WHEREAS, While Maryland celebrates Maryland Day on March 25 each year to commemorate the landing of the Ark and the Dove on St. Clement's Island in 1634, the official origin of the State began nearly 2 years before that date; and

WHEREAS, On June 20, 1632, King Charles I granted a charter for the "Maryland Colony" to Cecelius Calvert, the second Lord Baltimore; and

WHEREAS, On that day, Cecelius Calvert became the first Proprietor of the Colony of Maryland; and

WHEREAS, The Charter of Maryland established the boundaries of the Maryland Colony, granted authority for the settlers to use all available resources to provide for their livelihoods, authorized the settlers to establish a government, and granted authority for the establishment of economic trade in the Colony; and

WHEREAS, On November 22, 1633, the Ark and the Dove sailed for the New World with almost 200 settlers on board; and

WHEREAS, On March 25, 1634, the settlers celebrated their first mass on St. Clement's Island and established the province of Maryland; and

WHEREAS, The first settlement in the area of what is now Annapolis was established in 1649; and

WHEREAS, On December 17, 1708, the General Assembly adopted the Annapolis Charter; and

WHEREAS, Commemoration of the Charter of Maryland and the Annapolis Charter would enrich our understanding of Maryland's history; now, therefore,

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

**Article – State Government****13-406.**

**THE GOVERNOR ANNUALLY SHALL PROCLAIM JUNE 20 AS MARYLAND CHARTER DAY.**

**13-407.**

**THE GOVERNOR ANNUALLY SHALL PROCLAIM DECEMBER 17 AS ANNAPOLIS CHARTER DAY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 189**

**(House Bill 957)**

AN ACT concerning

**State Government - Commemorative Days - Maryland Charter Day and  
Annapolis Charter Day**

FOR the purpose of requiring the Governor annually to proclaim a certain day as Maryland Charter Day; requiring the Governor annually to proclaim a certain day as Annapolis Charter Day; and generally relating to commemorative days.

BY adding to

Article - State Government  
Section 13-406 and 13-407  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, While Maryland celebrates Maryland Day on March 25 each year to commemorate the landing of the Ark and the Dove on St. Clement's Island in 1634, the official origin of the State began nearly 2 years before that date; and

WHEREAS, On June 20, 1632, King Charles I granted a charter for the "Maryland Colony" to Cecelius Calvert, the second Lord Baltimore; and

WHEREAS, On that day, Cecelius Calvert became the first Proprietor of the Colony of Maryland; and

WHEREAS, The Charter of Maryland established the boundaries of the Maryland Colony, granted authority for the settlers to use all available resources to

provide for their livelihoods, authorized the settlers to establish a government, and granted authority for the establishment of economic trade in the Colony; and

WHEREAS, On November 22, 1633, the Ark and the Dove sailed for the New World with almost 200 settlers on board; and

WHEREAS, On March 25, 1634, the settlers celebrated their first mass on St. Clement's Island and established the province of Maryland; and

WHEREAS, The first settlement in the area of what is now Annapolis was established in 1649; and

WHEREAS, On December 17, 1708, the General Assembly adopted the Annapolis Charter; and

WHEREAS, Commemoration of the Charter of Maryland and the Annapolis Charter would enrich our understanding of Maryland's history; now, therefore,

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

#### **Article - State Government**

#### **13-406.**

**THE GOVERNOR ANNUALLY SHALL PROCLAIM JUNE 20 AS MARYLAND CHARTER DAY.**

#### **13-407.**

**THE GOVERNOR ANNUALLY SHALL PROCLAIM DECEMBER 17 AS ANNAPOLIS CHARTER DAY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 190**

**(Senate Bill 551)**

AN ACT concerning

~~**Family Law – CINA, Guardianship, Adoption, and Custody Proceedings –  
Blindness of Parent, Guardian, or Custodian Child**~~  
**Children in Need of Assistance – Custody Determinations – Prohibition  
Against Consideration of Disabilities**

FOR the purpose of prohibiting a court, ~~in a certain hearing concerning a child in need of assistance (CINA), from considering the blindness of the child's parent, guardian, or custodian in making a certain finding; prohibiting a court, in making a disposition on a CINA petition, from finding that a child is in need of assistance for the sole reason that the parent, guardian, or custodian of the child is blind; prohibiting a court, in determining whether to grant custody and guardianship of a CINA to a relative or nonrelative, from considering whether the relative or nonrelative is blind; defining "parental disability", under certain provisions of law relating to guardianship of a child, to exclude blindness; prohibiting a local department of social services, a guardian, or a child placement agency, in certain adoption proceedings, from withholding consent on an adoption petition solely because a prospective adoptive parent is blind; prohibiting a court, in ruling on a certain adoption petition, from denying the petition solely because the petitioner is blind; prohibiting a child from being committed to a local department of social services and placed in an out-of-home placement solely because the child's parent or guardian is blind; requiring the Social Services Administration to adopt certain regulations prohibiting a local department from taking certain actions solely because a child's parent or guardian is blind; prohibiting a court, in making a decision regarding custody or visitation, from considering whether a party to the proceeding is blind; and generally relating to the blindness of a child's parent, guardian, custodian, relative, nonrelative, or prospective adoptive parent in a CINA, guardianship, adoption, custody, or visitation proceeding in determining whether to grant custody and guardianship of a child in need of assistance to a relative or a nonrelative, from considering a disability of the relative or nonrelative, except under certain circumstances; prohibiting a court, in making a decision regarding child custody or visitation, from considering a disability of a party, except under certain circumstances; and generally relating to child custody, guardianship, and visitation; defining a certain term; and generally relating to children in need of assistance.~~

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section ~~3-816.1(d), 3-819(b), and 3-819.2(a)~~ 3-819.2  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, without amendments,  
 Article— Courts and Judicial Proceedings  
 Section 3— 819.2(e)(1)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, with amendments,  
 Article— Family Law  
 Section 5— 323(a), 5— 338(b), 5— 350(b), 5— 3A— 35(b), 5— 3B— 19(b), and 5— 525(c)(2)(i)  
 and (i)(2)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, without amendments,  
 Article— Family Law  
 Section 5— 323 (d)(2)(iii)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)~~

~~BY adding to  
 Article— Family Law  
 Section 9— 107  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)~~

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

### Article - Courts and Judicial Proceedings

~~3— 816.1.~~

~~(d) In making a finding in accordance with subsection (b) of this section, a court may not consider [a]:~~

~~(1) A potential loss of federal funding for placement of a child that may result from a determination that reasonable efforts were not made; OR~~

~~(2) THE BLINDNESS OF A CHILD'S PARENT, GUARDIAN, OR CUSTODIAN.~~

~~3— 819.~~

~~(b) (1) In making a disposition on a CINA petition under this subtitle, the court shall:~~

~~(i) Find that the child is not in need of assistance and, except as provided in subsection (c) of this section, dismiss the case;~~

~~(ii) Hold in abeyance a finding on whether a child with a developmental disability or a mental illness is a child in need of assistance and:~~

~~1. Order the local department to assess or reassess the family and child's eligibility for placement of the child in accordance with a voluntary placement agreement under § 5-525(a)(1)(i) of the Family Law Article;~~

~~2. Order the local department to report back to the court in writing within 30 days unless the court extends the time period for good cause shown;~~

~~3. If the local department does not find the child eligible for placement in accordance with a voluntary placement agreement, hold a hearing to determine whether the family and child are eligible for placement of the child in accordance with a voluntary placement agreement; and~~

~~4. After the hearing:~~

~~A. Find that the child is not in need of assistance and order the local department to offer to place the child in accordance with a voluntary placement agreement under § 5-525(a)(1)(i) of the Family Law Article;~~

~~B. Find that the child is in need of assistance; or~~

~~C. Dismiss the case; or~~

~~(iii) Subject to paragraph (2) of this subsection, find that the child is in need of assistance and:~~

~~1. Not change the child's custody status; or~~

~~2. Commit the child on terms the court considers appropriate to the custody of:~~

~~A. A parent;~~

~~B. Subject to § 3-810.2 of this subtitle, a relative, or other individual; or~~

~~€. A local department, the Department of Health and Mental Hygiene, or both, including designation of the type of facility where the child is to be placed.~~

~~(2) IN MAKING A DISPOSITION ON A CINA PETITION UNDER THIS SUBTITLE, THE COURT MAY NOT FIND THAT A CHILD IS IN NEED OF ASSISTANCE FOR THE SOLE REASON THAT THE PARENT, GUARDIAN, OR CUSTODIAN OF THE CHILD IS BLIND.~~

~~[(2)] (3) Unless good cause is shown, a court shall give priority to the child's relatives over nonrelatives when committing the child to the custody of an individual other than a parent.~~

~~3-819.2.~~

~~(a) (1) Subject to subsection (c) of this section, the court may grant custody and guardianship to a relative or a nonrelative under this subtitle.~~

~~(2) IN DETERMINING WHETHER TO GRANT CUSTODY AND GUARDIANSHIP UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT MAY NOT CONSIDER WHETHER THE RELATIVE OR NONRELATIVE IS BLIND.~~

~~(e) (1) Before granting custody and guardianship under this section, the court shall consider:~~

~~(i) Any assurance by the local department that it will provide funds for necessary support and maintenance for the child;~~

~~(ii) All factors necessary to determine the best interests of the child; and~~

~~(iii) A report by a local department or a licensed child placement agency, completed in compliance with regulations adopted by the Department of Human Resources, on the suitability of the individual to be the guardian of the child.~~

~~3-819.2.~~

~~(A) (1) IN THIS SECTION, "DISABILITY" MEANS A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.~~

~~(2) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:~~

(I) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE; OR

(II) A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT.

[(a)] (B) Subject to subsection [(e)] (F) of this section, the court may grant custody and guardianship to a relative or a nonrelative under this subtitle.

[(b)] (C) An order granting custody and guardianship to an individual under this section terminates the local department's legal obligations and responsibilities to the child.

[(c)] (D) A guardian appointed under this subtitle has legal custody of the child unless the court that appoints the guardian gives legal custody to another person.

[(d)] (E) After granting custody and guardianship to an individual under this section, the court may order any further reviews that the court determines to be in the child's best interests, consistent with § 3-823(h)(1)(iii) of this subtitle.

[(e)] (F) (1) Before granting custody and guardianship under this section, the court shall consider:

(i) Any assurance by the local department that it will provide funds for necessary support and maintenance for the child;

(ii) All factors necessary to determine the best interests of the child; and

(iii) A report by a local department or a licensed child placement agency, completed in compliance with regulations adopted by the Department of Human Resources, on the suitability of the individual to be the guardian of the child.

(2) The report under paragraph (1)(iii) of this subsection shall include a:

(i) Home study;

(ii) Child protective services history;

(iii) Criminal history records check; and

(iv) Review of the proposed guardian's physical and mental health history.



(3) If the local department has not produced the report described in paragraph (1)(iii) of this subsection within 120 days after the date that the court issued the order to the local department to produce the report, the court shall:

(i) Hold an immediate hearing to determine the causes of the delay;

(ii) State on the record the determined causes of the delay; and

(iii) Make a determination as to whether the progress of the local department is acceptable.

(4) Following the hearing required under paragraph (3) of this subsection, the court shall:

(i) Grant the local department an extension of no more than 90 days; or

(ii) Order production of the report by a licensed child placement agency, within a reasonable time and order the local department to bear the cost.

**(G) IN DETERMINING WHETHER TO GRANT CUSTODY AND GUARDIANSHIP TO A RELATIVE OR A NONRELATIVE UNDER THIS SECTION, THE COURT MAY NOT CONSIDER A DISABILITY OF THE RELATIVE OR NONRELATIVE, UNLESS THE COURT FINDS THAT THE DISABILITY CAUSES A CONDITION THAT IS DETRIMENTAL TO THE BEST INTERESTS OF THE CHILD.**

**[(f)] (H) A court may not enter an order granting custody and guardianship under this section until the report under subsection [(e)(1)(iii)] (F)(1)(III) of this section is submitted to and considered by the court.**

### **~~Article — Family Law~~**

~~5-323.~~

~~(a) (1) In this section[, “drug”] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) “DRUG” means cocaine, heroin, methamphetamine, or a derivative of cocaine, heroin, or methamphetamine.~~

~~(3) “PARENTAL DISABILITY” DOES NOT INCLUDE BLINDNESS.~~

~~(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:~~

~~(2) the results of the parent's effort to adjust the parent's circumstances, condition, or conduct to make it in the child's best interests for the child to be returned to the parent's home, including:~~

~~(iii) the existence of a parental disability that makes the parent consistently unable to care for the child's immediate and ongoing physical or psychological needs for long periods of time; and~~

~~5-338.~~

~~(b) A local department may not withhold consent for the sole reason that:~~

~~(1) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent; OR~~

~~(2) A PROSPECTIVE ADOPTIVE PARENT IS BLIND.~~

~~5-350.~~

~~(b) A guardian may not withhold consent for the sole reason that:~~

~~(1) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent; OR~~

~~(2) A PROSPECTIVE ADOPTIVE PARENT IS BLIND.~~

~~5-3A-35.~~

~~(b) A child placement agency may not withhold consent for the sole reason that:~~

~~(1) the race, religion, color, or national origin of a prospective adoptive parent differs from that of the child or parent; OR~~

~~(2) A PROSPECTIVE ADOPTIVE PARENT IS BLIND.~~

~~5-3B-19.~~

~~(b) In ruling on an adoption petition under this subtitle, a court may not deny the petition solely because the petitioner is:~~

~~(1) single or unmarried; OR~~

~~(2) BLIND.~~

~~5-525.~~

~~(c) (2) (i) A child may not be committed to the custody or guardianship of a local department and placed in an out-of-home placement solely because the child's parent or guardian lacks shelter OR IS BLIND or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness.~~

~~(i) The Administration shall adopt regulations that:~~

~~(2) prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian lacks shelter OR IS BLIND or solely because the child's parents are financially unable to provide treatment or care for a child with a developmental disability or mental illness;~~

~~9-107.~~

~~IN MAKING A DECISION REGARDING CUSTODY OR VISITATION, THE COURT MAY NOT CONSIDER WHETHER A PARTY TO THE PROCEEDING IS BLIND.~~

~~(A) (1) IN THIS SECTION, "DISABILITY" MEANS A PHYSICAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.~~

~~(2) "DISABILITY" DOES NOT INCLUDE ILLEGAL USE OF OR ADDICTION TO:~~

~~(i) A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE; OR~~

~~(ii) A CONTROLLED SUBSTANCE AS DEFINED IN § 102 OF THE FEDERAL CONTROLLED SUBSTANCES ACT.~~

~~(B) IN MAKING A DECISION REGARDING CUSTODY OR VISITATION, THE COURT MAY NOT CONSIDER A DISABILITY OF A PARTY, UNLESS THE COURT~~

~~FINDS THAT THE DISABILITY CAUSES A CONDITION THAT IS DETRIMENTAL TO THE BEST INTERESTS OF THE CHILD.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 191

(Senate Bill 556)

AN ACT concerning

### **Corporations - Objecting Stockholders - Right to Fair Value of Stock**

FOR the purpose of altering the circumstances under which a stockholder of a Maryland corporation who objects to certain transactions may demand and receive the fair value of the stockholder's stock; authorizing a stockholder to demand the fair value of stock listed on a national securities exchange under certain circumstances; repealing obsolete references to certain securities quotations systems; altering the definition of "beneficial owner" under the Maryland Business Combination Act to exclude, under certain circumstances, a person that holds a revocable proxy from a stockholder; defining certain terms; making certain stylistic and conforming changes; and generally relating to rights of objecting stockholders.

BY repealing and reenacting, with amendments,  
Article - Corporations and Associations  
Section 3-201, 3-202(c), and 3-601(d)  
Annotated Code of Maryland  
(2007 Replacement Volume)

BY adding to  
Article - Corporations and Associations  
Section 3-202(d) and (e)  
Annotated Code of Maryland  
(2007 Replacement Volume)

BY repealing and reenacting, without amendments,  
Article - Corporations and Associations  
Section 3-601(a)

Annotated Code of Maryland  
(2007 Replacement Volume)

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

**Article – Corporations and Associations**

3-201.

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

(B) “AFFILIATE” HAS THE MEANING STATED IN § 3-601 OF THIS TITLE.

(C) “ASSOCIATE” HAS THE MEANING STATED IN § 3-601 OF THIS TITLE.

(D) “BENEFICIAL OWNER”, WHEN USED WITH RESPECT TO ANY VOTING STOCK, MEANS A PERSON THAT:

(1) INDIVIDUALLY OR WITH ANY OF ITS AFFILIATES OR ASSOCIATES, BENEFICIALLY OWNS VOTING STOCK, DIRECTLY OR INDIRECTLY;

(2) INDIVIDUALLY OR WITH ANY OF ITS AFFILIATES OR ASSOCIATES, HAS:

(i) THE RIGHT TO ACQUIRE VOTING STOCK (WHETHER THE RIGHT IS EXERCISABLE IMMEDIATELY OR WITHIN 60 DAYS AFTER THE DATE ON WHICH BENEFICIAL OWNERSHIP IS DETERMINED), IN ACCORDANCE WITH ANY AGREEMENT, ARRANGEMENT, OR UNDERSTANDING, ON THE EXERCISE OF CONVERSION RIGHTS, EXCHANGE RIGHTS, WARRANTS, OR OPTIONS, OR OTHERWISE; OR

(ii) EXCEPT SOLELY BY VIRTUE OF A REVOCABLE PROXY, THE RIGHT TO VOTE VOTING STOCK IN ACCORDANCE WITH ANY AGREEMENT, ARRANGEMENT, OR UNDERSTANDING; OR

(3) EXCEPT SOLELY BY VIRTUE OF A REVOCABLE PROXY, HAS ANY AGREEMENT, ARRANGEMENT, OR UNDERSTANDING FOR THE PURPOSE OF ACQUIRING, HOLDING, VOTING, OR DISPOSING OF VOTING STOCK WITH ANY OTHER PERSON THAT BENEFICIALLY OWNS, OR THE AFFILIATES OR ASSOCIATES OF WHICH BENEFICIALLY OWN, DIRECTLY OR INDIRECTLY, THE VOTING STOCK.

**(E) "EXECUTIVE OFFICER" MEANS A CORPORATION'S PRESIDENT, ANY VICE PRESIDENT IN CHARGE OF A PRINCIPAL BUSINESS UNIT, DIVISION, OR FUNCTION, SUCH AS SALES, ADMINISTRATION, OR FINANCE, ANY OTHER PERSON WHO PERFORMS A POLICY MAKING FUNCTION FOR THE CORPORATION, OR ANY EXECUTIVE OFFICER OF A SUBSIDIARY OF THE CORPORATION WHO PERFORMS A POLICY MAKING FUNCTION FOR THE CORPORATION.**

**[(a)] (F) (1) [In this subsection,] "SUCCESSOR", except [as provided in subsection (b) of this section, "successor"] WHEN USED WITH RESPECT TO A SHARE EXCHANGE, includes a corporation which amends its charter in a way which alters the contract rights, as expressly set forth in the charter, of any outstanding stock, unless the right to do so is reserved by the charter of the corporation.**

**[(b)] (2) [When] "SUCCESSOR", WHEN used with [reference] RESPECT to a share exchange, ["successor"] means the corporation the stock of which was acquired in the share exchange.**

**(G) "VOTING STOCK" HAS THE MEANING STATED IN § 3-601 OF THIS TITLE.**

3-202.

(c) Unless the transaction is governed by § 3-602 of this title or is exempted by § 3-603(b) of this title, a stockholder may not demand the fair value of the stockholder's stock and is bound by the terms of the transaction if:

**(1) [The] EXCEPT AS ~~OTHERWISE~~ PROVIDED IN SUBSECTION (D) OF THIS SECTION, ANY SHARES OF THE CLASS OR SERIES OF THE stock [is] ARE listed on a national securities exchange[, is designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., or is designated for trading on the NASDAQ Small Cap Market]:**

(i) With respect to a merger under § 3-106 of this title of a 90 percent or more owned subsidiary with or into its parent corporation, on the date notice is given or waived under § 3-106 of this title; or

(ii) With respect to any other transaction, on the record date for determining stockholders entitled to vote on the transaction objected to;

**(2) The stock is that of the successor in a merger, unless:**

(i) The merger alters the contract rights of the stock as expressly set forth in the charter, and the charter does not reserve the right to do so; or

(ii) The stock is to be changed or converted in whole or in part in the merger into something other than either stock in the successor or cash, scrip, or other rights or interests arising out of provisions for the treatment of fractional shares of stock in the successor;

(3) The stock is not entitled, other than solely because of § 3-106 of this title, to be voted on the transaction or the stockholder did not own the shares of stock on the record date for determining stockholders entitled to vote on the transaction;

(4) The charter provides that the holders of the stock are not entitled to exercise the rights of an objecting stockholder under this subtitle; or

(5) The stock is that of an open-end investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the value placed on the stock in the transaction is its net asset value.

**(D) WITH RESPECT TO A MERGER, CONSOLIDATION, OR SHARE EXCHANGE, A STOCKHOLDER OF A MARYLAND CORPORATION WHO OTHERWISE WOULD BE BOUND BY THE TERMS OF THE TRANSACTION UNDER SUBSECTION (C)(1) OF THIS SECTION MAY DEMAND THE FAIR VALUE OF THE STOCKHOLDER'S STOCK IF:**

**(1) IN THE TRANSACTION, STOCK OF THE CORPORATION IS REQUIRED TO BE CONVERTED INTO OR EXCHANGED FOR ANYTHING OF VALUE EXCEPT:**

**(I) STOCK OF THE CORPORATION SURVIVING OR RESULTING FROM THE MERGER, CONSOLIDATION, OR SHARE EXCHANGE, STOCK OF ANY OTHER CORPORATION, OR DEPOSITARY RECEIPTS FOR ANY STOCK DESCRIBED IN THIS ITEM;**

**(II) CASH IN LIEU OF FRACTIONAL SHARES OF STOCK OR FRACTIONAL DEPOSITARY RECEIPTS DESCRIBED IN ITEM (I) OF THIS ITEM; OR**

**(III) ANY COMBINATION OF THE STOCK, DEPOSITARY RECEIPTS, AND CASH IN LIEU OF FRACTIONAL SHARES OR FRACTIONAL DEPOSITARY RECEIPTS DESCRIBED IN ITEMS (I) AND (II) OF THIS ITEM;**

**(2) THE DIRECTORS AND EXECUTIVE OFFICERS OF THE CORPORATION WERE THE BENEFICIAL OWNERS, IN THE AGGREGATE, OF 5 PERCENT OR MORE OF THE OUTSTANDING VOTING STOCK OF THE CORPORATION AT ANY TIME WITHIN THE 1-YEAR PERIOD ENDING ON:**

(I) THE DAY THE STOCKHOLDERS VOTED ON THE TRANSACTION OBJECTED TO; OR

(II) WITH RESPECT TO A MERGER UNDER § 3-106 OF THIS TITLE, THE EFFECTIVE DATE OF THE MERGER; AND

(3) UNLESS THE STOCK IS HELD IN ACCORDANCE WITH A COMPENSATORY PLAN OR ARRANGEMENT APPROVED BY THE BOARD OF DIRECTORS OF THE CORPORATION AND THE TREATMENT OF THE STOCK IN THE TRANSACTION IS APPROVED BY THE BOARD OF DIRECTORS OF THE CORPORATION, ANY STOCK HELD BY PERSONS DESCRIBED IN ITEM (2) OF THIS SUBSECTION, AS PART OF OR IN CONNECTION WITH THE TRANSACTION AND WITHIN THE 1-YEAR PERIOD DESCRIBED IN ITEM (2) OF THIS SUBSECTION, WILL BE OR WAS CONVERTED INTO OR EXCHANGED FOR STOCK OF A PERSON, OR AN AFFILIATE OF A PERSON, WHO IS A PARTY TO THE TRANSACTION ON TERMS THAT ARE NOT AVAILABLE TO ALL HOLDERS OF STOCK OF THE SAME CLASS OR SERIES.

(E) IF DIRECTORS OR EXECUTIVE OFFICERS OF THE CORPORATION ARE BENEFICIAL OWNERS OF STOCK IN ACCORDANCE WITH § 3-201(D)(2)(I) OF THIS SUBTITLE, THE STOCK IS CONSIDERED OUTSTANDING FOR PURPOSES OF DETERMINING BENEFICIAL OWNERSHIP BY A PERSON UNDER SUBSECTION (D)(2) OF THIS SECTION.

3-601.

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

(d) "Beneficial owner", when used with respect to any voting stock, means a person THAT:

(1) [That, individually] INDIVIDUALLY or with any of its affiliates or associates, beneficially owns voting stock, directly or indirectly; [or]

(2) [That, individually] INDIVIDUALLY or with any of its affiliates or associates, has:

(i) The right to acquire voting stock (whether [such] THE right is exercisable immediately or only after the passage of time), [pursuant to] IN ACCORDANCE WITH any agreement, arrangement, or understanding [or upon], ON the exercise of conversion rights, exchange rights, [warrants] WARRANTS, or options, or otherwise; or



(ii) [The] **EXCEPT SOLELY BY VIRTUE OF A REVOCABLE PROXY, THE** right to vote voting stock [pursuant to] **IN ACCORDANCE WITH** any agreement, arrangement, or understanding; or

(3) [That] **EXCEPT SOLELY BY VIRTUE OF A REVOCABLE PROXY,** has any agreement, arrangement, or understanding for the purpose of acquiring, holding, voting, or disposing of voting stock with any other person that beneficially owns, or [whose] **THE** affiliates or associates **OF WHICH** beneficially own, directly or indirectly, [such shares of] **THE** voting stock.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 192**

**(Senate Bill 571)**

AN ACT concerning

### **Surety Insurers - Failure to Pay Bail Bond Judgment - Penalties**

FOR the purpose of providing that a surety insurer that is precluded or removed from a certain list by a circuit court due to failure to timely resolve or satisfy certain bail bond forfeitures shall be subject to certain penalties; requiring a clerk of a circuit court to notify the Maryland Insurance Commissioner of the names of certain surety insurers and certain bond forfeitures at a certain time; and generally relating to failure of a surety insurer to pay bail bond judgments.

BY repealing and reenacting, with amendments,

Article - Insurance

Section 21-103

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

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

### **Article - Insurance**

21-103.

(a) A surety insurer that is removed by the District Court from the list of surety insurers eligible to post bonds with the court because that surety insurer failed to timely resolve or satisfy one or more bail bond forfeitures appearing on the District Court's list of absolute bond forfeitures in default shall be subject to the penalties under § 4-113 of this article.

**(B) A SURETY INSURER THAT IS PRECLUDED OR REMOVED BY A CIRCUIT COURT FROM THE LIST OF SURETY INSURERS ELIGIBLE TO POST BONDS WITH ANY CIRCUIT COURT BECAUSE THAT SURETY INSURER FAILED TO TIMELY RESOLVE OR SATISFY ONE OR MORE BAIL BOND FORFEITURE JUDGMENTS SHALL BE SUBJECT TO THE PENALTIES UNDER § 4-113 OF THIS ARTICLE.**

**[(b)] (C)** Within 14 days after the failure of a surety insurer to resolve or satisfy all bond forfeitures in default by the District Court's **OR CIRCUIT COURT'S** deadline, the [District Court] clerk **OF THE APPLICABLE COURT** shall notify the Commissioner, in writing, of the name of that surety insurer and each bond forfeiture that was not resolved or satisfied by the [District Court] **APPLICABLE COURT'S** deadline.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 193**

**(Senate Bill 590)**

AN ACT concerning

### **Environment - Statute of Limitations**

FOR the purpose of altering the statute of limitations for prosecution of and suits for certain violations of certain laws relating to the environment; declaring the intent of the General Assembly; *providing for the application of this Act*; and generally relating to laws relating to the environment.

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings  
 Section 5–106(a) and 5–107  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)

BY repealing  
 Article – Courts and Judicial Proceedings  
 Section 5–106(n)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)

BY adding to  
 Article – Environment  
 Section 1–303  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2007 Supplement)

BY repealing  
 Article – Environment  
 Section 2–610.2, 8–509.1, and 9–343.1  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2007 Supplement)

BY renumbering  
 Article – Courts and Judicial Proceedings  
 Section 5–106(o) through (bb), respectively  
 to be Section 5–106(n) through (aa), respectively  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)

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

**Article – Courts and Judicial Proceedings**

5–106.

(a) Except as provided by this section **AND § 1–303 OF THE ENVIRONMENT ARTICLE**, a prosecution for a misdemeanor shall be instituted within 1 year after the offense was committed.

[(n) A prosecution for an offense of the controlled hazardous substance law under § 7–265(b) of the Environment Article shall be instituted within 2 years after commission of the offense.]

5-107.

Except as provided in § 5-106 of this subtitle AND § 1-303 OF THE ENVIRONMENT ARTICLE, a prosecution or suit for a fine, penalty, or forfeiture shall be instituted within one year after the offense was committed.

**Article - Environment**

**1-303.**

**A CRIMINAL PROSECUTION OR SUIT FOR A CIVIL PENALTY FOR VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS ARTICLE, SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE DATE THE DEPARTMENT KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE VIOLATION.**

[2-610.2.

A criminal prosecution for a violation brought under § 2-609.1 of this subtitle, or a civil action to collect a civil penalty for a violation brought under § 2-610 of this subtitle, shall be instituted within 3 years after the violation was committed.]

[8-509.1.

A criminal prosecution or a civil action to collect a civil penalty for a violation brought under § 8-509 of this subtitle shall be instituted within 3 years after the violation was committed.]

[9-343.1.

A criminal prosecution or suit for a civil penalty for violation of any provision of this subtitle or any rule, regulation, order, or permit adopted or issued under this subtitle, shall be instituted within 3 years after the violation was committed.]

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-106(o) through (bb), respectively, of Article - Courts and Judicial Proceedings of the Annotated Code of Maryland be renumbered to be Section(s) 5-106(n) through (aa), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act provide consistency and certainty among the regulated community regarding the statute of limitations for criminal prosecution or civil suit for penalty for specified violations of environmental law.

SECTION 4. 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 violation of any provision of the Environment Article or any rule, regulation, order, or permit adopted or issued under the Environment Article before the effective date of this Act.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 194

(House Bill 1193)

AN ACT concerning

### Environment – Statute of Limitations

FOR the purpose of altering the statute of limitations for prosecution of and suits for certain violations of certain laws relating to the environment; declaring the intent of the General Assembly; providing for the application of this Act; and generally relating to laws relating to the environment.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 5–106(a) and 5–107  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing  
Article – Courts and Judicial Proceedings  
Section 5–106(n)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY adding to  
Article – Environment  
Section 1–303  
Annotated Code of Maryland  
(2007 Replacement Volume and 2007 Supplement)

BY repealing

Article – Environment  
Section 2–610.2, 8–509.1, and 9–343.1  
Annotated Code of Maryland  
(2007 Replacement Volume and 2007 Supplement)

BY renumbering

Article – Courts and Judicial Proceedings  
Section 5–106(o) through (bb), respectively  
to be Section 5–106(n) through (aa), respectively  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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

**Article – Courts and Judicial Proceedings**

5–106.

(a) Except as provided by this section **AND § 1–303 OF THE ENVIRONMENT ARTICLE**, a prosecution for a misdemeanor shall be instituted within 1 year after the offense was committed.

[(n) A prosecution for an offense of the controlled hazardous substance law under § 7–265(b) of the Environment Article shall be instituted within 2 years after commission of the offense.]

5–107.

Except as provided in § 5–106 of this subtitle **AND § 1–303 OF THE ENVIRONMENT ARTICLE**, a prosecution or suit for a fine, penalty, or forfeiture shall be instituted within one year after the offense was committed.

**Article – Environment**

**1–303.**

**A CRIMINAL PROSECUTION OR SUIT FOR A CIVIL PENALTY FOR VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS ARTICLE, SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE DATE THE DEPARTMENT KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE VIOLATION.**

[2-610.2.

A criminal prosecution for a violation brought under § 2-609.1 of this subtitle, or a civil action to collect a civil penalty for a violation brought under § 2-610 of this subtitle, shall be instituted within 3 years after the violation was committed.]

[8-509.1.

A criminal prosecution or a civil action to collect a civil penalty for a violation brought under § 8-509 of this subtitle shall be instituted within 3 years after the violation was committed.]

[9-343.1.

A criminal prosecution or suit for a civil penalty for violation of any provision of this subtitle or any rule, regulation, order, or permit adopted or issued under this subtitle, shall be instituted within 3 years after the violation was committed.]

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-106(o) through (bb), respectively, of Article - Courts and Judicial Proceedings of the Annotated Code of Maryland be renumbered to be Section(s) 5-106(n) through (aa), respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that this Act provide consistency and certainty among the regulated community regarding the statute of limitations for criminal prosecution or civil suit for penalty for specified violations of environmental law.

SECTION 4. 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 violation of any provision of the Environment Article or any rule, regulation, order, or permit adopted or issued under the Environment Article before the effective date of this Act.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 195

(Senate Bill 602)

AN ACT concerning

**Direct Billing of Anatomic Pathology Services**

FOR the purpose of requiring certain clinical laboratories ~~and physicians, physicians,~~ or group practices that provide anatomic pathology services to certain patients to present or cause to be presented claims, bills, or demands for payment to certain individuals and entities subject to certain limitations; prohibiting certain health care practitioners from directly or indirectly charging, billing, or otherwise soliciting payment for ~~certain~~ anatomic pathology services unless the services are performed by or under the direct supervision of the health care ~~provider~~ practitioner and in accordance with the provisions of a certain federal act; providing that certain individuals and entities are not required to provide reimbursement under certain circumstances; providing that this Act does not prohibit a referring laboratory from billing for certain anatomic pathology services or histologic processing under certain circumstances; providing that this Act may not be construed to mandate the assignment of certain benefits for anatomic pathology services; defining certain terms; and generally relating to direct billing of anatomic pathology services.

BY repealing and reenacting, without amendments,  
Article – Health Occupations  
Section 1–301(a), (d), (f), (h), and (l)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY adding to  
Article – Health Occupations  
Section 1–306  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 1–306  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article – Health Occupations**

1–301.

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



(d) “Direct supervision” means a health care practitioner is present on the premises where the health care services or tests are provided and is available for consultation within the treatment area.

(f) “Group practice” means a group of two or more health care practitioners legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association:

(1) In which each health care practitioner who is a member of the group provides substantially the full range of services which the practitioner routinely provides through the joint use of shared office space, facilities, equipment, and personnel;

(2) For which substantially all of the services of the health care practitioners who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and

(3) In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined on an annual basis by members of the group.

(h) “Health care practitioner” means a person who is licensed, certified, or otherwise authorized under this article to provide health care services in the ordinary course of business or practice of a profession.

(l) (1) “Referral” means any referral of a patient for health care services.

(2) “Referral” includes:

(i) The forwarding of a patient by one health care practitioner to another health care practitioner or to a health care entity outside the health care practitioner’s office or group practice; or

(ii) The request or establishment by a health care practitioner of a plan of care for the provision of health care services outside the health care practitioner’s office or group practice.

### **1-306.**

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

**(2) “ANATOMIC PATHOLOGY SERVICES” MEANS:**

- (I) HISTOPATHOLOGY OR SURGICAL PATHOLOGY;
- (II) CYTOPATHOLOGY;
- (III) HEMATOLOGY;
- (IV) SUBCELLULAR PATHOLOGY AND MOLECULAR PATHOLOGY; OR
- (V) BLOOD-BANKING SERVICES PERFORMED BY PATHOLOGISTS.

(3) "CLINICAL LABORATORY" MEANS A FACILITY THAT PROVIDES ANATOMIC PATHOLOGY SERVICES.

(4) (I) "CYTOPATHOLOGY" MEANS THE MICROSCOPIC EXAMINATION OF CELLS FROM FLUIDS, ASPIRATES, WASHINGS, BRUSHINGS, OR SMEARS.

(II) "CYTOPATHOLOGY" INCLUDES THE MICROSCOPIC EXAMINATION OF CELLS IN A PAP TEST EXAMINATION PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT SUPERVISION OF A PHYSICIAN.

(5) "HEMATOLOGY" MEANS:

(I) THE MICROSCOPIC EVALUATION OF BONE MARROW ASPIRATES AND BIOPSIES PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT SUPERVISION OF A PHYSICIAN; OR

(II) REVIEW OF A PERIPHERAL BLOOD SMEAR IF A PHYSICIAN OR TECHNOLOGIST REQUESTS THAT A PATHOLOGIST REVIEW A BLOOD SMEAR.

(6) "HISTOPATHOLOGY OR SURGICAL PATHOLOGY" MEANS GROSS AND MICROSCOPIC EXAMINATION ~~AND HISTOLOGIC PROCESSING~~ OF ORGAN TISSUE PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT SUPERVISION OF A PHYSICIAN.

(7) (I) "REFERRING LABORATORY" MEANS A CLINICAL LABORATORY THAT SENDS A PARTICULAR SPECIMEN ~~REQUIRING SPECIALIZED ANATOMIC PATHOLOGY SERVICES THAT THE CLINICAL LABORATORY DOES NOT PROVIDE TO A SPECIALIST AT ANOTHER CLINICAL LABORATORY~~ TO ANOTHER

CLINICAL LABORATORY FOR HISTOLOGIC PROCESSING OR ANATOMIC PATHOLOGY CONSULTATION.

(II) “REFERRING LABORATORY” DOES NOT INCLUDE A LABORATORY OF A PHYSICIAN’S OFFICE OR A GROUP PRACTICE THAT COLLECTS A SPECIMEN AND ORDERS, BUT DOES NOT PERFORM, ANATOMIC PATHOLOGY SERVICES FOR ~~A PATIENT~~ PATIENTS.

(B) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ~~MANDATE~~:

(1) MANDATE THE ASSIGNMENT OF BENEFITS FOR ANATOMIC PATHOLOGY SERVICES; OR

(2) PROHIBIT A HEALTH CARE PRACTITIONER WHO PERFORMS OR SUPERVISES ANATOMIC PATHOLOGY SERVICES AND IS A MEMBER OF A GROUP PRACTICE, AS DEFINED UNDER § 1-301 OF THIS ARTICLE SUBTITLE, FROM REASSIGNING THE RIGHT TO BILL FOR ANATOMIC PATHOLOGY SERVICES TO THE GROUP PRACTICE IF THE BILLING COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION.

(C) A CLINICAL LABORATORY ~~OR PHYSICIAN~~, A PHYSICIAN, OR A GROUP PRACTICE LOCATED IN THIS STATE OR IN ANOTHER STATE THAT PROVIDES ANATOMIC PATHOLOGY SERVICES FOR A PATIENT IN THIS STATE SHALL PRESENT, OR CAUSE TO BE PRESENTED, A CLAIM, BILL, OR DEMAND FOR PAYMENT FOR THE SERVICES TO:

(1) ~~THE~~ SUBJECT TO THE LIMITATIONS OF § 19-710(P) OF THE HEALTH - GENERAL ARTICLE, THE PATIENT DIRECTLY UNLESS OTHERWISE PROHIBITED BY LAW;

(2) A RESPONSIBLE INSURER OR OTHER THIRD-PARTY PAYOR;

(3) A HOSPITAL, PUBLIC HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC ORDERING THE SERVICES;

(4) A REFERRING LABORATORY; OR

(5) ON BEHALF OF THE PATIENT, A GOVERNMENTAL AGENCY OR ITS PUBLIC OR PRIVATE AGENT, AGENCY, OR ORGANIZATION.

(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A HEALTH CARE PRACTITIONER LICENSED UNDER THIS ARTICLE MAY NOT

DIRECTLY OR INDIRECTLY CHARGE, BILL, OR OTHERWISE SOLICIT PAYMENT FOR ANATOMIC PATHOLOGY SERVICES UNLESS THE SERVICES ARE PERFORMED:

(1) BY THE HEALTH CARE PRACTITIONER OR UNDER THE DIRECT SUPERVISION OF THE HEALTH CARE PRACTITIONER; AND

(2) IN ACCORDANCE WITH THE PROVISIONS FOR THE PREPARATION OF BIOLOGICAL PRODUCTS BY SERVICE IN THE FEDERAL PUBLIC HEALTH ~~SERVICES~~ SERVICE ACT.

(E) THIS SECTION DOES NOT PROHIBIT A REFERRING LABORATORY FROM BILLING FOR ANATOMIC PATHOLOGY SERVICES ~~IF A SPECIMEN REQUIRES A SPECIALIST TO PERFORM THE ANATOMIC PATHOLOGY SERVICES OR HISTOLOGIC PROCESSING IF THE REFERRING LABORATORY MUST SEND A SPECIMEN TO ANOTHER CLINICAL LABORATORY FOR HISTOLOGIC PROCESSING OR ANATOMIC PATHOLOGY CONSULTATION.~~

(F) A PATIENT, INSURER, THIRD-PARTY PAYOR, HOSPITAL, PUBLIC HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC IS NOT REQUIRED TO REIMBURSE A HEALTH CARE PRACTITIONER WHO VIOLATES THE PROVISIONS OF THIS SECTION.

[1-306.] 1-307.

(a) A health care practitioner who fails to comply with the provisions of this subtitle shall be subject to disciplinary action by the appropriate regulatory board.

(b) The appropriate regulatory board may investigate a claim under this subtitle in accordance with the investigative authority granted under this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 196

(House Bill 1089)

AN ACT concerning

### Direct Billing of Anatomic Pathology Services

FOR the purpose of requiring certain clinical laboratories ~~and physicians, physicians,~~ or group practices that provide anatomic pathology services to certain patients to present or cause to be presented claims, bills, or demands for payment to certain individuals and entities subject to certain limitations; prohibiting certain health care practitioners from directly or indirectly charging, billing, or otherwise soliciting payment for ~~certain~~ anatomic pathology services unless the services are performed by or under the direct supervision of the health care ~~provider~~ practitioner and in accordance with the provisions of a certain federal act; providing that certain individuals and entities are not required to provide reimbursement under certain circumstances; providing that this Act does not prohibit a referring laboratory from billing for certain anatomic pathology services or histologic processing under certain circumstances; providing that this Act may not be construed to mandate the assignment of certain benefits for anatomic pathology services; defining certain terms; and generally relating to direct billing of anatomic pathology services.

BY repealing and reenacting, without amendments,  
 Article – Health Occupations  
 Section 1–301(a), (d), (f), (h), and (l)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

BY adding to  
 Article – Health Occupations  
 Section 1–306  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Health Occupations  
 Section 1–306  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

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

#### Article – Health Occupations

1–301.

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

(d) "Direct supervision" means a health care practitioner is present on the premises where the health care services or tests are provided and is available for consultation within the treatment area.

(f) "Group practice" means a group of two or more health care practitioners legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association:

(1) In which each health care practitioner who is a member of the group provides substantially the full range of services which the practitioner routinely provides through the joint use of shared office space, facilities, equipment, and personnel;

(2) For which substantially all of the services of the health care practitioners who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group; and

(3) In which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined on an annual basis by members of the group.

(h) "Health care practitioner" means a person who is licensed, certified, or otherwise authorized under this article to provide health care services in the ordinary course of business or practice of a profession.

(l) (1) "Referral" means any referral of a patient for health care services.

(2) "Referral" includes:

(i) The forwarding of a patient by one health care practitioner to another health care practitioner or to a health care entity outside the health care practitioner's office or group practice; or

(ii) The request or establishment by a health care practitioner of a plan of care for the provision of health care services outside the health care practitioner's office or group practice.

**1-306.**

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

**(2) "ANATOMIC PATHOLOGY SERVICES" MEANS:**

(I) HISTOPATHOLOGY OR SURGICAL PATHOLOGY;  
(II) CYTOPATHOLOGY;  
(III) HEMATOLOGY;  
(IV) SUBCELLULAR PATHOLOGY AND MOLECULAR  
PATHOLOGY; OR

(V) BLOOD-BANKING SERVICES PERFORMED BY  
PATHOLOGISTS.

(3) "CLINICAL LABORATORY" MEANS A FACILITY THAT PROVIDES ANATOMIC PATHOLOGY SERVICES.

(4) (I) "CYTOPATHOLOGY" MEANS THE MICROSCOPIC EXAMINATION OF CELLS FROM FLUIDS, ASPIRATES, WASHINGS, BRUSHINGS, OR SMEARS.

(II) "CYTOPATHOLOGY" INCLUDES THE MICROSCOPIC EXAMINATION OF CELLS IN A PAP TEST EXAMINATION PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT SUPERVISION OF A PHYSICIAN.

(5) "HEMATOLOGY" MEANS:

(I) THE MICROSCOPIC EVALUATION OF BONE MARROW ASPIRATES AND BIOPSIES PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT SUPERVISION OF A PHYSICIAN; OR

(II) REVIEW OF A PERIPHERAL BLOOD SMEAR IF A PHYSICIAN OR TECHNOLOGIST REQUESTS THAT A PATHOLOGIST REVIEW A BLOOD SMEAR.

(6) "HISTOPATHOLOGY OR SURGICAL PATHOLOGY" MEANS GROSS AND MICROSCOPIC EXAMINATION ~~AND HISTOLOGIC PROCESSING~~ OF ORGAN TISSUE PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT SUPERVISION OF A PHYSICIAN.

(7) (I) "REFERRING LABORATORY" MEANS A CLINICAL LABORATORY THAT SENDS A PARTICULAR SPECIMEN ~~REQUIRING SPECIALIZED ANATOMIC PATHOLOGY SERVICES THAT THE CLINICAL LABORATORY DOES NOT PROVIDE TO A SPECIALIST AT ANOTHER CLINICAL LABORATORY~~ TO ANOTHER

CLINICAL LABORATORY FOR HISTOLOGIC PROCESSING OR ANATOMIC PATHOLOGY CONSULTATION.

(II) "REFERRING LABORATORY" DOES NOT INCLUDE A LABORATORY OF A PHYSICIAN'S OFFICE OR A GROUP PRACTICE THAT COLLECTS A SPECIMEN AND ORDERS, BUT DOES NOT PERFORM, ANATOMIC PATHOLOGY SERVICES FOR ~~A PATIENT~~ PATIENTS.

(B) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ~~MANDATE~~:

(1) MANDATE THE ASSIGNMENT OF BENEFITS FOR ANATOMIC PATHOLOGY SERVICES; OR

(2) PROHIBIT A HEALTH CARE PRACTITIONER WHO PERFORMS OR SUPERVISES ANATOMIC PATHOLOGY SERVICES AND IS A MEMBER OF A GROUP PRACTICE, AS DEFINED UNDER § 1-301 OF THIS SUBTITLE, FROM REASSIGNING THE RIGHT TO BILL FOR ANATOMIC PATHOLOGY SERVICES TO THE GROUP PRACTICE IF THE BILLING COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION.

(C) A CLINICAL LABORATORY ~~OR PHYSICIAN~~, A PHYSICIAN, OR A GROUP PRACTICE LOCATED IN THIS STATE OR IN ANOTHER STATE THAT PROVIDES ANATOMIC PATHOLOGY SERVICES FOR A PATIENT IN THIS STATE SHALL PRESENT, OR CAUSE TO BE PRESENTED, A CLAIM, BILL, OR DEMAND FOR PAYMENT FOR THE SERVICES TO:

(1) ~~THE~~ SUBJECT TO THE LIMITATIONS OF § 19-710(P) OF THE HEALTH - GENERAL ARTICLE, THE PATIENT DIRECTLY UNLESS OTHERWISE PROHIBITED BY LAW;

(2) A RESPONSIBLE INSURER OR OTHER THIRD-PARTY PAYOR;

(3) A HOSPITAL, PUBLIC HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC ORDERING THE SERVICES;

(4) A REFERRING LABORATORY; OR

(5) ON BEHALF OF THE PATIENT, A GOVERNMENTAL AGENCY OR ITS PUBLIC OR PRIVATE AGENT, AGENCY, OR ORGANIZATION.

(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A HEALTH CARE PRACTITIONER LICENSED UNDER THIS ARTICLE MAY NOT



DIRECTLY OR INDIRECTLY CHARGE, BILL, OR OTHERWISE SOLICIT PAYMENT FOR ANATOMIC PATHOLOGY SERVICES UNLESS THE SERVICES ARE PERFORMED:

(1) BY THE HEALTH CARE PRACTITIONER OR UNDER THE DIRECT SUPERVISION OF THE HEALTH CARE PRACTITIONER; AND

(2) IN ACCORDANCE WITH THE PROVISIONS FOR THE PREPARATION OF BIOLOGICAL PRODUCTS BY SERVICE IN THE FEDERAL PUBLIC HEALTH ~~SERVICES~~ SERVICE ACT.

(E) THIS SECTION DOES NOT PROHIBIT A REFERRING LABORATORY FROM BILLING FOR ANATOMIC PATHOLOGY SERVICES ~~IF A SPECIMEN REQUIRES A SPECIALIST TO PERFORM THE ANATOMIC PATHOLOGY SERVICES OR HISTOLOGIC PROCESSING IF THE REFERRING LABORATORY MUST SEND A SPECIMEN TO ANOTHER CLINICAL LABORATORY FOR HISTOLOGIC PROCESSING OR ANATOMIC PATHOLOGY CONSULTATION.~~

(F) A PATIENT, INSURER, THIRD-PARTY PAYOR, HOSPITAL, PUBLIC HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC IS NOT REQUIRED TO REIMBURSE A HEALTH CARE PRACTITIONER WHO VIOLATES THE PROVISIONS OF THIS SECTION.

[1-306.] 1-307.

(a) A health care practitioner who fails to comply with the provisions of this subtitle shall be subject to disciplinary action by the appropriate regulatory board.

(b) The appropriate regulatory board may investigate a claim under this subtitle in accordance with the investigative authority granted under this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 197

(Senate Bill 674)

AN ACT concerning

**Water Resources – Groundwater Appropriation or Use – Priority Funding Areas**

FOR the purpose of authorizing the Maryland Department of the Environment to give priority to a public water system that supplies water to ~~a~~ certain priority funding ~~area~~ areas in certain counties when appropriating or using groundwater of the State under certain circumstances; authorizing the Department to adopt certain regulations; and generally relating to the appropriation or use of groundwater of the State.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 5-501  
Annotated Code of Maryland  
(2007 Replacement Volume and 2007 Supplement)

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

**Article – Environment**

5-501.

(a) In order to conserve, protect, and use water resources of the State in accordance with the best interests of the people of Maryland, it is the policy of the State to control, so far as feasible, appropriation or use of surface waters and groundwaters of the State. Also, it is State policy to promote public safety and welfare and control and supervise, so far as is feasible, construction, reconstruction, and repair of dams, reservoirs, and other waterworks in any waters of the State.

**(B) (1) ~~WHEN IN ACCORDANCE WITH THE POLICY DECLARED IN THIS SECTION, AND PROVIDED THAT IT WILL NOT JEOPARDIZE THE STATE'S NATURAL RESOURCES, WHEN APPROPRIATING OR USING~~ GROUNDWATER OF THE STATE IN CARROLL, FREDERICK, OR WASHINGTON COUNTIES, THE DEPARTMENT MAY GIVE PRIORITY TO A PUBLIC WATER SYSTEM THAT PROVIDES WATER TO ~~A~~:**

**(I) A MUNICIPAL CORPORATION, NOT INCLUDING THOSE AREAS ANNEXED AFTER JANUARY 1, 2000; OR**

**(II) A PRIORITY FUNDING AREA ESTABLISHED ON OR BEFORE JANUARY 1, ~~1997~~ 2000, UNDER ~~§ 5-7B-03~~ § 5-7B-02(7) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(2) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.**

[(b)] (C) This subtitle is in addition to and not in substitution for any existing laws of the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 198

(House Bill 1423)

AN ACT concerning

**Water Resources – Groundwater Appropriation or Use – Priority Funding Areas**

FOR the purpose of authorizing the Maryland Department of the Environment to give priority to a public water system that supplies water to ~~a~~ certain priority funding ~~area~~ areas in certain counties when appropriating or using groundwater of the State under certain circumstances; authorizing the Department to adopt certain regulations; and generally relating to the appropriation or use of groundwater of the State.

BY repealing and reenacting, with amendments,  
 Article – Environment  
 Section 5–501  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2007 Supplement)

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

**Article – Environment**

5–501.

(a) In order to conserve, protect, and use water resources of the State in accordance with the best interests of the people of Maryland, it is the policy of the

State to control, so far as feasible, appropriation or use of surface waters and groundwaters of the State. Also, it is State policy to promote public safety and welfare and control and supervise, so far as is feasible, construction, reconstruction, and repair of dams, reservoirs, and other waterworks in any waters of the State.

**(B) (1) ~~WHEN IN ACCORDANCE WITH THE POLICY DECLARED IN THIS SECTION, AND PROVIDED THAT IT WILL NOT JEOPARDIZE THE STATE'S NATURAL RESOURCES, WHEN APPROPRIATING OR USING~~ GROUNDWATER OF THE STATE IN CARROLL, FREDERICK, OR WASHINGTON COUNTIES, THE DEPARTMENT MAY GIVE PRIORITY TO A PUBLIC WATER SYSTEM THAT PROVIDES WATER TO A;**

**(I) A MUNICIPAL CORPORATION, NOT INCLUDING THOSE AREAS ANNEXED AFTER JANUARY 1, 2000; OR**

**(II) A PRIORITY FUNDING AREA ESTABLISHED ON OR BEFORE JANUARY 1, ~~1997~~ 2000, UNDER ~~§ 5-7B-03~~ § 5-7B-02(7) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(2) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.**

**[(b)] (C)** This subtitle is in addition to and not in substitution for any existing laws of the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 199

(Senate Bill 677)

AN ACT concerning

### Nursing Facilities – Accountability Measures – Pay-for-Performance

FOR the purpose of requiring the Department of Health and Mental Hygiene to develop a plan for accountability measures to use in a pay-for-performance program; ~~repealing~~ delaying a requirement that certain revenues be distributed

to certain nursing facilities subject to a certain Act; ~~requiring that certain measures be attainable;~~ requiring that the plan for accountability measures include certain items; requiring the Department to submit the plan for accountability measures to the General Assembly by a certain date; and generally relating to nursing facilities and pay-for-performance.

BY repealing and reenacting, with amendments,  
Chapter 503 of the Acts of the General Assembly of 2007  
Section 5

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

### Chapter 503 of the Acts of 2007

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(a) ~~¶~~Beginning July 1, ~~2008~~, **2009**, a portion of the revenues from the quality assessment shall be distributed to nursing facilities subject to this Act based on accountability measures that indicate quality of care or a commitment to quality of care. ~~¶~~ **THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL DEVELOP A PLAN FOR ACCOUNTABILITY MEASURES TO USE IN A PAY-FOR-PERFORMANCE PROGRAM IN CONSULTATION WITH REPRESENTATIVES OF THE NURSING FACILITIES AND OTHER STAKEHOLDERS.** The accountability measures should be objective, ~~ATTAINABLE~~, measurable, and when considered in combination with each other, deemed to have a correlation to residents' quality of life and care. [The Department of Health and Mental Hygiene shall develop accountability measures in consultation with representatives of the nursing facilities and other stakeholders.]

(b) **THE PLAN DEVELOPED BY THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:**

- (1) **PROGRAM GOALS;**
- (2) **RECOMMENDED OPTIONS;**
- (3) **FUNDING SOURCES;**
- (4) **IMPLEMENTATION TIMELINES, ~~INCLUDING~~ AND BENCHMARKING PERIODS; AND**
- (5) ~~CONSIDERATION FOR A PILOT PROGRAM BEFORE FULL IMPLEMENTATION OF A PAY FOR PERFORMANCE PROGRAM~~ **THE**

**ADMINISTRATIVE COST OF IMPLEMENTATION OF A PAY-FOR-PERFORMANCE PROGRAM.**

[(b)] (C) ‡Up to 25% of the revenues generated by the quality assessment shall be distributed as provided in this section, to the extent federal law allows. Further, the] ~~THE~~ distribution of revenues as provided in this section shall be used as an incentive for nursing facilities to provide quality care, and may not be used to directly or indirectly hold harmless any nursing facility.

**(D) ON OR BEFORE DECEMBER 1, 2008, THE PLAN REQUIRED UNDER THIS SECTION SHALL BE SUBMITTED BY THE DEPARTMENT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 200**

**(House Bill 809)**

AN ACT concerning

**Nursing Facilities - Accountability Measures - Pay-for-Performance**

FOR the purpose of requiring the Department of Health and Mental Hygiene to develop a plan for accountability measures to use in a pay-for-performance program; delaying a requirement that certain revenues be distributed to certain nursing facilities subject to a certain Act; requiring that the plan for accountability measures include certain items; requiring the Department to submit the plan for accountability measures to the General Assembly by a certain date; and generally relating to nursing facilities and pay-for-performance.

BY repealing and reenacting, with amendments,  
Chapter 503 of the Acts of the General Assembly of 2007  
Section 5

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

**Chapter 503 of the Acts of 2007**

SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that:

(a) Beginning July 1, ~~2009~~ **[2008] 2009**, a portion of the revenues from the quality assessment shall be distributed to nursing facilities subject to this Act based on accountability measures that indicate quality of care or a commitment to quality of care. **THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL DEVELOP A PLAN FOR ACCOUNTABILITY MEASURES TO USE IN A PAY-FOR-PERFORMANCE PROGRAM IN CONSULTATION WITH REPRESENTATIVES OF THE NURSING FACILITIES AND OTHER STAKEHOLDERS.** The accountability measures should be objective, measurable, and when considered in combination with each other, deemed to have a correlation to residents' quality of life and care. [The Department of Health and Mental Hygiene shall develop accountability measures in consultation with representatives of the nursing facilities and other stakeholders.]

**(B) THE PLAN DEVELOPED BY THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:**

- (1) PROGRAM GOALS;**
- (2) RECOMMENDED OPTIONS;**
- (3) FUNDING SOURCES;**
- (4) IMPLEMENTATION TIMELINES AND BENCHMARKING PERIODS;**

**AND**

**(5) THE ADMINISTRATIVE COST OF IMPLEMENTATION OF A PAY-FOR-PERFORMANCE PROGRAM.**

**[(b)] (C)** Up to 25% of the revenues generated by the quality assessment shall be **IN AN INCENTIVE PROGRAM TO BE** distributed as provided in this section, to the extent federal law allows. Further, the distribution of revenues as provided in this section shall be used as an incentive for nursing facilities to provide quality care, and may not be used to directly or indirectly hold harmless any nursing facility.

**(D) ON OR BEFORE DECEMBER 1, 2008, THE PLAN REQUIRED UNDER THIS SECTION SHALL BE SUBMITTED BY THE DEPARTMENT, IN ACCORDANCE**

WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 201

(Senate Bill 722)

AN ACT concerning

### Pharmacy Benefits Managers - Registration

FOR the purpose of requiring a ~~person~~ pharmacy benefits manager to register with the Maryland Insurance Commissioner before ~~the person acts as or represents itself as a pharmacy benefits manager~~ providing pharmacy benefits management services in the State; ~~exempting certain managed care organizations, insurers, nonprofit health service plans, and health maintenance organizations, and affiliates, subsidiaries, or other related entities of certain insurers, nonprofit health service plans, and health maintenance organizations from certain provisions of this Act under certain circumstances;~~ requiring an applicant for registration to file an application on a certain form and pay to the Commissioner a certain fee; requiring the Commissioner to register certain ~~applicants~~ pharmacy benefits managers; providing for the expiration and renewal of a registration; prohibiting a pharmacy benefits manager from taking certain actions; authorizing the Commissioner to deny, suspend, or revoke a registration or refuse to renew a registration under certain circumstances and subject to certain hearing provisions; ~~authorizing the Commissioner, if a registration is suspended or revoked, to permit the continued operation of a pharmacy benefits manager for a certain period of time under certain circumstances;~~ requiring a pharmacy benefits manager to register as a third party administrator or a private review agent under certain circumstances; requiring a certain pharmacy benefits manager to pay and adjust claims according to certain statutory requirements; prohibiting an insurer, a nonprofit health service plan, or a health maintenance organization a purchaser from entering into an agreement with a pharmacy benefits manager that has not registered with the Commissioner; ~~requiring~~ authorizing the Commissioner to conduct a certain examination in accordance with certain provisions of law; requiring a pharmacy benefits manager to maintain certain books and records



~~for a certain period and in accordance with certain standards; requiring the Commissioner to adopt certain regulations on or before a certain date; authorizing the Commissioner to issue a certain order; authorizing an order of the Commissioner to be served in a certain manner under certain circumstances; providing that a request for a hearing on a certain order does not stay a certain portion of the order; authorizing the Commissioner to file a certain petition in circuit court; authorizing the Commissioner to recover certain fees and costs under certain circumstances; providing certain penalties; altering the definition of a “nonresident pharmacy” to include a pharmacy benefits manager under certain provisions of law; requiring a nonresident pharmacy to meet certain requirements; making certain provisions of law applicable to health maintenance organizations; allowing a certain person to continue to act as a pharmacy benefits manager without registering with the Commissioner under certain circumstances; defining certain terms; and generally relating to regulation and registration of pharmacy benefits managers.~~

BY adding to

Article – Insurance

Section 15–1601 through ~~15–1613~~ 15–1609 to be under the new subtitle  
“Subtitle 16. Pharmacy Benefits Managers”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General

Section 19–706(ppp)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Health Occupations~~

~~Section 12–101(m) and 12–403(e) and (f)~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Health Occupations~~

~~Section 12–403(a), (b)(17), (d), and (g)~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2007 Supplement)~~

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

### Article – Insurance

**SUBTITLE 16. PHARMACY BENEFITS MANAGERS.**

**15-1601.**

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

(B) “BENEFICIARY” MEANS AN INDIVIDUAL WHO RECEIVES PRESCRIPTION DRUG COVERAGE OR BENEFITS FROM A PURCHASER.

(C) “ERISA” HAS THE MEANING STATED IN § 8-301 OF THIS ARTICLE.

~~(B) (1) “PHARMACY BENEFITS MANAGEMENT SERVICES” MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS.~~

~~(2) “PHARMACY BENEFITS MANAGEMENT SERVICES” INCLUDES:~~

~~(I) PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;~~

~~(II) PROCESSING OF PRESCRIPTION DRUG CLAIMS;~~

~~(III) ADMINISTRATION OF PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS; AND~~

~~(IV) NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACIES OR PHARMACISTS.~~

(D) “NONPROFIT HEALTH MAINTENANCE ORGANIZATION” HAS THE MEANING STATED IN § 6-121(A) OF THIS ARTICLE.

(E) (1) “PHARMACY BENEFITS MANAGEMENT SERVICES” MEANS:

(I) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE TO BENEFICIARIES;

(II) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG COVERAGE PROVIDED BY A PURCHASER FOR BENEFICIARIES; AND

(III) ANY OF THE FOLLOWING SERVICES PROVIDED WITH REGARD TO THE ADMINISTRATION OF PRESCRIPTION DRUG COVERAGE:

1. MAIL SERVICE PHARMACY;
2. CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO BENEFICIARIES;
3. CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;
4. REBATE CONTRACTING AND ADMINISTRATION;
5. PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION, AND GENERIC SUBSTITUTION PROGRAMS; OR
6. DISEASE MANAGEMENT PROGRAMS.

(2) "PHARMACY BENEFITS MANAGEMENT SERVICES" DOES NOT INCLUDE ANY SERVICE PROVIDED BY A NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT OPERATES AS A GROUP MODEL, PROVIDED THAT THE SERVICE:

(I) IS PROVIDED SOLELY TO A MEMBER OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND

(II) IS FURNISHED THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.

~~(E)~~ (F) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.

~~(D)~~ (1) ~~"UTILIZATION REVIEW" HAS THE MEANING STATED IN § 15-10B-01 OF THIS TITLE.~~

~~(2) "UTILIZATION REVIEW" INCLUDES:~~

~~(I) DRUG UTILIZATION MANAGEMENT;~~

~~(II) DRUG UTILIZATION REVIEW SERVICES; AND~~

~~(III) STEP PROTOCOL THERAPY MANAGEMENT.~~

(G) (1) "PURCHASER" MEANS THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM, AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT:

(I) PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS IN THE STATE; AND

(II) ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.

(2) "PURCHASER" DOES NOT INCLUDE A PERSON THAT PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH PLANS SUBJECT TO ERISA AND DOES NOT PROVIDE PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH INSURANCE, UNLESS THE PERSON IS A MULTIPLE EMPLOYER WELFARE ARRANGEMENT AS DEFINED IN § 514(B)(6)(A)(II) OF ERISA.

15-1602.

~~(A) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH GENERAL ARTICLE.~~

~~(B) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION OR AN AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION ACTING OR REPRESENTING ITSELF AS A PHARMACY BENEFITS MANAGER IF:~~

~~(1) THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION OR THE AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION DIRECTLY OFFERS OR PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES; AND~~

~~(2) THE PHARMACY BENEFITS MANAGEMENT SERVICES ARE OFFERED OR PROVIDED ONLY TO ENROLLEES, SUBSCRIBERS, OR INSURED WHO ALSO ARE COVERED BY HEALTH BENEFITS OFFERED OR PROVIDED BY THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION.~~

~~15-1603.~~

~~(A) A PERSON PHARMACY BENEFITS MANAGER SHALL REGISTER WITH THE COMMISSIONER BEFORE THE PERSON ACTS AS OR REPRESENTS ITSELF AS A PHARMACY BENEFITS MANAGER IN THE STATE BEFORE PROVIDING PHARMACY BENEFITS MANAGEMENT SERVICES IN THE STATE TO PURCHASERS.~~

(B) AN APPLICANT FOR REGISTRATION SHALL:

(1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER PROVIDES; AND

(2) PAY TO THE COMMISSIONER A REGISTRATION FEE SET BY THE COMMISSIONER.

~~(C) THE COMMISSIONER SHALL REGISTER EACH APPLICANT THAT MEETS THE REQUIREMENTS ESTABLISHED BY THE COMMISSIONER BY REGULATION SUBJECT TO THE PROVISIONS OF § 15-1604 OF THIS SUBTITLE. THE COMMISSIONER SHALL REGISTER EACH PHARMACY BENEFITS MANAGER THAT MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~15-1604.~~

~~(A) A REGISTRATION EXPIRES AT THE END OF EVERY OTHER JUNE 30, UNLESS IT IS RENEWED AS PROVIDED IN THIS SECTION.~~

15-1603.

(A) A PHARMACY BENEFITS MANAGER REGISTRATION EXPIRES ON THE ANNIVERSARY DATE THAT OCCURS ON THE DATE 2 YEARS FOLLOWING THE DATE THE COMMISSIONER ISSUED THE REGISTRATION, UNLESS IT IS RENEWED AS PROVIDED UNDER THIS SECTION.

~~(B) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT~~ A PHARMACY BENEFITS MANAGER MAY RENEW ITS REGISTRATION FOR AN ADDITIONAL 2-YEAR TERM, IF THE PHARMACY BENEFITS MANAGER:

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

(2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES; AND

(3) PAYS TO THE COMMISSIONER A RENEWAL FEE SET BY THE COMMISSIONER.

(C) AN APPLICATION FOR RENEWAL OF A PHARMACY BENEFITS MANAGER REGISTRATION SHALL BE CONSIDERED ~~TIMELY IF MADE IN A TIMELY MANNER IF IT IS POSTMARKED ON OR BEFORE JUNE 30 OF THE YEAR OF THE RENEWAL~~ THE DATE THE PHARMACY BENEFITS MANAGER'S REGISTRATION EXPIRES.

(D) SUBJECT TO THE PROVISIONS OF § 15-1604 OF THIS SUBTITLE, THE COMMISSIONER SHALL RENEW THE REGISTRATION OF EACH PHARMACY BENEFITS MANAGER THAT MEETS THE REQUIREMENTS OF THIS SECTION.

15-1604.

(A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY DENY A REGISTRATION TO A PHARMACY BENEFITS MANAGER APPLICANT OR REFUSE TO RENEW, SUSPEND, OR REVOKE THE REGISTRATION OF A PHARMACY BENEFITS MANAGER IF THE PHARMACY BENEFITS MANAGER, OR AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE PHARMACY BENEFITS MANAGER:

(1) ~~KNOWINGLY~~ MAKES A MATERIAL MISSTATEMENT OR MISREPRESENTATION IN AN APPLICATION FOR REGISTRATION;

(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A REGISTRATION;

(3) IN CONNECTION WITH THE ADMINISTRATION OF PHARMACY BENEFITS MANAGEMENT SERVICES, COMMITS FRAUD OR ENGAGES IN ILLEGAL OR DISHONEST ACTIVITIES; OR

(4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE.

(B) THIS SECTION DOES NOT LIMIT ANY OTHER REGULATORY AUTHORITY OF THE COMMISSIONER UNDER THIS ARTICLE.

15-1605.

A PHARMACY BENEFITS MANAGER MAY NOT SHIP, MAIL, OR DELIVER PRESCRIPTION DRUGS OR DEVICES TO A PERSON IN THE STATE THROUGH A NONRESIDENT PHARMACY UNLESS THE NONRESIDENT PHARMACY HOLDS A

PERMIT ISSUED IN ACCORDANCE WITH THE PROVISIONS OF § 12-403 OF THE HEALTH OCCUPATIONS ARTICLE.

~~15-1605.~~

~~A PHARMACY BENEFITS MANAGER MAY NOT:~~

~~(1) VIOLATE ANY PROVISION OF THIS ARTICLE APPLICABLE TO THE PHARMACY BENEFITS MANAGER;~~

~~(2) VIOLATE ANY REGULATION ADOPTED UNDER THIS ARTICLE APPLICABLE TO THE PHARMACY BENEFITS MANAGER;~~

~~(3) KNOWINGLY FAIL TO COMPLY WITH ANY ORDER OF THE COMMISSIONER;~~

~~(4) OBTAIN OR ATTEMPT TO OBTAIN A REGISTRATION BASED ON INACCURATE INFORMATION;~~

~~(5) FRAUDULENTLY OR DECEPTIVELY OBTAIN OR USE A REGISTRATION;~~

~~(6) FAIL TO PROTECT THE CONFIDENTIALITY OF MEDICAL RECORDS IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAWS; OR~~

~~(7) ACT AS A PHARMACY BENEFITS MANAGER WITHOUT FIRST REGISTERING WITH THE COMMISSIONER.~~

~~15-1606.~~

~~(A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY DENY, SUSPEND, OR REVOKE A REGISTRATION OR REFUSE TO RENEW A REGISTRATION IF THE APPLICANT OR REGISTRANT VIOLATES ANY PROVISION OF § 15-1605 OF THIS SUBTITLE.~~

~~(B) IF THE REGISTRATION OF A PHARMACY BENEFITS MANAGER IS SUSPENDED OR REVOKED, THE COMMISSIONER, TO PROTECT THE INTERESTS OF BENEFICIARIES AND PHARMACIES AND PHARMACISTS, MAY PERMIT THE CONTINUED OPERATION OF THE PHARMACY BENEFITS MANAGER FOR A LIMITED PERIOD, NOT TO EXCEED 60 DAYS, UNDER CONDITIONS AND RESTRICTIONS DETERMINED BY THE COMMISSIONER.~~

(A) WHENEVER THE COMMISSIONER CONSIDERS IT ADVISABLE, THE COMMISSIONER MAY EXAMINE THE AFFAIRS, TRANSACTIONS, ACCOUNTS, AND RECORDS OF A REGISTERED PHARMACY BENEFITS MANAGER.

(B) THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH § 2-207 OF THIS ARTICLE.

(C) THE EXPENSE OF THE EXAMINATION SHALL BE PAID IN ACCORDANCE WITH § 2-208 OF THIS ARTICLE.

(D) THE REPORTS OF THE EXAMINATION AND INVESTIGATION SHALL BE ISSUED IN ACCORDANCE WITH § 2-209 OF THIS ARTICLE.

**15-1607.**

~~(A) A PHARMACY BENEFITS MANAGER SHALL REGISTER WITH THE COMMISSIONER AS A THIRD PARTY ADMINISTRATOR UNDER TITLE 8, SUBTITLE 3 OF THIS ARTICLE IF THE PHARMACY BENEFITS MANAGER:~~

~~(1) PROCESSES PRESCRIPTION DRUG CLAIMS; OR~~

~~(2) ADMINISTERS PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS.~~

~~(B) A PHARMACY BENEFITS MANAGER THAT PROCESSES PRESCRIPTION DRUG CLAIMS OR ADMINISTERS PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS SHALL:~~

~~(1) PAY CLAIMS IN ACCORDANCE WITH § 15-1005 OF THIS TITLE;~~  
~~AND~~

~~(2) ADJUST CLAIMS IN ACCORDANCE WITH § 15-1008 OF THIS TITLE.~~

**~~15-1608.~~**

~~A PHARMACY BENEFITS MANAGER THAT CONDUCTS UTILIZATION REVIEW SHALL OBTAIN FROM THE COMMISSIONER A CERTIFICATE OF REGISTRATION AS A PRIVATE REVIEW AGENT UNDER SUBTITLE 10B OF THIS TITLE.~~

**~~15-1609.~~**



~~AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION MAY NOT ENTER INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER THAT HAS NOT REGISTERED WITH THE COMMISSIONER.~~

~~15-1610.~~

~~(A) WHENEVER THE COMMISSIONER CONSIDERS IT ADVISABLE, THE COMMISSIONER SHALL EXAMINE THE AFFAIRS, TRANSACTIONS, ACCOUNTS, RECORDS, AND ASSETS OF EACH PHARMACY BENEFITS MANAGER.~~

~~(B) THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH § 2-207 OF THIS ARTICLE.~~

~~(C) THE EXPENSE OF THE EXAMINATION SHALL BE PAID IN ACCORDANCE WITH § 2-208 OF THIS ARTICLE.~~

~~(D) THE REPORTS OF THE EXAMINATION AND INVESTIGATION SHALL BE ISSUED IN ACCORDANCE WITH § 2-209 OF THIS ARTICLE.~~

~~15-1611.~~

~~A PHARMACY BENEFITS MANAGER SHALL MAINTAIN ADEQUATE BOOKS AND RECORDS ABOUT EACH PURCHASER FOR WHICH THE PHARMACY BENEFITS MANAGER PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES:~~

~~(1) IN ACCORDANCE WITH PRUDENT STANDARDS OF RECORD KEEPING;~~

~~(2) FOR THE DURATION OF THE AGREEMENT BETWEEN THE PHARMACY BENEFITS MANAGER AND THE PURCHASER; AND~~

~~(3) FOR 3 YEARS AFTER THE PHARMACY BENEFITS MANAGER CEASES TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES TO THE PURCHASER.~~

~~15-1612.~~

~~ON OR BEFORE APRIL 1, 2009, THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

~~15-1613.~~

~~IN ADDITION TO THE PENALTIES AUTHORIZED BY § 15-1606 OF THIS SUBTITLE, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.~~

A PHARMACY BENEFITS MANAGER SHALL MAINTAIN ADEQUATE BOOKS AND RECORDS ABOUT EACH PURCHASER FOR WHICH THE PHARMACY BENEFITS MANAGER PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES:

(1) IN ACCORDANCE WITH PRUDENT STANDARDS OF RECORD KEEPING;

(2) FOR THE DURATION OF THE AGREEMENT BETWEEN THE PHARMACY BENEFITS MANAGER AND THE PURCHASER; AND

(3) FOR 3 YEARS AFTER THE PHARMACY BENEFITS MANAGER CEASES TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES FOR THE PURCHASER.

15-1608.

(A) IF THE COMMISSIONER DETERMINES THAT A PHARMACY BENEFITS MANAGER HAS VIOLATED ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE COMMISSIONER MAY ISSUE AN ORDER THAT REQUIRES THE PHARMACY BENEFITS MANAGER TO:

(1) CEASE AND DESIST FROM THE IDENTIFIED VIOLATION AND FURTHER SIMILAR VIOLATIONS;

(2) TAKE SPECIFIC AFFIRMATIVE ACTION TO CORRECT THE VIOLATION; OR

(3) MAKE RESTITUTION OF MONEY, PROPERTY, OR OTHER ASSETS TO A PERSON THAT HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION.

(B) (1) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A PHARMACY BENEFITS MANAGER THAT IS REGISTERED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN § 2-204 OF THIS ARTICLE.

(2) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A PHARMACY BENEFITS MANAGER THAT IS NOT REGISTERED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN § 4-206 OR §

4-207 OF THIS ARTICLE FOR SERVICE ON AN UNAUTHORIZED INSURER THAT DOES AN ACT OF INSURANCE BUSINESS IN THE STATE.

(3) A REQUEST FOR A HEARING ON ANY ORDER ISSUED UNDER THIS SECTION DOES NOT STAY THAT PORTION OF THE ORDER THAT REQUIRES THE PHARMACY BENEFITS MANAGER TO CEASE AND DESIST FROM CONDUCT IDENTIFIED IN THE ORDER.

(4) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT OF ANY COUNTY TO ENFORCE AN ORDER ISSUED UNDER THIS SECTION, WHETHER OR NOT A HEARING HAS BEEN REQUESTED OR, IF REQUESTED, WHETHER OR NOT A HEARING HAS BEEN HELD.

(5) IF THE COMMISSIONER PREVAILS IN AN ACTION BROUGHT UNDER THIS SECTION, THE COMMISSIONER MAY RECOVER, FOR THE USE OF THE STATE, REASONABLE ATTORNEY'S FEES AND THE COSTS OF THE ACTION.

(C) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION TAKEN BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.

(D) THIS SECTION DOES NOT LIMIT ANY OTHER REGULATORY AUTHORITY OF THE COMMISSIONER UNDER THIS ARTICLE.

15-1609.

A PURCHASER MAY NOT ENTER INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER THAT HAS NOT REGISTERED WITH THE COMMISSIONER.

#### Article - Health - General

19-706.

(PPP) THE PROVISIONS OF TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

#### ~~Article—Health Occupations~~

~~12-101.~~

~~(m) (1) "Nonresident pharmacy" means a pharmacy located outside this State that, in the normal course of business, as determined by the Board, ships, mails, or delivers drugs or devices to a person in this State pursuant to a prescription.~~

~~(2) "NONRESIDENT PHARMACY" INCLUDES A PHARMACY BENEFITS MANAGER, LOCATED WITHIN OR OUTSIDE THIS STATE, THAT IS REGULATED UNDER TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE, IF THE PHARMACY BENEFITS MANAGER SHIPS, MAELS, OR DELIVERS DRUGS OR DEVICES TO A PERSON IN THIS STATE PURSUANT TO A PRESCRIPTION.~~

~~12-403.~~

~~(a) This section does not require a nonresident pharmacy to violate the laws or regulations of the state in which it is located.~~

~~(b) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:~~

~~(17) With regard to a prescription drug that is delivered in this State by the United States mail, a common carrier, or a delivery service and is not personally hand delivered directly to a patient or to the agent of the patient at the residence of the patient or at another location designated by the patient, shall:~~

~~(i) Provide a general written notice in each shipment of a prescription drug that alerts a consumer that, under certain circumstances, a medication's effectiveness may be affected by exposure to extremes of heat, cold, or humidity; and~~

~~(ii) Provide a specific written notice in each shipment of a prescription drug that provides a consumer with a toll-free or local consumer access telephone number accessible during regular hours of operation, which is designed to respond to consumer questions pertaining to medications;~~

~~(d) A nonresident pharmacy shall hold a pharmacy permit issued by the Board.~~

~~(e) (1) In order to obtain a pharmacy permit from the Board, a nonresident pharmacy, TO THE EXTENT APPLICABLE, shall:~~

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

~~(ii) Pay to the Board an application fee set by the Board;~~

~~(iii) Submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the nonresident pharmacy is located; and~~

~~(iv) On the required permit application, identify the name and current address of an agent located in this State officially designated to accept service of process.~~

~~(2) A nonresident pharmacy shall report a change in the name or address of the resident agent in writing to the Board 30 days prior to the change.~~

~~(f) A nonresident pharmacy, TO THE EXTENT APPLICABLE, shall:~~

~~(1) Comply with the laws of the state in which it is located;~~

~~(2) On an annual basis and within 30 days after a change of office, corporate officer, or pharmacist, disclose to the Board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescriptions for drugs or devices to persons in this State;~~

~~(3) Comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is located and all requests for information made by the Board pursuant to this section;~~

~~(4) Maintain at all times a valid, unexpired permit to conduct a pharmacy in compliance with the laws of the state in which it is located;~~

~~(5) Maintain its records of prescription drugs or devices dispensed to patients in this State so that the records are readily retrievable;~~

~~(6) During its regular hours of operation, but not less than 6 days a week, and for a minimum of 40 hours per week, provide toll free telephone service to facilitate communication between patients in this State and a pharmacist who has access to the patient's prescription records;~~

~~(7) Disclose its toll free telephone number on a label affixed to each container of drugs or devices;~~

~~(8) Comply with the laws of this State relating to the confidentiality of prescription records if there are no laws relating to the confidentiality of prescription records in the state in which the nonresident pharmacy is located; [and]~~

~~(9) Comply with the requirements of subsection (b)(17) of this section;~~

~~AND~~

~~(10) REQUIRE EACH EMPLOYEE OR CONTRACTOR TO BE LICENSED TO PRACTICE PHARMACY IF THE EMPLOYEE OR CONTRACTOR PRACTICES PHARMACY FOR OR ON BEHALF OF THE NONRESIDENT PHARMACY.~~

~~(g) Subject to the hearing provisions of § 12-411 of this subtitle, if a pharmacy or a nonresident pharmacy is operated in violation of this section, the Board may suspend the applicable pharmacy permit until the pharmacy complies with this section.~~

SECTION 2. AND BE IT FURTHER ENACTED, That a person acting as a pharmacy benefits manager in the State on the effective date of this Act may continue to act as a pharmacy benefits manager in the State without being registered with the Maryland Insurance Commissioner, as required under Section 1 of this Act, if the person:

- (1) registers with the Commissioner on or before July 1, 2009; and
- (2) complies with all other applicable provisions of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 202

(House Bill 419)

AN ACT concerning

### Pharmacy Benefits Managers - Registration

FOR the purpose of requiring a ~~person~~ pharmacy benefits manager to register with the Maryland Insurance Commissioner before ~~the person acts as or represents itself as a pharmacy benefits manager~~ providing pharmacy benefits management services in the State; ~~exempting certain managed care organizations, insurers, nonprofit health service plans, and health maintenance organizations, and affiliates, subsidiaries, or other related entities of certain insurers, nonprofit health service plans, and health maintenance organizations from certain provisions of this Act under certain circumstances;~~ requiring an applicant for registration to file an application on a certain form and pay to the Commissioner a certain fee; requiring the Commissioner to register certain

~~applicants~~ pharmacy benefits managers; providing for the expiration and renewal of a registration; prohibiting a pharmacy benefits manager from taking certain actions; authorizing the Commissioner to deny, suspend, or revoke a registration or refuse to renew a registration under certain circumstances and subject to certain hearing provisions; ~~authorizing the Commissioner, if a registration is suspended or revoked, to permit the continued operation of a pharmacy benefits manager for a certain period of time under certain circumstances; requiring a pharmacy benefits manager to register as a third party administrator or a private review agent under certain circumstances; requiring a certain pharmacy benefits manager to pay and adjust claims according to certain statutory requirements;~~ prohibiting an insurer, a nonprofit health service plan, or a health maintenance organization a purchaser from entering into an agreement with a pharmacy benefits manager that has not registered with the Commissioner; ~~requiring~~ authorizing the Commissioner to conduct a certain examination in accordance with certain provisions of law; requiring a pharmacy benefits manager to maintain certain books and records for a certain period and in accordance with certain standards; ~~requiring the Commissioner to adopt certain regulations on or before a certain date;~~ authorizing the Commissioner to issue a certain order; authorizing an order of the Commissioner to be served in a certain manner under certain circumstances; providing that a request for a hearing on a certain order does not stay a certain portion of the order; authorizing the Commissioner to file a certain petition in circuit court; authorizing the Commissioner to recover certain fees and costs under certain circumstances; providing certain penalties; altering the definition of a “nonresident pharmacy” to include a pharmacy benefits manager under certain provisions of law; requiring a nonresident pharmacy to meet certain requirements; making certain provisions of law applicable to health maintenance organizations; allowing a certain person to continue to act as a pharmacy benefits manager without registering with the Commissioner under certain circumstances; defining certain terms; and generally relating to regulation and registration of pharmacy benefits managers.

BY adding to

Article – Insurance

Section 15-1601 through ~~15-1613~~ 15-1609 to be under the new subtitle  
“Subtitle 16. Pharmacy Benefits Managers”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General

Section 19-706(ppp)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, with amendments,  
Article — Health Occupations  
Section 12-101(m) and 12-403(e) and (f)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, without amendments,  
Article — Health Occupations  
Section 12-403(a), (b)(17), (d), and (g)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)~~

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

**Article - Insurance**

**SUBTITLE 16. PHARMACY BENEFITS MANAGERS.**

**15-1601.**

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

(B) “BENEFICIARY” MEANS AN INDIVIDUAL WHO RECEIVES PRESCRIPTION DRUG COVERAGE OR BENEFITS FROM A PURCHASER.

(C) “ERISA” HAS THE MEANING STATED IN § 8-301 OF THIS ARTICLE.

~~(B) (1) “PHARMACY BENEFITS MANAGEMENT SERVICES” MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS.~~

~~(2) “PHARMACY BENEFITS MANAGEMENT SERVICES” INCLUDES:~~

~~(i) PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;~~

~~(ii) PROCESSING OF PRESCRIPTION DRUG CLAIMS;~~

~~(iii) ADMINISTRATION OF PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS; AND~~

~~(iv) NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACIES OR PHARMACISTS.~~



(D) “NONPROFIT HEALTH MAINTENANCE ORGANIZATION” HAS THE MEANING STATED IN § 6-121(A) OF THIS ARTICLE.

(E) (1) “PHARMACY BENEFITS MANAGEMENT SERVICES” MEANS:

(I) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE TO BENEFICIARIES;

(II) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG COVERAGE PROVIDED BY A PURCHASER FOR BENEFICIARIES; AND

(III) ANY OF THE FOLLOWING SERVICES PROVIDED WITH REGARD TO THE ADMINISTRATION OF PRESCRIPTION DRUG COVERAGE:

1. MAIL SERVICE PHARMACY;
2. CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO BENEFICIARIES;
3. CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;
4. REBATE CONTRACTING AND ADMINISTRATION;
5. PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION, AND GENERIC SUBSTITUTION PROGRAMS; OR
6. DISEASE MANAGEMENT PROGRAMS.

(2) “PHARMACY BENEFITS MANAGEMENT SERVICES” DOES NOT INCLUDE ANY SERVICE PROVIDED BY A NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT OPERATES AS A GROUP MODEL, PROVIDED THAT THE SERVICE:

(I) IS PROVIDED SOLELY TO A MEMBER OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND

(II) IS FURNISHED THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.

~~(C)~~ (F) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.

~~(D)~~ (1) ~~"UTILIZATION REVIEW" HAS THE MEANING STATED IN § 15-10B-01 OF THIS TITLE.~~

~~(2) "UTILIZATION REVIEW" INCLUDES:~~

~~(I) DRUG UTILIZATION MANAGEMENT;~~

~~(II) DRUG UTILIZATION REVIEW SERVICES; AND~~

~~(III) STEP PROTOCOL THERAPY MANAGEMENT.~~

(G) (1) "PURCHASER" MEANS THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM, AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT:

(I) PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS IN THE STATE; AND

(II) ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.

(2) "PURCHASER" DOES NOT INCLUDE A PERSON THAT PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH PLANS SUBJECT TO ERISA AND DOES NOT PROVIDE PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH INSURANCE, UNLESS THE PERSON IS A MULTIPLE EMPLOYER WELFARE ASSOCIATION ARRANGEMENT AS DEFINED IN § 514(B)(6)(A)(II) OF ERISA.

15-1602.

~~(A) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH GENERAL ARTICLE.~~

~~(B) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION OR AN AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH~~

~~MAINTENANCE ORGANIZATION ACTING OR REPRESENTING ITSELF AS A PHARMACY BENEFITS MANAGER IF:~~

~~(1) THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION OR THE AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION DIRECTLY OFFERS OR PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES; AND~~

~~(2) THE PHARMACY BENEFITS MANAGEMENT SERVICES ARE OFFERED OR PROVIDED ONLY TO ENROLLEES, SUBSCRIBERS, OR INSUREDS WHO ALSO ARE COVERED BY HEALTH BENEFITS OFFERED OR PROVIDED BY THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION.~~

~~15-1603.~~

~~(A) A PERSON PHARMACY BENEFITS MANAGER SHALL REGISTER WITH THE COMMISSIONER BEFORE THE PERSON ACTS AS OR REPRESENTS ITSELF AS A PHARMACY BENEFITS MANAGER IN THE STATE BEFORE PROVIDING PHARMACY BENEFITS MANAGEMENT SERVICES IN THE STATE TO PURCHASERS.~~

~~(B) AN APPLICANT FOR REGISTRATION SHALL:~~

~~(1) FILE WITH THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER PROVIDES; AND~~

~~(2) PAY TO THE COMMISSIONER A REGISTRATION FEE SET BY THE COMMISSIONER.~~

~~(C) THE COMMISSIONER SHALL REGISTER EACH APPLICANT THAT MEETS THE REQUIREMENTS ESTABLISHED BY THE COMMISSIONER BY REGULATION SUBJECT TO THE PROVISIONS OF § 15-1604 OF THIS SUBTITLE, THE COMMISSIONER SHALL REGISTER EACH PHARMACY BENEFITS MANAGER THAT MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~15-1604.~~

~~(A) A REGISTRATION EXPIRES AT THE END OF EVERY OTHER JUNE 30, UNLESS IT IS RENEWED AS PROVIDED IN THIS SECTION.~~

15-1603.

(A) A PHARMACY BENEFITS MANAGER REGISTRATION EXPIRES ON THE ANNIVERSARY DATE THAT OCCURS ON THE DATE 2 YEARS FOLLOWING THE DATE THE COMMISSIONER ISSUED THE REGISTRATION, UNLESS IT IS RENEWED AS PROVIDED UNDER THIS SECTION.

~~(B) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT~~ A PHARMACY BENEFITS MANAGER MAY RENEW ITS REGISTRATION FOR AN ADDITIONAL 2-YEAR TERM, IF THE PHARMACY BENEFITS MANAGER:

(1) OTHERWISE IS ENTITLED TO BE REGISTERED;

(2) FILES WITH THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES; AND

(3) PAYS TO THE COMMISSIONER A RENEWAL FEE SET BY THE COMMISSIONER.

~~(C) AN APPLICATION FOR RENEWAL OF A PHARMACY BENEFITS MANAGER REGISTRATION SHALL BE CONSIDERED TIMELY IF MADE IN A TIMELY MANNER IF IT IS POSTMARKED ON OR BEFORE JUNE 30 OF THE YEAR OF THE RENEWAL~~ THE DATE THE PHARMACY BENEFITS MANAGER'S REGISTRATION EXPIRES.

(D) SUBJECT TO THE PROVISIONS OF § 15-1604 OF THIS SUBTITLE, THE COMMISSIONER SHALL RENEW THE REGISTRATION OF EACH PHARMACY BENEFITS MANAGER THAT MEETS THE REQUIREMENTS OF THIS SECTION.

15-1604.

(A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY DENY A REGISTRATION TO A PHARMACY BENEFITS MANAGER APPLICANT OR REFUSE TO RENEW, SUSPEND, OR REVOKE THE REGISTRATION OF A PHARMACY BENEFITS MANAGER IF THE PHARMACY BENEFITS MANAGER, OR AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE PHARMACY BENEFITS MANAGER:

(1) MAKES A MATERIAL MISSTATEMENT OR MISREPRESENTATION IN AN APPLICATION FOR REGISTRATION;

(2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A REGISTRATION;

(3) IN CONNECTION WITH THE ADMINISTRATION OF PHARMACY BENEFITS MANAGEMENT SERVICES, COMMITS FRAUD OR ENGAGES IN ILLEGAL OR DISHONEST ACTIVITIES; OR

(4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE.

(B) THIS SECTION DOES NOT LIMIT ANY OTHER REGULATORY AUTHORITY OF THE COMMISSIONER UNDER THIS ARTICLE.

15-1605.

A PHARMACY BENEFITS MANAGER MAY NOT SHIP, MAIL, OR DELIVER PRESCRIPTION DRUGS OR DEVICES TO A PERSON IN THE STATE THROUGH A NONRESIDENT PHARMACY UNLESS THE NONRESIDENT PHARMACY HOLDS A PERMIT ISSUED IN ACCORDANCE WITH THE PROVISIONS OF § 12-403 OF THE HEALTH OCCUPATIONS ARTICLE.

~~15-1605.~~

~~A PHARMACY BENEFITS MANAGER MAY NOT:~~

~~(1) VIOLATE ANY PROVISION OF THIS ARTICLE APPLICABLE TO THE PHARMACY BENEFITS MANAGER;~~

~~(2) VIOLATE ANY REGULATION ADOPTED UNDER THIS ARTICLE APPLICABLE TO THE PHARMACY BENEFITS MANAGER;~~

~~(3) KNOWINGLY FAIL TO COMPLY WITH ANY ORDER OF THE COMMISSIONER;~~

~~(4) OBTAIN OR ATTEMPT TO OBTAIN A REGISTRATION BASED ON INACCURATE INFORMATION;~~

~~(5) FRAUDULENTLY OR DECEPTIVELY OBTAIN OR USE A REGISTRATION;~~

~~(6) FAIL TO PROTECT THE CONFIDENTIALITY OF MEDICAL RECORDS IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAWS; OR~~

~~(7) ACT AS A PHARMACY BENEFITS MANAGER WITHOUT FIRST REGISTERING WITH THE COMMISSIONER.~~

15-1606.

~~(A) SUBJECT TO THE HEARING PROVISIONS OF TITLE 2 OF THIS ARTICLE, THE COMMISSIONER MAY DENY, SUSPEND, OR REVOKE A REGISTRATION OR REFUSE TO RENEW A REGISTRATION IF THE APPLICANT OR REGISTRANT VIOLATES ANY PROVISION OF § 15-1605 OF THIS SUBTITLE.~~

~~(B) IF THE REGISTRATION OF A PHARMACY BENEFITS MANAGER IS SUSPENDED OR REVOKED, THE COMMISSIONER, TO PROTECT THE INTERESTS OF BENEFICIARIES AND PHARMACIES AND PHARMACISTS, MAY PERMIT THE CONTINUED OPERATION OF THE PHARMACY BENEFITS MANAGER FOR A LIMITED PERIOD, NOT TO EXCEED 60 DAYS, UNDER CONDITIONS AND RESTRICTIONS DETERMINED BY THE COMMISSIONER.~~

(A) WHENEVER THE COMMISSIONER CONSIDERS IT ADVISABLE, THE COMMISSIONER MAY EXAMINE THE AFFAIRS, TRANSACTIONS, ACCOUNTS, AND RECORDS OF A REGISTERED PHARMACY BENEFITS MANAGER.

(B) THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH § 2-207 OF THIS ARTICLE.

(C) THE EXPENSE OF THE EXAMINATION SHALL BE PAID IN ACCORDANCE WITH § 2-208 OF THIS ARTICLE.

(D) THE REPORTS OF THE EXAMINATION AND INVESTIGATION SHALL BE ISSUED IN ACCORDANCE WITH § 2-209 OF THIS ARTICLE.

15-1607.

~~(A) A PHARMACY BENEFITS MANAGER SHALL REGISTER WITH THE COMMISSIONER AS A THIRD PARTY ADMINISTRATOR UNDER TITLE 8, SUBTITLE 3 OF THIS ARTICLE IF THE PHARMACY BENEFITS MANAGER:~~

~~(1) PROCESSES PRESCRIPTION DRUG CLAIMS; OR~~

~~(2) ADMINISTERS PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS.~~

~~(B) A PHARMACY BENEFITS MANAGER THAT PROCESSES PRESCRIPTION DRUG CLAIMS OR ADMINISTERS PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS SHALL:~~

~~(1) PAY CLAIMS IN ACCORDANCE WITH § 15-1005 OF THIS TITLE;~~  
AND

~~(2) ADJUST CLAIMS IN ACCORDANCE WITH § 15-1008 OF THIS TITLE;~~

~~15-1608.~~

~~A PHARMACY BENEFITS MANAGER THAT CONDUCTS UTILIZATION REVIEW SHALL OBTAIN FROM THE COMMISSIONER A CERTIFICATE OF REGISTRATION AS A PRIVATE REVIEW AGENT UNDER SUBTITLE 10B OF THIS TITLE.~~

~~15-1609.~~

~~AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION MAY NOT ENTER INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER THAT HAS NOT REGISTERED WITH THE COMMISSIONER.~~

~~15-1610.~~

~~(A) WHENEVER THE COMMISSIONER CONSIDERS IT ADVISABLE, THE COMMISSIONER SHALL EXAMINE THE AFFAIRS, TRANSACTIONS, ACCOUNTS, RECORDS, AND ASSETS OF EACH PHARMACY BENEFITS MANAGER.~~

~~(B) THE EXAMINATION SHALL BE CONDUCTED IN ACCORDANCE WITH § 2-207 OF THIS ARTICLE.~~

~~(C) THE EXPENSE OF THE EXAMINATION SHALL BE PAID IN ACCORDANCE WITH § 2-208 OF THIS ARTICLE.~~

~~(D) THE REPORTS OF THE EXAMINATION AND INVESTIGATION SHALL BE ISSUED IN ACCORDANCE WITH § 2-209 OF THIS ARTICLE.~~

~~15-1611.~~

~~A PHARMACY BENEFITS MANAGER SHALL MAINTAIN ADEQUATE BOOKS AND RECORDS ABOUT EACH PURCHASER FOR WHICH THE PHARMACY BENEFITS MANAGER PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES;~~

~~(1) IN ACCORDANCE WITH PRUDENT STANDARDS OF RECORD KEEPING;~~

~~(2) FOR THE DURATION OF THE AGREEMENT BETWEEN THE PHARMACY BENEFITS MANAGER AND THE PURCHASER; AND~~

~~(3) FOR 3 YEARS AFTER THE PHARMACY BENEFITS MANAGER CEASES TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES TO THE PURCHASER.~~

~~15-1612.~~

~~ON OR BEFORE APRIL 1, 2009, THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

~~15-1613.~~

~~IN ADDITION TO THE PENALTIES AUTHORIZED BY § 15-1606 OF THIS SUBTITLE, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.~~

A PHARMACY BENEFITS MANAGER SHALL MAINTAIN ADEQUATE BOOKS AND RECORDS ABOUT EACH PURCHASER FOR WHICH THE PHARMACY BENEFITS MANAGER PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES:

(1) IN ACCORDANCE WITH PRUDENT STANDARDS OF RECORD KEEPING;

(2) FOR THE DURATION OF THE AGREEMENT BETWEEN THE PHARMACY BENEFITS MANAGER AND THE PURCHASER; AND

(3) FOR 3 YEARS AFTER THE PHARMACY BENEFITS MANAGER CEASES TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES FOR THE PURCHASER.

15-1608.

(A) IF THE COMMISSIONER DETERMINES THAT A PHARMACY BENEFITS MANAGER HAS VIOLATED ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE COMMISSIONER MAY ISSUE AN ORDER THAT REQUIRES THE PHARMACY BENEFITS MANAGER TO:

(1) CEASE AND DESIST FROM THE IDENTIFIED VIOLATION AND FURTHER SIMILAR VIOLATIONS;



(2) TAKE SPECIFIC AFFIRMATIVE ACTION TO CORRECT THE VIOLATION; OR

(3) MAKE RESTITUTION OF MONEY, PROPERTY, OR OTHER ASSETS TO A PERSON THAT HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION.

(B) (1) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A PHARMACY BENEFITS MANAGER THAT IS REGISTERED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN § 2-204 OF THIS ARTICLE.

(2) AN ORDER OF THE COMMISSIONER ISSUED UNDER THIS SECTION MAY BE SERVED ON A PHARMACY BENEFITS MANAGER THAT IS NOT REGISTERED UNDER THIS SUBTITLE IN THE MANNER PROVIDED IN § 4-206 OR § 4-207 OF THIS ARTICLE FOR SERVICE ON AN UNAUTHORIZED INSURER THAT DOES AN ACT OF INSURANCE BUSINESS IN THE STATE.

(3) A REQUEST FOR A HEARING ON ANY ORDER ISSUED UNDER THIS SECTION DOES NOT STAY THAT PORTION OF THE ORDER THAT REQUIRES THE PHARMACY BENEFITS MANAGER TO CEASE AND DESIST FROM CONDUCT IDENTIFIED IN THE ORDER.

(4) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT OF ANY COUNTY TO ENFORCE AN ORDER ISSUED UNDER THIS SECTION, WHETHER OR NOT A HEARING HAS BEEN REQUESTED OR, IF REQUESTED, WHETHER OR NOT A HEARING HAS BEEN HELD.

(5) IF THE COMMISSIONER PREVAILS IN AN ACTION BROUGHT UNDER THIS SECTION, THE COMMISSIONER MAY RECOVER, FOR THE USE OF THE STATE, REASONABLE ATTORNEY'S FEES AND THE COSTS OF THE ACTION.

(C) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION TAKEN BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.

(D) THIS SECTION DOES NOT LIMIT ANY OTHER REGULATORY AUTHORITY OF THE COMMISSIONER UNDER THIS ARTICLE.

15-1609.

A PURCHASER MAY NOT ENTER INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER THAT HAS NOT REGISTERED WITH THE COMMISSIONER.

**Article - Health - General**

19-706.

(PPP) THE PROVISIONS OF TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

~~Article - Health Occupations~~

~~12-101.~~

~~(m) (1) "Nonresident pharmacy" means a pharmacy located outside this State that, in the normal course of business, as determined by the Board, ships, mails, or delivers drugs or devices to a person in this State pursuant to a prescription.~~

~~(2) "NONRESIDENT PHARMACY" INCLUDES A PHARMACY BENEFITS MANAGER, LOCATED WITHIN OR OUTSIDE THIS STATE, THAT IS REGULATED UNDER TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE, IF THE PHARMACY BENEFITS MANAGER SHIPS, MAELS, OR DELIVERS DRUGS OR DEVICES TO A PERSON IN THIS STATE PURSUANT TO A PRESCRIPTION.~~

~~12-403.~~

~~(a) This section does not require a nonresident pharmacy to violate the laws or regulations of the state in which it is located.~~

~~(b) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:~~

~~(17) With regard to a prescription drug that is delivered in this State by the United States mail, a common carrier, or a delivery service and is not personally hand delivered directly to a patient or to the agent of the patient at the residence of the patient or at another location designated by the patient, shall:~~

~~(i) Provide a general written notice in each shipment of a prescription drug that alerts a consumer that, under certain circumstances, a medication's effectiveness may be affected by exposure to extremes of heat, cold, or humidity; and~~

~~(ii) Provide a specific written notice in each shipment of a prescription drug that provides a consumer with a toll free or local consumer access~~

~~telephone number accessible during regular hours of operation, which is designed to respond to consumer questions pertaining to medications;~~

~~(d) A nonresident pharmacy shall hold a pharmacy permit issued by the Board.~~

~~(e) (1) In order to obtain a pharmacy permit from the Board, a nonresident pharmacy, TO THE EXTENT APPLICABLE, shall:~~

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

~~(ii) Pay to the Board an application fee set by the Board;~~

~~(iii) Submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the nonresident pharmacy is located; and~~

~~(iv) On the required permit application, identify the name and current address of an agent located in this State officially designated to accept service of process.~~

~~(2) A nonresident pharmacy shall report a change in the name or address of the resident agent in writing to the Board 30 days prior to the change.~~

~~(f) A nonresident pharmacy, TO THE EXTENT APPLICABLE, shall:~~

~~(1) Comply with the laws of the state in which it is located;~~

~~(2) On an annual basis and within 30 days after a change of office, corporate officer, or pharmacist, disclose to the Board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescriptions for drugs or devices to persons in this State;~~

~~(3) Comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is located and all requests for information made by the Board pursuant to this section;~~

~~(4) Maintain at all times a valid, unexpired permit to conduct a pharmacy in compliance with the laws of the state in which it is located;~~

~~(5) Maintain its records of prescription drugs or devices dispensed to patients in this State so that the records are readily retrievable;~~

~~(6) During its regular hours of operation, but not less than 6 days a week, and for a minimum of 40 hours per week, provide toll-free telephone service to facilitate communication between patients in this State and a pharmacist who has access to the patient's prescription records;~~

~~(7) Disclose its toll-free telephone number on a label affixed to each container of drugs or devices;~~

~~(8) Comply with the laws of this State relating to the confidentiality of prescription records if there are no laws relating to the confidentiality of prescription records in the state in which the nonresident pharmacy is located; [and]~~

~~(9) Comply with the requirements of subsection (b)(17) of this section;~~

~~AND~~

~~(10) REQUIRE EACH EMPLOYEE OR CONTRACTOR TO BE LICENSED TO PRACTICE PHARMACY IF THE EMPLOYEE OR CONTRACTOR PRACTICES PHARMACY FOR OR ON BEHALF OF THE NONRESIDENT PHARMACY.~~

~~(g) Subject to the hearing provisions of § 12-411 of this subtitle, if a pharmacy or a nonresident pharmacy is operated in violation of this section, the Board may suspend the applicable pharmacy permit until the pharmacy complies with this section.~~

SECTION 2. AND BE IT FURTHER ENACTED, That a person acting as a pharmacy benefits manager in the State on the effective date of this Act may continue to act as a pharmacy benefits manager in the State without being registered with the Maryland Insurance Commissioner, as required under Section 1 of this Act, if the person:

- (1) registers with the Commissioner on or before July 1, 2009; and
- (2) complies with all other applicable provisions of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 203

(Senate Bill 723)

AN ACT concerning

**Pharmacy Benefits Managers - ~~Prescription Drug Substitution~~ Therapeutic Interchanges**

FOR the purpose of prohibiting a pharmacy benefits manager ~~from substituting one prescription drug for the drug originally prescribed~~ or its agent from requesting a therapeutic interchange unless certain conditions are met; ~~requiring a pharmacy benefits manager to disclose certain information to a purchaser if a drug substitution is made~~; requiring a pharmacy benefits manager or its agent to obtain a certain authorization to make a ~~drug substitution~~ therapeutic interchange and to make certain disclosures to a prescriber; ~~providing for certain exceptions; prohibiting a pharmacy benefits manager from substituting a drug for a currently prescribed drug unless the pharmacy benefits manager provides a beneficiary or the beneficiary's representative with certain information~~ requiring a pharmacy benefits manager or its agent to disclose certain information to a beneficiary and include a certain insert and a certain telephone number with the prescription drug dispensed; requiring a pharmacy benefits manager or its agent to cancel and reverse a therapeutic interchange under certain circumstances; requiring a pharmacy benefits manager or its agent to take certain actions if a therapeutic interchange is reversed; requiring a pharmacy benefits manager to maintain a certain toll-free telephone number; requiring certain disclosures to comply with certain privacy standards; requiring a pharmacy benefits manager to establish certain policies and procedures; making certain provisions applicable to health maintenance organizations; providing certain penalties; defining certain terms; and generally relating to regulation of pharmacy benefits managers.

BY adding to

Article – Insurance

Section 15-1601 and 15-1602 to be under the new subtitle “Subtitle 16. Pharmacy Benefits Managers”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General

Section 19-706(ppp)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

Article - Insurance

SUBTITLE 16. PHARMACY BENEFITS MANAGERS.

~~15-1601.~~

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

~~(2) "BENEFICIARY" MEANS AN INDIVIDUAL ON WHOSE BEHALF A PURCHASER ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER.~~

~~(3) (i) "PHARMACY BENEFITS MANAGEMENT SERVICES" MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS.~~

~~(ii) "PHARMACY BENEFITS MANAGEMENT SERVICES" INCLUDES:~~

~~1. PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;~~

~~2. PROCESSING OF PRESCRIPTION DRUG CLAIMS;~~

~~3. ADMINISTRATION OF PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS; AND~~

~~4. NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACY PROVIDERS.~~

~~(4) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(5) (i) "PURCHASER" MEANS A PERSON THAT ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(ii) "PURCHASER" INCLUDES THE STATE.~~

~~(B) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH GENERAL ARTICLE.~~

~~(C) A PHARMACY BENEFITS MANAGER MAY NOT SUBSTITUTE ANOTHER PRESCRIPTION DRUG FOR THE CURRENTLY PRESCRIBED PRESCRIPTION DRUG UNLESS:~~

~~(1) THE SUBSTITUTION IS MADE FOR MEDICAL REASONS THAT BENEFIT THE BENEFICIARY; OR~~

~~(2) THE SUBSTITUTION RESULTS IN FINANCIAL SAVINGS AND BENEFITS TO THE PURCHASER.~~

~~(D) IF A PRESCRIPTION DRUG SUBSTITUTION IS MADE UNDER THIS SECTION, THE PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO THE PURCHASER ANY BENEFIT OR PAYMENT:~~

~~(1) RELATED TO THE SUBSTITUTION; AND~~

~~(2) RECEIVED IN ANY FORM BY THE PHARMACY BENEFITS MANAGER FROM A PHARMACEUTICAL MANUFACTURER OR OTHER PERSON.~~

~~(E) EXCEPT AS PROVIDED IN SUBSECTIONS (G) AND (H) OF THIS SECTION, A PHARMACY BENEFITS MANAGER SHALL:~~

~~(1) OBTAIN AUTHORIZATION FROM A PRESCRIBER TO SUBSTITUTE ANOTHER PRESCRIPTION DRUG FOR A CURRENTLY PRESCRIBED PRESCRIPTION DRUG; AND~~

~~(2) DISCLOSE TO THE PRESCRIBER:~~

~~(i) THE COST SAVINGS FOR THE PURCHASER, IF ANY, THAT RESULT FROM THE DRUG SUBSTITUTION;~~

~~(ii) THE DIFFERENCE, IF ANY, IN COPAYMENTS OR OTHER OUT-OF-POCKET COSTS PAID BY THE BENEFICIARY TO OBTAIN THE SUBSTITUTE DRUG;~~

~~(iii) THE EXISTENCE OF ADDITIONAL PAYMENTS RECEIVED BY THE PHARMACY BENEFITS MANAGER THAT ARE NOT REFLECTED IN THE COST SAVINGS TO THE PURCHASER;~~

~~(iv) THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE CURRENTLY PRESCRIBED DRUG WILL BE COVERED;~~

~~(V) THE CIRCUMSTANCES, IF ANY, AND EXTENT TO WHICH HEALTH CARE COSTS RELATED TO THE DRUG SUBSTITUTION WILL BE COMPENSATED; AND~~

~~(VI) ANY KNOWN DIFFERENCES IN POTENTIAL EFFECTS ON A BENEFICIARY'S HEALTH AND SAFETY, INCLUDING SIDE EFFECTS.~~

~~(F) IF AUTHORIZATION IS GIVEN VERBALLY, A PHARMACY BENEFITS MANAGER SHALL RECORD THE NAME AND TITLE OF THE PRESCRIBER AUTHORIZING THE PRESCRIPTION DRUG SUBSTITUTION.~~

~~(G) SUBSECTION (E) OF THIS SECTION DOES NOT APPLY IF THE SUBSTITUTION IS FROM A BRAND NAME DRUG TO A GENERIC DRUG, AND THE SUBSTITUTION IS MADE IN ACCORDANCE WITH § 12-504 OF THE HEALTH OCCUPATIONS ARTICLE.~~

~~(H) SUBSECTION (E)(2) OF THIS SECTION DOES NOT APPLY IF:~~

~~(1) THE CURRENTLY PRESCRIBED DRUG IS NO LONGER AVAILABLE IN THE MARKET; OR~~

~~(2) THE SUBSTITUTION IS REQUIRED FOR COVERAGE REASONS BECAUSE THE PRESCRIBED DRUG IS NOT COVERED BY THE BENEFICIARY'S FORMULARY OR PLAN.~~

~~(I) A PHARMACY BENEFITS MANAGER MAY NOT SUBSTITUTE ANOTHER PRESCRIPTION DRUG FOR A CURRENTLY PRESCRIBED PRESCRIPTION DRUG UNLESS THE PHARMACY BENEFITS MANAGER PROVIDES THE BENEFICIARY OR THE BENEFICIARY'S REPRESENTATIVE THE FOLLOWING:~~

~~(1) UNLESS THE SUBSTITUTION WAS EXEMPTED UNDER SUBSECTION (G) OF THIS SECTION, A NOTIFICATION THAT:~~

~~(I) THE PHARMACY BENEFITS MANAGER REQUESTED A DRUG SUBSTITUTION BY CONTACTING THE BENEFICIARY'S PRESCRIBER; AND~~

~~(II) THE PRESCRIBER APPROVED THE DRUG SUBSTITUTION;~~

~~(2) THE NAMES OF THE PROPOSED DRUG SUBSTITUTION AND THE CURRENTLY PRESCRIBED DRUG;~~



~~(3) THE DIFFERENCE, IF ANY, IN COPAYMENTS OR OTHER OUT-OF-POCKET COSTS PAID BY THE BENEFICIARY TO OBTAIN THE SUBSTITUTE DRUG;~~

~~(4) ANY KNOWN DIFFERENCES IN POTENTIAL EFFECTS ON A BENEFICIARY'S HEALTH AND SAFETY, INCLUDING SIDE EFFECTS;~~

~~(5) THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE CURRENTLY PRESCRIBED DRUG WILL BE COVERED;~~

~~(6) THE CIRCUMSTANCES, IF ANY, AND THE EXTENT TO WHICH HEALTH CARE COSTS RELATED TO THE DRUG SUBSTITUTION WILL BE COMPENSATED;~~

~~(7) A NOTIFICATION THAT THE BENEFICIARY MAY DECLINE THE DRUG SUBSTITUTION IF THE CURRENTLY PRESCRIBED DRUG REMAINS ON THE BENEFICIARY'S FORMULARY, AND THE BENEFICIARY IS WILLING TO PAY ANY DIFFERENCE IN THE COPAYMENT AMOUNT; AND~~

~~(8) A TOLL-FREE TELEPHONE NUMBER TO COMMUNICATE WITH THE PHARMACY BENEFITS MANAGER.~~

~~(J) (1) A PHARMACY BENEFITS MANAGER SHALL CANCEL AND REVERSE A PRESCRIPTION DRUG SUBSTITUTION ON WRITTEN OR VERBAL INSTRUCTIONS FROM A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S REPRESENTATIVE.~~

~~(2) IF A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S REPRESENTATIVE CANCELS AND REVERSES A DRUG SUBSTITUTION, THE PHARMACY BENEFITS MANAGER SHALL:~~

~~(I) OBTAIN A PRESCRIPTION FOR AND DISPENSE THE CURRENTLY PRESCRIBED DRUG;~~

~~(II) CHARGE THE BENEFICIARY ONLY ONE COPAYMENT; AND~~

~~(III) IF A BENEFICIARY WILL EXHAUST THE SUPPLY OF THE CURRENTLY PRESCRIBED DRUG BEFORE A REPLACEMENT SHIPMENT WILL ARRIVE TO THE BENEFICIARY, ARRANGE FOR DISPENSING OF AN APPROPRIATE QUANTITY OF REPLACEMENT DRUGS AT A RETAIL OR INSTITUTIONAL PHARMACY AT NO ADDITIONAL COST TO THE BENEFICIARY.~~

~~(3) A PHARMACY BENEFITS MANAGER MAY NOT BE REQUIRED TO CANCEL AND REVERSE A DRUG SUBSTITUTION IF:~~

~~(i) THE PRESCRIBED DRUG IS NO LONGER ON THE PURCHASER'S FORMULARY; OR~~

~~(ii) A BENEFICIARY IS UNWILLING TO PAY A HIGHER COPAYMENT OR OTHER COST ASSOCIATED WITH THE PRESCRIBED DRUG.~~

~~(k) A PHARMACY BENEFITS MANAGER SHALL MAINTAIN A TOLL-FREE TELEPHONE NUMBER 24 HOURS A DAY, 7 DAYS A WEEK, FOR PRESCRIBERS, PHARMACY PROVIDERS, AND BENEFICIARIES.~~

~~(l) ALL DISCLOSURES MADE UNDER THIS SECTION SHALL COMPLY WITH THE PRIVACY STANDARDS OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.~~

~~(m) ON OR BEFORE APRIL 1, 2009, THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

~~(n) (1) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SECTION.~~

~~(2) IN ADDITION TO OR INSTEAD OF ASSESSING A CIVIL PENALTY, THE COMMISSIONER MAY REQUIRE THE PHARMACY BENEFITS MANAGER TO MAKE RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF THIS SECTION.~~

15-1601.

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

(B) "AGENT" MEANS A PHARMACY, A PHARMACIST, A MAIL ORDER PHARMACY, OR A NONRESIDENT PHARMACY ACTING ON BEHALF OR AT THE DIRECTION OF A PHARMACY BENEFITS MANAGER.

(C) "BENEFICIARY" MEANS AN INDIVIDUAL WHO RECEIVES PRESCRIPTION DRUG COVERAGE OR BENEFITS FROM A PURCHASER.

(D) "ERISA" HAS THE MEANING STATED IN § 8-301 OF THIS ARTICLE.

(E) “NONPROFIT HEALTH MAINTENANCE ORGANIZATION” HAS THE MEANING STATED IN § 6-121(A) OF THIS ARTICLE.

(F) “NONRESIDENT PHARMACY” HAS THE MEANING STATED IN § 12-403 OF THE HEALTH OCCUPATIONS ARTICLE.

(G) “PHARMACIST” HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.

(H) “PHARMACY” HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.

(I) (1) “PHARMACY BENEFITS MANAGEMENT SERVICES” MEANS:

(I) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE TO BENEFICIARIES;

(II) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG COVERAGE PROVIDED BY A PURCHASER FOR BENEFICIARIES; AND

(III) ANY OF THE FOLLOWING SERVICES PROVIDED WITH REGARD TO THE ADMINISTRATION OF PRESCRIPTION DRUG COVERAGE:

1. MAIL SERVICE PHARMACY;
2. CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO BENEFICIARIES;
3. CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;
4. REBATE CONTRACTING AND ADMINISTRATION;
5. PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION, AND GENERIC SUBSTITUTION PROGRAMS; OR
6. DISEASE MANAGEMENT PROGRAMS.

(2) “PHARMACY BENEFITS MANAGEMENT SERVICES” DOES NOT INCLUDE ANY SERVICE PROVIDED BY A NONPROFIT HEALTH MAINTENANCE

ORGANIZATION THAT OPERATES AS A GROUP MODEL, PROVIDED THAT THE SERVICE:

(I) IS PROVIDED SOLELY TO A MEMBER OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND

(II) IS FURNISHED THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.

(J) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.

(K) "PHARMACY AND THERAPEUTICS COMMITTEE" MEANS A COMMITTEE ESTABLISHED BY A PHARMACY BENEFITS MANAGER TO:

(1) OBJECTIVELY APPRAISE AND EVALUATE PRESCRIPTION DRUGS; AND

(2) MAKE RECOMMENDATIONS TO A PURCHASER REGARDING THE SELECTION OF DRUGS FOR THE PURCHASER'S FORMULARY.

(L) (1) "PURCHASER" MEANS THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM, AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT:

(I) PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS IN THE STATE; AND

(II) ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.

(2) "PURCHASER" DOES NOT INCLUDE A PERSON THAT PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH PLANS SUBJECT TO ERISA AND DOES NOT PROVIDE PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH INSURANCE, UNLESS THE PERSON IS A MULTIPLE EMPLOYER WELFARE ARRANGEMENT AS DEFINED IN § 514(B)(6)(A)(II) OF ERISA.

(M) (1) "THERAPEUTIC INTERCHANGE" MEANS ANY CHANGE FROM ONE PRESCRIPTION DRUG TO ANOTHER.

(2) "THERAPEUTIC INTERCHANGE" DOES NOT INCLUDE:

(I) A CHANGE INITIATED PURSUANT TO A DRUG UTILIZATION REVIEW;

(II) A CHANGE INITIATED FOR PATIENT SAFETY REASONS;

(III) A CHANGE REQUIRED DUE TO MARKET UNAVAILABILITY OF THE CURRENTLY PRESCRIBED DRUG;

(IV) A CHANGE FROM A BRAND NAME DRUG TO A GENERIC DRUG IN ACCORDANCE WITH § 12-504 OF THE HEALTH OCCUPATIONS ARTICLE; OR

(V) A CHANGE REQUIRED FOR COVERAGE REASONS BECAUSE THE ORIGINALLY PRESCRIBED DRUG IS NOT COVERED BY THE BENEFICIARY'S FORMULARY OR PLAN.

(N) "THERAPEUTIC INTERCHANGE SOLICITATION" MEANS ANY COMMUNICATION BY A PHARMACY BENEFITS MANAGER FOR THE PURPOSE OF REQUESTING A THERAPEUTIC INTERCHANGE.

15-1602.

(A) A PHARMACY BENEFITS MANAGER OR ITS AGENT MAY NOT REQUEST A THERAPEUTIC INTERCHANGE UNLESS:

(1) THE PROPOSED THERAPEUTIC INTERCHANGE IS FOR MEDICAL REASONS THAT BENEFIT THE BENEFICIARY; OR

(2) THE PROPOSED THERAPEUTIC INTERCHANGE WILL RESULT IN FINANCIAL SAVINGS AND BENEFITS TO THE PURCHASER OR THE BENEFICIARY.

(B) (1) BEFORE MAKING A THERAPEUTIC INTERCHANGE, A PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL OBTAIN AUTHORIZATION FROM A PRESCRIBER OR AN INDIVIDUAL AUTHORIZED BY THE PRESCRIBER.

(C) IN ANY THERAPEUTIC INTERCHANGE SOLICITATION, THE FOLLOWING SHALL BE DISCLOSED TO THE PRESCRIBER:

(1) THAT A THERAPEUTIC INTERCHANGE IS BEING SOLICITED;

(2) THE CIRCUMSTANCES UNDER WHICH THE ORIGINALLY PRESCRIBED DRUG WILL BE COVERED BY THE PURCHASER;

(3) THE DIFFERENCE IN COPAYMENTS OR COINSURANCE TO BE PAID BY THE BENEFICIARY TO OBTAIN THE PROPOSED DRUG;

(4) THE CIRCUMSTANCES AND EXTENT TO WHICH HEALTH CARE COSTS RELATED TO THE THERAPEUTIC INTERCHANGE WILL BE COMPENSATED; AND

(5) ANY CLINICALLY SIGNIFICANT DIFFERENCES, AS DETERMINED BY A PHARMACY AND THERAPEUTICS COMMITTEE OF THE PHARMACY BENEFITS MANAGER, WITH RESPECT TO EFFICACY, SIDE EFFECTS, AND POTENTIAL IMPACT ON HEALTH AND SAFETY.

(D) WHEN SOLICITING A THERAPEUTIC INTERCHANGE FROM A PRESCRIBER, A PHARMACY BENEFITS MANAGER OR ITS AGENT MAY NOT MAKE A CLAIM THAT THE THERAPEUTIC INTERCHANGE WILL SAVE THE PURCHASER MONEY UNLESS THE CLAIM CAN BE SUBSTANTIATED.

(E) IF THE PHARMACY BENEFITS MANAGER OR ITS AGENT RECEIVES PAYMENT FOR MAKING A THERAPEUTIC INTERCHANGE FROM A PHARMACEUTICAL MANUFACTURER OR OTHER PERSON, INCLUDING THE PHARMACY BENEFITS MANAGER, THAT IS NOT REFLECTED IN COST SAVINGS TO THE PURCHASER, THE EXISTENCE OF THE PAYMENT SHALL BE COMMUNICATED TO THE PRESCRIBER AT THE TIME OF THE THERAPEUTIC INTERCHANGE SOLICITATION.

(F) IF A THERAPEUTIC INTERCHANGE OCCURS, THE PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL:

(1) DISCLOSE TO THE BENEFICIARY, ORALLY OR IN WRITING:

(i) THAT THE PHARMACY BENEFITS MANAGER OR ITS AGENT REQUESTED A THERAPEUTIC INTERCHANGE BY CONTACTING THE BENEFICIARY'S PRESCRIBER;

(ii) THE PRESCRIBER APPROVED THE THERAPEUTIC INTERCHANGE;

(iii) THE NAMES OF THE ORIGINALLY PRESCRIBED DRUG AND THE DRUG DISPENSED PURSUANT TO THE THERAPEUTIC INTERCHANGE;

(iv) THE DIFFERENCE IN COPAYMENTS OR COINSURANCE TO BE PAID BY THE BENEFICIARY TO OBTAIN THE DRUG DISPENSED PURSUANT TO THE THERAPEUTIC INTERCHANGE;

(V) THE CIRCUMSTANCES UNDER WHICH THE ORIGINALLY PRESCRIBED DRUG WILL BE COVERED;

(VI) THE CIRCUMSTANCES UNDER AND THE EXTENT TO WHICH HEALTH CARE COSTS RELATED TO THE THERAPEUTIC INTERCHANGE WILL BE COMPENSATED; AND

(VII) THAT THE BENEFICIARY MAY DECLINE THE THERAPEUTIC INTERCHANGE IF THE ORIGINALLY PRESCRIBED DRUG REMAINS ON THE BENEFICIARY'S FORMULARY, AND THE BENEFICIARY IS WILLING TO PAY ANY DIFFERENCE IN THE COPAYMENT OR COINSURANCE; AND

(2) INCLUDE WITH THE PRESCRIPTION DRUG DISPENSED:

(I) A PATIENT PACKAGE INSERT ABOUT POTENTIAL SIDE EFFECTS; AND

(II) A TOLL-FREE TELEPHONE NUMBER TO COMMUNICATE WITH THE PHARMACY BENEFITS MANAGER.

(G) (1) A PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL CANCEL AND REVERSE A THERAPEUTIC INTERCHANGE ON WRITTEN OR VERBAL INSTRUCTIONS FROM A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S REPRESENTATIVE.

(2) IF A THERAPEUTIC INTERCHANGE IS REVERSED, THE PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL:

(I) OBTAIN A PRESCRIPTION FOR AND DISPENSE THE ORIGINALLY PRESCRIBED PRESCRIPTION DRUG; AND

(II) CHARGE THE BENEFICIARY NO MORE THAN ONE COPAYMENT.

(3) IF THE THERAPEUTIC INTERCHANGE OCCURRED THROUGH A MAIL ORDER PHARMACY AND A BENEFICIARY WILL EXHAUST AN EXISTING SUPPLY OF THE ORIGINALLY PRESCRIBED PRESCRIPTION DRUG BEFORE A REPLACEMENT SHIPMENT WILL ARRIVE TO THE BENEFICIARY, THE PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL ARRANGE FOR DISPENSING OF AN APPROPRIATE QUANTITY OF REPLACEMENT PRESCRIPTION DRUGS AT A LOCAL COMMUNITY PHARMACY AT NO ADDITIONAL COST TO THE BENEFICIARY.

(4) A PHARMACY BENEFITS MANAGER OR ITS AGENT MAY NOT BE REQUIRED TO CANCEL AND REVERSE A THERAPEUTIC INTERCHANGE IF A BENEFICIARY IS UNWILLING TO PAY A HIGHER COPAYMENT OR COINSURANCE ASSOCIATED WITH THE ORIGINALLY PRESCRIBED PRESCRIPTION DRUG.

(H) (1) A PHARMACY BENEFITS MANAGER SHALL MAINTAIN A TOLL-FREE TELEPHONE NUMBER MONDAY THROUGH SATURDAY FOR PRESCRIBERS, PHARMACIES, PHARMACISTS, AND BENEFICIARIES TO REQUEST INFORMATION REGARDING A THERAPEUTIC INTERCHANGE.

(2) THE TOLL-FREE TELEPHONE NUMBER SHALL BE ACCESSIBLE FROM 8 A.M. UNTIL AT LEAST 8 P.M. EASTERN STANDARD TIME.

(I) ALL DISCLOSURES MADE UNDER THIS SECTION SHALL COMPLY WITH THE PRIVACY STANDARDS SET FORTH IN STATE AND FEDERAL LAW.

(J) A PHARMACY BENEFITS MANAGER SHALL ESTABLISH APPROPRIATE POLICIES AND PROCEDURES TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

~~(K) (1) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SECTION.~~

~~(2) IN ADDITION TO OR INSTEAD OF ASSESSING A CIVIL PENALTY, THE COMMISSIONER MAY REQUIRE THE PHARMACY BENEFITS MANAGER TO MAKE RESTITUTION TO ANY PERSON THAT HAS SUFFERED FINANCIAL INJURY BECAUSE OF A VIOLATION OF THIS SECTION.~~

Article - Health - General

19-706.

(PPP) THE PROVISIONS OF TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.



## CHAPTER 204

(House Bill 343)

AN ACT concerning

### **Pharmacy Benefits Managers - ~~Prescription Drug Substitution~~ Therapeutic Interchanges**

FOR the purpose of prohibiting a pharmacy benefits manager ~~from substituting one prescription drug for the drug originally prescribed or its agent from requesting a therapeutic interchange unless certain conditions are met; requiring a pharmacy benefits manager to disclose certain information to a purchaser if a drug substitution is made;~~ requiring a pharmacy benefits manager or its agent to obtain a certain authorization to make a ~~drug substitution~~ therapeutic interchange and to make certain disclosures to a prescriber; ~~providing for certain exceptions; prohibiting a pharmacy benefits manager from substituting a drug for a currently prescribed drug unless the pharmacy benefits manager provides a beneficiary or the beneficiary's representative with certain information~~ requiring a pharmacy benefits manager or its agent to disclose certain information to a beneficiary and include a certain insert and a certain telephone number with the prescription drug dispensed; requiring a pharmacy benefits manager or its agent to cancel and reverse a therapeutic interchange under certain circumstances; requiring a pharmacy benefits manager or its agent to take certain actions if a therapeutic interchange is reversed; requiring a pharmacy benefits manager to maintain a certain toll-free telephone number; requiring certain disclosures to comply with certain privacy standards; requiring a pharmacy benefits manager to establish certain policies and procedures; making certain provisions applicable to health maintenance organizations; providing certain penalties; defining certain terms; and generally relating to regulation of pharmacy benefits managers.

BY adding to

Article – Insurance

Section 15-1601 and 15-1602 to be under the new subtitle “Subtitle 16.

Pharmacy Benefits Managers”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General

Section 19-706(ppp)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

**Article - Insurance**

**SUBTITLE 16. PHARMACY BENEFITS MANAGERS.**

~~15-1601.~~

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

~~(2) "BENEFICIARY" MEANS AN INDIVIDUAL ON WHOSE BEHALF A PURCHASER ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER.~~

~~(3) (I) "PHARMACY BENEFITS MANAGEMENT SERVICES" MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS.~~

~~(II) "PHARMACY BENEFITS MANAGEMENT SERVICES" INCLUDES:~~

~~1. PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;~~

~~2. PROCESSING OF PRESCRIPTION DRUG CLAIMS;~~

~~3. ADMINISTRATION OF PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS; AND~~

~~4. NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACY PROVIDERS.~~

~~(4) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(5) (I) "PURCHASER" MEANS A PERSON THAT ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(II) "PURCHASER" INCLUDES THE STATE.~~

~~(B) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH GENERAL ARTICLE.~~

~~(C) A PHARMACY BENEFITS MANAGER MAY NOT SUBSTITUTE ANOTHER PRESCRIPTION DRUG FOR THE CURRENTLY PRESCRIBED PRESCRIPTION DRUG UNLESS:~~

~~(1) THE SUBSTITUTION IS MADE FOR MEDICAL REASONS THAT BENEFIT THE BENEFICIARY; OR~~

~~(2) THE SUBSTITUTION RESULTS IN FINANCIAL SAVINGS AND BENEFITS TO THE PURCHASER.~~

~~(D) IF A PRESCRIPTION DRUG SUBSTITUTION IS MADE UNDER THIS SECTION, THE PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO THE PURCHASER ANY BENEFIT OR PAYMENT:~~

~~(1) RELATED TO THE SUBSTITUTION; AND~~

~~(2) RECEIVED IN ANY FORM BY THE PHARMACY BENEFITS MANAGER FROM A PHARMACEUTICAL MANUFACTURER OR OTHER PERSON.~~

~~(E) EXCEPT AS PROVIDED IN SUBSECTIONS (G) AND (H) OF THIS SECTION, A PHARMACY BENEFITS MANAGER SHALL:~~

~~(1) OBTAIN AUTHORIZATION FROM A PRESCRIBER TO SUBSTITUTE ANOTHER PRESCRIPTION DRUG FOR A CURRENTLY PRESCRIBED PRESCRIPTION DRUG; AND~~

~~(2) DISCLOSE TO THE PRESCRIBER:~~

~~(i) THE COST SAVINGS FOR THE PURCHASER, IF ANY, THAT RESULT FROM THE DRUG SUBSTITUTION;~~

~~(ii) THE DIFFERENCE, IF ANY, IN COPAYMENTS OR OTHER OUT-OF-POCKET COSTS PAID BY THE BENEFICIARY TO OBTAIN THE SUBSTITUTE DRUG;~~

~~(iii) THE EXISTENCE OF ADDITIONAL PAYMENTS RECEIVED BY THE PHARMACY BENEFITS MANAGER THAT ARE NOT REFLECTED IN THE COST SAVINGS TO THE PURCHASER;~~

~~(IV) THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE CURRENTLY PRESCRIBED DRUG WILL BE COVERED;~~

~~(V) THE CIRCUMSTANCES, IF ANY, AND EXTENT TO WHICH HEALTH CARE COSTS RELATED TO THE DRUG SUBSTITUTION WILL BE COMPENSATED; AND~~

~~(VI) ANY KNOWN DIFFERENCES IN POTENTIAL EFFECTS ON A BENEFICIARY'S HEALTH AND SAFETY, INCLUDING SIDE EFFECTS.~~

~~(F) IF AUTHORIZATION IS GIVEN VERBALLY, A PHARMACY BENEFITS MANAGER SHALL RECORD THE NAME AND TITLE OF THE PRESCRIBER AUTHORIZING THE PRESCRIPTION DRUG SUBSTITUTION.~~

~~(G) SUBSECTION (E) OF THIS SECTION DOES NOT APPLY IF THE SUBSTITUTION IS FROM A BRAND NAME DRUG TO A GENERIC DRUG, AND THE SUBSTITUTION IS MADE IN ACCORDANCE WITH § 12-504 OF THE HEALTH OCCUPATIONS ARTICLE.~~

~~(H) SUBSECTION (E)(2) OF THIS SECTION DOES NOT APPLY IF:~~

~~(1) THE CURRENTLY PRESCRIBED DRUG IS NO LONGER AVAILABLE IN THE MARKET; OR~~

~~(2) THE SUBSTITUTION IS REQUIRED FOR COVERAGE REASONS BECAUSE THE PRESCRIBED DRUG IS NOT COVERED BY THE BENEFICIARY'S FORMULARY OR PLAN.~~

~~(I) A PHARMACY BENEFITS MANAGER MAY NOT SUBSTITUTE ANOTHER PRESCRIPTION DRUG FOR A CURRENTLY PRESCRIBED PRESCRIPTION DRUG UNLESS THE PHARMACY BENEFITS MANAGER PROVIDES THE BENEFICIARY OR THE BENEFICIARY'S REPRESENTATIVE THE FOLLOWING:~~

~~(1) UNLESS THE SUBSTITUTION WAS EXEMPTED UNDER SUBSECTION (G) OF THIS SECTION, A NOTIFICATION THAT:~~

~~(I) THE PHARMACY BENEFITS MANAGER REQUESTED A DRUG SUBSTITUTION BY CONTACTING THE BENEFICIARY'S PRESCRIBER; AND~~

~~(II) THE PRESCRIBER APPROVED THE DRUG SUBSTITUTION;~~

~~(2) THE NAMES OF THE PROPOSED DRUG SUBSTITUTION AND THE CURRENTLY PRESCRIBED DRUG;~~

~~(3) THE DIFFERENCE, IF ANY, IN COPAYMENTS OR OTHER OUT-OF-POCKET COSTS PAID BY THE BENEFICIARY TO OBTAIN THE SUBSTITUTE DRUG;~~

~~(4) ANY KNOWN DIFFERENCES IN POTENTIAL EFFECTS ON A BENEFICIARY'S HEALTH AND SAFETY, INCLUDING SIDE EFFECTS;~~

~~(5) THE CIRCUMSTANCES, IF ANY, UNDER WHICH THE CURRENTLY PRESCRIBED DRUG WILL BE COVERED;~~

~~(6) THE CIRCUMSTANCES, IF ANY, AND THE EXTENT TO WHICH HEALTH CARE COSTS RELATED TO THE DRUG SUBSTITUTION WILL BE COMPENSATED;~~

~~(7) A NOTIFICATION THAT THE BENEFICIARY MAY DECLINE THE DRUG SUBSTITUTION IF THE CURRENTLY PRESCRIBED DRUG REMAINS ON THE BENEFICIARY'S FORMULARY, AND THE BENEFICIARY IS WILLING TO PAY ANY DIFFERENCE IN THE COPAYMENT AMOUNT; AND~~

~~(8) A TOLL-FREE TELEPHONE NUMBER TO COMMUNICATE WITH THE PHARMACY BENEFITS MANAGER.~~

~~(J) (1) A PHARMACY BENEFITS MANAGER SHALL CANCEL AND REVERSE A PRESCRIPTION DRUG SUBSTITUTION ON WRITTEN OR VERBAL INSTRUCTIONS FROM A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S REPRESENTATIVE.~~

~~(2) IF A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S REPRESENTATIVE CANCELS AND REVERSES A DRUG SUBSTITUTION, THE PHARMACY BENEFITS MANAGER SHALL:~~

~~(I) OBTAIN A PRESCRIPTION FOR AND DISPENSE THE CURRENTLY PRESCRIBED DRUG;~~

~~(II) CHARGE THE BENEFICIARY ONLY ONE COPAYMENT; AND~~

~~(III) IF A BENEFICIARY WILL EXHAUST THE SUPPLY OF THE CURRENTLY PRESCRIBED DRUG BEFORE A REPLACEMENT SHIPMENT WILL ARRIVE TO THE BENEFICIARY, ARRANGE FOR DISPENSING OF AN APPROPRIATE~~

~~QUANTITY OF REPLACEMENT DRUGS AT A RETAIL OR INSTITUTIONAL PHARMACY AT NO ADDITIONAL COST TO THE BENEFICIARY.~~

~~(3) A PHARMACY BENEFITS MANAGER MAY NOT BE REQUIRED TO CANCEL AND REVERSE A DRUG SUBSTITUTION IF:~~

~~(i) THE PRESCRIBED DRUG IS NO LONGER ON THE PURCHASER'S FORMULARY; OR~~

~~(ii) A BENEFICIARY IS UNWILLING TO PAY A HIGHER COPAYMENT OR OTHER COST ASSOCIATED WITH THE PRESCRIBED DRUG.~~

~~(k) A PHARMACY BENEFITS MANAGER SHALL MAINTAIN A TOLL FREE TELEPHONE NUMBER 24 HOURS A DAY, 7 DAYS A WEEK, FOR PRESCRIBERS, PHARMACY PROVIDERS, AND BENEFICIARIES.~~

~~(l) ALL DISCLOSURES MADE UNDER THIS SECTION SHALL COMPLY WITH THE PRIVACY STANDARDS OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.~~

~~(m) ON OR BEFORE APRIL 1, 2009, THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

~~(n) (1) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SECTION.~~

~~(2) IN ADDITION TO OR INSTEAD OF ASSESSING A CIVIL PENALTY, THE COMMISSIONER MAY REQUIRE THE PHARMACY BENEFITS MANAGER TO MAKE RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF THIS SECTION.~~

15-1601.

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

(B) "AGENT" MEANS A PHARMACY, A PHARMACIST, A MAIL ORDER PHARMACY, OR A NONRESIDENT PHARMACY ACTING ON BEHALF OR AT THE DIRECTION OF A PHARMACY BENEFITS MANAGER.

(C) "BENEFICIARY" MEANS AN INDIVIDUAL WHO RECEIVES PRESCRIPTION DRUG COVERAGE OR BENEFITS FROM A PURCHASER.

**(D) “ERISA” HAS THE MEANING STATED IN § 8-301 OF THIS ARTICLE.**

**(E) “NONPROFIT HEALTH MAINTENANCE ORGANIZATION” HAS THE MEANING STATED IN § 6-121(A) OF THIS ARTICLE.**

**(F) “NONRESIDENT PHARMACY” HAS THE MEANING STATED IN § 12-403 OF THE HEALTH OCCUPATIONS ARTICLE.**

**(G) “PHARMACIST” HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.**

**(H) “PHARMACY” HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.**

**(I) (1) “PHARMACY BENEFITS MANAGEMENT SERVICES” MEANS:**

**(I) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE TO BENEFICIARIES;**

**(II) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG COVERAGE PROVIDED BY A PURCHASER FOR BENEFICIARIES; AND**

**(III) ANY OF THE FOLLOWING SERVICES PROVIDED WITH REGARD TO THE ADMINISTRATION OF PRESCRIPTION DRUG COVERAGE:**

- 1. MAIL SERVICE PHARMACY;**
- 2. CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO BENEFICIARIES;**
- 3. CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;**
- 4. REBATE CONTRACTING AND ADMINISTRATION;**
- 5. PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION, AND GENERIC SUBSTITUTION PROGRAMS; OR**
- 6. DISEASE MANAGEMENT PROGRAMS.**

(2) "PHARMACY BENEFITS MANAGEMENT SERVICES" DOES NOT INCLUDE ANY SERVICE PROVIDED BY A NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT OPERATES AS A GROUP MODEL, PROVIDED THAT THE SERVICE:

(I) IS PROVIDED SOLELY TO A MEMBER OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND

(II) IS FURNISHED THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.

(J) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.

(K) "PHARMACY AND THERAPEUTICS COMMITTEE" MEANS A COMMITTEE ESTABLISHED BY A PHARMACY BENEFITS MANAGER TO:

(1) OBJECTIVELY APPRAISE AND EVALUATE PRESCRIPTION DRUGS; AND

(2) MAKE RECOMMENDATIONS TO A PURCHASER REGARDING THE SELECTION OF DRUGS FOR THE PURCHASER'S FORMULARY.

(L) (1) "PURCHASER" MEANS THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM, AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT:

(I) PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS IN THE STATE; AND

(II) ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.

(2) "PURCHASER" DOES NOT INCLUDE A PERSON THAT PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH PLANS SUBJECT TO ERISA AND DOES NOT PROVIDE PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH INSURANCE, UNLESS THE PERSON IS A MULTIPLE EMPLOYER WELFARE ~~ASSOCIATION~~ ARRANGEMENT AS DEFINED IN § 514(B)(6)(A)(II) OF ERISA.

(M) (1) "THERAPEUTIC INTERCHANGE" MEANS ANY CHANGE FROM ONE PRESCRIPTION DRUG TO ANOTHER.



**(2) "THERAPEUTIC INTERCHANGE" DOES NOT INCLUDE:**

**(I) A CHANGE INITIATED PURSUANT TO A DRUG UTILIZATION REVIEW;**

**(II) A CHANGE INITIATED FOR PATIENT SAFETY REASONS;**

**(III) A CHANGE REQUIRED DUE TO MARKET UNAVAILABILITY OF THE CURRENTLY PRESCRIBED DRUG;**

**(IV) A CHANGE FROM A BRAND NAME DRUG TO A GENERIC DRUG IN ACCORDANCE WITH § 12-504 OF THE HEALTH OCCUPATIONS ARTICLE; OR**

**(V) A CHANGE REQUIRED FOR COVERAGE REASONS BECAUSE THE ORIGINALLY PRESCRIBED DRUG IS NOT COVERED BY THE BENEFICIARY'S FORMULARY OR PLAN.**

**(N) "THERAPEUTIC INTERCHANGE SOLICITATION" MEANS ANY COMMUNICATION BY A PHARMACY BENEFITS MANAGER FOR THE PURPOSE OF REQUESTING A THERAPEUTIC INTERCHANGE.**

**15-1602.**

**(A) A PHARMACY BENEFITS MANAGER OR ITS AGENT MAY NOT REQUEST A THERAPEUTIC INTERCHANGE UNLESS:**

**(1) THE PROPOSED THERAPEUTIC INTERCHANGE IS FOR MEDICAL REASONS THAT BENEFIT THE BENEFICIARY; OR**

**(2) THE PROPOSED THERAPEUTIC INTERCHANGE WILL RESULT IN FINANCIAL SAVINGS AND BENEFITS TO THE PURCHASER OR THE BENEFICIARY.**

**(B) (1) BEFORE MAKING A THERAPEUTIC INTERCHANGE, A PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL OBTAIN AUTHORIZATION FROM A PRESCRIBER OR AN INDIVIDUAL AUTHORIZED BY THE PRESCRIBER.**

**(C) IN ANY THERAPEUTIC INTERCHANGE SOLICITATION, THE FOLLOWING SHALL BE DISCLOSED TO THE PRESCRIBER:**

**(1) THAT A THERAPEUTIC INTERCHANGE IS BEING SOLICITED;**

(2) THE CIRCUMSTANCES UNDER WHICH THE ORIGINALLY PRESCRIBED DRUG WILL BE COVERED BY THE PURCHASER;

(3) THE DIFFERENCE IN COPAYMENTS OR COINSURANCE TO BE PAID BY THE BENEFICIARY TO OBTAIN THE PROPOSED DRUG;

(4) THE CIRCUMSTANCES AND EXTENT TO WHICH HEALTH CARE COSTS RELATED TO THE THERAPEUTIC INTERCHANGE WILL BE COMPENSATED; AND

(5) ANY CLINICALLY SIGNIFICANT DIFFERENCES, AS DETERMINED BY A PHARMACY AND THERAPEUTICS COMMITTEE OF THE PHARMACY BENEFITS MANAGER, WITH RESPECT TO EFFICACY, SIDE EFFECTS, AND POTENTIAL IMPACT ON HEALTH AND SAFETY.

(D) WHEN SOLICITING A THERAPEUTIC INTERCHANGE FROM A PRESCRIBER, A PHARMACY BENEFITS MANAGER OR ITS AGENT MAY NOT MAKE A CLAIM THAT THE THERAPEUTIC INTERCHANGE WILL SAVE THE PURCHASER MONEY UNLESS THE CLAIM CAN BE SUBSTANTIATED.

(E) IF THE PHARMACY BENEFITS MANAGER OR ITS AGENT RECEIVES PAYMENT FOR MAKING A THERAPEUTIC INTERCHANGE FROM A PHARMACEUTICAL MANUFACTURER OR OTHER PERSON, INCLUDING THE PHARMACY BENEFITS MANAGER, THAT IS NOT REFLECTED IN COST SAVINGS TO THE PURCHASER, THE EXISTENCE OF THE PAYMENT SHALL BE COMMUNICATED TO THE PRESCRIBER AT THE TIME OF THE THERAPEUTIC INTERCHANGE SOLICITATION.

(F) IF A THERAPEUTIC INTERCHANGE OCCURS, THE PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL:

(1) DISCLOSE TO THE BENEFICIARY, ORALLY OR IN WRITING:

(i) THAT THE PHARMACY BENEFITS MANAGER OR ITS AGENT REQUESTED A THERAPEUTIC INTERCHANGE BY CONTACTING THE BENEFICIARY'S PRESCRIBER;

(ii) THE PRESCRIBER APPROVED THE THERAPEUTIC INTERCHANGE;

(iii) THE NAMES OF THE ORIGINALLY PRESCRIBED DRUG AND THE DRUG DISPENSED PURSUANT TO THE THERAPEUTIC INTERCHANGE;

(IV) THE DIFFERENCE IN COPAYMENTS OR COINSURANCE TO BE PAID BY THE BENEFICIARY TO OBTAIN THE DRUG DISPENSED PURSUANT TO THE THERAPEUTIC INTERCHANGE;

(V) THE CIRCUMSTANCES UNDER WHICH THE ORIGINALLY PRESCRIBED DRUG WILL BE COVERED;

(VI) THE CIRCUMSTANCES UNDER AND THE EXTENT TO WHICH HEALTH CARE COSTS RELATED TO THE THERAPEUTIC INTERCHANGE WILL BE COMPENSATED; AND

(VII) THAT THE BENEFICIARY MAY DECLINE THE THERAPEUTIC INTERCHANGE IF THE ORIGINALLY PRESCRIBED DRUG REMAINS ON THE BENEFICIARY'S FORMULARY, AND THE BENEFICIARY IS WILLING TO PAY ANY DIFFERENCE IN THE COPAYMENT OR COINSURANCE; AND

(2) INCLUDE WITH THE PRESCRIPTION DRUG DISPENSED:

(I) A PATIENT PACKAGE INSERT ABOUT POTENTIAL SIDE EFFECTS; AND

(II) A TOLL-FREE TELEPHONE NUMBER TO COMMUNICATE WITH THE PHARMACY BENEFITS MANAGER.

(G) (1) A PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL CANCEL AND REVERSE A THERAPEUTIC INTERCHANGE ON WRITTEN OR VERBAL INSTRUCTIONS FROM A PRESCRIBER, THE BENEFICIARY, OR THE BENEFICIARY'S REPRESENTATIVE.

(2) IF A THERAPEUTIC INTERCHANGE IS REVERSED, THE PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL:

(I) OBTAIN A PRESCRIPTION FOR AND DISPENSE THE ORIGINALLY PRESCRIBED PRESCRIPTION DRUG; AND

(II) CHARGE THE BENEFICIARY NO MORE THAN ONE COPAYMENT.

(3) IF THE THERAPEUTIC INTERCHANGE OCCURRED THROUGH A MAIL ORDER PHARMACY AND A BENEFICIARY WILL EXHAUST AN EXISTING SUPPLY OF THE ORIGINALLY PRESCRIBED PRESCRIPTION DRUG BEFORE A REPLACEMENT SHIPMENT WILL ARRIVE TO THE BENEFICIARY, THE PHARMACY BENEFITS MANAGER OR ITS AGENT SHALL ARRANGE FOR DISPENSING OF AN

APPROPRIATE QUANTITY OF REPLACEMENT PRESCRIPTION DRUGS AT A LOCAL COMMUNITY PHARMACY AT NO ADDITIONAL COST TO THE BENEFICIARY.

(4) A PHARMACY BENEFITS MANAGER OR ITS AGENT MAY NOT BE REQUIRED TO CANCEL AND REVERSE A THERAPEUTIC INTERCHANGE IF A BENEFICIARY IS UNWILLING TO PAY A HIGHER COPAYMENT OR COINSURANCE ASSOCIATED WITH THE ORIGINALLY PRESCRIBED PRESCRIPTION DRUG.

(H) (1) A PHARMACY BENEFITS MANAGER SHALL MAINTAIN A TOLL-FREE TELEPHONE NUMBER MONDAY THROUGH SATURDAY FOR PRESCRIBERS, PHARMACIES, PHARMACISTS, AND BENEFICIARIES TO REQUEST INFORMATION REGARDING A THERAPEUTIC INTERCHANGE.

(2) THE TOLL-FREE TELEPHONE NUMBER SHALL BE ACCESSIBLE FROM 8 A.M. UNTIL AT LEAST 8 P.M. EASTERN STANDARD TIME.

(I) ALL DISCLOSURES MADE UNDER THIS SECTION SHALL COMPLY WITH THE PRIVACY STANDARDS SET FORTH IN STATE AND FEDERAL LAW.

(J) A PHARMACY BENEFITS MANAGER SHALL ESTABLISH APPROPRIATE POLICIES AND PROCEDURES TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

~~(K) (1) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SECTION.~~

~~(2) IN ADDITION TO OR INSTEAD OF ASSESSING A CIVIL PENALTY, THE COMMISSIONER MAY REQUIRE THE PHARMACY BENEFITS MANAGER TO MAKE RESTITUTION TO ANY PERSON THAT HAS SUFFERED FINANCIAL INJURY BECAUSE OF A VIOLATION OF THIS SECTION.~~

Article - Health - General

19-706.

(PPP) THE PROVISIONS OF TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

## CHAPTER 205

(Senate Bill 724)

AN ACT concerning

### Pharmacy Benefits Managers - ~~Transparency~~ Disclosures

FOR the purpose of ~~requiring a pharmacy benefits manager to disclose in writing certain information to a prospective purchaser and a purchaser; specifying the manner in which certain disclosures must be provided; providing that a pharmacy benefits manager need not make certain disclosures unless and until the prospective purchaser or the purchaser agrees in writing to maintain certain information as confidential; providing that certain agreements may include certain remedies and certain persons; requiring a contract executed by a pharmacy benefits manager for the provision of pharmacy benefits management services to include certain items; requiring the Commissioner to adopt certain regulations on or before a certain date; requiring certain pharmacy benefits managers to provide certain information and offer to provide a certain report to a certain purchaser before entering into a contract with the purchaser under certain circumstances; requiring a pharmacy benefits manager to provide certain reports to a certain purchaser under certain circumstances; providing that this Act does not diminish the authority of the Office of the Attorney General or the Maryland Insurance Commissioner to obtain and use certain information in certain proceedings; making certain provisions of law applicable to health maintenance organizations; defining certain terms; and generally relating to regulation of pharmacy benefits managers.~~

BY adding to

Article – Insurance

Section 15-1601 through ~~15-1609~~ 15-1605 to be under the new subtitle

“Subtitle 16. Pharmacy Benefits Managers”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General

Section 19-706(ppp)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

Article - Insurance

SUBTITLE 16. PHARMACY BENEFITS MANAGERS.

~~15-1601.~~

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

~~(B) "BENEFICIARY" MEANS AN INDIVIDUAL ON WHOSE BEHALF A PURCHASER ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER.~~

~~(C) "LABELER" MEANS A PERSON THAT:~~

~~(1) RECEIVES PRESCRIPTION DRUGS FROM A MANUFACTURER OR WHOLESALER AND REPACKAGES THOSE DRUGS FOR LATER RETAIL SALE; AND~~

~~(2) HAS A LABELER CODE FROM THE U.S. FOOD AND DRUG ADMINISTRATION UNDER 21 CFR § 207.20.~~

~~(D) (1) "PHARMACY BENEFITS MANAGEMENT SERVICES" MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS.~~

~~(2) "PHARMACY BENEFITS MANAGEMENT SERVICES" INCLUDES:~~

~~(I) PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;~~

~~(II) PROCESSING OF PRESCRIPTION DRUG CLAIMS;~~

~~(III) ADMINISTRATION OF PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS; AND~~

~~(IV) NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACY PROVIDERS.~~

~~(E) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(F) "PROSPECTIVE PURCHASER" MEANS A PERSON TO WHICH A PHARMACY BENEFITS MANAGER OFFERS TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(G) (1) "PURCHASER" MEANS A PERSON THAT ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(2) "PURCHASER" INCLUDES THE STATE.~~

~~(H) "TRADE SECRET" HAS THE MEANING STATED IN § 11-1201 OF THE COMMERCIAL LAW ARTICLE.~~

~~15-1602.~~

~~(A) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH GENERAL ARTICLE.~~

~~(B) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION, OR AN AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION ACTING OR REPRESENTING ITSELF AS A PHARMACY BENEFITS MANAGER IF:~~

~~(1) THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION OR THE AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION DIRECTLY OFFERS OR PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES; AND~~

~~(2) THE PHARMACY BENEFITS MANAGEMENT SERVICES ARE OFFERED OR PROVIDED ONLY TO ENROLLEES, SUBSCRIBERS, OR INSURED WHO ALSO ARE COVERED BY HEALTH BENEFITS OFFERED OR PROVIDED BY THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION.~~

~~15-1603.~~

~~(A) A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO A PROSPECTIVE PURCHASER IN WRITING:~~

~~(1) THE AMOUNT OF ALL REBATES, ADMINISTRATIVE FEES, DETAILING PAYMENTS, EDUCATIONAL PAYMENTS, AND OTHER RETROSPECTIVE DISCOUNTS THAT THE PHARMACY BENEFITS MANAGER ESTIMATES IT WOULD RECEIVE, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL~~

~~MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PROSPECTIVE PURCHASER, IF THE PROSPECTIVE PURCHASER WERE TO CONTRACT WITH THE PHARMACY BENEFITS MANAGER;~~

~~(2) THE NATURE, TYPE, AND AMOUNT OF ALL OTHER REVENUE THAT THE PHARMACY BENEFITS MANAGER ESTIMATES IT WOULD RECEIVE, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PROSPECTIVE PURCHASER, IF THE PROSPECTIVE PURCHASER WERE TO CONTRACT WITH THE PHARMACY BENEFITS MANAGER;~~

~~(3) ANY ADMINISTRATIVE OR OTHER FEES THAT WOULD BE CHARGED BY THE PHARMACY BENEFITS MANAGER TO THE PROSPECTIVE PURCHASER;~~

~~(4) ANY ARRANGEMENTS WITH PRESCRIBING PROVIDERS, MEDICAL GROUPS, INDIVIDUAL PRACTICE ASSOCIATIONS, PHARMACY PROVIDERS, OR OTHER PERSONS THAT ARE ASSOCIATED WITH ACTIVITIES OF THE PHARMACY BENEFITS MANAGER TO ENCOURAGE FORMULARY COMPLIANCE OR OTHERWISE MANAGE PRESCRIPTION DRUG BENEFITS; AND~~

~~(5) A LIST OF ANY DRUGS THAT THE PHARMACY BENEFITS MANAGER, DIRECTLY OR INDIRECTLY, REPACKAGED AND ASSIGNED NEW OR DIFFERENT NATIONAL DRUG CODE NUMBERS INCLUDING, FOR EACH DRUG ON THE LIST:~~

~~(I) THE DRUG NAME AND STRENGTH;~~

~~(II) THE ORIGINAL NATIONAL DRUG CODE NUMBER AND THE NEW NATIONAL DRUG CODE NUMBER; AND~~

~~(III) THE ORIGINAL PRICE AND THE NEW PRICE.~~

~~(B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL BE PROVIDED:~~

~~(1) IN THE AGGREGATE;~~

~~(2) FOR EACH THERAPEUTIC CLASS OF DRUGS ON A LIST OF SPECIFIED THERAPEUTIC CLASSES; AND~~

~~(3) FOR FIVE INDIVIDUAL PRESCRIBED DRUGS IN EACH THERAPEUTIC CLASS OF DRUGS AS REQUESTED BY THE PURCHASER.~~



~~(c) A THERAPEUTIC CLASS SHALL INCLUDE AT LEAST TWO DRUGS.~~

~~15-1604.~~

~~(A) AT LEAST QUARTERLY, A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO A PURCHASER IN WRITING:~~

~~(1) THE AMOUNT OF ALL REBATES, ADMINISTRATIVE FEES, DETAILING PAYMENTS, EDUCATIONAL PAYMENTS, AND OTHER RETROSPECTIVE DISCOUNTS THAT THE PHARMACY BENEFITS MANAGER RECEIVES, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PURCHASER;~~

~~(2) THE NATURE, TYPE, AND AMOUNT OF ALL OTHER REVENUE THAT THE PHARMACY BENEFITS MANAGER RECEIVES, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PURCHASER;~~

~~(3) ANY PRESCRIPTION DRUG UTILIZATION INFORMATION RELATED TO UTILIZATION BY THE PURCHASER'S BENEFICIARIES OR AGGREGATE UTILIZATION DATA THAT IS NOT SPECIFIC TO AN INDIVIDUAL BENEFICIARY, PRESCRIBER, OR PURCHASER;~~

~~(4) ANY ADMINISTRATIVE OR OTHER FEES CHARGED BY THE PHARMACY BENEFITS MANAGER TO THE PURCHASER;~~

~~(5) ANY ARRANGEMENTS WITH PRESCRIBING PROVIDERS, MEDICAL GROUPS, INDIVIDUAL PRACTICE ASSOCIATIONS, PHARMACY PROVIDERS, OR OTHER PERSONS THAT ARE ASSOCIATED WITH ACTIVITIES OF THE PHARMACY BENEFITS MANAGER TO ENCOURAGE FORMULARY COMPLIANCE OR OTHERWISE MANAGE PRESCRIPTION DRUG BENEFITS;~~

~~(6) A LIST OF ANY DRUGS THAT THE PHARMACY BENEFITS MANAGER, DIRECTLY OR INDIRECTLY, REPACKAGED AND ASSIGNED NEW OR DIFFERENT NATIONAL DRUG CODE NUMBERS INCLUDING, FOR EACH DRUG ON THE LIST:~~

~~(i) THE DRUG NAME AND STRENGTH;~~

~~(II) THE ORIGINAL NATIONAL DRUG CODE NUMBER AND THE NEW NATIONAL DRUG CODE NUMBER; AND~~

~~(III) THE ORIGINAL PRICE AND THE NEW PRICE; AND~~

~~(7) A LIST OF PRESCRIPTIONS FOR WHICH THERE WAS A DIFFERENCE BETWEEN THE PRICE PAID TO A RETAIL PHARMACY AND THE AMOUNT THAT WAS BILLED TO THE PURCHASER INCLUDING, FOR EACH PRESCRIPTION:~~

~~(i) THE PRESCRIPTION NUMBER;~~

~~(ii) THE DATE THE PRESCRIPTION WAS PROCESSED BY THE PHARMACY BENEFITS MANAGER;~~

~~(iii) THE NATIONAL DRUG CODE NUMBER;~~

~~(iv) THE BENEFICIARY'S NAME; AND~~

~~(v) THE PRICE PAID TO THE RETAIL PHARMACY AND THE AMOUNT BILLED TO THE PURCHASER.~~

~~(B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL BE PROVIDED:~~

~~(1) IN THE AGGREGATE;~~

~~(2) FOR EACH THERAPEUTIC CLASS OF DRUGS ON A LIST OF SPECIFIED THERAPEUTIC CLASSES; AND~~

~~(3) FOR FIVE INDIVIDUAL PRESCRIBED DRUGS IN EACH THERAPEUTIC CLASS OF DRUGS AS REQUESTED BY THE PURCHASER.~~

~~(C) A THERAPEUTIC CLASS SHALL INCLUDE AT LEAST TWO DRUGS.~~

~~15-1605.~~

~~(A) EXCEPT FOR UTILIZATION INFORMATION, AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PHARMACY BENEFITS MANAGER NEED NOT MAKE THE DISCLOSURES REQUIRED UNDER §§ 15-1603 AND 15-1604 OF THIS SUBTITLE UNLESS AND UNTIL THE PROSPECTIVE PURCHASER OR THE PURCHASER AGREES IN WRITING TO MAINTAIN AS~~

~~CONFIDENTIAL ANY PROPRIETARY INFORMATION DISCLOSED BY THE PHARMACY BENEFITS MANAGER.~~

~~(B) THE AGREEMENT UNDER SUBSECTION (A) OF THIS SECTION MAY:~~

~~(1) PROVIDE FOR EQUITABLE AND LEGAL REMEDIES IN THE EVENT OF A VIOLATION OF THE AGREEMENT; AND~~

~~(2) INCLUDE PERSONS WITH WHICH THE PROSPECTIVE PURCHASER OR PURCHASER CONTRACTS TO PROVIDE CONSULTING SERVICES RELATING TO PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(C) PROPRIETARY INFORMATION INCLUDES:~~

~~(1) TRADE SECRETS; AND~~

~~(2) INFORMATION ABOUT PRICING, COSTS, REVENUES, TAXES, MARKET SHARE, NEGOTIATING STRATEGIES, CUSTOMERS, AND PERSONNEL HELD BY A PHARMACY BENEFITS MANAGER AND USED FOR ITS BUSINESS PURPOSES.~~

~~(D) THIS SECTION DOES NOT DIMINISH THE AUTHORITY OF THE OFFICE OF THE ATTORNEY GENERAL OR THE COMMISSIONER TO OBTAIN INFORMATION AND USE THE INFORMATION IN ANY PROCEEDING.~~

~~15-1606.~~

~~A CONTRACT EXECUTED BY A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES SHALL INCLUDE:~~

~~(1) THE AMOUNT OF THE TOTAL REVENUES, REBATES, AND DISCOUNTS IDENTIFIED IN §§ 15-1603 AND 15-1604 OF THIS SUBTITLE THAT WILL BE PASSED ON TO THE PURCHASER;~~

~~(2) THE MAXIMUM ALLOWABLE COST AND AVERAGE WHOLESAL PRICE RESOURCES USED TO DETERMINE THE PRICE PAID TO A PHARMACY AND BILLED TO THE PURCHASER;~~

~~(3) THE CONDITIONS UNDER WHICH BENEFICIARY UTILIZATION DATA MAY BE DISCLOSED OR SOLD BY THE PHARMACY BENEFITS MANAGER TO ANY PERSON OTHER THAN THE PURCHASER;~~

~~(4) ANY ADMINISTRATIVE OR OTHER FEES;~~

~~(I) CHARGED BY THE PHARMACY BENEFITS MANAGER TO THE PURCHASER; OR~~

~~(II) COLLECTED BY THE PHARMACY BENEFITS MANAGER ON BEHALF OF THE PURCHASER;~~

~~(5) (I) THE CONDITIONS UNDER WHICH AN AUDIT WILL BE CONDUCTED OF THE CONTRACT FOR PHARMACY BENEFITS MANAGEMENT SERVICES;~~

~~(II) WHO WILL CONDUCT THE AUDIT; AND~~

~~(III) WHO WILL PAY FOR THE AUDIT;~~

~~(6) ANY REVENUES, REBATES, OR DISCOUNTS RECEIVED, DIRECTLY OR INDIRECTLY, BY THE PHARMACY BENEFITS MANAGER FROM PERSONS OTHER THAN PHARMACEUTICAL MANUFACTURERS AND LABELERS THAT ARE SPECIFIC TO THE PHARMACY BENEFITS MANAGEMENT SERVICES TO BE PROVIDED TO THE PURCHASER;~~

~~(7) THE PROCESS FOR THE DEVELOPMENT OF FORMULARIES, NOTIFICATION OF CHANGES TO FORMULARIES, AND APPROVAL OF CHANGES BY THE PURCHASER; AND~~

~~(8) AN AGREEMENT TO PROVIDE TO THE PURCHASER A LIST OF PRESCRIPTIONS FOR WHICH THERE WAS A DIFFERENCE BETWEEN THE PRICE PAID TO A RETAIL PHARMACY AND THE AMOUNT THAT WILL BE OR WAS BILLED TO THE PURCHASER INCLUDING, FOR EACH PRESCRIPTION:~~

~~(I) THE PRESCRIPTION NUMBER;~~

~~(II) THE DATE THE PRESCRIPTION DRUG WAS PROCESSED BY THE PHARMACY BENEFITS MANAGER;~~

~~(III) THE NATIONAL DRUG CODE NUMBER;~~

~~(IV) THE BENEFICIARY'S NAME; AND~~

~~(V) THE PRICE PAID TO THE RETAIL PHARMACY AND THE AMOUNT BILLED TO THE PURCHASER.~~

~~ALL DISCLOSURES MADE UNDER THIS SUBTITLE SHALL COMPLY WITH THE PRIVACY STANDARDS OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.~~

~~15-1608.~~

~~ON OR BEFORE APRIL 1, 2009, THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

~~15-1609.~~

~~(A) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.~~

~~(B) IN ADDITION TO OR INSTEAD OF ASSESSING A CIVIL PENALTY, THE COMMISSIONER MAY REQUIRE THE PHARMACY BENEFITS MANAGER TO MAKE RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF THIS SUBTITLE.~~

15-1601.

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

(B) "BENEFICIARY" MEANS AN INDIVIDUAL WHO RECEIVES PRESCRIPTION DRUG COVERAGE OR BENEFITS FROM A PURCHASER.

(C) "ERISA" HAS THE MEANING STATED IN § 8-301 OF THIS ARTICLE.

(D) (1) "MANUFACTURER PAYMENTS" MEANS ANY COMPENSATION OR REMUNERATION A PHARMACY BENEFITS MANAGER RECEIVES FROM OR ON BEHALF OF A PHARMACEUTICAL MANUFACTURER.

(2) "MANUFACTURER PAYMENTS" INCLUDES:

(I) PAYMENTS RECEIVED IN ACCORDANCE WITH AGREEMENTS WITH PHARMACEUTICAL MANUFACTURERS FOR FORMULARY PLACEMENT AND, IF APPLICABLE, DRUG UTILIZATION;

(II) REBATES, REGARDLESS OF HOW CATEGORIZED;

(III) MARKET SHARE INCENTIVES;

(IV) COMMISSIONS;

(V) FEES UNDER PRODUCTS AND SERVICES AGREEMENTS;

(VI) ANY FEES RECEIVED FOR THE SALE OF UTILIZATION DATA TO A PHARMACEUTICAL MANUFACTURER; AND

(VII) ADMINISTRATIVE OR MANAGEMENT FEES.

(3) "MANUFACTURER PAYMENTS" DOES NOT INCLUDE PURCHASE DISCOUNTS BASED ON INVOICED PURCHASE TERMS.

(E) "NONPROFIT HEALTH MAINTENANCE ORGANIZATION" HAS THE MEANING STATED IN § 6-121(A) OF THIS ARTICLE.

(F) (1) "PHARMACY BENEFITS MANAGEMENT SERVICES" MEANS:

(I) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE TO BENEFICIARIES;

(II) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG COVERAGE PROVIDED BY A PURCHASER FOR BENEFICIARIES; AND

(III) ANY OF THE FOLLOWING SERVICES PROVIDED WITH REGARD TO THE ADMINISTRATION OF PRESCRIPTION DRUG COVERAGE:

1. MAIL SERVICE PHARMACY;

2. CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO BENEFICIARIES;

3. CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;

4. REBATE CONTRACTING AND ADMINISTRATION;

5. PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION, AND GENERIC SUBSTITUTION PROGRAMS; OR

6. DISEASE MANAGEMENT PROGRAMS.

**(2) “PHARMACY BENEFITS MANAGEMENT SERVICES” DOES NOT INCLUDE ANY SERVICE PROVIDED BY A NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT OPERATES AS A GROUP MODEL, PROVIDED THAT THE SERVICE:**

**(I) IS PROVIDED SOLELY TO A MEMBER OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND**

**(II) IS FURNISHED THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.**

**(G) “PHARMACY BENEFITS MANAGER” MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.**

**(H) “PROPRIETARY INFORMATION” MEANS:**

**(1) A TRADE SECRET;**

**(2) CONFIDENTIAL COMMERCIAL INFORMATION; OR**

**(3) CONFIDENTIAL FINANCIAL INFORMATION.**

**(I) (1) “PURCHASER” MEANS THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM, AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT:**

**(I) PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS IN THE STATE; AND**

**(II) ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.**

**(2) “PURCHASER” DOES NOT INCLUDE A PERSON THAT PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH PLANS SUBJECT TO ERISA AND DOES NOT PROVIDE PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH INSURANCE, UNLESS THE PERSON IS A MULTIPLE EMPLOYER WELFARE ARRANGEMENT AS DEFINED IN § 514(B)(6)(A)(II) OF ERISA.**

**(J) “REBATE SHARING CONTRACT” MEANS A CONTRACT BETWEEN A PHARMACY BENEFITS MANAGER AND A PURCHASER UNDER WHICH THE**

PHARMACY BENEFITS MANAGER AGREES TO SHARE MANUFACTURER PAYMENTS WITH THE PURCHASER.

(K) "TRADE SECRET" HAS THE MEANING STATED IN § 11-1201 OF THE COMMERCIAL LAW ARTICLE.

15-1602.

THE PROVISIONS OF §§ 15-1603 THROUGH 15-1606 OF THIS SUBTITLE DO NOT APPLY TO A PHARMACY BENEFITS MANAGER WHEN PROVIDING PHARMACY BENEFITS MANAGEMENT SERVICES TO A PURCHASER THAT IS AFFILIATED WITH THE PHARMACY BENEFITS MANAGER THROUGH COMMON OWNERSHIP WITHIN AN INSURANCE HOLDING COMPANY.

15-1603.

(A) BEFORE ENTERING INTO A CONTRACT WITH A PURCHASER, A PHARMACY BENEFITS MANAGER:

(1) AS APPLICABLE, SHALL INFORM THE PURCHASER THAT THE PHARMACY BENEFITS MANAGER MAY:

(I) SOLICIT AND RECEIVE MANUFACTURER PAYMENTS;

(II) PASS THROUGH OR RETAIN THE MANUFACTURER PAYMENTS DEPENDING ON THE CONTRACT TERMS WITH A PURCHASER;

(III) SELL AGGREGATE UTILIZATION INFORMATION; AND

(IV) SHARE AGGREGATE UTILIZATION INFORMATION WITH OTHER ENTITIES; AND

(2) SHALL OFFER TO PROVIDE TO THE PURCHASER A REPORT THAT CONTAINS THE:

(I) NET REVENUE OF THE PHARMACY BENEFITS MANAGER FROM SALES OF PRESCRIPTION DRUGS TO PURCHASERS MADE THROUGH THE PHARMACY BENEFITS MANAGER'S NETWORK OF CONTRACTUALLY AFFILIATED RETAIL PHARMACIES OR THROUGH THE PHARMACY BENEFITS MANAGER'S MAIL ORDER PHARMACIES, WITH RESPECT TO THE PHARMACY BENEFITS MANAGER'S ENTIRE CLIENT BASE OF PURCHASERS; AND



**(II) AMOUNT OF ALL MANUFACTURER PAYMENTS EARNED BY THE PHARMACY BENEFITS MANAGER.**

**(B) (1) IF A PURCHASER REQUESTS THE INFORMATION DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, A PHARMACY BENEFITS MANAGER SHALL PROVIDE THE INFORMATION BEFORE ENTERING INTO A CONTRACT WITH THE PURCHASER.**

**(2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, IF A PHARMACY BENEFITS MANAGER REQUIRES A NONDISCLOSURE AGREEMENT UNDER WHICH A PURCHASER AGREES THAT THE INFORMATION DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION IS PROPRIETARY INFORMATION, THE PHARMACY BENEFITS MANAGER MAY NOT BE REQUIRED TO PROVIDE THE INFORMATION UNTIL THE PURCHASER HAS SIGNED THE NONDISCLOSURE AGREEMENT.**

**15-1604.**

**(A) IF A PURCHASER HAS A REBATE SHARING CONTRACT, A PHARMACY BENEFITS MANAGER SHALL OFFER TO PROVIDE THE PURCHASER A REPORT FOR EACH FISCAL QUARTER AND EACH FISCAL YEAR THAT CONTAINS THE AMOUNT OF THE:**

**(1) NET REVENUE OF THE PHARMACY BENEFITS MANAGER FROM SALES OF PRESCRIPTION DRUGS TO PURCHASERS MADE THROUGH THE PHARMACY BENEFITS MANAGER'S NETWORK OF CONTRACTUALLY AFFILIATED RETAIL PHARMACIES OR THROUGH THE PHARMACY BENEFITS MANAGER'S MAIL ORDER PHARMACIES, WITH RESPECT TO THE PHARMACY BENEFITS MANAGER'S ENTIRE CLIENT BASE OF PURCHASERS;**

**(2) TOTAL PRESCRIPTION DRUG EXPENDITURES APPLICABLE TO THE PURCHASER;**

**(3) TOTAL MANUFACTURER PAYMENTS EARNED BY THE PHARMACY BENEFITS MANAGER DURING THE APPLICABLE REPORTING PERIOD; AND**

**(4) TOTAL REBATES APPLICABLE TO THE PURCHASER DURING THE APPLICABLE REPORTING PERIOD.**

**(B) IF THE EXACT AMOUNT OF EACH ITEM TO BE REPORTED UNDER SUBSECTION (A) OF THIS SECTION IS NOT KNOWN BY THE PHARMACY BENEFITS**

MANAGER AT THE TIME OF ITS REPORT, THE PHARMACY BENEFITS MANAGER SHALL OFFER TO PROVIDE:

(1) ITS CURRENT BEST ESTIMATE OF THE AMOUNT OF EACH ITEM;  
AND

(2) AN UPDATED REPORT CONTAINING THE EXACT AMOUNT OF EACH ITEM IMMEDIATELY AFTER IT BECOMES AVAILABLE.

(c) (1) A PHARMACY BENEFITS MANAGER SHALL PROVIDE THE INFORMATION DESCRIBED IN SUBSECTIONS (A) AND (B) OF THIS SECTION IF REQUESTED BY THE PURCHASER.

(2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, IF A PHARMACY BENEFITS MANAGER REQUIRES A NONDISCLOSURE AGREEMENT UNDER WHICH A PURCHASER AGREES THAT THE INFORMATION IN SUBSECTIONS (A) AND (B) OF THIS SECTION IS PROPRIETARY INFORMATION, THE PHARMACY BENEFITS MANAGER MAY NOT BE REQUIRED TO PROVIDE THE INFORMATION UNTIL THE PURCHASER HAS SIGNED THE NONDISCLOSURE AGREEMENT.

15-1605.

THIS SUBTITLE DOES NOT DIMINISH THE AUTHORITY OF THE OFFICE OF THE ATTORNEY GENERAL OR THE COMMISSIONER TO OBTAIN INFORMATION RELATING TO A PHARMACY BENEFITS MANAGER AND USE THE INFORMATION IN ANY PROCEEDING.

**Article - Health - General**

19-706.

**(PPP) THE PROVISIONS OF TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

## CHAPTER 206

(House Bill 120)

AN ACT concerning

### **Pharmacy Benefits Managers - ~~Transparency~~ Disclosures**

FOR the purpose of ~~requiring a pharmacy benefits manager to disclose in writing certain information to a prospective purchaser and a purchaser; specifying the manner in which certain disclosures must be provided; providing that a pharmacy benefits manager need not make certain disclosures unless and until the prospective purchaser or the purchaser agrees in writing to maintain certain information as confidential; providing that certain agreements may include certain remedies and certain persons; requiring a contract executed by a pharmacy benefits manager for the provision of pharmacy benefits management services to include certain items; requiring the Commissioner to adopt certain regulations on or before a certain date; requiring certain pharmacy benefits managers to provide certain information and offer to provide a certain report to a certain purchaser before entering into a contract with the purchaser under certain circumstances; requiring a pharmacy benefits manager to provide certain reports to a certain purchaser under certain circumstances; providing that this Act does not diminish the authority of the Office of the Attorney General or the Maryland Insurance Commissioner to obtain and use certain information in certain proceedings; authorizing the Commissioner to assess a certain penalty or require certain restitution under certain circumstances; making certain provisions of law applicable to health maintenance organizations;~~ defining certain terms; and generally relating to regulation of pharmacy benefits managers.

BY adding to

Article – Insurance

Section 15-1601 through ~~15-1609 15-1606~~ 15-1605 to be under the new subtitle “Subtitle 16. Pharmacy Benefits Managers”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General

Section 19-706(ppp)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

**Article - Insurance**

**SUBTITLE 16. PHARMACY BENEFITS MANAGERS.**

~~15-1601.~~

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

~~(B) "BENEFICIARY" MEANS AN INDIVIDUAL ON WHOSE BEHALF A PURCHASER ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER.~~

~~(C) "LABELER" MEANS A PERSON THAT:~~

~~(1) RECEIVES PRESCRIPTION DRUGS FROM A MANUFACTURER OR WHOLESALE AND REPACKAGES THOSE DRUGS FOR LATER RETAIL SALE; AND~~

~~(2) HAS A LABELER CODE FROM THE U.S. FOOD AND DRUG ADMINISTRATION UNDER 21 CFR § 207.20.~~

~~(D) (1) "PHARMACY BENEFITS MANAGEMENT SERVICES" MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS.~~

~~(2) "PHARMACY BENEFITS MANAGEMENT SERVICES" INCLUDES:~~

~~(I) PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;~~

~~(II) PROCESSING OF PRESCRIPTION DRUG CLAIMS;~~

~~(III) ADMINISTRATION OF PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS; AND~~

~~(IV) NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACY PROVIDERS.~~

~~(E) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(F) "PROSPECTIVE PURCHASER" MEANS A PERSON TO WHICH A PHARMACY BENEFITS MANAGER OFFERS TO PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(G) (1) "PURCHASER" MEANS A PERSON THAT ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(2) "PURCHASER" INCLUDES THE STATE.~~

~~(H) "TRADE SECRET" HAS THE MEANING STATED IN § 11-1201 OF THE COMMERCIAL LAW ARTICLE.~~

~~15-1602.~~

~~(A) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH GENERAL ARTICLE.~~

~~(B) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION, OR AN AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION ACTING OR REPRESENTING ITSELF AS A PHARMACY BENEFITS MANAGER IF:~~

~~(1) THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION OR THE AFFILIATE, SUBSIDIARY, OR OTHER RELATED ENTITY OF THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION DIRECTLY OFFERS OR PROVIDES PHARMACY BENEFITS MANAGEMENT SERVICES; AND~~

~~(2) THE PHARMACY BENEFITS MANAGEMENT SERVICES ARE OFFERED OR PROVIDED ONLY TO ENROLLEES, SUBSCRIBERS, OR INSUREDS WHO ALSO ARE COVERED BY HEALTH BENEFITS OFFERED OR PROVIDED BY THE INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION.~~

~~15-1603.~~

~~(A) A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO A PROSPECTIVE PURCHASER IN WRITING:~~

~~(1) THE AMOUNT OF ALL REBATES, ADMINISTRATIVE FEES, DETAILING PAYMENTS, EDUCATIONAL PAYMENTS, AND OTHER RETROSPECTIVE DISCOUNTS THAT THE PHARMACY BENEFITS MANAGER ESTIMATES IT WOULD RECEIVE, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PROSPECTIVE PURCHASER, IF THE PROSPECTIVE PURCHASER WERE TO CONTRACT WITH THE PHARMACY BENEFITS MANAGER;~~

~~(2) THE NATURE, TYPE, AND AMOUNT OF ALL OTHER REVENUE THAT THE PHARMACY BENEFITS MANAGER ESTIMATES IT WOULD RECEIVE, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PROSPECTIVE PURCHASER, IF THE PROSPECTIVE PURCHASER WERE TO CONTRACT WITH THE PHARMACY BENEFITS MANAGER;~~

~~(3) ANY ADMINISTRATIVE OR OTHER FEES THAT WOULD BE CHARGED BY THE PHARMACY BENEFITS MANAGER TO THE PROSPECTIVE PURCHASER;~~

~~(4) ANY ARRANGEMENTS WITH PRESCRIBING PROVIDERS, MEDICAL GROUPS, INDIVIDUAL PRACTICE ASSOCIATIONS, PHARMACY PROVIDERS, OR OTHER PERSONS THAT ARE ASSOCIATED WITH ACTIVITIES OF THE PHARMACY BENEFITS MANAGER TO ENCOURAGE FORMULARY COMPLIANCE OR OTHERWISE MANAGE PRESCRIPTION DRUG BENEFITS; AND~~

~~(5) A LIST OF ANY DRUGS THAT THE PHARMACY BENEFITS MANAGER, DIRECTLY OR INDIRECTLY, REPACKAGED AND ASSIGNED NEW OR DIFFERENT NATIONAL DRUG CODE NUMBERS INCLUDING, FOR EACH DRUG ON THE LIST:~~

~~(I) THE DRUG NAME AND STRENGTH;~~

~~(II) THE ORIGINAL NATIONAL DRUG CODE NUMBER AND THE NEW NATIONAL DRUG CODE NUMBER; AND~~

~~(III) THE ORIGINAL PRICE AND THE NEW PRICE.~~

~~(B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL BE PROVIDED:~~

~~(1) IN THE AGGREGATE;~~

~~(2) FOR EACH THERAPEUTIC CLASS OF DRUGS ON A LIST OF SPECIFIED THERAPEUTIC CLASSES; AND~~

~~(3) FOR FIVE INDIVIDUAL PRESCRIBED DRUGS IN EACH THERAPEUTIC CLASS OF DRUGS AS REQUESTED BY THE PURCHASER.~~

~~(c) A THERAPEUTIC CLASS SHALL INCLUDE AT LEAST TWO DRUGS.~~

~~15-1604.~~

~~(A) AT LEAST QUARTERLY, A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO A PURCHASER IN WRITING:~~

~~(1) THE AMOUNT OF ALL REBATES, ADMINISTRATIVE FEES, DETAILING PAYMENTS, EDUCATIONAL PAYMENTS, AND OTHER RETROSPECTIVE DISCOUNTS THAT THE PHARMACY BENEFITS MANAGER RECEIVES, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PURCHASER;~~

~~(2) THE NATURE, TYPE, AND AMOUNT OF ALL OTHER REVENUE THAT THE PHARMACY BENEFITS MANAGER RECEIVES, DIRECTLY OR INDIRECTLY, FROM PHARMACEUTICAL MANUFACTURERS OR LABELERS IN CONNECTION WITH PRESCRIPTION DRUG BENEFITS SPECIFIC TO THE PURCHASER;~~

~~(3) ANY PRESCRIPTION DRUG UTILIZATION INFORMATION RELATED TO UTILIZATION BY THE PURCHASER'S BENEFICIARIES OR AGGREGATE UTILIZATION DATA THAT IS NOT SPECIFIC TO AN INDIVIDUAL BENEFICIARY, PRESCRIBER, OR PURCHASER;~~

~~(4) ANY ADMINISTRATIVE OR OTHER FEES CHARGED BY THE PHARMACY BENEFITS MANAGER TO THE PURCHASER;~~

~~(5) ANY ARRANGEMENTS WITH PRESCRIBING PROVIDERS, MEDICAL GROUPS, INDIVIDUAL PRACTICE ASSOCIATIONS, PHARMACY PROVIDERS, OR OTHER PERSONS THAT ARE ASSOCIATED WITH ACTIVITIES OF THE PHARMACY BENEFITS MANAGER TO ENCOURAGE FORMULARY COMPLIANCE OR OTHERWISE MANAGE PRESCRIPTION DRUG BENEFITS;~~

~~(6) A LIST OF ANY DRUGS THAT THE PHARMACY BENEFITS MANAGER, DIRECTLY OR INDIRECTLY, REPACKAGED AND ASSIGNED NEW OR~~

~~DIFFERENT NATIONAL DRUG CODE NUMBERS INCLUDING, FOR EACH DRUG ON THE LIST:~~

~~(I) THE DRUG NAME AND STRENGTH;~~

~~(II) THE ORIGINAL NATIONAL DRUG CODE NUMBER AND THE NEW NATIONAL DRUG CODE NUMBER; AND~~

~~(III) THE ORIGINAL PRICE AND THE NEW PRICE; AND~~

~~(7) A LIST OF PRESCRIPTIONS FOR WHICH THERE WAS A DIFFERENCE BETWEEN THE PRICE PAID TO A RETAIL PHARMACY AND THE AMOUNT THAT WAS BILLED TO THE PURCHASER INCLUDING, FOR EACH PRESCRIPTION:~~

~~(I) THE PRESCRIPTION NUMBER;~~

~~(II) THE DATE THE PRESCRIPTION WAS PROCESSED BY THE PHARMACY BENEFITS MANAGER;~~

~~(III) THE NATIONAL DRUG CODE NUMBER;~~

~~(IV) THE BENEFICIARY'S NAME; AND~~

~~(V) THE PRICE PAID TO THE RETAIL PHARMACY AND THE AMOUNT BILLED TO THE PURCHASER.~~

~~(B) THE DISCLOSURE REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL BE PROVIDED:~~

~~(1) IN THE AGGREGATE;~~

~~(2) FOR EACH THERAPEUTIC CLASS OF DRUGS ON A LIST OF SPECIFIED THERAPEUTIC CLASSES; AND~~

~~(3) FOR FIVE INDIVIDUAL PRESCRIBED DRUGS IN EACH THERAPEUTIC CLASS OF DRUGS AS REQUESTED BY THE PURCHASER.~~

~~(C) A THERAPEUTIC CLASS SHALL INCLUDE AT LEAST TWO DRUGS.~~

~~15-1605.~~



~~(A) EXCEPT FOR UTILIZATION INFORMATION, AND EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PHARMACY BENEFITS MANAGER NEED NOT MAKE THE DISCLOSURES REQUIRED UNDER §§ 15-1603 AND 15-1604 OF THIS SUBTITLE UNLESS AND UNTIL THE PROSPECTIVE PURCHASER OR THE PURCHASER AGREES IN WRITING TO MAINTAIN AS CONFIDENTIAL ANY PROPRIETARY INFORMATION DISCLOSED BY THE PHARMACY BENEFITS MANAGER.~~

~~(B) THE AGREEMENT UNDER SUBSECTION (A) OF THIS SECTION MAY:~~

~~(1) PROVIDE FOR EQUITABLE AND LEGAL REMEDIES IN THE EVENT OF A VIOLATION OF THE AGREEMENT; AND~~

~~(2) INCLUDE PERSONS WITH WHICH THE PROSPECTIVE PURCHASER OR PURCHASER CONTRACTS TO PROVIDE CONSULTING SERVICES RELATING TO PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(C) PROPRIETARY INFORMATION INCLUDES:~~

~~(1) TRADE SECRETS; AND~~

~~(2) INFORMATION ABOUT PRICING, COSTS, REVENUES, TAXES, MARKET SHARE, NEGOTIATING STRATEGIES, CUSTOMERS, AND PERSONNEL HELD BY A PHARMACY BENEFITS MANAGER AND USED FOR ITS BUSINESS PURPOSES.~~

~~(D) THIS SECTION DOES NOT DIMINISH THE AUTHORITY OF THE OFFICE OF THE ATTORNEY GENERAL OR THE COMMISSIONER TO OBTAIN INFORMATION AND USE THE INFORMATION IN ANY PROCEEDING.~~

~~15-1606.~~

~~A CONTRACT EXECUTED BY A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES SHALL INCLUDE:~~

~~(1) THE AMOUNT OF THE TOTAL REVENUES, REBATES, AND DISCOUNTS IDENTIFIED IN §§ 15-1603 AND 15-1604 OF THIS SUBTITLE THAT WILL BE PASSED ON TO THE PURCHASER;~~

~~(2) THE MAXIMUM ALLOWABLE COST AND AVERAGE WHOLESALE PRICE RESOURCES USED TO DETERMINE THE PRICE PAID TO A PHARMACY AND BILLED TO THE PURCHASER;~~

~~(3) THE CONDITIONS UNDER WHICH BENEFICIARY UTILIZATION DATA MAY BE DISCLOSED OR SOLD BY THE PHARMACY BENEFITS MANAGER TO ANY PERSON OTHER THAN THE PURCHASER;~~

~~(4) ANY ADMINISTRATIVE OR OTHER FEES:~~

~~(I) CHARGED BY THE PHARMACY BENEFITS MANAGER TO THE PURCHASER; OR~~

~~(II) COLLECTED BY THE PHARMACY BENEFITS MANAGER ON BEHALF OF THE PURCHASER;~~

~~(5) (I) THE CONDITIONS UNDER WHICH AN AUDIT WILL BE CONDUCTED OF THE CONTRACT FOR PHARMACY BENEFITS MANAGEMENT SERVICES;~~

~~(II) WHO WILL CONDUCT THE AUDIT; AND~~

~~(III) WHO WILL PAY FOR THE AUDIT;~~

~~(6) ANY REVENUES, REBATES, OR DISCOUNTS RECEIVED, DIRECTLY OR INDIRECTLY, BY THE PHARMACY BENEFITS MANAGER FROM PERSONS OTHER THAN PHARMACEUTICAL MANUFACTURERS AND LABELERS THAT ARE SPECIFIC TO THE PHARMACY BENEFITS MANAGEMENT SERVICES TO BE PROVIDED TO THE PURCHASER;~~

~~(7) THE PROCESS FOR THE DEVELOPMENT OF FORMULARIES, NOTIFICATION OF CHANGES TO FORMULARIES, AND APPROVAL OF CHANGES BY THE PURCHASER; AND~~

~~(8) AN AGREEMENT TO PROVIDE TO THE PURCHASER A LIST OF PRESCRIPTIONS FOR WHICH THERE WAS A DIFFERENCE BETWEEN THE PRICE PAID TO A RETAIL PHARMACY AND THE AMOUNT THAT WILL BE OR WAS BILLED TO THE PURCHASER INCLUDING, FOR EACH PRESCRIPTION:~~

~~(I) THE PRESCRIPTION NUMBER;~~

~~(II) THE DATE THE PRESCRIPTION DRUG WAS PROCESSED BY THE PHARMACY BENEFITS MANAGER;~~

~~(III) THE NATIONAL DRUG CODE NUMBER;~~

~~(IV) THE BENEFICIARY'S NAME; AND~~

~~(v) THE PRICE PAID TO THE RETAIL PHARMACY AND THE AMOUNT BILLED TO THE PURCHASER.~~

~~15-1607.~~

~~ALL DISCLOSURES MADE UNDER THIS SUBTITLE SHALL COMPLY WITH THE PRIVACY STANDARDS OF THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.~~

~~15-1608.~~

~~ON OR BEFORE APRIL 1, 2009, THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

~~15-1609.~~

15-1601.

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

(B) "BENEFICIARY" MEANS AN INDIVIDUAL WHO RECEIVES PRESCRIPTION DRUG COVERAGE OR BENEFITS FROM A PURCHASER.

(C) "ERISA" HAS THE MEANING STATED IN § 8-301 OF THIS ARTICLE.

(D) (1) "MANUFACTURER PAYMENTS" MEANS ANY COMPENSATION OR REMUNERATION A PHARMACY BENEFITS MANAGER RECEIVES FROM OR ON BEHALF OF A PHARMACEUTICAL MANUFACTURER.

(2) "MANUFACTURER PAYMENTS" INCLUDES:

(I) PAYMENTS RECEIVED IN ACCORDANCE WITH AGREEMENTS WITH PHARMACEUTICAL MANUFACTURERS FOR FORMULARY PLACEMENT AND, IF APPLICABLE, DRUG UTILIZATION;

(II) REBATES, REGARDLESS OF HOW CATEGORIZED;

(III) MARKET SHARE INCENTIVES;

(IV) COMMISSIONS;

(V) FEES UNDER PRODUCTS AND SERVICES AGREEMENTS;

(VI) ANY FEES RECEIVED FOR THE SALE OF UTILIZATION DATA TO A PHARMACEUTICAL MANUFACTURER; AND

(VII) ADMINISTRATIVE OR MANAGEMENT FEES.

(3) "MANUFACTURER PAYMENTS" DOES NOT INCLUDE PURCHASE DISCOUNTS BASED ON INVOICED PURCHASE TERMS.

(E) "NONPROFIT HEALTH MAINTENANCE ORGANIZATION" HAS THE MEANING STATED IN § 6-121(A) OF THIS ARTICLE.

(F) (1) "PHARMACY BENEFITS MANAGEMENT SERVICES" MEANS:

(I) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE TO BENEFICIARIES;

(II) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG COVERAGE PROVIDED BY A PURCHASER FOR BENEFICIARIES; AND

(III) ANY OF THE FOLLOWING SERVICES PROVIDED WITH REGARD TO THE ADMINISTRATION OF PRESCRIPTION DRUG COVERAGE:

1. MAIL SERVICE PHARMACY;

2. CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO BENEFICIARIES;

3. CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;

4. REBATE CONTRACTING AND ADMINISTRATION;

5. PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION, AND GENERIC SUBSTITUTION PROGRAMS; OR

6. DISEASE MANAGEMENT PROGRAMS.

(2) "PHARMACY BENEFITS MANAGEMENT SERVICES" DOES NOT INCLUDE ANY SERVICE PROVIDED BY A NONPROFIT HEALTH MAINTENANCE

ORGANIZATION THAT OPERATES AS A GROUP MODEL, PROVIDED THAT THE SERVICE:

(I) IS PROVIDED SOLELY TO A MEMBER OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND

(II) IS FURNISHED THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.

(G) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.

(H) "PROPRIETARY INFORMATION" MEANS:

(1) A TRADE SECRET;

(2) CONFIDENTIAL COMMERCIAL INFORMATION; OR

(3) CONFIDENTIAL FINANCIAL INFORMATION.

(I) (1) "PURCHASER" MEANS THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM, AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT:

(I) PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS IN THE STATE; AND

(II) ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.

(2) "PURCHASER" DOES NOT INCLUDE A PERSON THAT PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH PLANS SUBJECT TO ERISA AND DOES NOT PROVIDE PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH INSURANCE, UNLESS THE PERSON IS A MULTIPLE EMPLOYER WELFARE ARRANGEMENT AS DEFINED IN § 514(B)(6)(A)(II) OF ERISA.

(J) "REBATE SHARING CONTRACT" MEANS A CONTRACT BETWEEN A PHARMACY BENEFITS MANAGER AND A PURCHASER UNDER WHICH THE PHARMACY BENEFITS MANAGER AGREES TO SHARE MANUFACTURER PAYMENTS WITH THE PURCHASER.

(K) "TRADE SECRET" HAS THE MEANING STATED IN § 11-1201 OF THE COMMERCIAL LAW ARTICLE.

15-1602.

THE PROVISIONS OF §§ 15-1603 THROUGH 15-1606 OF THIS SUBTITLE DO NOT APPLY TO A PHARMACY BENEFITS MANAGER WHEN PROVIDING PHARMACY BENEFITS MANAGEMENT SERVICES TO A PURCHASER THAT IS AFFILIATED WITH THE PHARMACY BENEFITS MANAGER THROUGH COMMON OWNERSHIP WITHIN AN INSURANCE HOLDING COMPANY.

15-1603.

(A) BEFORE ENTERING INTO A CONTRACT WITH A PURCHASER, A PHARMACY BENEFITS MANAGER:

(1) AS APPLICABLE, SHALL INFORM THE PURCHASER THAT THE PHARMACY BENEFITS MANAGER MAY:

(I) SOLICIT AND RECEIVE MANUFACTURER PAYMENTS;

(II) PASS THROUGH OR RETAIN THE MANUFACTURER PAYMENTS DEPENDING ON THE CONTRACT TERMS WITH A PURCHASER;

(III) SELL AGGREGATE UTILIZATION INFORMATION; AND

(IV) SHARE AGGREGATE UTILIZATION INFORMATION WITH OTHER ENTITIES; AND

(2) SHALL OFFER TO PROVIDE TO THE PURCHASER A REPORT THAT CONTAINS THE:

(I) NET REVENUE OF THE PHARMACY BENEFITS MANAGER FROM SALES OF PRESCRIPTION DRUGS TO PURCHASERS MADE THROUGH THE PHARMACY BENEFITS MANAGER'S NETWORK OF CONTRACTUALLY AFFILIATED RETAIL PHARMACIES OR THROUGH THE PHARMACY BENEFITS MANAGER'S MAIL ORDER PHARMACIES, WITH RESPECT TO THE PHARMACY BENEFITS MANAGER'S ENTIRE CLIENT BASE OF PURCHASERS; AND

(II) AMOUNT OF ALL MANUFACTURER PAYMENTS EARNED BY THE PHARMACY BENEFITS MANAGER.

**(B) (1) IF A PURCHASER REQUESTS THE INFORMATION DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, A PHARMACY BENEFITS MANAGER SHALL PROVIDE THE INFORMATION BEFORE ENTERING INTO A CONTRACT WITH THE PURCHASER.**

**(2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, IF A PHARMACY BENEFITS MANAGER REQUIRES A NONDISCLOSURE AGREEMENT UNDER WHICH A PURCHASER AGREES THAT THE INFORMATION DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION IS PROPRIETARY INFORMATION, THE PHARMACY BENEFITS MANAGER MAY NOT BE REQUIRED TO PROVIDE THE INFORMATION UNTIL THE PURCHASER HAS SIGNED THE NONDISCLOSURE AGREEMENT.**

**15-1604.**

**(A) IF A PURCHASER HAS A REBATE SHARING CONTRACT, A PHARMACY BENEFITS MANAGER SHALL OFFER TO PROVIDE THE PURCHASER A REPORT FOR EACH FISCAL QUARTER AND EACH FISCAL YEAR THAT CONTAINS THE AMOUNT OF THE:**

**(1) NET REVENUE OF THE PHARMACY BENEFITS MANAGER FROM SALES OF PRESCRIPTION DRUGS TO PURCHASERS MADE THROUGH THE PHARMACY BENEFITS MANAGER'S NETWORK OF CONTRACTUALLY AFFILIATED RETAIL PHARMACIES OR THROUGH THE PHARMACY BENEFITS MANAGER'S MAIL ORDER PHARMACIES, WITH RESPECT TO THE PHARMACY BENEFITS MANAGER'S ENTIRE CLIENT BASE OF PURCHASERS;**

**(2) TOTAL PRESCRIPTION DRUG EXPENDITURES APPLICABLE TO THE PURCHASER;**

**(3) TOTAL MANUFACTURER PAYMENTS EARNED BY THE PHARMACY BENEFITS MANAGER DURING THE APPLICABLE REPORTING PERIOD; AND**

**(4) TOTAL REBATES APPLICABLE TO THE PURCHASER DURING THE APPLICABLE REPORTING PERIOD.**

**(B) IF THE EXACT AMOUNT OF EACH ITEM TO BE REPORTED UNDER SUBSECTION (A) OF THIS SECTION IS NOT KNOWN BY THE PHARMACY BENEFITS MANAGER AT THE TIME OF ITS REPORT, THE PHARMACY BENEFITS MANAGER SHALL OFFER TO PROVIDE:**

(1) ITS CURRENT BEST ESTIMATE OF THE AMOUNT OF EACH ITEM;  
AND

(2) AN UPDATED REPORT CONTAINING THE EXACT AMOUNT OF EACH ITEM IMMEDIATELY AFTER IT BECOMES AVAILABLE.

(C) (1) A PHARMACY BENEFITS MANAGER SHALL PROVIDE THE INFORMATION DESCRIBED IN SUBSECTIONS (A) AND (B) OF THIS SECTION IF REQUESTED BY THE PURCHASER.

(2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, IF A PHARMACY BENEFITS MANAGER REQUIRES A NONDISCLOSURE AGREEMENT UNDER WHICH A PURCHASER AGREES THAT THE INFORMATION IN SUBSECTIONS (A) AND (B) OF THIS SECTION IS PROPRIETARY INFORMATION, THE PHARMACY BENEFITS MANAGER MAY NOT BE REQUIRED TO PROVIDE THE INFORMATION UNTIL THE PURCHASER HAS SIGNED THE NONDISCLOSURE AGREEMENT.

15-1605.

THIS SUBTITLE DOES NOT DIMINISH THE AUTHORITY OF THE OFFICE OF THE ATTORNEY GENERAL OR THE COMMISSIONER TO OBTAIN INFORMATION RELATING TO A PHARMACY BENEFITS MANAGER AND USE THE INFORMATION IN ANY PROCEEDING.

~~15-1606.~~

~~(A) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SUBTITLE.~~

~~(B) IN ADDITION TO OR INSTEAD OF ASSESSING A CIVIL PENALTY, THE COMMISSIONER MAY REQUIRE THE PHARMACY BENEFITS MANAGER TO MAKE RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF THIS SUBTITLE.~~

Article - Health - General

19-706.

(PPP) THE PROVISIONS OF TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.



SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 207

(Senate Bill 742)

AN ACT concerning

### **Human Services - Residential Child Care Program - Bill of Rights**

FOR the purpose of providing that a contract awarded or renewed between a certain agency and a provider of a residential child care program shall require the provider to conspicuously post a “Residents’ Bill of Rights” in the facility of the provider that includes certain rights; requiring a provider of a residential child care program to develop and, on placement, provide to residents and their parents or legal guardians a handbook of the policies of the provider and the contracting agency as they relate to certain issues; requiring certain documentation regarding receipt and review of the handbook by certain persons; providing that nothing in this Act precludes an agency or provider from providing additional rights to a resident; altering a certain definition; and generally relating to residential child care programs.

BY repealing and reenacting, ~~without~~ with amendments,  
Article - Human Services  
Section 8-701  
Annotated Code of Maryland  
(2007 Volume)

BY adding to  
Article - Human Services  
Section 8-707  
Annotated Code of Maryland  
(2007 Volume)

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

### **Article - Human Services**

8-701.

- (a) In this part the following words have the meanings indicated.
- (b) "Agency" means:
  - (1) the Department of Health and Mental Hygiene;
  - (2) the Department of Human Resources; or
  - (3) the Department of Juvenile Services.
- (c) "Certified program administrator" means an individual who is:
  - (1) certified by the State Board for Certification of Residential Child Care Program Administrators under Title 20 of the Health Occupations Article; and
  - (2) responsible for the day-to-day management and operation of a residential child care program.
- (d) "Plan" means the State Resource Plan for Residential Child Care Programs.
- (e) "Provider" means a for profit or not for profit entity licensed by an agency to operate a residential child care program.
- (f) ~~"Residential~~ **EXCEPT AS PROVIDED IN § 8-707 OF THIS SUBTITLE,** "RESIDENTIAL child care program" does not include sites licensed by the Developmental Disabilities Administration.

**8-707.**

**(A) IN THIS SECTION, "RESIDENTIAL CHILD CARE PROGRAM" INCLUDES SITES LICENSED BY THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.**

**(A) (B) A CONTRACT AWARDED OR RENEWED BETWEEN AN AGENCY AND A PROVIDER SHALL REQUIRE THE PROVIDER TO:**

**(1) POST CONSPICUOUSLY A "RESIDENTS' BILL OF RIGHTS" IN THE FACILITY OF THE PROVIDER STATING THAT A RESIDENT HAS A RIGHT:**

**(I) TO BE TREATED WITH FAIRNESS, DIGNITY, AND RESPECT;**

(II) TO RECEIVE APPROPRIATE AND REASONABLE ADULT GUIDANCE, SUPPORT, AND SUPERVISION, CONSISTENT WITH THE RESIDENT'S AGE AND LEVEL OF DEVELOPMENT;

(III) NOT TO BE ABUSED, MISTREATED, THREATENED, HARASSED, OR SUBJECTED TO CORPORAL PUNISHMENT OR TO OTHER UNUSUAL OR EXTREME METHODS OF DISCIPLINE;

(IV) TO HAVE THE RESIDENT'S OPINION HEARD AND TO BE INCLUDED, TO THE GREATEST EXTENT POSSIBLE AND CONSISTENT WITH THE RESIDENT'S AGE AND LEVEL OF DEVELOPMENT, WHEN MAJOR DECISIONS, INCLUDING REGULAR CASE PLANNING MEETINGS, ARE BEING MADE AFFECTING THE RESIDENT'S LIFE;

(V) TO REASONABLE AND CLINICALLY APPROPRIATE VISITATION, MAIL, AND TELEPHONE COMMUNICATION WITH RELATIVES, FRIENDS, ATTORNEYS, SOCIAL WORKERS, THERAPISTS, AND GUARDIANS AD LITEM;

(VI) TO HAVE THE RESIDENT'S RELATIVES AND DESIGNATED REPRESENTATIVES, WHO ARE AUTHORIZED IN WRITING BY THE CONTRACTING AGENCY, TO COMMUNICATE WITH THE FACILITY OF THE PROVIDER, ASK QUESTIONS OF THE FACILITY OF THE PROVIDER, AND HAVE QUESTIONS ANSWERED PROMPTLY BY THE FACILITY OF THE PROVIDER;

(VII) TO LANGUAGE TRANSLATION AND INTERPRETATION SERVICES, IF NECESSARY;

(VIII) NOT TO BE DISCRIMINATED AGAINST ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS; AND

(IX) TO AN APPROPRIATE EDUCATION, INCLUDING EDUCATIONAL SUPPORTS SUCH AS HOMEWORK ASSISTANCE, SUMMER ENRICHMENT OPPORTUNITIES, AND EMPLOYMENT SKILLS TRAINING; ~~AND~~

(2) DEVELOP AND, ON PLACEMENT, PROVIDE TO RESIDENTS AND THEIR PARENTS OR LEGAL GUARDIANS A HANDBOOK OF THE POLICIES OF THE PROVIDER AND THE CONTRACTING AGENCY AS THEY RELATE TO:

(I) THE MISSION OF THE PROGRAM;

- (II) PLACEMENT AND DISCHARGE;
- (III) DAILY ROUTINES;
- (IV) TREATMENT STRATEGIES;
- (V) DISCIPLINARY PRACTICES;
- (VI) VISITING HOURS;
- (VII) COMMUNICATION PROCEDURES WITH RESIDENTS;
- (VIII) GRIEVANCE PROCEDURES;
- (IX) HEALTH CARE ACCESS;
- (X) RELIGIOUS EXERCISE ACCESS;
- (XI) EMERGENCY TELEPHONE CONTACT INFORMATION;
- (XII) FAMILY INVOLVEMENT;
- (XIII) ATTORNEY ACCESS;
- (XIV) COMMUNITY INTEGRATION;
- (XV) EDUCATION;
- (XVI) MEDICAL AND DENTAL CARE;
- (XVII) RECREATION;
- (XVIII) LIFE SKILLS TRAINING;
- (XIX) CLOTHING;
- (XX) PERSONAL FUNDS;
- (XXI) FOOD AND NUTRITION;
- (XXII) DAY CARE;
- (XXIII) PERSONAL BELONGINGS;

(XXIV) EXTRACURRICULAR ACTIVITIES; AND

(XXV) THERAPY; AND

**(3) DOCUMENT IN EACH CHILD'S CASE FILE RECEIPT AND REVIEW BY THE CHILD AND THE PARENT OR GUARDIAN OF THE CHILD OF THE HANDBOOK REQUIRED TO BE PROVIDED UNDER ITEM (2) OF THIS SUBSECTION.**

~~(B)~~ (C) NOTHING IN THIS SECTION PRECLUDES A CONTRACTING AGENCY OR PROVIDER FROM PROVIDING ADDITIONAL RIGHTS TO A RESIDENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 208

(Senate Bill 757)

AN ACT concerning

### **Wetlands - Construction of Structure on Pier - ~~Dorchester County~~ Exception**

FOR the purpose of ~~exempting Dorchester County from certain provisions limiting~~ authorizing the Board of Public Works to issue a license for the construction of a dwelling unit or other non-water dependent structure on a pier located on State or private wetlands in Dorchester County under certain circumstances; authorizing the Secretary of the Environment to issue a ~~license~~ permit for the construction of a dwelling unit or other non-water dependent structure on a pier located on State private wetlands under certain circumstances; and generally relating to construction of dwelling units or other non-water dependent structures on piers.

BY repealing and reenacting, with amendments,  
 Article - Environment  
 Section 16-104  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2007 Supplement)

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

**Article - Environment**

16-104.

(a) This section does not apply to any project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on State or private wetlands in ~~DORCHESTER AND~~ Prince George's ~~{County} COUNTIES~~.

(b) (1) Except as provided in paragraphs (2) ~~and~~, (3), ~~and~~ (4) of this subsection, notwithstanding any other provision of law, the Board of Public Works may not issue a license under this title for any project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on State wetlands.

(2) This section does not prohibit or restrict the Board of Public Works from issuing a license for a project involving the construction of a dwelling unit or other non-water dependent structure on a pier located within the Critical Area that was issued a permit by the Secretary on or before January 1, 1989.

**(3) THE BOARD OF PUBLIC WORKS MAY ISSUE A LICENSE FOR A PROJECT INVOLVING THE CONSTRUCTION OF A NON-WATER DEPENDENT STRUCTURE ON A PIER LOCATED ON STATE WETLANDS IF:**

**(i) THE PROJECT IS LOCATED IN A MARINA OWNED BY THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION;**

**(ii) THE PROJECT WILL ENHANCE MARITIME TRANSPORTATION, THE PRESERVATION OF HISTORIC LIGHTHOUSES, OR THE CONSTRUCTION OF HISTORICALLY ACCURATE REPLICAS;**

**(iii) THE PROJECT IS APPROVED BY LOCAL PLANNING AND ZONING AUTHORITIES;**

**(iv) THE PROJECT IS LOCATED IN A PRIORITY FUNDING AREA AS DESIGNATED UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

**(v) THE PROJECT IS LOCATED IN AN AREA THAT HAS BEEN EXCLUDED FROM A LOCAL CRITICAL AREA PROGRAM ADOPTED OR APPROVED BY THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC**

**COASTAL BAYS UNDER § 8-1807(C)(1)(I)1 OF THE NATURAL RESOURCES ARTICLE.**

~~(3)~~ **(4)** The Board of Public Works may issue a license for a project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on State wetlands if:

(i) The project is constructed on a pier in existence as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;

(ii) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface area of a pier to be removed is not intact but the remaining pilings identify its previous size, that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed;

(iii) The project is approved by local planning and zoning authorities;

(iv) The project is located in an intensely developed area, as designated in programs adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays under Title 8, Subtitle 18 of the Natural Resources Article; and

(v) The project allows public access to tidal waters, if appropriate.

~~(4)~~ **(5)** Except for projects under paragraph (2) of this subsection, and in addition to all other provisions of this section, all projects involving the construction of a dwelling unit or other non-water dependent facility on a pier located on State or private wetlands within the Chesapeake Bay Critical Area may not be issued a wetlands permit unless:

(i) The applicant demonstrates that the construction and operation of the project will not have a long term adverse effect on the water quality of the adjacent body of water in accordance with standards established by the local jurisdiction's critical areas program;

(ii) The applicant is required to improve the water quality of existing stormwater runoff from the project site into adjoining waters in accordance with standards established by the local jurisdiction's critical areas program; and

(iii) The applicant demonstrates that any sewer lines or other utility lines extended for the pier will not adversely affect the water quality of adjoining waters in accordance with standards established by the local jurisdiction's critical areas program.

(c) (1) Except as provided in ~~paragraph~~ **PARAGRAPHS (2) AND (3)** of this subsection, notwithstanding any other provision of law, the Secretary may not issue a permit under this title for any project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on private wetlands.

**(2) THE SECRETARY MAY ISSUE A ~~LICENSE~~ PERMIT FOR A PROJECT INVOLVING THE CONSTRUCTION OF A NON-WATER DEPENDENT STRUCTURE ON A PIER LOCATED ON PRIVATE WETLANDS IF:**

**(I) THE PROJECT IS LOCATED IN A MARINA OWNED BY THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION;**

**(II) THE PROJECT WILL ENHANCE MARITIME TRANSPORTATION, THE PRESERVATION OF HISTORIC LIGHTHOUSES, OR THE CONSTRUCTION OF HISTORICALLY ACCURATE REPLICAS;**

**(III) THE PROJECT IS APPROVED BY LOCAL PLANNING AND ZONING AUTHORITIES;**

**(IV) THE PROJECT IS LOCATED IN A PRIORITY FUNDING AREA AS DESIGNATED UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

**(V) THE PROJECT IS LOCATED IN AN AREA THAT HAS BEEN EXCLUDED FROM A LOCAL CRITICAL AREA PROGRAM ADOPTED OR APPROVED BY THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS UNDER § 8-1807(C)(1)(i)1 OF THE NATURAL RESOURCES ARTICLE.**

~~(2)~~ **(3)** The Secretary may issue a permit for a project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on private wetlands if:



(i) The project is constructed on a pier in existence as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;

(ii) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface area of a pier to be removed is not intact but the remaining pilings identify its previous size, that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed;

(iii) The project is approved by local planning and zoning authorities;

(iv) The project is located in an intensely developed area, as designated in programs adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays under Title 8, Subtitle 18 of the Natural Resources Article; and

(v) The project allows public access to tidal waters, if appropriate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 209

(House Bill 1266)

AN ACT concerning

**Wetlands - Construction of Structure on Pier - ~~Dorchester County~~ Exception**

FOR the purpose of ~~exempting Dorchester County from certain provisions limiting~~ authorizing the Board of Public Works to issue a license for the construction of a dwelling unit or other non-water dependent structure on a pier located on State

~~or private wetlands in Dorchester County~~ under certain circumstances; authorizing the Secretary of the Environment to issue a license permit for the construction of a dwelling unit or other non-water dependent structure on a pier located on State private wetlands under certain circumstances; and generally relating to construction of dwelling units or other non-water dependent structures on piers.

BY repealing and reenacting, with amendments,  
Article - Environment  
Section 16-104  
Annotated Code of Maryland  
(2007 Replacement Volume and 2007 Supplement)

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

**Article - Environment**

16-104.

(a) This section does not apply to any project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on State or private wetlands in ~~DORCHESTER AND~~ Prince George's ~~{County} COUNTIES~~.

(b) (1) Except as provided in paragraphs (2) ~~and~~, (3), and (4) of this subsection, notwithstanding any other provision of law, the Board of Public Works may not issue a license under this title for any project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on State wetlands.

(2) This section does not prohibit or restrict the Board of Public Works from issuing a license for a project involving the construction of a dwelling unit or other non-water dependent structure on a pier located within the Critical Area that was issued a permit by the Secretary on or before January 1, 1989.

**(3) THE BOARD OF PUBLIC WORKS MAY ISSUE A LICENSE FOR A PROJECT INVOLVING THE CONSTRUCTION OF A NON-WATER DEPENDENT STRUCTURE ON A PIER LOCATED ON STATE WETLANDS IF:**

**(i) THE PROJECT IS LOCATED IN A MARINA OWNED BY THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION;**

**(ii) THE PROJECT WILL ENHANCE MARITIME TRANSPORTATION, THE PRESERVATION OF HISTORIC LIGHTHOUSES, OR THE CONSTRUCTION OF HISTORICALLY ACCURATE REPLICAS;**

**(III) THE PROJECT IS APPROVED BY LOCAL PLANNING AND ZONING AUTHORITIES;**

**(IV) THE PROJECT IS LOCATED IN A PRIORITY FUNDING AREA AS DESIGNATED UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

**(V) THE PROJECT IS LOCATED IN AN AREA THAT HAS BEEN EXCLUDED FROM A LOCAL CRITICAL AREA PROGRAM ADOPTED OR APPROVED BY THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS UNDER § 8-1807(C)(1)(I)1 OF THE NATURAL RESOURCES ARTICLE.**

~~(3)~~ **(4)** The Board of Public Works may issue a license for a project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on State wetlands if:

(i) The project is constructed on a pier in existence as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;

(ii) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface area of a pier to be removed is not intact but the remaining pilings identify its previous size, that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed;

(iii) The project is approved by local planning and zoning authorities;

(iv) The project is located in an intensely developed area, as designated in programs adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays under Title 8, Subtitle 18 of the Natural Resources Article; and

(v) The project allows public access to tidal waters, if appropriate.

~~(4)~~ **(5)** Except for projects under paragraph (2) of this subsection, and in addition to all other provisions of this section, all projects involving the construction of a dwelling unit or other non-water dependent facility on a pier located on State or private wetlands within the Chesapeake Bay Critical Area may not be issued a wetlands permit unless:

(i) The applicant demonstrates that the construction and operation of the project will not have a long term adverse effect on the water quality of the adjacent body of water in accordance with standards established by the local jurisdiction's critical areas program;

(ii) The applicant is required to improve the water quality of existing stormwater runoff from the project site into adjoining waters in accordance with standards established by the local jurisdiction's critical areas program; and

(iii) The applicant demonstrates that any sewer lines or other utility lines extended for the pier will not adversely affect the water quality of adjoining waters in accordance with standards established by the local jurisdiction's critical areas program.

(c) (1) Except as provided in ~~paragraph~~ **PARAGRAPHS (2) AND (3)** of this subsection, notwithstanding any other provision of law, the Secretary may not issue a permit under this title for any project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on private wetlands.

**(2) THE SECRETARY MAY ISSUE A LICENSE PERMIT FOR A PROJECT INVOLVING THE CONSTRUCTION OF A NON-WATER DEPENDENT STRUCTURE ON A PIER LOCATED ON PRIVATE WETLANDS IF:**

**(i) THE PROJECT IS LOCATED IN A MARINA OWNED BY THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION;**

**(ii) THE PROJECT WILL ENHANCE MARITIME TRANSPORTATION, THE PRESERVATION OF HISTORIC LIGHTHOUSES, OR THE CONSTRUCTION OF HISTORICALLY ACCURATE REPLICAS;**

**(iii) THE PROJECT IS APPROVED BY LOCAL PLANNING AND ZONING AUTHORITIES;**

**(iv) THE PROJECT IS LOCATED IN A PRIORITY FUNDING AREA AS DESIGNATED UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

**(v) THE PROJECT IS LOCATED IN AN AREA THAT HAS BEEN EXCLUDED FROM A LOCAL CRITICAL AREA PROGRAM ADOPTED OR APPROVED BY THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS UNDER § 8-1807(c)(1)(i)1 OF THE NATURAL RESOURCES ARTICLE.**

~~(2)~~ **(3)** The Secretary may issue a permit for a project involving the construction of a dwelling unit or other non-water dependent structure on a pier located on private wetlands if:

(i) The project is constructed on a pier in existence as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;

(ii) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface area of a pier to be removed is not intact but the remaining pilings identify its previous size, that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed;

(iii) The project is approved by local planning and zoning authorities;

(iv) The project is located in an intensely developed area, as designated in programs adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays under Title 8, Subtitle 18 of the Natural Resources Article; and

(v) The project allows public access to tidal waters, if appropriate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

**Approved by the Governor, April 24, 2008.**

# CHAPTER 210

(Senate Bill 760)

AN ACT concerning

## ~~Homestead~~ Property Tax Credit - Residence of Homeowner's Family Member

FOR the purpose of ~~altering the definition of a dwelling that qualifies for the homestead property tax credit to include certain homes that are the only residence of a family member of the homeowner; providing that a dwelling must be occupied by a certain day to qualify for the homestead property tax credit; providing that a homeowner may claim a homestead property tax credit for two dwellings under certain circumstances; and generally relating to the homestead property tax credit for certain dwellings that are the only residence of a family member of the homeowner~~ authorizing the Mayor and City Council of Baltimore City or the governing body of a county or of a municipal corporation to grant, by law, a tax credit against the county or municipal corporation property tax imposed on certain dwellings; authorizing the county or municipal corporation to provide, by law, for the amount and duration of the credit and certain other provisions to carry out the credit; defining certain terms; and generally relating to a local property tax credit for dwellings.

~~BY repealing and reenacting, with amendments,  
Article - Tax - Property  
Section 9-105(a)(2), (c)(2) and (3), and (d)(2) and (3)  
Annotated Code of Maryland  
(2007 Replacement Volume)~~

BY adding to  
Article - Tax - Property  
Section 9-248  
Annotated Code of Maryland  
(2007 Replacement Volume)

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

### Article - Tax - Property

~~9-105:~~ **9-248.**

(a) (2) (i) "Dwelling" means:

~~1. a house that is:~~

~~A. used as the principal residence of the homeowner; and~~

~~B. actually occupied or expected to be actually occupied by the homeowner for more than 6 months of a 12-month period beginning with the date of finality for the taxable year for which the property tax credit under this section is sought; and~~

~~2. the lot or curtilage on which the house is erected.~~

~~(ii) "Dwelling" includes:~~

~~1. a condominium unit that is occupied by an individual who has a legal interest in the condominium;~~

~~2. an apartment in a cooperative apartment corporation that is occupied by an individual who has a legal interest in the apartment; and~~

~~3. a part of real property used other than primarily for residential purposes, if the real property is used as a principal residence by an individual who has a legal interest in the real property.~~

~~(iii) "DWELLING" INCLUDES A HOUSE, AND THE LOT OR CURTILAGE ON WHICH THE HOUSE IS ERECTED, IF THE HOUSE:~~

(A) IN THIS SECTION, "FAMILY ASSISTANCE DWELLING" MEANS A HOUSE, AND THE LOT OR CURTILAGE ON WHICH THE HOUSE IS ERECTED, IF THE HOUSE:

~~1. (1) IS NOT A VACATION HOME;~~

~~2. (2) IS NOT THE RESIDENCE OF THE HOMEOWNER BUT TREATED AS USED BY THE HOMEOWNER FOR PERSONAL PURPOSES WITHIN THE MEANING OF § 280A(D) OF THE INTERNAL REVENUE CODE; AND~~

~~3. (3) IS THE ONLY RESIDENCE OF AN INDIVIDUAL WHO:~~

~~A. (1) IS THE BROTHER, SISTER, HALF-BROTHER, HALF-SISTER, SPOUSE, PARENT, STEP-PARENT, GRANDPARENT, CHILD, STEP-CHILD, ADOPTED CHILD, OR GRANDCHILD OF THE HOMEOWNER;~~

~~**B. (II) WHOSE MAKES RENTAL PAYMENTS TO THE HOMEOWNER THAT ARE LESS THAN 90% OF A FAIR RENTAL PRICE PAID FOR A SIMILAR DWELLING IN THE SAME AREA; AND**~~

~~**C. (III) IS ENTITLED TO LOW INCOME ASSISTANCE BENEFITS UNDER A FEDERAL OR STATE PROGRAM.**~~

~~(e) (2) If a homeowner, OR THE HOMEOWNER'S FAMILY MEMBER IN THE CASE OF A DWELLING DESCRIBED IN SUBSECTION (A)(2)(III) OF THIS SECTION, does not actually reside in a dwelling for the required time period because of illness or need of special care and is otherwise eligible for a property tax credit under this section, the homeowner may qualify for the property tax credit under this section.~~

~~(3) If a homeowner, OR THE HOMEOWNER'S FAMILY MEMBER IN THE CASE OF A DWELLING DESCRIBED IN SUBSECTION (A)(2)(III) OF THIS SECTION, otherwise eligible for a credit under this section does not actually reside in a dwelling for the required time period because the dwelling is damaged due to an accident or natural disaster, the homeowner may continue to qualify for a credit under this section for the current taxable year and 2 succeeding taxable years even if the dwelling has been removed from the assessment roll in accordance with § 10-304 of this article.~~

~~(d) (2) A homeowner, OR THE HOMEOWNER'S FAMILY MEMBER IN THE CASE OF A DWELLING DESCRIBED IN SUBSECTION (A)(2)(III) OF THIS SECTION, must actually reside in the dwelling by July 1 of the taxable year for which the property tax credit under this section is to be allowed.~~

~~(3) (i) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A homeowner may claim a property tax credit under this section for only 1 dwelling.~~

~~(ii) A HOMEOWNER MAY CLAIM A PROPERTY TAX CREDIT UNDER THIS SECTION FOR TWO DWELLINGS IF ONE OF THE DWELLINGS QUALIFIES AS A DWELLING UNDER SUBSECTION (A)(2)(I) OF THIS SECTION AND THE OTHER DWELLING QUALIFIES AS A DWELLING UNDER SUBSECTION (A)(2)(III) OF THIS SECTION.~~

(B) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY GRANT, BY LAW, A TAX CREDIT AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON A FAMILY ASSISTANCE DWELLING.



**(C) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:**

**(1) THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS SECTION;**

**(2) ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS SECTION;**

**(3) REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND**

**(4) ANY OTHER PROVISION NECESSARY TO CARRY OUT THE CREDIT UNDER THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008, and shall be applicable to all taxable years beginning after June 30, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 211

(Senate Bill 764)

AN ACT concerning

~~State Board of Dental Examiners - Nomination of Members - Investigation and Disciplinary Procedures - Data Collection~~  
**State Board of Dental Examiners Nomination and Disciplinary Processes - Task Force on the Discipline of Health Care Professionals and Improved Patient Care**

FOR the purpose of requiring ~~certain academies, associations, organizations, or societies committed to the practice of dentistry and dental hygiene to~~ the State Board of Dental Examiners to conduct a certain solicitation and balloting process and submit to the Governor certain lists of names of individuals for nomination for membership on the State Board of Dental Examiners Board; requiring that individuals on certain lists reflect the Board to develop guidelines

~~for certain solicitations and ballots that to the extent possible will result in a certain Board composition reflecting certain diversity of the State; requiring that certain members appointed to the Board reflect certain diversity of the State; requiring the Governor to appoint a president of the Board from among certain Board members; requiring the executive director of the Board to report to the Secretary of Health and Mental Hygiene; altering the parties who may initiate or file certain complaints; prohibiting certain complaints from being filed more than a certain time after a certain date; requiring that certain investigations be based on certain facts; prohibiting the Board from investigating certain complaints; prohibiting certain assistant attorneys general from assisting in or conducting certain investigations; prohibiting certain assistant attorneys general from being involved in certain disciplinary proceedings until certain votes to charge have taken place; prohibiting the Board from conducting certain records under certain circumstances; prohibiting the Board from continuing certain investigations under certain circumstances; requiring the Board to conclude certain actions on complaints within a certain time after a complaint is filed unless the Board can demonstrate certain delays; requiring the Board to adopt certain regulations in consultation with the Office of the Attorney General and the Secretary of the Department of Health and Mental Hygiene concerning certain disciplinary procedures before a certain date; requiring the Board to begin collecting certain information on race and ethnicity, develop a certain methodology and database for tracking and analyzing certain complaints, institute a certain status report monitoring tool for certain disciplinary cases, implement a certain case-audit study, and develop a certain nominating process by a certain date; requiring the Office of the Attorney General to provide a rotation process for certain assistant attorneys general; requiring the Board to submit a certain report by a certain date; establishing a Task Force on the Discipline of Health Care Professionals and Improved Patient Care; providing for the membership of the Task Force; providing for the designation of a chair of the Task Force; providing for staff for the Task Force; prohibiting a member of the Task Force from receiving compensation; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to study certain issues, issue certain recommendations, and report to the Governor and certain committees of the General Assembly on or before a certain date; and generally relating to the State Board of Dental Examiners and the Task Force on the Discipline of Health Care Professionals and Improved Patient Care.~~

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section ~~4-202(a), 4-203, 4-204(e), and 4-316~~ and (b)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article - Health Occupations**

4-202.

- (a) (1) The Board consists of 16 members.
- (2) Of the 16 Board members:
- (i) 9 shall be licensed dentists;
  - (ii) 4 shall be licensed dental hygienists; and
  - (iii) 3 shall be consumer members.

(3) (I) ~~The~~ SUBJECT TO SUBSECTION (B)(1) OF THIS SECTION, **THE** Governor shall appoint the dentist Board members, with the advice of the Secretary, from a list of names submitted to the Governor [jointly] by the [Maryland State Dental Association and the Maryland Dental Society] ~~ESTABLISHED ACADEMIES, ASSOCIATIONS, ORGANIZATIONS, OR SOCIETIES IN THE STATE COMMITTED TO EXCELLENCE IN THE PRACTICE OF DENTISTRY~~ BOARD.

(II) The number of names on the list for one vacancy shall be at least four names, for two vacancies at least three names for each vacancy, and for three or more vacancies at least two names for each vacancy.

~~(III) THE INDIVIDUALS ON THE LIST SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.~~

(4) (I) ~~The~~ SUBJECT TO SUBSECTION (B)(2) OF THIS SECTION, **THE** Governor shall appoint the dental hygienist Board members, with the advice of the Secretary, from a list of names submitted to the Governor by the [Maryland Dental Hygienists' Association] ~~ESTABLISHED ACADEMIES, ASSOCIATIONS, ORGANIZATIONS, OR SOCIETIES IN THE STATE COMMITTED TO EXCELLENCE IN THE PRACTICE OF DENTAL HYGIENE~~ BOARD.

(II) The number of names on the list shall be four times the number of vacancies.

~~(III) THE INDIVIDUALS ON THE LIST SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.~~

(5) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

**(6) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE BOARD SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.**

(b) [(1) At a joint meeting held by the Maryland State Dental Association and the Maryland Dental Society called to choose nominees for a dentist vacancy on the Board, a majority of the dentists present at the meeting shall choose the list of names of dentist nominees to the Board for submission to the Governor.]

(2) At a meeting held by the Maryland Dental Hygienists' Association called to choose nominees for a dental hygienist vacancy on the Board, a majority of the dental hygienists present at the meeting shall choose the list of names of dental hygienist nominees to the Board for submission to the Governor.

(3) At least 2 weeks before a meeting is held under paragraph (1) of this subsection, the secretaries of the appropriate organizations shall mail to each licensed practitioner actively practicing in Maryland, at the address appearing in their records or the records of the Board, a notice that states the time, place, and purpose of the meeting.

(4) At least 2 weeks before a meeting is held under paragraph (2) of this subsection, the Secretary of the Maryland Dental Hygienists' Association shall mail to each licensed dental hygienist, at the address appearing in their records or the records of the Board, a notice that states the time, place, and purpose of the meeting.]

**(1) FOR EACH LICENSED DENTIST VACANCY, THE BOARD SHALL:**

**(i) SEND BY MAIL A WRITTEN SOLICITATION FOR NOMINATIONS TO FILL THE VACANCY TO:**

- 1. EACH DENTIST LICENSED BY THE BOARD; AND**
- 2. EACH STATE DENTAL ORGANIZATION AFFILIATED WITH A NATIONAL ORGANIZATION; AND**

(II) CONDUCT A BALLOTING PROCESS BY WHICH EACH DENTIST LICENSED BY THE STATE IS ELIGIBLE TO VOTE TO SELECT THE NAMES OF THE LICENSED DENTISTS TO BE SUBMITTED TO THE GOVERNOR.

(2) FOR EACH LICENSED DENTAL HYGIENIST VACANCY, THE BOARD SHALL:

(I) SEND BY MAIL A WRITTEN SOLICITATION FOR NOMINATIONS TO FILL THE VACANCY TO:

1. EACH DENTAL HYGIENIST LICENSED BY THE BOARD; AND

2. EACH STATE DENTAL HYGIENIST ORGANIZATION AFFILIATED WITH A NATIONAL ORGANIZATION; AND

(II) CONDUCT A BALLOTING PROCESS BY WHICH EACH DENTAL HYGIENIST LICENSED BY THE STATE IS ELIGIBLE TO VOTE TO SELECT THE NAMES OF THE LICENSED DENTAL HYGIENISTS TO BE SUBMITTED TO THE GOVERNOR.

(3) THE BOARD SHALL DEVELOP GUIDELINES FOR THE SOLICITATION OF NOMINATIONS AND BALLOTING PROCESS THAT TO THE EXTENT POSSIBLE WILL RESULT IN THE OVERALL COMPOSITION OF THE BOARD REASONABLY REFLECTING THE GEOGRAPHIC, RACIAL, ETHNIC, AND GENDER DIVERSITY OF THE STATE.

~~4-203.~~

~~(A) FROM AMONG THE BOARD MEMBERS, THE GOVERNOR SHALL APPOINT A PRESIDENT.~~

~~[(a)] (B) From among its members, the Board shall elect [a president and] a secretary.~~

~~[(b)] (C) The Board shall determine:~~

~~(1) The manner of election of [officers] THE SECRETARY;~~

~~(2) The term of office of each officer; and~~

~~(3) The duties of each officer.~~

~~4-204.~~

~~(c) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE Board may employ a staff, INCLUDING AN EXECUTIVE DIRECTOR, in accordance with the budget of the Board.~~

~~(2) THE EXECUTIVE DIRECTOR OF THE BOARD SHALL REPORT TO THE SECRETARY.~~

~~4-316.~~

~~(a) (1) On [its own initiative or on] a written complaint AGAINST A LICENSEE filed with the Board by [any person] A PATIENT OF THE LICENSEE OR A PATIENT'S LEGAL GUARDIAN, the Board may commence proceedings under § 4-315 of this subtitle.~~

~~(2) A COMPLAINT MAY NOT BE FILED MORE THAN 2 YEARS AFTER THE DATE OF THE OCCURRENCE ON WHICH THE COMPLAINT IS BASED.~~

~~(b) [If a person who is not a member of the Board files a complaint, the] A complaint shall:~~

- ~~(1) Be in writing;~~
- ~~(2) Be verified by a person who is familiar with the alleged facts;~~
- ~~(3) Request Board action; and~~
- ~~(4) Be filed with the secretary of the Board.~~

~~(c) (1) The Board shall investigate each complaint filed with the Board if the complaint:~~

~~(i) Alleges facts that are grounds for action under § 4-315 of this subtitle; and~~

~~(ii) Meets the requirements of this section.~~

~~(2) [If the Board begins action on its own initiative or if after investigation it elects to substitute its own complaint for one filed by a person who is not a member of the Board, the Board shall prepare a written complaint.]~~

~~(I) EACH INVESTIGATION SHALL BE BASED ON THE FACTS OF A COMPLAINT.~~

~~(II) IF A COMPLAINT IS NOT SUPPORTED BY FACTS, THE BOARD MAY NOT CONDUCT AN INVESTIGATION.~~

~~(III) THE BOARD MAY NOT INVESTIGATE A COMPLAINT MADE BY A THIRD PARTY.~~

~~(3) (I) AN ASSISTANT ATTORNEY GENERAL MAY NOT ASSIST IN OR CONDUCT AN INVESTIGATION.~~

~~(II) AN ASSISTANT ATTORNEY GENERAL MAY NOT BECOME INVOLVED IN A DISCIPLINARY PROCEEDING UNTIL AFTER THE BOARD HAS VOTED TO CHARGE A LICENSEE.~~

~~(d) (1) If, after performing [any] A preliminary investigation, the Board determines that an allegation involving fees for professional or ancillary services does not constitute grounds for discipline or other action, the Board may refer the allegation concerning a member of a professional society or association composed of providers of dental care to a committee of the Society for Mediation.~~

~~(2) IF AFTER PERFORMING A PRELIMINARY INVESTIGATION, THE BOARD DETERMINES THAT A COMPLAINT IS NOT SUPPORTED BY FACTS, THE BOARD MAY NOT COLLECT ADDITIONAL RECORDS.~~

~~(E) THE BOARD MAY NOT CONTINUE TO INVESTIGATE A COMPLAINT OR DISCIPLINE A LICENSEE IF THE PATIENT WHO INITIATED THE COMPLAINT OR THE PATIENT'S GUARDIAN WITHDRAWS THE COMPLAINT.~~

~~(F) UNLESS THE BOARD CAN DEMONSTRATE DELAYS OUTSIDE OF ITS CONTROL, THE BOARD SHALL CONCLUDE ITS ACTION ON A COMPLAINT, INCLUDING DISCIPLINE AND PROBATIONARY PERIODS, WITHIN 2 YEARS AFTER THE DATE THE COMPLAINT WAS FILED.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before December 31, 2008, the State Board of Dental Examiners shall adopt new regulations for the rules of procedure for the disciplinary process.

(b) The Board shall draft the new regulations in consultation with ~~each established academy, association, organization, or society committed to excellence in dentistry~~ the Office of the Attorney General and the Secretary of the Department of Health and Mental Hygiene.

- (c) The new regulations shall include:
  - (1) guidelines for complaints;
  - (2) guidelines for investigations such as when an investigation is warranted and the thoroughness and length of an investigation that is warranted under different circumstances;
  - (3) to assure that similar acts of misconduct receive similar penalties, a severity ranking system for substantiated complaints and guidelines for corresponding degrees of sanctions based on the sanctioning methodologies and scoring tools identified in the pilot study prepared by the Virginia Department of Health Professions;
  - (4) guidelines for probationary periods such as length and conditions for completion of probationary periods;
  - (5) an appeals process; and
  - (6) guidelines for confidentiality including the removal of the name and address from the disciplinary and complaint documents that come before the Board; ~~and~~
  - (7) ~~a process for expunging a licensee's disciplinary records if:~~
    - (i) ~~the act resulting in the disciplinary action occurred over 10 years before the expungement; and~~
    - (ii) ~~the licensee has not had another disciplinary action within 10 years before the expungement.~~

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2008, the State Board of Dental Examiners shall:

- (1) begin to collect race, gender, and ethnicity information on all licensees during the application process based on the Maryland official standard method for collecting race, gender, and ethnicity information;
- (2) develop a concise methodology ~~of~~ including standard definitions and written guidelines for tracking the status of all complaints from the initial allegation through to sanctions and final action and keep records of the information for future audits;



(3) develop a database by re-engineering or modifying the software that analyzes complaint data so that the data may be analyzed in a variety of manners and subjectivity and individual bias may be reduced;

(4) institute the development, use, and routine review of a comprehensive status report as a monitoring tool for all disciplinary cases;

(5) implement a case audit that studies selected cases, de-identifying files, and using outside experts; and

(6) develop a nominating process for Board members ~~that includes each established academy, association, organization, or society committed to excellence in the practice of dentistry and dental hygiene and so that nominees reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State in accordance with § 4-202(a) and (b) of the Health Occupations Article, as enacted by Section 1 of this Act.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Office of the Attorney General shall provide a rotation process for assistant attorneys general working for the State Board of Dental Examiners.~~

SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That, on or before December 31, 2008, the State Board of Dental Examiners shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of Section 1 through Section 3 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force on the Discipline of Health Care Professionals and Improved Patient Care.

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

(4) the Attorney General, or the Attorney General's designee;

(5) the Chief Administrative Law Judge, or the Chief Judge's designee;

(6) two current health occupation board members, appointed by the Secretary of Health and Mental Hygiene;

(7) two current executive directors or administrators for health occupation boards that may not be from the same boards as the representatives in item (5) of this subsection, appointed by the Secretary of Health and Mental Hygiene; and

(8) nine individuals appointed by the Governor having expertise in professional disciplinary matters including at least:

(i) two representatives of a patient advocacy organization;

(ii) two attorneys from the Maryland State Bar Association's Health Law Section with experience in representing health professionals;

(iii) two representatives of professional health care associations; and

(iv) two consumers of health care services.

(c) (1) The Secretary of Health and Mental Hygiene shall:

(i) appoint the chair of the Task Force;

(ii) establish subcommittees and appoint subcommittee chairs as necessary to facilitate the work of the Task Force; and

(iii) in conjunction with the Attorney General, provide staff support for the Task Force from the Department and the health occupation boards.

(2) To the extent practicable, the members appointed to the Task Force shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of this State.

(3) 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) In performing its duties, the Task Force shall:

(1) consult with individuals and entities that the chair of the Task Force deems appropriate; and

(2) consider a broad range of viewpoints including those presented by organizations representing the interests of patients, licensees, payors, law enforcement, and other groups involved in the disciplinary system.

(e) The Task Force shall issue recommendations regarding:

(1) practices and procedures supporting the fundamental goals and objectives of the disciplinary programs of the health occupation boards;

(2) potential changes to the organizational structure of the health occupation boards and the relationship of all boards to the Department; and

(3) measures that will otherwise enhance the fair, consistent, and speedy resolution of reports concerning substandard, illegal, or unethical practices by health care professionals.

(f) The issues to be studied by the Task Force include:

(1) the extent to which the current disciplinary system:

(i) adequately protects patients from serious risks due to incompetent or unethical practices by licensees;

(ii) creates a burden to licensees that may be lessened, while ensuring continued protective and regulatory oversight;

(iii) uses mentors and the cost to licensees associated with using them;

(iv) adequately provides due process to licensees; and

(v) could be modified to more effectively protect patients, minimize incompetent or unethical behavior by licensees, provide more effective due process for licensees, and support the professional growth and development of all Maryland licensees;

(2) potential changes in the disciplinary program of the health occupation boards that will:

(i) increase the transparency of disciplinary procedures for members of the public and the regulated community;

(ii) improve the complaint process by addressing the roles of the boards, investigators, and assistant attorneys general including who may initiate complaints;

(iii) increase the consistency and fairness of disciplinary outcomes;

(iv) a statute of limitations for complaints to be brought against licensees;

(v) speed the resolution of meritorious complaints and the disposition of proceedings that do not require a public disciplinary order;

(vi) from the time a complaint is filed, specify a reasonable period of time in which a board will conclude its action unless the board can demonstrate delays outside of its control;

(vii) utilize the Office of Administrative Hearings more effectively;

(viii) under certain circumstances, expunge disciplinary proceedings from a licensee's file after a specified period of time; and

(ix) increase the wider adoption of consistent procedures and best practices by all boards including tracking of disciplinary data;

(3) an assessment of whether the current relationship between individual boards, the Department, and the Office of the Attorney General should be modified in connection with the disciplinary process of the board including:

(i) oversight of the board by the Department;

(ii) the role of an assistant attorney general in the investigation process; and

(iii) the length of time an assistant attorney general works for an individual board and the potential of having the assistant attorneys general rotate among the boards; and

(4) the extent to which the current disciplinary system has a differential impact on various groups of licensees and potential strategies for minimizing differences while improving the overall quality of health care services.

(g) On or before December 1, 2008, the Task Force shall report its final recommendations to the Governor and, subject to § 2-1246 of the State Government

Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall take effect July 1, 2008. It shall remain effective for a period of 1 year and, at the end of June 30, 2009, with no further action required by the General Assembly, Section 5 of this Act shall be abrogated and of no further force and effect.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 6 of this Act, this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 212

(House Bill 811)

AN ACT concerning

~~State Board of Dental Examiners – Nomination of Members – Investigation and Disciplinary Procedures – Data Collection~~  
**State Board of Dental Examiners Nomination and Disciplinary Processes – Task Force on the Discipline of Health Care Professionals and Improved Patient Care**

FOR the purpose of requiring ~~certain academics, associations, organizations, or societies committed to the practice of dentistry and dental hygiene to~~ the State Board of Dental Examiners to conduct a certain solicitation and balloting process and submit to the Governor certain lists of names of individuals for nomination for membership on the State Board of Dental Examiners Board; requiring that individuals on certain lists reflect the Board to develop guidelines for certain solicitations and ballots that to the extent possible will result in a certain Board composition reflecting certain diversity of the State; requiring that certain members appointed to the Board reflect certain diversity of the State; requiring the Governor to appoint a president of the Board from among certain Board members; requiring the executive director of the Board to report to the Secretary of Health and Mental Hygiene; altering the parties who may initiate or file certain complaints; prohibiting certain complaints from being filed more than a certain time after a certain date; requiring that certain investigations be based on certain facts; prohibiting the Board from investigating certain complaints; prohibiting certain assistant attorneys general from assisting in or conducting certain investigations; prohibiting certain

~~assistant attorneys general from being involved in certain disciplinary proceedings until certain votes to charge have taken place; prohibiting the Board from conducting certain records under certain circumstances; prohibiting the Board from continuing certain investigations under certain circumstances; requiring the Board to conclude certain actions on complaints within a certain time after a complaint is filed unless the Board can demonstrate certain delays; requiring the Board to adopt certain regulations in consultation with the Office of the Attorney General and the Secretary of Health and Mental Hygiene concerning certain disciplinary procedures before a certain date; requiring the Board to begin collecting certain information on race and ethnicity, develop a certain methodology and database for tracking and analyzing certain complaints, institute a certain status report monitoring tool for certain disciplinary cases, implement a certain case-audit study, and develop a certain nominating process by a certain date; requiring the Office of the Attorney General to provide a rotation process for certain assistant attorneys general; requiring the Board to submit a certain report by a certain date; establishing a Task Force on the Discipline of Health Care Professionals and Improved Patient Care; providing for the membership of the Task Force; providing for the designation of a chair of the Task Force; providing for staff for the Task Force; prohibiting a member of the Task Force from receiving compensation; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to study certain issues, issue certain recommendations, and report to the Governor and certain committees of the General Assembly on or before a certain date; and generally relating to the State Board of Dental Examiners and the Task Force on the Discipline of Health Care Professionals and Improved Patient Care.~~

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section ~~4-202(a), 4-203, 4-204(c), and 4-316~~ and (b)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

### **Article – Health Occupations**

4-202.

- (a) (1) The Board consists of 16 members.
- (2) Of the 16 Board members:
  - (i) 9 shall be licensed dentists;

- (ii) 4 shall be licensed dental hygienists; and
- (iii) 3 shall be consumer members.

(3) (I) ~~The~~ SUBJECT TO SUBSECTION (B)(1) OF THIS SECTION, THE Governor shall appoint the dentist Board members, with the advice of the Secretary, from a list of names submitted to the Governor [jointly] by the [Maryland State Dental Association and the Maryland Dental Society] ~~ESTABLISHED ACADEMIES, ASSOCIATIONS, ORGANIZATIONS, OR SOCIETIES IN THE STATE COMMITTED TO EXCELLENCE IN THE PRACTICE OF DENTISTRY~~ BOARD.

(II) The number of names on the list for one vacancy shall be at least four names, for two vacancies at least three names for each vacancy, and for three or more vacancies at least two names for each vacancy.

~~(III) THE INDIVIDUALS ON THE LIST SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.~~

(4) (I) ~~The~~ SUBJECT TO SUBSECTION (B)(2) OF THIS SECTION, THE Governor shall appoint the dental hygienist Board members, with the advice of the Secretary, from a list of names submitted to the Governor by the [Maryland Dental Hygienists' Association] ~~ESTABLISHED ACADEMIES, ASSOCIATIONS, ORGANIZATIONS, OR SOCIETIES IN THE STATE COMMITTED TO EXCELLENCE IN THE PRACTICE OF DENTAL HYGIENE~~ BOARD.

(II) The number of names on the list shall be four times the number of vacancies.

~~(III) THE INDIVIDUALS ON THE LIST SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.~~

(5) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(6) **TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE BOARD SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.**

(b) [(1) At a joint meeting held by the Maryland State Dental Association and the Maryland Dental Society called to choose nominees for a dentist vacancy on

the Board, a majority of the dentists present at the meeting shall choose the list of names of dentist nominees to the Board for submission to the Governor.

(2) At a meeting held by the Maryland Dental Hygienists' Association called to choose nominees for a dental hygienist vacancy on the Board, a majority of the dental hygienists present at the meeting shall choose the list of names of dental hygienist nominees to the Board for submission to the Governor.

(3) At least 2 weeks before a meeting is held under paragraph (1) of this subsection, the secretaries of the appropriate organizations shall mail to each licensed practitioner actively practicing in Maryland, at the address appearing in their records or the records of the Board, a notice that states the time, place, and purpose of the meeting.

(4) At least 2 weeks before a meeting is held under paragraph (2) of this subsection, the Secretary of the Maryland Dental Hygienists' Association shall mail to each licensed dental hygienist, at the address appearing in their records or the records of the Board, a notice that states the time, place, and purpose of the meeting.]

**(1) FOR EACH LICENSED DENTIST VACANCY, THE BOARD SHALL:**

**(I) SEND BY MAIL A WRITTEN SOLICITATION FOR NOMINATIONS TO FILL THE VACANCY TO:**

- 1. EACH DENTIST LICENSED BY THE BOARD; AND**
- 2. EACH STATE DENTAL ORGANIZATION AFFILIATED WITH A NATIONAL ORGANIZATION; AND**

**(II) CONDUCT A BALLOTING PROCESS BY WHICH EACH DENTIST LICENSED BY THE STATE IS ELIGIBLE TO VOTE TO SELECT THE NAMES OF THE LICENSED DENTISTS TO BE SUBMITTED TO THE GOVERNOR.**

**(2) FOR EACH LICENSED DENTAL HYGIENIST VACANCY, THE BOARD SHALL:**

**(I) SEND BY MAIL A WRITTEN SOLICITATION FOR NOMINATIONS TO FILL THE VACANCY TO:**

- 1. EACH DENTAL HYGIENIST LICENSED BY THE BOARD; AND**
- 2. EACH STATE DENTAL HYGIENIST ORGANIZATION AFFILIATED WITH A NATIONAL ORGANIZATION; AND**



(II) CONDUCT A BALLOTING PROCESS BY WHICH EACH DENTAL HYGIENIST LICENSED BY THE STATE IS ELIGIBLE TO VOTE TO SELECT THE NAMES OF THE LICENSED DENTAL HYGIENISTS TO BE SUBMITTED TO THE GOVERNOR.

(3) THE BOARD SHALL DEVELOP GUIDELINES FOR THE SOLICITATION OF NOMINATIONS AND BALLOTING PROCESS THAT TO THE EXTENT POSSIBLE WILL RESULT IN THE OVERALL COMPOSITION OF THE BOARD REASONABLY REFLECTING THE GEOGRAPHIC, RACIAL, ETHNIC, AND GENDER DIVERSITY OF THE STATE.

~~4-203.~~

~~(A) FROM AMONG THE BOARD MEMBERS, THE GOVERNOR SHALL APPOINT A PRESIDENT.~~

~~[(a)](B) From among its members, the Board shall elect [a president and] a secretary.~~

~~[(b)](C) The Board shall determine:~~

- ~~(1) The manner of election of [officers] THE SECRETARY;~~
- ~~(2) The term of office of each officer; and~~
- ~~(3) The duties of each officer.~~

~~4-204.~~

~~(c) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE Board may employ a staff, INCLUDING AN EXECUTIVE DIRECTOR, in accordance with the budget of the Board.~~

~~(2) THE EXECUTIVE DIRECTOR OF THE BOARD SHALL REPORT TO THE SECRETARY.~~

~~4-316.~~

~~(a) (1) On [its own initiative or on] a written complaint AGAINST A LICENSEE filed with the Board by [any person] A PATIENT OF THE LICENSEE OR A PATIENT'S LEGAL GUARDIAN, the Board may commence proceedings under § 4-315 of this subtitle.~~

~~(2) A COMPLAINT MAY NOT BE FILED MORE THAN 2 YEARS AFTER THE DATE OF THE OCCURRENCE ON WHICH THE COMPLAINT IS BASED.~~

~~(b) [If a person who is not a member of the Board files a complaint, the] A complaint shall:~~

- ~~(1) Be in writing;~~
- ~~(2) Be verified by a person who is familiar with the alleged facts;~~
- ~~(3) Request Board action; and~~
- ~~(4) Be filed with the secretary of the Board.~~

~~(c) (1) The Board shall investigate each complaint filed with the Board if the complaint:~~

~~(i) Alleges facts that are grounds for action under § 4-315 of this subtitle; and~~

~~(ii) Meets the requirements of this section.~~

~~(2) [If the Board begins action on its own initiative or if after investigation it elects to substitute its own complaint for one filed by a person who is not a member of the Board, the Board shall prepare a written complaint.]~~

~~(i) EACH INVESTIGATION SHALL BE BASED ON THE FACTS OF A COMPLAINT.~~

~~(ii) IF A COMPLAINT IS NOT SUPPORTED BY FACTS, THE BOARD MAY NOT CONDUCT AN INVESTIGATION.~~

~~(iii) THE BOARD MAY NOT INVESTIGATE A COMPLAINT MADE BY A THIRD PARTY.~~

~~(3) (i) AN ASSISTANT ATTORNEY GENERAL MAY NOT ASSIST IN OR CONDUCT AN INVESTIGATION.~~

~~(ii) AN ASSISTANT ATTORNEY GENERAL MAY NOT BECOME INVOLVED IN A DISCIPLINARY PROCEEDING UNTIL AFTER THE BOARD HAS VOTED TO CHARGE A LICENSEE.~~

~~(d) (1) If, after performing [any] A preliminary investigation, the Board determines that an allegation involving fees for professional or ancillary services does~~

~~not constitute grounds for discipline or other action, the Board may refer the allegation concerning a member of a professional society or association composed of providers of dental care to a committee of the Society for Mediation.~~

~~(2) IF AFTER PERFORMING A PRELIMINARY INVESTIGATION, THE BOARD DETERMINES THAT A COMPLAINT IS NOT SUPPORTED BY FACTS, THE BOARD MAY NOT COLLECT ADDITIONAL RECORDS.~~

~~(E) THE BOARD MAY NOT CONTINUE TO INVESTIGATE A COMPLAINT OR DISCIPLINE A LICENSEE IF THE PATIENT WHO INITIATED THE COMPLAINT OR THE PATIENT'S GUARDIAN WITHDRAWS THE COMPLAINT.~~

~~(F) UNLESS THE BOARD CAN DEMONSTRATE DELAYS OUTSIDE OF ITS CONTROL, THE BOARD SHALL CONCLUDE ITS ACTION ON A COMPLAINT, INCLUDING DISCIPLINE AND PROBATIONARY PERIODS, WITHIN 2 YEARS AFTER THE DATE THE COMPLAINT WAS FILED.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before December 31, 2008, the State Board of Dental Examiners shall adopt new regulations for the rules of procedure for the disciplinary process.

(b) The Board shall draft the new regulations in consultation with ~~each established academy, association, organization, or society committed to excellence in dentistry~~ the Office of the Attorney General and the Secretary of Health and Mental Hygiene.

(c) The new regulations shall include:

(1) guidelines for complaints;

(2) guidelines for investigations such as when an investigation is warranted and the thoroughness and length of an investigation that is warranted under different circumstances;

(3) to assure that similar acts of misconduct receive similar penalties, a severity ranking system for substantiated complaints and guidelines for corresponding degrees of sanctions based on the sanctioning methodologies and scoring tools identified in the pilot study prepared by the Virginia Department of Health Professions;

(4) guidelines for probationary periods such as length and conditions for completion of probationary periods;

(5) an appeals process; and

(6) guidelines for confidentiality including the removal of the name and address from the disciplinary and complaint documents that come before the Board; ~~and~~

~~(7) a process for expunging a licensee's disciplinary records if:~~

~~(i) the act resulting in the disciplinary action occurred over 10 years before the expungement; and~~

~~(ii) the licensee has not had another disciplinary action within 10 years before the expungement.~~

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2008, the State Board of Dental Examiners shall:

(1) begin to collect race, gender, and ethnicity information on all licensees during the application process based on the Maryland official standard method for collecting race, gender, and ethnicity information;

(2) develop a concise methodology ~~of~~ including standard definitions and written guidelines for tracking the status of all complaints from the initial allegation through to sanctions and final action and keep records of the information for future audits;

(3) develop a database by re-engineering or modifying the software that analyzes complaint data so that the data may be analyzed in a variety of manners and subjectivity and individual bias may be reduced;

(4) institute the development, use, and routine review of a comprehensive status report as a monitoring tool for all disciplinary cases;

(5) implement a case audit that studies selected cases, de-identifying files, and using outside experts; and

(6) develop a nominating process for Board members ~~that includes each established academy, association, organization, or society committed to excellence in the practice of dentistry and dental hygiene and so that nominees reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State~~ in accordance with § 4-202(a) and (b) of the Health Occupations Article, as enacted by Section 1 of this Act.

~~SECTION 4. AND BE IT FURTHER ENACTED, That the Office of the Attorney General shall provide a rotation process for assistant attorneys general working for the State Board of Dental Examiners.~~

SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That, on or before December 31, 2008, the State Board of Dental Examiners shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of Section 1 through Section 3 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force on the Discipline of Health Care Professionals and Improved Patient Care.

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

(4) the Attorney General, or the Attorney General's designee;

(5) the Chief Administrative Law Judge, or the Chief Judge's designee;

(6) two current health occupation board members, appointed by the Secretary of Health and Mental Hygiene;

(7) two current executive directors or administrators for health occupation boards that may not be from the same boards as the representatives in item (5) of this subsection, appointed by the Secretary of Health and Mental Hygiene; and

(8) nine individuals appointed by the Governor having expertise in professional disciplinary matters including at least:

(i) two representatives of a patient advocacy organization;

(ii) two attorneys from the Maryland State Bar Association's Health Law Section with experience in representing health professionals;

(iii) two representatives of professional health care associations; and

(iv) two consumers of health care services.

(c) (1) The Secretary of Health and Mental Hygiene shall:

(i) appoint the chair of the Task Force;

(ii) establish subcommittees and appoint subcommittee chairs as necessary to facilitate the work of the Task Force; and

(iii) in conjunction with the Attorney General, provide staff support for the Task Force from the Department and the health occupation boards.

(2) To the extent practicable, the members appointed to the Task Force shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of this State.

(3) 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) In performing its duties, the Task Force shall:

(1) consult with individuals and entities that the chair of the Task Force deems appropriate; and

(2) consider a broad range of viewpoints including those presented by organizations representing the interests of patients, licensees, payors, law enforcement, and other groups involved in the disciplinary system.

(e) The Task Force shall issue recommendations regarding:

(1) practices and procedures supporting the fundamental goals and objectives of the disciplinary programs of the health occupation boards;

(2) potential changes to the organizational structure of the health occupation boards and the relationship of all boards to the Department; and

(3) measures that will otherwise enhance the fair, consistent, and speedy resolution of reports concerning substandard, illegal, or unethical practices by health care professionals.

(f) The issues to be studied by the Task Force include:

(1) the extent to which the current disciplinary system:

(i) adequately protects patients from serious risks due to incompetent or unethical practices by licensees;

(ii) creates a burden to licensees that may be lessened, while ensuring continued protective and regulatory oversight;

(iii) uses mentors and the cost to licensees associated with using them;

(iv) adequately provides due process to licensees; and

(v) could be modified to more effectively protect patients, minimize incompetent or unethical behavior by licensees, provide more effective due process for licensees, and support the professional growth and development of all Maryland licensees;

(2) potential changes in the disciplinary program of the health occupation boards that will:

(i) increase the transparency of disciplinary procedures for members of the public and the regulated community;

(ii) improve the complaint process by addressing the roles of the boards, investigators, and assistant attorneys general including who may initiate complaints;

(iii) increase the consistency and fairness of disciplinary outcomes;

(iv) a statute of limitations for complaints to be brought against licensees;

(v) speed the resolution of meritorious complaints and the disposition of proceedings that do not require a public disciplinary order;

(vi) from the time a complaint is filed, specify a reasonable period of time in which a board will conclude its action unless the board can demonstrate delays outside of its control;

(vii) utilize the Office of Administrative Hearings more effectively;

(viii) under certain circumstances, expunge disciplinary proceedings from a licensee's file after a specified period of time; and

(ix) increase the wider adoption of consistent procedures and best practices by all boards including tracking of disciplinary data;

(3) an assessment of whether the current relationship between individual boards, the Department, and the Office of the Attorney General should be modified in connection with the disciplinary process of the board including:

(i) oversight of the board by the Department;

(ii) the role of an assistant attorney general in the investigation process; and

(iii) the length of time an assistant attorney general works for an individual board and the potential of having the assistant attorneys general rotate among the boards; and

(4) the extent to which the current disciplinary system has a differential impact on various groups of licensees and potential strategies for minimizing differences while improving the overall quality of health care services.

(g) On or before December 1, 2008, the Task Force shall report its final recommendations to the Governor and, subject to § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall take effect July 1, 2008. It shall remain effective for a period of 1 year and, at the end of June 30, 2009, with no further action required by the General Assembly, Section 5 of this Act shall be abrogated and of no further force and effect.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 6 of this Act, this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 213**

**(Senate Bill 766)**

AN ACT concerning



**Maryland ~~Revised~~ Anatomical Gift Act Donor Registry**

FOR the purpose of ~~repealing the Maryland Anatomical Gift Act and enacting the Maryland Revised Anatomical Gift Act; authorizing certain individuals to make, amend, or revoke anatomical gifts; providing the methods by which anatomical gifts may be made; authorizing certain individuals to refuse to make certain anatomical gifts; establishing certain circumstances under which an anatomical gift is prohibited; establishing the persons to which certain anatomical gifts may be made; establishing a certain priority if more than one person in a certain class makes a gift; establishing certain purposes for which certain anatomical gifts can be made; establishing a certain priority for certain anatomical gifts if more than one purpose is given for the anatomical gift; requiring certain persons to search certain individuals for a document of gift or other information identifying the individual as a donor under certain circumstances; requiring certain individuals to allow certain examination and copying of certain anatomical gifts or refusals; requiring that certain procurement organizations be allowed certain access to certain records of the Motor Vehicle Administration; authorizing certain procurement organizations to make certain examinations to ensure the medical suitability of certain anatomical gifts; providing for the acceptance and removal of certain anatomical gifts; establishing certain acts as felonies and establishing certain penalties; providing that certain persons are guilty of a felony and subject to a certain penalty for purchasing or selling certain parts under certain circumstances; authorizing a person to charge a certain amount for providing certain services; providing that certain persons that act in good faith are not liable in certain civil actions; establishing that certain donors may make certain gifts by authorizing that certain statements or symbols be included on a certain registry; requiring the Secretary of Health and Mental Hygiene to contract with and provide compensation to a certain nonprofit entity for the establishment, maintenance, and operation of a donor registry; requiring that the Organ and Tissue Donation Awareness Fund provide funds for the establishment, operation, and maintenance of a certain donor registry; requiring the Motor Vehicle Administration to cooperate in the transfer of certain information to the donor registry; establishing certain administrative terms for the donor registry; ~~providing for the resolution of conflicts between certain anatomical gifts and certain advance directives; requiring that certain procurement organizations and the Office of the Chief Medical Examiner (OCME) cooperate to maximize the opportunity to recover certain anatomical gifts and to facilitate certain OCME investigations; providing for the terms of the recoveries between certain procurement organizations and the OCME; providing for the resolution of conflicts between certain anatomical gift designations and certain investigations by the OCME; providing that this Act supersedes a certain federal statute; requiring that certain directions to make, amend, revoke, or refuse to make an anatomical gift be recorded in certain medical records; altering the~~~~

~~circumstances under which the consent of certain representatives is not necessary; requiring the custodian of certain motor vehicle records containing personal information to disclose certain personal information for use by certain procurement organizations under certain circumstances; repealing a certain provision prohibiting that certain donor designations appear on certain minors' drivers' licenses; requiring that, subject to certain funding, the Department of Health and Mental Hygiene conduct a certain study on nontransplant tissue banks on or before a certain date; making certain technical changes; defining certain terms; and generally relating to the Maryland Revised Anatomical Gift Act.~~

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

~~Section 4-501 through 4-512 and the subtitle “Subtitle 5. Maryland Anatomical Gift Act”~~ 4-505(c) and 4-512

Annotated Code of Maryland

(2001 Replacement Volume and 2007 Supplement)

BY adding to

Article – Estates and Trusts

~~Section 4-501 through 4-522 to be under the new subtitle “Subtitle 5. Maryland Revised Anatomical Gift Act”~~ 4-512

Annotated Code of Maryland

(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

~~Section 5-408, 5-604.1, 13-901, and 19-310(a)~~

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 10-616(p)(5)(xiii) and (xiv)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY adding to

Article – State Government

Section 10-616(p)(5)(xv)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Transportation~~

~~Section 12-303  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4-501 through 4-512 and the subtitle "Subtitle 5, Maryland Anatomical Gift Act" of Article Estates and Trusts of the Annotated Code of Maryland be repealed.~~

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

~~Article Estates and Trusts~~

~~SUBTITLE 5. MARYLAND REVISED ANATOMICAL GIFT ACT.~~

~~4-501.~~

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

~~(B) "AGENT" MEANS AN INDIVIDUAL:~~

~~(1) AUTHORIZED TO MAKE HEALTH CARE DECISIONS ON BEHALF OF A PRINCIPAL BY A POWER OF ATTORNEY FOR HEALTH CARE; OR~~

~~(2) EXPRESSLY AUTHORIZED TO MAKE AN ANATOMICAL GIFT ON BEHALF OF A PRINCIPAL BY A RECORD SIGNED BY THE PRINCIPAL.~~

~~(C) "ANATOMICAL GIFT" MEANS A DONATION OF ALL OR PART OF A HUMAN BODY TO TAKE EFFECT AFTER THE DONOR'S DEATH FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(D) (1) "DECEDENT" MEANS A DECEASED INDIVIDUAL WHOSE BODY OR PART IS OR MAY BE THE SOURCE OF AN ANATOMICAL GIFT.~~

~~(2) "DECEDENT" INCLUDES A STILLBORN INFANT AND, EXCEPT AS PROVIDED BY A LAW OTHER THAN THIS SUBTITLE, A FETUS.~~

~~(E) (1) "DISINTERESTED WITNESS" MEANS A WITNESS OTHER THAN:~~

~~(i) A SPOUSE, CHILD, PARENT, SIBLING, GRANDCHILD, GRANDPARENT, OR GUARDIAN OF AN INDIVIDUAL WHO MAKES, AMENDS, REVOKES, OR REFUSES TO MAKE AN ANATOMICAL GIFT; OR~~

~~(H) ANOTHER ADULT WHO EXHIBITS SPECIAL CARE AND CONCERN FOR AN INDIVIDUAL WHO MAKES, AMENDS, REVOKES, OR REFUSES TO MAKE AN ANATOMICAL GIFT.~~

~~(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (H) OF THIS PARAGRAPH, "DISINTERESTED WITNESS" DOES NOT INCLUDE A PERSON TO WHICH AN ANATOMICAL GIFT MAY PASS UNDER § 4-509 OF THIS SUBTITLE.~~

~~(H) AN INDIVIDUAL EMPLOYED BY A TRANSPLANT HOSPITAL MAY NOT BE DISQUALIFIED FROM BEING A "DISINTERESTED WITNESS" SOLELY BECAUSE OF THE INDIVIDUAL'S EMPLOYMENT.~~

~~(F) (1) "DOCUMENT OF GIFT" MEANS A DONOR CARD OR OTHER RECORD USED TO MAKE AN ANATOMICAL GIFT.~~

~~(2) "DOCUMENT OF GIFT" INCLUDES A STATEMENT OR SYMBOL ON A DRIVER'S LICENSE, IDENTIFICATION CARD, OR DONOR REGISTRY.~~

~~(G) "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE SUBJECT OF AN ANATOMICAL GIFT.~~

~~(H) "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS OF ANATOMICAL GIFTS AND AMENDMENTS TO ANATOMICAL GIFTS.~~

~~(I) (1) "DRIVER'S LICENSE" MEANS A LICENSE OR PERMIT ISSUED BY THE MOTOR VEHICLE ADMINISTRATION TO OPERATE A VEHICLE, WHETHER OR NOT CONDITIONS ARE ATTACHED TO THE LICENSE OR PERMIT.~~

~~(2) "DRIVER'S LICENSE" INCLUDES A LEARNER'S PERMIT.~~

~~(J) "EYE BANK" MEANS A PERSON THAT:~~

~~(1) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES;~~

~~(2) IS ACCREDITED BY THE EYE BANK ASSOCIATION OF AMERICA OR THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND~~

~~(3) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH GENERAL ARTICLE.~~

~~(K) (1) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF AN INDIVIDUAL.~~

~~(2) "GUARDIAN" DOES NOT INCLUDE A GUARDIAN AD LITEM, UNLESS THE GUARDIAN AD LITEM IS AUTHORIZED BY A COURT TO CONSENT TO DONATION.~~

~~(L) "HOSPITAL" MEANS A FACILITY LICENSED AS A HOSPITAL UNDER THE LAW OF ANY STATE OR A FACILITY OPERATED AS A HOSPITAL BY THE UNITED STATES, A STATE, OR A SUBDIVISION OF A STATE.~~

~~(M) "IDENTIFICATION CARD" MEANS AN IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION.~~

~~(N) "KNOW" MEANS TO HAVE ACTUAL KNOWLEDGE.~~

~~(O) (1) "NONTRANSPLANT TISSUE BANK" MEANS A PERSON THAT RECOVERS, SCREENS, PROCURES, TRANSPORTS, STORES, OR ARRANGES FOR THE STORAGE OF A BODY OR PART OF A BODY SOLELY FOR THE PURPOSE OF RESEARCH OR EDUCATION.~~

~~(2) "NONTRANSPLANT TISSUE BANK" INCLUDES:~~

~~(I) THE MARYLAND STATE ANATOMY BOARD;~~

~~(II) A SCHOOL OF MEDICINE OR DENTISTRY OPERATING A WILLED BODY PROGRAM;~~

~~(III) A PROGRAM OPERATED BY OFFICERS OR EMPLOYEES OF THE UNITED STATES; OR~~

~~(IV) A NONPROFIT ORGANIZATION PERMITTED TO OPERATE UNDER § 5-408 OF THE HEALTH GENERAL ARTICLE.~~

~~(3) "NONTRANSPLANT TISSUE BANK" DOES NOT INCLUDE:~~

~~(I) EYE BANKS;~~

~~(II) ORGAN PROCUREMENT ORGANIZATIONS; OR~~

~~(III) TRANSPLANT TISSUE BANKS.~~

~~(P) "OCME" MEANS THE OFFICE OF THE CHIEF MEDICAL EXAMINER.~~

~~(Q) "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON DESIGNATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS AN ORGAN PROCUREMENT ORGANIZATION.~~

~~(R) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT BEEN TERMINATED.~~

~~(S) (1) "PART" MEANS AN ORGAN, AN EYE, OR TISSUE OF A HUMAN BEING.~~

~~(2) "PART" DOES NOT INCLUDE THE WHOLE BODY.~~

~~(T) "PHYSICIAN" MEANS AN INDIVIDUAL AUTHORIZED TO PRACTICE MEDICINE OR OSTEOPATHY UNDER THE LAW OF ANY STATE.~~

~~(U) "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, ORGAN PROCUREMENT ORGANIZATION, OR TISSUE BANK.~~

~~(V) (1) "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT AND HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION TO HAVE A PART THAT COULD BE MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(2) "PROSPECTIVE DONOR" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A REFUSAL.~~

~~(W) "QUALIFIED NONPROFIT ENTITY" MEANS A PROCUREMENT ORGANIZATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE THAT HAS BOARD DIRECTORS WHOSE MEMBERS ARE EXPERIENCED IN:~~

~~(1) ORGAN, TISSUE, AND EYE DONATION;~~

~~(2) WORKING WITH DONORS AND DONOR FAMILIES; AND~~

~~(3) EDUCATING THE PUBLIC ABOUT THE IMPORTANCE OF THE PROCESS OF ORGAN, TISSUE, AND EYE DONATION.~~

~~(X) "REASONABLY AVAILABLE" MEANS ABLE TO BE CONTACTED BY A PROCUREMENT ORGANIZATION WITHOUT UNDUE EFFORT AND WILLING AND ABLE TO ACT IN A TIMELY MANNER CONSISTENT WITH EXISTING MEDICAL CRITERIA NECESSARY FOR THE MAKING OF AN ANATOMICAL GIFT.~~

~~(Y) "RECIPIENT" MEANS AN INDIVIDUAL INTO WHOSE BODY A DECEDENT'S PART HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.~~

~~(Z) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.~~

~~(AA) "REFUSAL" MEANS A RECORD CREATED UNDER § 4-505 OF THIS SUBTITLE THAT EXPRESSLY STATES AN INTENT TO BAR OTHER PERSONS FROM MAKING AN ANATOMICAL GIFT OF AN INDIVIDUAL'S BODY OR PART.~~

~~(BB) "SIGN" MEANS TO:~~

~~(1) HAVE PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD; AND~~

~~(2) (I) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR~~

~~(II) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.~~

~~(CC) (1) "TECHNICIAN" MEANS AN INDIVIDUAL DETERMINED TO BE QUALIFIED TO REMOVE OR PROCESS PARTS BY AN APPROPRIATE ORGANIZATION THAT IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW.~~

~~(2) "TECHNICIAN" INCLUDES AN ENUCLEATOR.~~

~~(DD) (1) "TISSUE" MEANS A PORTION OF THE HUMAN BODY OTHER THAN AN ORGAN OR AN EYE.~~

~~(2) "TISSUE" DOES NOT INCLUDE BLOOD UNLESS THE BLOOD IS DONATED FOR THE PURPOSE OF RESEARCH OR EDUCATION.~~

~~(EE) "TISSUE BANK" MEANS A TRANSPLANT TISSUE BANK OR A NONTRANSPLANT TISSUE BANK.~~

~~(FF) "TRANSPLANT HOSPITAL" MEANS A HOSPITAL THAT FURNISHES ORGAN TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY SERVICES REQUIRED FOR THE CARE OF TRANSPLANT PATIENTS.~~

~~(GG) "TRANSPLANT TISSUE BANK" MEANS A PERSON THAT:~~

~~(1) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF TISSUE;~~

~~(2) IS ACCREDITED BY THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND~~

~~(3) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH GENERAL ARTICLE.~~

~~4-502.~~

~~THIS SUBTITLE APPLIES TO AN ANATOMICAL GIFT OR AMENDMENT TO, REVOCATION OF, OR REFUSAL TO MAKE AN ANATOMICAL GIFT.~~

~~4-503.~~

~~(A) SUBJECT TO § 4-506 OF THIS SUBTITLE, AN ANATOMICAL GIFT MAY BE MADE DURING THE LIFE OF A DONOR FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION BY:~~

~~(1) (i) A DONOR WHO IS AN ADULT; OR~~

~~(ii) A DONOR WHO IS A MINOR IF THE MINOR IS:~~

~~1. EMANCIPATED; OR~~

~~2. AUTHORIZED UNDER STATE LAW TO APPLY FOR A DRIVER'S LICENSE BECAUSE THE DONOR IS AT LEAST 15 YEARS AND 9 MONTHS OLD;~~

~~(2) AN AGENT OF A DONOR, UNLESS A POWER OF ATTORNEY FOR HEALTH CARE OR OTHER RECORD PROHIBITS THE AGENT FROM MAKING AN ANATOMICAL GIFT;~~

~~(3) A PARENT OF A DONOR, IF THE DONOR IS AN UNEMANCIPATED MINOR; OR~~

~~(4) A GUARDIAN OF A DONOR.~~

~~(B) A DONOR MAY MAKE AN ANATOMICAL GIFT:~~



~~(1) BY AUTHORIZING A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE AN ANATOMICAL GIFT TO BE IMPRINTED ON THE DONOR'S DRIVER'S LICENSE OR IDENTIFICATION CARD;~~

~~(2) BY WILL;~~

~~(3) DURING A TERMINAL ILLNESS OR INJURY OF THE DONOR, BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS; OR~~

~~(4) AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.~~

~~(c) (1) A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER THIS SECTION MAY MAKE A GIFT BY:~~

~~(i) A DOCUMENT OF GIFT SIGNED BY THE DONOR OR OTHER PERSON MAKING THE GIFT; OR~~

~~(ii) AUTHORIZING THAT A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE AN ANATOMICAL GIFT BE INCLUDED ON A DONOR REGISTRY.~~

~~(2) IF A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER THIS SECTION IS PHYSICALLY UNABLE TO SIGN A DOCUMENT OF GIFT, THE DOCUMENT OF GIFT MAY BE SIGNED BY ANOTHER INDIVIDUAL AT THE DIRECTION OF THE DONOR OR OTHER PERSON AND SHALL:~~

~~(i) BE WITNESSED BY AT LEAST TWO ADULTS WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR OTHER PERSON; AND~~

~~(ii) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (i) OF THIS PARAGRAPH.~~

~~(d) REVOCATION, SUSPENSION, EXPIRATION, OR CANCELLATION OF A DRIVER'S LICENSE OR IDENTIFICATION CARD THAT INDICATES AN ANATOMICAL GIFT DOES NOT INVALIDATE THE GIFT.~~

~~(e) (1) AN ANATOMICAL GIFT MADE BY WILL TAKES EFFECT ON THE DONOR'S DEATH WHETHER OR NOT THE WILL IS PROBATED.~~

~~(2) IF A WILL THAT INDICATES AN ANATOMICAL GIFT IS INVALIDATED AFTER THE DONOR'S DEATH, THE ANATOMICAL GIFT DOES NOT BECOME INVALID.~~

~~4-504.~~

~~(A) SUBJECT TO § 4-506 OF THIS SUBTITLE, A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE MAY AMEND OR REVOKE THE ANATOMICAL GIFT BY:~~

~~(1) A RECORD SIGNED BY:~~

~~(I) THE DONOR;~~

~~(II) THE OTHER PERSON; OR~~

~~(III) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE DONOR OR OTHER PERSON IS PHYSICALLY UNABLE TO SIGN, ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE DONOR OR THE OTHER PERSON; OR~~

~~(2) A LATER EXECUTED DOCUMENT OF GIFT THAT EXPRESSLY OR BY INCONSISTENCY AMENDS OR REVOKES THE PREVIOUS ANATOMICAL GIFT OR PORTION OF THE ANATOMICAL GIFT.~~

~~(B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(III) OF THIS SECTION SHALL:~~

~~(1) BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE OTHER PERSON; AND~~

~~(2) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.~~

~~(C) SUBJECT TO § 4-506 OF THIS SUBTITLE, A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE MAY REVOKE THE ANATOMICAL GIFT BY THE DESTRUCTION OR CANCELLATION OF THE DOCUMENT OF GIFT, OR PORTION OF THE DOCUMENT OF GIFT USED TO MAKE THE GIFT, WITH THE INTENT TO REVOKE THE GIFT.~~

~~(D) DURING A TERMINAL ILLNESS OF A DONOR OR WHILE A DONOR IS INJURED, THE DONOR MAY AMEND OR REVOKE AN ANATOMICAL GIFT THAT WAS NOT MADE BY WILL BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.~~

~~(E) A DONOR WHO MAKES AN ANATOMICAL GIFT BY WILL MAY AMEND OR REVOKE THE GIFT IN THE MANNER PROVIDED FOR AMENDMENT OR REVOCATION OF WILLS OR AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.~~

~~(F) AN ANATOMICAL GIFT MADE BY A DONOR DESIGNATION ON A DRIVER'S LICENSE OR IDENTIFICATION CARD MAY BE REVOKED BY GIVING WRITTEN NOTICE TO THE MOTOR VEHICLE ADMINISTRATION IN ACCORDANCE WITH § 12-303 OF THE TRANSPORTATION ARTICLE.~~

~~4-505.~~

~~(A) AN INDIVIDUAL MAY REFUSE TO MAKE AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART BY:~~

~~(1) A RECORD SIGNED BY:~~

~~(i) THE INDIVIDUAL; OR~~

~~(ii) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN, ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE INDIVIDUAL;~~

~~(2) THE INDIVIDUAL'S WILL, WHETHER OR NOT THE WILL IS ADMITTED TO PROBATE OR INVALIDATED AFTER THE INDIVIDUAL'S DEATH; OR~~

~~(3) DURING A TERMINAL ILLNESS OF THE INDIVIDUAL OR WHILE THE INDIVIDUAL IS INJURED, ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.~~

~~(B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(II) OF THIS SECTION SHALL:~~

~~(1) BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE INDIVIDUAL; AND~~

~~(2) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.~~

~~(C) AN INDIVIDUAL WHO HAS MADE A REFUSAL MAY AMEND OR REVOKE THE REFUSAL:~~

~~(1) IN A MANNER PROVIDED IN SUBSECTION (A) OF THIS SECTION;~~

~~(2) BY SUBSEQUENTLY MAKING AN ANATOMICAL GIFT IN ACCORDANCE WITH § 4-503 OF THIS SUBTITLE THAT IS INCONSISTENT WITH THE REFUSAL; OR~~

~~(3) BY DESTROYING OR CANCELING THE RECORD EVIDENCING THE REFUSAL, OR THE PORTION OF THE RECORD USED TO MAKE THE REFUSAL, WITH THE INTENT TO REVOKE THE REFUSAL.~~

~~(D) EXCEPT AS OTHERWISE PROVIDED IN § 4-506(H) OF THIS SUBTITLE, IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE INDIVIDUAL SET FORTH IN THE REFUSAL, AN INDIVIDUAL'S UNREVOKED REFUSAL TO MAKE AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART BARS ALL OTHER PERSONS FROM MAKING AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART.~~

~~4-506.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (G) OF THIS SECTION AND SUBJECT TO SUBSECTION (F) OF THIS SECTION, IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR, A PERSON OTHER THAN THE DONOR IS BARRED FROM MAKING, AMENDING, OR REVOKING AN ANATOMICAL GIFT OF A DONOR'S BODY OR PART IF THE DONOR MADE:~~

~~(1) AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE; OR~~

~~(2) AN AMENDMENT TO AN ANATOMICAL GIFT UNDER § 4-504 OF THIS SUBTITLE.~~

~~(B) A DONOR'S REVOCATION OF AN ANATOMICAL GIFT UNDER § 4-504 OF THIS SUBTITLE IS NOT A REFUSAL AND DOES NOT BAR ANOTHER PERSON SPECIFIED IN § 4-501 OR § 4-507 OF THIS SUBTITLE FROM MAKING AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(C) IF A PERSON OTHER THAN A DONOR MAKES AN UNREVOKED ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-503 OF THIS SUBTITLE OR AN AMENDMENT TO AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-504 OF THIS SUBTITLE, ANOTHER PERSON MAY NOT MAKE, AMEND, OR REVOKE THE GIFT OF THE DONOR'S BODY OR PART UNDER § 4-508 OF THIS SUBTITLE.~~

~~(D) A REVOCATION OF AN ANATOMICAL GIFT OF A DONOR'S BODY OR PART UNDER § 4-504 OF THIS SUBTITLE BY A PERSON OTHER THAN THE DONOR DOES NOT BAR ANOTHER PERSON FROM MAKING AN ANATOMICAL GIFT OF THE BODY OR PART UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(E) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART IS NOT A REFUSAL TO GIVE ANOTHER PART OR A LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF ANOTHER PART AT A LATER TIME BY THE DONOR OR ANOTHER PERSON.~~

~~(F) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART FOR ONE OR MORE OF THE PURPOSES SET FORTH IN § 4-503 OF THIS SUBTITLE IS NOT A LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF THE PART FOR ANY OTHER PURPOSE BY THE DONOR OR OTHER PERSON UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(G) IF A DONOR WHO IS AN UNEMANCIPATED MINOR DIES, A REASONABLY AVAILABLE PARENT OR GUARDIAN OF THE DONOR MAY REVOKE OR AMEND AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART.~~

~~(H) IF AN UNEMANCIPATED MINOR WHO SIGNED A REFUSAL DIES, A REASONABLY AVAILABLE PARENT OR GUARDIAN OF THE MINOR MAY REVOKE THE MINOR'S REFUSAL.~~

#### ~~4-507.~~

~~(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION AND EXCEPT AS PROHIBITED IN §§ 4-505 AND 4-506 OF THIS SUBTITLE, IN ACCORDANCE WITH THE ORDER OF PRIORITY LISTED, A MEMBER OF ONE OF THE FOLLOWING CLASSIFICATIONS OF INDIVIDUALS WHO IS REASONABLY AVAILABLE MAY MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PART FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION:~~

~~(1) AN AGENT OF THE DECEDENT AT THE TIME OF DEATH WHO COULD HAVE MADE AN ANATOMICAL GIFT UNDER § 4-503(B) OF THIS SUBTITLE IMMEDIATELY BEFORE THE DECEDENT'S DEATH;~~

- ~~(2) A GUARDIAN OF THE PERSON OF THE DECEDENT AT THE TIME OF DEATH;~~
- ~~(3) THE SPOUSE OF THE DECEDENT;~~
- ~~(4) THE ADULT CHILDREN OF THE DECEDENT;~~
- ~~(5) THE PARENTS OF THE DECEDENT;~~
- ~~(6) THE ADULT SIBLINGS OF THE DECEDENT;~~
- ~~(7) THE ADULT GRANDCHILDREN OF THE DECEDENT;~~
- ~~(8) THE GRANDPARENTS OF THE DECEDENT;~~
- ~~(9) AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE DECEDENT; OR~~
- ~~(10) ANY OTHER PERSON HAVING THE AUTHORITY TO DISPOSE OF THE DECEDENT'S BODY.~~

~~(B) (1) IF THERE IS MORE THAN ONE MEMBER OF A CLASSIFICATION LISTED IN SUBSECTION (A)(1), (2), AND (4) THROUGH (8) OF THIS SECTION ENTITLED TO MAKE AN ANATOMICAL GIFT, AN ANATOMICAL GIFT MAY BE MADE BY A MEMBER OF THE CLASSIFICATION UNLESS THAT MEMBER OR A PERSON TO WHICH THE GIFT MAY PASS UNDER § 4-509 OF THIS SUBTITLE KNOWS OF AN OBJECTION BY ANOTHER MEMBER OF THE CLASSIFICATION.~~

~~(2) IF AN OBJECTION TO A GIFT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS KNOWN, THE GIFT MAY BE MADE ONLY BY THOSE REASONABLY AVAILABLE MEMBERS WHO CONSTITUTE AT LEAST 50% OF THE MEMBERS OF THE CLASSIFICATION WHO ARE REASONABLY AVAILABLE.~~

~~(C) A PERSON MAY NOT MAKE AN ANATOMICAL GIFT IF, AT THE TIME OF THE DECEDENT'S DEATH, A PERSON IN A PRIOR CLASSIFICATION UNDER SUBSECTION (A) OF THIS SECTION IS REASONABLY AVAILABLE TO MAKE OR TO OBJECT TO THE MAKING OF AN ANATOMICAL GIFT.~~

~~4-508.~~

~~(A) A PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-507 OF THIS SUBTITLE MAY MAKE IT:~~

~~(1) BY A DOCUMENT OF GIFT SIGNED BY THE PERSON MAKING THE GIFT; OR~~

~~(2) BY AN ORAL COMMUNICATION THAT IS ELECTRONICALLY RECORDED OR IS CONTEMPORANEOUSLY REDUCED TO A RECORD AND SIGNED BY THE INDIVIDUAL RECEIVING THE ORAL COMMUNICATION.~~

~~(B) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN ANATOMICAL GIFT BY A PERSON AUTHORIZED UNDER § 4-507 OF THIS SUBTITLE MAY BE AMENDED OR REVOKED ORALLY OR IN A RECORD BY A REASONABLY AVAILABLE MEMBER OF A PRIOR CLASS.~~

~~(2) IF MORE THAN ONE MEMBER OF A PRIOR CLASSIFICATION IS REASONABLY AVAILABLE, THE GIFT MADE BY A PERSON AUTHORIZED UNDER § 4-507 OF THIS SUBTITLE MAY BE AMENDED OR REVOKED IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS AGREE TO THE AMENDMENT OR REVOCATION.~~

~~(C) A REVOCATION UNDER SUBSECTION (B) OF THIS SECTION IS EFFECTIVE ONLY IF, BEFORE AN INCISION HAS BEEN MADE TO REMOVE A PART FROM THE DONOR'S BODY OR BEFORE INVASIVE PROCEDURES HAVE BEGUN TO PREPARE THE RECIPIENT, THE PROCUREMENT ORGANIZATION, TRANSPLANT HOSPITAL, OR PHYSICIAN OR TECHNICIAN KNOWS OF THE REVOCATION.~~

#### ~~4-509.~~

~~(A) AN ANATOMICAL GIFT MAY BE MADE TO THE FOLLOWING PERSONS NAMED IN A DOCUMENT OF GIFT:~~

~~(1) A HOSPITAL, ACCREDITED MEDICAL SCHOOL, DENTAL SCHOOL, COLLEGE OR UNIVERSITY, ORGAN PROCUREMENT ORGANIZATION, OR THE MARYLAND STATE ANATOMY BOARD, FOR RESEARCH OR EDUCATION;~~

~~(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE INDIVIDUAL IS THE RECIPIENT OF THE PART, AN INDIVIDUAL DESIGNATED BY THE PERSON MAKING THE ANATOMICAL GIFT; OR~~

~~(3) AN EYE BANK OR TISSUE BANK.~~

~~(B) IF AN ANATOMICAL GIFT TO AN INDIVIDUAL UNDER SUBSECTION (A)(2) OF THIS SECTION CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE PART PASSES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IN THE~~

~~ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE PERSON MAKING THE ANATOMICAL GIFT.~~

~~(C) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS OR OF ALL PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN SUBSECTION (A) OF THIS SECTION BUT IDENTIFIES THE PURPOSE FOR WHICH AN ANATOMICAL GIFT MAY BE USED, THE FOLLOWING PROVISIONS APPLY:~~

~~(1) IF THE PART IS AN EYE AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE EYE BANK;~~

~~(2) IF THE PART IS TISSUE AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE TRANSPLANT TISSUE BANK;~~

~~(3) IF THE PART IS AN ORGAN AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN; OR~~

~~(4) IF THE PART IS AN ORGAN, AN EYE, OR TISSUE AND THE GIFT IS FOR THE PURPOSE OF RESEARCH OR EDUCATION, THE GIFT PASSES TO THE APPROPRIATE PROCUREMENT ORGANIZATION.~~

~~(D) FOR THE PURPOSE OF SUBSECTION (C) OF THIS SECTION, IF THERE IS MORE THAN ONE PURPOSE OF AN ANATOMICAL GIFT SET FORTH IN THE DOCUMENT OF GIFT BUT THE PURPOSES ARE NOT SET FORTH IN ANY PRIORITY, THE GIFT SHALL BE USED:~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~

~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(E) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND DOES NOT IDENTIFY THE PURPOSE OF THE GIFT, THE GIFT PASSES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND MAY BE USED:~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~



~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(F) IF A DOCUMENT OF GIFT SPECIFIES ONLY A GENERAL INTENT TO MAKE AN ANATOMICAL GIFT BY WORDS SUCH AS "DONOR", "ORGAN DONOR", OR "BODY DONOR", OR BY A SYMBOL OR STATEMENT OF SIMILAR IMPORT, THE GIFT PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION AND MAY BE USED:~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~

~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(G) FOR PURPOSES OF SUBSECTIONS (B), (E), AND (F) OF THIS SECTION, THE FOLLOWING PROVISIONS APPLY:~~

~~(1) IF THE PART IS AN EYE, THE GIFT PASSES TO THE APPROPRIATE EYE BANK;~~

~~(2) IF THE PART IS TISSUE, THE GIFT PASSES TO THE APPROPRIATE TISSUE BANK; AND~~

~~(3) IF THE PART IS AN ORGAN, THE GIFT PASSES TO THE APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.~~

~~(H) OTHER THAN AN ANATOMICAL GIFT UNDER SUBSECTION (A)(2) OF THIS SECTION, AN ANATOMICAL GIFT OF AN ORGAN FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION PASSES TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.~~

~~(I) IF AN ANATOMICAL GIFT DOES NOT PASS IN ACCORDANCE WITH SUBSECTIONS (A) THROUGH (H) OF THIS SECTION OR THE DECEDENT'S BODY OR PART IS NOT USED FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, CUSTODY OF THE BODY OR PART PASSES TO THE PERSON UNDER OBLIGATION TO DISPOSE OF THE BODY OR PART.~~

~~(J) (1) A PERSON MAY NOT ACCEPT AN ANATOMICAL GIFT IF THE PERSON KNOWS THAT:~~

~~(i) THE GIFT WAS NOT EFFECTIVELY MADE UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE; OR~~

~~(H) THE DECEDENT MADE A REFUSAL UNDER § 4-504 OF THIS SUBTITLE THAT WAS NOT REVOKED.~~

~~(2) FOR PURPOSES OF THIS SUBSECTION, IF A PERSON KNOWS THAT AN ANATOMICAL GIFT WAS MADE ON A DOCUMENT OF GIFT, THE PERSON IS DEEMED TO KNOW OF ANY AMENDMENT OR REVOCATION OF THE GIFT OR ANY REFUSAL TO MAKE AN ANATOMICAL GIFT ON THE SAME DOCUMENT OF GIFT.~~

~~(K) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, NOTHING IN THIS SUBTITLE AFFECTS THE ALLOCATION OF ORGANS FOR TRANSPLANTATION OR THERAPY.~~

~~4-510.~~

~~(A) THE FOLLOWING PERSONS SHALL MAKE A REASONABLE SEARCH OF AN INDIVIDUAL WHO THE PERSON REASONABLY BELIEVES IS DEAD OR WHOSE DEATH IS IMMINENT FOR A DOCUMENT OF GIFT OR OTHER INFORMATION IDENTIFYING THE INDIVIDUAL AS A DONOR OR AS AN INDIVIDUAL WHO MADE A REFUSAL:~~

~~(1) A LAW ENFORCEMENT OFFICER, FIREFIGHTER, PARAMEDIC, OR OTHER EMERGENCY RESCUER FINDING THE INDIVIDUAL; AND~~

~~(2) IF NO OTHER SOURCE OF THE INFORMATION IS IMMEDIATELY AVAILABLE, A HOSPITAL, AS SOON AS PRACTICAL AFTER THE INDIVIDUAL'S ARRIVAL AT THE HOSPITAL.~~

~~(B) IF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT IS LOCATED BY THE SEARCH REQUIRED BY SUBSECTION (A)(1) OF THIS SECTION AND THE INDIVIDUAL OR DECEASED INDIVIDUAL TO WHOM IT RELATES IS TAKEN TO A HOSPITAL, THE PERSON RESPONSIBLE FOR CONDUCTING THE SEARCH SHALL SEND THE DOCUMENT OF GIFT OR REFUSAL TO THE HOSPITAL.~~

~~(C) A PERSON IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY FOR FAILING TO DISCHARGE THE DUTIES IMPOSED BY THIS SECTION BUT MAY BE SUBJECT TO ADMINISTRATIVE SANCTIONS.~~

~~4-511.~~

~~(A) A DOCUMENT OF GIFT NEED NOT BE DELIVERED DURING THE LIFETIME OF A DONOR TO BE EFFECTIVE.~~

~~(B) ON OR AFTER THE DEATH OF AN INDIVIDUAL, A PERSON IN POSSESSION OF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT REGARDING THE INDIVIDUAL SHALL ALLOW EXAMINATION AND COPYING OF THE DOCUMENT OF GIFT OR REFUSAL BY:~~

~~(1) A PERSON AUTHORIZED TO MAKE OR OBJECT TO THE MAKING OF THE ANATOMICAL GIFT; OR~~

~~(2) A PERSON THAT THE GIFT COULD PASS TO UNDER § 4-509 OF THIS SUBTITLE.~~

~~4-512.~~

~~(A) WHENEVER A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION, THE ORGANIZATION SHALL ASCERTAIN WHETHER THE INDIVIDUAL HAS MADE AN ANATOMICAL GIFT BY MAKING A REASONABLE SEARCH OF:~~

~~(1) THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION; AND~~

~~(2) ANY DONOR REGISTRY THAT IT KNOWS EXISTS FOR THE GEOGRAPHICAL AREA IN WHICH THE INDIVIDUAL RESIDES.~~

~~(B) A PROCUREMENT ORGANIZATION SHALL BE ALLOWED REASONABLE ACCESS TO INFORMATION IN THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION TO ASCERTAIN WHETHER AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT IS A DONOR.~~

~~(C) (1) WHENEVER A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION, THE ORGANIZATION MAY CONDUCT ANY REASONABLE EXAMINATION ON THE INDIVIDUAL TO ENSURE THE MEDICAL SUITABILITY OF A PART THAT IS OR COULD BE THE SUBJECT OF AN ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(2) DURING THE EXAMINATION PERIOD, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART MAY NOT BE WITHDRAWN UNLESS THE HOSPITAL OR PROCUREMENT ORGANIZATION KNOWS THAT THE INDIVIDUAL EXPRESSED A CONTRARY INTENT.~~

~~(D) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AT ANY TIME AFTER A DONOR'S DEATH, THE PERSON TO WHICH A PART PASSES UNDER §~~

~~4-509 OF THIS SUBTITLE MAY CONDUCT A REASONABLE EXAMINATION NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE BODY OR PART FOR ITS INTENDED PURPOSE.~~

~~(E) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AN EXAMINATION UNDER SUBSECTION (C) OR (D) MAY INCLUDE AN EXAMINATION OF ALL MEDICAL AND DENTAL RECORDS OF THE DONOR OR PROSPECTIVE DONOR.~~

~~(F) ON THE DEATH OF A MINOR WHO WAS A DONOR OR HAD SIGNED A REFUSAL, UNLESS A PROCUREMENT ORGANIZATION KNOWS THE MINOR IS EMANCIPATED, THE PROCUREMENT ORGANIZATION SHALL CONDUCT A REASONABLE SEARCH FOR THE PARENTS OF THE MINOR AND PROVIDE THE PARENTS WITH AN OPPORTUNITY TO REVOKE OR AMEND THE ANATOMICAL GIFT OR REVOKE THE REFUSAL.~~

~~(G) (1) ON A REFERRAL BY A HOSPITAL UNDER SUBSECTION (A) OF THIS SECTION, A PROCUREMENT ORGANIZATION SHALL MAKE A REASONABLE SEARCH FOR A PERSON LISTED IN § 4-507 OF THIS SUBTITLE HAVING PRIORITY TO MAKE AN ANATOMICAL GIFT ON BEHALF OF A PROSPECTIVE DONOR.~~

~~(2) IF A PROCUREMENT ORGANIZATION RECEIVES INFORMATION THAT AN ANATOMICAL GIFT TO ANY OTHER PERSON WAS MADE, AMENDED, OR REVOKED, IT SHALL PROMPTLY ADVISE THE OTHER PERSON OF ALL RELEVANT INFORMATION.~~

~~(H) (1) SUBJECT TO §§ 4-509(i) AND 4-519 OF THIS SUBTITLE, THE RIGHTS OF A PERSON TO WHICH A PART PASSES UNDER § 4-509 OF THIS SUBTITLE ARE SUPERIOR TO THE RIGHTS OF ALL OTHERS WITH RESPECT TO THE PART.~~

~~(2) A PERSON MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN PART.~~

~~(3) SUBJECT TO THE TERMS OF A DOCUMENT OF GIFT AND THIS SUBTITLE, A PERSON THAT ACCEPTS AN ANATOMICAL GIFT OF AN ENTIRE BODY MAY ALLOW EMBALMING, BURIAL, OR CREMATION, AND USE OF REMAINS IN A FUNERAL SERVICE.~~

~~(4) IF AN ANATOMICAL GIFT OF A PART IS MADE UNDER § 4-509 OF THIS SUBTITLE, ON THE DEATH OF THE DONOR AND BEFORE EMBALMING, BURIAL, OR CREMATION, THE PERSON TO WHICH THE PART PASSES SHALL HAVE THE PART REMOVED WITHOUT UNNECESSARY MUTILATION.~~

~~(I) A PHYSICIAN WHO ATTENDS A DECEDENT AT DEATH AND A PHYSICIAN WHO DETERMINES THE TIME OF A DECEDENT'S DEATH MAY NOT PARTICIPATE IN THE PROCEDURES FOR REMOVING OR TRANSPLANTING A PART FROM THE DECEDENT.~~

~~(J) (1) A PHYSICIAN OR TECHNICIAN MAY REMOVE A DONATED PART FROM THE BODY OF A DONOR THAT THE PHYSICIAN OR TECHNICIAN IS QUALIFIED TO REMOVE.~~

~~(2) AN ORGAN PROCUREMENT ORGANIZATION MAY RECOVER A DONATED PART FROM THE BODY OF A DONOR ON BEHALF OF AN EYE BANK OR TISSUE BANK.~~

~~(K) EACH HOSPITAL IN THE STATE SHALL ENTER INTO AN AGREEMENT OR AFFILIATION WITH A PROCUREMENT ORGANIZATION FOR COORDINATION OF PROCUREMENT AND USE OF ANATOMICAL GIFTS.~~

#### ~~4-513.~~

~~(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF REMOVAL OF A PART FROM AN INDIVIDUAL IS INTENDED TO OCCUR AFTER THE INDIVIDUAL'S DEATH, A PERSON MAY NOT KNOWINGLY PURCHASE OR SELL THE PART FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(2) ANY PERSON THAT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.~~

~~(B) (1) A PERSON MAY CHARGE A REASONABLE AMOUNT OF MONEY FOR THE REMOVAL, PROCESSING, PRESERVATION, QUALITY CONTROL, STORAGE, TRANSPORTATION, IMPLANTATION, OR DISPOSAL OF A PART.~~

~~(2) THE PROHIBITION IN SUBSECTION (A) OF THIS SUBSECTION DOES NOT APPLY TO BLOOD AND PLASMA.~~

~~(C) A PERSON THAT, IN ORDER TO OBTAIN A FINANCIAL GAIN, INTENTIONALLY FALSIFIES, FORGES, CONCEALS, DEFACES, OR OBLITERATES A DOCUMENT OF GIFT, AN AMENDMENT OR REVOCATION OF A DOCUMENT OF GIFT, OR A REFUSAL IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.~~

~~4-514.~~

~~(A) A PERSON THAT ACTS IN ACCORDANCE WITH THIS SUBTITLE OR WITH THE APPLICABLE ANATOMICAL GIFT LAW OF ANOTHER STATE, OR ATTEMPTS IN GOOD FAITH TO DO SO, IS NOT LIABLE FOR THE ACT IN A CIVIL ACTION, CRIMINAL PROSECUTION, OR ADMINISTRATIVE PROCEEDING.~~

~~(B) A PERSON MAKING AN ANATOMICAL GIFT OR A DONOR'S ESTATE IS NOT LIABLE FOR AN INJURY OR DAMAGE THAT RESULTS FROM THE MAKING OR USE OF THE GIFT.~~

~~(C) IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE, AMENDED, OR REVOKED UNDER THIS SUBTITLE, A PERSON MAY RELY ON REPRESENTATIONS OF AN INDIVIDUAL LISTED IN § 4-507(A)(2) THROUGH (9) OF THIS SUBTITLE UNLESS THE PERSON KNOWS THAT THE REPRESENTATION IS UNTRUE.~~

~~4-515.~~

~~(A) A DOCUMENT OF GIFT IS VALID IF EXECUTED IN ACCORDANCE WITH:~~

~~(1) THIS SUBTITLE;~~

~~(2) THE LAWS OF THE STATE OR COUNTRY WHERE IT WAS EXECUTED; OR~~

~~(3) THE LAWS OF THE STATE OR COUNTRY WHERE THE PERSON MAKING THE ANATOMICAL GIFT WAS DOMICILED, HAS A PLACE OF RESIDENCE, OR WAS A NATIONAL AT THE TIME THE DOCUMENT OF GIFT WAS EXECUTED.~~

~~(B) IF A DOCUMENT OF GIFT IS VALID UNDER THIS SECTION, THE LAW OF THIS STATE GOVERNS THE INTERPRETATION OF THE DOCUMENT OF GIFT.~~

~~(C) A PERSON MAY PRESUME THAT A DOCUMENT OF GIFT OR AMENDMENT OF AN ANATOMICAL GIFT IS VALID UNLESS THAT PERSON KNOWS THAT IT WAS NOT VALIDLY EXECUTED OR WAS REVOKED.~~

~~4-516.~~

~~(A) (1) ON OR BEFORE APRIL 1, 2009, THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL CONTRACT WITH A QUALIFIED NONPROFIT~~

~~ENTITY FOR THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF A DONOR REGISTRY.~~

~~(2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL USE FUNDS FROM THE ORGAN AND TISSUE DONOR AWARENESS FUND ESTABLISHED UNDER TITLE 13, SUBTITLE 9 OF THE HEALTH GENERAL ARTICLE OR ANY OTHER FUNDS AS MAY BE APPROPRIATE TO COMPENSATE THE NONPROFIT ENTITY CONTRACTED WITH UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE REASONABLE COST OF ESTABLISHING, MAINTAINING, AND OPERATING THE DONOR REGISTRY, INCLUDING THE REASONABLE COST OF PUBLIC EDUCATION PROGRAMS TO INCREASE PUBLIC AWARENESS ABOUT THE EXISTENCE AND PURPOSE OF THE REGISTRY AND ORGAN, TISSUE, AND EYE DONATION.~~

~~(B) THE MOTOR VEHICLE ADMINISTRATION SHALL COOPERATE WITH THE QUALIFIED NONPROFIT ENTITY CONTRACTED WITH UNDER SUBSECTION (A)(1) OF THIS SECTION FOR THE PURPOSE OF TRANSFERRING TO THE DONOR REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR'S MAKING, AMENDMENT TO, OR REVOCATION OF AN ANATOMICAL GIFT.~~

~~(C) A DONOR REGISTRY SHALL BE ACCESSIBLE 24 HOURS A DAY AND 7 DAYS A WEEK TO ALLOW:~~

~~(1) A DONOR OR OTHER PERSON AUTHORIZED UNDER § 4-503 OF THIS SUBTITLE TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT;~~

~~(2) A DONOR OR OTHER PERSON AUTHORIZED UNDER § 4-503 OF THIS SUBTITLE TO REVOKE AN ANATOMICAL GIFT; OR~~

~~(3) A PROCUREMENT ORGANIZATION TO OBTAIN RELEVANT INFORMATION ON THE DONOR REGISTRY TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF A DONOR OR A PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED, OR REVOKED AN ANATOMICAL GIFT.~~

~~(D) PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY ABOUT A DONOR OR PROSPECTIVE DONOR MAY NOT BE USED OR DISCLOSED WITHOUT THE EXPRESS CONSENT OF THE DONOR, PROSPECTIVE DONOR, OR PERSON THAT MADE THE ANATOMICAL GIFT FOR ANY PURPOSE OTHER THAN TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF THE DONOR OR~~

~~PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT.~~

~~(E) (1) THIS SECTION DOES NOT PROHIBIT A PERSON FROM CREATING OR MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE.~~

~~(2) A REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE SHALL COMPLY WITH SUBSECTIONS (C) AND (D) OF THIS SECTION.~~

~~4-517.~~

~~(A) IN THIS SECTION, "ADVANCE DIRECTIVE" MEANS A POWER OF ATTORNEY FOR HEALTH CARE OR A RECORD SIGNED BY A PROSPECTIVE DONOR IN ACCORDANCE WITH §§ 5-601 THROUGH 5-618 OF THE HEALTH GENERAL ARTICLE.~~

~~(B) (1) (i) IF A PROSPECTIVE DONOR HAS A DECLARATION OR ADVANCE DIRECTIVE AND THE TERMS OF THE DECLARATION OR DIRECTIVE AND THE EXPRESS OR IMPLIED TERMS OF A POTENTIAL ANATOMICAL GIFT ARE IN CONFLICT WITH REGARD TO THE ADMINISTRATION OF MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART FOR TRANSPLANTATION OR THERAPY:~~

~~1. THE PROSPECTIVE DONOR'S ATTENDING PHYSICIAN AND PROSPECTIVE DONOR SHALL CONFER TO RESOLVE THE CONFLICT; OR~~

~~2. IF THE PROSPECTIVE DONOR IS INCAPABLE OF RESOLVING THE CONFLICT, AN AGENT ACTING UNDER THE PROSPECTIVE DONOR'S DECLARATION OR DIRECTIVE SHALL ACT FOR THE DONOR TO RESOLVE THE CONFLICT.~~

~~(ii) IF THERE IS NOT AN AGENT OR THE AGENT IS NOT REASONABLY AVAILABLE, ANOTHER PERSON AUTHORIZED BY A LAW OTHER THAN THIS SUBTITLE TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE PROSPECTIVE DONOR SHALL ACT FOR THE DONOR TO RESOLVE THE CONFLICT.~~

~~(3) A CONFLICT UNDER THIS SUBSECTION SHALL BE RESOLVED AS EXPEDITIOUSLY AS POSSIBLE.~~



~~(4) INFORMATION RELEVANT TO THE RESOLUTION OF THE CONFLICT UNDER THIS SUBSECTION MAY BE OBTAINED FROM THE APPROPRIATE PROCUREMENT ORGANIZATION AND ANY OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT FOR THE PROSPECTIVE DONOR UNDER § 4-507 OF THIS SUBTITLE.~~

~~(5) BEFORE RESOLUTION OF A CONFLICT UNDER THIS SUBSECTION, A MEASURE TO ENSURE THE MEDICAL SUITABILITY OF A PART MAY NOT BE WITHHELD OR WITHDRAWN FROM THE PROSPECTIVE DONOR IF WITHHOLDING OR WITHDRAWING THE MEASURE IS NOT CONTRAINDICATED BY APPROPRIATE END-OF-LIFE CARE.~~

~~4-518.~~

~~(A) THE OCME AND PROCUREMENT ORGANIZATIONS SHALL COOPERATE WITH EACH OTHER TO MAXIMIZE THE OPPORTUNITY TO RECOVER ANATOMICAL GIFTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(B) IF THE OCME RECEIVES NOTICE FROM A PROCUREMENT ORGANIZATION THAT AN ANATOMICAL GIFT MIGHT BE AVAILABLE OR WAS MADE WITH RESPECT TO A DECEDENT WHOSE BODY OR PART IS UNDER THE JURISDICTION OF THE OCME FOR A POSTMORTEM INVESTIGATION, UNLESS THE OCME DENIES RECOVERY IN ACCORDANCE WITH § 4-519 OF THIS SUBTITLE, THE CHIEF MEDICAL EXAMINER OR DESIGNEE SHALL CONDUCT THE POSTMORTEM INVESTIGATION OF THE BODY OR PART IN A MANNER AND WITHIN A PERIOD COMPATIBLE WITH ITS PRESERVATION FOR THE PURPOSE OF THE GIFT.~~

~~(C) (1) A PART MAY NOT BE REMOVED FROM THE BODY OF A DECEDENT UNDER THE JURISDICTION OF OCME FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION UNLESS THE PART IS THE SUBJECT OF AN ANATOMICAL GIFT.~~

~~(2) THE BODY OF A DECEDENT UNDER THE JURISDICTION OF THE OCME MAY NOT BE DELIVERED TO A PERSON FOR RESEARCH OR EDUCATION UNLESS THE BODY IS THE SUBJECT OF AN ANATOMICAL GIFT.~~

~~(3) THIS SUBSECTION DOES NOT PRECLUDE THE OCME FROM:~~

~~(i) PERFORMING A MEDICOLEGAL INVESTIGATION ON THE BODY OR PART OF A DECEDENT UNDER THE JURISDICTION OF THE OCME; OR~~

~~(H) USING THE BODY OR PART UNDER THE JURISDICTION OF THE OCME FOR THE PURPOSES OF EDUCATION, TRAINING, AND RESEARCH REQUIRED BY OCME.~~

~~4-519.~~

~~(A) (1) ON REQUEST OF A PROCUREMENT ORGANIZATION, THE OCME SHALL RELEASE TO THE PROCUREMENT ORGANIZATION THE NAME, CONTACT INFORMATION, AND AVAILABLE MEDICAL AND SOCIAL HISTORY OF A DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE OCME.~~

~~(2) IF A BODY OR PART OF A DECEDENT IS MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, THE OCME SHALL RELEASE POSTMORTEM INVESTIGATION RESULTS TO THE PROCUREMENT ORGANIZATION THAT MADE A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) IF RELEVANT TO TRANSPLANTATION, RESEARCH, EDUCATION, OR THERAPY, A PROCUREMENT ORGANIZATION MAY MAKE A SUBSEQUENT DISCLOSURE OF A POSTMORTEM INVESTIGATION RESULTS OR OTHER INFORMATION RECEIVED FROM THE OCME.~~

~~(B) THE OCME MAY CONDUCT A MEDICOLEGAL INVESTIGATION BY REVIEWING MEDICAL RECORDS, LABORATORY TEST RESULTS, X RAYS, OTHER DIAGNOSTIC RESULTS, AND OTHER INFORMATION THAT THE OCME DETERMINES MAY BE RELEVANT TO THE INVESTIGATION.~~

~~(C) A PERSON THAT HAS INFORMATION REQUESTED BY THE OCME IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, SHALL PROVIDE THE INFORMATION AS EXPEDITIOUSLY AS POSSIBLE TO ALLOW THE OCME TO CONDUCT THE MEDICOLEGAL INVESTIGATION WITHIN A PERIOD COMPATIBLE WITH THE PRESERVATION OF PARTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(D) THE OCME AND A PROCUREMENT ORGANIZATION SHALL COOPERATE IN THE TIMELY REMOVAL OF A PART FROM A DECEDENT FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, IF:~~

~~(1) AN ANATOMICAL GIFT HAS BEEN OR MIGHT BE MADE OF THE PART OF THE DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE OCME AND A POSTMORTEM INVESTIGATION IS NOT REQUIRED; OR~~

~~(2) THE OCME DETERMINES THAT A POSTMORTEM EXAMINATION IS REQUIRED BUT THAT THE RECOVERY OF THE PART THAT IS THE SUBJECT OF THE ANATOMICAL GIFT WILL NOT INTERFERE WITH THE INVESTIGATION.~~

~~(E) (1) THE OCME AND PROCUREMENT ORGANIZATIONS SHALL ENTER INTO AN AGREEMENT SETTING FORTH PROTOCOLS AND PROCEDURES TO GOVERN RELATIONS BETWEEN THE PARTIES WHEN AN ANATOMICAL GIFT OF A PART FROM A DECEDENT UNDER THE JURISDICTION OF THE OCME HAS BEEN OR MIGHT BE MADE BUT THE OCME BELIEVES THAT THE RECOVERY OF THE PART COULD INTERFERE WITH THE POSTMORTEM INVESTIGATION INTO THE DECEDENT'S CAUSE OR MANNER OF DEATH.~~

~~(2) DECISIONS REGARDING THE RECOVERY OF ORGANS, TISSUE, AND EYES UNDER THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE AGREEMENT.~~

~~(3) IF THE MEDICAL EXAMINER DENIES RECOVERY OF AN ANATOMICAL GIFT, THE PROCUREMENT ORGANIZATION MAY REQUEST THE CHIEF MEDICAL EXAMINER TO RECONSIDER THE DENIAL AND ALLOW THE RECOVERY TO PROCEED.~~

~~(4) THE PARTIES SHALL EVALUATE THE EFFECTIVENESS OF THE PROTOCOLS AND PROCEDURES AGREED TO UNDER THIS SUBSECTION AT REGULAR INTERVALS BUT NO LESS FREQUENTLY THAN EVERY 2 YEARS.~~

~~(F) IF THE CHIEF MEDICAL EXAMINER OR DESIGNEE ALLOWS RECOVERY OF A PART UNDER SUBSECTION (D) OR (E) OF THIS SECTION, ON REQUEST, THE PROCUREMENT ORGANIZATION SHALL CAUSE THE PHYSICIAN OR TECHNICIAN WHO REMOVES THE PART TO PROVIDE THE MEDICAL EXAMINER WITH A RECORD DESCRIBING THE CONDITION OF THE PART, A BIOPSY, A PHOTOGRAPH, AND ANY OTHER INFORMATION AND OBSERVATIONS THAT WOULD ASSIST IN THE POSTMORTEM EXAMINATION.~~

~~(G) IF A MEDICAL EXAMINER OR DESIGNEE IS REQUIRED TO BE PRESENT AT A REMOVAL PROCEDURE UNDER SUBSECTION (E) OF THIS SECTION, THE PROCUREMENT ORGANIZATION REQUESTING THE RECOVERY OF THE PART SHALL REIMBURSE OCME FOR THE ADDITIONAL COSTS INCURRED IN COMPLYING WITH THE SUBSECTION.~~

~~4-520.~~

~~IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT THE PROVISIONS OF THIS SUBTITLE.~~

~~4-521.~~

~~THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE SECTION 101(A) OF THAT ACT, 15 U.S.C. SECTION 7001 ET SEQ., OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15 U.S.C. SECTION 7003(B).~~

~~4-522.~~

~~THIS SUBTITLE MAY BE CITED AS THE MARYLAND REVISED ANATOMICAL GIFT ACT.~~

~~Article — Health — General~~

~~5-408.~~

~~(a) (1) A person may not sell or buy any body or any part of a body that is under the exclusive control of the Board.~~

~~(2) A person other than a nonprofit organization that qualifies under § 501(c)(3) of the Internal Revenue Code, may not sell, buy, or act as a broker for a profit in the transfer of any human organ that:~~

~~(i) Is removed from a human body that is alive or dead at the time of removal; and~~

~~(ii) Is not under the exclusive control of the Board.~~

~~(3) In this section, "human organ" does not include blood and plasma.~~

~~(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not send, transport, or permit or cause to be sent or transported out of the State any body or any part of a body that is under the exclusive control of the Board.~~

~~(2) The Board may authorize, by regulation, the transporting of human specimens under its exclusive control to an out of state medical study program, provided that:~~

- ~~(i) The needs of the schools of the State are met;~~
- ~~(ii) The requesting party demonstrates the need for a specimen;~~
- ~~(iii) The circumstances of the request are that:~~

~~1. No other sufficient source of specimens within the requesting state exists; or~~

~~2. A preexisting organ tissue donation was made by an individual in compliance with the [Uniform Donor Act] **MARYLAND REVISED ANATOMICAL GIFT ACT**;~~

~~(iv) The requesting party bears the responsibility for transporting and the specialized care of the specimen and all associated costs; and~~

~~(v) The Board retains the right of exclusive control of the specimen including the final disposition when appropriate or necessary to fulfill an obligation to return the remains of a donated specimen to the donor's family.~~

~~(3) The Board may authorize a physician, teacher, demonstrator, or investigator of advanced human biological sciences to send or transport human specimens out of the State for use by medical study programs.~~

~~5-604.1.~~

~~(a) An advance directive may contain a statement by a declarant that the declarant consents to the gift of all or any part of the declarant's body for any one or more of the purposes specified in Title 4, Subtitle 5 of the Estates and Trusts Article.~~

~~(b) Notwithstanding any other provision of law, an anatomical gift in an advance directive is valid and effective for all purposes under Title 4, Subtitle 5 of the Estates and Trusts Article, including the immunity from civil or criminal liability set forth in [~~§ 4-508(b)~~] **§ 4-514** of the Estates and Trusts Article.~~

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

**Article - Estates and Trusts**

4-505.

(c) (1) A gift of all or part of the body for purposes of this subtitle also may be made by a designation on the donor's driver's license or identification card under § 12-303 of the Transportation Article.

(2) A DONOR MAY MAKE A GIFT BY AUTHORIZING THAT A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE A GIFT BE INCLUDED ON A DONOR REGISTRY.

**4-512.**

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

(2) "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE SUBJECT OF AN ANATOMICAL GIFT.

(3) "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS OF ANATOMICAL GIFTS AND AMENDMENTS TO ANATOMICAL GIFTS.

(4) "EYE BANK" MEANS A PERSON THAT:

(i) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES;

(ii) IS ACCREDITED BY THE EYE BANK ASSOCIATION OF AMERICA OR THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND

(iii) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH - GENERAL ARTICLE.

(5) "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON DESIGNATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS AN ORGAN PROCUREMENT ORGANIZATION.

(6) "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, ORGAN PROCUREMENT ORGANIZATION, OR TISSUE BANK.

(7) (i) "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT AND HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION TO HAVE A PART THAT COULD BE MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.

(II) "PROSPECTIVE DONOR" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A REFUSAL.

(8) "QUALIFIED NONPROFIT ENTITY" MEANS A PROCUREMENT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR AN ENTITY EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE THAT ACTIVELY FUNCTIONS IN A SUPPORTING RELATIONSHIP TO ONE OR MORE PROCUREMENT ORGANIZATIONS IF THE PROCUREMENT ORGANIZATION OR OTHER ENTITY HAS A BOARD OF DIRECTORS WHOSE MEMBERS ARE EXPERIENCED IN:

(I) ORGAN, TISSUE, AND EYE DONATION;

(II) WORKING WITH DONORS AND DONOR FAMILIES; AND

(III) EDUCATING THE PUBLIC ABOUT THE IMPORTANCE OF THE PROCESS OF ORGAN, TISSUE, AND EYE DONATION.

(9) "TISSUE BANK" MEANS A PERSON THAT:

(I) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF TISSUE;

(II) IS ACCREDITED BY THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND

(III) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH - GENERAL ARTICLE.

(B) (1) ON OR BEFORE APRIL 1, 2009, THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL CONTRACT WITH A QUALIFIED NONPROFIT ENTITY FOR THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF A DONOR REGISTRY.

(2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL USE FUNDS FROM THE ORGAN AND TISSUE DONOR AWARENESS FUND ESTABLISHED UNDER TITLE 13, SUBTITLE 9 OF THE HEALTH - GENERAL ARTICLE OR ANY OTHER FUNDS AS MAY BE APPROPRIATE TO COMPENSATE THE NONPROFIT ENTITY CONTRACTED WITH UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE REASONABLE COST OF ESTABLISHING, MAINTAINING, AND OPERATING THE DONOR REGISTRY, INCLUDING THE REASONABLE COST OF

PUBLIC EDUCATION PROGRAMS TO INCREASE PUBLIC AWARENESS ABOUT THE EXISTENCE AND PURPOSE OF THE REGISTRY AND ORGAN, TISSUE, AND EYE DONATION.

(C) THE MOTOR VEHICLE ADMINISTRATION SHALL COOPERATE WITH THE QUALIFIED NONPROFIT ENTITY CONTRACTED WITH UNDER SUBSECTION (B)(1) OF THIS SECTION FOR THE PURPOSE OF TRANSFERRING TO THE DONOR REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR'S MAKING, AMENDMENT TO, OR REVOCATION OF AN ANATOMICAL GIFT.

(D) A DONOR REGISTRY SHALL BE ACCESSIBLE 24 HOURS A DAY AND 7 DAYS A WEEK TO ALLOW:

(1) A DONOR TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT;

(2) A DONOR TO REVOKE AN ANATOMICAL GIFT; OR

(3) A PROCUREMENT ORGANIZATION TO OBTAIN RELEVANT INFORMATION ON THE DONOR REGISTRY TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF A DONOR OR A PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED, OR REVOKED AN ANATOMICAL GIFT.

(E) PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY ABOUT A DONOR OR PROSPECTIVE DONOR MAY NOT BE USED OR DISCLOSED WITHOUT THE EXPRESS CONSENT OF THE DONOR, PROSPECTIVE DONOR, OR PERSON THAT MADE THE ANATOMICAL GIFT FOR ANY PURPOSE OTHER THAN TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF THE DONOR OR PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT.

(F) (1) THIS SECTION DOES NOT PROHIBIT A PERSON FROM CREATING OR MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE.

(2) A REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE SHALL COMPLY WITH SUBSECTIONS (D) AND (E) OF THIS SECTION.

[4-512.] 4-513.



This subtitle may be cited as the Maryland Anatomical Gift Act.

**Article - Health - General**

13-901.

(a) (1) There is an Organ and Tissue Donation Awareness Fund.

(2) The Fund consists of moneys collected under § 16-111.2(f) of the Transportation Article.

(3) The Fund is a special, continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(4) The Treasurer shall separately hold and the Comptroller shall account for the Fund.

(5) The Fund shall be invested and reinvested in the same manner as other State funds.

(6) Any investment earnings shall be retained to the credit of the Fund.

(b) (1) The Fund shall be managed and supervised by the Secretary or the Secretary's designee.

(2) The Fund shall be used to promote public education and awareness about organ, tissue, and eye donations **AND TO FUND THE ESTABLISHMENT, OPERATION, AND MAINTENANCE OF A DONOR REGISTRY AS PROVIDED IN § ~~4-516~~ 4-512 OF THE ESTATES AND TRUSTS ARTICLE.**

[(3) The Secretary shall contract with a qualified, independent, nonprofit third party to promote public education and awareness about organ, tissue, and eye donations.]

[(4) (3) The Fund shall be subject to audit by the Office of Legislative Audits under Title 2, Subtitle 12 of the State Government Article.

~~10-310.~~

~~(a) (1) In this subsection, "designated requestor" means a hospital employee who has completed a course offered by an organ, tissue, or eye recovery agency on how to approach potential donor families and request organ or tissue donation.~~

~~(2) (i) On or before the occurrence of each death in a hospital, the hospital shall contact an appropriate organ, tissue, or eye recovery agency in order to determine the patient's suitability for organ, tissue, or eye donation.~~

~~(ii) The contact and its disposition shall be noted in the patient's medical record.~~

~~(3) (i) The appropriate organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, shall determine the patient's suitability for organ, tissue, or eye donation.~~

~~(ii) If the organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, determines that donation is not appropriate based on established medical criteria, this determination shall be noted by hospital personnel in the patient's medical record and no further action is necessary.~~

~~(iii) If the organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, determines that the patient is a suitable candidate for organ, tissue, or eye donation, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall initiate a request under paragraph (4) of this subsection, if applicable.~~

~~(4) (i) Except as provided in [paragraph (10) of this subsection,] **THE MARYLAND REVISED ANATOMICAL GIFT ACT**, when an individual dies in a hospital in accordance with ~~§ 5-202~~ of this article, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall request, with [sensitivity, in the order of stated priority,] **SENSITIVITY AND IN COMPLIANCE WITH § 4-507 OF THE ESTATES AND TRUSTS ARTICLE** that the individual's representative consent to the donation of all or any of the decedent's organs or tissues as an anatomical donation if suitable.~~

~~[(ii) For the purposes of subparagraph (i) of this paragraph, the representative of the deceased individual is 1 of the following individuals listed in the following order of priority:~~

- ~~1. A spouse, but, if not alive or not competent, then;~~
- ~~2. A son or daughter who is at least 18 years old, but, if not alive, competent, or immediately available, then;~~
- ~~3. A parent, but, if not alive, competent, or immediately available, then;~~

~~4. A brother or sister who is at least 18 years old, but, if not alive or not competent, then;~~

~~5. A guardian;~~

~~6. A friend or other relative of the decedent, if the individual:~~

~~A. Is a competent individual; and~~

~~B. Presents an affidavit to the attending physician stating:~~

~~I. That the individual is a relative or close friend of the decedent; and~~

~~II. Specific facts and circumstances demonstrating that the individual maintained regular contact with the decedent sufficient to be familiar with the decedent's activities, health, and personal beliefs; or~~

~~7. Any other person authorized or required to dispose of the body.~~

~~(iii) 1. This paragraph does not apply if the decedent has given contrary directions.~~

~~2. The failure of the decedent to make a gift is not a contrary direction for purposes of this paragraph.~~

~~(iv) Contrary directions given by the decedent under this paragraph shall be recorded in the decedent's medical record.}]~~

~~**(ii) DIRECTIONS GIVEN BY A PERSON AUTHORIZED UNDER § 4-503 OF THE ESTATES AND TRUSTS ARTICLE TO MAKE, AMEND, REVOKE, OR REFUSE TO MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PARTS SHALL BE RECORDED IN THE DECEDENT'S MEDICAL RECORD.**~~

~~[(v)](iii) The representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor and the representative of the deceased patient are entitled to protection from civil and criminal liability as provided in [§ 4-508(b)] § 4-514 of the Estates and Trusts Article.~~

~~(5) In all discussions concerning donations of organs and tissues, the representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor shall show reasonable discretion and sensitivity.~~

~~(i) To the circumstances of the family of the decedent;~~  
~~(ii) To the religious beliefs of the decedent; and~~  
~~(iii) To the nonsuitability for organ or tissue donation of the decedent.~~

~~(6) (i) When a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor makes a request under paragraph (4)(i) of this subsection, the representative or designated requestor shall document the request and its disposition [by having the appropriate individual described in paragraph (4)(ii) of this subsection sign a consent form or give a witnessed telegraphic, witnessed telephonic, or recorded consent to the donation.] AS REQUIRED BY § 4-508 OF THE ESTATES AND TRUSTS ARTICLE.~~

~~(ii) Hospital personnel shall note the request and its disposition in the decedent's medical record or death certificate.~~

~~(7) A hospital may not bill the estate of the decedent, a surviving spouse of the decedent, any heirs of the decedent, or an insurer of the decedent for the costs associated with the removal of all or any of the decedent's organs or tissues for the purpose of an anatomical donation.~~

~~(8) After consultation with the Maryland Hospital Association, Inc., the Medical and Chirurgical Faculty of the State of Maryland, [the Transplant Resource Center of Maryland, Inc.,] LIVING LEGACY FOUNDATION, the Washington Regional Transplant [Consortium,] COMMUNITY, the Medical Eye Bank of Maryland, [the Lions of District 22 C Eye Bank and Research Foundation, Incorporated,] the Health Facilities Association of Maryland, and Tissue Banks International, the Secretary shall publish guidelines designed to implement this subsection, including guidelines:~~

~~(i) Requiring that, at or near the time of each individual death in a hospital, the hospital contact by telephone an appropriate organ, tissue, or eye recovery agency to determine the suitability of the individual for organ, tissue, and eye donation;~~

~~(ii) Requiring that each hospital designate a person to make the contact; and~~

~~(iii) Identifying the information that the person designated by the hospital shall have available before making the contact.~~

~~(9) The provisions of this subsection shall in no way interfere with the duties of the office of the Chief Medical Examiner. In sudden deaths under the jurisdiction of the office of the Chief Medical Examiner as provided in § 5-309 of this article, notification will be made to the office of the Chief Medical Examiner prior to organ removal.~~

~~(10) The consent of the decedent's representative is not necessary and the provisions of paragraph (4) of this subsection do not apply [if:~~

~~(i) The decedent's driver's license or identification card contains a notation that the decedent is an organ donor; or~~

~~(ii) The decedent has consented to the gift of all or any part of the decedent's body in accordance with the provisions of:~~

~~1. § 5-604.1 of this article; or~~

~~2. Title 4, Subtitle 5 of the Estates and Trusts Article.]~~

~~**IF § 4-506 OF THE ESTATES AND TRUSTS ARTICLE PRECLUDES THE DECEDENT'S REPRESENTATIVE FROM MAKING AN ANATOMICAL GIFT.**~~

~~(11) A person who acts in good faith to recover organs or tissues in accordance with a notation on the decedent's driver's license or identification card that the decedent is an organ donor, a gift made in accordance with § 5-604.1 of this article or Title 4, Subtitle 5 of the Estates and Trusts Article, or a gift made in accordance with the anatomical gift laws of another state or country is immune from criminal prosecution and liability for damages in any cause of action related to the recovery and donation of the decedent's organs or tissues.~~

~~(12) The Department shall conduct annual death record reviews at each hospital to determine the hospital's compliance with the provisions of this subsection. The Department may delegate its duty to conduct annual death record reviews to the appropriate organ, tissue, or eye recovery agency serving the region in which a particular hospital is located.~~

## Article - State Government

10-616.

(p) (5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(xiii) for a use specifically authorized by the law of this State, if the use is related to the operation of a motor vehicle or public safety; [and]

(xiv) for use by a hospital to obtain, for hospital security purposes, information relating to ownership of vehicles parked on hospital [property.]  
PROPERTY; AND

(XV) FOR USE BY A PROCUREMENT ORGANIZATION REQUESTING INFORMATION UNDER § 4-512 OF THE ESTATES AND TRUSTS ARTICLE FOR THE PURPOSES OF ORGAN, TISSUE, AND EYE DONATION.

~~Article Transportation~~

~~12-303.~~

~~(a) The Administration shall provide for a method by which an applicant for a driver's license or identification card can designate that the applicant consents to the gift of all body organs or parts for the purposes of transplantation, therapy, or medical research and education.~~

~~(b) If an applicant designates that he is such a donor, the Administration may make a notation of this fact on the driver's license or identification card issued to the applicant.~~

~~(c) The donor designation noted on the driver's license or identification card:~~

~~(1) Is sufficient legal authority for the removal of a body organ or part on the death of the donor; and~~

~~(2) May be removed only on written notice to the Administration by the donor.~~

~~(d) Notwithstanding any other provision of law, the donor designation noted on the driver's license or identification card is valid and effective for all purposes under Title 4, Subtitle 5 of the Estates and Trusts Article, including the immunity from civil or criminal liability set forth in [§ 4-508(b)] § 4-514 of the Estates and Trusts Article.~~

~~(e) At the time the donor authorizes the donor designation to appear on his driver's license or identification card, the Administration shall notify the donor that the designation can be removed only on written notice to the Administration.~~

~~[(f) (1) Except as provided in paragraph (2) of this subsection, a donor designation under this section may not be made by or noted on the driver's license or special identification card of any minor.~~

~~(2) A donor designation under this section may be made by or noted on the driver's license or special identification card of a minor who is at least 16 years old, if a parent or guardian of the minor consents in writing.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, subject to an express appropriation or donated funds for this project, the General Assembly directs the Department of Health and Mental Hygiene to conduct a study on nontransplant tissue banks, which shall:~~

~~(1) review the need for and usage of whole body and body parts for medical study and research and current existence of nontransplant tissue banks both inside and outside of Maryland;~~

~~(2) explore standards for hygiene and sterile practices that exist to protect the public health from contagious disease and other dangers from the procurement, storage, transportation, delivery, and usage of whole body and body parts by nontransplant tissue banks for medical study and research;~~

~~(3) examine regulatory systems, including that of the State of New York, for standards that protect the public health and that inspect and review compliance with regulatory criteria for nontransplant tissue banks; and~~

~~(4) in accordance with § 2-1246 of the State Government Article, and as to the report's findings and recommendations, be reported to the Senate Finance Committee and the House Health and Government Operations Committee on or before October 1, 2009.~~

~~SECTION 4. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.~~

~~Approved by the Governor, April 24, 2008.~~

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## CHAPTER 214

(House Bill 906)

AN ACT concerning

### **Maryland Revised Anatomical Gift Act Donor Registry**

FOR the purpose of ~~repealing the Maryland Anatomical Gift Act and enacting the Maryland Revised Anatomical Gift Act; authorizing certain individuals to make,~~

~~amend, or revoke anatomical gifts; providing the methods by which anatomical gifts may be made; authorizing certain individuals to refuse to make certain anatomical gifts; establishing certain circumstances under which an anatomical gift is prohibited; establishing the persons to which certain anatomical gifts may be made; establishing a certain priority if more than one person in a certain class makes a gift; establishing certain purposes for which certain anatomical gifts can be made; establishing a certain priority for certain anatomical gifts if more than one purpose is given for the anatomical gift; requiring certain persons to search certain individuals for a document of gift or other information identifying the individual as a donor under certain circumstances; requiring certain individuals to allow certain examination and copying of certain anatomical gifts or refusals; requiring that certain procurement organizations be allowed certain access to certain records of the Motor Vehicle Administration; authorizing certain procurement organizations to make certain examinations to ensure the medical suitability of certain anatomical gifts; providing for the acceptance and removal of certain anatomical gifts; establishing certain acts as felonies and establishing certain penalties; providing that certain persons are guilty of a felony and subject to a certain penalty for purchasing or selling certain parts under certain circumstances; authorizing a person to charge a certain amount for providing certain services; providing that certain persons that act in good faith are not liable in certain civil actions; establishing that certain donors may make certain gifts by authorizing that certain statements or symbols be included on a certain registry; requiring the Secretary of Health and Mental Hygiene to contract with and provide compensation to a certain nonprofit entity for the establishment, maintenance, and operation of a donor registry; requiring that the Organ and Tissue Donation Awareness Fund provide funds for the establishment, operation, and maintenance of a certain donor registry; requiring the Motor Vehicle Administration to cooperate in the transfer of certain information to the donor registry; establishing certain administrative terms for the donor registry; ~~providing for the resolution of conflicts between certain anatomical gifts and certain advance directives; requiring that certain procurement organizations and the Office of the Chief Medical Examiner (OCME) cooperate to maximize the opportunity to recover certain anatomical gifts and to facilitate certain OCME investigations; providing for the terms of the recoveries between certain procurement organizations and the OCME; providing for the resolution of conflicts between certain anatomical gift designations and certain investigations by the OCME; providing that this Act supersedes a certain federal statute; requiring that certain directions to make, amend, revoke, or refuse to make an anatomical gift be recorded in certain medical records; altering the circumstances under which the consent of certain representatives is not necessary~~; requiring the custodian of certain ~~motor vehicle~~ records containing personal information to disclose certain personal information for use by certain procurement organizations under certain circumstances; ~~repealing a certain provision prohibiting that certain donor designations appear on certain minors'~~~~



~~drivers' licenses; requiring that, subject to certain funding, the Department of Health and Mental Hygiene conduct a certain study on nontransplant tissue banks on or before a certain date; making certain technical changes; defining certain terms; and generally relating to the Maryland Revised Anatomical Gift Act.~~

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

~~Section 4-501 through 4-512 and the subtitle “Subtitle 5. Maryland Anatomical Gift Act” 4-505(c) and 4-512~~

Annotated Code of Maryland

(2001 Replacement Volume and 2007 Supplement)

BY adding to

Article – Estates and Trusts

~~Section 4-501 through 4-522 to be under the new subtitle “Subtitle 5. Maryland Revised Anatomical Gift Act” 4-512~~

Annotated Code of Maryland

(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

~~Section 5-408, 5-604.1, 13-901, and 19-310(a)~~

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 10-616(p)(5)(xiii) and (xiv)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY adding to

Article – State Government

Section 10-616(p)(5)(xv)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Transportation~~

~~Section 12-303~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2007 Supplement)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4-501 through 4-512 and the subtitle "Subtitle 5. Maryland Anatomical Gift Act" of Article Estates and Trusts of the Annotated Code of Maryland be repealed.~~

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

~~Article Estates and Trusts~~

~~SUBTITLE 5. MARYLAND REVISED ANATOMICAL GIFT ACT.~~

~~4-501.~~

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

~~(B) "AGENT" MEANS AN INDIVIDUAL:~~

~~(1) AUTHORIZED TO MAKE HEALTH CARE DECISIONS ON BEHALF OF A PRINCIPAL BY A POWER OF ATTORNEY FOR HEALTH CARE; OR~~

~~(2) EXPRESSLY AUTHORIZED TO MAKE AN ANATOMICAL GIFT ON BEHALF OF A PRINCIPAL BY A RECORD SIGNED BY THE PRINCIPAL.~~

~~(C) "ANATOMICAL GIFT" MEANS A DONATION OF ALL OR PART OF A HUMAN BODY TO TAKE EFFECT AFTER THE DONOR'S DEATH FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(D) (1) "DECEDENT" MEANS A DECEASED INDIVIDUAL WHOSE BODY OR PART IS OR MAY BE THE SOURCE OF AN ANATOMICAL GIFT.~~

~~(2) "DECEDENT" INCLUDES A STILLBORN INFANT AND, EXCEPT AS PROVIDED BY A LAW OTHER THAN THIS SUBTITLE, A FETUS.~~

~~(E) (1) "DISINTERESTED WITNESS" MEANS A WITNESS OTHER THAN:~~

~~(i) A SPOUSE, CHILD, PARENT, SIBLING, GRANDCHILD, GRANDPARENT, OR GUARDIAN OF AN INDIVIDUAL WHO MAKES, AMENDS, REVOKES, OR REFUSES TO MAKE AN ANATOMICAL GIFT; OR~~

~~(ii) ANOTHER ADULT WHO EXHIBITS SPECIAL CARE AND CONCERN FOR AN INDIVIDUAL WHO MAKES, AMENDS, REVOKES, OR REFUSES TO MAKE AN ANATOMICAL GIFT.~~

~~(2) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH, "DISINTERESTED WITNESS" DOES NOT INCLUDE A PERSON TO WHICH AN ANATOMICAL GIFT MAY PASS UNDER § 4-509 OF THIS SUBTITLE.~~

~~(ii) AN INDIVIDUAL EMPLOYED BY A TRANSPLANT HOSPITAL MAY NOT BE DISQUALIFIED FROM BEING A "DISINTERESTED WITNESS" SOLELY BECAUSE OF THE INDIVIDUAL'S EMPLOYMENT.~~

~~(f) (1) "DOCUMENT OF GIFT" MEANS A DONOR CARD OR OTHER RECORD USED TO MAKE AN ANATOMICAL GIFT.~~

~~(2) "DOCUMENT OF GIFT" INCLUDES A STATEMENT OR SYMBOL ON A DRIVER'S LICENSE, IDENTIFICATION CARD, OR DONOR REGISTRY.~~

~~(g) "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE SUBJECT OF AN ANATOMICAL GIFT.~~

~~(h) "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS OF ANATOMICAL GIFTS AND AMENDMENTS TO ANATOMICAL GIFTS.~~

~~(i) (1) "DRIVER'S LICENSE" MEANS A LICENSE OR PERMIT ISSUED BY THE MOTOR VEHICLE ADMINISTRATION TO OPERATE A VEHICLE, WHETHER OR NOT CONDITIONS ARE ATTACHED TO THE LICENSE OR PERMIT.~~

~~(2) "DRIVER'S LICENSE" INCLUDES A LEARNER'S PERMIT.~~

~~(j) "EYE BANK" MEANS A PERSON THAT:~~

~~(1) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES;~~

~~(2) IS ACCREDITED BY THE EYE BANK ASSOCIATION OF AMERICA OR THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND~~

~~(3) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH GENERAL ARTICLE.~~

~~(k) (1) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF AN INDIVIDUAL.~~

~~(2) "GUARDIAN" DOES NOT INCLUDE A GUARDIAN AD LITEM, UNLESS THE GUARDIAN AD LITEM IS AUTHORIZED BY A COURT TO CONSENT TO DONATION.~~

~~(L) "HOSPITAL" MEANS A FACILITY LICENSED AS A HOSPITAL UNDER THE LAW OF ANY STATE OR A FACILITY OPERATED AS A HOSPITAL BY THE UNITED STATES, A STATE, OR A SUBDIVISION OF A STATE.~~

~~(M) "IDENTIFICATION CARD" MEANS AN IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION.~~

~~(N) "KNOW" MEANS TO HAVE ACTUAL KNOWLEDGE.~~

~~(O) (1) "NONTRANSPLANT TISSUE BANK" MEANS A PERSON THAT RECOVERS, SCREENS, PROCURES, TRANSPORTS, STORES, OR ARRANGES FOR THE STORAGE OF A BODY OR PART OF A BODY SOLELY FOR THE PURPOSE OF RESEARCH OR EDUCATION.~~

~~(2) "NONTRANSPLANT TISSUE BANK" INCLUDES:~~

~~(I) THE MARYLAND STATE ANATOMY BOARD;~~

~~(II) A SCHOOL OF MEDICINE OR DENTISTRY OPERATING A WILLED BODY PROGRAM;~~

~~(III) A PROGRAM OPERATED BY OFFICERS OR EMPLOYEES OF THE UNITED STATES; OR~~

~~(IV) A NONPROFIT ORGANIZATION PERMITTED TO OPERATE UNDER § 5-408 OF THE HEALTH GENERAL ARTICLE.~~

~~(3) "NONTRANSPLANT TISSUE BANK" DOES NOT INCLUDE:~~

~~(I) EYE BANKS;~~

~~(II) ORGAN PROCUREMENT ORGANIZATIONS; OR~~

~~(III) TRANSPLANT TISSUE BANKS.~~

~~(P) "OCME" MEANS THE OFFICE OF THE CHIEF MEDICAL EXAMINER.~~

~~(Q) "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON DESIGNATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS AN ORGAN PROCUREMENT ORGANIZATION.~~

~~(R) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT BEEN TERMINATED.~~

~~(S) (1) "PART" MEANS AN ORGAN, AN EYE, OR TISSUE OF A HUMAN BEING.~~

~~(2) "PART" DOES NOT INCLUDE THE WHOLE BODY.~~

~~(T) "PHYSICIAN" MEANS AN INDIVIDUAL AUTHORIZED TO PRACTICE MEDICINE OR OSTEOPATHY UNDER THE LAW OF ANY STATE.~~

~~(U) "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, ORGAN PROCUREMENT ORGANIZATION, OR TISSUE BANK.~~

~~(V) (1) "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT AND HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION TO HAVE A PART THAT COULD BE MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(2) "PROSPECTIVE DONOR" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A REFUSAL.~~

~~(W) "QUALIFIED NONPROFIT ENTITY" MEANS A PROCUREMENT ORGANIZATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE THAT HAS BOARD DIRECTORS WHOSE MEMBERS ARE EXPERIENCED IN:~~

~~(1) ORGAN, TISSUE, AND EYE DONATION;~~

~~(2) WORKING WITH DONORS AND DONOR FAMILIES; AND~~

~~(3) EDUCATING THE PUBLIC ABOUT THE IMPORTANCE OF THE PROCESS OF ORGAN, TISSUE, AND EYE DONATION.~~

~~(X) "REASONABLY AVAILABLE" MEANS ABLE TO BE CONTACTED BY A PROCUREMENT ORGANIZATION WITHOUT UNDUE EFFORT AND WILLING AND ABLE TO ACT IN A TIMELY MANNER CONSISTENT WITH EXISTING MEDICAL CRITERIA NECESSARY FOR THE MAKING OF AN ANATOMICAL GIFT.~~

~~(Y) "RECIPIENT" MEANS AN INDIVIDUAL INTO WHOSE BODY A DECEDENT'S PART HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.~~

~~(Z) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.~~

~~(AA) "REFUSAL" MEANS A RECORD CREATED UNDER § 4-505 OF THIS SUBTITLE THAT EXPRESSLY STATES AN INTENT TO BAR OTHER PERSONS FROM MAKING AN ANATOMICAL GIFT OF AN INDIVIDUAL'S BODY OR PART.~~

~~(BB) "SIGN" MEANS TO:~~

~~(1) HAVE PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD; AND~~

~~(2) (i) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR~~

~~(ii) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.~~

~~(CC) (1) "TECHNICIAN" MEANS AN INDIVIDUAL DETERMINED TO BE QUALIFIED TO REMOVE OR PROCESS PARTS BY AN APPROPRIATE ORGANIZATION THAT IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW.~~

~~(2) "TECHNICIAN" INCLUDES AN ENUCLEATOR.~~

~~(DD) (1) "TISSUE" MEANS A PORTION OF THE HUMAN BODY OTHER THAN AN ORGAN OR AN EYE.~~

~~(2) "TISSUE" DOES NOT INCLUDE BLOOD UNLESS THE BLOOD IS DONATED FOR THE PURPOSE OF RESEARCH OR EDUCATION.~~

~~(EE) "TISSUE BANK" MEANS A TRANSPLANT TISSUE BANK OR A NONTRANSPLANT TISSUE BANK.~~

~~(FF) "TRANSPLANT HOSPITAL" MEANS A HOSPITAL THAT FURNISHES ORGAN TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY SERVICES REQUIRED FOR THE CARE OF TRANSPLANT PATIENTS.~~

~~(GG) "TRANSPLANT TISSUE BANK" MEANS A PERSON THAT:~~

~~(1) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF TISSUE;~~

~~(2) IS ACCREDITED BY THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND~~

~~(3) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH GENERAL ARTICLE.~~

~~4-502.~~

~~THIS SUBTITLE APPLIES TO AN ANATOMICAL GIFT OR AMENDMENT TO, REVOCATION OF, OR REFUSAL TO MAKE AN ANATOMICAL GIFT.~~

~~4-503.~~

~~(A) SUBJECT TO § 4-506 OF THIS SUBTITLE, AN ANATOMICAL GIFT MAY BE MADE DURING THE LIFE OF A DONOR FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION BY:~~

~~(1) (i) A DONOR WHO IS AN ADULT; OR~~

~~(ii) A DONOR WHO IS A MINOR IF THE MINOR IS:~~

~~1. EMANCIPATED; OR~~

~~2. AUTHORIZED UNDER STATE LAW TO APPLY FOR A DRIVER'S LICENSE BECAUSE THE DONOR IS AT LEAST 15 YEARS AND 9 MONTHS OLD;~~

~~(2) AN AGENT OF A DONOR, UNLESS A POWER OF ATTORNEY FOR HEALTH CARE OR OTHER RECORD PROHIBITS THE AGENT FROM MAKING AN ANATOMICAL GIFT;~~

~~(3) A PARENT OF A DONOR, IF THE DONOR IS AN UNEMANCIPATED MINOR; OR~~

~~(4) A GUARDIAN OF A DONOR.~~

~~(B) A DONOR MAY MAKE AN ANATOMICAL GIFT;~~

~~(1) BY AUTHORIZING A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE AN ANATOMICAL GIFT TO BE IMPRINTED ON THE DONOR'S DRIVER'S LICENSE OR IDENTIFICATION CARD;~~

~~(2) BY WILL;~~

~~(3) DURING A TERMINAL ILLNESS OR INJURY OF THE DONOR, BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS; OR~~

~~(4) AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.~~

~~(c) (1) A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER THIS SECTION MAY MAKE A GIFT BY:~~

~~(i) A DOCUMENT OF GIFT SIGNED BY THE DONOR OR OTHER PERSON MAKING THE GIFT; OR~~

~~(ii) AUTHORIZING THAT A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE AN ANATOMICAL GIFT BE INCLUDED ON A DONOR REGISTRY.~~

~~(2) IF A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER THIS SECTION IS PHYSICALLY UNABLE TO SIGN A DOCUMENT OF GIFT, THE DOCUMENT OF GIFT MAY BE SIGNED BY ANOTHER INDIVIDUAL AT THE DIRECTION OF THE DONOR OR OTHER PERSON AND SHALL:~~

~~(i) BE WITNESSED BY AT LEAST TWO ADULTS WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR OTHER PERSON; AND~~

~~(ii) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (i) OF THIS PARAGRAPH.~~

~~(d) REVOCATION, SUSPENSION, EXPIRATION, OR CANCELLATION OF A DRIVER'S LICENSE OR IDENTIFICATION CARD THAT INDICATES AN ANATOMICAL GIFT DOES NOT INVALIDATE THE GIFT.~~

~~(e) (1) AN ANATOMICAL GIFT MADE BY WILL TAKES EFFECT ON THE DONOR'S DEATH WHETHER OR NOT THE WILL IS PROBATED.~~

~~(2) IF A WILL THAT INDICATES AN ANATOMICAL GIFT IS INVALIDATED AFTER THE DONOR'S DEATH, THE ANATOMICAL GIFT DOES NOT BECOME INVALID.~~



~~4-504.~~

~~(A) SUBJECT TO § 4-506 OF THIS SUBTITLE, A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE MAY AMEND OR REVOKE THE ANATOMICAL GIFT BY:~~

~~(1) A RECORD SIGNED BY:~~

~~(i) THE DONOR;~~

~~(ii) THE OTHER PERSON; OR~~

~~(iii) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE DONOR OR OTHER PERSON IS PHYSICALLY UNABLE TO SIGN, ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE DONOR OR THE OTHER PERSON; OR~~

~~(2) A LATER EXECUTED DOCUMENT OF GIFT THAT EXPRESSLY OR BY INCONSISTENCY AMENDS OR REVOKES THE PREVIOUS ANATOMICAL GIFT OR PORTION OF THE ANATOMICAL GIFT.~~

~~(B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(III) OF THIS SECTION SHALL:~~

~~(1) BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE OTHER PERSON; AND~~

~~(2) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.~~

~~(C) SUBJECT TO § 4-506 OF THIS SUBTITLE, A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE MAY REVOKE THE ANATOMICAL GIFT BY THE DESTRUCTION OR CANCELLATION OF THE DOCUMENT OF GIFT, OR PORTION OF THE DOCUMENT OF GIFT USED TO MAKE THE GIFT, WITH THE INTENT TO REVOKE THE GIFT.~~

~~(D) DURING A TERMINAL ILLNESS OF A DONOR OR WHILE A DONOR IS INJURED, THE DONOR MAY AMEND OR REVOKE AN ANATOMICAL GIFT THAT WAS NOT MADE BY WILL BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.~~

~~(E) A DONOR WHO MAKES AN ANATOMICAL GIFT BY WILL MAY AMEND OR REVOKE THE GIFT IN THE MANNER PROVIDED FOR AMENDMENT OR REVOCATION OF WILLS OR AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.~~

~~(F) AN ANATOMICAL GIFT MADE BY A DONOR DESIGNATION ON A DRIVER'S LICENSE OR IDENTIFICATION CARD MAY BE REVOKED BY GIVING WRITTEN NOTICE TO THE MOTOR VEHICLE ADMINISTRATION IN ACCORDANCE WITH § 12-303 OF THE TRANSPORTATION ARTICLE.~~

~~4-505.~~

~~(A) AN INDIVIDUAL MAY REFUSE TO MAKE AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART BY:~~

~~(1) A RECORD SIGNED BY:~~

~~(i) THE INDIVIDUAL; OR~~

~~(ii) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN, ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE INDIVIDUAL;~~

~~(2) THE INDIVIDUAL'S WILL, WHETHER OR NOT THE WILL IS ADMITTED TO PROBATE OR INVALIDATED AFTER THE INDIVIDUAL'S DEATH; OR~~

~~(3) DURING A TERMINAL ILLNESS OF THE INDIVIDUAL OR WHILE THE INDIVIDUAL IS INJURED, ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.~~

~~(B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(II) OF THIS SECTION SHALL:~~

~~(1) BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE INDIVIDUAL; AND~~

~~(2) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.~~

~~(C) AN INDIVIDUAL WHO HAS MADE A REFUSAL MAY AMEND OR REVOKE THE REFUSAL:~~

~~(1) IN A MANNER PROVIDED IN SUBSECTION (A) OF THIS SECTION;~~

~~(2) BY SUBSEQUENTLY MAKING AN ANATOMICAL GIFT IN ACCORDANCE WITH § 4-503 OF THIS SUBTITLE THAT IS INCONSISTENT WITH THE REFUSAL; OR~~

~~(3) BY DESTROYING OR CANCELING THE RECORD EVIDENCING THE REFUSAL, OR THE PORTION OF THE RECORD USED TO MAKE THE REFUSAL, WITH THE INTENT TO REVOKE THE REFUSAL.~~

~~(D) EXCEPT AS OTHERWISE PROVIDED IN § 4-506(H) OF THIS SUBTITLE, IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE INDIVIDUAL SET FORTH IN THE REFUSAL, AN INDIVIDUAL'S UNREVOKED REFUSAL TO MAKE AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART BARS ALL OTHER PERSONS FROM MAKING AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART.~~

#### ~~4-506.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (G) OF THIS SECTION AND SUBJECT TO SUBSECTION (F) OF THIS SECTION, IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR, A PERSON OTHER THAN THE DONOR IS BARRED FROM MAKING, AMENDING, OR REVOKING AN ANATOMICAL GIFT OF A DONOR'S BODY OR PART IF THE DONOR MADE:~~

~~(1) AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE; OR~~

~~(2) AN AMENDMENT TO AN ANATOMICAL GIFT UNDER § 4-504 OF THIS SUBTITLE.~~

~~(B) A DONOR'S REVOCATION OF AN ANATOMICAL GIFT UNDER § 4-504 OF THIS SUBTITLE IS NOT A REFUSAL AND DOES NOT BAR ANOTHER PERSON SPECIFIED IN § 4-501 OR § 4-507 OF THIS SUBTITLE FROM MAKING AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(C) IF A PERSON OTHER THAN A DONOR MAKES AN UNREVOKED ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-503 OF THIS SUBTITLE OR AN AMENDMENT TO AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-504 OF THIS SUBTITLE, ANOTHER PERSON MAY NOT MAKE, AMEND, OR REVOKE THE GIFT OF THE DONOR'S BODY OR PART UNDER § 4-508 OF THIS SUBTITLE.~~

~~(D) A REVOCATION OF AN ANATOMICAL GIFT OF A DONOR'S BODY OR PART UNDER § 4-504 OF THIS SUBTITLE BY A PERSON OTHER THAN THE DONOR DOES NOT BAR ANOTHER PERSON FROM MAKING AN ANATOMICAL GIFT OF THE BODY OR PART UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(E) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART IS NOT A REFUSAL TO GIVE ANOTHER PART OR A LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF ANOTHER PART AT A LATER TIME BY THE DONOR OR ANOTHER PERSON.~~

~~(F) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART FOR ONE OR MORE OF THE PURPOSES SET FORTH IN § 4-503 OF THIS SUBTITLE IS NOT A LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF THE PART FOR ANY OTHER PURPOSE BY THE DONOR OR OTHER PERSON UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(G) IF A DONOR WHO IS AN UNEMANCIPATED MINOR DIES, A REASONABLY AVAILABLE PARENT OR GUARDIAN OF THE DONOR MAY REVOKE OR AMEND AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART.~~

~~(H) IF AN UNEMANCIPATED MINOR WHO SIGNED A REFUSAL DIES, A REASONABLY AVAILABLE PARENT OR GUARDIAN OF THE MINOR MAY REVOKE THE MINOR'S REFUSAL.~~

~~4-507.~~

~~(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION AND EXCEPT AS PROHIBITED IN §§ 4-505 AND 4-506 OF THIS SUBTITLE, IN ACCORDANCE WITH THE ORDER OF PRIORITY LISTED, A MEMBER OF ONE OF THE FOLLOWING CLASSIFICATIONS OF INDIVIDUALS WHO IS REASONABLY AVAILABLE MAY MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PART FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION:~~

~~(1) AN AGENT OF THE DECEDENT AT THE TIME OF DEATH WHO COULD HAVE MADE AN ANATOMICAL GIFT UNDER § 4-503(B) OF THIS SUBTITLE IMMEDIATELY BEFORE THE DECEDENT'S DEATH;~~

- ~~(2) A GUARDIAN OF THE PERSON OF THE DECEDENT AT THE TIME OF DEATH;~~
- ~~(3) THE SPOUSE OF THE DECEDENT;~~
- ~~(4) THE ADULT CHILDREN OF THE DECEDENT;~~
- ~~(5) THE PARENTS OF THE DECEDENT;~~
- ~~(6) THE ADULT SIBLINGS OF THE DECEDENT;~~
- ~~(7) THE ADULT GRANDCHILDREN OF THE DECEDENT;~~
- ~~(8) THE GRANDPARENTS OF THE DECEDENT;~~
- ~~(9) AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE DECEDENT; OR~~
- ~~(10) ANY OTHER PERSON HAVING THE AUTHORITY TO DISPOSE OF THE DECEDENT'S BODY.~~

~~(B) (1) IF THERE IS MORE THAN ONE MEMBER OF A CLASSIFICATION LISTED IN SUBSECTION (A)(1), (2), AND (4) THROUGH (8) OF THIS SECTION ENTITLED TO MAKE AN ANATOMICAL GIFT, AN ANATOMICAL GIFT MAY BE MADE BY A MEMBER OF THE CLASSIFICATION UNLESS THAT MEMBER OR A PERSON TO WHICH THE GIFT MAY PASS UNDER § 4-509 OF THIS SUBTITLE KNOWS OF AN OBJECTION BY ANOTHER MEMBER OF THE CLASSIFICATION.~~

~~(2) IF AN OBJECTION TO A GIFT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS KNOWN, THE GIFT MAY BE MADE ONLY BY THOSE REASONABLY AVAILABLE MEMBERS WHO CONSTITUTE AT LEAST 50% OF THE MEMBERS OF THE CLASSIFICATION WHO ARE REASONABLY AVAILABLE.~~

~~(C) A PERSON MAY NOT MAKE AN ANATOMICAL GIFT IF, AT THE TIME OF THE DECEDENT'S DEATH, A PERSON IN A PRIOR CLASSIFICATION UNDER SUBSECTION (A) OF THIS SECTION IS REASONABLY AVAILABLE TO MAKE OR TO OBJECT TO THE MAKING OF AN ANATOMICAL GIFT.~~

#### ~~4-508.~~

~~(A) A PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-507 OF THIS SUBTITLE MAY MAKE IT:~~

~~(1) BY A DOCUMENT OF GIFT SIGNED BY THE PERSON MAKING THE GIFT; OR~~

~~(2) BY AN ORAL COMMUNICATION THAT IS ELECTRONICALLY RECORDED OR IS CONTEMPORANEOUSLY REDUCED TO A RECORD AND SIGNED BY THE INDIVIDUAL RECEIVING THE ORAL COMMUNICATION.~~

~~(B) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN ANATOMICAL GIFT BY A PERSON AUTHORIZED UNDER § 4-507 OF THIS SUBTITLE MAY BE AMENDED OR REVOKED ORALLY OR IN A RECORD BY A REASONABLY AVAILABLE MEMBER OF A PRIOR CLASS.~~

~~(2) IF MORE THAN ONE MEMBER OF A PRIOR CLASSIFICATION IS REASONABLY AVAILABLE, THE GIFT MADE BY A PERSON AUTHORIZED UNDER § 4-507 OF THIS SUBTITLE MAY BE AMENDED OR REVOKED IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS AGREE TO THE AMENDMENT OR REVOCATION.~~

~~(C) A REVOCATION UNDER SUBSECTION (B) OF THIS SECTION IS EFFECTIVE ONLY IF, BEFORE AN INCISION HAS BEEN MADE TO REMOVE A PART FROM THE DONOR'S BODY OR BEFORE INVASIVE PROCEDURES HAVE BEGUN TO PREPARE THE RECIPIENT, THE PROCUREMENT ORGANIZATION, TRANSPLANT HOSPITAL, OR PHYSICIAN OR TECHNICIAN KNOWS OF THE REVOCATION.~~

~~4-509.~~

~~(A) AN ANATOMICAL GIFT MAY BE MADE TO THE FOLLOWING PERSONS NAMED IN A DOCUMENT OF GIFT:~~

~~(1) A HOSPITAL, ACCREDITED MEDICAL SCHOOL, DENTAL SCHOOL, COLLEGE OR UNIVERSITY, ORGAN PROCUREMENT ORGANIZATION, OR THE MARYLAND STATE ANATOMY BOARD, FOR RESEARCH OR EDUCATION;~~

~~(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE INDIVIDUAL IS THE RECIPIENT OF THE PART, AN INDIVIDUAL DESIGNATED BY THE PERSON MAKING THE ANATOMICAL GIFT; OR~~

~~(3) AN EYE BANK OR TISSUE BANK.~~

~~(B) IF AN ANATOMICAL GIFT TO AN INDIVIDUAL UNDER SUBSECTION (A)(2) OF THIS SECTION CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE PART PASSES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IN THE~~

~~ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE PERSON MAKING THE ANATOMICAL GIFT.~~

~~(C) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS OR OF ALL PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN SUBSECTION (A) OF THIS SECTION BUT IDENTIFIES THE PURPOSE FOR WHICH AN ANATOMICAL GIFT MAY BE USED, THE FOLLOWING PROVISIONS APPLY:~~

~~(1) IF THE PART IS AN EYE AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE EYE BANK;~~

~~(2) IF THE PART IS TISSUE AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE TRANSPLANT TISSUE BANK;~~

~~(3) IF THE PART IS AN ORGAN AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN; OR~~

~~(4) IF THE PART IS AN ORGAN, AN EYE, OR TISSUE AND THE GIFT IS FOR THE PURPOSE OF RESEARCH OR EDUCATION, THE GIFT PASSES TO THE APPROPRIATE PROCUREMENT ORGANIZATION.~~

~~(D) FOR THE PURPOSE OF SUBSECTION (C) OF THIS SECTION, IF THERE IS MORE THAN ONE PURPOSE OF AN ANATOMICAL GIFT SET FORTH IN THE DOCUMENT OF GIFT BUT THE PURPOSES ARE NOT SET FORTH IN ANY PRIORITY, THE GIFT SHALL BE USED:~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~

~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(E) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND DOES NOT IDENTIFY THE PURPOSE OF THE GIFT, THE GIFT PASSES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND MAY BE USED:~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~

~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(F) IF A DOCUMENT OF GIFT SPECIFIES ONLY A GENERAL INTENT TO MAKE AN ANATOMICAL GIFT BY WORDS SUCH AS "DONOR", "ORGAN DONOR", OR "BODY DONOR", OR BY A SYMBOL OR STATEMENT OF SIMILAR IMPORT, THE GIFT PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION AND MAY BE USED:~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~

~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(G) FOR PURPOSES OF SUBSECTIONS (B), (E), AND (F) OF THIS SECTION, THE FOLLOWING PROVISIONS APPLY:~~

~~(1) IF THE PART IS AN EYE, THE GIFT PASSES TO THE APPROPRIATE EYE BANK;~~

~~(2) IF THE PART IS TISSUE, THE GIFT PASSES TO THE APPROPRIATE TISSUE BANK; AND~~

~~(3) IF THE PART IS AN ORGAN, THE GIFT PASSES TO THE APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.~~

~~(H) OTHER THAN AN ANATOMICAL GIFT UNDER SUBSECTION (A)(2) OF THIS SECTION, AN ANATOMICAL GIFT OF AN ORGAN FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION PASSES TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.~~

~~(I) IF AN ANATOMICAL GIFT DOES NOT PASS IN ACCORDANCE WITH SUBSECTIONS (A) THROUGH (H) OF THIS SECTION OR THE DECEDENT'S BODY OR PART IS NOT USED FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, CUSTODY OF THE BODY OR PART PASSES TO THE PERSON UNDER OBLIGATION TO DISPOSE OF THE BODY OR PART.~~

~~(J) (1) A PERSON MAY NOT ACCEPT AN ANATOMICAL GIFT IF THE PERSON KNOWS THAT:~~

~~(i) THE GIFT WAS NOT EFFECTIVELY MADE UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE; OR~~



~~(H) THE DECEDENT MADE A REFUSAL UNDER § 4-504 OF THIS SUBTITLE THAT WAS NOT REVOKED.~~

~~(2) FOR PURPOSES OF THIS SUBSECTION, IF A PERSON KNOWS THAT AN ANATOMICAL GIFT WAS MADE ON A DOCUMENT OF GIFT, THE PERSON IS DEEMED TO KNOW OF ANY AMENDMENT OR REVOCATION OF THE GIFT OR ANY REFUSAL TO MAKE AN ANATOMICAL GIFT ON THE SAME DOCUMENT OF GIFT.~~

~~(K) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, NOTHING IN THIS SUBTITLE AFFECTS THE ALLOCATION OF ORGANS FOR TRANSPLANTATION OR THERAPY.~~

#### ~~4-510.~~

~~(A) THE FOLLOWING PERSONS SHALL MAKE A REASONABLE SEARCH OF AN INDIVIDUAL WHO THE PERSON REASONABLY BELIEVES IS DEAD OR WHOSE DEATH IS IMMINENT FOR A DOCUMENT OF GIFT OR OTHER INFORMATION IDENTIFYING THE INDIVIDUAL AS A DONOR OR AS AN INDIVIDUAL WHO MADE A REFUSAL:~~

~~(1) A LAW ENFORCEMENT OFFICER, FIREFIGHTER, PARAMEDIC, OR OTHER EMERGENCY RESCUER FINDING THE INDIVIDUAL; AND~~

~~(2) IF NO OTHER SOURCE OF THE INFORMATION IS IMMEDIATELY AVAILABLE, A HOSPITAL, AS SOON AS PRACTICAL AFTER THE INDIVIDUAL'S ARRIVAL AT THE HOSPITAL.~~

~~(B) IF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT IS LOCATED BY THE SEARCH REQUIRED BY SUBSECTION (A)(1) OF THIS SECTION AND THE INDIVIDUAL OR DECEASED INDIVIDUAL TO WHOM IT RELATES IS TAKEN TO A HOSPITAL, THE PERSON RESPONSIBLE FOR CONDUCTING THE SEARCH SHALL SEND THE DOCUMENT OF GIFT OR REFUSAL TO THE HOSPITAL.~~

~~(C) A PERSON IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY FOR FAILING TO DISCHARGE THE DUTIES IMPOSED BY THIS SECTION BUT MAY BE SUBJECT TO ADMINISTRATIVE SANCTIONS.~~

#### ~~4-511.~~

~~(A) A DOCUMENT OF GIFT NEED NOT BE DELIVERED DURING THE LIFETIME OF A DONOR TO BE EFFECTIVE.~~

~~(B) ON OR AFTER THE DEATH OF AN INDIVIDUAL, A PERSON IN POSSESSION OF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT REGARDING THE INDIVIDUAL SHALL ALLOW EXAMINATION AND COPYING OF THE DOCUMENT OF GIFT OR REFUSAL BY:~~

~~(1) A PERSON AUTHORIZED TO MAKE OR OBJECT TO THE MAKING OF THE ANATOMICAL GIFT; OR~~

~~(2) A PERSON THAT THE GIFT COULD PASS TO UNDER § 4-509 OF THIS SUBTITLE.~~

~~4-512.~~

~~(A) WHENEVER A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION, THE ORGANIZATION SHALL ASCERTAIN WHETHER THE INDIVIDUAL HAS MADE AN ANATOMICAL GIFT BY MAKING A REASONABLE SEARCH OF:~~

~~(1) THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION; AND~~

~~(2) ANY DONOR REGISTRY THAT IT KNOWS EXISTS FOR THE GEOGRAPHICAL AREA IN WHICH THE INDIVIDUAL RESIDES.~~

~~(B) A PROCUREMENT ORGANIZATION SHALL BE ALLOWED REASONABLE ACCESS TO INFORMATION IN THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION TO ASCERTAIN WHETHER AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT IS A DONOR.~~

~~(C) (1) WHENEVER A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION, THE ORGANIZATION MAY CONDUCT ANY REASONABLE EXAMINATION ON THE INDIVIDUAL TO ENSURE THE MEDICAL SUITABILITY OF A PART THAT IS OR COULD BE THE SUBJECT OF AN ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(2) DURING THE EXAMINATION PERIOD, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART MAY NOT BE WITHDRAWN UNLESS THE HOSPITAL OR PROCUREMENT ORGANIZATION KNOWS THAT THE INDIVIDUAL EXPRESSED A CONTRARY INTENT.~~

~~(D) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AT ANY TIME AFTER A DONOR'S DEATH, THE PERSON TO WHICH A PART PASSES UNDER §~~

~~4-509 OF THIS SUBTITLE MAY CONDUCT A REASONABLE EXAMINATION NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE BODY OR PART FOR ITS INTENDED PURPOSE.~~

~~(E) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AN EXAMINATION UNDER SUBSECTION (C) OR (D) MAY INCLUDE AN EXAMINATION OF ALL MEDICAL AND DENTAL RECORDS OF THE DONOR OR PROSPECTIVE DONOR.~~

~~(F) ON THE DEATH OF A MINOR WHO WAS A DONOR OR HAD SIGNED A REFUSAL, UNLESS A PROCUREMENT ORGANIZATION KNOWS THE MINOR IS EMANCIPATED, THE PROCUREMENT ORGANIZATION SHALL CONDUCT A REASONABLE SEARCH FOR THE PARENTS OF THE MINOR AND PROVIDE THE PARENTS WITH AN OPPORTUNITY TO REVOKE OR AMEND THE ANATOMICAL GIFT OR REVOKE THE REFUSAL.~~

~~(G) (1) ON A REFERRAL BY A HOSPITAL UNDER SUBSECTION (A) OF THIS SECTION, A PROCUREMENT ORGANIZATION SHALL MAKE A REASONABLE SEARCH FOR A PERSON LISTED IN § 4-507 OF THIS SUBTITLE HAVING PRIORITY TO MAKE AN ANATOMICAL GIFT ON BEHALF OF A PROSPECTIVE DONOR.~~

~~(2) IF A PROCUREMENT ORGANIZATION RECEIVES INFORMATION THAT AN ANATOMICAL GIFT TO ANY OTHER PERSON WAS MADE, AMENDED, OR REVOKED, IT SHALL PROMPTLY ADVISE THE OTHER PERSON OF ALL RELEVANT INFORMATION.~~

~~(H) (1) SUBJECT TO §§ 4-509(i) AND 4-519 OF THIS SUBTITLE, THE RIGHTS OF A PERSON TO WHICH A PART PASSES UNDER § 4-509 OF THIS SUBTITLE ARE SUPERIOR TO THE RIGHTS OF ALL OTHERS WITH RESPECT TO THE PART.~~

~~(2) A PERSON MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN PART.~~

~~(3) SUBJECT TO THE TERMS OF A DOCUMENT OF GIFT AND THIS SUBTITLE, A PERSON THAT ACCEPTS AN ANATOMICAL GIFT OF AN ENTIRE BODY MAY ALLOW EMBALMING, BURIAL, OR CREMATION, AND USE OF REMAINS IN A FUNERAL SERVICE.~~

~~(4) IF AN ANATOMICAL GIFT OF A PART IS MADE UNDER § 4-509 OF THIS SUBTITLE, ON THE DEATH OF THE DONOR AND BEFORE EMBALMING, BURIAL, OR CREMATION, THE PERSON TO WHICH THE PART PASSES SHALL HAVE THE PART REMOVED WITHOUT UNNECESSARY MUTILATION.~~

~~(I) A PHYSICIAN WHO ATTENDS A DECEDENT AT DEATH AND A PHYSICIAN WHO DETERMINES THE TIME OF A DECEDENT'S DEATH MAY NOT PARTICIPATE IN THE PROCEDURES FOR REMOVING OR TRANSPLANTING A PART FROM THE DECEDENT.~~

~~(J) (1) A PHYSICIAN OR TECHNICIAN MAY REMOVE A DONATED PART FROM THE BODY OF A DONOR THAT THE PHYSICIAN OR TECHNICIAN IS QUALIFIED TO REMOVE.~~

~~(2) AN ORGAN PROCUREMENT ORGANIZATION MAY RECOVER A DONATED PART FROM THE BODY OF A DONOR ON BEHALF OF AN EYE BANK OR TISSUE BANK.~~

~~(K) EACH HOSPITAL IN THE STATE SHALL ENTER INTO AN AGREEMENT OR AFFILIATION WITH A PROCUREMENT ORGANIZATION FOR COORDINATION OF PROCUREMENT AND USE OF ANATOMICAL GIFTS.~~

~~4-513.~~

~~(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF REMOVAL OF A PART FROM AN INDIVIDUAL IS INTENDED TO OCCUR AFTER THE INDIVIDUAL'S DEATH, A PERSON MAY NOT KNOWINGLY PURCHASE OR SELL THE PART FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(2) ANY PERSON THAT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.~~

~~(B) (1) A PERSON MAY CHARGE A REASONABLE AMOUNT OF MONEY FOR THE REMOVAL, PROCESSING, PRESERVATION, QUALITY CONTROL, STORAGE, TRANSPORTATION, IMPLANTATION, OR DISPOSAL OF A PART.~~

~~(2) THE PROHIBITION IN SUBSECTION (A) OF THIS SUBSECTION DOES NOT APPLY TO BLOOD AND PLASMA.~~

~~(C) A PERSON THAT, IN ORDER TO OBTAIN A FINANCIAL GAIN, INTENTIONALLY FALSIFIES, FORGES, CONCEALS, DEFACES, OR OBLITERATES A DOCUMENT OF GIFT, AN AMENDMENT OR REVOCATION OF A DOCUMENT OF GIFT, OR A REFUSAL IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.~~

~~4-514.~~

~~(A) A PERSON THAT ACTS IN ACCORDANCE WITH THIS SUBTITLE OR WITH THE APPLICABLE ANATOMICAL GIFT LAW OF ANOTHER STATE, OR ATTEMPTS IN GOOD FAITH TO DO SO, IS NOT LIABLE FOR THE ACT IN A CIVIL ACTION, CRIMINAL PROSECUTION, OR ADMINISTRATIVE PROCEEDING.~~

~~(B) A PERSON MAKING AN ANATOMICAL GIFT OR A DONOR'S ESTATE IS NOT LIABLE FOR AN INJURY OR DAMAGE THAT RESULTS FROM THE MAKING OR USE OF THE GIFT.~~

~~(C) IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE, AMENDED, OR REVOKED UNDER THIS SUBTITLE, A PERSON MAY RELY ON REPRESENTATIONS OF AN INDIVIDUAL LISTED IN § 4-507(A)(2) THROUGH (9) OF THIS SUBTITLE UNLESS THE PERSON KNOWS THAT THE REPRESENTATION IS UNTRUE.~~

~~4-515.~~

~~(A) A DOCUMENT OF GIFT IS VALID IF EXECUTED IN ACCORDANCE WITH:~~

~~(1) THIS SUBTITLE;~~

~~(2) THE LAWS OF THE STATE OR COUNTRY WHERE IT WAS EXECUTED; OR~~

~~(3) THE LAWS OF THE STATE OR COUNTRY WHERE THE PERSON MAKING THE ANATOMICAL GIFT WAS DOMICILED, HAS A PLACE OF RESIDENCE, OR WAS A NATIONAL AT THE TIME THE DOCUMENT OF GIFT WAS EXECUTED.~~

~~(B) IF A DOCUMENT OF GIFT IS VALID UNDER THIS SECTION, THE LAW OF THIS STATE GOVERNS THE INTERPRETATION OF THE DOCUMENT OF GIFT.~~

~~(C) A PERSON MAY PRESUME THAT A DOCUMENT OF GIFT OR AMENDMENT OF AN ANATOMICAL GIFT IS VALID UNLESS THAT PERSON KNOWS THAT IT WAS NOT VALIDLY EXECUTED OR WAS REVOKED.~~

~~4-516.~~

~~(A) (1) ON OR BEFORE APRIL 1, 2009, THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL CONTRACT WITH A QUALIFIED NONPROFIT~~

~~ENTITY FOR THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF A DONOR REGISTRY.~~

~~(2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL USE FUNDS FROM THE ORGAN AND TISSUE DONOR AWARENESS FUND ESTABLISHED UNDER TITLE 13, SUBTITLE 9 OF THE HEALTH GENERAL ARTICLE OR ANY OTHER FUNDS AS MAY BE APPROPRIATE TO COMPENSATE THE NONPROFIT ENTITY CONTRACTED WITH UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE REASONABLE COST OF ESTABLISHING, MAINTAINING, AND OPERATING THE DONOR REGISTRY, INCLUDING THE REASONABLE COST OF PUBLIC EDUCATION PROGRAMS TO INCREASE PUBLIC AWARENESS ABOUT THE EXISTENCE AND PURPOSE OF THE REGISTRY AND ORGAN, TISSUE, AND EYE DONATION.~~

~~(B) THE MOTOR VEHICLE ADMINISTRATION SHALL COOPERATE WITH THE QUALIFIED NONPROFIT ENTITY CONTRACTED WITH UNDER SUBSECTION (A)(1) OF THIS SECTION FOR THE PURPOSE OF TRANSFERRING TO THE DONOR REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR'S MAKING, AMENDMENT TO, OR REVOCATION OF AN ANATOMICAL GIFT.~~

~~(C) A DONOR REGISTRY SHALL BE ACCESSIBLE 24 HOURS A DAY AND 7 DAYS A WEEK TO ALLOW:~~

~~(1) A DONOR OR OTHER PERSON AUTHORIZED UNDER § 4-503 OF THIS SUBTITLE TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT;~~

~~(2) A DONOR OR OTHER PERSON AUTHORIZED UNDER § 4-503 OF THIS SUBTITLE TO REVOKE AN ANATOMICAL GIFT; OR~~

~~(3) A PROCUREMENT ORGANIZATION TO OBTAIN RELEVANT INFORMATION ON THE DONOR REGISTRY TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF A DONOR OR A PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED, OR REVOKED AN ANATOMICAL GIFT.~~

~~(D) PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY ABOUT A DONOR OR PROSPECTIVE DONOR MAY NOT BE USED OR DISCLOSED WITHOUT THE EXPRESS CONSENT OF THE DONOR, PROSPECTIVE DONOR, OR PERSON THAT MADE THE ANATOMICAL GIFT FOR ANY PURPOSE OTHER THAN TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF THE DONOR OR~~

~~PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT.~~

~~(E) (1) THIS SECTION DOES NOT PROHIBIT A PERSON FROM CREATING OR MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE.~~

~~(2) A REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE SHALL COMPLY WITH SUBSECTIONS (C) AND (D) OF THIS SECTION.~~

~~4-517.~~

~~(A) IN THIS SECTION, "ADVANCE DIRECTIVE" MEANS A POWER OF ATTORNEY FOR HEALTH CARE OR A RECORD SIGNED BY A PROSPECTIVE DONOR IN ACCORDANCE WITH §§ 5-601 THROUGH 5-618 OF THE HEALTH GENERAL ARTICLE.~~

~~(B) (1) (i) IF A PROSPECTIVE DONOR HAS A DECLARATION OR ADVANCE DIRECTIVE AND THE TERMS OF THE DECLARATION OR DIRECTIVE AND THE EXPRESS OR IMPLIED TERMS OF A POTENTIAL ANATOMICAL GIFT ARE IN CONFLICT WITH REGARD TO THE ADMINISTRATION OF MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART FOR TRANSPLANTATION OR THERAPY:~~

~~1. THE PROSPECTIVE DONOR'S ATTENDING PHYSICIAN AND PROSPECTIVE DONOR SHALL CONFER TO RESOLVE THE CONFLICT; OR~~

~~2. IF THE PROSPECTIVE DONOR IS INCAPABLE OF RESOLVING THE CONFLICT, AN AGENT ACTING UNDER THE PROSPECTIVE DONOR'S DECLARATION OR DIRECTIVE SHALL ACT FOR THE DONOR TO RESOLVE THE CONFLICT.~~

~~(ii) IF THERE IS NOT AN AGENT OR THE AGENT IS NOT REASONABLY AVAILABLE, ANOTHER PERSON AUTHORIZED BY A LAW OTHER THAN THIS SUBTITLE TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE PROSPECTIVE DONOR SHALL ACT FOR THE DONOR TO RESOLVE THE CONFLICT.~~

~~(3) A CONFLICT UNDER THIS SUBSECTION SHALL BE RESOLVED AS EXPEDITIOUSLY AS POSSIBLE.~~

~~(4) INFORMATION RELEVANT TO THE RESOLUTION OF THE CONFLICT UNDER THIS SUBSECTION MAY BE OBTAINED FROM THE APPROPRIATE PROCUREMENT ORGANIZATION AND ANY OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT FOR THE PROSPECTIVE DONOR UNDER § 4-507 OF THIS SUBTITLE.~~

~~(5) BEFORE RESOLUTION OF A CONFLICT UNDER THIS SUBSECTION, A MEASURE TO ENSURE THE MEDICAL SUITABILITY OF A PART MAY NOT BE WITHHELD OR WITHDRAWN FROM THE PROSPECTIVE DONOR IF WITHHOLDING OR WITHDRAWING THE MEASURE IS NOT CONTRAINDICATED BY APPROPRIATE END-OF-LIFE CARE.~~

~~4-518.~~

~~(A) THE OCME AND PROCUREMENT ORGANIZATIONS SHALL COOPERATE WITH EACH OTHER TO MAXIMIZE THE OPPORTUNITY TO RECOVER ANATOMICAL GIFTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(B) IF THE OCME RECEIVES NOTICE FROM A PROCUREMENT ORGANIZATION THAT AN ANATOMICAL GIFT MIGHT BE AVAILABLE OR WAS MADE WITH RESPECT TO A DECEDENT WHOSE BODY OR PART IS UNDER THE JURISDICTION OF THE OCME FOR A POSTMORTEM INVESTIGATION, UNLESS THE OCME DENIES RECOVERY IN ACCORDANCE WITH § 4-519 OF THIS SUBTITLE, THE CHIEF MEDICAL EXAMINER OR DESIGNEE SHALL CONDUCT THE POSTMORTEM INVESTIGATION OF THE BODY OR PART IN A MANNER AND WITHIN A PERIOD COMPATIBLE WITH ITS PRESERVATION FOR THE PURPOSE OF THE GIFT.~~

~~(C) (1) A PART MAY NOT BE REMOVED FROM THE BODY OF A DECEDENT UNDER THE JURISDICTION OF OCME FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION UNLESS THE PART IS THE SUBJECT OF AN ANATOMICAL GIFT.~~

~~(2) THE BODY OF A DECEDENT UNDER THE JURISDICTION OF THE OCME MAY NOT BE DELIVERED TO A PERSON FOR RESEARCH OR EDUCATION UNLESS THE BODY IS THE SUBJECT OF AN ANATOMICAL GIFT.~~

~~(3) THIS SUBSECTION DOES NOT PRECLUDE THE OCME FROM:~~

~~(i) PERFORMING A MEDICOLEGAL INVESTIGATION ON THE BODY OR PART OF A DECEDENT UNDER THE JURISDICTION OF THE OCME; OR~~



~~(H) USING THE BODY OR PART UNDER THE JURISDICTION OF THE OCME FOR THE PURPOSES OF EDUCATION, TRAINING, AND RESEARCH REQUIRED BY OCME.~~

~~4-519.~~

~~(A) (1) ON REQUEST OF A PROCUREMENT ORGANIZATION, THE OCME SHALL RELEASE TO THE PROCUREMENT ORGANIZATION THE NAME, CONTACT INFORMATION, AND AVAILABLE MEDICAL AND SOCIAL HISTORY OF A DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE OCME.~~

~~(2) IF A BODY OR PART OF A DECEDENT IS MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, THE OCME SHALL RELEASE POSTMORTEM INVESTIGATION RESULTS TO THE PROCUREMENT ORGANIZATION THAT MADE A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) IF RELEVANT TO TRANSPLANTATION, RESEARCH, EDUCATION, OR THERAPY, A PROCUREMENT ORGANIZATION MAY MAKE A SUBSEQUENT DISCLOSURE OF A POSTMORTEM INVESTIGATION RESULTS OR OTHER INFORMATION RECEIVED FROM THE OCME.~~

~~(B) THE OCME MAY CONDUCT A MEDICOLEGAL INVESTIGATION BY REVIEWING MEDICAL RECORDS, LABORATORY TEST RESULTS, X RAYS, OTHER DIAGNOSTIC RESULTS, AND OTHER INFORMATION THAT THE OCME DETERMINES MAY BE RELEVANT TO THE INVESTIGATION.~~

~~(C) A PERSON THAT HAS INFORMATION REQUESTED BY THE OCME IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, SHALL PROVIDE THE INFORMATION AS EXPEDITIOUSLY AS POSSIBLE TO ALLOW THE OCME TO CONDUCT THE MEDICOLEGAL INVESTIGATION WITHIN A PERIOD COMPATIBLE WITH THE PRESERVATION OF PARTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(D) THE OCME AND A PROCUREMENT ORGANIZATION SHALL COOPERATE IN THE TIMELY REMOVAL OF A PART FROM A DECEDENT FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, IF:~~

~~(1) AN ANATOMICAL GIFT HAS BEEN OR MIGHT BE MADE OF THE PART OF THE DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE OCME AND A POSTMORTEM INVESTIGATION IS NOT REQUIRED; OR~~

~~(2) THE OCME DETERMINES THAT A POSTMORTEM EXAMINATION IS REQUIRED BUT THAT THE RECOVERY OF THE PART THAT IS THE SUBJECT OF THE ANATOMICAL GIFT WILL NOT INTERFERE WITH THE INVESTIGATION.~~

~~(E) (1) THE OCME AND PROCUREMENT ORGANIZATIONS SHALL ENTER INTO AN AGREEMENT SETTING FORTH PROTOCOLS AND PROCEDURES TO GOVERN RELATIONS BETWEEN THE PARTIES WHEN AN ANATOMICAL GIFT OF A PART FROM A DECEDENT UNDER THE JURISDICTION OF THE OCME HAS BEEN OR MIGHT BE MADE BUT THE OCME BELIEVES THAT THE RECOVERY OF THE PART COULD INTERFERE WITH THE POSTMORTEM INVESTIGATION INTO THE DECEDENT'S CAUSE OR MANNER OF DEATH.~~

~~(2) DECISIONS REGARDING THE RECOVERY OF ORGANS, TISSUE, AND EYES UNDER THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE AGREEMENT.~~

~~(3) IF THE MEDICAL EXAMINER DENIES RECOVERY OF AN ANATOMICAL GIFT, THE PROCUREMENT ORGANIZATION MAY REQUEST THE CHIEF MEDICAL EXAMINER TO RECONSIDER THE DENIAL AND ALLOW THE RECOVERY TO PROCEED.~~

~~(4) THE PARTIES SHALL EVALUATE THE EFFECTIVENESS OF THE PROTOCOLS AND PROCEDURES AGREED TO UNDER THIS SUBSECTION AT REGULAR INTERVALS BUT NO LESS FREQUENTLY THAN EVERY 2 YEARS.~~

~~(F) IF THE CHIEF MEDICAL EXAMINER OR DESIGNEE ALLOWS RECOVERY OF A PART UNDER SUBSECTION (D) OR (E) OF THIS SECTION, ON REQUEST, THE PROCUREMENT ORGANIZATION SHALL CAUSE THE PHYSICIAN OR TECHNICIAN WHO REMOVES THE PART TO PROVIDE THE MEDICAL EXAMINER WITH A RECORD DESCRIBING THE CONDITION OF THE PART, A BIOPSY, A PHOTOGRAPH, AND ANY OTHER INFORMATION AND OBSERVATIONS THAT WOULD ASSIST IN THE POSTMORTEM EXAMINATION.~~

~~(G) IF A MEDICAL EXAMINER OR DESIGNEE IS REQUIRED TO BE PRESENT AT A REMOVAL PROCEDURE UNDER SUBSECTION (E) OF THIS SECTION, THE PROCUREMENT ORGANIZATION REQUESTING THE RECOVERY OF THE PART SHALL REIMBURSE OCME FOR THE ADDITIONAL COSTS INCURRED IN COMPLYING WITH THE SUBSECTION.~~

~~4-520.~~

~~IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT THE PROVISIONS OF THIS SUBTITLE.~~

~~4-521.~~

~~THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE SECTION 101(A) OF THAT ACT, 15 U.S.C. SECTION 7001 ET SEQ., OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15 U.S.C. SECTION 7003(B).~~

~~4-522.~~

~~THIS SUBTITLE MAY BE CITED AS THE MARYLAND REVISED ANATOMICAL GIFT ACT.~~

~~Article—Health—General~~

~~5-408.~~

~~(a) (1) A person may not sell or buy any body or any part of a body that is under the exclusive control of the Board.~~

~~(2) A person other than a nonprofit organization that qualifies under § 501(c)(3) of the Internal Revenue Code, may not sell, buy, or act as a broker for a profit in the transfer of any human organ that:~~

~~(i) Is removed from a human body that is alive or dead at the time of removal; and~~

~~(ii) Is not under the exclusive control of the Board.~~

~~(3) In this section, “human organ” does not include blood and plasma.~~

~~(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not send, transport, or permit or cause to be sent or transported out of the State any body or any part of a body that is under the exclusive control of the Board.~~

~~(2) The Board may authorize, by regulation, the transporting of human specimens under its exclusive control to an out of state medical study program, provided that:~~

~~(i) The needs of the schools of the State are met;~~

~~(ii) The requesting party demonstrates the need for a specimen;~~

~~(iii) The circumstances of the request are that:~~

~~1. No other sufficient source of specimens within the requesting state exists; or~~

~~2. A preexisting organ tissue donation was made by an individual in compliance with the [Uniform Donor Act] **MARYLAND REVISED ANATOMICAL GIFT ACT**;~~

~~(iv) The requesting party bears the responsibility for transporting and the specialized care of the specimen and all associated costs; and~~

~~(v) The Board retains the right of exclusive control of the specimen including the final disposition when appropriate or necessary to fulfill an obligation to return the remains of a donated specimen to the donor's family.~~

~~(3) The Board may authorize a physician, teacher, demonstrator, or investigator of advanced human biological sciences to send or transport human specimens out of the State for use by medical study programs.~~

~~5-604.1.~~

~~(a) An advance directive may contain a statement by a declarant that the declarant consents to the gift of all or any part of the declarant's body for any one or more of the purposes specified in Title 4, Subtitle 5 of the Estates and Trusts Article.~~

~~(b) Notwithstanding any other provision of law, an anatomical gift in an advance directive is valid and effective for all purposes under Title 4, Subtitle 5 of the Estates and Trusts Article, including the immunity from civil or criminal liability set forth in [~~§ 4-508(b)~~] **§ 4-514** of the Estates and Trusts Article.~~

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

**Article - Estates and Trusts**

4-505.

(c) (1) A gift of all or part of the body for purposes of this subtitle also may be made by a designation on the donor's driver's license or identification card under § 12-303 of the Transportation Article.

(2) A DONOR MAY MAKE A GIFT BY AUTHORIZING THAT A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE A GIFT BE INCLUDED ON A DONOR REGISTRY.

**4-512.**

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

(2) "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE SUBJECT OF AN ANATOMICAL GIFT.

(3) "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS OF ANATOMICAL GIFTS AND AMENDMENTS TO ANATOMICAL GIFTS.

(4) "EYE BANK" MEANS A PERSON THAT:

(i) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES;

(ii) IS ACCREDITED BY THE EYE BANK ASSOCIATION OF AMERICA OR THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND

(iii) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH - GENERAL ARTICLE.

(5) "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON DESIGNATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS AN ORGAN PROCUREMENT ORGANIZATION.

(6) "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, ORGAN PROCUREMENT ORGANIZATION, OR TISSUE BANK.

(7) (i) "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT AND HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION TO HAVE A PART THAT COULD BE MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.

(II) "PROSPECTIVE DONOR" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A REFUSAL.

(8) "QUALIFIED NONPROFIT ENTITY" MEANS A PROCUREMENT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR AN ENTITY EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE THAT ACTIVELY FUNCTIONS IN A SUPPORTING RELATIONSHIP TO ONE OR MORE PROCUREMENT ORGANIZATIONS IF THE PROCUREMENT ORGANIZATION OR OTHER ENTITY HAS A BOARD OF DIRECTORS WHOSE MEMBERS ARE EXPERIENCED IN:

(I) ORGAN, TISSUE, AND EYE DONATION;

(II) WORKING WITH DONORS AND DONOR FAMILIES; AND

(III) EDUCATING THE PUBLIC ABOUT THE IMPORTANCE OF THE PROCESS OF ORGAN, TISSUE, AND EYE DONATION.

(9) "TISSUE BANK" MEANS A PERSON THAT:

(I) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF TISSUE;

(II) IS ACCREDITED BY THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND

(III) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH - GENERAL ARTICLE.

(B) (1) ON OR BEFORE APRIL 1, 2009, THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL CONTRACT WITH A QUALIFIED NONPROFIT ENTITY FOR THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF A DONOR REGISTRY.

(2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL USE FUNDS FROM THE ORGAN AND TISSUE DONOR AWARENESS FUND ESTABLISHED UNDER TITLE 13, SUBTITLE 9 OF THE HEALTH - GENERAL ARTICLE OR ANY OTHER FUNDS AS MAY BE APPROPRIATE TO COMPENSATE THE NONPROFIT ENTITY CONTRACTED WITH UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE REASONABLE COST OF ESTABLISHING, MAINTAINING, AND OPERATING THE DONOR REGISTRY, INCLUDING THE REASONABLE COST OF

PUBLIC EDUCATION PROGRAMS TO INCREASE PUBLIC AWARENESS ABOUT THE EXISTENCE AND PURPOSE OF THE REGISTRY AND ORGAN, TISSUE, AND EYE DONATION.

(C) THE MOTOR VEHICLE ADMINISTRATION SHALL COOPERATE WITH THE QUALIFIED NONPROFIT ENTITY CONTRACTED WITH UNDER SUBSECTION (B)(1) OF THIS SECTION FOR THE PURPOSE OF TRANSFERRING TO THE DONOR REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR'S MAKING, AMENDMENT TO, OR REVOCATION OF AN ANATOMICAL GIFT.

(D) A DONOR REGISTRY SHALL BE ACCESSIBLE 24 HOURS A DAY AND 7 DAYS A WEEK TO ALLOW:

(1) A DONOR TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT;

(2) A DONOR TO REVOKE AN ANATOMICAL GIFT; OR

(3) A PROCUREMENT ORGANIZATION TO OBTAIN RELEVANT INFORMATION ON THE DONOR REGISTRY TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF A DONOR OR A PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED, OR REVOKED AN ANATOMICAL GIFT.

(E) PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY ABOUT A DONOR OR PROSPECTIVE DONOR MAY NOT BE USED OR DISCLOSED WITHOUT THE EXPRESS CONSENT OF THE DONOR, PROSPECTIVE DONOR, OR PERSON THAT MADE THE ANATOMICAL GIFT FOR ANY PURPOSE OTHER THAN TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF THE DONOR OR PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT.

(F) (1) THIS SECTION DOES NOT PROHIBIT A PERSON FROM CREATING OR MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE.

(2) A REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE SHALL COMPLY WITH SUBSECTIONS (D) AND (E) OF THIS SECTION.

[4-512.] 4-513.

This subtitle may be cited as the Maryland Anatomical Gift Act.

**Article - Health - General**

13-901.

(a) (1) There is an Organ and Tissue Donation Awareness Fund.

(2) The Fund consists of moneys collected under § 16-111.2(f) of the Transportation Article.

(3) The Fund is a special, continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(4) The Treasurer shall separately hold and the Comptroller shall account for the Fund.

(5) The Fund shall be invested and reinvested in the same manner as other State funds.

(6) Any investment earnings shall be retained to the credit of the Fund.

(b) (1) The Fund shall be managed and supervised by the Secretary or the Secretary's designee.

(2) The Fund shall be used to promote public education and awareness about organ, tissue, and eye donations **AND TO FUND THE ESTABLISHMENT, OPERATION, AND MAINTENANCE OF A DONOR REGISTRY AS PROVIDED IN § ~~4-516~~ 4-512 OF THE ESTATES AND TRUSTS ARTICLE.**

[(3) The Secretary shall contract with a qualified, independent, nonprofit third party to promote public education and awareness about organ, tissue, and eye donations.]

[(4)](3) The Fund shall be subject to audit by the Office of Legislative Audits under Title 2, Subtitle 12 of the State Government Article.

~~19-310.~~

~~(a) (1) In this subsection, "designated requestor" means a hospital employee who has completed a course offered by an organ, tissue, or eye recovery agency on how to approach potential donor families and request organ or tissue donation.~~



~~(2) (i) On or before the occurrence of each death in a hospital, the hospital shall contact an appropriate organ, tissue, or eye recovery agency in order to determine the patient's suitability for organ, tissue, or eye donation.~~

~~(ii) The contact and its disposition shall be noted in the patient's medical record.~~

~~(3) (i) The appropriate organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, shall determine the patient's suitability for organ, tissue, or eye donation.~~

~~(ii) If the organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, determines that donation is not appropriate based on established medical criteria, this determination shall be noted by hospital personnel in the patient's medical record and no further action is necessary.~~

~~(iii) If the organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, determines that the patient is a suitable candidate for organ, tissue, or eye donation, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall initiate a request under paragraph (4) of this subsection, if applicable.~~

~~(4) (i) Except as provided in [paragraph (10) of this subsection,] THE MARYLAND REVISED ANATOMICAL GIFT ACT, when an individual dies in a hospital in accordance with § 5-202 of this article, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall request, with [sensitivity, in the order of stated priority,] SENSITIVITY AND IN COMPLIANCE WITH § 4-507 OF THE ESTATES AND TRUSTS ARTICLE that the individual's representative consent to the donation of all or any of the decedent's organs or tissues as an anatomical donation if suitable.~~

~~[(ii) For the purposes of subparagraph (i) of this paragraph, the representative of the deceased individual is 1 of the following individuals listed in the following order of priority:~~

- ~~1. A spouse, but, if not alive or not competent, then;~~
- ~~2. A son or daughter who is at least 18 years old, but, if not alive, competent, or immediately available, then;~~
- ~~3. A parent, but, if not alive, competent, or immediately available, then;~~

~~4. A brother or sister who is at least 18 years old, but, if not alive or not competent, then;~~

~~5. A guardian;~~

~~6. A friend or other relative of the decedent, if the individual:~~

~~A. Is a competent individual; and~~

~~B. Presents an affidavit to the attending physician stating:~~

~~I. That the individual is a relative or close friend of the decedent; and~~

~~II. Specific facts and circumstances demonstrating that the individual maintained regular contact with the decedent sufficient to be familiar with the decedent's activities, health, and personal beliefs; or~~

~~7. Any other person authorized or required to dispose of the body.~~

~~(iii) 1. This paragraph does not apply if the decedent has given contrary directions.~~

~~2. The failure of the decedent to make a gift is not a contrary direction for purposes of this paragraph.~~

~~(iv) Contrary directions given by the decedent under this paragraph shall be recorded in the decedent's medical record.]~~

~~**(II) DIRECTIONS GIVEN BY A PERSON AUTHORIZED UNDER § 4-503 OF THE ESTATES AND TRUSTS ARTICLE TO MAKE, AMEND, REVOKE, OR REFUSE TO MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PARTS SHALL BE RECORDED IN THE DECEDENT'S MEDICAL RECORD.**~~

~~[(v)](III) The representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor and the representative of the deceased patient are entitled to protection from civil and criminal liability as provided in [§ 4-508(b)] § 4-514 of the Estates and Trusts Article.~~

~~(5) In all discussions concerning donations of organs and tissues, the representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor shall show reasonable discretion and sensitivity.~~

~~(i) To the circumstances of the family of the decedent;~~

~~(ii) To the religious beliefs of the decedent; and~~

~~(iii) To the nonsuitability for organ or tissue donation of the decedent.~~

~~(6) (i) When a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor makes a request under paragraph (4)(i) of this subsection, the representative or designated requestor shall document the request and its disposition [by having the appropriate individual described in paragraph (4)(ii) of this subsection sign a consent form or give a witnessed telegraphic, witnessed telephonic, or recorded consent to the donation.] **AS REQUIRED BY § 4-508 OF THE ESTATES AND TRUSTS ARTICLE.**~~

~~(ii) Hospital personnel shall note the request and its disposition in the decedent's medical record or death certificate.~~

~~(7) A hospital may not bill the estate of the decedent, a surviving spouse of the decedent, any heirs of the decedent, or an insurer of the decedent for the costs associated with the removal of all or any of the decedent's organs or tissues for the purpose of an anatomical donation.~~

~~(8) After consultation with the Maryland Hospital Association, Inc., the Medical and Chirurgical Faculty of the State of Maryland, [the Transplant Resource Center of Maryland, Inc.,] **LIVING LEGACY FOUNDATION**, the Washington Regional Transplant [Consortium,] **COMMUNITY**, the Medical Eye Bank of Maryland, [the Lions of District 22-C Eye Bank and Research Foundation, Incorporated,] the Health Facilities Association of Maryland, and Tissue Banks International, the Secretary shall publish guidelines designed to implement this subsection, including guidelines:~~

~~(i) Requiring that, at or near the time of each individual death in a hospital, the hospital contact by telephone an appropriate organ, tissue, or eye recovery agency to determine the suitability of the individual for organ, tissue, and eye donation;~~

~~(ii) Requiring that each hospital designate a person to make the contact; and~~

~~(iii) Identifying the information that the person designated by the hospital shall have available before making the contact.~~

~~(9) The provisions of this subsection shall in no way interfere with the duties of the office of the Chief Medical Examiner. In sudden deaths under the jurisdiction of the office of the Chief Medical Examiner as provided in § 5-309 of this article, notification will be made to the office of the Chief Medical Examiner prior to organ removal.~~

~~(10) The consent of the decedent's representative is not necessary and the provisions of paragraph (4) of this subsection do not apply [if:~~

~~(i) The decedent's driver's license or identification card contains a notation that the decedent is an organ donor; or~~

~~(ii) The decedent has consented to the gift of all or any part of the decedent's body in accordance with the provisions of:~~

~~1. § 5-604.1 of this article; or~~

~~2. Title 4, Subtitle 5 of the Estates and Trusts Article.]~~

~~**IF § 4-506 OF THE ESTATES AND TRUSTS ARTICLE PRECLUDES THE DECEDENT'S REPRESENTATIVE FROM MAKING AN ANATOMICAL GIFT.**~~

~~(11) A person who acts in good faith to recover organs or tissues in accordance with a notation on the decedent's driver's license or identification card that the decedent is an organ donor, a gift made in accordance with § 5-604.1 of this article or Title 4, Subtitle 5 of the Estates and Trusts Article, or a gift made in accordance with the anatomical gift laws of another state or country is immune from criminal prosecution and liability for damages in any cause of action related to the recovery and donation of the decedent's organs or tissues.~~

~~(12) The Department shall conduct annual death record reviews at each hospital to determine the hospital's compliance with the provisions of this subsection. The Department may delegate its duty to conduct annual death record reviews to the appropriate organ, tissue, or eye recovery agency serving the region in which a particular hospital is located.~~

### Article - State Government

10-616.

(p) (5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(xiii) for a use specifically authorized by the law of this State, if the use is related to the operation of a motor vehicle or public safety; [and]

(xiv) for use by a hospital to obtain, for hospital security purposes, information relating to ownership of vehicles parked on hospital [property.]  
PROPERTY; AND

(XV) FOR USE BY A PROCUREMENT ORGANIZATION REQUESTING INFORMATION UNDER § 4-512 OF THE ESTATES AND TRUSTS ARTICLE FOR THE PURPOSES OF ORGAN, TISSUE, AND EYE DONATION.

~~Article Transportation~~

~~12-303.~~

~~(a) The Administration shall provide for a method by which an applicant for a driver's license or identification card can designate that the applicant consents to the gift of all body organs or parts for the purposes of transplantation, therapy, or medical research and education.~~

~~(b) If an applicant designates that he is such a donor, the Administration may make a notation of this fact on the driver's license or identification card issued to the applicant.~~

~~(c) The donor designation noted on the driver's license or identification card:~~

~~(1) Is sufficient legal authority for the removal of a body organ or part on the death of the donor; and~~

~~(2) May be removed only on written notice to the Administration by the donor.~~

~~(d) Notwithstanding any other provision of law, the donor designation noted on the driver's license or identification card is valid and effective for all purposes under Title 4, Subtitle 5 of the Estates and Trusts Article, including the immunity from civil or criminal liability set forth in [§ 4-508(b)] § 4-514 of the Estates and Trusts Article.~~

~~(e) At the time the donor authorizes the donor designation to appear on his driver's license or identification card, the Administration shall notify the donor that the designation can be removed only on written notice to the Administration.~~

~~[(f) (1) Except as provided in paragraph (2) of this subsection, a donor designation under this section may not be made by or noted on the driver's license or special identification card of any minor.~~

~~(2) A donor designation under this section may be made by or noted on the driver's license or special identification card of a minor who is at least 16 years old, if a parent or guardian of the minor consents in writing.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, subject to an express appropriation or donated funds for this project, the General Assembly directs the Department of Health and Mental Hygiene to conduct a study on nontransplant tissue banks, which shall:~~

~~(1) review the need for and usage of whole body and body parts for medical study and research and current existence of nontransplant tissue banks both inside and outside of Maryland;~~

~~(2) explore standards for hygiene and sterile practices that exist to protect the public health from contagious disease and other dangers from the procurement, storage, transportation, delivery, and usage of whole body and body parts by nontransplant tissue banks for medical study and research;~~

~~(3) examine regulatory systems, including that of the State of New York, for standards that protect the public health and that inspect and review compliance with regulatory criteria for nontransplant tissue banks; and~~

~~(4) in accordance with § 2-1246 of the State Government Article, and as to the report's findings and recommendations, be reported to the Senate Finance Committee and the House Health and Government Operations Committee on or before October 1, 2009.~~

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 215

(Senate Bill 767)

AN ACT concerning

**Health Occupations – Board of Pharmacy – Remote Automated Medication Systems**

FOR the purpose of ~~authorizing~~ requiring the Board of Pharmacy to adopt regulations to authorize certain pharmacists to dispense certain medication from certain pharmacies or from certain remote locations; requiring certain pharmacists to be responsible for certain dispensing, repackaging, delivery, control of, bar coding, transaction records, dispensation records, labeling, and accountability of certain medications in certain remote automated medication systems; requiring certain pharmacists to have certain access to certain systems under certain circumstances; requiring certain pharmacists to review certain medication orders for accuracy, completeness, and appropriateness ~~before~~ after being ~~placed~~ entered in certain systems subject to certain exceptions; exempting certain health care facilities and certain systems from certain requirements under certain circumstances; requiring certain pharmacists, in consultation with certain health care facilities, to develop and implement certain quality assurance programs; requiring certain pharmacists to limit certain access to certain systems by requiring individual security codes for certain functions; requiring certain records to be kept; requiring certain pharmacists to maintain certain logs and repair records; requiring certain pharmacists to ensure a certain back-up power source and that only certain individuals have access to certain systems under certain circumstances; defining certain terms; requiring the Board of Pharmacy to monitor the experience of remote automated medication systems in nursing homes in the State and to report to specified legislative committees on the effect of remote automated medication systems on patient safety in nursing homes; and generally relating to remote automated medication systems regulated by the Board of Pharmacy.

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 12-307(b)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 12-307(c)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health Occupations

Section 12-605

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The ability of the Board of Pharmacy to regulate the dispensing, pre-packaging, and repackaging of medications to residents in the State is of vital importance; and

WHEREAS, There is a national pharmacist shortage, and current pharmaceutical practices utilizing remote automated medication systems have demonstrated reduction of human error, improvements to patient safety, and the effective provision of pharmacist care services to patients from a distance; and

WHEREAS, There is a need for the Board of Pharmacy to regulate remote automated medication systems for residents in the State while being flexible enough to adapt future technologies and the economic and efficiency benefits such technologies provide in the health care setting; and

WHEREAS, Additional structure and guidance will improve pharmaceutical services for residents in health care facilities utilizing remote automated medication systems; now, therefore,

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

**Article - Health Occupations**

12-307.

(b) Except as otherwise provided in this section, a pharmacist may engage in dispensing or distributing only from a pharmacy holding a pharmacy permit issued by the Board.

(c) (1) Pursuant to regulations adopted by the Board, a licensed pharmacist may engage in dispensing or distributing from a setting not holding a pharmacy permit only upon receiving the prior approval of the Board.

**(2) THE BOARD SHALL ADOPT REGULATIONS THAT AUTHORIZE A PHARMACIST TO DISPENSE OR DISTRIBUTE FROM A REMOTE LOCATION FOR THE BENEFIT OF A HEALTH CARE FACILITY THAT USES A REMOTE AUTOMATED MEDICATION SYSTEM IN ACCORDANCE WITH § 12-605 OF THIS TITLE.**

**12-605.**

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



(2) "HEALTH CARE FACILITY" MEANS ~~A HOSPITAL AS DEFINED IN § 19-301 OF THE HEALTH - GENERAL ARTICLE OR~~ A RELATED INSTITUTION AS DEFINED IN § 19-301 OF THE HEALTH - GENERAL ARTICLE.

(3) "REMOTE AUTOMATED MEDICATION SYSTEM" MEANS AN AUTOMATED MECHANICAL SYSTEM THAT IS LOCATED IN A HEALTH CARE FACILITY THAT DOES NOT HAVE AN ON-SITE PHARMACY AND IN WHICH MEDICATION IS STORED IN A MANNER THAT MAY BE PATIENT-SPECIFIC.

(4) "STARTER DOSE" MEANS A DOSE OF MEDICATION REMOVED FROM A REMOTE AUTOMATED MEDICATION SYSTEM WITHIN THE FIRST 24 HOURS AFTER IT IS ORDERED.

~~(B) A PHARMACIST MAY DISPENSE MEDICATION FROM:~~

~~(1) A PHARMACY; OR~~

~~(2) A REMOTE LOCATION FOR THE BENEFIT OF A HEALTH CARE FACILITY THAT USES A REMOTE AUTOMATED MEDICATION SYSTEM.~~

~~(B)~~ (1) A PHARMACIST SHALL BE RESPONSIBLE FOR THE SAFE AND EFFICIENT DISPENSING, REPACKAGING, DELIVERY, CONTROL, BAR CODING, TRANSACTION RECORDS, DISPENSATION RECORDS, LABELING, AND ACCOUNTABILITY FOR ALL MEDICATIONS IN A REMOTE AUTOMATED MEDICATION SYSTEM LOCATED IN A HEALTH CARE FACILITY THAT DOES NOT HAVE A PHARMACY PRESENT ON-SITE.

(2) IF A PHARMACIST IS NOT PHYSICALLY PRESENT WHERE THE REMOTE AUTOMATED MEDICATION SYSTEM IS LOCATED IN A HEALTH CARE FACILITY, THE PHARMACIST SHALL HAVE ACCESS TO THE SYSTEM BY ELECTRONIC AND VISUAL MEANS IN ORDER TO ENSURE THE SAFE AND EFFICIENT DISPENSING, REPACKAGING, DELIVERY, CONTROL, BAR CODING, TRANSACTION RECORDS, DISPENSATION RECORDS, LABELING, AND ACCOUNTABILITY FOR ALL MEDICATIONS IN THE SYSTEM.

~~(C)~~ (1) IF A HEALTH CARE FACILITY USES A REMOTE AUTOMATED MEDICATION SYSTEM, A PHARMACIST SHALL REVIEW FOR ACCURACY, COMPLETENESS, AND APPROPRIATENESS ALL MEDICATION ORDERS ~~BEFORE~~ AFTER BEING ENTERED INTO THE SYSTEM.

~~(D)~~ (1) IF A REMOTE AUTOMATED MEDICATION SYSTEM, THE ~~COMPANY~~ PHARMACY PERMIT HOLDER THAT MANAGES THE SYSTEM, AND THE

HEALTH CARE FACILITY WHERE THE SYSTEM IS LOCATED MEET THE REQUIREMENTS OF THIS SUBSECTION:

(I) A HEALTH CARE FACILITY THAT USES A SYSTEM DOES NOT NEED TO HAVE A PHARMACIST PHYSICALLY PRESENT TO REVIEW THE SELECTION, PACKAGING, OR REPACKAGING OF MEDICATIONS BY THE SYSTEM;

(II) ~~A~~ IF THE STARTER DOSE IS REVIEWED BY A PHARMACIST WITHIN 24 HOURS OF DELIVERY FROM A SYSTEM, A SYSTEM MAY DELIVER A STARTER DOSE OR A DOSE IN RESPONSE TO AN EMERGENCY WITHOUT PRIOR REVIEW BY A PHARMACIST; AND

(III) A SYSTEM MAY ALLOW SIMULTANEOUS ACCESS TO MULTIPLE DRUG STRENGTHS, DOSAGE FORMS, OR DRUG ENTITIES IF CONTAINED WITHIN A PATIENT-SPECIFIC PACKAGE.

(2) A REMOTE AUTOMATED MEDICATION SYSTEM SHALL AT LEAST:

(I) USE BAR CODE TECHNOLOGY TO ENSURE ACCURACY IN LOADING AND SELECTION OF MEDICATIONS IN THE SYSTEM;

(II) HAVE ELECTRONIC REPORTING CAPABILITY REGARDING THE IDENTITY OF ALL PERSONS WITH ACCESS TO THE SYSTEM AND REGARDING ALL MEDICATIONS REMOVED FROM THE SYSTEM; AND

(III) BEFORE ADMINISTRATION OF A MEDICATION TO A PATIENT BY AN INDIVIDUAL AUTHORIZED TO ADMINISTER MEDICATION UNDER THIS ARTICLE, PROVIDE:

1. ~~A WRITTEN REPORT THAT DESCRIBES THE MEDICATION; OR~~

~~2.~~ A PICTURE OF THE MEDICATION IF AVAILABLE;  
OR

2. IF A PICTURE IS NOT AVAILABLE, A WRITTEN REPORT THAT DESCRIBES THE MEDICATION.

(3) THE HEALTH CARE FACILITY WHERE THE SYSTEM IS LOCATED SHALL HAVE AT LEAST:

(I) A PHARMACIST AVAILABLE FOR CONSULTATION 24 HOURS PER DAY;

(II) TECHNICAL ASSISTANCE REGARDING OPERATION OF THE SYSTEM AVAILABLE 24 HOURS PER DAY; AND

(III) A QUALITY ASSURANCE PROGRAM AS DESCRIBED UNDER SUBSECTION ~~(F)~~ (E) OF THIS SECTION.

(4) ~~A COMPANY~~ THE PHARMACY PERMIT HOLDER THAT MANAGES A REMOTE AUTOMATED MEDICATION SYSTEM SHALL PROVIDE A COMPREHENSIVE TRAINING PROGRAM TO ALL PERSONS WITH ACCESS TO THE SYSTEM.

~~(F)~~ (E) (1) A PHARMACIST THAT OPERATES A REMOTE AUTOMATED MEDICATION SYSTEM, IN CONSULTATION WITH THE HEALTH CARE FACILITY WHERE THE SYSTEM IS LOCATED, SHALL DEVELOP AND IMPLEMENT A QUALITY ASSURANCE PROGRAM IN ACCORDANCE WITH ~~THIS SUBSECTION~~ REGULATIONS ADOPTED BY THE BOARD.

(2) THE QUALITY ASSURANCE PROGRAM DEVELOPED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) POLICIES AND PROCEDURES AT BOTH THE PHARMACY WHERE THE SYSTEM RECEIVES AN ORDER AND THE HEALTH CARE FACILITY WHERE THE SYSTEM ADMINISTERS THE MEDICATION REGARDING OPERATION OF THE SYSTEM;

(II) DAILY INSPECTION OF THE INTEGRITY OF THE SYSTEM;

(III) A PLAN FOR ADDRESSING MEDICATION ERRORS;

(IV) A PLAN FOR REVIEWING INCIDENTS REGARDING INAPPROPRIATE USE AND ACCESS TO THE SYSTEM;

(V) PROPER LABELING PROCEDURES THAT COMPLY WITH APPLICABLE STATE AND FEDERAL LAWS; ~~AND~~

(VI) POLICIES AND PROCEDURES FOR THE SAFE HANDLING AND RETURN OF UNUSED MEDICATIONS; AND

(VII) ANY OTHER REQUIREMENTS DETERMINED BY THE BOARD AND SET FORTH IN REGULATIONS.

(F) (1) A PHARMACIST THAT OPERATES A REMOTE AUTOMATED MEDICATION SYSTEM SHALL LIMIT ACCESS TO THE SYSTEM TO INDIVIDUALS AUTHORIZED TO ACCESS THE SYSTEM BY REQUIRING INDIVIDUAL SECURITY CODES FOR ALL FUNCTIONS.

(2) A RECORD SHALL BE KEPT OF EACH TRANSACTION CONTAINING USER IDENTIFICATION INFORMATION.

(G) (1) A PHARMACIST WHO OPERATES A REMOTE AUTOMATED MEDICATION SYSTEM SHALL MAINTAIN MAINTENANCE LOGS AND REPAIR RECORDS FOR THE SYSTEM.

(2) IN ~~AN EMERGENCY~~ A POWER OUTAGE OR OTHERWISE UNFORESEEN SITUATION, A PHARMACIST SHALL ENSURE THAT:

(I) A BACK-UP POWER SOURCE FOR THE SYSTEM IS AVAILABLE BY A CONNECTION WITH THE HEALTH CARE FACILITY'S GENERATOR; AND

(II) ONLY A REGISTERED NURSE OR A LICENSED PRACTICAL NURSE HAS ACCESS TO THE MEDICATIONS CONTAINED WITHIN THE SYSTEM.

*SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Pharmacy shall monitor the experience of remote automated medication systems in nursing homes in the State and shall report on or before January 1, 2009 and on or before January 1, 2010, 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 effect of remote automated medication systems on patient safety in nursing homes.*

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 216

(House Bill 1387)

AN ACT concerning

### Health Occupations – Board of Pharmacy – Remote Automated Medication Systems

FOR the purpose of ~~authorizing~~ requiring the Board of Pharmacy to adopt regulations to authorize certain pharmacists to dispense certain medication from certain pharmacies or from certain remote locations; requiring certain pharmacists to be responsible for certain dispensing, repackaging, delivery, control of, bar coding, transaction records, dispensation records, labeling, and accountability of certain medications in certain remote automated medication systems; requiring certain pharmacists to have certain access to certain systems under certain circumstances; requiring certain pharmacists to review certain medication orders for accuracy, completeness, and appropriateness ~~before~~ after being ~~placed~~ entered in certain systems subject to certain exceptions; exempting certain health care facilities and certain systems from certain requirements under certain circumstances; requiring certain pharmacists, in consultation with certain health care facilities, to develop and implement certain quality assurance programs; requiring certain pharmacists to limit certain access to certain systems by requiring individual security codes for certain functions; requiring certain records to be kept; requiring certain pharmacists to maintain certain logs and repair records; requiring certain pharmacists to ensure a certain back-up power source and that only certain individuals have access to certain systems under certain circumstances; defining certain terms; requiring the Board of Pharmacy to monitor the experience of remote automated medication systems in nursing homes in the State and to report to specified legislative committees on the effect of remote automated medication systems on patient safety in nursing homes; and generally relating to remote automated medication systems regulated by the Board of Pharmacy.

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 12–307(b)

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(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 12–307(c)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health Occupations

Section 12–605

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, The ability of the Board of Pharmacy to regulate the dispensing, pre-packaging, and repackaging of medications to residents in the State is of vital importance; and

WHEREAS, There is a national pharmacist shortage, and current pharmaceutical practices utilizing remote automated medication systems have demonstrated reduction of human error, improvements to patient safety, and the effective provision of pharmacist care services to patients from a distance; and

WHEREAS, There is a need for the Board of Pharmacy to regulate remote automated medication systems for residents in the State while being flexible enough to adapt future technologies and the economic and efficiency benefits such technologies provide in the health care setting; and

WHEREAS, Additional structure and guidance will improve pharmaceutical services for residents in health care facilities utilizing remote automated medication systems; now, therefore,

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

**Article - Health Occupations**

12-307.

(b) Except as otherwise provided in this section, a pharmacist may engage in dispensing or distributing only from a pharmacy holding a pharmacy permit issued by the Board.

(c) (1) Pursuant to regulations adopted by the Board, a licensed pharmacist may engage in dispensing or distributing from a setting not holding a pharmacy permit only upon receiving the prior approval of the Board.

(2) THE BOARD SHALL ADOPT REGULATIONS THAT AUTHORIZE A PHARMACIST TO DISPENSE OR DISTRIBUTE FROM A REMOTE LOCATION FOR THE BENEFIT OF A HEALTH CARE FACILITY THAT USES A REMOTE AUTOMATED MEDICATION SYSTEM IN ACCORDANCE WITH § 12-605 OF THIS TITLE.

**12-605.**

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

(2) "HEALTH CARE FACILITY" MEANS ~~A HOSPITAL AS DEFINED IN § 19-301 OF THE HEALTH - GENERAL ARTICLE OR~~ A RELATED INSTITUTION AS DEFINED IN § 19-301 OF THE HEALTH - GENERAL ARTICLE.

(3) "REMOTE AUTOMATED MEDICATION SYSTEM" MEANS AN AUTOMATED MECHANICAL SYSTEM THAT IS LOCATED IN A HEALTH CARE FACILITY THAT DOES NOT HAVE AN ON-SITE PHARMACY AND IN WHICH MEDICATION IS STORED IN A MANNER THAT MAY BE PATIENT-SPECIFIC.

(4) "STARTER DOSE" MEANS A DOSE OF MEDICATION REMOVED FROM A REMOTE AUTOMATED MEDICATION SYSTEM WITHIN THE FIRST 24 HOURS AFTER IT IS ORDERED.

~~(B) A PHARMACIST MAY DISPENSE MEDICATION FROM:~~

~~(1) A PHARMACY; OR~~

~~(2) A REMOTE LOCATION FOR THE BENEFIT OF A HEALTH CARE FACILITY THAT USES A REMOTE AUTOMATED MEDICATION SYSTEM.~~

~~(B)~~ (1) A PHARMACIST SHALL BE RESPONSIBLE FOR THE SAFE AND EFFICIENT DISPENSING, REPACKAGING, DELIVERY, CONTROL, BAR CODING, TRANSACTION RECORDS, DISPENSATION RECORDS, LABELING, AND ACCOUNTABILITY FOR ALL MEDICATIONS IN A REMOTE AUTOMATED MEDICATION SYSTEM LOCATED IN A HEALTH CARE FACILITY THAT DOES NOT HAVE A PHARMACY PRESENT ON-SITE.

(2) IF A PHARMACIST IS NOT PHYSICALLY PRESENT WHERE THE REMOTE AUTOMATED MEDICATION SYSTEM IS LOCATED IN A HEALTH CARE FACILITY, THE PHARMACIST SHALL HAVE ACCESS TO THE SYSTEM BY ELECTRONIC AND VISUAL MEANS IN ORDER TO ENSURE THE SAFE AND EFFICIENT DISPENSING, REPACKAGING, DELIVERY, CONTROL, BAR CODING, TRANSACTION RECORDS, DISPENSATION RECORDS, LABELING, AND ACCOUNTABILITY FOR ALL MEDICATIONS IN THE SYSTEM.

~~(C)~~ (C) IF A HEALTH CARE FACILITY USES A REMOTE AUTOMATED MEDICATION SYSTEM, A PHARMACIST SHALL REVIEW FOR ACCURACY, COMPLETENESS, AND APPROPRIATENESS ALL MEDICATION ORDERS ~~BEFORE~~ AFTER BEING ENTERED INTO THE SYSTEM.

~~(E)~~ (D) (1) IF A REMOTE AUTOMATED MEDICATION SYSTEM, THE ~~COMPANY~~ PHARMACY PERMIT HOLDER THAT MANAGES THE SYSTEM, AND THE HEALTH CARE FACILITY WHERE THE SYSTEM IS LOCATED MEET THE REQUIREMENTS OF THIS SUBSECTION:

(I) A HEALTH CARE FACILITY THAT USES A SYSTEM DOES NOT NEED TO HAVE A PHARMACIST PHYSICALLY PRESENT TO REVIEW THE SELECTION, PACKAGING, OR REPACKAGING OF MEDICATIONS BY THE SYSTEM;

(II) ~~A~~ IF THE STARTER DOSE IS REVIEWED BY A PHARMACIST WITHIN 24 HOURS OF DELIVERY FROM A SYSTEM, A SYSTEM MAY DELIVER A STARTER DOSE OR A DOSE IN RESPONSE TO AN EMERGENCY WITHOUT PRIOR REVIEW BY A PHARMACIST; AND

(III) A SYSTEM MAY ALLOW SIMULTANEOUS ACCESS TO MULTIPLE DRUG STRENGTHS, DOSAGE FORMS, OR DRUG ENTITIES IF CONTAINED WITHIN A PATIENT-SPECIFIC PACKAGE.

(2) A REMOTE AUTOMATED MEDICATION SYSTEM SHALL AT LEAST:

(I) USE BAR CODE TECHNOLOGY TO ENSURE ACCURACY IN LOADING AND SELECTION OF MEDICATIONS IN THE SYSTEM;

(II) HAVE ELECTRONIC REPORTING CAPABILITY REGARDING THE IDENTITY OF ALL PERSONS WITH ACCESS TO THE SYSTEM AND REGARDING ALL MEDICATIONS REMOVED FROM THE SYSTEM; AND

(III) BEFORE ADMINISTRATION OF A MEDICATION TO A PATIENT BY AN INDIVIDUAL AUTHORIZED TO ADMINISTER MEDICATION UNDER THIS ARTICLE, PROVIDE:

1. ~~A WRITTEN REPORT THAT DESCRIBES THE MEDICATION; OR~~

~~2.~~ A PICTURE OF THE MEDICATION IF AVAILABLE;  
OR

2. IF A PICTURE IS NOT AVAILABLE, A WRITTEN REPORT THAT DESCRIBES THE MEDICATION.

(3) THE HEALTH CARE FACILITY WHERE THE SYSTEM IS LOCATED SHALL HAVE AT LEAST:



(I) A PHARMACIST AVAILABLE FOR CONSULTATION 24 HOURS PER DAY;

(II) TECHNICAL ASSISTANCE REGARDING OPERATION OF THE SYSTEM AVAILABLE 24 HOURS PER DAY; AND

(III) A QUALITY ASSURANCE PROGRAM AS DESCRIBED UNDER SUBSECTION ~~(F)~~ (E) OF THIS SECTION.

(4) ~~A COMPANY~~ THE PHARMACY PERMIT HOLDER THAT MANAGES A REMOTE AUTOMATED MEDICATION SYSTEM SHALL PROVIDE A COMPREHENSIVE TRAINING PROGRAM TO ALL PERSONS WITH ACCESS TO THE SYSTEM.

~~(F)~~ (E) (1) A PHARMACIST THAT OPERATES A REMOTE AUTOMATED MEDICATION SYSTEM, IN CONSULTATION WITH THE HEALTH CARE FACILITY WHERE THE SYSTEM IS LOCATED, SHALL DEVELOP AND IMPLEMENT A QUALITY ASSURANCE PROGRAM IN ACCORDANCE WITH ~~THIS SUBSECTION~~ REGULATIONS ADOPTED BY THE BOARD.

(2) THE QUALITY ASSURANCE PROGRAM DEVELOPED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) POLICIES AND PROCEDURES AT BOTH THE PHARMACY WHERE THE SYSTEM RECEIVES AN ORDER AND THE HEALTH CARE FACILITY WHERE THE SYSTEM ADMINISTERS THE MEDICATION REGARDING OPERATION OF THE SYSTEM;

(II) DAILY INSPECTION OF THE INTEGRITY OF THE SYSTEM;

(III) A PLAN FOR ADDRESSING MEDICATION ERRORS;

(IV) A PLAN FOR REVIEWING INCIDENTS REGARDING INAPPROPRIATE USE AND ACCESS TO THE SYSTEM;

(V) PROPER LABELING PROCEDURES THAT COMPLY WITH APPLICABLE STATE AND FEDERAL LAWS; ~~AND~~

(VI) POLICIES AND PROCEDURES FOR THE SAFE HANDLING AND RETURN OF UNUSED MEDICATIONS; AND

(VII) ANY OTHER REQUIREMENTS DETERMINED BY THE BOARD AND SET FORTH IN REGULATIONS.

(F) (1) A PHARMACIST THAT OPERATES A REMOTE AUTOMATED MEDICATION SYSTEM SHALL LIMIT ACCESS TO THE SYSTEM TO INDIVIDUALS AUTHORIZED TO ACCESS THE SYSTEM BY REQUIRING INDIVIDUAL SECURITY CODES FOR ALL FUNCTIONS.

(2) A RECORD SHALL BE KEPT OF EACH TRANSACTION CONTAINING USER IDENTIFICATION INFORMATION.

(G) (1) A PHARMACIST WHO OPERATES A REMOTE AUTOMATED MEDICATION SYSTEM SHALL MAINTAIN MAINTENANCE LOGS AND REPAIR RECORDS FOR THE SYSTEM.

(2) IN A POWER OUTAGE OR OTHERWISE UNFORESEEN SITUATION, A PHARMACIST SHALL ENSURE THAT:

(I) A BACK-UP POWER SOURCE FOR THE SYSTEM IS AVAILABLE BY A CONNECTION WITH THE HEALTH CARE FACILITY'S GENERATOR; AND

(II) ONLY A REGISTERED NURSE OR A LICENSED PRACTICAL NURSE HAS ACCESS TO THE MEDICATIONS CONTAINED WITHIN THE SYSTEM.

SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Pharmacy shall monitor the experience of remote automated medication systems in nursing homes in the State and shall report on or before January 1, 2009 and on or before January 1, 2010, 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 effect of remote automated medication systems on patient safety in nursing homes.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 217**

**(Senate Bill 780)**

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 \$120,000,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency-related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; prohibiting the County from financing certain costs associated with a certain building, subject to a certain contingency; 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

parcs and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, \$120,000,000 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 2A. AND BE IT FURTHER ENACTED, That the County may not finance the acquisition of land, construction, improvement, or development of a Criminal Justice Building.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants

regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall

outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any

agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency-related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act

shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect June 1, 2008.~~ Section 2A of this Act shall take effect June 1, 2008, contingent on the failure of S.B. 659/H.B. 1135 during the 2008 Session of the General Assembly. If S.B. 659/H.B. 1135 is enacted, Section 2A of this Act shall be null and void without the necessity of further action by the General Assembly.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 218

(Senate Bill 783)

AN ACT concerning

**Residential Child Care Programs - Certification of ~~Direct Care Workers~~  
Residential Child Care Program Professionals**

FOR the purpose of renaming the State Board for Certification of Residential Child Care Program Administrators to be the State Board for Certification of Residential Child Care Program ~~Administrators and Direct Care Workers Professionals~~; altering the membership of the Board; requiring an individual to



be certified before the individual may ~~operate~~ *perform certain responsibilities* as a ~~direct care worker~~ residential child and youth care practitioner in a *certain* residential child care ~~program~~ *programs*; specifying the qualifications of certain certificates; specifying procedures for certain applications; establishing a certain date by which all residential child care programs shall have certified ~~direct care workers~~ residential child and youth care practitioners; altering certain definitions; defining certain terms; correcting certain obsolete references; and generally relating to the certification of individuals to operate residential child care programs.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 20–101, 20–201, 20–202, 20–205, 20–301, 20–302, 20–303, 20–305, ~~20–306~~, 20–309, 20–310, 20–311, 20–312, 20–313, 20–401, 20–402, 20–403, and 20–501 to be under the amended title “Title 20. Residential Child Care Program ~~Administrators and Direct Care Workers~~ Professionals”

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section ~~20–303~~, 20–304, 20–306, 20–307, 20–308, and 20–502

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health Occupations

Section 20–302.1

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Human Services

Section 8–701(c)

Annotated Code of Maryland

(2007 Volume)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(61)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

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

**Article - Health Occupations**

Title 20. Residential Child Care Program ~~Administrators AND DIRECT CARE WORKERS~~ PROFESSIONALS.

20-101.

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

(b) (1) "Agency" means:

(i) The Developmental Disabilities Administration in the Department;

(ii) The Department;

(iii) The Department of Human Resources;

(iv) The Department of Juvenile Services; and

(v) The Mental Hygiene Administration in the Department.

(2) "Agency" includes the State Superintendent of Schools.

(c) "Board" means the State Board for Certification of Residential Child Care Program ~~Administrators AND DIRECT CARE WORKERS~~ PROFESSIONALS.

(d) "Certificate" means, unless the context requires otherwise, a certificate issued by the Board to ~~administer OR OPERATE a residential child care program~~ PRACTICE AS A PROGRAM ADMINISTRATOR OR AS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER.

(e) "~~CERTIFIED DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, AN INDIVIDUAL WHO IS: CERTIFIED BY THE BOARD TO PRACTICE AS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER.

~~(1) CERTIFIED BY THE BOARD; AND~~

~~(2) RESPONSIBLE FOR THE DAY-TO-DAY OPERATION OF A RESIDENTIAL CHILD CARE PROGRAM.~~

[(e)] (F) “Certified program administrator” means, unless the context requires otherwise, an individual who is: CERTIFIED BY THE BOARD TO PRACTICE AS A PROGRAM ADMINISTRATOR.

~~(1) Certified by the Board; and~~

~~(2) Responsible for the day to day management and operation of a residential child care program.~~

(G) (1) “DIRECT CARE WORKER RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER” MEANS AN INDIVIDUAL RESPONSIBLE FOR THE DAY TO DAY OPERATION OF A RESIDENTIAL CHILD CARE PROGRAM ASSIGNED TO PERFORM DIRECT RESPONSIBILITIES RELATED TO ACTIVITIES OF DAILY LIVING, SELF-HELP, AND SOCIALIZATION SKILLS IN A RESIDENTIAL CHILD CARE PROGRAM UNDER THE DIRECTION OF A CERTIFIED PROGRAM ADMINISTRATOR.

(2) “RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER” DOES NOT INCLUDE AN INDIVIDUAL ASSIGNED TO PERFORM DIRECT RESPONSIBILITIES RELATED TO ACTIVITIES OF DAILY LIVING, SELF-HELP, AND SOCIALIZATION SKILLS IN A RESIDENTIAL CHILD CARE PROGRAM LICENSED BY THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.

[(f)] (H) (1) “Residential child care program” means an entity that provides for children 24-hour per day care 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 GOVERNOR’S Office for Children[, Youth, and Families] governing the operations of residential child care programs.

~~(3) "RESIDENTIAL CHILD CARE PROGRAM" DOES NOT INCLUDE A PROGRAM LICENSED BY THE DEVELOPMENTAL DISABILITIES ADMINISTRATION.~~

[(g)] (I) "Program administrator" means the individual responsible for the day-to-day management and operation of a residential child care program AND FOR ASSURING THE CARE, TREATMENT, SAFETY, AND PROTECTION OF THE CHILDREN IN THE RESIDENTIAL CHILD CARE PROGRAM.

[(h)] "Subcabinet" means the Subcabinet for Children, Youth, and Families established under Article 49D, § 4.1 of the Code.]

20-201.

There is a State Board for Certification of Residential Child Care Program ~~Administrators AND DIRECT CARE WORKERS~~ PROFESSIONALS in the Department.

20-202.

(a) (1) The Board consists of [11] **12** members.

(2) Of the [11] **12** Board members:

(i) Six members shall be appointed as follows:

1. Two by the Secretary of Health and Mental Hygiene, one each for the Developmental Disabilities Administration and the Mental Hygiene Administration;

2. One by the Secretary of Juvenile Services for the agency;

3. One by the Secretary of Human Resources for the agency;

4. One by the State Superintendent of Schools; and

5. One by the Subcabinet; and

(ii) [Five] **SIX** shall be appointed by the Governor.

(3) Of the [five] **SIX** appointed by the Governor:

(i) Three shall be program administrators; [and]

**(II) ONE SHALL BE A ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER; AND**

**[(ii)] (III) Two shall be consumer members.**

(b) The Governor shall appoint members with the advice and consent of the Senate.

(c) Each Board member shall:

(1) Be a United States citizen; and

(2) Have resided in this State for at least 1 year before appointment to the Board.

(d) A consumer member of the Board:

(1) May not be a program administrator **OR A ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER**;

(2) May not have a household member who is a program administrator **OR A ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER**;

(3) May not have a household member who participates in a commercial or professional field related to administering a program; and

(4) May not have had within 2 years before appointment a substantial financial interest in a program regulated by an agency.

(e) While a member of the Board, a consumer member may not have a substantial financial interest in a program regulated by an agency.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.

(g) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 2004.

(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) A member may not serve more than two consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(h) (1) The Governor may remove a member for incompetence, misconduct, incapacity, or neglect of duty.

(2) On the recommendation of the [Subcabinet] **CHILDREN'S CABINET**, the Governor may remove a member whom the [Subcabinet] **CHILDREN'S CABINET** finds to have been absent from two successive Board meetings without adequate reason.

20-205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board in consultation with the [Subcabinet] **CHILDREN'S CABINET** shall:

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

(2) Establish standards for the certification of applicants;

(3) Conduct a continuing study and investigation of program administrators ~~AND DIRECT CARE WORKERS~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS to improve:

(i) Certification standards; and

(ii) Procedures for enforcing these standards; and

(4) Devise examinations and adopt investigative procedures to:

(i) Determine whether program administrators ~~AND DIRECT CARE WORKERS~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS meet the standards adopted by the Board; and

(ii) Assure that program administrators ~~AND DIRECT CARE WORKERS~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS continue to meet these standards.

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

(1) Maintain a registry of all program administrators AND ~~DIRECT CARE WORKERS~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS certified by the Board;

(2) Submit an annual report to the Governor and ~~Subcabinet~~ CHILDREN'S CABINET;

(3) Adopt a code of ethics that the Board considers appropriate and applicable to the program administrators AND ~~DIRECT CARE WORKERS~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS certified by the Board;

(4) Establish continuing education requirements for the program administrators AND ~~THE DIRECT CARE WORKERS~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONERS certified by the Board;

(5) Adopt an official seal; and

(6) Create committees as it deems appropriate to advise the Board on special issues.

20-301.

(a) **(1)** Except as otherwise provided in this [section] **SUBSECTION**, on or after October 1, 2007, an individual shall receive a certificate from the Board before the individual may be a program administrator in this State.

[(b) (1)] **(2)** **(I)** Except as provided in [paragraph] **SUBPARAGRAPH** [(2)] **(II)** of this [subsection] **PARAGRAPH**, if a program administrator leaves or is removed from a position as program administrator by death or for any other unexpected cause, the owner of a residential child care program or other appropriate program authority shall immediately designate a certified program administrator to serve in that capacity.

[(2) (i)] **(II)** **1.** In the event a certified program administrator is not available, the owner or other appropriate program authority may appoint a noncertified person to serve in the capacity of acting program administrator for a period not to exceed 180 days.

[(ii)] **2.** The owner or other appropriate program authority shall immediately notify the Board of the appointment and forward the credentials of the person appointed to the Board for evaluation to assure that the person appointed is experienced, trained, and competent.

[(iii)] 3. The 180-day period begins on the date that the program administrator leaves or is removed from the position as a program administrator.

[(iv)] 4. The Board may extend the 180-day period for a further period of not more than 30 days.

**(B) ON OR BEFORE OCTOBER 1, 2013, AN INDIVIDUAL SHALL RECEIVE A CERTIFICATE FROM THE BOARD BEFORE THE INDIVIDUAL MAY BE A ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER IN THIS STATE.**

20-302.

(a) To qualify for a certificate AS A PROGRAM ADMINISTRATOR, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall have completed a State AND NATIONAL criminal history records check.

(d) The applicant shall be at least 21 years old.

(e) ~~[(The)] TO BE A CERTIFIED PROGRAM ADMINISTRATOR, THE~~ applicant shall have:

(1) (i) A bachelor's degree from an accredited college or university;  
and

(ii) At least 4 years experience in the human service field with at least 3 years in a supervisory or administrative capacity; or

(2) (i) A master's degree from an accredited college or university;  
and

(ii) At least 2 years experience in the human service field with at least 1 year in a supervisory or administrative capacity.

(f) ~~TO BE A CERTIFIED DIRECT CARE WORKER, THE APPLICANT SHALL HAVE:~~

~~(1) A BOARD APPROVED EDUCATIONAL DEGREE; OR~~



~~(2) A CHILD AND YOUTH CARE PRACTITIONER CERTIFICATE FROM AN ACCREDITED INSTITUTION APPROVED BY THE BOARD.~~

~~(c)~~ Except as otherwise provided in this title, the applicant shall pass an examination given by the Board under this subtitle.

**20-302.1.**

**(A) TO QUALIFY FOR A CERTIFICATE AS A RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.**

**(B) THE APPLICANT SHALL BE OF GOOD MORAL CHARACTER.**

**(C) THE APPLICANT SHALL HAVE COMPLETED A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK.**

**(D) THE APPLICANT SHALL BE:**

**(1) AT LEAST 21 YEARS OLD; OR**

**(2) AT LEAST 18 YEARS OLD AND HAVE EARNED AT LEAST AN ASSOCIATE'S OR BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY.**

**(E) THE APPLICANT SHALL HAVE:**

**(1) A HIGH SCHOOL DIPLOMA OR EQUIVALENT AND HAVE SUCCESSFULLY COMPLETED AN APPROVED TRAINING PROGRAM;**

**(2) AT LEAST 2 YEARS EXPERIENCE IN THE HUMAN SERVICE FIELD AND SPONSORSHIP FROM A CERTIFIED PROGRAM ADMINISTRATOR; OR**

**(3) AN ASSOCIATE'S OR BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY.**

**(F) THE APPLICANT SHALL PASS AN EXAMINATION GIVEN BY THE BOARD UNDER THIS SUBTITLE.**

**20-303.**

(a) To apply for a certificate, an applicant shall:

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

(2) Pay to the Board the application fee set by the Board; and

(3) Provide fingerprints for use by the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct a State AND NATIONAL criminal history records check.

(b) (1) An applicant required to provide fingerprints under subsection (a)(3) of this section shall pay any processing or other fees required by the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) The results of the criminal history records check shall be provided to the Board and the applicant.

20-304.

(a) The Board shall keep a file of each certificate application made under this subtitle.

(b) The file shall contain:

(1) The name, address, and age of the applicant;

(2) The date of the application;

(3) Complete and current information on the educational, training, and experience qualifications of the applicant;

(4) The date the Board reviewed and acted on the application;

(5) The action taken by the Board on the application;

(6) The identifying numbers of any certificate or renewal certificate issued to the applicant; and

(7) Any other information that the Board considers necessary.

(c) The application files shall be open to public inspection.

20-305.

(a) An applicant who otherwise qualifies for a certificate is entitled to be examined as provided in this section.

(b) The Board shall give examinations to applicants at least four times a 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) Subject to the provisions of this subsection, **FOR QUALIFIED CERTIFIED PROGRAM ADMINISTRATOR APPLICANTS**, the Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(2) The subjects of examination shall be related to:

(i) Health and safety issues, including:

1. Nutritional standards;
2. Water safety;
3. Preventative and acute health care standards;
4. Suicide assessment;
5. Prevention of abuse and neglect; and
6. Crisis intervention and problem solving;

(ii) The importance of staff training in appropriate observation techniques, including educational and psychological tests and social histories;

(iii) Rights of the child, including:

1. Educational and recreational needs; and
2. Establishment of and compliance with appropriate grievance procedures;

(iv) Physical plant requirements;

(v) Criminal history records checks of personnel;

(vi) Fiscal accountability;

(vii) Record keeping that complies with federal requirements and State regulations;

(viii) Emergency planning; and

(ix) Other standards established in the regulations.

(3) Each applicant shall be required to show knowledge of the laws, rules, and regulations that apply to programs.

(4) The scope, content, and form of an examination shall be the same for all certificate applicants who take the examination at the same time.

**(e) FOR QUALIFIED CERTIFIED ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER APPLICANTS, THE BOARD SHALL DETERMINE THE SUBJECTS, SCOPE, FORM, AND PASSING SCORE FOR EXAMINATIONS GIVEN UNDER THIS SUBTITLE.**

**(F)** (1) The Board may limit the number of times an applicant may take an examination required under this subtitle.

(2) To qualify for a certificate, an applicant shall pass the examination within 3 years of the first time the applicant takes the examination.

20-306.

(a) Subject to the provisions of this section, the Board may waive any examination requirement of this title for an individual who is certified as a program administrator ~~OR DIRECT CARE WORKER~~ in any other state that the Board determines has a comparable certification process to the one established in this title.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Is of good moral character;

(2) Pays the application fee required by the Board under § 20-303 of this subtitle; and

(3) Provides adequate evidence that:

(i) At the time the applicant was certified in the other state, the applicant was qualified to take the examination that then was required by the laws of this State;

(ii) The applicant qualified for a certificate in the other state by passing an examination given in that or any other state; and

(iii) The applicant has completed a State criminal history records check.

(c) ~~(1)~~ The Board shall waive the requirements for certification as a certified program administrator under § 20-302 of this subtitle for any person who:

~~[(1)] (I)~~ Has filed a letter of intent with the Board by October 1, 2007;

~~[(2)] (II)~~ Has completed not less than 8 years' experience in the human service field with at least 4 years in a supervisory or administrative capacity; and

~~[(3)] (III)~~ Has by October 1, 2007, successfully passed an examination approved by the Board.

~~(2) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR CERTIFICATION AS A CERTIFIED DIRECT CARE WORKER UNDER § 20-302 OF THIS SUBTITLE FOR ANY PERSON WHO:~~

~~(I) HAS FILED A LETTER OF INTENT WITH THE BOARD BY OCTOBER 1, 2013;~~

~~(II) HAS COMPLETED A BOARD APPROVED TRAINING PROGRAM THAT INCLUDES CORE COMPETENCIES OR HOLDS A BOARD APPROVED DEGREE IN A HUMAN SERVICES FIELD; AND~~

~~(III) HAS BY OCTOBER 1, 2013, SUCCESSFULLY PASSED AN EXAMINATION APPROVED BY THE BOARD.~~

20-307.

(a) The Board shall issue a certificate to any applicant who meets the requirements of this title.

(b) The Board shall include on each certificate that the Board issues:

(1) The full name of the certificate holder;

(2) A serial number; and

(3) The seal of the Board.

(c) The Board may issue a certificate to replace a lost, destroyed, or mutilated certificate if the certificate holder pays the certificate replacement fee set by the Board.

20-308.

The applicant may appeal a decision of the Board that relates to issuing or renewing a certificate to the Board of Review as provided in § 20-315(a) of this subtitle.

20-309.

A certificate authorizes:

(1) [the] **AN individual WHO IS A PROGRAM ADMINISTRATOR** to administer a **RESIDENTIAL CHILD CARE** program while the certificate is effective; **OR**

(2) **AN INDIVIDUAL WHO IS A ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER TO ~~OPERATE A~~ PERFORM DIRECT RESPONSIBILITIES RELATED TO ACTIVITIES OF DAILY LIVING, SELF-HELP, AND SOCIALIZATION SKILLS IN A RESIDENTIAL CHILD CARE PROGRAM WHILE THE CERTIFICATE IS EFFECTIVE.**

20-310.

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

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

(b) At least 1 month before the certificate expires, the Board shall send to the certified program administrator **OR CERTIFIED ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER**, by first-class mail to the last known address of the certified program administrator **OR CERTIFIED ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER**, a renewal notice that states:

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

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

(3) The amount of the renewal fee.

(c) Before the certificate expires, the certified program administrator **OR CERTIFIED ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER** periodically may renew it for an additional 2-year term, if the certified program administrator **OR CERTIFIED ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER**:

(1) Otherwise is entitled to obtain a certificate;

(2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

(i) A renewal application on the form that the Board requires;

and

(ii) Satisfactory evidence of compliance with any continuing education and other qualifications and requirements set under this section for certificate renewal.

(d) In addition to any other qualifications and requirements established in consultation with the [Subcabinet] **CHILDREN'S CABINET**, the Board may set continuing education requirements as a condition for the renewal of certificates under this section.

(e) The Board shall renew the certificate of each certified program administrator **OR CERTIFIED ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER** who meets the requirements of this section.

20-311.

(a) The Board shall reinstate the certificate of a program administrator **OR ~~DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER** who has failed to renew the certificate for any reason, if the individual:

(1) Has not had the certificate suspended or revoked;

(2) Meets the renewal requirements of § 20-310 of this subtitle;

(3) Pays to the Board the reinstatement fee set by the Board;

(4) Submits to the Board satisfactory evidence of compliance with the qualifications and requirements established under this title for certificate reinstatements; and

(5) Applies to the Board for reinstatement of the certificate within 5 years after the certificate expires.

(b) (1) The Board may not reinstate the certificate of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER who fails to apply for reinstatement of the certificate within 5 years after the certificate expires.

(2) However, the program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER may be certified by meeting the current requirements for obtaining a new certificate under this title.

20-312.

(a) Unless the Board agrees to accept the surrender of a certificate, a certified program administrator ~~OR CERTIFIED DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER may not surrender the certificate nor may the certificate lapse by operation of law while the certified program administrator ~~OR CERTIFIED DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER is under investigation or while charges are pending against the certified program administrator ~~OR CERTIFIED DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER.

(b) The Board may set conditions on its agreement with the certified program administrator ~~OR CERTIFIED DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER under investigation or against whom charges are pending to accept surrender of the certified program administrator's certificate ~~OR THE CERTIFIED DIRECT CARE WORKER'S~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER'S CERTIFICATE.

20-313.

(a) The Board shall investigate and take appropriate action as to any complaint filed with the Board that alleges that a certified program administrator ~~OR CERTIFIED DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER has failed to meet any standard of the Board.

(b) Subject to the hearing provisions of § 20-314 of this subtitle, the Board may deny a certificate to any applicant, reprimand any certified program administrator ~~OR CERTIFIED DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER, place any certified program administrator ~~OR CERTIFIED DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER on probation, or suspend or revoke a certificate if the applicant [or],



certified program administrator, ~~OR CERTIFIED DIRECT CARE WORKER~~  
RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER:

(1) Fraudulently or deceptively obtains or attempts to obtain a certificate for a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER, or for another;

(2) Fraudulently or deceptively uses a certificate;

(3) Otherwise fails to meet substantially the standards for certification adopted by the Board under § 20–205 of this title;

(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(5) Performs the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(6) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(7) Performs the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER with an unauthorized person or supervises or aids an unauthorized person in performing the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER;

(8) Willfully makes or files a false report or record while performing the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER;

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

(10) Commits an act of unprofessional conduct in performing the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER; or

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

20-401.

Except as otherwise provided in this title, an individual may not:

(1) Perform the duties of, attempt to perform the duties of, or offer to perform the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER in this State unless certified by the Board; or

(2) Supervise, direct, induce, or aid an uncertified individual to perform the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER.

20-402.

(a) Unless authorized to perform the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER in this State.

(b) Unless authorized to practice under this title, a person may not use the title "residential child care program administrator", "~~RESIDENTIAL CHILD CARE DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER", or any other designation, title, or abbreviation with the intent to represent that the person is authorized to perform the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER.

20-403.

A person may not:

(1) Sell or fraudulently obtain or furnish or aid in selling or fraudulently obtaining or furnishing a certificate issued under this title; or

(2) Perform the duties of a program administrator ~~OR DIRECT CARE WORKER~~ RESIDENTIAL CHILD AND YOUTH CARE PRACTITIONER under any certificate unlawfully or fraudulently obtained or issued.

20-501.

This title may be cited as the “Maryland Certification of ~~Program Administrators AND DIRECT CARE WORKERS~~ for Residential Child Care ~~Programs~~ PROGRAM PROFESSIONALS Act”.

20-502.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, 2014.

### Article - Human Services

8-701.

(c) “Certified program administrator” means an individual who is:

(1) certified by the State Board for Certification of Residential Child Care Program ~~Administrators AND DIRECT CARE WORKERS~~ PROFESSIONALS under Title 20 of the Health Occupations Article; and

(2) responsible for the day-to-day management and operation of a residential child care program AND FOR ASSURING THE CARE, TREATMENT, SAFETY, AND PROTECTION OF THE CHILDREN IN THE RESIDENTIAL CHILD CARE PROGRAM.

### Article - State Government

8-403.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(61) Residential Child Care Program ~~Administrators AND DIRECT CARE WORKERS~~ PROFESSIONALS, State Board for Certification of (§ 20-202 of the Health Occupations Article: July 1, 2013);

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 219

(Senate Bill 795)

AN ACT concerning

### **Prior Authorizations of State Debt to Fund Capital Projects – Alterations**

FOR the purpose of amending certain prior Acts of the General Assembly that authorized the creation of State Debt through the issuance, sale, and delivery of general obligation bonds, the proceeds of which were designated for funding certain capital projects; requiring certain loan proceeds to be encumbered by the Board of Public Works or expended for certain purposes by a certain date; altering the ~~names of certain grantees~~ grantees under certain projects; altering and expanding the authorized uses of certain grants; ~~removing~~ altering a requirement certain requirements that ~~a certain grantee~~ certain grantees provide and expend a certain matching fund; repealing certain requirements that a certain grantee grant and convey an historic easement to the Maryland Historical Trust; requiring that ~~a certain grantee~~ certain grantees provide and expend a certain type of matching fund; altering the location of certain capital projects; extending the deadline by which ~~a certain grantee~~ certain grantees must present evidence to the Board of Public Works that certain matching funds will be provided; making other technical changes; and generally relating to prior authorizations of State Debt by the General Assembly to fund certain capital projects.

BY repealing and reenacting, with amendments,

Chapter 555 of the Acts of the General Assembly of 1999, as amended by Chapter 30 of the Acts of the General Assembly of 2001, Chapter 188 of the Acts of the General Assembly of 2002, and Chapter 550 of the Acts of the General Assembly of 2006

Section 1

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, Chapter 149 of

the Acts of the General Assembly of 2004, and Chapter 76 of the Acts of the General Assembly of 2007

Section 1(1)

BY adding to

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, Chapter 149 of the Acts of the General Assembly of 2004, and Chapter 76 of the Acts of the General Assembly of 2007

Section 1(6)

BY repealing and reenacting, with amendments,

Chapter 508 of the Acts of the General Assembly of 2000, as amended by Chapter 488 of the Acts of the General Assembly of 2007

Section 1(3) Item SA23(C)

BY repealing and reenacting, with amendments,

Chapter 162 of the Acts of the General Assembly of 2001

Section 1

BY repealing and reenacting, with amendments,

Chapter 163 of the Acts of the General Assembly of 2001

Section 1

BY repealing and reenacting, with amendments,

Chapter 175 of the Acts of the General Assembly of 2001

Section 1

BY repealing and reenacting, without amendments,

Chapter 243 of the Acts of the General Assembly of 2001, as amended by Chapter 219 of the Acts of the General Assembly of 2004

Section 1(1)

BY adding to

Chapter 243 of the Acts of the General Assembly of 2001, as amended by Chapter 219 of the Acts of the General Assembly of 2004

Section 1(6)

BY repealing and reenacting, with amendments,

Chapter 326 of the Acts of the General Assembly of 2001, as amended by Chapter 30 of the Acts of the General Assembly of 2003 and Chapter 188 of the Acts of the General Assembly of 2005

Section 1

BY repealing and reenacting, with amendments,

Chapter 432 of the Acts of the General Assembly of 2001  
Section 1

BY repealing and reenacting, with amendments,  
Chapter 466 of the Acts of the General Assembly of 2001  
Section 1

BY repealing and reenacting, with amendments,  
Chapter 673 of the Acts of the General Assembly of 2001  
Section 1

BY repealing and reenacting, with amendments,  
Chapter 680 of the Acts of the General Assembly of 2001, as amended by  
Chapter 32 of the Acts of the General Assembly of 2003, and Chapter 30  
of the Acts of the General Assembly of 2004  
Section 1

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 (BJ)

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 and Chapter 555  
of the Acts of the General Assembly of 2006  
Section 13(3)(i) Item (BI)

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, and Chapter  
608 of the Acts of the General Assembly of 2006  
Section 13(3)(i) Item (AM)

BY repealing and reenacting, with amendments,  
Chapter 204 of the Acts of the General Assembly of 2003, as amended by  
Chapter 176 of the Acts of the General Assembly of 2005  
Section 1(3) Item ZA00(B)

BY repealing and reenacting, with amendments,  
Chapter 445 of the Acts of the General Assembly of 2005  
Section 1(3) Item ZA01(U) and ZA02(Y) and (BK)

BY repealing and reenacting, with amendments,

*Chapter 445 of the Acts of the General Assembly of 2005, as amended by Chapter 65 of the Acts of the General Assembly of 2007*  
Section 1(3) Item ZA01(AR) and ZA02(AV)

BY repealing and reenacting, with amendments,

Chapter 46 of the Acts of the General Assembly of 2006

Section 1(3) Item ZA00(C), ZA01(K), (R), (V), (AC), (AD), (AZ), (BB), (BW), ~~and~~  
~~(CK)~~ (CA), (CK), and (CP), and ~~ZA02(W)~~ ZA02(N), (W) ~~and (AC)~~, (AC),  
(AD), (AZ), and (BU)

BY repealing and reenacting, with amendments,

Chapter 488 of the Acts of the General Assembly of 2007

Section 1(3) Item KA05(A)(4), ZA00(B) and (S), ~~ZA01(AV) and (Z)~~, ~~ZA01(Z)~~,  
ZA01(X), (Z), (AV), (BD), and (BV), and ~~ZA02(BI)~~, ZA02(AP-1), (BI), (BL),  
(BO), ~~and (CC)~~ (BT), (CC), and (CE)

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

**Chapter 555 of the Acts of 1999, as amended by Chapter 30 of the Acts of 2001, Chapter 188 of the Acts of 2002, and Chapter 550 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 Baltimore City – Community Initiatives Academy Loan of 1999 in a total principal amount equal to the lesser of (i) \$200,000 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 Community Initiatives, Inc. (referred to hereafter in this Act as "the grantee") for the planning,

design, construction, renovation, reconstruction, repair, and capital equipping of the Community Initiatives Academy, an educational institution to serve underserved inner-city students from kindergarten through grade 12 in a multi-cultural urban environment.

(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, 2004, 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 expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, [2008] **2009. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2009, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**



**Chapter 317 of the Acts of 2000, as amended by Chapter 168 of the Acts of 2002, Chapter 149 of the Acts of 2004, and Chapter 76 of the Acts of 2007**

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.

**(6) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2010. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2010, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8–129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**Chapter 508 of the Acts of 2000, as amended  
by Chapter 488 of the Acts of 2007**

Section 1(3)

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

SA23                    DIVISION OF HISTORICAL AND CULTURAL  
PROGRAMS  
(Statewide)

JEFFERSON PATTERSON PARK AND  
MUSEUM  
(Calvert County)

(C) Construct Addition and Renovation to Visitors' Center. Provide funds to complete detailed plans for, construct and equip an addition to, and renovate the existing visitors' center at Jefferson Patterson Park and Museum. Notwithstanding

Section 8-128 of the State Finance and Procurement Article, this authorization shall not terminate prior to June 1, [2008] 2009 ..... 1,704,000

**Chapter 162 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 St. Mary's County – St. Clement's Island Lighthouse Memorial 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 St. Clement's Hundred, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, and construction of a memorial structure that replicates the outline of the former St. Clement's Island Lighthouse in size and shape, to be located near the original site at St. Clement's Island State Park.

(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 funds expended prior to the effective date of this Act. The fund may consist of in kind contributions. 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 EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2010. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2010, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

### **Chapter 163 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 – Ivy Family Support Center Loan of 2001 in a total principal amount equal to the lesser of (i) \$225,000 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 Epsilon Omega Foundation, Inc. (referred to hereafter in this Act as "the grantee") for the**

planning, design, construction, renovation, and capital equipping of the Ivy Family Support Center, to be located at 3515 Dolfield Avenue 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. 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 EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2010. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2010, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

### **Chapter 175 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 Calvert County – Chesapeake Beach Railway Trail Loan of 2001 in a total principal amount of \$250,000. 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 Mayor and Town Council of the Town of Chesapeake Beach (referred to hereafter in this Act as "the grantee") for the planning, design, and construction of facilities for the Chesapeake Beach Railway Trail, a recreational trail that will include paved trails, timber walkways, and bridges.

(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) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2011. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2011, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8–129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**Chapter 243 of the Acts of 2001, as amended by Chapter 219 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 Kent County – Echo Hill Outdoor School Improvements Loan of 2001 in the total principal amount of \$300,000. 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.**

**(6) THE PROCEEDS OF THE LOAN MUST BE EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2010. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2010, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**Chapter 326 of the Acts of 2001, as amended by Chapter 30 of the Acts of 2003 and Chapter 188 of the Acts of 2005**

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 Prince George's County – Kettering Largo Boys & Girls Club Storage Facility Loan of 2001 in a total principal amount equal to the lesser of (i) \$150,000 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 Kettering Largo Boys & Girls Club (referred to hereafter in this Act as "the grantee") for the planning, design, construction, and capital equipping of a storage facility for the Kettering Largo Boys & 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 funds expended prior to the effective date of this Act. The fund may consist of real property or in kind contributions. 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, [2007] 2010, 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 EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2010. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2010, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

***Chapter 432 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 Anne Arundel County - Historic London Town Visitors Center and Museum Loan of 2001 in a total principal amount equal to the lesser of (i) \$200,000 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 London Town Foundation, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, construction, and capital equipping of a visitors center and museum at Historic London Town and Gardens at 839 Londontown Road in Edgewater, 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. The fund may consist of in kind contributions. No part of the fund may consist of real property 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 EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2010. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2010, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

### Chapter 466 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 Harford County – Hosanna School Loan of 2001 in a total principal amount equal to the lesser of (i) \$186,000 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 Commissioners of the Harford County Historic Preservation Commission (referred to hereafter in this Act as "the grantee") for the planning, design, construction, reconstruction, and capital equipping of the Hosanna School, located in Berkley, 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, 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) 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 EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2009. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2009, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**Chapter 673 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 Calvert County - The Boys and Girls Clubs of Southern Maryland Loan of 2001 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 Boys and Girls Clubs of Southern Maryland, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, construction, reconstruction, and capital equipping of a building in Calvert 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 EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2010. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2010, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**Chapter 680 of the Acts of 2001, as amended by Chapter 32 of the Acts of 2003  
and Chapter 30 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 Prince

George's County – Palmer Park Boys and Girls Club Loan of 2001 in a total principal amount equal to the lesser of (i) \$200,000 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 Palmer Park Boys and Girls Club, Inc. (referred to hereafter in this Act as "the grantee") for the planning, design, repair, renovation, and capital equipping of a facility at Barlowe Road in Palmer Park to house the Palmer Park 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. 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, 2005, 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 EXPENDED OR ENCUMBERED BY THE BOARD OF PUBLIC WORKS FOR THE PURPOSES**

PROVIDED IN THIS ACT NO LATER THAN JUNE 1, 2009. IF ANY FUNDS AUTHORIZED BY THIS ACT REMAIN UNEXPENDED OR UNENCUMBERED AFTER JUNE 1, 2009, THE AMOUNT OF THE UNENCUMBERED OR UNEXPENDED AUTHORIZATION SHALL BE CANCELED AND BE OF NO FURTHER EFFECT. IF BONDS HAVE BEEN ISSUED FOR THE LOAN, THE AMOUNT OF UNEXPENDED OR UNENCUMBERED BOND PROCEEDS SHALL BE DISPOSED OF AS PROVIDED IN § 8-129 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

**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:

- (BJ) Barbara Ingram School for the Arts. Provide a grant of \$400,000 to the [Mayor and City Council of the City of Hagerstown] **BOARD OF DIRECTORS OF THE HAGERSTOWN NEIGHBORHOOD DEVELOPMENT PARTNERSHIP, INC.**, for the acquisition, planning, design, renovation, reconstruction, and capital equipping of the Barbara Ingram School for the Arts, located in Hagerstown, subject to a requirement that the grantee provide a matching fund of \$270,000 and grant and convey an historic easement to the Maryland Historical Trust. Notwithstanding Section 13(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 (Washington County) ..... 400,000

**Chapter 204 of the Acts of 2003, as amended by Chapter 432 of the Acts of 2004 and Chapter 555 of the Acts of 2006**

SECTION 13. AND BE IT FURTHER ENACTED, That:

(3) (i) \$15,200,000 for the following projects initially approved by the Senate:

- (BI) Old Carvers Heights – South Hampton Community Village. 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 Save the Village, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of Old Carvers Heights – South Hampton Community Village, located in Lexington Park, subject to a

requirement that the grantee grant and convey an historic easement to the Maryland Historical Trust. Notwithstanding Section 13(5) of this Act, the matching fund may consist of real property or in kind contributions, and the grantee has until June 1, [2008] **2010**, to present evidence that a matching fund will be provided (St. Mary's County) ..... 250,000

**Chapter 204 of the Acts of 2003, as amended by Chapter 432 of the Acts of 2004 and Chapter 608 of the Acts of 2006**

SECTION 13. AND BE IT FURTHER ENACTED, That:

(3) (i) \$15,200,000 for the following projects initially approved by the Senate:

(AM) [Kensington Recreation Center.] WARNER MANOR. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the ~~County Executive and County Council of Montgomery County~~ **MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION** for the [acquisition,] planning, [and] design, **RENOVATION, AND DEMOLITION** of the [Kensington Recreation Center,] **WARNER MANOR**, located in Kensington. Notwithstanding Section 13(5) of this Act, the matching fund may consist of real property and the grantee must present evidence that a matching fund will be provided by June 1, [2008] **2010** (Montgomery County) ..... 100,000

**Chapter 204 of the Acts of 2003, as amended by Chapter 176 of the Acts of 2005**

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

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(B) Baltimore Zoo Redevelopment Projects. Provide a grant to the Maryland Zoological Society to assist in the construction of redevelopment projects at the Baltimore Zoo, subject to the requirement that the grantee provide an equal and matching fund for this purpose. The grantee may provide the matching fund and the Board of Public Works may certify the matching fund in installments during the period beginning with the effective date of this Act and ending on June 1, [2008] **2012**. Each installment of the matching fund that the grantee

provides shall be at least ~~[\$1,000,000]~~ **\$250,000**. Except as specifically provided herein, the matching fund shall be subject to Section 1(5) of this Act (Baltimore City) ..... 3,500,000

**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

(U) Project T.O.O.U.R. 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 Project T.O.O.U.R., Inc. for the planning, design, repair, renovation, reconstruction, and capital equipping of two adjacent buildings that will serve as a neighborhood service center providing community assistance programs, located in Baltimore City. 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. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Baltimore City) ..... 100,000

ZA02 LOCAL SENATE INITIATIVES

(Y) Waxter Center for Senior Citizens. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Baltimore for the repair, renovation, reconstruction, [and] capital equipping, **AND NEW CONSTRUCTION** of the Waxter Center for Senior Citizens, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City) ..... 100,000

(BK) Paint Branch Creek Restoration. Provide a grant [equal to the lesser of (i)] **OF \$218,000** [or (ii) the amount of the matching fund provided,] to the Board of Directors of Anacostia Watershed Society, Inc. for the planning, design, restoration, erosion abatement, and stabilization of the [portion of Paint Branch creek located between the north gate of the University

of Maryland and Interstate 495 in College Park] <b>PAINT BRANCH AND LITTLE PAINT BRANCH WATERSHEDS DOWN TO THE CONFLUENCE WITH THE NORTHEAST BRANCH</b> (Prince George's County) .....	218,000
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**Chapter 445 of the Acts of 2005, as amended by Chapter 65 of the Acts of 2007**

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

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

<u>(AR)</u>	<u>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.] <b>SPRING.</b> [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) .....</u>	<u>300,000</u>
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ZA02 LOCAL SENATE INITIATIVES

<u>(AV)</u>	<u>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.] <b>SPRING.</b> [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) .....</u>	<u>300,000</u>
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**Chapter 46 of the Acts of 2006**



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

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(C) Hagerstown YMCA. Provide a grant to the Board of Directors of the Young Men’s Christian Association of Hagerstown, Maryland, Inc., to assist in the renovation and expansion of the Hagerstown YMCA, subject to the requirement that the grantee provide an equal and matching fund for this purpose. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Washington County) ..... 400,000

ZA01 LOCAL SENATE INITIATIVES

(K) Waxter Center for Senior Citizens. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Baltimore for the repair, renovation, reconstruction, [and] capital equipping, **AND NEW CONSTRUCTION** of the Waxter Center for Senior Citizens, located in Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore City) ..... 250,000

(R) Baltimore Clayworks. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Baltimore Clayworks, Inc. for the planning, design, construction, capital equipping, and installation of an elevator and community and multipurpose rooms, and the repair, renovation, and reconstruction of upgrades to the plumbing, electrical, and roofing systems of Baltimore Clayworks, Inc., located in Baltimore City, 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. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Baltimore City) ..... 50,000

(V) Gay Street One/Madison Square. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund

provided, to the Board of Directors of the East Baltimore Community Corporation for the acquisition, planning, design, construction, repair, renovation, [reconstruction] RECONSTRUCTION, and capital equipping of vacant and boarded housing properties, located in the Gay Street One/Madison Square area of Baltimore City. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this Act. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Baltimore City) .....

125,000

(AC) Peale Museum. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of [Trustees] DIRECTORS of the Baltimore City Historical Society, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Peale Museum, located on Holliday Street in Baltimore City, 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 GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Baltimore City) .....

125,000

(AD) The Powerhouse. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The East Harbor Community Development Corporation for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of a community center, to be located in Baltimore City, 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 funds expended prior to the effective date of this Act. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Baltimore City) .....

125,000

(AZ) Agricultural Activity Center Expansion. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the ~~County Executive and County Council of~~

<p><del>Montgomery County</del> <b>MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION</b> for the construction, repair, reconstruction, and capital equipping of the Agricultural Activity Center at the Agricultural History Farm Park, located in Derwood. <b>NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED</b> (Montgomery County) .....</p>	<p>75,000</p>
<p><u>(BB)</u> <u>[Circle] WARNER Manor. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the [Mayor and Town Council of the Town of Kensington and] the County Executive and County Council of <del>Montgomery County</del> MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION for the [acquisition] PLANNING, DESIGN, RENOVATION, AND DEMOLITION of [Circle] WARNER Manor, located in Kensington, 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 AND funds expended prior to the effective date of this Act. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED</u> (Montgomery County) .....</p>	<p><u>150,000</u></p>
<p><u>(BW)</u> Historic Laurel Mill Ruins. Provide a grant of \$50,000 to [the Patuxent River Commission and] the Mayor and City Council of the City of Laurel for the repair, stabilization, and reconstruction of the Historic Laurel Mill Ruins, located in Laurel (Prince George’s County) .....</p>	<p>50,000</p>
<p><u>(CA)</u> <u>New Revival Center [for] OF Renewal. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the [County Executive and County Council of Prince George’s County] BOARD OF DIRECTORS OF NEW REVIVAL CENTER OF RENEWAL, INC. for the acquisition of [land] PROPERTY for the New Revival Center [for] OF Renewal, located in [Capitol Heights] WALDORF. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2009, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED</u> (Prince George’s County) .....</p>	<p><u>100,000</u></p>

(CK) Discovery Station at Hagerstown. Provide a grant of \$50,000 to the Board of Directors of the Discovery Station at Hagerstown, Inc. for the construction of exhibits and renovation of the Discovery Station at Hagerstown site, located in Hagerstown, subject to a requirement that the grantee provide and expend a matching fund of \$30,000. 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. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Washington County) ..... 50,000

(CP) Our House Youth Home. Provide a grant equal to the lesser of (i) \$175,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Our House Youth Home, Inc. for the construction and capital equipping of a new dormitory at Our House Youth Home, located in Olney, 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 GRANTEE HAS UNTIL JUNE 1, 2009, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Montgomery County) ..... 175,000

ZA02 LOCAL HOUSE OF DELEGATES INITIATIVES

(N) *Linthicum Walks. 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 Anne Arundel Heritage, Inc.] COUNTY EXECUTIVE AND COUNTY COUNCIL OF ANNE ARUNDEL COUNTY for the structural repair and renovation of Linthicum Walks, located in Gambrills, 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 GRANTEE HAS UNTIL JUNE 1, 2009, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Anne Arundel County) ..... 50,000*

(W) Baltimore Clayworks. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of Baltimore Clayworks, Inc. for the

planning, design, construction, capital equipping, and installation of an elevator and community and multipurpose rooms, and the repair, renovation, and reconstruction of upgrades to the plumbing, electrical, and roofing systems of Baltimore Clayworks, Inc., located in Baltimore City, 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. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Baltimore City) .....

150,000

(AC) Peale Museum. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of [Trustees] **DIRECTORS** of the Baltimore City Historical Society, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Peale Museum, located in Baltimore City, 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 GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Baltimore City) .....

125,000

(AD) The Powerhouse. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The East Harbor Community Development Corporation for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of a community center, to be located in Baltimore City, 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 funds expended prior to the effective date of this Act. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2010, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Baltimore City) .....

125,000

(AZ) Our House Youth 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 Our House Youth Home, Inc. for

the construction and capital equipping of a new dormitory at Our House Youth Home, located in Olney, 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 GRANTEE HAS UNTIL JUNE 1, 2009, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Montgomery County) .....

250,000

(BU) New Revival Center of Renewal. Provide a grant equal to the lesser of (i) \$80,000 or (ii) the amount of the matching fund provided, to the [County Executive and County Council of Prince George's County] BOARD OF DIRECTORS OF NEW REVIVAL CENTER OF RENEWAL, INC. for the acquisition of [land] PROPERTY for the New Revival Center of Renewal, located in [Capitol Heights] WALDORF. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2009, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED (Prince George's County) .....

80,000

**Chapter 488 of the Acts of 2007**

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

(3) KA05 CAPITAL GRANTS AND LOANS ADMINISTRATION

(A) Community Parks and Playgrounds. Provide funds for grants to local governments to design and construct eligible projects (Statewide). Further provided that \$2,000,000 of this appropriation may only be used to provide grants for the following projects:

(4) Woodstock Equestrian Park. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the [Board of Trustees of the Montgomery County Parks Foundation, Inc.] MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION for the planning, design, construction, and capital equipping of a public equestrian park, located in Beallsville, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust

(Montgomery County).

ZA00 MISCELLANEOUS GRANT PROGRAMS

- (B) Comprehensive Housing Assistance, Inc. Provide a grant to THE ASSOCIATED: Jewish Community Federation of Baltimore for the design, construction, and capital equipping of a community development building in the Park Heights Avenue neighborhood near their existing campus, ~~AND COMMUNITY DEVELOPMENT OFFICE SPACE AT THE SITE OF THE ASSOCIATED: JEWISH COMMUNITY CENTER CAMPUS IN OWINGS MILLS,~~ subject to the requirement that the grantee provide ~~an equal and matching fund for~~ AND EXPEND A MATCHING FUND OF \$1,500,000 [this purpose] ~~THESE PURPOSES (Baltimore City AND BALTIMORE COUNTY) (BALTIMORE CITY)~~..... 2,500,000
  
- (S) [Slave Church.] CHERRY HILL CHURCH. Provide a grant of \$300,000 to the Board of Directors of [the Friends of Benjamin Banneker Historical Park and Museum, Inc.] THE FRIENDS OF CHERRY HILL AUMP, INC. for the acquisition, planning, design, construction, reconstruction, renovation, RESTORATION, and capital equipping of [a slave church] THE CHERRY HILL CHURCH, located in Randallstown (Baltimore County) ..... 300,000

ZA01 LOCAL HOUSE INITIATIVES

- (X) United Cerebral Palsy Facility. 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 United Cerebral Palsy of Central Maryland, Inc. for the design, construction, and capital equipping of a multipurpose facility for the disabled, located in [Owings Mills.] BALTIMORE COUNTY. 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 (Baltimore County) ..... 200,000
  
- (Z) Northeast Skate Park. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Baltimore County for the planning, design, construction, and capital equipping of a regional skate park, located in [Overlea] **NORTHEAST BALTIMORE COUNTY** (Baltimore County) ..... 100,000

(AV) Ernest Everett Just Monument. Provide a grant [equal to the lesser of (i)] **OF \$75,000** [or (ii) the amount of the matching fund provided,] to the Board of Directors of The Ernest Everett Just Foundation, Inc. for the planning, design, and construction of a statue commemorating Ernest Everett Just, located in Mitchellville, **SUBJECT TO A REQUIREMENT THAT THE GRANTEE PROVIDE AND EXPEND A MATCHING FUND OF \$5,000**. 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 (Prince George's County) ..... 75,000

(BD) Reid Community Business Development 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 the Reid Community Development Corporation for the acquisition, planning, construction, and capital equipping of the Reid Community Business Development Center, located in [Bowie] **PRINCE GEORGE'S COUNTY** (Prince George's County) ..... 100,000

(BV) Delmarva Discovery Center on the Pocomoke River. 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 Pocomoke Marketing Partnership, Inc. for the planning, design, construction, renovation, and capital equipping of [a steamboat exhibit] **EXHIBITS** at the Delmarva Discovery Center on the Pocomoke River, located in Pocomoke City (Worcester County) ..... 100,000

ZA02 LOCAL SENATE INITIATIVES

(AP-1) Chesapeake and Ohio Canal National Historic Catoclin Aqueduct. 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 Catoclin Aqueduct Restoration Fund, Inc. for the repair, restoration, reconstruction, and stabilization of the National Historic Catoclin Aqueduct, located at the 51.5 mile mark of the C&O Canal between Point of Rocks and Brunswick. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT** (Frederick County) ..... \$200,000



- (BI) Woodstock Equestrian Park. Provide a grant equal to the lesser of (i) \$250,000 or (ii) the amount of the matching fund provided, to the [Board of Trustees of the Montgomery County Parks Foundation, Inc.] **MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION** for the planning, design, construction, and capital equipping of a public equestrian park, located in Beallsville, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust (Montgomery County) ..... 250,000
- (BL) Ernest Everett Just Monument. Provide a grant [equal to the lesser of (i)] **OF \$75,000** [or (ii) the amount of the matching fund provided,] to the Board of Directors of The Ernest Everett Just Foundation, Inc. for the planning, design, and construction of a statue commemorating Ernest Everett Just, located in Mitchellville, **SUBJECT TO A REQUIREMENT THAT THE GRANTEE PROVIDE AND EXPEND A MATCHING FUND OF \$5,000.** 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 (Prince George’s County) ..... 75,000
- (BO) Historic Laurel Mill Ruins. Provide a grant of \$100,000, to [the Patuxent River Commission and] the Mayor and City Council of the City of Laurel for the repair, stabilization, and reconstruction of the Historic Laurel Mill Ruins, located in Laurel (Prince George’s County) ..... 100,000
- (BT) Reid Community Business Development Center. 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 Reid Community Development Corporation for the acquisition, planning, construction, and capital equipping of the Reid Community Business Development Center, located in [Bowie] **PRINCE GEORGE’S COUNTY** (Prince George’s County) ..... 200,000
- (CC) Barbara Ingram School for the Arts. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the [Mayor and City Council of the City of Hagerstown] **BOARD OF DIRECTORS OF THE HAGERSTOWN NEIGHBORHOOD DEVELOPMENT**

**PARTNERSHIP, INC.**, for the repair, renovation, reconstruction, and capital equipping of the Barbara Ingram School for the Arts, located in Hagerstown, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust (Washington County) ..... 150,000

(CE) Delmarva Discovery Center on the Pocomoke River. 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 the Pocomoke Marketing Partnership, Inc. for the planning, design, construction, renovation, and capital equipping of [a steamboat exhibit] EXHIBITS at the Delmarva Discovery Center on the Pocomoke River, located in Pocomoke City (Worcester County) ..... 50,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 220

(Senate Bill 797)

AN ACT concerning

**Labor and Employment - Wage Payment on Termination of Employment -  
Accrued Leave**

FOR the purpose of requiring that employers give certain notice of certain leave benefits to employees; ~~requiring~~ specifying that an employer with a certain written policy is not required to pay accrued leave to an employee on termination of employment ~~only~~ under certain circumstances; providing for the payment of accrued leave to an employee whose employment terminated during a certain time period; providing for the application of this Act; making this Act an emergency measure; and generally relating to the payment of wages upon termination of employment.

BY repealing and reenacting, with amendments,  
Article - Labor and Employment

Section ~~3-505~~ 3-504 and 3-505  
 Annotated Code of Maryland  
 (1999 Replacement Volume and 2007 Supplement)

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

**Article - Labor and Employment**

3-504.

(a) An employer shall give to each employee:

(1) at the time of hiring, notice of:

(i) the rate of pay of the employee; [and]

(ii) the regular paydays that the employer sets; AND

**(III) LEAVE BENEFITS;**

(2) for each pay period, a statement of the gross earnings of the employee and deductions from those gross earnings; and

(3) at least 1 pay period in advance, notice of any change in a payday or wage.

(b) This section does not prohibit an employer from increasing a wage without advance notice.

3-505.

(A) [Each] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH** employer shall pay an employee or the authorized representative of an employee all wages due for work that the employee performed before the termination of employment, on or before the day on which the employee would have been paid the wages if the employment had not been terminated.

(B) ~~IF AN EMPLOYER HAS A WRITTEN POLICY REGARDING THE PAYMENT OF ACCRUED LEAVE TO AN EMPLOYEE AND THAT POLICY IS COMMUNICATED TO AN EMPLOYEE PRIOR TO THE TERMINATION OF EMPLOYMENT, THE~~ **AN EMPLOYER SHALL IS NOT REQUIRED TO** PAY ACCRUED LEAVE TO AN EMPLOYEE ~~ONLY IF:~~

(1) THE EMPLOYER HAS A WRITTEN POLICY THAT LIMITS THE COMPENSATION OF ACCRUED LEAVE TO EMPLOYEES;

(2) THE EMPLOYER NOTIFIED THE EMPLOYEE OF THE EMPLOYER'S LEAVE BENEFITS IN ACCORDANCE WITH § 3-504(A)(1) OF THIS SUBTITLE; AND

(3) THE EMPLOYEE IS *NOT* ENTITLED TO PAYMENT FOR ACCRUED LEAVE AT TERMINATION UNDER THE TERMS OF THE EMPLOYER'S WRITTEN POLICY.

SECTION 2. AND BE IT FURTHER ENACTED, That, for an employee whose employment terminated on or after November 1, 2007, and before the effective date of this Act, if the employer of the employee had a written policy regarding the payment of accrued leave and, before termination of the employee's employment, communicated that policy to the employee, the employer is required to pay accrued leave to the employee only if the employee is entitled to the payment under the terms of the employer's written policy.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be applied to any case for which a final judgment has been rendered and for which all judicial appeals have been exhausted prior to the effective date of this Act.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2008~~ 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, 2008.

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## CHAPTER 221

(Senate Bill 822)

AN ACT concerning

### **Carroll County - Distribution of Tobacco Products to Minors - Prohibition and Penalties**

FOR the purpose of prohibiting certain distributions of certain tobacco products, cigarette rolling papers, and tobacco-related coupons to minors in Carroll

County; authorizing certain defenses to a violation of this Act; establishing certain civil penalties; and generally relating to the illegal distribution of tobacco and tobacco-related products to minors in Carroll County.

BY repealing and reenacting, with amendments,  
 Article 24 – Political Subdivisions – Miscellaneous Provisions  
 Section 15–102.1  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

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

**Article 24 – Political Subdivisions – Miscellaneous Provisions**

15–102.1.

- (a) In this section, “distribute” means to:
- (1) Give, sell, deliver, dispense, or issue;
  - (2) Offer to give, sell, deliver, dispense, or issue; or
  - (3) Cause or hire any person to give, sell, deliver, dispense, or issue or offer to give, sell, deliver, dispense, or issue.
- (b) This section applies only in St. Mary’s County **AND CARROLL COUNTY**.
- (c) A person may not:
- (1) Distribute any tobacco product to a minor, unless the minor is acting solely as the agent of the minor’s employer who is engaged in the business of distributing tobacco products;
  - (2) Distribute cigarette rolling papers to a minor; or
  - (3) Subject to subsection (d) of this section, distribute to a minor a coupon redeemable for a tobacco product.
- (d) Subsection (c)(3) of this section does not apply to the distribution of a coupon that is redeemable for a tobacco product if the coupon:
- (1) Is contained in a newspaper, magazine, or other type of publication and the coupon is incidental to the primary purpose of the publication; or

(2) Is sent through the mail.

(e) A person has not violated this section if:

(1) The person examined the driver's license or other valid government-issued identification presented by the recipient of a tobacco product, cigarette rolling paper, or coupon redeemable for a tobacco product; and

(2) The license or other identification positively identified the recipient as being at least 18 years old.

(f) A person who violates this section is committing a civil infraction and is subject to a civil penalty of:

(1) \$300 for the first violation; and

(2) \$500 for any subsequent violation within a 24-month period from the previous citation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 222

(Senate Bill 826)

AN ACT concerning

### **HIV Testing - Informed Consent and Treatment - ~~Pregnant Women~~**

FOR the purpose of altering requirements for health care providers to obtain informed consent for HIV testing; establishing procedures for referral for treatment and supportive services for individuals who test positive; requiring local health officers to make certain information available to certain health care providers; requiring certain health care providers to notify pregnant women that they will be tested for HIV infection as part of certain routine tests; requiring certain health care providers to advise pregnant women that they have the right to make a certain refusal; requiring certain health care providers to obtain certain consent from pregnant women; requiring certain health care providers to test certain patients; making a certain exception; requiring certain health care

providers to make certain offers of HIV testing and provide referrals for certain treatment and services under certain circumstances; requiring certain health care providers to offer certain HIV tests and antiretroviral prophylaxis during labor and delivery under certain circumstances; and generally relating to requirements for informed consent for HIV testing, referrals for treatment, and HIV testing ~~of pregnant women.~~

BY repealing and reenacting, with amendments,

Article – Health – General

Section 18–336 and 18–338.2

Annotated Code of Maryland

(2005 Replacement Volume and 2007 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 FACILITY” HAS THE SAME MEANING STATED IN § 18–338.2 OF THIS SUBTITLE.**

**[(3)] (4) “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] **AFTER:**

**(i) INFORMING THE INDIVIDUAL THAT AN HIV TEST WILL BE ADMINISTERED; AND**

**(ii) ADVISING THE INDIVIDUAL OF THE RIGHT TO REFUSE THE HIV TEST WITHOUT PENALTY; [and]**

**(2) DOCUMENT IN THE MEDICAL RECORD THE PROVISION OF INFORMED CONSENT; AND**

**[(2)] (3)** 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] **AS PROVIDED IN REGULATIONS ADOPTED BY THE DEPARTMENT.**

**(C) PRETEST COUNSELING MAY BE PROVIDED IN WRITING, VERBALLY, BY VIDEO, OR A COMBINATION OF THESE STRATEGIES AS APPROPRIATE BASED ON THE INDIVIDUAL'S INFORMATIONAL NEEDS AND TESTING HISTORY.**

**(D) (1) IF THE HIV TEST IS ORDERED AT A LOCATION THAT IS NOT A HEALTH CARE FACILITY, INFORMED CONSENT SHALL BE IN WRITING AND SIGNED BY THE INDIVIDUAL ON AN INFORMED CONSENT FOR HIV TESTING DOCUMENT THAT IS APPROVED BY THE DEPARTMENT.**

**(2) THE INFORMED CONSENT FOR HIV TESTING DOCUMENT SHALL BE DISTINCT AND SEPARATE FROM ALL OTHER CONSENT FORMS.**

**(3) A PATIENT IDENTIFYING NUMBER OBTAINED FROM AN ANONYMOUS AND CONFIDENTIAL TEST SITE WHICH IS APPROVED BY THE DEPARTMENT MAY BE EVIDENCE OF A PATIENT'S INFORMED CONSENT IN LIEU OF A PATIENT'S SIGNATURE.**

**[(c)] (E)** 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)] (F)** If the individual is unable to give informed consent, substitute consent may be given under § 5-605 of this article.

**[(e)] (G)** 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; AND

**(2) IF THE TEST IS POSITIVE:**

[(2)] (I) Provide [the individual with a copy of the Department's publication describing available counseling services] **A REFERRAL FOR TREATMENT AND SUPPORTIVE SERVICES;**

[(3)] (II) Counsel the individual to inform all sexual and needle-sharing partners of the individual's positive HIV status;

[(4)] (III) Offer to assist in notifying the individual's sexual and needle-sharing partners **OR REFER THE INDIVIDUAL TO THE LOCAL HEALTH OFFICER TO ASSIST THE INDIVIDUAL WITH NOTIFYING THE INDIVIDUAL'S SEXUAL AND NEEDLE-SHARING PARTNERS;** and

[(5)] (IV) If necessary, take action appropriate to comply with § 18-337 of this subtitle.

**(H) LOCAL HEALTH OFFICERS SHALL MAKE AVAILABLE TO HEALTH CARE PROVIDERS IN THEIR JURISDICTION INFORMATION ON REFERRAL RESOURCES FOR AN INDIVIDUAL WITH A POSITIVE HIV STATUS, INCLUDING COUNSELING TESTING, NEEDS ASSESSMENT, TREATMENT, AND SUPPORT SERVICES.**

[(f) The informed consent document shall be distinct and separate from all other consent forms.

(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.]

18-338.2.

(a) (1) In this section the following words have the meanings indicated.

(2) "Health care facility" means a facility or office where health or medical care is provided to patients by a health care provider, including:

(i) A hospital as defined in § 19-301 of this article;

and (ii) A facility operated by the Department or a health officer;

(iii) The office of a health care provider.

(3) "Health care provider" means a physician, nurse, or designee of a health care facility.

(4) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome (AIDS).

(5) "Prenatal care" means obstetric and gynecologic service performed as part of a prenatal care program, including:

(i) Screening;

(ii) Physical examination;

(iii) Laboratory and diagnostic testing procedures and interpretation; and

(iv) Counseling.

**(B) A HEALTH CARE PROVIDER WHO PROVIDES PRENATAL MEDICAL CARE SHALL:**

**(1) NOTIFY EACH PREGNANT PATIENT THAT SHE WILL BE TESTED FOR HIV INFECTION AS PART OF THE ROUTINE PRENATAL BLOOD TESTS;**

**(2) ADVISE THE PREGNANT PATIENT THAT SHE HAS THE RIGHT TO REFUSE THE TEST FOR HIV INFECTION WITHOUT PENALTY;**

**(3) OBTAIN INFORMED CONSENT FROM THE PREGNANT PATIENT TO TEST HER FOR HIV INFECTION;**

**(4) TEST THE PATIENT, UNLESS THE PATIENT DECLINES THE TEST;**

**~~(3)~~ (5) DOCUMENT IN THE MEDICAL RECORD IF THE PATIENT DECLINES THE TEST;**

**~~(4)~~ (6) OFFER AN HIV TEST IN THE THIRD TRIMESTER TO A PREGNANT WOMAN WHO WAS NOT TESTED EARLIER IN HER PREGNANCY;**

~~(5)~~ (7) **CONSIDER ROUTINELY OFFERING A REPEAT HIV TEST IN THE THIRD TRIMESTER TO ALL PREGNANT WOMEN:**

(i) **AT HEALTH CARE FACILITIES IN AREAS OF HIGH RATES OF HIV PREVALENCE; AND**

(ii) **WHO ARE AT A HIGH RISK OF ACQUIRING HIV; AND**

~~(6)~~ (8) **PROVIDE A REFERRAL FOR TREATMENT AND SUPPORTIVE SERVICES, INCLUDING CASE MANAGEMENT SERVICES.**

(c) **A HEALTH CARE PROVIDER WHO PROVIDES LABOR AND DELIVERY SERVICES TO PREGNANT WOMEN SHALL OFFER:**

(1) **A RAPID HIV TEST TO PREGNANT WOMEN WITH UNKNOWN OR UNDOCUMENTED HIV STATUS DURING LABOR AND DELIVERY; AND**

(2) **ANTIRETROVIRAL PROPHYLAXIS PRIOR TO RECEIVING THE RESULTS OF THE CONFIRMATORY TEST IF A RAPID HIV TEST DURING LABOR AND DELIVERY IS POSITIVE.**

[~~(b)~~] (D) (1) As part of a health care provider's patient acceptance procedures or protocol, a health care provider shall provide a pregnant woman with counseling concerning being tested for the presence of HIV as part of the woman's prenatal care program.

(2) The counseling shall include:

(i) [Information that:

1. The pregnant woman is not required to consent to a test for the presence of HIV; and

2. The pregnant woman will not be denied prenatal care by the health care provider or at the health care facility because the woman refuses to have a test performed] **INFORMATION REQUIRED FOR PRETEST COUNSELING UNDER § 18-336 OF THIS ARTICLE; and**

(ii) Education on:

1. The effect of a positive HIV test result on the pregnant woman and the fetus concerning the risk of transmission of HIV to the fetus; and

2. Recognized methods of reducing that risk, including the use of pharmaceuticals during pregnancy known to reduce the risk of transmission of HIV to the fetus.

[(c)] (E) (1) Except as otherwise provided in paragraph (2) of this subsection, the record of an HIV test performed under this section is confidential and not discoverable or admissible in evidence in any criminal, civil, or administrative action.

(2) Provided that the identity or any other information that could readily be associated with the identity of the pregnant woman is not disclosed, the results of an HIV test performed under this section may be introduced into evidence in any criminal, civil, or administrative action, including the adjudication of a workers' compensation claim.

[(d)] (F) A health care provider, including a health care facility, acting in good faith to provide the counseling required under subsection [(b)] (D) of this section may not be held liable in any cause of action related to a woman's decision to consent or not to consent to have an HIV test.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 223

(House Bill 991)

AN ACT concerning

### **HIV Testing - Informed Consent and Treatment - ~~Pregnant Women~~**

FOR the purpose of altering requirements for health care providers to obtain informed consent for HIV testing; establishing procedures for referral for treatment and supportive services for individuals who test positive; requiring local health officers to make certain information available to certain health care providers; requiring certain health care providers to notify pregnant women that they will be tested for HIV infection as part of certain routine tests; requiring certain health care providers to advise pregnant women that they have the right to make a certain refusal; requiring certain health care providers to obtain certain consent from pregnant women; requiring certain health care providers to test

certain patients; making a certain exception; requiring certain health care providers to make certain offers of HIV testing and provide referrals for certain treatment and services under certain circumstances; requiring certain health care providers to offer certain HIV tests and antiretroviral prophylaxis during labor and delivery under certain circumstances; and generally relating to requirements for informed consent for HIV testing, referrals for treatment, and HIV testing ~~of pregnant women.~~

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 18–336 and 18–338.2  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 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 FACILITY” HAS THE SAME MEANING STATED IN § 18–338.2 OF THIS SUBTITLE.**

**[(3)] (4)** “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] **AFTER:**

**(i) INFORMING THE INDIVIDUAL THAT AN HIV TEST WILL BE ADMINISTERED; AND**

**(II) ADVISING THE INDIVIDUAL OF THE RIGHT TO REFUSE THE HIV TEST WITHOUT PENALTY; [and]**

**(2) DOCUMENT IN THE MEDICAL RECORD THE PROVISION OF INFORMED CONSENT; AND**

**[(2)] (3)** 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] **AS PROVIDED IN REGULATIONS ADOPTED BY THE DEPARTMENT.**

**(C) PRETEST COUNSELING MAY BE PROVIDED IN WRITING, VERBALLY, BY VIDEO, OR A COMBINATION OF THESE STRATEGIES AS APPROPRIATE BASED ON THE INDIVIDUAL'S INFORMATIONAL NEEDS AND TESTING HISTORY.**

**(D) (1) IF THE HIV TEST IS ORDERED AT A LOCATION THAT IS NOT A HEALTH CARE FACILITY, INFORMED CONSENT SHALL BE IN WRITING AND SIGNED BY THE INDIVIDUAL ON AN INFORMED CONSENT FOR HIV TESTING DOCUMENT THAT IS APPROVED BY THE DEPARTMENT.**

**(2) THE INFORMED CONSENT FOR HIV TESTING DOCUMENT SHALL BE DISTINCT AND SEPARATE FROM ALL OTHER CONSENT FORMS.**

**(3) A PATIENT IDENTIFYING NUMBER OBTAINED FROM AN ANONYMOUS AND CONFIDENTIAL TEST SITE WHICH IS APPROVED BY THE DEPARTMENT MAY BE EVIDENCE OF A PATIENT'S INFORMED CONSENT IN LIEU OF A PATIENT'S SIGNATURE.**

**[(c)] (E)** 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)] (F)** If the individual is unable to give informed consent, substitute consent may be given under § 5-605 of this article.

**[(e)] (G)** 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; AND

**(2) IF THE TEST IS POSITIVE:**

[(2)] (I) Provide [the individual with a copy of the Department's publication describing available counseling services] **A REFERRAL FOR TREATMENT AND SUPPORTIVE SERVICES;**

[(3)] (II) Counsel the individual to inform all sexual and needle-sharing partners of the individual's positive HIV status;

[(4)] (III) Offer to assist in notifying the individual's sexual and needle-sharing partners **OR REFER THE INDIVIDUAL TO THE LOCAL HEALTH OFFICER TO ASSIST THE INDIVIDUAL WITH NOTIFYING THE INDIVIDUAL'S SEXUAL AND NEEDLE-SHARING PARTNERS;** and

[(5)] (IV) If necessary, take action appropriate to comply with § 18-337 of this subtitle.

**(H) LOCAL HEALTH OFFICERS SHALL MAKE AVAILABLE TO HEALTH CARE PROVIDERS IN THEIR JURISDICTION INFORMATION ON REFERRAL RESOURCES FOR AN INDIVIDUAL WITH AN HIV POSITIVE STATUS, INCLUDING COUNSELING, TESTING, NEEDS ASSESSMENT, TREATMENT, AND SUPPORT SERVICES.**

[(f) The informed consent document shall be distinct and separate from all other consent forms.

(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.]

18-338.2.

(a) (1) In this section the following words have the meanings indicated.

(2) "Health care facility" means a facility or office where health or medical care is provided to patients by a health care provider, including:

(i) A hospital as defined in § 19-301 of this article;

and (ii) A facility operated by the Department or a health officer;

(iii) The office of a health care provider.

(3) "Health care provider" means a physician, nurse, or designee of a health care facility.

(4) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome (AIDS).

(5) "Prenatal care" means obstetric and gynecologic service performed as part of a prenatal care program, including:

(i) Screening;

(ii) Physical examination;

(iii) Laboratory and diagnostic testing procedures and interpretation; and

(iv) Counseling.

**(B) A HEALTH CARE PROVIDER WHO PROVIDES PRENATAL MEDICAL CARE SHALL:**

**(1) NOTIFY EACH PREGNANT PATIENT THAT SHE WILL BE TESTED FOR HIV INFECTION AS PART OF THE ROUTINE PRENATAL BLOOD TESTS;**

**(2) ADVISE THE PREGNANT PATIENT THAT SHE HAS THE RIGHT TO REFUSE THE TEST FOR HIV INFECTION WITHOUT PENALTY;**

**(3) OBTAIN INFORMED CONSENT FROM THE PREGNANT PATIENT TO TEST HER FOR HIV INFECTION;**

**(4) TEST THE PATIENT, UNLESS THE PATIENT DECLINES THE TEST;**

~~(3)~~ **(5) DOCUMENT IN THE MEDICAL RECORD IF THE PATIENT DECLINES THE TEST;**

~~(4)~~ **(6) OFFER AN HIV TEST IN THE THIRD TRIMESTER TO A PREGNANT WOMAN WHO WAS NOT TESTED EARLIER IN HER PREGNANCY;**



~~(5)~~ (7) **CONSIDER ROUTINELY OFFERING A REPEAT HIV TEST IN THE THIRD TRIMESTER TO ALL PREGNANT WOMEN:**

(i) **AT HEALTH CARE FACILITIES IN AREAS OF HIGH RATES OF HIV PREVALENCE; AND**

(ii) **WHO ARE AT A HIGH RISK OF ACQUIRING HIV; AND**

~~(6)~~ (8) **PROVIDE A REFERRAL FOR TREATMENT AND SUPPORTIVE SERVICES, INCLUDING CASE MANAGEMENT SERVICES.**

(c) **A HEALTH CARE PROVIDER WHO PROVIDES LABOR AND DELIVERY SERVICES TO PREGNANT WOMEN SHALL OFFER:**

(1) **A RAPID HIV TEST TO PREGNANT WOMEN WITH UNKNOWN OR UNDOCUMENTED HIV STATUS DURING LABOR AND DELIVERY; AND**

(2) **ANTIRETROVIRAL PROPHYLAXIS PRIOR TO RECEIVING THE RESULTS OF THE CONFIRMATORY TEST IF A RAPID HIV TEST DURING LABOR AND DELIVERY IS POSITIVE.**

[~~(b)~~] (D) (1) As part of a health care provider's patient acceptance procedures or protocol, a health care provider shall provide a pregnant woman with counseling concerning being tested for the presence of HIV as part of the woman's prenatal care program.

(2) The counseling shall include:

(i) [Information that:

1. The pregnant woman is not required to consent to a test for the presence of HIV; and

2. The pregnant woman will not be denied prenatal care by the health care provider or at the health care facility because the woman refuses to have a test performed] **INFORMATION REQUIRED FOR PRETEST COUNSELING UNDER § 18-336 OF THIS ARTICLE; and**

(ii) Education on:

1. The effect of a positive HIV test result on the pregnant woman and the fetus concerning the risk of transmission of HIV to the fetus; and

2. Recognized methods of reducing that risk, including the use of pharmaceuticals during pregnancy known to reduce the risk of transmission of HIV to the fetus.

[(c)] (E) (1) Except as otherwise provided in paragraph (2) of this subsection, the record of an HIV test performed under this section is confidential and not discoverable or admissible in evidence in any criminal, civil, or administrative action.

(2) Provided that the identity or any other information that could readily be associated with the identity of the pregnant woman is not disclosed, the results of an HIV test performed under this section may be introduced into evidence in any criminal, civil, or administrative action, including the adjudication of a workers' compensation claim.

[(d)] (F) A health care provider, including a health care facility, acting in good faith to provide the counseling required under subsection [(b)] (D) of this section may not be held liable in any cause of action related to a woman's decision to consent or not to consent to have an HIV test.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 224

(Senate Bill 828)

AN ACT concerning

### Department of Health and Mental Hygiene – Birth Defects Research – Medical Information

FOR the purpose of requiring the Secretary of Health and Mental Hygiene to appoint epidemiologists and parents or guardians of children with birth defects to a certain committee that makes certain reports to the Department of Health and Mental Hygiene concerning certain children born with birth defects; requiring hospitals to submit certain reports to the Department within a certain ~~number of days from~~ period of time after a certain date; requiring certain health care providers to allow the Department to inspect and obtain certain medical information regarding certain children with birth defects; requiring a hospital

to obtain the consent of certain parents or guardians if the Department shows a need for certain information in the course of an investigation that aids in the protection of the public's health; requiring the Secretary to assure that the identity of certain children is not released outside the Department; requiring the Department to keep certain medical information confidential; requiring certain medical information requested by the Department to be used for certain purposes; providing that the release of certain medical information to the Department is not a violation of a certain confidential relationship; providing that certain health care providers are immune from civil and criminal liability and certain disciplinary action; providing that certain medical information is not subject to certain discovery or use as evidence in certain proceedings; requiring the Department to comply with certain State and federal laws regarding human subject research; including guardians of children with birth defects among the individuals who may be appointed to a certain committee that determines certain information to be prepared on birth defects and certain services; defining certain terms; making certain technical changes; and generally relating to the Department of Health and Mental Hygiene and medical information regarding birth defects.

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 18–206  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

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

**Article – Health – General**

18–206.

(a) **(1)** In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2)** [“sentinel birth] **“BIRTH defect”** [includes:

- (1) Anencephaly;
- (2) Spina bifida;
- (3) Hydrocephaly;
- (4) Cleft palate;

- (5) Cleft lip;
- (6) Esophageal atresia and stenosis;
- (7) Rectal and anal atresia;
- (8) Hypospadias;
- (9) Reduction deformity – upper limb;
- (10) Reduction deformity – lower limb;
- (11) Congenital dislocation of the hip; and

(12) Down syndrome] **MEANS AN ABNORMALITY OF THE STRUCTURE OR A FUNCTION OF THE HUMAN BODY PRESENT AT BIRTH THAT MAY RESULT IN:**

**(I) A PHYSICAL OR MENTAL DISABILITY; OR**

**(II) DEATH.**

**(3) “HEALTH CARE PROVIDER” HAS THE MEANING STATED IN § 4-301 OF THIS ARTICLE.**

(b) (1) A hospital shall make a report on each child who is [born live] **LIVE-BORN** or stillborn in the hospital and has a [sentinel] birth defect. If a child is born outside the hospital, the person filling out the birth certificate shall make a report under this section.

(2) The Secretary shall appoint a committee of physicians, hospital representatives, **EPIDEMIOLOGISTS, PARENTS OR GUARDIANS OF CHILDREN WITH BIRTH DEFECTS**, and officials from the Department to determine the information required under paragraph (1) of this subsection.

(3) [Each month the] **THE** hospital shall submit the reports [for that month to the Department] **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE DEPARTMENT WITHIN ~~10 DAYS OF~~ 1 MONTH AFTER THE DATE OF RELEASE OF THE CHILD’S MOTHER FROM THE HOSPITAL.**

**(C) A HEALTH CARE PROVIDER SHALL ALLOW THE DEPARTMENT TO INSPECT AND OBTAIN THE FOLLOWING MEDICAL INFORMATION REGARDING A CHILD WITH A BIRTH DEFECT:**

**(1) THE MEDICAL RECORDS OF:**

(I) A CHILD THROUGH THE CHILD'S SECOND YEAR OF LIFE;  
AND

(II) A CHILD'S MOTHER REGARDING THE MOTHER'S PREGNANCY WITH THE CHILD;

(2) RECORDS OF ANY LABORATORY TESTS RELATING TO A CHILD'S BIRTH DEFECT; AND

(3) ANY OTHER MEDICAL INFORMATION RELATING TO A CHILD'S BIRTH DEFECT.

[(c)] (D) (1) The hospital shall disclose the identity of the child with a birth defect to the Secretary so that the Secretary may:

(i) Use the information to protect the public health; or

(ii) Provide the parents OR GUARDIANS OF THE CHILD with information on [sentinel] birth defects and public and private services available in accordance with [paragraphs (1) and (4) of] subsection [(d)] (G)(1) AND (4) of this section.

(2) If the Department shows a need for the individual identity of children without [sentinel] birth defects to conduct [a case-control] AN investigation THAT AIDS IN THE PROTECTION OF THE PUBLIC HEALTH, the hospital shall obtain the written consent of the parent or guardian of the child to disclose the child's name to the Secretary.

(3) The Secretary shall assure that the identity of a child under this section may not be released OUTSIDE THE DEPARTMENT without the written consent of the parent or guardian of the child.

(E) (1) THE DEPARTMENT SHALL KEEP ANY MEDICAL INFORMATION OBTAINED UNDER THIS SECTION CONFIDENTIAL.

(2) MEDICAL INFORMATION REQUESTED UNDER THIS SECTION SHALL BE ONLY AS INTRUSIVE AS NECESSARY AND USED FOR THE PURPOSE OF:

(I) ASSURING THE QUALITY OF THE DATA REPORTED;

(II) PROVIDING INFORMATION OR SERVICES TO A CHILD'S FAMILY;

(III) CONDUCTING AN EPIDEMIOLOGICAL INVESTIGATION RELATED TO A BIRTH DEFECT; OR

(IV) CONDUCTING THE DEPARTMENT'S RESEARCH INTO THE CAUSES OF BIRTH DEFECTS.

(3) (I) THE RELEASE OF MEDICAL INFORMATION OBTAINED IN ACCORDANCE WITH THIS SECTION TO THE DEPARTMENT IS NOT A VIOLATION OF THE CONFIDENTIAL RELATIONSHIP BETWEEN A HEALTH CARE PROVIDER AND A PATIENT.

(II) A HEALTH CARE PROVIDER WHO DISCLOSES MEDICAL RECORDS TO THE DEPARTMENT UNDER THIS SECTION:

1. IS NOT LIABLE IN ANY SUIT FOR CIVIL DAMAGES FOR THE DISCLOSURE OF THE MEDICAL RECORDS;

2. IS NOT SUBJECT TO DISCIPLINARY ACTION BY ANY LICENSING OR DISCIPLINING AUTHORITY FOR DISCLOSURE OF CONFIDENTIAL INFORMATION; AND

3. MAY NOT BE SUBJECT TO ANY CRIMINAL PENALTIES.

(4) THE MEDICAL INFORMATION OBTAINED BY THE DEPARTMENT UNDER THIS SECTION IS NOT SUBJECT TO SUBPOENA, DISCOVERY, OR INTRODUCTION INTO EVIDENCE IN ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL PROCEEDING.

(F) WHILE CONDUCTING RESEARCH USING HUMAN SUBJECTS UNDER THIS SECTION, THE DEPARTMENT SHALL COMPLY WITH THE REQUIREMENTS FOR THE PROTECTION OF HUMAN SUBJECTS UNDER:

(1) TITLE 13, SUBTITLE 20 OF THIS ARTICLE; AND

(2) 42 U.S.C. § 289.

[(d)] (G) (1) The Department shall assure that information is prepared and periodically updated on:

(i) [Sentinel birth] BIRTH defects; and

(ii) Public and private services for [the disabled with sentinel] **CHILDREN WITH** birth defects.

(2) (i) The Secretary shall appoint a committee to determine the information required under paragraph (1) of this subsection.

(ii) The committee shall consist of:

1. Physicians;
2. Educators;
3. Social service specialists;
4. Representatives of the Department;
5. Representatives of the Department of Human Resources;
6. Representatives of the Department of Education; and
7. Parents OR GUARDIANS of children with [sentinel] birth defects.

(3) The information provided under this subsection shall be distributed to each hospital and made available to parents or guardians of children with [sentinel] birth defects by the [infant's] **CHILD'S** physician before the [infant] **CHILD** is discharged from the hospital and with an explanation, to the extent possible, of the birth defect to the parents or guardians.

(4) (i) The Secretary shall send a letter to the parent or guardian of each child reported under this section with a [sentinel] birth defect before the child is 6 months old.

(ii) The letter shall offer information about the birth defect and available services with emphasis on needs identified after discharge from the hospital.

(iii) Before sending a letter to a parent or guardian, the Secretary shall implement appropriate procedures to assure that a letter is not sent to a parent or guardian of a child who has died.

[(e)] **(H)** The Department and the Department of the Environment shall jointly develop procedures to monitor the data on [sentinel] birth defect trends which may be caused by environmental hazards.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 225

(Senate Bill 831)

AN ACT concerning

### Environment - Bay Restoration Fund - Authorized Uses of Fund

FOR the purpose of authorizing certain fee revenue collected for the Bay Restoration Fund to be used to award grants ~~to local governments for the costs of connecting certain existing communities to~~ or loans for certain costs related to certain community sewerage systems under certain circumstances; defining a certain term; and generally relating to the Bay Restoration Fund.

BY renumbering

Article - Environment

Section 9-1601(i) through (ii), respectively  
to be Section 9-1601(j) through (jj), respectively

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)

BY adding to

Article - Environment

Section 9-1601(i)

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article - Environment

Section 9-1605.2 ~~(a), (f), (h), and (i)~~

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article - Environment

Section 9-1605.2(l)

Annotated Code of Maryland



(2007 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9-1601(i) through (ii), respectively, of Article - Environment of the Annotated Code of Maryland be renumbered to be Section(s) 9-1601(j) through (jj), respectively.

SECTION ~~1. BE IT~~ 2. AND BE IT FURTHER ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

### Article - Environment

9-1601.

(I) "COMMUNITY SEWERAGE SYSTEM" MEANS A PUBLICLY OR PRIVATELY OWNED SEWERAGE SYSTEM THAT SERVES AT LEAST TWO LOTS.

9-1605.2.

~~(a) (1) There is a Bay Restoration Fund.~~

~~(2) It is the intent of the General Assembly that the Bay Restoration Fund be:~~

~~(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by citizens of the State in order to achieve enhanced nutrient removal where it is cost effective to do so; [and]~~

~~(ii) Available for treatment facilities discharging into the Atlantic Coastal Bays or other waters of the State, but that priority be given to treatment facilities discharging into the Chesapeake Bay; AND~~

~~(III) USED, IN PART, TO AWARD GRANTS TO LOCAL GOVERNMENTS FOR THE PURPOSE OF CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:~~

~~1. ARE LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND~~

~~2. HAVE FAILING ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS.~~

~~(3) The Bay Restoration Fund shall be maintained and administered by the Administration in accordance with the provisions of this section and any rules or program directives as the Secretary or the Board may prescribe.~~

~~(4) There is established a Bay Restoration Fee to be paid by any user of a wastewater facility, an onsite sewage disposal system, or a holding tank that:~~

~~(i) Is located in the State; or~~

~~(ii) Serves a Maryland user and is eligible for funding under this subtitle.~~

~~(f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article and shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this section.~~

~~(ii) Money in the Fund may not revert or be transferred to the General Fund of the State.~~

~~(2) The Bay Restoration Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this section for:~~

~~(i) Eligible costs of projects relating to planning, design, construction, and upgrades of wastewater facilities to achieve enhanced nutrient removal as required by the conditions of a grant agreement and a discharge permit; [and]~~

~~(ii) COSTS INCURRED BY LOCAL GOVERNMENTS RELATING TO CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:~~

~~1. ARE LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND~~

~~2. HAVE FAILING ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS; AND~~

~~[(ii)] (iii) All projects identified in subsections (h) and (i) of this section.~~

~~(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Bay Restoration Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Bay Restoration Fund.~~

~~(4) Subject to the provisions of any applicable bond resolution governing the investment of amounts in the Bay Restoration Fund, the Bay Restoration Fund shall be invested and reinvested in the same manner as other State funds.~~

~~(5) Any investment earnings shall be retained to the credit of the Bay Restoration Fund.~~

~~(6) The Bay Restoration Fund shall be subject to audit by the Office of Legislative Audits as provided under § 2-1220 of the State Government Article.~~

~~(7) The Administration shall operate the Bay Restoration Fund in accordance with §§ 9-1616 through 9-1621 of this subtitle.~~

(h) (1) With regard to the funds collected under subsection (b)(1)(i), from users of an onsite sewage disposal system or holding tank that receive a water bill, (ii), and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:

(i) Establish a separate account within the Bay Restoration Fund; and

(ii) Disburse the funds as provided under paragraph (2) of this subsection.

(2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraph (3) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an onsite sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional onsite sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen; ~~or~~

C. The cost of repairing or replacing a failing onsite sewage disposal system with a system that uses the best available technology for nitrogen removal ~~or another wastewater treatment system; [and]~~

~~2. GRANTS TO LOCAL GOVERNMENTS FOR THE COST OF CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:~~

~~A. ARE LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND~~

~~B. HAVE FAILING ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS; AND; OR~~

D. THE COST, UP TO THE SUM OF THE COSTS AUTHORIZED UNDER ITEM 1B OF THIS ITEM FOR EACH INDIVIDUAL SYSTEM, OF REPLACING MULTIPLE ON-SITE SEWAGE DISPOSAL SYSTEMS LOCATED IN THE SAME COMMUNITY WITH A NEW COMMUNITY SEWERAGE SYSTEM THAT IS OWNED BY A LOCAL GOVERNMENT AND THAT MEETS ENHANCED NUTRIENT REMOVAL STANDARDS.

~~2.3~~ The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of onsite sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of onsite sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item; and

D. Provide technical support for owners of upgraded onsite sewage disposal systems or holding tanks to operate and maintain the upgraded systems; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(3) (I) Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:

~~(i)~~ **1.** For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and

~~(ii)~~ **2.** For low-income owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

~~1.~~ **A.** First, for best available technologies for nitrogen removal; and

~~2.~~ **B.** Second, for other wastewater treatment systems.

**(ii) FUNDING FOR THE COSTS IDENTIFIED IN PARAGRAPH (2)(i)1D OF THIS SUBSECTION MAY BE PROVIDED IF:**

**1. THE ENVIRONMENTAL IMPACT OF THE ON-SITE SEWAGE DISPOSAL SYSTEM IS DOCUMENTED BY THE LOCAL GOVERNMENT AND CONFIRMED BY THE DEPARTMENT;**

**2. IT CAN BE DEMONSTRATED THAT:**

**A. THE REPLACEMENT OF THE ON-SITE SEWAGE DISPOSAL SYSTEM WITH A NEW COMMUNITY SEWERAGE SYSTEM IS MORE COST EFFECTIVE FOR NITROGEN REMOVAL THAN UPGRADING EACH INDIVIDUAL ON-SITE SEWAGE DISPOSAL SYSTEM; OR**

**B. THE INDIVIDUAL REPLACEMENT OF THE ON-SITE SEWAGE DISPOSAL SYSTEM IS NOT FEASIBLE; AND**

**3. THE NEW COMMUNITY SEWERAGE SYSTEM WILL ONLY SERVE LOTS THAT HAVE RECEIVED A CERTIFICATE OF OCCUPANCY, OR EQUIVALENT CERTIFICATE, ON OR BEFORE OCTOBER 1, 2008.**

(4) The Comptroller, in consultation with the Administration, may establish any other accounts and subaccounts within the Bay Restoration Fund as necessary to:

(i) Effectuate the purposes of this subtitle;

(ii) Comply with the provisions of any bond resolution;

(iii) Meet the requirements of any federal or State law or of any grant or award to the Bay Restoration Fund; and

(iv) Meet any rules or program directives established by the Secretary or the Board.

~~(i) (1) In this subsection, "eligible costs" means the additional costs that would be attributable to upgrading a wastewater facility from biological nutrient removal to enhanced nutrient removal, as determined by the Department.~~

~~(2) Funds in the Bay Restoration Fund shall be used only:~~

~~(i) To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this subsection;~~

~~(ii) 1. In fiscal years 2005 through 2009, inclusive, for a portion of the costs of projects relating to combined sewer overflows abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations, not to exceed an annual total of \$5,000,000; and~~

~~2. In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;~~

~~(iii) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of the bonds will be deposited in the Bay Restoration Fund;~~

~~(iv) To earn interest on Bay Restoration Fund accounts;~~

~~(v) For the reasonable costs of administering the Bay Restoration Fund, which may not exceed 1.5% of the total restoration fees imposed on users of wastewater facilities that are collected by the Comptroller annually;~~

~~(vi) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;~~

~~(vii) For future upgrades of wastewater facilities to achieve additional nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) of this subsection;~~

~~(viii) For costs associated with the issuance of bonds; [and]~~

~~(ix) Subject to the conditions under subsection (h) of this section, projects related to the removal of nitrogen from onsite sewage disposal systems and cover crop activities; AND~~

~~(x) TO AWARD GRANTS TO LOCAL GOVERNMENTS FOR COSTS RELATING TO CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:~~

~~1. ARE LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND~~

~~2. HAVE FAILING ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS.~~

~~(3) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.~~

~~(4) (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.~~

~~(ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.~~

~~(5) Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.~~

~~(6) (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (k) of this section.~~

~~(ii) The criteria adopted by the Department shall include, as appropriate, consideration of:~~

~~1. The cost effectiveness in providing water quality benefit;~~

~~2. The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;~~

~~3. The readiness of a wastewater facility to proceed to construction; and~~

~~4. The nitrogen and phosphorus loads discharged by a wastewater facility.~~

~~(7) A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.~~

(l) The Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 226

(House Bill 581)

AN ACT concerning

### Environment - Bay Restoration Fund - Authorized Uses of Fund

FOR the purpose of authorizing certain fee revenue collected for the Bay Restoration Fund to be used to award grants ~~to local governments for the costs of connecting certain existing communities to~~ or loans for certain costs related to certain community sewerage systems under certain circumstances; defining a certain term; and generally relating to the Bay Restoration Fund.

BY renumbering

Article - Environment

Section 9-1601(i) through (ii), respectively

to be Section 9-1601(j) through (jj), respectively

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)



BY adding toArticle – EnvironmentSection 9–1601(i)Annotated Code of Maryland(2007 Replacement Volume and 2007 Supplement)

## BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1605.2(a), (f), (h), and (i)

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)

## BY repealing and reenacting, without amendments,

Article – Environment

Section 9–1605.2(l)

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–1601(i) through (ii), respectively, of Article – Environment of the Annotated Code of Maryland be renumbered to be Sections(s) 9–1601(j) through (jj), respectively.

SECTION ~~1. BE IT~~ 2. AND BE IT FURTHER ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Environment**9–1601.

(I) “COMMUNITY SEWERAGE SYSTEM” MEANS A PUBLICLY OR PRIVATELY OWNED SEWERAGE SYSTEM THAT SERVES AT LEAST TWO LOTS.

## 9–1605.2.

(a) ~~(1) There is a Bay Restoration Fund.~~

~~(2) It is the intent of the General Assembly that the Bay Restoration Fund be:~~

~~(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by citizens of the State in order to achieve enhanced nutrient removal where it is cost effective to do so; [and]~~

~~(ii) Available for treatment facilities discharging into the Atlantic Coastal Bays or other waters of the State, but that priority be given to treatment facilities discharging into the Chesapeake Bay; AND~~

~~(III) USED, IN PART, TO AWARD GRANTS TO LOCAL GOVERNMENTS FOR THE PURPOSE OF CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:~~

~~1. ARE LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND~~

~~2. HAVE FAILING ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS.~~

~~(3) The Bay Restoration Fund shall be maintained and administered by the Administration in accordance with the provisions of this section and any rules or program directives as the Secretary or the Board may prescribe.~~

~~(4) There is established a Bay Restoration Fee to be paid by any user of a wastewater facility, an onsite sewage disposal system, or a holding tank that:~~

~~(i) Is located in the State; or~~

~~(ii) Serves a Maryland user and is eligible for funding under this subtitle.~~

~~(f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article and shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this section.~~

~~(ii) Money in the Fund may not revert or be transferred to the General Fund of the State.~~

~~(2) The Bay Restoration Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this section for:~~

~~(i) Eligible costs of projects relating to planning, design, construction, and upgrades of wastewater facilities to achieve enhanced nutrient removal as required by the conditions of a grant agreement and a discharge permit; [and]~~

~~(II) COSTS INCURRED BY LOCAL GOVERNMENTS RELATING TO CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:~~

~~1. ARE LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND~~

~~2. HAVE FAILING ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS; AND~~

~~[(ii)](iii) All projects identified in subsections (h) and (i) of this section.~~

~~(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Bay Restoration Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Bay Restoration Fund.~~

~~(4) Subject to the provisions of any applicable bond resolution governing the investment of amounts in the Bay Restoration Fund, the Bay Restoration Fund shall be invested and reinvested in the same manner as other State funds.~~

~~(5) Any investment earnings shall be retained to the credit of the Bay Restoration Fund.~~

~~(6) The Bay Restoration Fund shall be subject to audit by the Office of Legislative Audits as provided under § 2-1220 of the State Government Article.~~

~~(7) The Administration shall operate the Bay Restoration Fund in accordance with §§ 9-1616 through 9-1621 of this subtitle.~~

(h) (1) With regard to the funds collected under subsection (b)(1)(i), from users of an onsite sewage disposal system or holding tank that receive a water bill, (ii), and (iii) of this section, beginning in fiscal year 2006, the Comptroller shall:

(i) Establish a separate account within the Bay Restoration Fund; and

(ii) Disburse the funds as provided under paragraph (2) of this subsection.

(2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraph (3) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an onsite sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional onsite sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen; ~~or~~

C. The cost of repairing or replacing a failing onsite sewage disposal system with a system that uses the best available technology for nitrogen removal ~~or another wastewater treatment system; [and]~~

~~2. GRANTS TO LOCAL GOVERNMENTS FOR THE COST OF CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:~~

~~A. ARE LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND~~

~~B. HAVE FAILING ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS; AND; OR~~

D. THE COST, UP TO THE SUM OF THE COSTS AUTHORIZED UNDER ITEM 1B OF THIS ITEM FOR EACH INDIVIDUAL SYSTEM, OF REPLACING MULTIPLE ON-SITE SEWAGE DISPOSAL SYSTEMS LOCATED IN THE SAME COMMUNITY WITH A NEW COMMUNITY SEWERAGE SYSTEM THAT IS OWNED BY A LOCAL GOVERNMENT AND THAT MEETS ENHANCED NUTRIENT REMOVAL STANDARDS.

~~{2.}~~ ~~3.~~ The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of onsite sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of onsite sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item; and

D. Provide technical support for owners of upgraded onsite sewage disposal systems or holding tanks to operate and maintain the upgraded systems; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(3) **(I)** Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:

~~(i)~~ **1.** For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and

~~(ii)~~ **2.** For low-income owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

~~1.~~ **A.** First, for best available technologies for nitrogen removal; and

~~2.~~ **B.** Second, for other wastewater treatment systems.

**(II) FUNDING FOR THE COSTS IDENTIFIED IN PARAGRAPH (2)(i)1D OF THIS SUBSECTION MAY BE PROVIDED IF:**

**1. THE ENVIRONMENTAL IMPACT OF THE ON-SITE SEWAGE DISPOSAL SYSTEM IS DOCUMENTED BY THE LOCAL GOVERNMENT AND CONFIRMED BY THE DEPARTMENT;**

**2. IT CAN BE DEMONSTRATED THAT:**

**A. THE REPLACEMENT OF THE ON-SITE SEWAGE DISPOSAL SYSTEM WITH A NEW COMMUNITY SEWERAGE SYSTEM IS MORE COST EFFECTIVE FOR NITROGEN REMOVAL THAN UPGRADING EACH INDIVIDUAL ON-SITE SEWAGE DISPOSAL SYSTEM; OR**

**B. THE INDIVIDUAL REPLACEMENT OF THE ON-SITE SEWAGE DISPOSAL SYSTEM IS NOT FEASIBLE; AND**

**3. THE NEW COMMUNITY SEWERAGE SYSTEM WILL ONLY SERVE LOTS THAT HAVE RECEIVED A CERTIFICATE OF OCCUPANCY, OR EQUIVALENT CERTIFICATE, ON OR BEFORE OCTOBER 1, 2008.**

(4) The Comptroller, in consultation with the Administration, may establish any other accounts and subaccounts within the Bay Restoration Fund as necessary to:

- (i) Effectuate the purposes of this subtitle;
- (ii) Comply with the provisions of any bond resolution;
- (iii) Meet the requirements of any federal or State law or of any grant or award to the Bay Restoration Fund; and
- (iv) Meet any rules or program directives established by the Secretary or the Board.

~~(i) (1) In this subsection, "eligible costs" means the additional costs that would be attributable to upgrading a wastewater facility from biological nutrient removal to enhanced nutrient removal, as determined by the Department.~~

~~(2) Funds in the Bay Restoration Fund shall be used only:~~

~~(i) To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this subsection;~~

~~(ii) 1. In fiscal years 2005 through 2009, inclusive, for a portion of the costs of projects relating to combined sewer overflows abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations, not to exceed an annual total of \$5,000,000; and~~

~~2. In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;~~

~~(iii) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of the bonds will be deposited in the Bay Restoration Fund;~~

~~(iv) To earn interest on Bay Restoration Fund accounts;~~

~~(v) For the reasonable costs of administering the Bay Restoration Fund, which may not exceed 1.5% of the total restoration fees imposed on users of wastewater facilities that are collected by the Comptroller annually;~~

~~(vi) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;~~

~~(vii) For future upgrades of wastewater facilities to achieve additional nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) of this subsection;~~

~~(viii) For costs associated with the issuance of bonds; [and]~~

~~(ix) Subject to the conditions under subsection (h) of this section, projects related to the removal of nitrogen from onsite sewage disposal systems and cover crop activities; AND~~

~~(x) TO AWARD GRANTS TO LOCAL GOVERNMENTS FOR COSTS RELATING TO CONNECTING SEWERAGE SYSTEMS TO EXISTING COMMUNITIES THAT:~~

~~1. ARE LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND~~

~~2. HAVE FAILING ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS.~~

~~(3) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.~~

~~(4) (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.~~

~~(ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.~~

~~(5) Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.~~

~~(6) (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (k) of this section.~~

~~(ii) The criteria adopted by the Department shall include, as appropriate, consideration of:~~

~~1. The cost effectiveness in providing water quality benefit;~~

~~2. The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;~~

~~3. The readiness of a wastewater facility to proceed to construction; and~~

~~4. The nitrogen and phosphorus loads discharged by a wastewater facility.~~

~~(7) A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.~~

(l) The Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 227

(Senate Bill 848)

AN ACT concerning



### State Board of Social Work Examiners – Membership – Qualifications

FOR the purpose of altering the number of members on the State Board of Social Work Examiners; requiring a certain member of the ~~State Board of Social Work Examiners~~ to be primarily engaged in social worker education at a certain program and be nominated from a certain list of names, subject to a certain exception; and generally relating to the State Board of Social Work Examiners.

BY repealing and reenacting, with amendments,  
 Article – Health Occupations  
 Section 19–202(a)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

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

#### Article – Health Occupations

19–202.

- (a) (1) The Board consists of ~~11~~ 12 members.
- (2) Of the ~~11~~ 12 Board members:
- (i) ~~9~~ 10 shall be licensed social workers of whom:
1. Subject to paragraph (3) of this subsection, 1 is a licensed social work associate;
  2. Subject to paragraph (3) of this subsection, 1 is a licensed graduate social worker at the time of appointment;
  3. Subject to paragraph (3) of this subsection, at least 1 is a licensed certified social worker;
  4. Subject to paragraph (3) of this subsection, at least 4 are licensed certified social workers–clinical; [and]
  5. 1 is a licensed social worker employed by the Department of Human Resources; and
  - 6. SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, 1 IS A LICENSED SOCIAL WORKER PRIMARILY WHO IS:**

A. PRIMARILY ENGAGED IN SOCIAL WORKER EDUCATION AT AN ACCREDITED A SOCIAL WORK PROGRAM AND IS NOMINATED FROM A LIST OF NAMES SUBMITTED BY THE MARYLAND HIGHER EDUCATION COMMISSION ACCREDITED BY THE COUNCIL ON SOCIAL WORK EDUCATION; AND

B. NOMINATED FROM A LIST OF NAMES SUBMITTED BY THE DEANS AND DIRECTORS OF THE MARYLAND SOCIAL WORK EDUCATION PROGRAMS; AND

(ii) 2 shall be consumer members.

(3) If a licensed social work associate, a licensed graduate social worker, a licensed certified social worker, ~~or~~ a licensed certified social worker-clinical, OR A LICENSED SOCIAL WORKER is not appointed to the Board under paragraph (2)(i) of this subsection within 6 months of a vacancy, a licensee of any license level shall be appointed immediately if that licensee is qualified to be a member of the Board under subsections (b) and (d) of this section.

(4) The Governor shall appoint all members of the Board with the advice of the Secretary and the advice and consent of the Senate.

(5) The Governor shall appoint all social work members of the Board from a list of nominees containing names submitted by:

(i) Professional social work associations in the State;

(ii) Any person who provides a statement of nomination signed by at least 25 social workers licensed in the State; or

(iii) The secretaries of public agencies of the State where social workers are employed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 228

(Senate Bill 859)

AN ACT concerning

**Blue Ribbon Commission to Study Retiree Health Care Funding Options -  
Extension of Reporting and Termination Dates**

FOR the purpose of *requiring the Blue Ribbon Commission to Study Retiree Health Care Funding Options to issue a certain report by a certain date*; altering the date by which the Blue Ribbon Commission to Study Retiree Health Care Funding Options is required to submit a certain report; extending the termination date of the Blue Ribbon Commission to Study Retiree Health Care Funding Options until a certain date; and generally relating to the reporting and termination dates of the Blue Ribbon Commission to Study Retiree Health Care Funding Options.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 34–201(g)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 433 of the Acts of the General Assembly of 2006  
Section 3

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

**Article – State Personnel and Pensions**

34–201.

(g) **(1)** On or before December 31, ~~2008~~ **2009**, the Commission shall issue ~~a final~~ ***AN INTERIM*** report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

***(2) ON OR BEFORE DECEMBER 31, 2009, THE COMMISSION SHALL ISSUE A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.***

**Chapter 433 of the Acts of 2006**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of [3] 4 years and, at the end of June 30, [2009,] 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 July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 229

(House Bill 1233)

AN ACT concerning

**Blue Ribbon Commission to Study Retiree Health Care Funding Options -  
Extension of Reporting and Termination Dates**

FOR the purpose of requiring the Blue Ribbon Commission to Study Retiree Health Care Funding Options to issue a certain report by a certain date; altering the date by which the Blue Ribbon Commission to Study Retiree Health Care Funding Options is required to submit a certain report; extending the termination date of the Blue Ribbon Commission to Study Retiree Health Care Funding Options until a certain date; and generally relating to the reporting and termination dates of the Blue Ribbon Commission to Study Retiree Health Care Funding Options.

BY repealing and reenacting, with amendments,  
Article - State Personnel and Pensions  
Section 34-201(g)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 433 of the Acts of the General Assembly of 2006  
Section 3

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

**Article - State Personnel and Pensions**

34-201.

(g) **(1)** On or before December 31, ~~[2008]~~ **2009**, the Commission shall issue ~~a final~~ **AN INTERIM** report of its findings ~~and recommendations~~ to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

**(2) ON OR BEFORE DECEMBER 31, 2009, THE COMMISSION SHALL ISSUE A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

### Chapter 433 of the Acts of 2006

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of [3] **4** years and, at the end of June 30, [2009,] **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 July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 230

**(Senate Bill 860)**

AN ACT concerning

### **Forest and Park Wardens – Responsibilities**

FOR the purpose of repealing a certain requirement that a forest or park warden take certain actions on learning of a forest fire; requiring a forest or park warden to take certain actions under certain circumstances; making certain stylistic changes; and generally relating to the responsibilities of a forest or park warden.

BY repealing and reenacting, with amendments,  
 Article – Natural Resources  
 Section 5-701  
 Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

**Article - Natural Resources**

5-701.

(A) [Every] A forest [and] OR park warden shall enforce every forest and park law, rule, and regulation of the State and protect State forest reserves, State parks, scenic preserves, parkways, historic monuments, and recreational areas.

(B) [He] THE FOREST OR PARK WARDEN shall report any violation of law to the Secretary as soon as possible, assist in apprehending and convicting offenders, and make an annual report to the Secretary on forest conditions in [his] THE FOREST OR PARK WARDEN'S immediate neighborhood.

(C) If any forest or park warden sees [or learns of] a forest fire, [he] OR IS REQUESTED BY A FIRE COMPANY TO ASSIST WITH A FIRE PLOW OR PROVIDE INCIDENT COMMAND EXPERTISE AT THE SCENE, THE FOREST OR PARK WARDEN shall:

(1) Go immediately to the fire and employ those persons and means as [he] THE FOREST OR PARK WARDEN deems necessary to extinguish the fire;

(2) Keep an itemized account of all expenses thus incurred and send [his] THE account immediately to the Secretary;

(3) Control and direct any person and apparatus engaged in extinguishing forest fires;

(4) Summon inhabitants of the county over the age of 18 years, if able, to assist in extinguishing fires, and also require use of personal property needed for this purpose; and

(5) Use the members of the Junior Forest Fire Fighters Service between the ages of 14 and 18 years inclusive, either paid or unpaid, provided they have the written consent of their parents or guardians.

(D) Any person summoned who is physically able, but who refuses or neglects to assist, or allow the use of man power, equipment, or other material required, is liable to a penalty of \$10.

(E) An action for trespass may not lie against a forest or park warden or anyone working under [his] **THE FOREST OR PARK WARDEN'S** direction, for entering on any person's land to extinguish a fire, plow furrows, tear down fences, or start a back fire to check a fire that may be approaching.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 231

(House Bill 1473)

AN ACT concerning

### Forest and Park Wardens – Responsibilities

FOR the purpose of repealing a certain requirement that a forest or park warden take certain actions on learning of a forest fire; requiring a forest or park warden to take certain actions under certain circumstances; making certain stylistic changes; and generally relating to the responsibilities of a forest or park warden.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 5–701  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

### Article – Natural Resources

5–701.

(A) [Every] **A** forest [and] **OR** park warden shall enforce every forest and park law, rule, and regulation of the State and protect State forest reserves, State parks, scenic preserves, parkways, historic monuments, and recreational areas.

(B) [He] **THE FOREST OR PARK WARDEN** shall report any violation of law to the Secretary as soon as possible, assist in apprehending and convicting offenders, and make an annual report to the Secretary on forest conditions in [his] **THE FOREST OR PARK WARDEN'S** immediate neighborhood.

(C) If any forest or park warden sees [or learns of] a forest fire, [he] **OR IS REQUESTED BY A FIRE COMPANY TO ASSIST WITH A FIRE PLOW OR PROVIDE INCIDENT COMMAND EXPERTISE AT THE SCENE, THE FOREST OR PARK WARDEN** shall:

(1) Go immediately to the fire and employ those persons and means as [he] **THE FOREST OR PARK WARDEN** deems necessary to extinguish the fire;

(2) Keep an itemized account of all expenses thus incurred and send [his] **THE** account immediately to the Secretary;

(3) Control and direct any person and apparatus engaged in extinguishing forest fires;

(4) Summon inhabitants of the county over the age of 18 years, if able, to assist in extinguishing fires, and also require use of personal property needed for this purpose; and

(5) Use the members of the Junior Forest Fire Fighters Service between the ages of 14 and 18 years inclusive, either paid or unpaid, provided they have the written consent of their parents or guardians.

(D) Any person summoned who is physically able, but who refuses or neglects to assist, or allow the use of man power, equipment, or other material required, is liable to a penalty of \$10.

(E) An action for trespass may not lie against a forest or park warden or anyone working under [his] **THE FOREST OR PARK WARDEN'S** direction, for entering on any person's land to extinguish a fire, plow furrows, tear down fences, or start a back fire to check a fire that may be approaching.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**



## CHAPTER 232

(Senate Bill 889)

AN ACT concerning

### Nurse Practitioners – Authority to Certify

FOR the purpose of ~~authorizing certain nurse practitioners to make a certain determination of incapacity or debilitation under certain circumstances; requiring a certain nurse practitioner to provide a copy of a certain determination to a certain standby guardian;~~ authorizing certain nurse practitioners to certify that a certain minor is pregnant or has given birth under certain circumstances; authorizing certain nurse practitioners or certain nurse midwives to provide certain information about the birth of a child for purposes of filing a birth certificate; authorizing certain nurse practitioners to complete and sign a certain death certificate under certain circumstances; requiring certain nurse practitioners who complete a certain death certificate to give or transmit the certificate to a certain mortician within a certain period of time; authorizing certain nurse practitioners to serve as a witness to a certain advance directive under certain circumstances; authorizing certain nurse practitioners to issue a certain oral emergency medical services “do not resuscitate order” under certain circumstances; ~~authorizing certain nurse practitioners to conduct a certain examination for purposes of a certain involuntary admission;~~ requiring the Department of Health and Mental Hygiene to pay for a certain examination conducted by a certain nurse practitioner; authorizing certain nurse practitioners to conduct certain educational training programs for applicants for certification for the Insect Sting Emergency Treatment Program; authorizing certain nurse practitioners to certify that certain applicants for assignment of a certain special disability registration number or plates to a certain vehicle have certain conditions; defining certain terms; and generally relating to the certifying authority of nurse practitioners.

~~BY repealing and reenacting, with amendments,  
 Article – Estates and Trusts  
 Section 13-906  
 Annotated Code of Maryland  
 (2001 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,  
 Article – Family Law  
 Section 2-301  
 Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 4–208(a), 4–212, 5–601(h) and (o) through (q), 5–602(c) ~~through (e)~~ and (d), 5–608(c), ~~10–616(a)~~, 10–628, and 13–704

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Health – General

Section 5–601(a), 5–602(a) and (e), and 13–701

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General

Section 5–601(o)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 13–616(a) and (b)

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

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

~~Article – Estates and Trusts~~

~~13–906.~~

~~(a) (1) A determination of incapacity or debilitation under this subtitle shall:~~

~~(i) Be made by the attending physician OR NURSE PRACTITIONER to a reasonable degree of medical certainty;~~

~~(ii) Be in writing; and~~

~~(iii) Contain the attending physician’s OR NURSE PRACTITIONER’S opinion regarding the cause and nature of the parent’s incapacity or debilitation, and the extent and probable duration of the incapacity or debilitation.~~

~~(2) If a standby guardian's identity is known to an attending physician OR NURSE PRACTITIONER, the attending physician OR NURSE PRACTITIONER shall provide a copy of a determination of incapacity or debilitation to the standby guardian.~~

~~(b) If requested by a standby guardian, an attending physician OR NURSE PRACTITIONER shall make a determination regarding the parent's incapacity or debilitation for purposes of this subtitle.~~

~~(c) If the parent is able to comprehend the information, a standby guardian shall inform the parent of:~~

~~(1) The beginning of the standby guardian's authority as a result of a determination of incapacity; and~~

~~(2) The parent's right to revoke the authority promptly after receipt of the determination of incapacity.~~

### Article - Family Law

2-301.

(a) An individual 16 or 17 years old may not marry unless:

(1) the individual has the consent of a parent or guardian and the parent or guardian swears that the individual is at least 16 years old; or

(2) if the individual does not have the consent of a parent or guardian, either party to be married gives the clerk a certificate from a licensed physician OR CERTIFIED NURSE PRACTITIONER stating that the physician OR NURSE PRACTITIONER has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(b) An individual 15 years old may not marry unless:

(1) the individual has the consent of a parent or guardian; and

(2) either party to be married gives the clerk a certificate from a licensed physician OR CERTIFIED NURSE PRACTITIONER stating that the physician OR NURSE PRACTITIONER has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(c) An individual under the age of 15 may not marry.

**Article - Health - General**

4-208.

(a) (1) Within 72 hours after a birth occurs in an institution, or en route to the institution, the administrative head of the institution or a designee of the administrative head shall:

- (i) Prepare, on the form that the Secretary provides, a certificate of birth;
- (ii) Secure each signature that is required on the certificate; and
- (iii) File the certificate.

(2) The attending physician, **NURSE PRACTITIONER, OR NURSE MIDWIFE** shall provide the date of birth and medical information that are required on the certificate within 72 hours after the birth.

4-212.

(a) This section does not apply to a fetal death.

(b) (1) A certificate of death regardless of age of decedent shall be filled out and signed by:

- (i) The medical examiner, if the medical examiner takes charge of the body; or
- (ii) If the medical examiner does not take charge of the body, the physician **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** who last attended the deceased.

(2) The medical examiner [or], physician, **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** shall fill in only the following information on the certificate of death:

- (i) The name of the deceased.
- (ii) The cause of death and medical certification.
- (iii) The date and hour of death.
- (iv) The place where death occurred.

(3) Any other information that is required on the certificate of death regardless of age of decedent shall be filled in:

(i) By the person who has charge of the body; or

(ii) If the State Anatomy Board has charge of the body, by the person who last had charge of the body before it was sent to the State Anatomy Board.

(4) The medical certification shall be completed within 24 hours after receipt of the death certificate by the physician **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by the medical examiner.

(5) In the absence or inability of the attending physician **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** or with the attending physician's **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER'S** approval, the certificate may be completed by:

(i) The attending physician's ~~OR NURSE PRACTITIONER'S~~ associate;

(ii) The chief medical officer or designee of the institution in which death occurred; or

(iii) The physician who performed an autopsy upon the decedent, provided the individual has access to the medical history of the case and death is due to natural causes.

(6) The person completing the cause of death and medical certification shall attest to the accuracy by signature or by an approved electronic process.

(7) The funeral director or person acting as the funeral director shall in all cases obtain the medical certification from the person responsible for its completion or obtain assurance that the medical certification has been provided to the Secretary by an approved electronic process.

(c) Each individual concerned with carrying out this subtitle promptly shall notify the medical examiner if:

(1) The deceased was not under treatment by a physician during the terminal illness;

(2) The cause of death is unknown; or

(3) The individual considers any of the following conditions to be the cause of death or to have contributed to the death:

- (i) An accident, including a fall with a fracture or other injury.
- (ii) Homicide.
- (iii) Suicide.
- (iv) Other external manner of death.
- (v) Alcoholism.
- (vi) Criminal or suspected criminal abortion.

(d) (1) If, within 24 hours after taking charge of a body, the medical examiner has not determined the cause of death, the medical examiner shall enter "investigation pending" in the cause of death section of the death certificate.

(2) As soon as the medical examiner determines the cause of death, the medical examiner shall send to the Secretary a report of the cause of death, for entry on the certificate.

(e) (1) A physician ~~OR A~~ **PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the death occurred.

(2) A medical examiner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the medical examiner took charge of the body.

(f) (1) If a death occurs on a common carrier in the United States and the body is removed from the carrier in this State, the death shall be registered in this State, and the place where it is first removed shall be considered the place of death. When a death occurs on a common carrier while in international waters or air space or in a foreign country or its air space and the body is first removed from the carrier in this State, the death shall be registered in this State, but the certificate shall show the actual place of death insofar as can be determined.

(2) The individual in charge or the owner of the common carrier or a designee shall file a certificate of death within 24 hours after the body is removed from the carrier.

(3) If the death occurred under any of the conditions or circumstances set forth in subsection (c) of this section, the medical examiner shall be notified.

(g) A mortician who obtains a certificate of death under this section shall file the certificate within 72 hours after the death.

(h) (1) Except as authorized under this subtitle, an individual who has a duty to fill out and sign a certificate of death may not execute more than one certificate for a death.

(2) The attending physician, **THE PHYSICIAN'S COLLABORATING NURSE PRACTITIONER**, or a medical examiner who takes charge of a body may file a replacement death certificate if a correction that the physician, **THE PHYSICIAN'S COLLABORATING NURSE PRACTITIONER**, or medical examiner authorizes cannot be entered legibly on the original certificate.

5-601.

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

(h) "Emergency medical services 'do not resuscitate order'" means a physician's **OR NURSE PRACTITIONER'S** written order in a form established by protocol issued by the Maryland Institute for Emergency Medical Services in conjunction with the State Board of Physicians which, in the event of a cardiac or respiratory arrest of a particular patient, authorizes certified or licensed emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation including cardiac compression, endotracheal intubation, other advanced airway management techniques, artificial ventilation, defibrillation, and other related life-sustaining procedures.

(o) "**NURSE PRACTITIONER**" MEANS AN INDIVIDUAL LICENSED TO PRACTICE REGISTERED NURSING IN THE STATE AND WHO IS CERTIFIED AS A NURSE PRACTITIONER ~~JOINTLY BY THE STATE BOARD OF NURSING AND THE STATE BOARD OF PHYSICIANS~~ UNDER TITLE 8 ~~AND TITLE 14~~ OF THE HEALTH OCCUPATIONS ARTICLE.

[(o)] (P) "Persistent vegetative state" means a condition caused by injury, disease, or illness:

(1) In which a patient has suffered a loss of consciousness, exhibiting no behavioral evidence of self-awareness or awareness of surroundings in a learned manner other than reflex activity of muscles and nerves for low level conditioned response; and

(2) From which, after the passage of a medically appropriate period of time, it can be determined, to a reasonable degree of medical certainty, that there can be no recovery.

[(p)] (Q) "Physician" means a person licensed to practice medicine in the State or in the jurisdiction where the treatment is to be rendered or withheld.

[(q)] (R) "Terminal condition" means an incurable condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, makes death imminent and from which, despite the application of life-sustaining procedures, there can be no recovery.

5-602.

(a) Any competent individual may, at any time, make a written advance directive regarding the provision of health care to that individual, or the withholding or withdrawal of health care from that individual.

(c) (1) A written advance directive shall be dated, signed by or at the express direction of the declarant, and subscribed by two witnesses.

(2) (i) Except as provided in items (ii) and (iii) of this paragraph, any competent individual may serve as a witness to an advance directive, including an employee of a health care facility, **NURSE PRACTITIONER**, or physician caring for the declarant if acting in good faith.

(ii) The health care agent of the declarant may not serve as a witness.

(iii) At least one of the witnesses must be an individual who is not knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any financial benefit by reason of the death of the declarant.

(d) (1) Any competent individual may make an oral advance directive to authorize the providing, withholding, or withdrawing of any life-sustaining procedure or to appoint an agent to make health care decisions for the individual.

(2) An oral advance directive shall have the same effect as a written advance directive if made in the presence of the attending physician **OR NURSE PRACTITIONER** and one witness and if the substance of the oral advance directive is documented as part of the individual's medical record. The documentation shall be dated and signed by the attending physician **OR NURSE PRACTITIONER** and the witness.



(e) (1) Unless otherwise provided in the document, an advance directive shall become effective when the declarant's attending physician ~~OR NURSE PRACTITIONER~~ and a second physician ~~OR NURSE PRACTITIONER~~ certify in writing that the patient is incapable of making an informed decision.

(2) If a patient is unconscious, or unable to communicate by any means, the certification of a second physician ~~OR NURSE PRACTITIONER~~ is not required under paragraph (1) of this subsection.

5-608.

(c) This section does not authorize emergency medical services personnel in the outpatient setting to follow an emergency medical services "do not resuscitate order" that is in any form other than:

(1) An emergency medical services "do not resuscitate order" described in subsection (a) of this section;

(2) An oral emergency medical services "do not resuscitate order" provided by an on-line, emergency medical services medical command and control physician; or

(3) An oral emergency medical services "do not resuscitate order" provided by a physician, as defined in § 5-601 of this subtitle, ~~OR A NURSE PRACTITIONER, AS DEFINED IN § 5-601 OF THIS SUBTITLE~~, who is physically present on the scene with the patient and the emergency medical services personnel in the outpatient setting.

~~10-616.~~

~~(a) (1) A certificate for involuntary admission of an individual under Part III of this subtitle shall:~~

~~(i) Be based on the personal examination of the physician [or], psychologist, OR NURSE PRACTITIONER who signs the certificate; and~~

~~(ii) Be in the form that the Secretary adopts, by rule or regulation.~~

~~(2) The rules and regulations shall require the form to include:~~

~~(i) A diagnosis of a mental disorder of the individual;~~

~~(ii) An opinion that the individual needs inpatient care or treatment; and~~

~~(iii) An opinion that admission to a facility or Veterans' Administration hospital is needed for the protection of the individual or another~~

10-628.

(a) (1) If an emergency evaluatee cannot pay or does not have insurance that covers the charges for emergency services, an initial consultant examination by a physician **OR NURSE PRACTITIONER**, and transportation to an emergency facility and, for an involuntary admission of the emergency evaluatee, to the admitting facility, the Department shall pay the appropriate party the actual cost or a reasonable rate for this service, whichever is lower, except that hospitals shall be paid at rates approved by the Health Services Cost Review Commission.

(2) The reasonable rate for the services provided under an emergency petition shall be calculated by using a methodology established by regulation and reasonably related to the actual cost.

(b) With respect to emergency admissions, the Department shall be subrogated against any insurance coverage available to the patient for charges relating to emergency service, initial consultant examination by a physician **OR NURSE PRACTITIONER**, and transportation to an emergency facility under Part IV of this subtitle.

13-701.

The Insect Sting Emergency Treatment Program is a program in the Department for the purpose of providing a means of authorizing certain individuals to administer life-saving treatment to persons who have severe adverse reactions to insect stings when physician services or emergency medical services are not immediately available.

13-704.

(a) To qualify for a certificate, an individual shall meet the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall have, or reasonably expect to have, responsibility for at least one other person as a result of the individual's occupation or volunteer status.

(e) (1) The applicant shall successfully complete an educational training program approved by the Department.

(2) Educational training programs required under this subsection shall:

(i) 1. Be conducted by a physician licensed to practice medicine in this State under Title 14 of the Health Occupations Article; ~~[and] OR~~

**2. BE CONDUCTED BY A NURSE PRACTITIONER LICENSED TO PRACTICE REGISTERED NURSING IN THIS STATE UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE AND WHO IS CERTIFIED AS A NURSE PRACTITIONER ~~JOINTLY BY THE STATE BOARD OF NURSING AND THE STATE BOARD OF PHYSICIANS;~~ AND**

(ii) Include training in:

1. The recognition of the symptoms of systemic reactions to insect stings; and

2. The proper administration of a subcutaneous injection of epinephrine.

### Article - Transportation

13-616.

(a) (1) In this subtitle the following words have the meanings indicated.

**(2) “CERTIFIED NURSE PRACTITIONER” MEANS AN INDIVIDUAL WHO IS LICENSED BY THE STATE BOARD OF NURSING TO PRACTICE REGISTERED NURSING AS DESCRIBED IN § 8-101 OF THE HEALTH OCCUPATIONS ARTICLE AND WHO IS CERTIFIED AS A NURSE PRACTITIONER ~~JOINTLY BY THE STATE BOARD OF NURSING AND THE STATE BOARD OF PHYSICIANS.~~**

**[(2)] (3)** “Licensed chiropractor” means a chiropractor who is licensed by the State Board of Chiropractic Examiners to practice chiropractic or chiropractic with the right to practice physical therapy as described in § 3-301 of the Health Occupations Article.

**[(3)] (4)** “Licensed optometrist” means an optometrist who is licensed by the State Board of Examiners in Optometry to practice optometry as described in § 11-101 of the Health Occupations Article.

**[(4)] (5)** “Licensed physician” means a physician, including a doctor of osteopathy, who is licensed by the State Board of Physicians to practice medicine as described in § 14–101 of the Health Occupations Article.

**[(5)] (6)** “Licensed podiatrist” means a podiatrist who is licensed by the State Board of Podiatric Medical Examiners to practice podiatry as described in § 16–101 of the Health Occupations Article.

(b) (1) The owner of any vehicle described in paragraph (3) of this subsection may apply to the Administration for the assignment to that vehicle of a special disability registration number and special disability registration plates, if a **CERTIFIED NURSE PRACTITIONER**, licensed physician, licensed chiropractor, licensed optometrist, or licensed podiatrist certifies, in accordance with paragraph (2) of this subsection, that the applicant:

(i) Has lung disease to such an extent that forced (respiratory) expiratory volume for one second when measured by spirometry is less than one liter, or arterial oxygen tension (PO<sub>2</sub>) is less than 60 mm/hg on room air at rest;

(ii) Has cardiovascular disease limitations classified in severity as Class III or Class IV according to standards accepted by the American Heart Association;

(iii) Is unable to walk 200 feet without stopping to rest;

(iv) Is unable to walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, or other assistive device;

(v) Requires a wheelchair for mobility;

(vi) Has lost a foot, leg, hand, or arm;

(vii) Has lost the use of a foot, leg, hand, or arm;

(viii) Has a permanent impairment of both eyes so that:

1. The central visual acuity is 20/200 or less in the better eye, with corrective glasses; or

2. There is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye; or

(ix) Has a permanent disability that adversely impacts the ambulatory ability of the applicant and which is so severe that the person would endure a hardship or be subject to a risk of injury if the privileges accorded a person for whom a vehicle is specially registered under this section were denied.

(2) For the purposes of this section, the qualifying disabilities specified in paragraph (1) of this subsection shall be certified as follows:

(i) A licensed physician **OR CERTIFIED NURSE PRACTITIONER** may certify conditions specified in paragraph (1)(i) through (ix) of this subsection;

(ii) A licensed chiropractor or a licensed podiatrist may certify conditions specified in paragraph (1)(iii) through (vii) and (ix) of this subsection;

(iii) A licensed optometrist may certify the condition specified in paragraph (1)(viii) of this subsection; and

(iv) Notwithstanding any provision of paragraph (1) of this subsection, the applicant may self-certify conditions specified in paragraph (1)(vi) of this subsection by appearing in person with proper identification at a full-service Motor Vehicle Administration office during normal business hours.

(3) This section applies only to:

(i) A Class A (passenger) vehicle;

(ii) A Class D (motorcycle) vehicle;

(iii) A Class M (multipurpose) vehicle;

(iv) A Class E (truck) vehicle with a one ton or less manufacturer's rated capacity; or

(v) A Class H, I, or J vehicle that is specially equipped for the transportation of individuals with disabilities and is used exclusively for the transportation of individuals with disabilities.

(4) (i) Notwithstanding the provisions of paragraph (1) of this subsection, a nursing home, health care facility, adult day care facility, retirement home, or other facility that regularly provides transportation for individuals with disabilities may apply to the Administration for special disability registration for vehicles owned by the facility.

(ii) An application for special disability registration under this paragraph shall contain:

1. The certification of the owner or operator of the facility that the vehicle for which the registration is sought is used exclusively for the transportation of individuals with disabilities as described in paragraph (1) of this subsection; and

2. Any other information or documentation concerning the facility or the vehicle that the Administration requires.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 233

(House Bill 1140)

AN ACT concerning

### Nurse Practitioners - Authority to Certify

FOR the purpose of ~~authorizing certain nurse practitioners to make a certain determination of incapacity or debilitation under certain circumstances; requiring a certain nurse practitioner to provide a copy of a certain determination to a certain standby guardian;~~ authorizing certain nurse practitioners to certify that a certain minor is pregnant or has given birth under certain circumstances; authorizing certain nurse practitioners or certain nurse midwives to provide certain information about the birth of a child for purposes of filing a birth certificate; authorizing certain nurse practitioners to complete and sign a certain death certificate under certain circumstances; requiring certain nurse practitioners who complete a certain death certificate to give or transmit the certificate to a certain mortician within a certain period of time; authorizing certain nurse practitioners to serve as a witness to a certain advance directive under certain circumstances; authorizing certain nurse practitioners to issue a certain oral emergency medical services "do not resuscitate order" under certain circumstances; ~~authorizing certain nurse practitioners to conduct a certain examination for purposes of a certain involuntary admission;~~ requiring the Department of Health and Mental Hygiene to pay for a certain examination conducted by a certain nurse

practitioner; authorizing certain nurse practitioners to conduct certain educational training programs for applicants for certification for the Insect Sting Emergency Treatment Program; authorizing certain nurse practitioners to certify that certain applicants for assignment of a certain special disability registration number or plates to a certain vehicle have certain conditions; defining certain terms; and generally relating to the certifying authority of nurse practitioners.

~~BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 13-906  
Annotated Code of Maryland  
(2001 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 2-301  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 4-208(a), 4-212, 5-601(h) and (o) through (q), 5-602(c) ~~through (e)~~ and  
(d), 5-608(c), ~~10-616(a)~~, 10-628, and 13-704  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article – Health – General  
Section 5-601(a), 5-602(a) and (e), and 13-701  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY adding to  
Article – Health – General  
Section 5-601(o)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 13-616(a) and (b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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

~~Article – Estates and Trusts~~

~~13-906.~~

~~(a) (1) A determination of incapacity or debilitation under this subtitle shall:~~

~~(i) Be made by the attending physician OR NURSE PRACTITIONER to a reasonable degree of medical certainty;~~

~~(ii) Be in writing; and~~

~~(iii) Contain the attending physician's OR NURSE PRACTITIONER'S opinion regarding the cause and nature of the parent's incapacity or debilitation, and the extent and probable duration of the incapacity or debilitation.~~

~~(2) If a standby guardian's identity is known to an attending physician OR NURSE PRACTITIONER, the attending physician OR NURSE PRACTITIONER shall provide a copy of a determination of incapacity or debilitation to the standby guardian.~~

~~(b) If requested by a standby guardian, an attending physician OR NURSE PRACTITIONER shall make a determination regarding the parent's incapacity or debilitation for purposes of this subtitle.~~

~~(c) If the parent is able to comprehend the information, a standby guardian shall inform the parent of:~~

~~(1) The beginning of the standby guardian's authority as a result of a determination of incapacity; and~~

~~(2) The parent's right to revoke the authority promptly after receipt of the determination of incapacity.~~

Article – Family Law

2-301.

(a) An individual 16 or 17 years old may not marry unless:

(1) the individual has the consent of a parent or guardian and the parent or guardian swears that the individual is at least 16 years old; or



(2) if the individual does not have the consent of a parent or guardian, either party to be married gives the clerk a certificate from a licensed physician **OR CERTIFIED NURSE PRACTITIONER** stating that the physician **OR NURSE PRACTITIONER** has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(b) An individual 15 years old may not marry unless:

(1) the individual has the consent of a parent or guardian; and

(2) either party to be married gives the clerk a certificate from a licensed physician **OR CERTIFIED NURSE PRACTITIONER** stating that the physician **OR NURSE PRACTITIONER** has examined the woman to be married and has found that she is pregnant or has given birth to a child.

(c) An individual under the age of 15 may not marry.

#### **Article - Health - General**

4-208.

(a) (1) Within 72 hours after a birth occurs in an institution, or en route to the institution, the administrative head of the institution or a designee of the administrative head shall:

(i) Prepare, on the form that the Secretary provides, a certificate of birth;

(ii) Secure each signature that is required on the certificate; and

(iii) File the certificate.

(2) The attending physician, **NURSE PRACTITIONER, OR NURSE MIDWIFE** shall provide the date of birth and medical information that are required on the certificate within 72 hours after the birth.

4-212.

(a) This section does not apply to a fetal death.

(b) (1) A certificate of death regardless of age of decedent shall be filled out and signed by:

(i) The medical examiner, if the medical examiner takes charge of the body; or

(ii) If the medical examiner does not take charge of the body, the physician **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** who last attended the deceased.

(2) The medical examiner [or], physician, **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** shall fill in only the following information on the certificate of death:

(i) The name of the deceased.

(ii) The cause of death and medical certification.

(iii) The date and hour of death.

(iv) The place where death occurred.

(3) Any other information that is required on the certificate of death regardless of age of decedent shall be filled in:

(i) By the person who has charge of the body; or

(ii) If the State Anatomy Board has charge of the body, by the person who last had charge of the body before it was sent to the State Anatomy Board.

(4) The medical certification shall be completed within 24 hours after receipt of the death certificate by the physician **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by the medical examiner.

(5) In the absence or inability of the attending physician **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER** or with the attending physician's **OR PHYSICIAN'S COLLABORATING NURSE PRACTITIONER'S** approval, the certificate may be completed by:

(i) The attending physician's ~~**OR NURSE PRACTITIONER'S**~~ associate;

(ii) The chief medical officer or designee of the institution in which death occurred; or

(iii) The physician who performed an autopsy upon the decedent, provided the individual has access to the medical history of the case and death is due to natural causes.

(6) The person completing the cause of death and medical certification shall attest to the accuracy by signature or by an approved electronic process.

(7) The funeral director or person acting as the funeral director shall in all cases obtain the medical certification from the person responsible for its completion or obtain assurance that the medical certification has been provided to the Secretary by an approved electronic process.

(c) Each individual concerned with carrying out this subtitle promptly shall notify the medical examiner if:

(1) The deceased was not under treatment by a physician during the terminal illness;

(2) The cause of death is unknown; or

(3) The individual considers any of the following conditions to be the cause of death or to have contributed to the death:

(i) An accident, including a fall with a fracture or other injury.

(ii) Homicide.

(iii) Suicide.

(iv) Other external manner of death.

(v) Alcoholism.

(vi) Criminal or suspected criminal abortion.

(d) (1) If, within 24 hours after taking charge of a body, the medical examiner has not determined the cause of death, the medical examiner shall enter "investigation pending" in the cause of death section of the death certificate.

(2) As soon as the medical examiner determines the cause of death, the medical examiner shall send to the Secretary a report of the cause of death, for entry on the certificate.

(e) (1) A physician ~~OR A~~ PHYSICIAN'S COLLABORATING NURSE PRACTITIONER who fills out a certificate of death shall give it or transmit it by

approved electronic media, including facsimile, to the mortician within 24 hours after the death occurred.

(2) A medical examiner who fills out a certificate of death shall give it or transmit it by approved electronic media, including facsimile, to the mortician within 24 hours after the medical examiner took charge of the body.

(f) (1) If a death occurs on a common carrier in the United States and the body is removed from the carrier in this State, the death shall be registered in this State, and the place where it is first removed shall be considered the place of death. When a death occurs on a common carrier while in international waters or air space or in a foreign country or its air space and the body is first removed from the carrier in this State, the death shall be registered in this State, but the certificate shall show the actual place of death insofar as can be determined.

(2) The individual in charge or the owner of the common carrier or a designee shall file a certificate of death within 24 hours after the body is removed from the carrier.

(3) If the death occurred under any of the conditions or circumstances set forth in subsection (c) of this section, the medical examiner shall be notified.

(g) A mortician who obtains a certificate of death under this section shall file the certificate within 72 hours after the death.

(h) (1) Except as authorized under this subtitle, an individual who has a duty to fill out and sign a certificate of death may not execute more than one certificate for a death.

(2) The attending physician, **THE PHYSICIAN'S COLLABORATING NURSE PRACTITIONER**, or a medical examiner who takes charge of a body may file a replacement death certificate if a correction that the physician, **THE PHYSICIAN'S COLLABORATING NURSE PRACTITIONER**, or medical examiner authorizes cannot be entered legibly on the original certificate.

5-601.

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

(h) "Emergency medical services 'do not resuscitate order'" means a physician's **OR NURSE PRACTITIONER'S** written order in a form established by protocol issued by the Maryland Institute for Emergency Medical Services in conjunction with the State Board of Physicians which, in the event of a cardiac or respiratory arrest of a particular patient, authorizes certified or licensed emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation

including cardiac compression, endotracheal intubation, other advanced airway management techniques, artificial ventilation, defibrillation, and other related life-sustaining procedures.

**(O) “NURSE PRACTITIONER” MEANS AN INDIVIDUAL LICENSED TO PRACTICE REGISTERED NURSING IN THE STATE AND WHO IS CERTIFIED AS A NURSE PRACTITIONER JOINTLY BY THE STATE BOARD OF NURSING AND THE STATE BOARD OF PHYSICIANS UNDER TITLE 8 AND TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE.**

**[(o)] (P)** “Persistent vegetative state” means a condition caused by injury, disease, or illness:

(1) In which a patient has suffered a loss of consciousness, exhibiting no behavioral evidence of self-awareness or awareness of surroundings in a learned manner other than reflex activity of muscles and nerves for low level conditioned response; and

(2) From which, after the passage of a medically appropriate period of time, it can be determined, to a reasonable degree of medical certainty, that there can be no recovery.

**[(p)] (Q)** “Physician” means a person licensed to practice medicine in the State or in the jurisdiction where the treatment is to be rendered or withheld.

**[(q)] (R)** “Terminal condition” means an incurable condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, makes death imminent and from which, despite the application of life-sustaining procedures, there can be no recovery.

5-602.

(a) Any competent individual may, at any time, make a written advance directive regarding the provision of health care to that individual, or the withholding or withdrawal of health care from that individual.

(c) (1) A written advance directive shall be dated, signed by or at the express direction of the declarant, and subscribed by two witnesses.

(2) (i) Except as provided in items (ii) and (iii) of this paragraph, any competent individual may serve as a witness to an advance directive, including an employee of a health care facility, **NURSE PRACTITIONER**, or physician caring for the declarant if acting in good faith.

(ii) The health care agent of the declarant may not serve as a witness.

(iii) At least one of the witnesses must be an individual who is not knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any financial benefit by reason of the death of the declarant.

(d) (1) Any competent individual may make an oral advance directive to authorize the providing, withholding, or withdrawing of any life-sustaining procedure or to appoint an agent to make health care decisions for the individual.

(2) An oral advance directive shall have the same effect as a written advance directive if made in the presence of the attending physician **OR NURSE PRACTITIONER** and one witness and if the substance of the oral advance directive is documented as part of the individual's medical record. The documentation shall be dated and signed by the attending physician **OR NURSE PRACTITIONER** and the witness.

(e) (1) Unless otherwise provided in the document, an advance directive shall become effective when the declarant's attending physician ~~OR NURSE PRACTITIONER~~ and a second physician ~~OR NURSE PRACTITIONER~~ certify in writing that the patient is incapable of making an informed decision.

(2) If a patient is unconscious, or unable to communicate by any means, the certification of a second physician ~~OR NURSE PRACTITIONER~~ is not required under paragraph (1) of this subsection.

5-608.

(c) This section does not authorize emergency medical services personnel in the outpatient setting to follow an emergency medical services "do not resuscitate order" that is in any form other than:

(1) An emergency medical services "do not resuscitate order" described in subsection (a) of this section;

(2) An oral emergency medical services "do not resuscitate order" provided by an on-line, emergency medical services medical command and control physician; or

(3) An oral emergency medical services "do not resuscitate order" provided by a physician, as defined in § 5-601 of this subtitle, **OR A NURSE PRACTITIONER, AS DEFINED IN § 5-601 OF THIS SUBTITLE**, who is physically present on the scene with the patient and the emergency medical services personnel in the outpatient setting.

~~10-616.~~

~~(a) (1) A certificate for involuntary admission of an individual under Part III of this subtitle shall:~~

~~(i) Be based on the personal examination of the physician [or] psychologist, OR NURSE PRACTITIONER who signs the certificate; and~~

~~(ii) Be in the form that the Secretary adopts, by rule or regulation.~~

~~(2) The rules and regulations shall require the form to include:~~

~~(i) A diagnosis of a mental disorder of the individual;~~

~~(ii) An opinion that the individual needs inpatient care or treatment; and~~

~~(iii) An opinion that admission to a facility or Veterans' Administration hospital is needed for the protection of the individual or another.~~

10-628.

(a) (1) If an emergency evaluatee cannot pay or does not have insurance that covers the charges for emergency services, an initial consultant examination by a physician **OR NURSE PRACTITIONER**, and transportation to an emergency facility and, for an involuntary admission of the emergency evaluatee, to the admitting facility, the Department shall pay the appropriate party the actual cost or a reasonable rate for this service, whichever is lower, except that hospitals shall be paid at rates approved by the Health Services Cost Review Commission.

(2) The reasonable rate for the services provided under an emergency petition shall be calculated by using a methodology established by regulation and reasonably related to the actual cost.

(b) With respect to emergency admissions, the Department shall be subrogated against any insurance coverage available to the patient for charges relating to emergency service, initial consultant examination by a physician **OR NURSE PRACTITIONER**, and transportation to an emergency facility under Part IV of this subtitle.

13-701.

The Insect Sting Emergency Treatment Program is a program in the Department for the purpose of providing a means of authorizing certain individuals to administer life-saving treatment to persons who have severe adverse reactions to insect stings when physician services or emergency medical services are not immediately available.

13-704.

(a) To qualify for a certificate, an individual shall meet the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) The applicant shall have, or reasonably expect to have, responsibility for at least one other person as a result of the individual's occupation or volunteer status.

(e) (1) The applicant shall successfully complete an educational training program approved by the Department.

(2) Educational training programs required under this subsection shall:

(i) **1.** Be conducted by a physician licensed to practice medicine in this State under Title 14 of the Health Occupations Article; [and] **OR**

**2. BE CONDUCTED BY A NURSE PRACTITIONER LICENSED TO PRACTICE REGISTERED NURSING IN THIS STATE UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE AND WHO IS CERTIFIED AS A NURSE PRACTITIONER JOINTLY BY THE STATE BOARD OF NURSING AND THE STATE BOARD OF PHYSICIANS; AND**

(ii) Include training in:

1. The recognition of the symptoms of systemic reactions to insect stings; and

2. The proper administration of a subcutaneous injection of epinephrine.

### Article - Transportation

13-616.



(a) (1) In this subtitle the following words have the meanings indicated.

(2) **“CERTIFIED NURSE PRACTITIONER” MEANS AN INDIVIDUAL WHO IS LICENSED BY THE STATE BOARD OF NURSING TO PRACTICE REGISTERED NURSING AS DESCRIBED IN § 8-101 OF THE HEALTH OCCUPATIONS ARTICLE AND WHO IS CERTIFIED AS A NURSE PRACTITIONER JOINTLY BY THE STATE BOARD OF NURSING AND THE STATE BOARD OF PHYSICIANS.**

[(2)] (3) “Licensed chiropractor” means a chiropractor who is licensed by the State Board of Chiropractic Examiners to practice chiropractic or chiropractic with the right to practice physical therapy as described in § 3-301 of the Health Occupations Article.

[(3)] (4) “Licensed optometrist” means an optometrist who is licensed by the State Board of Examiners in Optometry to practice optometry as described in § 11-101 of the Health Occupations Article.

[(4)] (5) “Licensed physician” means a physician, including a doctor of osteopathy, who is licensed by the State Board of Physicians to practice medicine as described in § 14-101 of the Health Occupations Article.

[(5)] (6) “Licensed podiatrist” means a podiatrist who is licensed by the State Board of Podiatric Medical Examiners to practice podiatry as described in § 16-101 of the Health Occupations Article.

(b) (1) The owner of any vehicle described in paragraph (3) of this subsection may apply to the Administration for the assignment to that vehicle of a special disability registration number and special disability registration plates, if a **CERTIFIED NURSE PRACTITIONER**, licensed physician, licensed chiropractor, licensed optometrist, or licensed podiatrist certifies, in accordance with paragraph (2) of this subsection, that the applicant:

(i) Has lung disease to such an extent that forced (respiratory) expiratory volume for one second when measured by spirometry is less than one liter, or arterial oxygen tension (PO<sub>2</sub>) is less than 60 mm/hg on room air at rest;

(ii) Has cardiovascular disease limitations classified in severity as Class III or Class IV according to standards accepted by the American Heart Association;

(iii) Is unable to walk 200 feet without stopping to rest;

(iv) Is unable to walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, or other assistive device;

- (v) Requires a wheelchair for mobility;
- (vi) Has lost a foot, leg, hand, or arm;
- (vii) Has lost the use of a foot, leg, hand, or arm;
- (viii) Has a permanent impairment of both eyes so that:

1. The central visual acuity is 20/200 or less in the better eye, with corrective glasses; or

2. There is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye; or

(ix) Has a permanent disability that adversely impacts the ambulatory ability of the applicant and which is so severe that the person would endure a hardship or be subject to a risk of injury if the privileges accorded a person for whom a vehicle is specially registered under this section were denied.

(2) For the purposes of this section, the qualifying disabilities specified in paragraph (1) of this subsection shall be certified as follows:

(i) A licensed physician **OR CERTIFIED NURSE PRACTITIONER** may certify conditions specified in paragraph (1)(i) through (ix) of this subsection;

(ii) A licensed chiropractor or a licensed podiatrist may certify conditions specified in paragraph (1)(iii) through (vii) and (ix) of this subsection;

(iii) A licensed optometrist may certify the condition specified in paragraph (1)(viii) of this subsection; and

(iv) Notwithstanding any provision of paragraph (1) of this subsection, the applicant may self-certify conditions specified in paragraph (1)(vi) of this subsection by appearing in person with proper identification at a full-service Motor Vehicle Administration office during normal business hours.

(3) This section applies only to:

- (i) A Class A (passenger) vehicle;
- (ii) A Class D (motorcycle) vehicle;

(iii) A Class M (multipurpose) vehicle;

(iv) A Class E (truck) vehicle with a one ton or less manufacturer's rated capacity; or

(v) A Class H, I, or J vehicle that is specially equipped for the transportation of individuals with disabilities and is used exclusively for the transportation of individuals with disabilities.

(4) (i) Notwithstanding the provisions of paragraph (1) of this subsection, a nursing home, health care facility, adult day care facility, retirement home, or other facility that regularly provides transportation for individuals with disabilities may apply to the Administration for special disability registration for vehicles owned by the facility.

(ii) An application for special disability registration under this paragraph shall contain:

1. The certification of the owner or operator of the facility that the vehicle for which the registration is sought is used exclusively for the transportation of individuals with disabilities as described in paragraph (1) of this subsection; and

2. Any other information or documentation concerning the facility or the vehicle that the Administration requires.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 234**

**(Senate Bill 900)**

AN ACT concerning

### **Exhibitors - Licensure - National Convention Exemption**

FOR the purpose of specifying that the exemption from the trader's license requirement imposed on exhibitors applies to exhibitors that provide the

promoter with an affidavit stating that the exhibitor has not participated in more than three shows, not including participation in a certain national show, in addition to the current annual income requirements; and generally relating to the licensure of exhibitors.

BY repealing and reenacting, without amendments,  
Article – Business Regulation  
Section 17–1801 and 17–1804(a)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 17–1804(d)(2)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

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

**Article – Business Regulation**

17–1801.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Blind Industries” means Blind Industries and Services of Maryland.
- (c) “Chain store license” means a license issued by the clerk to operate 2 or more stores under the same general management or ownership.
- (d) “Exhibitor” means a person who rents space from a promoter to display and sell goods at a show.
- (e) “Licensed trader” means a trader who is licensed by the clerk under this subtitle.
- (f) “Promoter” means a person who rents space at a show to an exhibitor.
- (g) “Show” includes an antique show, coin show, flea market, gun show, stamp show, and show of a temporary nature.

17–1804.

(a) Except as otherwise provided in this subtitle, a person must have a trader's license whenever the person:

- (1) does business as a trader in the State; or
- (2) does business as an exhibitor in the State.

(d) (2) An exhibitor need not get a trader's license for a show if the exhibitor gives to the promoter an exhibitor's affidavit stating that the exhibitor:

(i) receives less than 10% of the exhibitor's annual income from selling the kind of goods that the exhibitor will display and sell at the show; and

(ii) has not participated in more than 3 shows, **NOT INCLUDING PARTICIPATION IN ONE SHOW SPONSORED BY A NATIONAL ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE**, during the previous 365 days.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 235

(House Bill 1386)

AN ACT concerning

### Exhibitors - Licensure - National Convention Exemption

FOR the purpose of specifying that the exemption from the trader's license requirement imposed on exhibitors applies to exhibitors that provide the promoter with an affidavit stating that the exhibitor has not participated in more than three shows, not including participation in a certain national show, in addition to the current annual income requirements; and generally relating to the licensure of exhibitors.

BY repealing and reenacting, without amendments,  
 Article - Business Regulation  
 Section 17-1801 and 17-1804(a)

Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 17–1804(d)(2)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

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

**Article – Business Regulation**

17–1801.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Blind Industries” means Blind Industries and Services of Maryland.
- (c) “Chain store license” means a license issued by the clerk to operate 2 or more stores under the same general management or ownership.
- (d) “Exhibitor” means a person who rents space from a promoter to display and sell goods at a show.
- (e) “Licensed trader” means a trader who is licensed by the clerk under this subtitle.
- (f) “Promoter” means a person who rents space at a show to an exhibitor.
- (g) “Show” includes an antique show, coin show, flea market, gun show, stamp show, and show of a temporary nature.

17–1804.

- (a) Except as otherwise provided in this subtitle, a person must have a trader’s license whenever the person:
  - (1) does business as a trader in the State; or
  - (2) does business as an exhibitor in the State.
- (d) (2) An exhibitor need not get a trader’s license for a show if the exhibitor gives to the promoter an exhibitor’s affidavit stating that the exhibitor:

(i) receives less than 10% of the exhibitor's annual income from selling the kind of goods that the exhibitor will display and sell at the show; and

(ii) has not participated in more than 3 shows, **NOT INCLUDING PARTICIPATION IN ONE SHOW SPONSORED BY A NATIONAL ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE**, during the previous 365 days.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 236

(Senate Bill 903)

AN ACT concerning

### Traumatic Brain Injury Advisory Board – Sunset – Repeal

FOR the purpose of repealing the termination date of the Traumatic Brain Injury Advisory Board; and generally relating to the Traumatic Brain Injury Advisory Board.

BY repealing and reenacting, with amendments,  
Chapter 306 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 306 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005. [It shall remain effective for a period of 3 years and, at the end of September 30, 2008, 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 July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 237

(Senate Bill 909)

AN ACT concerning

### **Maryland Agricultural Land Preservation Foundation – Board of Trustees – Young Farmer**

FOR the purpose of expanding the membership of the board of trustees of the Maryland Agricultural Land Preservation Foundation to include a certain member appointed by the Governor from a certain list of nominees submitted by the Young Farmers Advisory Board; requiring nominees submitted by the Young Farmers Advisory Board to meet certain requirements; and generally relating to expanding the membership of the board of trustees of the Maryland Agricultural Land Preservation Foundation.

BY repealing and reenacting, with amendments,

Article – Agriculture  
Section 2–503  
Annotated Code of Maryland  
(2007 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Agriculture  
Section 2–1002(d)  
Annotated Code of Maryland  
(2007 Replacement Volume)

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

### **Article – Agriculture**

2–503.

(a) (1) The Maryland Agricultural Land Preservation Foundation shall be governed and administered by a board of trustees composed of the State Treasurer, who shall serve as an ex officio member, the Comptroller, who shall serve as an ex



officio member, the Secretary of Planning, who shall serve as an ex officio member, and the Secretary who shall serve as an ex officio member, and [eight] NINE members from the State at-large to be appointed by the Governor, at least [five] SIX of whom shall be farmer representatives from different areas of the State. The State Treasurer may appoint, as the Treasurer's designee, a deputy treasurer to serve on the board of trustees. The Secretary of Planning may appoint as the Secretary's designee an individual within the Department of Planning. All of the farmer representatives shall be actively engaged in or retired from active farming. [Three] FOUR of the [five] SIX farmer representatives shall be appointed as follows:

(i) One from a list of three nominees submitted by the Maryland Agricultural Commission;

(ii) One from a list of three nominees submitted by the Maryland Farm Bureau; [and]

(iii) One from a list of three nominees submitted by the Maryland State Grange; AND

**(IV) ONE FROM A LIST OF THREE NOMINEES SUBMITTED BY THE YOUNG FARMERS ADVISORY BOARD.**

**(2) NOMINEES UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION SHALL MEET THE REQUIREMENTS OF § ~~2-1002(C)~~ 2-1002(D) OF THIS TITLE.**

[(2)] (3) The Governor shall appoint the chairman of the board, from among the [eight] NINE at-large trustees. A majority of the members of the board serving at any one time constitutes a quorum for the transaction of business.

[(3)] (4) Notwithstanding the provisions of §§ 15-502 through 15-504 of the State Government Article, a person may be appointed to and serve on the board as an at-large member even if prior to the appointment the person sold an easement in the person's agricultural land to the Foundation.

(b) (1) The term of any trustee at-large serving on the board shall expire on July 1, 1977. The Governor then shall appoint trustees at-large for the following terms:

(i) Three for a term of four years;

(ii) Three for a term of three years; and

(iii) Three for a term of two years.

(2) In appointing members at-large to replace members whose terms expire on July 1, 1977, the Governor may appoint members serving as of July 1, 1977. Thereafter, successors to trustees at-large whose terms expire shall be appointed for terms of four years. Vacancies shall be filled for the unexpired term. A trustee at-large may not serve more than two successive terms. Appointment to fill a vacancy may not be considered as one of two terms.

(c) Trustees at-large shall take the oath of office as prescribed by law.

(d) Compensation may not be paid to any trustee. Each trustee shall be reimbursed for travel and other expenses incurred by him in the performance of his duties on behalf of the Foundation.

2-1002.

(d) Each member from the general public shall:

(1) Be interested in the preservation and development of agriculture and preservation of the agricultural way of life in Maryland;

(2) Be under the age of 45 years at the beginning of the member's term;

(3) Derive at least 50% of the member's personal income from farming or agricultural activities in the State; and

(4) Be a resident of the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 238**

**(Senate Bill 916)**

AN ACT concerning

**Maryland Trauma Physician Services Fund – Reimbursement and Grants**

FOR the purpose of requiring certain costs incurred by certain trauma centers to maintain certain surgeons on-call to be reimbursed from the Maryland Trauma Physicians Services Fund at a certain rate under certain circumstances; specifying the maximum number of hours per year that certain trauma centers are eligible for reimbursement; authorizing the Maryland Health Care Commission to establish a certain payment rate for uncompensated care incurred by certain trauma physicians that is above a certain rate under certain circumstances; ~~repealing~~ increasing a certain cap on reimbursements from the Fund to certain physicians; providing that expenditures from the Fund may not exceed revenues except under certain circumstances; requiring the Commission, in consultation with certain entities, to develop a certain process for the award of certain grants to Level II and III trauma centers in the State; requiring certain grants to be issued from a certain fund balance; requiring the Commission to report to certain committees of the General Assembly about a certain process for the award of certain grants; altering the amount for a certain grant to subsidize the stand-by costs for certain out-of-state pediatric trauma centers; defining a certain term; altering a certain definition; and generally relating to the Maryland Trauma Physician Services Fund.

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 19–130  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 484 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 – Health – General**

19–130.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Fund” means the Maryland Trauma Physician Services Fund.
- (3) “Maryland Trauma Specialty Referral Centers” means:
  - (i) The Johns Hopkins Health System Burn Program;

(ii) The Eye Trauma Center at the Wilmer Eye Institute at The Johns Hopkins Hospital; and

(iii) The Curtis National Hand Center at Union Memorial Hospital.

**(4) “REHABILITATION HOSPITAL” MEANS A FACILITY CLASSIFIED AS A SPECIAL REHABILITATION HOSPITAL AS DESCRIBED IN § 19-307 OF THIS TITLE THAT IS AFFILIATED WITH A TRAUMA CENTER BY COMMON OWNERSHIP.**

**[(4)] (5)** (i) “Trauma center” means a facility designated by the Maryland Institute for Emergency Medical Services Systems as:

1. The State primary adult resource center;
2. A Level I trauma center;
3. A Level II trauma center;
4. A Level III trauma center;
5. A pediatric trauma center; or
6. The Maryland Trauma Specialty Referral Centers.

(ii) “Trauma center” includes an out-of-state pediatric trauma center that has entered into an agreement with the Maryland Institute for Emergency Medical Services Systems.

**[(5)] (6)** “Trauma physician” means a physician who provides care in a trauma center **OR IN A REHABILITATION HOSPITAL** to trauma patients on the State trauma registry as defined by the Maryland Institute for Emergency Medical Services Systems.

**[(6)] (7)** “Uncompensated care” means care provided by a trauma physician to a trauma patient on the State trauma registry who:

- (i) Has no health insurance, including Medicare Part B coverage;
- (ii) Is not eligible for medical assistance coverage; and
- (iii) Has not paid the trauma physician for care provided by the trauma physician, after documented attempts by the trauma physician to collect payment.

- (b) (1) There is a Maryland Trauma Physician Services Fund.
- (2) The purpose of the Fund is to subsidize the documented costs:
- (i) Of uncompensated care incurred by a trauma physician in providing trauma care to a trauma patient on the State trauma registry;
  - (ii) Of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry;
  - (iii) Incurred by a trauma center to maintain trauma physicians on-call as required by the Maryland Institute for Emergency Medical Services Systems; and
  - (iv) Incurred by the Commission and the Health Services Cost Review Commission to administer the Fund and audit reimbursement requests to assure appropriate payments are made from the Fund.
- (3) The Commission and the Health Services Cost Review Commission shall administer the Fund.
- (4) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.
- (5) Interest on and other income from the Fund shall be separately accounted for and credited to the Fund, and are not subject to § 6-226(a) of the State Finance and Procurement Article.
- (c) The Fund consists of motor vehicle registration surcharges paid into the Fund in accordance with § 13-954(b)(2) of the Transportation Article.
- (d) (1) Disbursements from the Fund shall be made in accordance with a methodology established jointly by the Commission and the Health Services Cost Review Commission to calculate costs incurred by trauma physicians and trauma centers that are eligible to receive reimbursement under subsection (b) of this section.
- (2) The Fund shall transfer to the Department of Health and Mental Hygiene an amount sufficient to fully cover the State's share of expenditures for the costs of undercompensated care incurred by a trauma physician in providing trauma care to an enrollee of the Maryland Medical Assistance Program who is a trauma patient on the State trauma registry.

(3) The methodology developed under paragraph (1) of this subsection shall:

(i) Take into account:

1. The amount of uncompensated care provided by trauma physicians;

2. The amount of undercompensated care attributable to the treatment of Medicaid enrollees in trauma centers;

3. The cost of maintaining trauma physicians on-call;

4. The number of patients served by trauma physicians in trauma centers;

5. The number of Maryland residents served by trauma physicians in trauma centers; and

6. The extent to which trauma-related costs are otherwise subsidized by hospitals, the federal government, and other sources; and

(ii) Include an incentive to encourage hospitals to continue to subsidize trauma-related costs not otherwise included in hospital rates.

(4) The methodology developed under paragraph (1) of this subsection shall use the following parameters to determine the amount of reimbursement made to trauma physicians and trauma centers from the Fund:

(i) 1. The cost incurred by a Level II trauma center to maintain trauma surgeons, orthopedic surgeons, and neurosurgeons on-call shall be reimbursed:

A. At a rate of up to 30% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on-call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level II trauma centers;

2. The cost incurred by a Level III trauma center to maintain trauma surgeons, orthopedic surgeons, neurosurgeons, and anesthesiologists on-call shall be reimbursed:

A. At a rate of up to 35% of the reasonable cost equivalents hourly rate for the specialty, inflated to the current year by the physician compensation component of the Medicare economic index as designated by the Centers for Medicare and Medicaid Services; and

B. For the minimum number of trauma physicians required to be on-call, as specified by the Maryland Institute for Emergency Medical Services Systems in its criteria for Level III trauma centers; [and]

**3. THE COST INCURRED BY A LEVEL I TRAUMA CENTER OR PEDIATRIC TRAUMA CENTER TO MAINTAIN TRAUMA SURGEONS, ORTHOPEDIC SURGEONS, AND NEUROSURGEONS ON-CALL WHEN A POST-GRADUATE RESIDENT IS ATTENDING IN THE TRAUMA CENTER SHALL BE REIMBURSED:**

**A. AT A RATE OF UP TO 30% OF THE REASONABLE COST EQUIVALENTS HOURLY RATE FOR THE SPECIALTY, INFLATED TO THE CURRENT YEAR BY THE PHYSICIAN COMPENSATION COMPONENT OF THE MEDICARE ECONOMIC INDEX AS DESIGNATED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; AND**

**B. WHEN A POST-GRADUATE RESIDENT IS PERMITTED TO BE IN THE TRAUMA CENTER, AS SPECIFIED BY THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS IN ITS CRITERIA FOR LEVEL I TRAUMA CENTERS OR PEDIATRIC TRAUMA CENTERS;**

**4. THE COST INCURRED BY A MARYLAND TRAUMA SPECIALTY REFERRAL CENTER TO MAINTAIN TRAUMA SURGEONS ON-CALL IN THE SPECIALTY OF THE CENTER WHEN A POST-GRADUATE RESIDENT IS ATTENDING IN THE CENTER SHALL BE REIMBURSED:**

**A. AT A RATE OF UP TO 30% OF THE REASONABLE COST EQUIVALENTS HOURLY RATE FOR THE SPECIALTY, INFLATED TO THE CURRENT YEAR BY THE PHYSICIAN COMPENSATION COMPONENT OF THE MEDICARE ECONOMIC INDEX AS DESIGNATED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; AND**

**B. WHEN A POST-GRADUATE RESIDENT IS PERMITTED TO BE IN THE CENTER, AS SPECIFIED BY THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS IN ITS CRITERIA FOR A MARYLAND TRAUMA SPECIALTY REFERRAL CENTER; AND**

[3.] 5. A. A Level II trauma center is eligible for a maximum of 24,500 hours of trauma on-call per year; [and]

B. A Level III trauma center is eligible for a maximum of 35,040 hours of trauma on-call per year;

**C. A LEVEL I TRAUMA CENTER SHALL BE ELIGIBLE FOR A MAXIMUM OF 4,380 HOURS OF TRAUMA ON-CALL PER YEAR;**

**D. A PEDIATRIC TRAUMA CENTER SHALL BE ELIGIBLE FOR A MAXIMUM OF 4,380 HOURS OF TRAUMA ON-CALL PER YEAR; AND**

**E. A MARYLAND TRAUMA SPECIALTY REFERRAL CENTER SHALL BE ELIGIBLE FOR A MAXIMUM OF 2,190 HOURS OF TRAUMA ON-CALL PER YEAR;**

(ii) The cost of undercompensated care incurred by a trauma physician in providing trauma care to enrollees of the Maryland Medical Assistance Program who are trauma patients on the State trauma registry shall be reimbursed at a rate of up to 100% of the Medicare payment for the service, minus any amount paid by the Maryland Medical Assistance Program;

(iii) The cost of uncompensated care incurred by a trauma physician in providing trauma care to trauma patients on the State trauma registry shall be reimbursed at a rate of [up to] 100% of the Medicare payment for the service, minus any recoveries made by the trauma physician for the care; ~~and~~

(iv) [The total reimbursement to emergency physicians from the Fund may not exceed \$275,000 annually] **THE COMMISSION, IN CONSULTATION WITH THE HEALTH SERVICES COST REVIEW COMMISSION, MAY ESTABLISH A PAYMENT RATE FOR UNCOMPENSATED CARE INCURRED BY A TRAUMA PHYSICIAN IN PROVIDING TRAUMA CARE TO TRAUMA PATIENTS ON THE STATE TRAUMA REGISTRY THAT IS ABOVE 100% OF THE MEDICARE PAYMENT FOR THE SERVICE IF:**

**1. THE COMMISSION DETERMINES THAT INCREASING THE PAYMENT RATE ABOVE 100% OF THE MEDICARE PAYMENT FOR THE SERVICE WILL ADDRESS AN UNMET NEED IN THE STATE TRAUMA SYSTEM; AND**

**2. THE COMMISSION REPORTS ON ITS INTENTION TO INCREASE THE PAYMENT RATE TO THE SENATE FINANCE COMMITTEE AND THE**



**HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AT LEAST 60 DAYS BEFORE ANY ADJUSTMENT TO THE RATE; AND**

**(V) THE TOTAL REIMBURSEMENT TO EMERGENCY PHYSICIANS FROM THE FUND MAY NOT EXCEED \$300,000 ANNUALLY.**

(5) In order to receive reimbursement, a trauma physician in the case of costs of uncompensated care under subsection (b)(2)(i) of this section, or a trauma center in the case of on-call costs under subsection (b)(2)(iii) of this section, shall apply to the Fund on a form and in a manner approved by the Commission and the Health Services Cost Review Commission.

(6) (i) The Commission and the Health Services Cost Review Commission shall adopt regulations that specify the information that trauma physicians and trauma centers must submit to receive money from the Fund.

(ii) The information required shall include:

1. The name and federal tax identification number of the trauma physician rendering the service;
2. The date of the service;
3. Appropriate codes describing the service;
4. Any amount recovered for the service rendered;
5. The name of the trauma patient;
6. The patient's trauma registry number; and
7. Any other information the Commission and the Health Services Cost Review Commission consider necessary to disburse money from the Fund.

(iii) It is the intent of the General Assembly that trauma physicians and trauma centers shall cooperate with the Commission and the Health Services Cost Review Commission by providing information required under this paragraph in a timely and complete manner.

**(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EXPENDITURES FROM THE FUND FOR COSTS INCURRED IN ANY FISCAL YEAR MAY NOT EXCEED REVENUES OF THE FUND IN THAT FISCAL YEAR.**

**(2) (I) THE COMMISSION, IN CONSULTATION WITH THE HEALTH SERVICES COST REVIEW COMMISSION AND THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS, SHALL DEVELOP A PROCESS FOR THE AWARD OF GRANTS TO LEVEL II AND LEVEL III TRAUMA CENTERS IN THE STATE TO BE USED FOR EQUIPMENT PRIMARILY USED IN THE DELIVERY OF TRAUMA CARE.**

**(II) 1. THE COMMISSION SHALL ISSUE GRANTS UNDER THIS PARAGRAPH FROM ANY BALANCE CARRIED OVER TO THE FUND FROM PRIOR FISCAL YEARS.**

**2. THE TOTAL AMOUNT OF GRANTS AWARDED UNDER THIS PARAGRAPH IN A FISCAL YEAR MAY NOT EXCEED 10% OF THE BALANCE REMAINING IN THE FUND AT THE END OF THE FISCAL YEAR IMMEDIATELY PRIOR TO THE FISCAL YEAR IN WHICH GRANTS ARE AWARDED.**

**(III) THE PROCESS DEVELOPED BY THE COMMISSION FOR THE AWARD OF GRANTS UNDER THIS PARAGRAPH SHALL INCLUDE:**

**1. GRANT APPLICATIONS AND REVIEW AND SELECTION CRITERIA FOR THE AWARD OF GRANTS;**

**2. REVIEW BY THE COMMISSION, IF NECESSARY, FOR ANY PROJECT THAT EXCEEDS CERTIFICATE OF NEED THRESHOLDS; AND**

**3. ANY OTHER PROCEDURE DETERMINED NECESSARY BY THE COMMISSION.**

**(IV) BEFORE AWARDING GRANTS UNDER THIS SUBSECTION IN A FISCAL YEAR, THE COMMISSION 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 PROCESS THAT THE COMMISSION HAS DEVELOPED FOR AWARDING GRANTS IN THAT FISCAL YEAR.**

**[(e)] (F) On or before November 1 of each year, the Commission and the Health Services Cost Review Commission shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:**

**(1) The amount of money in the Fund on the last day of the previous fiscal year;**

- (2) The amount of money applied for by trauma physicians and trauma centers during the previous fiscal year;
- (3) The amount of money distributed in the form of trauma physician and trauma center reimbursements during the previous fiscal year;
- (4) Any recommendations for altering the manner in which trauma physicians and trauma centers are reimbursed from the Fund;
- (5) The costs incurred in administering the Fund during the previous fiscal year; and
- (6) The amount that each hospital that participates in the Maryland trauma system and that has a trauma center contributes toward the subsidization of trauma-related costs for its trauma center.

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

**Chapter 484 of the Acts of 2006**

SECTION 2. AND BE IT FURTHER ENACTED, That the Health Services Cost Review Commission shall develop guidelines for the approval of an annual grant from the Maryland Trauma Physician Services Fund under § 19-130 of the Health – General Article of up to [\$490,000] **\$590,000** to subsidize the stand-by costs for an out-of-state pediatric trauma center that has entered into an agreement with the Maryland Institute for Emergency Services Systems.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 239**

**(Senate Bill 920)**

AN ACT concerning

**Task Force to Study Statewide Gypsy Moth Infestation**

FOR the purpose of establishing a Task Force to Study Statewide Gypsy Moth Infestation; providing for the membership of the Task Force; providing that the Governor shall designate the chair of the Task Force; providing for the 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 to Study Statewide Gypsy Moth Infestation.

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

- (a) There is a Task Force to Study Statewide Gypsy Moth Infestation.
- (b) The Task Force consists of the following members:
  - (1) ~~two members~~ one member of the Senate of Maryland, appointed by the President of the Senate;
  - (2) ~~two members~~ one member of the House of Delegates, appointed by the Speaker of the House;
  - (3) one representative of the Department of Natural Resources Forest Service, appointed by the Secretary of Natural Resources, or the Secretary's designee;
  - (4) one representative of the Department of Agriculture, appointed by the Secretary of Agriculture, or the Secretary's designee;
  - (5) one representative from the Department of Budget and Management, appointed by the Governor;
  - (6) one representative from the Chesapeake Bay Foundation, designated by the Chesapeake Bay Foundation;
  - (7) one representative from the Maryland Association of Counties, designated by the Maryland Association of Counties; ~~and~~
  - (8) one representative from the Maryland Forests Association, designated by the Maryland Forests Association;
  - (9) one representative from the Maryland Arborist Association, designated by the Maryland Arborist Association;

(10) one representative from the Maryland Pesticide Network with medical credentials and expertise on the impact of pesticides on public health and the environment, designated by the Maryland Pesticide Network; and

(11) one representative from municipal government, designated by the Maryland Municipal League.

(c) The Governor shall designate the chair of the Task Force.

(d) The State agencies represented on the Task Force shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study the statewide infestation of gypsy moths; and

(2) make recommendations regarding the most effective practical, regulatory, and legislative means of combating the statewide infestation of gypsy moths.

(g) On or before August 31, 2009, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. It shall remain effective for a period of 1 year 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, 2008.**

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## CHAPTER 240

(Senate Bill 941)

AN ACT concerning

### Natural Resources - Somers Cove Marina Commission

FOR the purpose of establishing the Somers Cove Marina Commission; providing that the Commission is a body politic and corporate and an instrumentality of the State; ~~providing that the commission is not subject to State procurement law but is required to comply with the minority business enterprise requirements for certain purposes;~~ authorizing the Commission to take certain actions under certain circumstances; providing for the membership and terms of members of the Commission; prohibiting a member of the Commission from receiving certain compensation; authorizing a member to receive certain reimbursement; providing for the election of a chair, ~~vice chair, and secretary-treasurer~~ and vice-chair of the Commission; providing for the appointment of a secretary-treasurer; prohibiting a secretary-treasurer who is not a member of the Commission from voting on matters before the Commission; requiring the Commission to meet at certain intervals; requiring written notice to be given to each member of the Commission a certain period of time before each meeting; establishing certain quorum and voting requirements; authorizing the Secretary of Natural Resources to remove a member of the Commission upon a certain vote of members; providing for the selection and evaluation of an Executive Director; requiring the Secretary of Natural Resources to perform certain duties under certain circumstances; requiring the Executive Director to perform certain duties under certain circumstances; providing that the Marina Manager is an employee of the State who has certain responsibilities; authorizing the Executive Director to execute certain leases, ~~contracts, events, or concessions~~ and contracts under certain circumstances; providing that a lease entered into before the creation of the Commission shall stay in effect for a certain period of time; prohibiting the Executive Director from executing certain leases or contracts under certain circumstances; providing that certain leases and contracts executed by the Executive Director must be reviewed and approved by the Commission and the Office of the Attorney General; authorizing the Secretary of Natural Resources to approve certain matters; requiring the Secretary to respond in a certain manner to a certain request within a certain period of time; providing that certain staff are employees of the Commission; providing that the Executive Director is an employee of the State and serves at the pleasure of the Secretary; requiring the Executive Director to procure certain goods and services in accordance with certain requirements; requiring the Executive Director to adopt a certain procurement policy; requiring the Commission to perform certain duties under certain circumstances; authorizing the Commission to accept gifts, contributions, or loans of money, supplies, goods, and services; authorizing the Commission to accept appropriations, allotments, and loans of money from certain sources; altering provisions relating to the administration of the Somers Cove Improvement Fund; providing that any money obtained by the Commission from Somers Cove Marina shall be

credited to the Fund; providing that moneys in the Fund are not moneys of the State; providing that moneys of the Fund are subject to certain audits; providing that moneys pledged for use by the State for Somers Cove Marina before the creation of the Commission shall be used for a certain purpose; defining certain terms; requiring the Department and the Commission to begin conducting a certain evaluation on a certain date; requiring the Department and the Commission to report certain findings and recommendations on a certain date; providing that certain State employees may remain employed at Somers Cove as State employees under certain circumstances; requiring the Commission to reimburse the Department for certain salaries under certain circumstances; requiring the State to pay the Executive Director's salary without reimbursement from the Commission until a certain determination is made; providing for a delayed effective date; and generally relating to the Somers Cove Marina Commission.

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 5–908.1

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

**Article – Natural Resources**

5–908.1.

(a) (1) In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“COMMISSION” MEANS THE SOMERS COVE MARINA COMMISSION.**

(3) **“Fund” means the Somers Cove Marina Improvement Fund.**

(4) **“UNENCUMBERED” MEANS NOT PLEDGED FOR USE BY THE STATE FOR SOMERS COVE MARINA BEFORE THE CREATION OF THE COMMISSION.**

(b) (1) (i) **THERE IS A SOMERS COVE MARINA COMMISSION.**

(ii) **THE COMMISSION IS A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF THE STATE.**

~~(III) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE COMMISSION:~~

~~1. IS NOT SUBJECT TO STATE PROCUREMENT LAW;~~  
AND

~~2. MAY CONSTRUCT DEVELOPMENTS AND PROJECTS WITHOUT OBTAINING THE CONSENT OF ANY OTHER UNIT OF STATE GOVERNMENT AND WITHOUT ANY PROCEEDING, THE SATISFACTION OF ANY CONDITION, OR THE OCCURRENCE OF ANY EVENT.~~

~~(2) IN CARRYING OUT ITS DUTIES RELATING TO DEVELOPMENTS AND PROJECTS, THE COMMISSION SHALL COMPLY WITH TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE (MINORITY BUSINESS PARTICIPATION).~~

~~(3)~~ (2) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(I) TWO MEMBERS FROM SOMERSET COUNTY, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS OF SOMERSET COUNTY, ONE OF WHOM SHALL BE A MEMBER OF THE SOMERSET COUNTY BUSINESS COMMUNITY;

(II) TWO MEMBERS FROM THE CITY OF CRISFIELD, APPOINTED BY THE MAYOR OF CRISFIELD, ONE OF WHOM SHALL BE A MEMBER OF THE SOMERSET COUNTY BUSINESS COMMUNITY; AND

(III) THREE MEMBERS APPOINTED BY THE SECRETARY, ONE OF WHOM SHALL BE A CURRENT SLIP HOLDER AT SOMERS COVE MARINA.

~~(4)~~ (3) (I) THE TERM OF A MEMBER IS 4 YEARS.

(II) A MEMBER MAY NOT SERVE MORE THAN 2 CONSECUTIVE TERMS.

(III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(IV) 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)~~ (4) A MEMBER IS NOT ENTITLED TO COMPENSATION EXCEPT FOR REIMBURSEMENT FOR EXPENSES AS PROVIDED IN THE BUDGET OF THE COMMISSION.

~~(6)~~ (5) (I) THE COMMISSION SHALL ELECT A CHAIR AND A VICE CHAIR OF THE COMMISSION FROM AMONG ITS MEMBERS.

(II) THE COMMISSION SHALL ~~ELECT~~ APPOINT A SECRETARY-TREASURER WHO NEED NOT BE A MEMBER OF THE COMMISSION.

(III) A SECRETARY-TREASURER WHO IS NOT A MEMBER OF THE COMMISSION MAY NOT VOTE ON MATTERS BEFORE THE COMMISSION.

~~(7)~~ (6) (I) THE COMMISSION SHALL MEET AT LEAST EVERY 2 MONTHS, AS DETERMINED BY THE CHAIR.

(II) AT LEAST 10 DAYS BEFORE EACH MEETING, WRITTEN NOTICE SHALL BE GIVEN TO EACH MEMBER OF THE COMMISSION.

~~(8)~~ (7) FIVE MEMBERS OF THE COMMISSION ARE A QUORUM.

~~(9)~~ (8) A MAJORITY VOTE OF THE MEMBERS PRESENT AT A MEETING HAVING A QUORUM IS NEEDED FOR THE COMMISSION TO ACT.

~~(10)~~ (9) (I) THE SECRETARY MAY REMOVE A MEMBER OF THE COMMISSION FOR ANY REASON UPON A MAJORITY VOTE OF THE MEMBERS OF THE COMMISSION.

(II) IF A MEMBER IS REMOVED, A NEW MEMBER SHALL PROMPTLY BE APPOINTED BY THE INDIVIDUAL OR BODY THAT APPOINTED THE REMOVED MEMBER.

~~(11)~~ ~~(A)~~ (C) (1) THE SECRETARY SHALL:

~~1.~~ (I) ~~NOMINATE~~ APPOINT AN EXECUTIVE DIRECTOR ~~TO THE COMMISSION FOR APPROVAL; AND~~

~~2.~~;

(II) CONSULT WITH THE COMMISSION IN CONDUCTING THE ANNUAL PERFORMANCE EVALUATION OF THE EXECUTIVE DIRECTOR; AND

(III) REVIEW AND MAKE DETERMINATIONS ON REQUESTS FOR APPROVAL OF LEASES AND CONTRACTS SUBMITTED TO THE SECRETARY BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

~~(II)~~ (2) THE EXECUTIVE DIRECTOR:

~~1.~~ (I) SHALL ADMINISTER THE FUND;

~~2.~~ (II) ON OR BEFORE MAY 1 OF EACH YEAR, AND AFTER CONSULTING WITH THE COMMISSION, SHALL PREPARE OPERATING AND CAPITAL BUDGETS FOR THE SUBSEQUENT FISCAL YEAR AND SUBMIT THE BUDGETS TO THE COMMISSION FOR REVIEW AND APPROVAL;

~~3.~~ (III) SHALL SUPERVISE THE MARINA MANAGER,  
~~WHO SHALL:~~

~~A. BE AN EMPLOYEE OF THE STATE; AND~~

~~B. WILL BE RESPONSIBLE FOR DAY TO DAY OPERATIONS OF THE MARINA;~~

~~4. MUST BE FAMILIAR WITH AND FOLLOW STANDARD PROCUREMENT PROCEDURES FOR STATE AGENCIES;~~

~~5.~~ (IV) MAY EXECUTE LEASES, CONTRACTS, EVENTS, OR CONCESSIONS FOR LAND, BUILDINGS, OR FACILITIES OF LAND, BUILDINGS, OR FACILITIES AT SOMERS COVE MARINA AND EXECUTE CONTRACTS FOR EVENTS OR CONCESSIONS AT SOMERS COVE MARINA,  
~~PROVIDED THAT:~~

~~A. A LEASE OR CONTRACT EXECUTED BY THE EXECUTIVE DIRECTOR MAY NOT EXTEND LONGER THAN 5 YEARS AFTER THE CREATION OF THE COMMISSION;~~

~~B. THE LEASE OR CONTRACT EXECUTED BY THE EXECUTIVE DIRECTOR IS REVIEWED AND APPROVED BY THE COMMISSION, WITH AN ATTORNEY GENERAL FOR THE DEPARTMENT AVAILABLE FOR CONSULTATION; AND~~

~~C. A LEASE ENTERED INTO BEFORE THE CREATION OF THE COMMISSION SHALL STAY IN EFFECT;~~

~~6. MAY NOT EXECUTE A LEASE OR CONTRACT FOR IMPROVEMENTS AT THE MARINA FOR NONBOATING RELATED SERVICES OR GOODS WITHOUT THE APPROVAL OF THE SECRETARY, PROVIDED THAT THE SECRETARY SHALL RESPOND TO A REQUEST FOR APPROVAL WITHIN 30 DAYS AFTER RECEIPT IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION;~~

~~7. (V) SUBJECT TO THE APPROVAL OF THE SECRETARY, AND IN COOPERATION WITH THE COMMISSION, SHALL DEVELOP AN ANNUAL MASTER PLAN FOR THE OPERATIONS, MAINTENANCE, DEVELOPMENT, AND IMPROVEMENT OF SOMERS COVE MARINA THAT IMPROVES SERVICES TO THE GENERAL BOATING PUBLIC;~~

~~8. (VI) SHALL ADMINISTER, IN COOPERATION WITH THE COMMISSION, ALL UNENCUMBERED GRANTS;~~

~~9. A. (VII) 1. SHALL EMPLOY A STAFF TO OPERATE AND MAINTAIN SOMERS COVE MARINA, AND SET THE STAFF'S COMPENSATION; AND~~

~~B. 2. SHALL, EXCEPT FOR THE MARINA MANAGER, EMPLOY STAFF AS EMPLOYEES OF THE COMMISSION; AND~~

~~10. (VIII) BE SHALL BE AN EMPLOYEE OF THE STATE AND SERVE AT THE PLEASURE OF THE SECRETARY.~~

(3) (I) THE MARINA MANAGER SHALL BE AN EMPLOYEE OF THE STATE.

(II) THE MARINA MANAGER IS RESPONSIBLE FOR THE DAY-TO-DAY OPERATIONS OF THE MARINA.

(D) (1) A LEASE OF LAND, A BUILDING, OR OTHER FACILITY AT THE SOMERS COVE MARINA OR A CONTRACT FOR AN EVENT OR CONCESSION AT THE SOMERS COVE MARINA SHALL CONFORM TO THE ANNUAL MASTER PLAN APPROVED UNDER SUBSECTION (C)(2)(V) OF THIS SECTION.

(2) A LEASE OF LAND, A BUILDING, OR A FACILITY OR A CONTRACT FOR AN EVENT OR CONCESSION THAT IS EXECUTED BY THE EXECUTIVE DIRECTOR:

(I) MAY NOT BE FOR A TERM OF MORE THAN 5 YEARS OR BE RENEWED FOR MORE THAN AN ADDITIONAL 5 YEARS; AND

(II) SHALL BE REVIEWED AND APPROVED BY THE COMMISSION AND OFFICE OF THE ATTORNEY GENERAL.

(3) A LEASE ENTERED INTO BEFORE THE CREATION OF THE COMMISSION SHALL REMAIN IN EFFECT FOR THE DURATION OF THE TERM OF THE LEASE.

(4) (I) THE EXECUTIVE DIRECTOR MAY NOT EXECUTE A LEASE OR CONTRACT FOR NONBOATING RELATED IMPROVEMENTS OR GOODS AT THE MARINA WITHOUT THE APPROVAL OF THE SECRETARY.

(II) WITHIN 30 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A LEASE OR CONTRACT, THE SECRETARY SHALL PROVIDE THE EXECUTIVE DIRECTOR WITH AN INITIAL RESPONSE THAT MAY INCLUDE A PROCESS OR PLAN OF ACTION FOR ADDRESSING THE MERITS OF THE REQUEST.

(E) (1) THE EXECUTIVE DIRECTOR SHALL PROCURE GOODS AND SERVICES IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION.

(2) FOR GOODS AND SERVICES WITH AN EXPECTED VALUE OF \$1,000 TO \$5,000, THE EXECUTIVE DIRECTOR SHALL:

(I) MAKE A WRITTEN OR TELEPHONE REQUEST FOR BIDS;

(II) EVALUATE THE BIDS; AND

(III) AWARD THE CONTRACT TO THE RESPONSIBLE BIDDER THAT SUBMITS THE RESPONSIVE BID THAT IS THE LOWEST BID PRICE.

(3) FOR GOODS AND SERVICES WITH AN EXPECTED VALUE OF MORE THAN \$5,000, THE EXECUTIVE DIRECTOR SHALL:

(I) ADVERTISE THE SOLICITATION IN A LOCAL NEWSPAPER AND ON THE SOMERSET COUNTY WEBSITE;

(II) ISSUE INVITATIONS FOR BIDS TO ALL KNOWN PROSPECTIVE VENDORS;

(III) TABULATE AND EVALUATE THE BIDS;

(IV) SELECT FOR AWARD THE RESPONSIBLE BIDDER WHO SUBMITS THE RESPONSIVE BID THAT IS THE LOWEST BID PRICE; AND

(V) SUBMIT THE PROPOSED AWARD TO THE COMMISSION FOR REVIEW AND APPROVAL.

(4) THE EXECUTIVE DIRECTOR SHALL ADOPT A PROCUREMENT POLICY THAT INCLUDES PROVISIONS FOR MINORITY AND WOMEN-OWNED BUSINESS PARTICIPATION.

~~(E)~~ (F) (1) THE COMMISSION SHALL:

(I) ADOPT AN OPERATING BUDGET TO USE THE FUND TO IMPLEMENT THE MASTER PLAN;

(II) ADOPT A CAPITAL BUDGET THAT MAY USE FUNDS FROM SOMERSET COUNTY, THE CITY OF CRISFIELD, THE STATE, AND OTHER SOURCES TO IMPLEMENT THE MASTER PLAN;

(III) 1. APPLY FOR GRANTS FROM THE WATERWAY IMPROVEMENT FUND IN ACCORDANCE WITH TITLE 8, SUBTITLE 7 OF THIS ARTICLE; AND

2. SUBJECT TO THE SECRETARY'S APPROVAL, RECEIVE APPROVED GRANT AMOUNTS AT THE TIME OF ACCEPTANCE OF A BID OR BIDS FOR WATERWAY IMPROVEMENT WORK;

(IV) ASSESS SLIP AND OTHER FEES AND CHARGES AT SOMERS COVE MARINA AS NECESSARY IN ORDER TO IMPLEMENT THE MASTER PLAN;

(V) SET POLICY AND PROVIDE GENERAL OVERSIGHT OF MARINA OPERATIONS; AND

(VI) ADOPT RULES AND REGULATION NECESSARY FOR THE CONDUCT OF ITS OWN AFFAIRS.

(2) THE COMMISSION MAY:

(I) ACCEPT GIFTS, CONTRIBUTIONS, OR LOANS OF MONEY, SUPPLIES, GOODS, AND SERVICES, AND ACCEPT APPROPRIATIONS, ALLOTMENTS, AND LOANS OF MONEY FROM:

1. THE STATE OR FEDERAL GOVERNMENT;

2. A FEDERAL CORPORATION;

**3. A UNIT OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT; OR**

**4. A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE;**

**(II) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND**

**(III) DO ALL THINGS NECESSARY ~~OR CONVENIENT~~ TO CARRY OUT THE MANDATES AND POWERS EXPRESSLY PROVIDED BY THIS SECTION.**

**[(b)] ~~(D)~~ (G)** There is a Somers Cove Marina Improvement Fund in the [Department] **COMMISSION**, to be used for the operation, maintenance, development, and improvement of the Somers Cove Marina facilities in Crisfield, Maryland.

**[(c)] ~~(E)~~ (H)** Any money obtained by the [Department] **COMMISSION** from Somers Cove Marina shall be credited to 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)** 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.

**(3)** Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.]

**~~(F)~~ (I) (1) THE COMMISSION SHALL:**

**(I) MAINTAIN THE FUND IN A BANK ACCOUNT SEPARATE FROM STATE FUNDS;**

**(II) TRANSFER ANY UNENCUMBERED MONEYS IN THE FUND RUN BY THE DEPARTMENT TO THE COMMISSION'S FUND; AND**

**(III) REIMBURSE THE STATE FOR THE SALARY OF THE MARINA MANAGER.**

**(2) MONEYS OF THE FUND ARE:**

(I) NOT MONEYS OF THE STATE WITHIN THE MEANING OF ARTICLE VI OF THE STATE CONSTITUTION; AND

(II) SUBJECT TO AUDIT BY THE STATE, INCLUDING THE DEPARTMENT AND THE LEGISLATIVE AUDITOR.

(3) MONEYS PLEDGED FOR USE BY THE STATE FOR SOMERS COVE MARINA BEFORE THE CREATION OF THE COMMISSION SHALL BE USED FOR THE SAME PURPOSE AS ORIGINALLY PLEDGED.

~~(G)~~ (J) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE COMMISSION SHALL PROVIDE TO THE DEPARTMENT AN ACCOUNTING OF REVENUES AND EXPENSES FROM SOMERS COVE MARINA FOR THE PREVIOUS FISCAL YEAR.

~~(H)~~ (K) (1) ON NOVEMBER 1, 2011, THE DEPARTMENT AND THE COMMISSION SHALL BEGIN TO EVALUATE THE COMMISSION'S WORK SO THAT THE DEPARTMENT AND THE COMMISSION MAY MAKE FINDINGS AND RECOMMENDATIONS CONCERNING THE COMMISSION'S ABILITY TO:

(I) OPERATE, MAINTAIN, DEVELOP, AND IMPROVE SOMERS COVE MARINA IN AN EFFECTIVE MANNER; AND

(II) AFFORD ~~AND~~ OR ASSUME THE COSTS OF OPERATING, MAINTAINING, DEVELOPING, AND IMPROVING SOMERS COVE MARINA, INCLUDING THE SALARIES OF:

1. THE EXECUTIVE DIRECTOR; AND

2. EMPLOYEES OF THE STATE WHO REMAIN WORKING AT SOMERS COVE MARINA.

(2) ON NOVEMBER 1, 2013, BASED ON THE EVALUATION UNDERTAKEN IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT AND THE COMMISSION SHALL REPORT THEIR FINDINGS AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The terms of the initial members of the Somers Cove Commission shall begin on January 1, 2009, and shall expire as follows:

(1) of the two members appointed by the Board of County Commissioners of Somerset County, one member on December 31, 2010, and one member on December 31, 2012;

(2) of the two members appointed by the Mayor of Crisfield, one member on December 31, 2010, and one member on December 31, 2012; and

(3) of the three members appointed by the Secretary, one member in 2010, one member in 2011, and one member in 2012.

(b) (1) A State employee, other than the Executive Director, who is in an appointed or full-time equivalent position or full-time contractual position, and who is employed at Somers Cove Marina on June 1, 2008, may remain employed as a State employee at the Marina subject to the authority of the Secretary under Title 1, Subtitle 1 of the Natural Resources Article and the provisions of the State Personnel Management System.

(2) ~~If the Department and the Commission determine that the Commission is financially able, the~~ The Somers Cove Marina Commission shall reimburse the Department of Natural Resources for the salary of the Executive Director and any other a State employee at the Marina who remains employed in accordance with subsection (b)(1) of this section.

(3) The State shall pay the Executive Director's salary without reimbursement from the Somers Cove Marina Commission until the Secretary of Natural Resources and the Somers Cove Marina Commission determine that the Commission is financially able to reimburse the State for the cost of the Executive Director's salary.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect November 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 241

(House Bill 1463)

AN ACT concerning

**Natural Resources - Somers Cove Marina Commission**



FOR the purpose of establishing the Somers Cove Marina Commission; providing that the Commission is a body politic and corporate and an instrumentality of the State; ~~providing that the commission is not subject to State procurement law but is required to comply with the minority business enterprise requirements for certain purposes;~~ authorizing the Commission to take certain actions under certain circumstances; providing for the membership and terms of members of the Commission; prohibiting a member of the Commission from receiving certain compensation; authorizing a member to receive certain reimbursement; providing for the election of a chair, ~~vice chair, and secretary-treasurer~~ and vice-chair of the Commission; providing for the appointment of a secretary-treasurer; prohibiting a secretary-treasurer who is not a member of the Commission from voting on matters before the Commission; requiring the Commission to meet at certain intervals; requiring written notice to be given to each member of the Commission a certain period of time before each meeting; establishing certain quorum and voting requirements; authorizing the Secretary of Natural Resources to remove a member of the Commission upon a certain vote of members; providing for the selection and evaluation of an Executive Director; requiring the Secretary of Natural Resources to perform certain duties under certain circumstances; requiring the Executive Director to perform certain duties under certain circumstances; providing that the Marina Manager is an employee of the State who has certain responsibilities; authorizing the Executive Director to execute certain leases, ~~contracts, events, or concessions~~ and contracts under certain circumstances; providing that a lease entered into before the creation of the Commission shall stay in effect for a certain period of time; prohibiting the Executive Director from executing certain leases or contracts under certain circumstances; providing that certain leases and contracts executed by the Executive Director must be reviewed and approved by the Commission and the Office of the Attorney General; authorizing the Secretary of Natural Resources to approve certain matters; requiring the Secretary to respond in a certain manner to a certain request within a certain period of time; providing that certain staff are employees of the Commission; providing that the Executive Director is an employee of the State and serves at the pleasure of the Secretary; requiring the Executive Director to procure certain goods and services in accordance with certain requirements; requiring the Executive Director to adopt a certain procurement policy; requiring the Commission to perform certain duties under certain circumstances; authorizing the Commission to accept gifts, contributions, or loans of money, supplies, goods, and services; authorizing the Commission to accept appropriations, allotments, and loans of money from certain sources; altering provisions relating to the administration of the Somers Cove Improvement Fund; providing that any money obtained by the Commission from Somers Cove Marina shall be credited to the Fund; providing that moneys in the Fund are not moneys of the State; providing that moneys of the Fund are subject to certain audits; providing that moneys pledged for use by the State for Somers Cove Marina before the creation of the Commission shall be used for a certain purpose;

defining certain terms; requiring the Department and the Commission to begin conducting a certain evaluation on a certain date; requiring the Department and the Commission to report certain findings and recommendations on a certain date; providing that certain State employees may remain employed at Somers Cove as State employees under certain circumstances; requiring the Commission to reimburse the Department for certain salaries under certain circumstances; requiring the State to pay the Executive Director's salary without reimbursement from the Commission until a certain determination is made; providing for a delayed effective date; and generally relating to the Somers Cove Marina Commission.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 5–908.1  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article – Natural Resources**

5–908.1.

(a) (1) In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“COMMISSION” MEANS THE SOMERS COVE MARINA COMMISSION.**

(3) **“Fund” means the Somers Cove Marina Improvement Fund.**

(4) **“UNENCUMBERED” MEANS NOT PLEDGED FOR USE BY THE STATE FOR SOMERS COVE MARINA BEFORE THE CREATION OF THE COMMISSION.**

(b) (1) (i) **THERE IS A SOMERS COVE MARINA COMMISSION.**

(ii) **THE COMMISSION IS A BODY POLITIC AND CORPORATE AND AN INSTRUMENTALITY OF THE STATE.**

~~(iii) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE COMMISSION:~~

~~1. IS NOT SUBJECT TO STATE PROCUREMENT LAW;~~  
AND

~~2. MAY CONSTRUCT DEVELOPMENTS AND PROJECTS WITHOUT OBTAINING THE CONSENT OF ANY OTHER UNIT OF STATE GOVERNMENT AND WITHOUT ANY PROCEEDING, THE SATISFACTION OF ANY CONDITION, OR THE OCCURRENCE OF ANY EVENT.~~

~~(2) IN CARRYING OUT ITS DUTIES RELATING TO DEVELOPMENTS AND PROJECTS, THE COMMISSION SHALL COMPLY WITH TITLE 14, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE (MINORITY BUSINESS PARTICIPATION).~~

~~(3)~~ (2) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(I) TWO MEMBERS FROM SOMERSET COUNTY, APPOINTED BY THE BOARD OF COUNTY COMMISSIONERS OF SOMERSET COUNTY, ONE OF WHOM SHALL BE A MEMBER OF THE SOMERSET COUNTY BUSINESS COMMUNITY;

(II) TWO MEMBERS FROM THE CITY OF CRISFIELD, APPOINTED BY THE MAYOR OF CRISFIELD, ONE OF WHOM SHALL BE A MEMBER OF THE SOMERSET COUNTY BUSINESS COMMUNITY; AND

(III) THREE MEMBERS APPOINTED BY THE SECRETARY, ONE OF WHOM SHALL BE A CURRENT SLIP HOLDER AT SOMERS COVE MARINA.

~~(4)~~ (3) (I) THE TERM OF A MEMBER IS 4 YEARS.

(II) A MEMBER MAY NOT SERVE MORE THAN 2 CONSECUTIVE TERMS.

(III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(IV) 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)~~ (4) A MEMBER IS NOT ENTITLED TO COMPENSATION EXCEPT FOR REIMBURSEMENT FOR EXPENSES AS PROVIDED IN THE BUDGET OF THE COMMISSION.

~~(6)~~ (5) (I) THE COMMISSION SHALL ELECT A CHAIR AND A VICE CHAIR OF THE COMMISSION FROM AMONG ITS MEMBERS.

(II) THE COMMISSION SHALL ~~ELECT~~ APPOINT A SECRETARY-TREASURER WHO NEED NOT BE A MEMBER OF THE COMMISSION.

(III) A SECRETARY-TREASURER WHO IS NOT A MEMBER OF THE COMMISSION MAY NOT VOTE ON MATTERS BEFORE THE COMMISSION.

~~(7)~~ (6) (I) THE COMMISSION SHALL MEET AT LEAST EVERY 2 MONTHS, AS DETERMINED BY THE CHAIR.

(II) AT LEAST 10 DAYS BEFORE EACH MEETING, WRITTEN NOTICE SHALL BE GIVEN TO EACH MEMBER OF THE COMMISSION.

~~(8)~~ (7) FIVE MEMBERS OF THE COMMISSION ARE A QUORUM.

~~(9)~~ (8) A MAJORITY VOTE OF THE MEMBERS PRESENT AT A MEETING HAVING A QUORUM IS NEEDED FOR THE COMMISSION TO ACT.

~~(10)~~ (9) (I) THE SECRETARY MAY REMOVE A MEMBER OF THE COMMISSION FOR ANY REASON UPON A MAJORITY VOTE OF THE MEMBERS OF THE COMMISSION.

(II) IF A MEMBER IS REMOVED, A NEW MEMBER SHALL PROMPTLY BE APPOINTED BY THE INDIVIDUAL OR BODY THAT APPOINTED THE REMOVED MEMBER.

~~(11)~~ ~~(A)~~ (C) (1) THE SECRETARY SHALL:

~~1. NOMINATE (I) APPOINT AN EXECUTIVE DIRECTOR TO THE COMMISSION FOR APPROVAL; AND~~

~~2.;~~

(II) CONSULT WITH THE COMMISSION IN CONDUCTING THE ANNUAL PERFORMANCE EVALUATION OF THE EXECUTIVE DIRECTOR; AND

(III) REVIEW AND MAKE DETERMINATIONS ON REQUESTS FOR APPROVAL OF LEASES AND CONTRACTS SUBMITTED TO THE SECRETARY BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

~~(H)~~ (2) THE EXECUTIVE DIRECTOR:~~1. (I) SHALL ADMINISTER THE FUND;~~~~2. (II) ON OR BEFORE MAY 1 OF EACH YEAR, AND AFTER CONSULTING WITH THE COMMISSION, SHALL PREPARE OPERATING AND CAPITAL BUDGETS FOR THE SUBSEQUENT FISCAL YEAR AND SUBMIT THE BUDGETS TO THE COMMISSION FOR REVIEW AND APPROVAL;~~~~3. (III) SHALL SUPERVISE THE MARINA MANAGER, WHO SHALL:~~~~A. BE AN EMPLOYEE OF THE STATE; AND~~~~B. WILL BE RESPONSIBLE FOR DAY TO DAY OPERATIONS OF THE MARINA;~~~~4. MUST BE FAMILIAR WITH AND FOLLOW STANDARD PROCUREMENT PROCEDURES FOR STATE AGENCIES;~~~~5. (IV) MAY EXECUTE LEASES, CONTRACTS, EVENTS, OR CONCESSIONS FOR LAND, BUILDINGS, OR FACILITIES OF LAND, BUILDINGS, OR FACILITIES AT SOMERS COVE MARINA AND EXECUTE CONTRACTS FOR EVENTS OR CONCESSIONS AT SOMERS COVE MARINA, PROVIDED THAT:~~~~A. A LEASE OR CONTRACT EXECUTED BY THE EXECUTIVE DIRECTOR MAY NOT EXTEND LONGER THAN 5 YEARS AFTER THE CREATION OF THE COMMISSION;~~~~B. THE LEASE OR CONTRACT EXECUTED BY THE EXECUTIVE DIRECTOR IS REVIEWED AND APPROVED BY THE COMMISSION, WITH AN ATTORNEY GENERAL FOR THE DEPARTMENT AVAILABLE FOR CONSULTATION; AND~~~~C. A LEASE ENTERED INTO BEFORE THE CREATION OF THE COMMISSION SHALL STAY IN EFFECT;~~~~6. MAY NOT EXECUTE A LEASE OR CONTRACT FOR IMPROVEMENTS AT THE MARINA FOR NONBOATING RELATED SERVICES OR GOODS WITHOUT THE APPROVAL OF THE SECRETARY, PROVIDED THAT THE SECRETARY SHALL RESPOND TO A REQUEST FOR APPROVAL WITHIN 30 DAYS AFTER RECEIPT IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION;~~

~~7.~~ (V) SUBJECT TO THE APPROVAL OF THE SECRETARY, AND IN COOPERATION WITH THE COMMISSION, SHALL DEVELOP AN ANNUAL MASTER PLAN FOR THE OPERATIONS, MAINTENANCE, DEVELOPMENT, AND IMPROVEMENT OF SOMERS COVE MARINA THAT IMPROVES SERVICES TO THE GENERAL BOATING PUBLIC;

~~8.~~ (VI) SHALL ADMINISTER, IN COOPERATION WITH THE COMMISSION, ALL UNENCUMBERED GRANTS;

~~9. A.~~ (VII) 1. SHALL EMPLOY A STAFF TO OPERATE AND MAINTAIN SOMERS COVE MARINA, AND SET THE STAFF'S COMPENSATION; AND

~~B.~~ 2. SHALL, EXCEPT FOR THE MARINA MANAGER, EMPLOY STAFF AS EMPLOYEES OF THE COMMISSION; AND

~~10.~~ (VIII) B. SHALL BE AN EMPLOYEE OF THE STATE AND SERVE AT THE PLEASURE OF THE SECRETARY.

(3) (I) THE MARINA MANAGER SHALL BE AN EMPLOYEE OF THE STATE.

(II) THE MARINA MANAGER IS RESPONSIBLE FOR THE DAY-TO-DAY OPERATIONS OF THE MARINA.

(D) (1) A LEASE OF LAND, A BUILDING, OR OTHER FACILITY AT THE SOMERS COVE MARINA OR A CONTRACT FOR AN EVENT OR CONCESSION AT THE SOMERS COVE MARINA SHALL CONFORM TO THE ANNUAL MASTER PLAN APPROVED UNDER SUBSECTION (C)(2)(V) OF THIS SECTION.

(2) A LEASE OF LAND, A BUILDING, OR A FACILITY OR A CONTRACT FOR AN EVENT OR CONCESSION THAT IS EXECUTED BY THE EXECUTIVE DIRECTOR:

(I) MAY NOT BE FOR A TERM OF MORE THAN 5 YEARS OR BE RENEWED FOR MORE THAN AN ADDITIONAL 5 YEARS; AND

(II) SHALL BE REVIEWED AND APPROVED BY THE COMMISSION AND OFFICE OF THE ATTORNEY GENERAL.

**(3) A LEASE ENTERED INTO BEFORE THE CREATION OF THE COMMISSION SHALL REMAIN IN EFFECT FOR THE DURATION OF THE TERM OF THE LEASE.**

**(4) (I) THE EXECUTIVE DIRECTOR MAY NOT EXECUTE A LEASE OR CONTRACT FOR NONBOATING RELATED IMPROVEMENTS OR GOODS AT THE MARINA WITHOUT THE APPROVAL OF THE SECRETARY.**

**(II) WITHIN 30 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A LEASE OR CONTRACT, THE SECRETARY SHALL PROVIDE THE EXECUTIVE DIRECTOR WITH AN INITIAL RESPONSE THAT MAY INCLUDE A PROCESS OR PLAN OF ACTION FOR ADDRESSING THE MERITS OF THE REQUEST.**

**(E) (1) THE EXECUTIVE DIRECTOR SHALL PROCURE GOODS AND SERVICES IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION.**

**(2) FOR GOODS AND SERVICES WITH AN EXPECTED VALUE OF \$1,000 TO \$5,000, THE EXECUTIVE DIRECTOR SHALL:**

**(I) MAKE A WRITTEN OR TELEPHONE REQUEST FOR BIDS;**

**(II) EVALUATE THE BIDS; AND**

**(III) AWARD THE CONTRACT TO THE RESPONSIBLE BIDDER THAT SUBMITS THE RESPONSIVE BID THAT IS THE LOWEST BID PRICE.**

**(3) FOR GOODS AND SERVICES WITH AN EXPECTED VALUE OF MORE THAN \$5,000, THE EXECUTIVE DIRECTOR SHALL:**

**(I) ADVERTISE THE SOLICITATION IN A LOCAL NEWSPAPER AND ON THE SOMERSET COUNTY WEBSITE;**

**(II) ISSUE INVITATIONS FOR BIDS TO ALL KNOWN PROSPECTIVE VENDORS;**

**(III) TABULATE AND EVALUATE THE BIDS;**

**(IV) SELECT FOR AWARD THE RESPONSIBLE BIDDER WHO SUBMITS THE RESPONSIVE BID THAT IS THE LOWEST BID PRICE; AND**

**(V) SUBMIT THE PROPOSED AWARD TO THE COMMISSION FOR REVIEW AND APPROVAL.**

**(4) THE EXECUTIVE DIRECTOR SHALL ADOPT A PROCUREMENT POLICY THAT INCLUDES PROVISIONS FOR MINORITY AND WOMEN-OWNED BUSINESS PARTICIPATION.**

**~~(e)~~ (f) (1) THE COMMISSION SHALL:**

**(i) ADOPT AN OPERATING BUDGET TO USE THE FUND TO IMPLEMENT THE MASTER PLAN;**

**(ii) ADOPT A CAPITAL BUDGET THAT MAY USE FUNDS FROM SOMERSET COUNTY, THE CITY OF CRISFIELD, THE STATE, AND OTHER SOURCES TO IMPLEMENT THE MASTER PLAN;**

**(iii) 1. APPLY FOR GRANTS FROM THE WATERWAY IMPROVEMENT FUND IN ACCORDANCE WITH TITLE 8, SUBTITLE 7 OF THIS ARTICLE; AND**

**2. SUBJECT TO THE SECRETARY'S APPROVAL, RECEIVE APPROVED GRANT AMOUNTS AT THE TIME OF ACCEPTANCE OF A BID OR BIDS FOR WATERWAY IMPROVEMENT WORK;**

**(iv) ASSESS SLIP AND OTHER FEES AND CHARGES AT SOMERS COVE MARINA AS NECESSARY IN ORDER TO IMPLEMENT THE MASTER PLAN;**

**(v) SET POLICY AND PROVIDE GENERAL OVERSIGHT OF MARINA OPERATIONS; AND**

**(vi) ADOPT RULES AND REGULATION NECESSARY FOR THE CONDUCT OF ITS OWN AFFAIRS.**

**(2) THE COMMISSION MAY:**

**(i) ACCEPT GIFTS, CONTRIBUTIONS, OR LOANS OF MONEY, SUPPLIES, GOODS, AND SERVICES, AND ACCEPT APPROPRIATIONS, ALLOTMENTS, AND LOANS OF MONEY FROM:**

**1. THE STATE OR FEDERAL GOVERNMENT;**

**2. A FEDERAL CORPORATION;**

**3. A UNIT OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT; OR**



**4. A POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THE STATE;**

**(II) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH STATE LAW; AND**

**(III) DO ALL THINGS NECESSARY ~~OR CONVENIENT~~ TO CARRY OUT THE MANDATES AND POWERS EXPRESSLY PROVIDED BY THIS SECTION.**

**[(b)] ~~(D)~~ (G)** There is a Somers Cove Marina Improvement Fund in the [Department] **COMMISSION**, to be used for the operation, maintenance, development, and improvement of the Somers Cove Marina facilities in Crisfield, Maryland.

**[(c)] ~~(E)~~ (H)** Any money obtained by the [Department] **COMMISSION** from Somers Cove Marina shall be credited to 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)** 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.

**(3)** Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.]

**~~(F)~~ (I) (1) THE COMMISSION SHALL:**

**(I) MAINTAIN THE FUND IN A BANK ACCOUNT SEPARATE FROM STATE FUNDS;**

**(II) TRANSFER ANY UNENCUMBERED MONEYS IN THE FUND RUN BY THE DEPARTMENT TO THE COMMISSION'S FUND; AND**

**(III) REIMBURSE THE STATE FOR THE SALARY OF THE MARINA MANAGER.**

**(2) MONEYS OF THE FUND ARE:**

**(I) NOT MONEYS OF THE STATE WITHIN THE MEANING OF ARTICLE VI OF THE STATE CONSTITUTION; AND**

(II) SUBJECT TO AUDIT BY THE STATE, INCLUDING THE DEPARTMENT AND THE LEGISLATIVE AUDITOR.

(3) MONEYS PLEDGED FOR USE BY THE STATE FOR SOMERS COVE MARINA BEFORE THE CREATION OF THE COMMISSION SHALL BE USED FOR THE SAME PURPOSE AS ORIGINALLY PLEDGED.

~~(G)~~ (J) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE COMMISSION SHALL PROVIDE TO THE DEPARTMENT AN ACCOUNTING OF REVENUES AND EXPENSES FROM SOMERS COVE MARINA FOR THE PREVIOUS FISCAL YEAR.

~~(H)~~ (K) (1) ON NOVEMBER 1, 2011, THE DEPARTMENT AND THE COMMISSION SHALL BEGIN TO EVALUATE THE COMMISSION'S WORK SO THAT THE DEPARTMENT AND THE COMMISSION MAY MAKE FINDINGS AND RECOMMENDATIONS CONCERNING THE COMMISSION'S ABILITY TO:

(I) OPERATE, MAINTAIN, DEVELOP, AND IMPROVE SOMERS COVE MARINA IN AN EFFECTIVE MANNER; AND

(II) AFFORD ~~AND~~ OR ASSUME THE COSTS OF OPERATING, MAINTAINING, DEVELOPING, AND IMPROVING SOMERS COVE MARINA, INCLUDING THE SALARIES OF:

1. THE EXECUTIVE DIRECTOR; AND
2. EMPLOYEES OF THE STATE WHO REMAIN WORKING AT SOMERS COVE MARINA.

(2) ON NOVEMBER 1, 2013, BASED ON THE EVALUATION UNDERTAKEN IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT AND THE COMMISSION SHALL REPORT THEIR FINDINGS AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The terms of the initial members of the Somers Cove Commission shall begin on January 1, 2009, and shall expire as follows:

(1) of the two members appointed by the Board of County Commissioners of Somerset County, one member on December 31, 2010, and one member on December 31, 2012;

(2) of the two members appointed by the Mayor of Crisfield, one member on December 31, 2010, and one member on December 31, 2012; and

(3) of the three members appointed by the Secretary, one member in 2010, one member in 2011, and one member in 2012.

(b) (1) A State employee, other than the Executive Director, who is in an appointed or full-time equivalent position or full-time contractual position, and who is employed at Somers Cove Marina on June 1, 2008, may remain employed as a State employee at the Marina subject to the authority of the Secretary under Title 1, Subtitle 1 of the Natural Resources Article and the provisions of the State Personnel Management System.

(2) ~~If the Department and the Commission determine that the Commission is financially able, the~~ The Somers Cove Marina Commission shall reimburse the Department of Natural Resources for the salary of the Executive Director and any other a State employee at the Marina who remains employed in accordance with subsection (b)(1) of this section.

(3) The State shall pay the Executive Director's salary without reimbursement from the Somers Cove Marina Commission until the Secretary of Natural Resources and the Somers Cove Marina Commission determine that the Commission is financially able to reimburse the State for the cost of the Executive Director's salary.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect November 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 242

(Senate Bill 960)

AN ACT concerning

### **State Board of Chiropractic and Massage Therapy Examiners - Licensure of Massage Therapists**

FOR the purpose of renaming the State Board of Chiropractic Examiners to be the State Board of Chiropractic and Massage Therapy Examiners; providing for the licensure of massage therapists by the Board; increasing the number of the

members of the Board; adding a certain number of licensed chiropractor members and licensed massage therapist members to the Board; requiring the Governor to appoint certain massage therapist members with the advice and consent of the Senate from a certain list submitted by a certain association; providing for the qualifications of the massage therapist Board members; amending qualifications for certain consumer members of the Board; requiring the terms of Board members to be staggered; renaming the State Board of Chiropractic Examiners Fund to be the State Board of Chiropractic and Massage Therapy Examiners Fund; establishing certain violations and penalties; substituting licensure for certification as the professional credential for massage therapists; requiring the Board to adopt certain regulations regarding the licensure of massage therapists; repealing certain provisions regarding the Massage Therapy Advisory Committee; repealing certain provisions authorizing certain individuals to practice massage therapy without a license or without meeting certain qualifications for a license; authorizing the Board to waive certain qualifications for licensure as a massage therapist under certain circumstances; requiring the Board to adopt certain rules and regulations to establish certain standards for advertising or soliciting by licensed massage therapists or registered massage practitioners; providing that certain mailed notices are not advertisements or solicitations; authorizing licensed massage therapists and registered massage practitioners to use a certain trade name under certain circumstances; requiring the Board to issue licenses to certified massage therapists at the time the certificate holder's certificate expires in accordance with certain renewal requirements; authorizing certain certified massage therapists to continue to practice massage therapy until a certificate holder's license is issued; making certain technical changes; and generally relating to the State Board of Chiropractic and Massage Therapy Examiners and the licensure of massage therapists.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 3–201, 3–202, 3–206(a), 3–315, 3–316, 3–316.1, 3–501 through 3–503,  
3–506, 3–5A–01 through 3–5A–03, 3–5A–05 through 3–5A–10, and  
3–5A–12 through 3–5A–14

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article – Health Occupations

Section 3–5A–04 and 3–5A–11

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health Occupations

Section 3-5A-13  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article - Health Occupations**

3-201.

There is a State Board of Chiropractic **AND MASSAGE THERAPY** Examiners in the Department.

3-202.

(a) (1) The Board consists of [7] **11** members.

(2) Of the [7] **11** members:

(i) [5] **6** shall be licensed chiropractors; [and]

**(II) 3 SHALL BE LICENSED MASSAGE THERAPISTS; AND**

**[(ii)](III) 2** shall be consumer members.

(3) **(I)** The Governor shall appoint the chiropractor members, with the advice of the Secretary, and with the advice and consent of the Senate, from a list of qualified individuals submitted to the Governor by the Maryland Chiropractic Association.

**(II)** The number of names on the list shall be five times the number of vacancies.

**(III)** The list shall include the name of the incumbent member unless the incumbent declines renomination.

**(4) (I) THE GOVERNOR SHALL APPOINT THE MASSAGE THERAPIST MEMBERS, WITH THE ADVICE OF THE SECRETARY, AND WITH THE ADVICE AND CONSENT OF THE SENATE, FROM A LIST OF QUALIFIED INDIVIDUALS SUBMITTED TO THE GOVERNOR BY THE AMERICAN MASSAGE THERAPY ASSOCIATION, MARYLAND CHAPTER.**

**(II) THE NUMBER OF NAMES ON THE LIST SHALL BE FIVE TIMES THE NUMBER OF VACANCIES.**

**(III) THE LIST SHALL INCLUDE THE NAME OF THE INCUMBENT MEMBER UNLESS THE INCUMBENT DECLINES RENOMINATION.**

**[(4)](5)** The Governor shall appoint the consumer members with the advice of the Secretary, and with the advice and consent of the Senate.

**(b)** Each chiropractor member of the Board shall be:

- (1)** A resident of this State;
- (2)** A licensed chiropractor of integrity and ability who is in active practice;
- (3)** A graduate of a resident course in chiropractic; and
- (4)** An individual who has practiced chiropractic in this State for at least 5 consecutive years.

**(c) EACH MESSAGE THERAPIST MEMBER OF THE BOARD SHALL BE:**

- (1) A RESIDENT OF THIS STATE;**
- (2) A LICENSED MESSAGE THERAPIST OF INTEGRITY AND ABILITY WHO IS IN ACTIVE PRACTICE;**
- (3) A GRADUATE OF A BOARD-APPROVED COURSE IN MESSAGE THERAPY; AND**
- (4) AN INDIVIDUAL WHO HAS PRACTICED MESSAGE THERAPY IN THIS STATE FOR AT LEAST 5 CONSECUTIVE YEARS.**

**[(c)](D)** Each consumer member of the Board:

- (1)** Shall be a member of the general public;
- (2)** May not be or ever have been a chiropractor **OR MESSAGE THERAPIST** or in training to become a chiropractor **OR MESSAGE THERAPIST**;

(3) May not have a household member who is a chiropractor **OR MASSAGE THERAPIST** or in training to become a chiropractor **OR MASSAGE THERAPIST**;

(4) May not participate or ever have participated in a commercial or professional field related to chiropractic **OR MASSAGE THERAPY**;

(5) May not have a household member who participates in a commercial or professional field related to chiropractic **OR MASSAGE THERAPY**; and

(6) May not have had, within 2 years before appointment, a substantial financial interest in a person regulated by the Board.

**[(d)](E)** (1) In addition to the requirements of [subsection (b)] **SUBSECTIONS (B) AND (C)** of this section, each chiropractic **AND MASSAGE THERAPY** member of the Board shall be a licensed chiropractor **OR LICENSED MASSAGE THERAPIST** whose license is in good standing with the Board.

(2) For purposes of this subsection, “good standing” means that the Board has not reprimanded the licensee, suspended or revoked the license of the chiropractor **OR MASSAGE THERAPIST**, or placed the licensee on probation within 5 years prior to or after confirmation to the Board.

**[(e)](F)** While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

**[(f)](G)** Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.

**[(g)](H)** (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on [July 1, 1986] **OCTOBER 1, 2008**.

(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) The Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(6) A member may not serve more than 2 consecutive full terms.

**[(h)](I)** (1) The Governor may remove a member for incompetence or misconduct.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

3-206.

(a) There is a State Board of Chiropractic **AND MESSAGE THERAPY** Examiners Fund.

3-315.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

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

(d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(e) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction shall compel compliance with the subpoena and may punish the person as for contempt of court.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(g) If, after a hearing, a chiropractor **OR MESSAGE THERAPIST** is found in violation of § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**, the chiropractor **OR MESSAGE THERAPIST** shall pay to the Board the costs for court reporting services.

3-316.



(a) Except as provided in this section for an action under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may:

- (1) Appeal that decision to the Board of Review; and
- (2) Then take any further appeal allowed by the Administrative Procedure Act.

(b) (1) Any person aggrieved by a final decision of the Board under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE** may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

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

### 3-316.1.

(a) An action may be maintained in the name of this State or the Board to enjoin:

(1) The unauthorized practice of chiropractic **OR MASSAGE THERAPY**;

or

(2) Conduct that is a ground for disciplinary action under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**.

(b) An action under this section may be brought by:

- (1) The Board, in its own name;
- (2) The Attorney General, in the name of this State; or
- (3) A State's Attorney, in the name of this State.

(c) An action under this section shall be brought in the county where the defendant:

- (1) Resides; or
- (2) Engages in the acts sought to be enjoined.

(d) (1) Except as provided in paragraph (2) of this subsection, an action under this section may not be brought against an individual who is authorized to practice a health occupation under this article.

(2) An action under this section may be brought against an individual who is authorized to practice chiropractic **OR MASSAGE THERAPY** under this title.

(e) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(f) An action under this section is in addition to and not instead of criminal prosecution for:

(1) [the] **THE** unauthorized practice of chiropractic under § 3-501 of this title or disciplinary action under § 3-313 of this subtitle; **OR**

(2) **THE UNAUTHORIZED PRACTICE OF MASSAGE THERAPY UNDER § 3-501 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 3-5A-11 OF THIS TITLE.**

3-501.

(A) Except as otherwise provided in § 3-404 of this title, a person may not practice, attempt to practice, or offer to practice chiropractic in this State unless licensed by the Board.

(B) **EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE MASSAGE THERAPY, MASSAGE, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS IN THIS STATE UNLESS LICENSED OR REGISTERED BY THE BOARD.**

3-502.

(a) (1) Unless authorized to practice chiropractic under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice chiropractic in this State.

[(b)] (2) Unless authorized to practice under this title, a person may not use the title "chiropractor", or "D.C.", or any other term or title with the intent to represent that the person practices chiropractic.

(B) (1) **AN INDIVIDUAL WHO IS NOT A LICENSED MASSAGE THERAPIST OR REGISTERED AS A MASSAGE PRACTITIONER UNDER THIS TITLE MAY NOT ADVERTISE OR CLAIM BY TITLE, ABBREVIATION, SIGN, CARD, OR ANY OTHER**

REPRESENTATION THAT THE INDIVIDUAL PRACTICES MASSAGE, MASSAGE THERAPY, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS.

(2) UNLESS AUTHORIZED TO PRACTICE UNDER THIS TITLE, A PERSON MAY NOT USE THE TITLE “MASSAGE THERAPIST”, “MT”, “LICENSED MASSAGE THERAPIST”, “LMT”, “MASSAGE PRACTITIONER”, “MP”, “REGISTERED MASSAGE PRACTITIONER”, “RMP”, OR ANY OTHER TERM OR TITLE WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES MASSAGE THERAPY.

(C) AN INDIVIDUAL WHO IS A REGISTERED MASSAGE PRACTITIONER UNDER THIS TITLE OR A BUSINESS ENTITY THAT EMPLOYS REGISTERED MASSAGE PRACTITIONERS UNDER THIS TITLE MAY NOT ADVERTISE TO THE PUBLIC THAT THE INDIVIDUAL OR BUSINESS ENTITY PROVIDES HEALTH-RELATED THERAPEUTIC MASSAGE SERVICES.

(D) (1) IN CHARLES COUNTY AND WASHINGTON COUNTY, AN INDIVIDUAL MAY NOT PERFORM A MASSAGE OR OFFER TO PERFORM A MASSAGE ON ANOTHER PERSON FOR COMPENSATION UNLESS THE INDIVIDUAL WHO PERFORMS THE MASSAGE OR OFFERS TO PERFORM A MASSAGE IS A LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER.

(2) A LAW ENFORCEMENT OFFICER IN CHARLES COUNTY OR WASHINGTON COUNTY MAY DEMAND PROOF OF LICENSURE OR REGISTRATION.

3-503.

A person may not buy, sell, or fraudulently obtain:

- (1) A license; or
- (2) Any diploma or degree required under § 3-302 OR § 3-5A-06 of this title.

3-506.

(a) A person who practices or attempts to practice chiropractic OR MASSAGE THERAPY without a license in violation of § 3-501 of this subtitle or represents to the public in violation of § 3-502 of this subtitle that the person is authorized to practice chiropractic OR MASSAGE THERAPY is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding \$2,000 or imprisonment not exceeding 6 months; or

(2) For a subsequent offense, a fine not exceeding \$6,000 or imprisonment not exceeding 1 year.

(b) A person who is convicted under the provisions of this section shall reimburse the Board for the direct costs of the Board, including court reporting services and expert witness fees, incurred as a result of a prosecution under this section.

3-5A-01.

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

(b) "Board" means the State Board of Chiropractic **AND MASSAGE THERAPY** Examiners.

[(c) "Certificate" means, unless the context requires otherwise, a certificate issued by the Board to practice massage therapy.

(d) "Certified massage therapist" means an individual who is certified by the Board to practice massage therapy.]

[(e)](C) "Health care facility" has the meaning stated in § 19-114(d) of the Health - General Article.

**(D) "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A LICENSE ISSUED BY THE BOARD TO PRACTICE MASSAGE THERAPY.**

**(E) "LICENSED MASSAGE THERAPIST" MEANS AN INDIVIDUAL WHO IS LICENSED BY THE BOARD TO PRACTICE MASSAGE THERAPY.**

(f) (1) "Massage therapy" means the use of manual techniques on soft tissues of the human body including effleurage (stroking), petrissage (kneading), tapotement (tapping), stretching, compression, vibration, and friction, with or without the aid of heat limited to hot packs and heating pads, cold water, or nonlegend topical applications, for the purpose of improving circulation, enhancing muscle relaxation, relieving muscular pain, reducing stress, or promoting health and well-being.

(2) "Massage therapy" does not include:

(i) The diagnosis or treatment of illness, disease, or injury;

(ii) The adjustment, manipulation, or mobilization of any of the articulations of the osseous structures of the body or spine; or

(iii) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** laying on of hands, consisting of pressure or movement on a fully clothed individual, to specifically affect the electromagnetic energy or energetic field of the human body.

**(3) “MASSAGE THERAPY” INCLUDES THE LAYING ON OF HANDS, CONSISTING OF PRESSURE OR MOVEMENT ON A FULLY CLOTHED INDIVIDUAL, TO SPECIFICALLY AFFECT THE ELECTROMAGNETIC ENERGY OR ENERGETIC FIELD OF THE HUMAN BODY IF THIS PRACTICE INCLUDES USE OF THE MANUAL TECHNIQUES SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.**

[(3)] **(4)** In paragraph (2)(iii) of this subsection, “fully clothed” does not require the wearing of footwear.

[(4)] **(5)** The provisions of paragraph (2) of this subsection do not preclude the application of the modalities described in paragraph (1) of this subsection to an individual who has an injury.

[(g) “Massage Therapy Advisory Committee” means the Committee established under § 3-5A-04 of this subtitle.]

[(h)] **(G)** “Practice massage therapy” means to engage professionally and for compensation in massage therapy.

[(i)] **(H)** “Practice non-therapeutic massage” means to engage professionally and for compensation in massage therapy in a setting that is not a health care facility.

[(j)] **(I)** “Registered massage practitioner” means an individual who is registered by the Board to practice non-therapeutic massage.

[(k)] **(J)** “Registration” means, unless the context requires otherwise, a registration issued by the Board to practice non-therapeutic massage.

3-5A-02.

The Board shall adopt regulations for the:

(1) [Certification] **LICENSURE** and practice of massage therapists;  
and

- (2) Registration and practice of massage practitioners.

3-5A-03.

(a) (1) The Board shall set reasonable fees for the issuance and renewal of [certificates] **LICENSES** and registrations and the other services it provides to massage therapists.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the [certification] **LICENSURE** program, registration program, and the other services provided to massage therapists.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller of the State.

(2) The Comptroller shall distribute all fees to the State Board of Chiropractic **AND MASSAGE THERAPY** Examiners Fund established under § 3-206 of this title.

(c) The fees shall be used exclusively 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 subtitle.

[3-5A-04.

(a) (1) There is a Massage Therapy Advisory Committee within the Board.

(2) The Committee shall consist of six members appointed by the Board.

(3) Of the six members:

(i) Two shall be licensed chiropractors; and

(ii) Four shall be certified massage therapists.

(b) In addition to the powers and duties set forth elsewhere in this subtitle, the Advisory Committee shall:

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

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

- (3) Develop and recommend to the Board the requirements for:
  - (i) Certification as a massage therapist; and
  - (ii) Registration as a massage practitioner;
- (4) Evaluate the credentials of applicants and recommend to the Board certification of applicants who fulfill the requirements for:
  - (i) A certificate to practice massage therapy; or
  - (ii) A registration to practice non-therapeutic massage;
- (5) Consider complaints brought to the Board involving certified massage therapists or registered massage practitioners and recommend to the Board the appropriate disciplinary action;
- (6) Evaluate education programs in massage therapy for approval by the Board;
- (7) Keep a record of its proceedings; and
- (8) Submit an annual report to the Board.]

**[3-5A-05.] 3-5A-04.**

[(a) (1)] Except as otherwise provided in this subtitle, an individual shall be:

[(i) (1)] [Certified] **LICENSED** by the Board before the individual may practice massage therapy in this State; or

[(ii) (2)] Registered by the Board before the individual may practice non-therapeutic massage in this State.

**3-5A-05.**

[(2)] This [section] **SUBTITLE** does not apply to:

[(i) (1)] A student enrolled in an approved education program as determined by the Board while practicing massage therapy in that program;

[(ii)] (2) An individual permitted to practice massage therapy under regulations adopted by the Board, if the individual[:

1. Otherwise] **OTHERWISE** has qualified to practice massage therapy in any other state or country that has substantially similar requirements for authorization to practice massage therapy and the individual is in this State for no more than 7 days[; or

2. Has an application for a certificate pending before the Board but has not taken the examination required under this section or has taken an examination under this section, but the results of the examination are not yet known];

[(iii)] (3) A family member practicing massage therapy on another family member;

[(iv)] (4) An athletic trainer while functioning in the course of the athletic trainer's professional capacity;

[(v)] (5) An individual employed by the federal government to practice massage therapy while practicing within the scope of the individual's employment; or

[(vi)] (6) An individual working in a beauty salon:

[1.] (I) For which the person who operates the beauty salon has obtained a permit from the State Board of Cosmetology as required under § 5-501 of the Business Occupations and Professions Article; and

[2.] (II) In which the individual is providing cosmetology and esthetic services, including the application and removal of skin or skin care products.

**3-5A-06.**

[(b)] (A) To qualify for a [certificate] **LICENSE**, an applicant shall be an individual who:

(1) Is of good moral character;

(2) Is at least 18 years old;

~~[(3)] (i) After January 1, 2002, has~~ **HAS** satisfactorily completed at least 60 credit hours of education at an institution of higher education as defined in §



10–101 of the Education Article and as approved by the Board and the Maryland Higher Education Commission; ~~or~~

[(ii) On or after March 1, 2004, enrolled in a school approved by the Board at the time of enrollment and graduated from that school no later than December 31, 2004;]

~~[(4)] (3)~~ Has completed 500 hours of education in a Board approved program for the study of massage therapy that includes the following areas of content:

- (i) Anatomy and physiology;
- (ii) Massage theory, techniques, and practice;
- (iii) Contraindications to massage therapy; and
- (iv) Professional ethics; and

~~[(5)] (4)~~ Has passed an examination approved by the Board.

[(c)] (B) To qualify for registration, an applicant shall be an individual who:

- (1) Is of good moral character;
- (2) Is at least 18 years old;
- (3) Has completed 500 hours of education in a Board approved program for the study of massage therapy that includes the following areas of content:

- (i) Anatomy and physiology;
- (ii) Massage theory, techniques, and practice;
- (iii) Contraindications to massage therapy; and
- (iv) Professional ethics; and

(4) Has passed an examination approved by the Board.

[(d)] (1) Subject to the provisions of paragraph (2) of this subsection, the Board may waive any of the qualifications required for a certificate under this subtitle for an applicant who:

- (i) Pays the application fee set by the Board;

(ii) Provides evidence acceptable to the Board that the applicant has practiced massage therapy for at least a total of 2 years after October 1, 1994 and before October 1, 1999 and has performed at least 300 paid massage therapy sessions; and

(iii) 1. Completes a Board approved program in the study of massage therapy; or  
2. Passes an examination approved by the Board.

(2) The authority of the Board to grant a waiver under this subsection shall terminate on January 1, 2002.]

**3-5A-07.**

[(e)] [(1)] (A) Subject to the provisions of this [subsection] SECTION, the Board may waive any requirement of this subtitle for an applicant who is registered, certified, or licensed to practice massage therapy in another state.

[(2)] (B) The Board may grant a waiver under this [subsection] SECTION only if the applicant:

[(i)] (1) Pays the application fee set by the Board; and

[(ii)] (2) Provides adequate evidence that the applicant:

[1.] (I) Has completed educational requirements that the Board determines to be equivalent to the Board approved educational requirements in this State; AND

[2.] (II) 1. At the time the applicant became certified, registered, or licensed in the other state, passed in that state or any other state an examination that the Board determines to be equivalent to the examination required in this State; [and] OR

2. **PASSED AN EXAMINATION APPROVED BY THE BOARD; AND**

[3.] (3) Is of good moral character.

[3-5A-06.] **3-5A-08.**

An individual who is registered to practice non-therapeutic massage under [§ 3-5A-05] § **3-5A-06** of this subtitle may not practice in a medical health care

provider's office, hospital, or other health care facility for the purpose of providing massage.

**[3-5A-07.] 3-5A-09.**

[(a)] To apply for a [certificate] **LICENSE OR REGISTRATION**, an applicant shall:

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

(2) Submit to the Board evidence of compliance with the requirements of § 3-5A-05 of this subtitle; and

(3) Pay the application fee set by the Board.

[(b)] To apply for registration, an applicant shall:

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

(2) Submit to the Board evidence of compliance with the requirements of § 3-5A-05 of this subtitle; and

(3) Pay the application fee set by the Board.]

**[3-5A-08.] 3-5A-10.**

(a) (1) A [certificate] **LICENSE** or registration expires on the date set by the Board, unless the [certificate] **LICENSE** or registration is renewed for a 1-year term as provided in this section.

(2) A [certificate] **LICENSE** or registration may not be renewed for a term of longer than 2 years.

(b) At least 1 month before the [certificate] **LICENSE** or registration expires, the Board shall send to the [certificate holder] **LICENSEE** or registration holder, by first-class mail to the last known address of the [certificate holder] **LICENSEE** or registration holder, a renewal notice that states:

(1) The date on which the current [certificate] **LICENSE** or registration expires;

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

(3) The amount of the renewal fee.

(c) Before a [certificate] LICENSE or registration expires, the [certificate holder] LICENSEE or registration holder periodically may renew it for an additional term, if the [certificate holder] LICENSEE or registration holder:

(1) Otherwise is entitled to be [certified] LICENSED or registered;

(2) Submits to the Board a renewal application on the form that the Board requires; and

(3) Pays to the Board a renewal fee set by the Board.

(d) (1) Each [certificate holder] LICENSEE or registration holder shall notify the Board in writing of any change in the name or address of the [certificate holder] LICENSEE or registration holder within 60 days after the change occurred.

(2) If a [certificate holder] LICENSEE or registration holder fails to notify the Board within the time required under this subsection, subject to the hearing provisions of § 3-315 of this title, the Board may impose an administrative penalty of \$100.

(e) [(1)] The Board shall renew the [certificate of each certificate holder] LICENSE OF EACH LICENSEE AND THE REGISTRATION OF EACH REGISTRATION HOLDER who meets the requirements of this section.

[(2)] The Board shall renew the registration of each registration holder who meets the requirements of this section.]

[3-5A-11.

(a) Except as otherwise provided in this subtitle, an individual may not practice, attempt to practice, or offer to practice massage therapy, massage, myotherapy, or any synonym or derivation of these terms in this State unless certified by the Board.

(b) An individual who is not certified as a certified massage therapist or registered as a massage practitioner under this subtitle may not advertise or claim by title, abbreviation, sign, card, or any other representation that the individual practices massage, massage therapy, myotherapy, or any synonym or derivation of these terms.

(c) An individual who is a registered massage practitioner under this subtitle or a business entity that employs registered massage practitioners under this subtitle may not advertise to the public that the individual or business entity provides health-related therapeutic massage services.

(d) (1) In Charles County and Washington County, an individual may not perform a massage or offer to perform a massage on another person for compensation unless the individual who performs the massage or offers to perform a massage is a certified massage therapist or registered massage practitioner.

(2) A law enforcement officer in Charles County or Washington County may demand proof of certification or registration.

(e) Any individual who violates a provision of this section is guilty of a misdemeanor and on conviction shall be subject to a fine not exceeding \$5,000 or imprisonment for not more than 1 year, or both.]

**[3-5A-09.] 3-5A-11.**

(a) Subject to the hearing provisions of § 3-315 of this title, the Board may deny a [certificate] LICENSE or registration to any applicant, reprimand any [certificate holder] LICENSEE or registration holder, place any [certificate holder] LICENSEE or registration holder on probation, or suspend or revoke the [certificate] LICENSE of a [certificate holder] LICENSEE or the registration of a registration holder if the applicant, [certificate holder] LICENSEE, or registration holder:

(1) Fraudulently or deceptively obtains or attempts to obtain a [certificate] LICENSE or registration for the applicant or for another;

(2) Fraudulently or deceptively uses a [certificate] LICENSE or registration;

(3) Is disciplined by a licensing, certifying, or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;

(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(5) Willfully and knowingly:

(i) Files a false report or record of an individual under the care of the [certificate] LICENSE holder or registration holder; or

(ii) Gives any false or misleading information about a material matter in an employment application;

(6) Knowingly does any act that has been determined by the Board, in its regulations, to exceed the scope of practice authorized to the individual under this subtitle;

(7) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;

(9) Is negligent in the practice of massage therapy;

(10) Is professionally incompetent;

(11) Has violated any provision of this subtitle;

(12) Submits a false statement to collect a fee;

(13) Is physically or mentally incompetent;

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

(15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the [certificate holder] LICENSEE or registration holder is qualified to render because the individual is HIV positive;

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

(17) Is habitually intoxicated;

(18) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;

(19) Fails to cooperate with a lawful investigation conducted by the Board;

(20) Engages in conduct that violates the professional code of ethics; or

(21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.

(b) If, after a hearing under § 3-315 of this title, the Board finds that there are grounds under subsection (a) of this section to suspend or revoke a [certificate] LICENSE to practice massage therapy or registration to practice non-therapeutic massage, to reprimand a [certificate holder] LICENSEE or registration holder, or place a [certificate holder] LICENSEE or registration holder on probation, the Board may impose a penalty not exceeding \$5,000 in lieu of or in addition to suspending or revoking the [certificate] LICENSE or registration, reprimanding the [certificate holder] LICENSEE or registration holder, or placing the [certificate holder] LICENSEE or registration holder on probation.

(c) (1) An individual whose [certificate] LICENSE or registration has been suspended or revoked by the Board shall return the [certificate] LICENSE or registration to the Board.

(2) If the suspended or revoked [certificate] LICENSE or registration has been lost, the individual shall file with the Board a verified statement to that effect.

(d) The Board shall file a notice for publication in the earliest publication of the Maryland Register of each revocation or suspension of a [certificate] LICENSE or registration under this section within 24 hours of the revocation or suspension.

### **[3-5A-10.] 3-5A-12.**

This subtitle does not limit the right of an individual to practice or advertise an occupation that the individual is otherwise authorized to practice under the Maryland Annotated Code.

### **3-5A-13.**

**(A) THE BOARD SHALL ADOPT RULES AND REGULATIONS TO ESTABLISH STANDARDS FOR ADVERTISING OR SOLICITING BY LICENSED MASSAGE THERAPISTS OR REGISTERED MASSAGE PRACTITIONERS.**

**(B) FOR PURPOSES OF THIS SECTION, NOTICES MAILED TO PATIENTS TO INFORM THEM OF TIMES FOR PERIODIC APPOINTMENTS ARE NOT ADVERTISING OR SOLICITING.**

**(C) A LICENSED MASSAGE THERAPIST OR A REGISTERED MASSAGE PRACTITIONER MAY USE A TRADE NAME IN CONNECTION WITH THE PRACTICE OF MASSAGE THERAPY PROVIDED THAT:**

**(1) THE USE OF THE TRADE NAME IS NOT DECEPTIVE OR MISLEADING;**

**(2) THE ADVERTISEMENT IN WHICH THE TRADE NAME APPEARS INCLUDES THE NAME OF THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER OR THE NAME OF THE BUSINESS ENTITY PROVIDING THE MASSAGE THERAPY SERVICES BEING ADVERTISED, AS LONG AS THE ADVERTISEMENT INCLUDES THE NAME OF A LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER;**

**(3) THE NAME OF THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER PROVIDING MASSAGE THERAPY SERVICES APPEARS ON THE BILLING INVOICES, STATIONERY, AND ON ANY RECEIPT GIVEN TO A PATIENT;**

**(4) TREATMENT RECORDS ARE MAINTAINED THAT CLEARLY IDENTIFY THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER WHO HAS PERFORMED THE MASSAGE THERAPY SERVICE FOR THE PATIENT; AND**

**(5) THE USE OF A TRADE NAME IS PREAPPROVED BY THE BOARD BEFORE USE.**

**[3-5A-12.] 3-5A-14.**

A health care provider licensed or certified under this article may not refer patients to a person who is not a [certified] LICENSED massage therapist.

**[3-5A-13.] 3-5A-15.**

Notwithstanding the fact that these services are provided within the scope of their [certified] LICENSED practice, nothing in this subtitle requires a nonprofit health service plan, insurer, health maintenance organization, or person acting as a third party administrator to reimburse a [certified] LICENSED massage therapist or registered massage practitioner for any services rendered.



**[3-5A-14.] 3-5A-16.**

(a) In Charles County and Washington County, the County Commissioners may adopt ordinances or regulations relating to massage establishments and the practices of massage therapists, massage practitioners, and any other individuals who provide massage for compensation.

(b) (1) The Charles County Commissioners shall provide that the Director of the Charles County Health Department and the Office of the Sheriff for Charles County have the authority to carry out the provisions of the ordinances or regulations adopted under subsection (a) of this section.

(2) The Washington County Commissioners shall provide that the Washington County Health Officer and the Office of the Sheriff for Washington County have the authority to carry out the provisions of the ordinances or regulations adopted under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall appoint one chiropractor member and three massage therapist members to the State Board of Chiropractic and Massage Therapy Examiners in accordance with § 3-202 of the Health Occupations Article, as enacted by Section 1 of this Act. The terms of the members are as follows:

(1) the one chiropractor member and one massage therapist member shall serve for a term of 2 years which shall begin on July 1, 2009 and shall terminate at the end of June 30, 2011, and the members shall serve until a successor is appointed and qualifies; and

(2) the two massage therapist members shall serve for a term of 4 years which shall begin on July 1, 2009, and shall terminate at the end of June 30, 2013 and the members shall serve until a successor is appointed and qualifies.

SECTION 3. AND BE IT FURTHER ENACTED, That for individuals certified by the State Board of Chiropractic Examiners before October 1, 2008, to practice massage therapy:

(1) at the time the certificate expires, the Board shall issue a license to replace the certificate in accordance with the renewal requirements under § 3-5A-10 of the Health Occupations Article; and

(2) the individual may continue to practice massage therapy as a certified massage therapist until a license is issued.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 243

(House Bill 1563)

AN ACT concerning

### **State Board of Chiropractic and Massage Therapy Examiners – Licensure of Massage Therapists**

FOR the purpose of renaming the State Board of Chiropractic Examiners to be the State Board of Chiropractic and Massage Therapy Examiners; providing for the licensure of massage therapists by the Board; increasing the number of the members of the Board; adding a certain number of licensed chiropractor members and licensed massage therapist members to the Board; requiring the Governor to appoint certain massage therapist members with the advice and consent of the Senate from a certain list submitted by a certain association; providing for the qualifications of the massage therapist Board members; amending qualifications for certain consumer members of the Board; requiring the terms of Board members to be staggered; renaming the State Board of Chiropractic Examiners Fund to be the State Board of Chiropractic and Massage Therapy Examiners Fund; establishing certain violations and penalties; substituting licensure for certification as the professional credential for massage therapists; requiring the Board to adopt certain regulations regarding the licensure of massage therapists; repealing certain provisions regarding the Massage Therapy Advisory Committee; repealing certain provisions authorizing certain individuals to practice massage therapy without a license or without meeting certain qualifications for a license; authorizing the Board to waive certain qualifications for licensure as a massage therapist under certain circumstances; requiring the Board to adopt certain rules and regulations to establish certain standards for advertising or soliciting by licensed massage therapists or registered massage practitioners; providing that certain mailed notices are not advertisements or solicitations; authorizing licensed massage therapists and registered massage practitioners to use a certain trade name under certain circumstances; requiring the Board to issue licenses to certified massage therapists at the time the certificate holder's certificate expires in accordance with certain renewal requirements; authorizing certain certified massage therapists to continue to practice massage therapy

until a certificate holder's license is issued; making certain technical changes; and generally relating to the State Board of Chiropractic and Massage Therapy Examiners and the licensure of massage therapists.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 3–201, 3–202, 3–206(a), 3–315, 3–316, 3–316.1, 3–501 through 3–503, 3–506, 3–5A–01 through 3–5A–03, 3–5A–05 through 3–5A–10, and 3–5A–12 through 3–5A–14

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing

Article – Health Occupations

Section 3–5A–04 and 3–5A–11

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health Occupations

Section 3–5A–13

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

### **Article – Health Occupations**

3–201.

There is a State Board of Chiropractic **AND MASSAGE THERAPY** Examiners in the Department.

3–202.

(a) (1) The Board consists of [7] **11** members.

(2) Of the [7] **11** members:

(i) [5] **6** shall be licensed chiropractors; [and]

**(II) 3 SHALL BE LICENSED MASSAGE THERAPISTS; AND**

**[(ii)] (III) 2** shall be consumer members.

(3) (I) The Governor shall appoint the chiropractor members, with the advice of the Secretary, and with the advice and consent of the Senate, from a list of qualified individuals submitted to the Governor by the Maryland Chiropractic Association.

(II) The number of names on the list shall be five times the number of vacancies.

(III) The list shall include the name of the incumbent member unless the incumbent declines renomination.

**(4) (I) THE GOVERNOR SHALL APPOINT THE MESSAGE THERAPIST MEMBERS, WITH THE ADVICE OF THE SECRETARY, AND WITH THE ADVICE AND CONSENT OF THE SENATE, FROM A LIST OF QUALIFIED INDIVIDUALS SUBMITTED TO THE GOVERNOR BY THE AMERICAN MASSAGE THERAPY ASSOCIATION, MARYLAND CHAPTER.**

**(II) THE NUMBER OF NAMES ON THE LIST SHALL BE FIVE TIMES THE NUMBER OF VACANCIES.**

**(III) THE LIST SHALL INCLUDE THE NAME OF THE INCUMBENT MEMBER UNLESS THE INCUMBENT DECLINES RENOMINATION.**

[(4)] (5) The Governor shall appoint the consumer members with the advice of the Secretary, and with the advice and consent of the Senate.

(b) Each chiropractor member of the Board shall be:

- (1) A resident of this State;
- (2) A licensed chiropractor of integrity and ability who is in active practice;
- (3) A graduate of a resident course in chiropractic; and
- (4) An individual who has practiced chiropractic in this State for at least 5 consecutive years.

**(C) EACH MESSAGE THERAPIST MEMBER OF THE BOARD SHALL BE:**

- (1) A RESIDENT OF THIS STATE;**

(2) A LICENSED MESSAGE THERAPIST OF INTEGRITY AND ABILITY WHO IS IN ACTIVE PRACTICE;

(3) A GRADUATE OF A BOARD-APPROVED COURSE IN MASSAGE THERAPY; AND

(4) AN INDIVIDUAL WHO HAS PRACTICED MASSAGE THERAPY IN THIS STATE FOR AT LEAST 5 CONSECUTIVE YEARS.

[(c)] (D) Each consumer member of the Board:

(1) Shall be a member of the general public;

(2) May not be or ever have been a chiropractor OR MESSAGE THERAPIST or in training to become a chiropractor OR MESSAGE THERAPIST;

(3) May not have a household member who is a chiropractor OR MESSAGE THERAPIST or in training to become a chiropractor OR MESSAGE THERAPIST;

(4) May not participate or ever have participated in a commercial or professional field related to chiropractic OR MESSAGE THERAPY;

(5) May not have a household member who participates in a commercial or professional field related to chiropractic OR MESSAGE THERAPY; and

(6) May not have had, within 2 years before appointment, a substantial financial interest in a person regulated by the Board.

[(d)] (E) (1) In addition to the requirements of [subsection (b)] SUBSECTIONS (B) AND (C) of this section, each chiropractic AND MESSAGE THERAPY member of the Board shall be a licensed chiropractor OR LICENSED MESSAGE THERAPIST whose license is in good standing with the Board.

(2) For purposes of this subsection, "good standing" means that the Board has not reprimanded the licensee, suspended or revoked the license of the chiropractor OR MESSAGE THERAPIST, or placed the licensee on probation within 5 years prior to or after confirmation to the Board.

[(e)] (F) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

[(f)] (G) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.

**[(g)] (H)** (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on [July 1, 1986] **OCTOBER 1, 2008**.

(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) The Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(6) A member may not serve more than 2 consecutive full terms.

**[(h)] (I)** (1) The Governor may remove a member for incompetence or misconduct.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

3-206.

(a) There is a State Board of Chiropractic **AND MASSAGE THERAPY** Examiners Fund.

3-315.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

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

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

(d) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

(e) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction shall compel compliance with the subpoena and may punish the person as for contempt of court.

(f) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

(g) If, after a hearing, a chiropractor **OR MESSAGE THERAPIST** is found in violation of § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**, the chiropractor **OR MESSAGE THERAPIST** shall pay to the Board the costs for court reporting services.

### 3-316.

(a) Except as provided in this section for an action under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may:

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

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

(b) (1) Any person aggrieved by a final decision of the Board under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE** may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

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

### 3-316.1.

(a) An action may be maintained in the name of this State or the Board to enjoin:

(1) The unauthorized practice of chiropractic **OR MESSAGE THERAPY**;  
or

(2) Conduct that is a ground for disciplinary action under § 3-313 of this subtitle **OR § 3-5A-11 OF THIS TITLE**.

(b) An action under this section may be brought by:

- (1) The Board, in its own name;
- (2) The Attorney General, in the name of this State; or
- (3) A State's Attorney, in the name of this State.

(c) An action under this section shall be brought in the county where the defendant:

- (1) Resides; or
- (2) Engages in the acts sought to be enjoined.

(d) (1) Except as provided in paragraph (2) of this subsection, an action under this section may not be brought against an individual who is authorized to practice a health occupation under this article.

(2) An action under this section may be brought against an individual who is authorized to practice chiropractic **OR MASSAGE THERAPY** under this title.

(e) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.

(f) An action under this section is in addition to and not instead of criminal prosecution for:

(1) [the] **THE** unauthorized practice of chiropractic under § 3-501 of this title or disciplinary action under § 3-313 of this subtitle; **OR**

(2) **THE UNAUTHORIZED PRACTICE OF MASSAGE THERAPY UNDER § 3-501 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 3-5A-11 OF THIS TITLE.**

3-501.

(A) Except as otherwise provided in § 3-404 of this title, a person may not practice, attempt to practice, or offer to practice chiropractic in this State unless licensed by the Board.

(B) **EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE MASSAGE THERAPY, MASSAGE, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS IN THIS STATE UNLESS LICENSED OR REGISTERED BY THE BOARD.**



3-502.

(a) (1) Unless authorized to practice chiropractic under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice chiropractic in this State.

[(b)] (2) Unless authorized to practice under this title, a person may not use the title "chiropractor", or "D.C.", or any other term or title with the intent to represent that the person practices chiropractic.

**(B) (1) AN INDIVIDUAL WHO IS NOT A LICENSED MESSAGE THERAPIST OR REGISTERED AS A MESSAGE PRACTITIONER UNDER THIS TITLE MAY NOT ADVERTISE OR CLAIM BY TITLE, ABBREVIATION, SIGN, CARD, OR ANY OTHER REPRESENTATION THAT THE INDIVIDUAL PRACTICES MESSAGE, MESSAGE THERAPY, MYOTHERAPY, OR ANY SYNONYM OR DERIVATION OF THESE TERMS.**

**(2) UNLESS AUTHORIZED TO PRACTICE UNDER THIS TITLE, A PERSON MAY NOT USE THE TITLE "MESSAGE THERAPIST", "MT", "LICENSED MESSAGE THERAPIST", "LMT", "MESSAGE PRACTITIONER", "MP", "REGISTERED MESSAGE PRACTITIONER", "RMP", OR ANY OTHER TERM OR TITLE WITH THE INTENT TO REPRESENT THAT THE PERSON PRACTICES MESSAGE THERAPY.**

**(C) AN INDIVIDUAL WHO IS A REGISTERED MESSAGE PRACTITIONER UNDER THIS TITLE OR A BUSINESS ENTITY THAT EMPLOYS REGISTERED MESSAGE PRACTITIONERS UNDER THIS TITLE MAY NOT ADVERTISE TO THE PUBLIC THAT THE INDIVIDUAL OR BUSINESS ENTITY PROVIDES HEALTH-RELATED THERAPEUTIC MESSAGE SERVICES.**

**(D) (1) IN CHARLES COUNTY AND WASHINGTON COUNTY, AN INDIVIDUAL MAY NOT PERFORM A MESSAGE OR OFFER TO PERFORM A MESSAGE ON ANOTHER PERSON FOR COMPENSATION UNLESS THE INDIVIDUAL WHO PERFORMS THE MESSAGE OR OFFERS TO PERFORM A MESSAGE IS A LICENSED MESSAGE THERAPIST OR REGISTERED MESSAGE PRACTITIONER.**

**(2) A LAW ENFORCEMENT OFFICER IN CHARLES COUNTY OR WASHINGTON COUNTY MAY DEMAND PROOF OF LICENSURE OR REGISTRATION.**

3-503.

A person may not buy, sell, or fraudulently obtain:

(1) A license; or

(2) Any diploma or degree required under § 3-302 **OR § 3-5A-06** of this title.

3-506.

(a) A person who practices or attempts to practice chiropractic **OR MASSAGE THERAPY** without a license in violation of § 3-501 of this subtitle or represents to the public in violation of § 3-502 of this subtitle that the person is authorized to practice chiropractic **OR MASSAGE THERAPY** is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding \$2,000 or imprisonment not exceeding 6 months; or

(2) For a subsequent offense, a fine not exceeding \$6,000 or imprisonment not exceeding 1 year.

(b) A person who is convicted under the provisions of this section shall reimburse the Board for the direct costs of the Board, including court reporting services and expert witness fees, incurred as a result of a prosecution under this section.

3-5A-01.

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

(b) "Board" means the State Board of Chiropractic **AND MASSAGE THERAPY** Examiners.

[(c) "Certificate" means, unless the context requires otherwise, a certificate issued by the Board to practice massage therapy.

(d) "Certified massage therapist" means an individual who is certified by the Board to practice massage therapy.]

[(e)] (C) "Health care facility" has the meaning stated in § 19-114(d) of the Health - General Article.

(D) "**LICENSE**" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A LICENSE ISSUED BY THE BOARD TO PRACTICE MASSAGE THERAPY.

**(E) “LICENSED MASSAGE THERAPIST” MEANS AN INDIVIDUAL WHO IS LICENSED BY THE BOARD TO PRACTICE MASSAGE THERAPY.**

(f) (1) “Massage therapy” means the use of manual techniques on soft tissues of the human body including effleurage (stroking), petrissage (kneading), tapotement (tapping), stretching, compression, vibration, and friction, with or without the aid of heat limited to hot packs and heating pads, cold water, or nonlegend topical applications, for the purpose of improving circulation, enhancing muscle relaxation, relieving muscular pain, reducing stress, or promoting health and well-being.

(2) “Massage therapy” does not include:

(i) The diagnosis or treatment of illness, disease, or injury;

(ii) The adjustment, manipulation, or mobilization of any of the articulations of the osseous structures of the body or spine; or

(iii) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE** laying on of hands, consisting of pressure or movement on a fully clothed individual, to specifically affect the electromagnetic energy or energetic field of the human body.

**(3) “MASSAGE THERAPY” INCLUDES THE LAYING ON OF HANDS, CONSISTING OF PRESSURE OR MOVEMENT ON A FULLY CLOTHED INDIVIDUAL, TO SPECIFICALLY AFFECT THE ELECTROMAGNETIC ENERGY OR ENERGETIC FIELD OF THE HUMAN BODY IF THIS PRACTICE INCLUDES USE OF THE MANUAL TECHNIQUES SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.**

[(3)] (4) In paragraph (2)(iii) of this subsection, “fully clothed” does not require the wearing of footwear.

[(4)] (5) The provisions of paragraph (2) of this subsection do not preclude the application of the modalities described in paragraph (1) of this subsection to an individual who has an injury.

[(g) “Massage Therapy Advisory Committee” means the Committee established under § 3-5A-04 of this subtitle.]

[(h)] (G) “Practice massage therapy” means to engage professionally and for compensation in massage therapy.

[(i)] (H) “Practice non-therapeutic massage” means to engage professionally and for compensation in massage therapy in a setting that is not a health care facility.

**[(j)] (I)** “Registered massage practitioner” means an individual who is registered by the Board to practice non-therapeutic massage.

**[(k)] (J)** “Registration” means, unless the context requires otherwise, a registration issued by the Board to practice non-therapeutic massage.

3-5A-02.

The Board shall adopt regulations for the:

- (1) **[Certification] LICENSURE** and practice of massage therapists;
- and
- (2) Registration and practice of massage practitioners.

3-5A-03.

(a) (1) The Board shall set reasonable fees for the issuance and renewal of **[certificates] LICENSES** and registrations and the other services it provides to massage therapists.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the **[certification] LICENSURE** program, registration program, and the other services provided to massage therapists.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the Comptroller of the State.

(2) The Comptroller shall distribute all fees to the State Board of Chiropractic **AND MASSAGE THERAPY** Examiners Fund established under § 3-206 of this title.

(c) The fees shall be used exclusively 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 subtitle.

**[3-5A-04.**

(a) (1) There is a Massage Therapy Advisory Committee within the Board.

(2) The Committee shall consist of six members appointed by the Board.

- (3) Of the six members:
  - (i) Two shall be licensed chiropractors; and
  - (ii) Four shall be certified massage therapists.

(b) In addition to the powers and duties set forth elsewhere in this subtitle, the Advisory Committee shall:

- (1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;
- (2) Develop and recommend to the Board a code of ethics for the practice of massage therapy for adoption by the Board;
- (3) Develop and recommend to the Board the requirements for:
  - (i) Certification as a massage therapist; and
  - (ii) Registration as a massage practitioner;
- (4) Evaluate the credentials of applicants and recommend to the Board certification of applicants who fulfill the requirements for:
  - (i) A certificate to practice massage therapy; or
  - (ii) A registration to practice non-therapeutic massage;
- (5) Consider complaints brought to the Board involving certified massage therapists or registered massage practitioners and recommend to the Board the appropriate disciplinary action;
- (6) Evaluate education programs in massage therapy for approval by the Board;
- (7) Keep a record of its proceedings; and
- (8) Submit an annual report to the Board.]

**[3-5A-05.] 3-5A-04.**

[(a) (1)] Except as otherwise provided in this subtitle, an individual shall be:

[(i)] (1) [Certified] **LICENSED** by the Board before the individual may practice massage therapy in this State; or

[(ii)] (2) Registered by the Board before the individual may practice non-therapeutic massage in this State.

**3-5A-05.**

[(2)] This [section] **SUBTITLE** does not apply to:

[(i)] (1) A student enrolled in an approved education program as determined by the Board while practicing massage therapy in that program;

[(ii)] (2) An individual permitted to practice massage therapy under regulations adopted by the Board, if the individual[:

1. Otherwise] **OTHERWISE** has qualified to practice massage therapy in any other state or country that has substantially similar requirements for authorization to practice massage therapy and the individual is in this State for no more than 7 days[; or

2. Has an application for a certificate pending before the Board but has not taken the examination required under this section or has taken an examination under this section, but the results of the examination are not yet known];

[(iii)] (3) A family member practicing massage therapy on another family member;

[(iv)] (4) An athletic trainer while functioning in the course of the athletic trainer's professional capacity;

[(v)] (5) An individual employed by the federal government to practice massage therapy while practicing within the scope of the individual's employment; or

[(vi)] (6) An individual working in a beauty salon:

[1.] (I) For which the person who operates the beauty salon has obtained a permit from the State Board of Cosmetology as required under § 5-501 of the Business Occupations and Professions Article; and

[2.] (II) In which the individual is providing cosmetology and esthetic services, including the application and removal of skin or skin care products.

**3-5A-06.**

**[(b)] (A)** To qualify for a [certificate] **LICENSE**, an applicant shall be an individual who:

- (1) Is of good moral character;
- (2) Is at least 18 years old;

~~[(3)] (i)~~ ~~After January 1, 2002, has~~ **HAS** satisfactorily completed at least 60 credit hours of education at an institution of higher education as defined in § 10-101 of the Education Article and as approved by the Board and the Maryland Higher Education Commission; ~~or~~

**[(ii)]** On or after March 1, 2004, enrolled in a school approved by the Board at the time of enrollment and graduated from that school no later than December 31, 2004;]

~~[(4)] (3)~~ Has completed 500 hours of education in a Board approved program for the study of massage therapy that includes the following areas of content:

- (i) Anatomy and physiology;
- (ii) Massage theory, techniques, and practice;
- (iii) Contraindications to massage therapy; and
- (iv) Professional ethics; and

~~[(5)] (4)~~ Has passed an examination approved by the Board.

**[(c)] (B)** To qualify for registration, an applicant shall be an individual who:

- (1) Is of good moral character;
- (2) Is at least 18 years old;
- (3) Has completed 500 hours of education in a Board approved program for the study of massage therapy that includes the following areas of content:
  - (i) Anatomy and physiology;
  - (ii) Massage theory, techniques, and practice;

- (iii) Contraindications to massage therapy; and
- (iv) Professional ethics; and
- (4) Has passed an examination approved by the Board.

[(d) (1) Subject to the provisions of paragraph (2) of this subsection, the Board may waive any of the qualifications required for a certificate under this subtitle for an applicant who:

- (i) Pays the application fee set by the Board;
- (ii) Provides evidence acceptable to the Board that the applicant has practiced massage therapy for at least a total of 2 years after October 1, 1994 and before October 1, 1999 and has performed at least 300 paid massage therapy sessions; and
- (iii)
  - 1. Completes a Board approved program in the study of massage therapy; or
  - 2. Passes an examination approved by the Board.

(2) The authority of the Board to grant a waiver under this subsection shall terminate on January 1, 2002.]

**3-5A-07.**

[(e) [(1) (A) Subject to the provisions of this [subsection] SECTION, the Board may waive any requirement of this subtitle for an applicant who is registered, certified, or licensed to practice massage therapy in another state.

[(2) (B) The Board may grant a waiver under this [subsection] SECTION only if the applicant:

- [(i) (1) Pays the application fee set by the Board; and
- [(ii) (2) Provides adequate evidence that the applicant:
  - [1.] (I) Has completed educational requirements that the Board determines to be equivalent to the Board approved educational requirements in this State; AND
  - [2.] (II) 1. At the time the applicant became certified, registered, or licensed in the other state, passed in that state or any other state an



examination that the Board determines to be equivalent to the examination required in this State; [and] OR

**2. PASSED AN EXAMINATION APPROVED BY THE BOARD; AND**

[3.] (3) Is of good moral character.

[3-5A-06.] **3-5A-08.**

An individual who is registered to practice non-therapeutic massage under [§ 3-5A-05] **§ 3-5A-06** of this subtitle may not practice in a medical health care provider's office, hospital, or other health care facility for the purpose of providing massage.

[3-5A-07.] **3-5A-09.**

[(a)] To apply for a [certificate] **LICENSE OR REGISTRATION**, an applicant shall:

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

(2) Submit to the Board evidence of compliance with the requirements of § 3-5A-05 of this subtitle; and

(3) Pay the application fee set by the Board.

[(b)] To apply for registration, an applicant shall:

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

(2) Submit to the Board evidence of compliance with the requirements of § 3-5A-05 of this subtitle; and

(3) Pay the application fee set by the Board.]

[3-5A-08.] **3-5A-10.**

(a) (1) A [certificate] **LICENSE** or registration expires on the date set by the Board, unless the [certificate] **LICENSE** or registration is renewed for a 1-year term as provided in this section.

(2) A [certificate] LICENSE or registration may not be renewed for a term of longer than 2 years.

(b) At least 1 month before the [certificate] LICENSE or registration expires, the Board shall send to the [certificate holder] LICENSEE or registration holder, by first-class mail to the last known address of the [certificate holder] LICENSEE or registration holder, a renewal notice that states:

(1) The date on which the current [certificate] LICENSE or registration expires;

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

(3) The amount of the renewal fee.

(c) Before a [certificate] LICENSE or registration expires, the [certificate holder] LICENSEE or registration holder periodically may renew it for an additional term, if the [certificate holder] LICENSEE or registration holder:

(1) Otherwise is entitled to be [certified] LICENSED or registered;

(2) Submits to the Board a renewal application on the form that the Board requires; and

(3) Pays to the Board a renewal fee set by the Board.

(d) (1) Each [certificate holder] LICENSEE or registration holder shall notify the Board in writing of any change in the name or address of the [certificate holder] LICENSEE or registration holder within 60 days after the change occurred.

(2) If a [certificate holder] LICENSEE or registration holder fails to notify the Board within the time required under this subsection, subject to the hearing provisions of § 3-315 of this title, the Board may impose an administrative penalty of \$100.

(e) **[(1)]** The Board shall renew the [certificate of each certificate holder] LICENSE OF EACH LICENSEE AND THE REGISTRATION OF EACH REGISTRATION HOLDER who meets the requirements of this section.

**[(2)]** The Board shall renew the registration of each registration holder who meets the requirements of this section.]

**[3-5A-11.**

(a) Except as otherwise provided in this subtitle, an individual may not practice, attempt to practice, or offer to practice massage therapy, massage, myotherapy, or any synonym or derivation of these terms in this State unless certified by the Board.

(b) An individual who is not certified as a certified massage therapist or registered as a massage practitioner under this subtitle may not advertise or claim by title, abbreviation, sign, card, or any other representation that the individual practices massage, massage therapy, myotherapy, or any synonym or derivation of these terms.

(c) An individual who is a registered massage practitioner under this subtitle or a business entity that employs registered massage practitioners under this subtitle may not advertise to the public that the individual or business entity provides health-related therapeutic massage services.

(d) (1) In Charles County and Washington County, an individual may not perform a massage or offer to perform a massage on another person for compensation unless the individual who performs the massage or offers to perform a massage is a certified massage therapist or registered massage practitioner.

(2) A law enforcement officer in Charles County or Washington County may demand proof of certification or registration.

(e) Any individual who violates a provision of this section is guilty of a misdemeanor and on conviction shall be subject to a fine not exceeding \$5,000 or imprisonment for not more than 1 year, or both.]

**[3-5A-09.] 3-5A-11.**

(a) Subject to the hearing provisions of § 3-315 of this title, the Board may deny a [certificate] LICENSE or registration to any applicant, reprimand any [certificate holder] LICENSEE or registration holder, place any [certificate holder] LICENSEE or registration holder on probation, or suspend or revoke the [certificate] LICENSE of a [certificate holder] LICENSEE or the registration of a registration holder if the applicant, [certificate holder] LICENSEE, or registration holder:

(1) Fraudulently or deceptively obtains or attempts to obtain a [certificate] LICENSE or registration for the applicant or for another;

(2) Fraudulently or deceptively uses a [certificate] LICENSE or registration;

(3) Is disciplined by a licensing, certifying, or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;

(4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(5) Willfully and knowingly:

(i) Files a false report or record of an individual under the care of the [certificate] LICENSE holder or registration holder; or

(ii) Gives any false or misleading information about a material matter in an employment application;

(6) Knowingly does any act that has been determined by the Board, in its regulations, to exceed the scope of practice authorized to the individual under this subtitle;

(7) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;

(9) Is negligent in the practice of massage therapy;

(10) Is professionally incompetent;

(11) Has violated any provision of this subtitle;

(12) Submits a false statement to collect a fee;

(13) Is physically or mentally incompetent;

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

(15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the [certificate holder] **LICENSEE** or registration holder is qualified to render because the individual is HIV positive;

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

(17) Is habitually intoxicated;

(18) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;

(19) Fails to cooperate with a lawful investigation conducted by the Board;

(20) Engages in conduct that violates the professional code of ethics; or

(21) Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations.

(b) If, after a hearing under § 3-315 of this title, the Board finds that there are grounds under subsection (a) of this section to suspend or revoke a [certificate] **LICENSE** to practice massage therapy or registration to practice non-therapeutic massage, to reprimand a [certificate holder] **LICENSEE** or registration holder, or place a [certificate holder] **LICENSEE** or registration holder on probation, the Board may impose a penalty not exceeding \$5,000 in lieu of or in addition to suspending or revoking the [certificate] **LICENSE** or registration, reprimanding the [certificate holder] **LICENSEE** or registration holder, or placing the [certificate holder] **LICENSEE** or registration holder on probation.

(c) (1) An individual whose [certificate] **LICENSE** or registration has been suspended or revoked by the Board shall return the [certificate] **LICENSE** or registration to the Board.

(2) If the suspended or revoked [certificate] **LICENSE** or registration has been lost, the individual shall file with the Board a verified statement to that effect.

(d) The Board shall file a notice for publication in the earliest publication of the Maryland Register of each revocation or suspension of a [certificate] **LICENSE** or registration under this section within 24 hours of the revocation or suspension.

**[3-5A-10.] 3-5A-12.**

This subtitle does not limit the right of an individual to practice or advertise an occupation that the individual is otherwise authorized to practice under the Maryland Annotated Code.

**3-5A-13.**

**(A) THE BOARD SHALL ADOPT RULES AND REGULATIONS TO ESTABLISH STANDARDS FOR ADVERTISING OR SOLICITING BY LICENSED MASSAGE THERAPISTS OR REGISTERED MASSAGE PRACTITIONERS.**

**(B) FOR PURPOSES OF THIS SECTION, NOTICES MAILED TO PATIENTS TO INFORM THEM OF TIMES FOR PERIODIC APPOINTMENTS ARE NOT ADVERTISING OR SOLICITING.**

**(C) A LICENSED MASSAGE THERAPIST OR A REGISTERED MASSAGE PRACTITIONER MAY USE A TRADE NAME IN CONNECTION WITH THE PRACTICE OF MASSAGE THERAPY PROVIDED THAT:**

**(1) THE USE OF THE TRADE NAME IS NOT DECEPTIVE OR MISLEADING;**

**(2) THE ADVERTISEMENT IN WHICH THE TRADE NAME APPEARS INCLUDES THE NAME OF THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER OR THE NAME OF THE BUSINESS ENTITY PROVIDING THE MASSAGE THERAPY SERVICES BEING ADVERTISED, AS LONG AS THE ADVERTISEMENT INCLUDES THE NAME OF A LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER;**

**(3) THE NAME OF THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER PROVIDING MASSAGE THERAPY SERVICES APPEARS ON THE BILLING INVOICES, STATIONERY, AND ON ANY RECEIPT GIVEN TO A PATIENT;**

**(4) TREATMENT RECORDS ARE MAINTAINED THAT CLEARLY IDENTIFY THE LICENSED MASSAGE THERAPIST OR REGISTERED MASSAGE PRACTITIONER WHO HAS PERFORMED THE MASSAGE THERAPY SERVICE FOR THE PATIENT; AND**

**(5) THE USE OF A TRADE NAME IS PREAPPROVED BY THE BOARD BEFORE USE.**

**[3-5A-12.] 3-5A-14.**

A health care provider licensed or certified under this article may not refer patients to a person who is not a [certified] **LICENSED** massage therapist.

**[3-5A-13.] 3-5A-15.**

Notwithstanding the fact that these services are provided within the scope of their [certified] **LICENSED** practice, nothing in this subtitle requires a nonprofit health service plan, insurer, health maintenance organization, or person acting as a third party administrator to reimburse a [certified] **LICENSED** massage therapist or registered massage practitioner for any services rendered.

**[3-5A-14.] 3-5A-16.**

(a) In Charles County and Washington County, the County Commissioners may adopt ordinances or regulations relating to massage establishments and the practices of massage therapists, massage practitioners, and any other individuals who provide massage for compensation.

(b) (1) The Charles County Commissioners shall provide that the Director of the Charles County Health Department and the Office of the Sheriff for Charles County have the authority to carry out the provisions of the ordinances or regulations adopted under subsection (a) of this section.

(2) The Washington County Commissioners shall provide that the Washington County Health Officer and the Office of the Sheriff for Washington County have the authority to carry out the provisions of the ordinances or regulations adopted under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall appoint one chiropractor member and three massage therapist members to the State Board of Chiropractic and Massage Therapy Examiners in accordance with § 3-202 of the Health Occupations Article, as enacted by Section 1 of this Act. The terms of the members are as follows:

(1) the one chiropractor member and one massage therapist member shall serve for a term of 2 years which shall begin on July 1, 2009 and shall terminate at the end of June 30, 2011, and the members shall serve until a successor is appointed and qualifies; and

(2) the two massage therapist members shall serve for a term of 4 years which shall begin on July 1, 2009, and shall terminate at the end of June 30, 2013 and the members shall serve until a successor is appointed and qualifies.

SECTION 3. AND BE IT FURTHER ENACTED, That for individuals certified by the State Board of Chiropractic Examiners before October 1, 2008, to practice massage therapy:

(1) at the time the certificate expires, the Board shall issue a license to replace the certificate in accordance with the renewal requirements under § 3-5A-10 of the Health Occupations Article; and

(2) the individual may continue to practice massage therapy as a certified massage therapist until a license is issued.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 244

(Senate Bill 974)

AN ACT concerning

### Health Services Cost Review Commission – Averted Uncompensated Care – Assessment

FOR the purpose of ~~authorizing~~ requiring the Health Services Cost Review Commission to assess a certain amount in hospital rates to reflect a certain reduction in hospital uncompensated care and to operate and administer the Maryland Health Insurance Plan; requiring, for the portion of the assessment related to a certain expansion of health care coverage, ~~requiring~~ the Commission to ensure that the assessment amount not exceed certain savings and requiring each hospital to remit its assessment amount to the Health Care Coverage Fund; requiring any savings not subject to the assessment to be shared among certain purchasers; requiring, for the portion of the assessment related to the Maryland Health Insurance Plan, ~~requiring~~ the Commission to ensure the assessment is ~~revenue neutral to each hospital and~~ included in the reasonable costs of each hospital when establishing the hospital's rates, is not considered in making certain determinations, and is not less than a certain percentage of net patient revenue; requiring each hospital to remit certain amounts to the Maryland Health Insurance Plan Fund at certain intervals; prohibiting a certain assessment from exceeding a certain percentage of certain



hospital revenue; providing that funds generated from the assessment may be used only for certain purposes; requiring the Commission to report certain information to the Governor and General Assembly on or before a certain date each year; repealing requirements for the Commission to determine certain savings and assess a certain amount in hospital rates; repealing certain requirements related to an assessment on hospitals for the operation and administration of the Maryland Health Insurance Plan; requiring the Maryland Health Care Commission to report certain information to the Governor and General Assembly on or before a certain date each year; establishing the intent of the General Assembly with regard to Medicaid day limits on hospital services; ~~requiring that~~ authorizing funds generated from the a certain assessment under this Act ~~be used only for certain purposes~~ to be used for a certain purpose notwithstanding certain provisions of law; requiring the Health Services Cost Review Commission to ensure that a certain assessment does not exceed certain savings; requiring this Act to be abrogated under certain circumstances; altering a certain statutory reference; and generally relating to a Health Services Cost Review Commission assessment on hospitals.

## BY repealing

Article – Health – General

Section 19–214(d)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special Session)

## BY adding to

Article – Health – General

Section 19–214(d)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special Session)

## BY repealing

Article – Health – General

Section 19–219(d) and (e)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

## BY repealing and reenacting, without amendments,

Article – Insurance

Section 14–504(a)(1)

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 14–504(b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article – Insurance  
Section 15–12A–01(a) and (f)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)  
(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special Session)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 15–12A–05  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)  
(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special Session)

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

**Article – Health – General**

19–214.

[(d) (1) On or after July 1, 2009, if the expansion of health care coverage under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session reduces hospital uncompensated care, the Commission:

(i) Shall determine the savings realized in averted uncompensated care for each hospital individually; and

(ii) May assess an amount in each hospital's rates equal to a portion of the savings realized in averted uncompensated care for that hospital.

(2) The Commission shall ensure that any savings realized in averted uncompensated care not subject to the assessment under paragraph (1) of this subsection be shared among purchasers of hospital services in a manner that the Commission determines is most equitable.

(3) Each hospital shall remit any assessment under this subsection to the Health Care Coverage Fund established under § 15-701 of this article.]

(D) (1) ~~THE EACH YEAR, THE COMMISSION MAY SHALL~~ ASSESS A UNIFORM, BROAD-BASED, AND REASONABLE AMOUNT IN HOSPITAL RATES TO:

(I) REFLECT THE AGGREGATE REDUCTION IN HOSPITAL UNCOMPENSATED CARE REALIZED FROM THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE 2007 SPECIAL SESSION OF THE GENERAL ASSEMBLY; AND

(II) OPERATE AND ADMINISTER THE MARYLAND HEALTH INSURANCE PLAN ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE.

(2) (I) FOR THE PORTION OF THE ASSESSMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION:

1. THE COMMISSION SHALL ENSURE THAT THE ASSESSMENT AMOUNT DOES NOT EXCEED THE SAVINGS REALIZED IN AVERTED HOSPITAL UNCOMPENSATED CARE FROM THE HEALTH CARE COVERAGE EXPANSION; AND

2. EACH HOSPITAL SHALL REMIT ITS ASSESSMENT AMOUNT TO THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER § 15-701 OF THIS ARTICLE.

(II) ANY SAVINGS REALIZED IN AVERTED UNCOMPENSATED CARE AS A RESULT OF THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE 2007 SPECIAL SESSION OF THE GENERAL ASSEMBLY THAT ARE NOT SUBJECT TO THE ASSESSMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL BE SHARED AMONG PURCHASERS OF HOSPITAL SERVICES IN A MANNER THAT THE COMMISSION DETERMINES IS MOST EQUITABLE.

(3) FOR THE PORTION OF THE ASSESSMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION:

(I) THE COMMISSION SHALL ENSURE THAT THE ASSESSMENT:

~~1. SHALL BE REVENUE NEUTRAL TO EACH HOSPITAL; AND~~

**1. SHALL BE INCLUDED IN THE REASONABLE COSTS OF EACH HOSPITAL WHEN ESTABLISHING THE HOSPITAL'S RATES;**

**2. MAY NOT BE CONSIDERED IN DETERMINING THE REASONABLENESS OF RATES OR HOSPITAL FINANCIAL PERFORMANCE UNDER COMMISSION METHODOLOGIES; AND**

**3. MAY NOT BE LESS AS A PERCENTAGE OF NET PATIENT REVENUE THAN THE ASSESSMENT OF ~~.8182%~~ .8128% THAT WAS IN EXISTENCE ON JULY 1, 2007; AND**

**(II) EACH HOSPITAL SHALL REMIT MONTHLY ONE-TWELFTH OF THE AMOUNT ASSESSED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION TO THE MARYLAND HEALTH INSURANCE PLAN FUND ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE, FOR THE PURPOSE OF OPERATING AND ADMINISTERING THE MARYLAND HEALTH INSURANCE PLAN.**

**(4) THE ASSESSMENT AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED 3% IN THE AGGREGATE OF ANY HOSPITAL'S TOTAL NET REGULATED PATIENT REVENUE.**

**(5) FUNDS GENERATED FROM THE ASSESSMENT UNDER THIS SUBSECTION MAY BE USED ONLY TO:**

**(I) SUPPLEMENT COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM BEYOND THE ELIGIBILITY REQUIREMENTS IN EXISTENCE ON JANUARY 1, 2008; AND**

**(II) PROVIDE FUNDING FOR THE OPERATION AND ADMINISTRATION OF THE MARYLAND HEALTH INSURANCE PLAN.**

**(E) ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE FOLLOWING INFORMATION:**

**(1) THE AGGREGATE REDUCTION IN HOSPITAL UNCOMPENSATED CARE REALIZED FROM THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE GENERAL ASSEMBLY OF THE 2007 SPECIAL SESSION; AND**

**(2) THE NUMBER OF INDIVIDUALS WHO ENROLLED IN MEDICAID AS A RESULT OF THE CHANGE IN ELIGIBILITY STANDARDS UNDER § 15-103(A)(2)(IX) AND (X) OF THE HEALTH - GENERAL ARTICLE AND THE EXPENSES ASSOCIATED WITH THE UTILIZATION OF HOSPITAL INPATIENT CARE BY THESE INDIVIDUALS.**

19-219.

[(d) (1) In this subsection, “base hospital rate” means the aggregate value to participating commercial health insurance carriers of the substantial, available, and affordable coverage purchaser differential as determined by the Commission for the calendar year 2002.

(2) The Commission, in accordance with this subsection, shall calculate the amount of funds necessary to operate and administer the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article.

(3) (i) The Commission shall determine the percentage of total net patient revenue received in calendar year 2002 by all hospitals for which the Commission approved hospital rates that is represented by the base hospital rate.

(ii) The percentage under subparagraph (i) of this paragraph shall be determined by dividing the base hospital rate by the total net patient revenue received in calendar year 2002 by all hospitals for which the Commission approved hospital rates.

(4) On or before May 1 of each year, the Commission shall:

(i) Determine the amount of funding to allocate to the Maryland Health Insurance Plan by multiplying the percentage determined under paragraph (3) of this subsection by the value of the total net patient revenues received in the immediately preceding State fiscal year by all hospitals for which rates were approved by the Commission; and

(ii) Determine the share of total funding owed by each hospital for which rates have been approved by the Commission proportionate to the percentage of the base hospital rate attributable to each hospital.

(5) Each hospital shall remit monthly one-twelfth of the amount determined under paragraph (4)(ii) of this subsection to the Maryland Health Insurance Plan Fund.]

[(e) (1) The Commission shall adjust hospital rates to ensure that the assessment collected under subsection (d) of this section is revenue neutral to each hospital.

(2) The Commission may not consider the assessment required under subsection (d) of this section in determining:

- (i) The reasonableness of rates under this section; or
- (ii) Hospital financial performance.]

**Article - Insurance**

14-504.

- (a) (1) There is a Maryland Health Insurance Plan Fund.
- (b) The Fund shall consist of:
  - (1) premiums for coverage that the Plan issues;
  - (2) except as provided in § 14-513(a) of this subtitle, premiums paid by enrollees of the Senior Prescription Drug Assistance Program;
  - (3) money collected in accordance with [§ 19-219] § **19-214(D)** of the Health - General Article;
  - (4) money deposited by a carrier in accordance with § 14-513 of this subtitle;
  - (5) income from investments that the Board makes or authorizes on behalf of the Fund;
  - (6) interest on deposits or investments of money from the Fund;
  - (7) premium tax revenue collected under § 14-107 of this title;
  - (8) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund;
  - (9) money donated to the Fund; and
  - (10) money awarded to the Fund through grants.

15-12A-01.

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

(f) "Program" means the Small Employer Health Benefit Plan Premium Subsidy Program.

15-12A-05.

On or before January 1, 2009, and annually thereafter, the Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:

(1) the implementation of the Program; AND

(2) THE UNCOMPENSATED CARE SAVINGS DERIVED FROM THE PROGRAM AND THE METHODOLOGY USED BY THE COMMISSION TO TRACK THE UNCOMPENSATED CARE SAVINGS.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Health and Mental Hygiene policy of imposing Medicaid day limits on hospital services shall cease effective July 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That ~~funds generated from the assessment under this Act may be used only to:~~

~~(1) supplement coverage under the Medical Assistance Program beyond the eligibility requirements in existence on January 1, 2008;~~

~~(2) provide funding for the Maryland Health Insurance Plan; and~~

~~(3) assist in eliminating Medicaid day limits on hospital services effective July 1, 2008 notwithstanding § 19-214(d)(1), (2), and (5) of the Health – General Article, as enacted by Section 1 of this Act, § 15-701 of the Health – General Article, or a delay in the expansion of health care coverage beyond July 1, 2008, under Chapter 7 of the Acts of the 2007 Special Session of the General Assembly:~~

(1) funds generated from the assessment under § 19-214(d)(1)(i) of the Health – General Article, as enacted by Section 1 of this Act, may be used to pay for the elimination of Medicaid day limits on hospital services for the period of July 1, 2008, through December 31, 2008; and

(2) the Health Services Cost Review Commission shall ensure that the assessment under § 19-214(d)(1)(i) of the Health – General Article, as enacted by Section 1 of this Act, does not exceed the savings realized in averted hospital uncompensated care from:

(i) the health care coverage expansion; and

(ii) the elimination of Medicaid day limits on hospital services for the period of July 1, 2008, through December 31, 2008.

SECTION 4. AND BE IT FURTHER ENACTED, That if the State's Medicare waiver under § 1814(b) of the federal Social Security Act terminates or the provisions of 42 C.F.R. 433.68 are changed to prohibit the assessment authorized under this Act, this Act shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 245

(House Bill 1587)

AN ACT concerning

### Health Services Cost Review Commission – Averted Uncompensated Care – Assessment

FOR the purpose of ~~authorizing~~ requiring the Health Services Cost Review Commission to assess a certain amount in hospital rates to reflect a certain reduction in hospital uncompensated care and to operate and administer the Maryland Health Insurance Plan; requiring, for the portion of the assessment related to a certain expansion of health care coverage, ~~requiring~~ the Commission to ensure that the assessment amount not exceed certain savings and requiring each hospital to remit its assessment amount to the Health Care Coverage Fund; requiring any savings not subject to the assessment to be shared among certain purchasers; requiring, for the portion of the assessment related to the Maryland Health Insurance Plan, ~~requiring~~ the Commission to ensure the assessment is ~~revenue neutral to each hospital and~~ included in the reasonable costs of each hospital when establishing the hospital's rates, is not considered in making certain determinations, and is not less than a certain percentage of net patient revenue; requiring each hospital to remit certain amounts to the Maryland Health Insurance Plan Fund at certain intervals; prohibiting a certain assessment from exceeding a certain percentage of certain hospital revenue; providing that funds generated from the assessment may be used only for certain purposes; requiring the Commission to report certain



information to the Governor and General Assembly on or before a certain date each year; repealing requirements for the Commission to determine certain savings and assess a certain amount in hospital rates; repealing certain requirements related to an assessment on hospitals for the operation and administration of the Maryland Health Insurance Plan; requiring the Maryland Health Care Commission to report certain information to the Governor and General Assembly on or before a certain date each year; establishing the intent of the General Assembly with regard to Medicaid day limits on hospital services; ~~requiring that~~ authorizing funds generated from ~~the~~ a certain assessment under this Act ~~be used only for certain purposes~~ to be used for a certain purpose notwithstanding certain provisions of law; requiring the Health Services Cost Review Commission to ensure that a certain assessment does not exceed certain savings; requiring this Act to be abrogated under certain circumstances; altering a certain statutory reference; and generally relating to a Health Services Cost Review Commission assessment on hospitals.

## BY repealing

Article – Health – General

Section 19–214(d)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special Session)

## BY adding to

Article – Health – General

Section 19–214(d) and (e)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007 Special Session)

## BY repealing

Article – Health – General

Section 19–219(d) and (e)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

## BY repealing and reenacting, without amendments,

Article – Insurance

Section 14–504(a)(1)

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

## BY repealing and reenacting, with amendments,

Article – Insurance  
Section 14–504(b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance  
Section 15–12A–01(a) and (f)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)  
(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007  
Special Session)

BY repealing and reenacting, with amendments,

Article – Insurance  
Section 15–12A–05  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)  
(As enacted by Chapter 7 of the Acts of the General Assembly of the 2007  
Special Session)

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

**Article – Health – General**

19–214.

[(d) (1) On or after July 1, 2009, if the expansion of health care coverage under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session reduces hospital uncompensated care, the Commission:

(i) Shall determine the savings realized in averted uncompensated care for each hospital individually; and

(ii) May assess an amount in each hospital's rates equal to a portion of the savings realized in averted uncompensated care for that hospital.

(2) The Commission shall ensure that any savings realized in averted uncompensated care not subject to the assessment under paragraph (1) of this subsection be shared among purchasers of hospital services in a manner that the Commission determines is most equitable.

(3) Each hospital shall remit any assessment under this subsection to the Health Care Coverage Fund established under § 15–701 of this article.]

(D) (1) ~~THE~~ EACH YEAR, THE COMMISSION ~~MAY~~ SHALL ASSESS A UNIFORM, BROAD-BASED, AND REASONABLE AMOUNT IN HOSPITAL RATES TO:

(I) REFLECT THE AGGREGATE REDUCTION IN HOSPITAL UNCOMPENSATED CARE REALIZED FROM THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE 2007 SPECIAL SESSION OF THE GENERAL ASSEMBLY; AND

(II) OPERATE AND ADMINISTER THE MARYLAND HEALTH INSURANCE PLAN ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE.

(2) (I) FOR THE PORTION OF THE ASSESSMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION:

1. THE COMMISSION SHALL ENSURE THAT THE ASSESSMENT AMOUNT DOES NOT EXCEED THE SAVINGS REALIZED IN AVERTED HOSPITAL UNCOMPENSATED CARE FROM THE HEALTH CARE COVERAGE EXPANSION; AND

2. EACH HOSPITAL SHALL REMIT ITS ASSESSMENT AMOUNT TO THE HEALTH CARE COVERAGE FUND ESTABLISHED UNDER § 15-701 OF THIS ARTICLE.

(II) ANY SAVINGS REALIZED IN AVERTED UNCOMPENSATED CARE AS A RESULT OF THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE 2007 SPECIAL SESSION OF THE GENERAL ASSEMBLY THAT ARE NOT SUBJECT TO THE ASSESSMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL BE SHARED AMONG PURCHASERS OF HOSPITAL SERVICES IN A MANNER THAT THE COMMISSION DETERMINES IS MOST EQUITABLE.

(3) FOR THE PORTION OF THE ASSESSMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION:

(I) THE COMMISSION SHALL ENSURE THAT THE ASSESSMENT:

~~1. SHALL BE REVENUE NEUTRAL TO EACH HOSPITAL; AND~~

**1. SHALL BE INCLUDED IN THE REASONABLE COSTS OF EACH HOSPITAL WHEN ESTABLISHING THE HOSPITAL'S RATES;**

**2. MAY NOT BE CONSIDERED IN DETERMINING THE REASONABLENESS OF RATES OR HOSPITAL FINANCIAL PERFORMANCE UNDER COMMISSION METHODOLOGIES; AND**

**3. MAY NOT BE LESS AS A PERCENTAGE OF NET PATIENT REVENUE THAN THE ASSESSMENT OF .8128% THAT WAS IN EXISTENCE ON JULY 1, 2007; AND**

**(II) EACH HOSPITAL SHALL REMIT MONTHLY ONE-TWELFTH OF THE AMOUNT ASSESSED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION TO THE MARYLAND HEALTH INSURANCE PLAN FUND ESTABLISHED UNDER TITLE 14, SUBTITLE 5 OF THE INSURANCE ARTICLE, FOR THE PURPOSE OF OPERATING AND ADMINISTERING THE MARYLAND HEALTH INSURANCE PLAN.**

**(4) THE ASSESSMENT AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED 3% IN THE AGGREGATE OF ANY HOSPITAL'S TOTAL NET REGULATED PATIENT REVENUE.**

**(5) FUNDS GENERATED FROM THE ASSESSMENT UNDER THIS SUBSECTION MAY BE USED ONLY TO:**

**(I) SUPPLEMENT COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM BEYOND THE ELIGIBILITY REQUIREMENTS IN EXISTENCE ON JANUARY 1, 2008; AND**

**(II) PROVIDE FUNDING FOR THE OPERATION AND ADMINISTRATION OF THE MARYLAND HEALTH INSURANCE PLAN.**

**(E) ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE FOLLOWING INFORMATION:**

**(1) THE AGGREGATE REDUCTION IN HOSPITAL UNCOMPENSATED CARE REALIZED FROM THE EXPANSION OF HEALTH CARE COVERAGE UNDER CHAPTER 7 OF THE ACTS OF THE GENERAL ASSEMBLY OF THE 2007 SPECIAL SESSION; AND**

**(2) THE NUMBER OF INDIVIDUALS WHO ENROLLED IN MEDICAID AS A RESULT OF THE CHANGE IN ELIGIBILITY STANDARDS UNDER § ~~15-103(ix)~~ 15-103(A)(2)(ix) AND (X) OF THE HEALTH - GENERAL ARTICLE AND THE EXPENSES ASSOCIATED WITH THE UTILIZATION OF HOSPITAL INPATIENT CARE BY THESE INDIVIDUALS.**

19-219.

[(d) (1) In this subsection, “base hospital rate” means the aggregate value to participating commercial health insurance carriers of the substantial, available, and affordable coverage purchaser differential as determined by the Commission for the calendar year 2002.

(2) The Commission, in accordance with this subsection, shall calculate the amount of funds necessary to operate and administer the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article.

(3) (i) The Commission shall determine the percentage of total net patient revenue received in calendar year 2002 by all hospitals for which the Commission approved hospital rates that is represented by the base hospital rate.

(ii) The percentage under subparagraph (i) of this paragraph shall be determined by dividing the base hospital rate by the total net patient revenue received in calendar year 2002 by all hospitals for which the Commission approved hospital rates.

(4) On or before May 1 of each year, the Commission shall:

(i) Determine the amount of funding to allocate to the Maryland Health Insurance Plan by multiplying the percentage determined under paragraph (3) of this subsection by the value of the total net patient revenues received in the immediately preceding State fiscal year by all hospitals for which rates were approved by the Commission; and

(ii) Determine the share of total funding owed by each hospital for which rates have been approved by the Commission proportionate to the percentage of the base hospital rate attributable to each hospital.

(5) Each hospital shall remit monthly one-twelfth of the amount determined under paragraph (4)(ii) of this subsection to the Maryland Health Insurance Plan Fund.]

[(e) (1) The Commission shall adjust hospital rates to ensure that the assessment collected under subsection (d) of this section is revenue neutral to each hospital.

(2) The Commission may not consider the assessment required under subsection (d) of this section in determining:

- (i) The reasonableness of rates under this section; or
- (ii) Hospital financial performance.]

**Article - Insurance**

14-504.

- (a) (1) There is a Maryland Health Insurance Plan Fund.
- (b) The Fund shall consist of:
  - (1) premiums for coverage that the Plan issues;
  - (2) except as provided in § 14-513(a) of this subtitle, premiums paid by enrollees of the Senior Prescription Drug Assistance Program;
  - (3) money collected in accordance with [§ 19-219] § **19-214(D)** of the Health - General Article;
  - (4) money deposited by a carrier in accordance with § 14-513 of this subtitle;
  - (5) income from investments that the Board makes or authorizes on behalf of the Fund;
  - (6) interest on deposits or investments of money from the Fund;
  - (7) premium tax revenue collected under § 14-107 of this title;
  - (8) money collected by the Board as a result of legal or other actions taken by the Board on behalf of the Fund;
  - (9) money donated to the Fund; and
  - (10) money awarded to the Fund through grants.

15-12A-01.

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

(f) "Program" means the Small Employer Health Benefit Plan Premium Subsidy Program.

15-12A-05.

On or before January 1, 2009, and annually thereafter, the Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:

(1) the implementation of the Program; AND

(2) THE UNCOMPENSATED CARE SAVINGS DERIVED FROM THE PROGRAM AND THE METHODOLOGY USED BY THE COMMISSION TO TRACK THE UNCOMPENSATED CARE SAVINGS.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Department of Health and Mental Hygiene policy of imposing Medicaid day limits on hospital services shall cease effective July 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That ~~funds generated from the assessment under this Act may be used only to:~~

~~(1) supplement coverage under the Medical Assistance Program beyond the eligibility requirements in existence on January 1, 2008;~~

~~(2) provide funding for the Maryland Health Insurance Plan; and~~

~~(3) assist in eliminating Medicaid day limits on hospital services effective July 1, 2008 notwithstanding § 19-214(d)(1), (2), and (5) of the Health – General Article, as enacted by Section 1 of this Act, § 15-701 of the Health – General Article, or a delay in the expansion of health care coverage beyond July 1, 2008, under Chapter 7 of the Acts of the General Assembly of the 2007 Special Session:~~

(1) funds generated from the assessment under § 19-214(d)(1)(i) of the Health – General Article, as enacted by Section 1 of this Act, may be used to pay for the elimination of Medicaid day limits on hospital services for the period of July 1, 2008, through December 31, 2008; and

(2) the Health Services Cost Review Commission shall ensure that the assessment under § 19-214(d)(1)(i) of the Health – General Article, as enacted by Section 1 of this Act, does not exceed the savings realized in averted hospital uncompensated care from:

- (i) the health care coverage expansion; and
- (ii) the elimination of Medicaid day limits on hospital services for the period of July 1, 2008, through December 31, 2008.

SECTION 4. AND BE IT FURTHER ENACTED, That if the State's Medicare waiver under § 1814(b) of the federal Social Security Act terminates or the provisions of 42 C.F.R. 433.68 are changed to prohibit the assessment authorized under this Act, this Act shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 246**

**(Senate Bill 987)**

AN ACT concerning

### **Carroll County – Special Beer Festival – License Fee**

FOR the purpose of altering the fee for a special beer festival license in Carroll County; and generally relating to special beer festivals in Carroll County.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 8–805(a), (b), and (c)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 8–805(e)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

### **Article 2B – Alcoholic Beverages**



8-805.

(a) In this section, "Board" means the Board of License Commissioners for Carroll County.

(b) The Board may issue a special beer festival license.

(c) A special beer festival license entitles the holder to display and sell at retail beer for consumption on or off the licensed premises on the days and for the hours designated for the special beer festival in Carroll County.

(e) The license fee is [~~\$200~~] **\$50** for a one-day or two-day festival.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 247

(Senate Bill 1000)

AN ACT concerning

### Department of Natural Resources - Community Parks and Playgrounds Program

FOR the purpose of ~~authorizing a portion of certain funds to be transferred from Program Open Space to the Community Parks and Playgrounds Program;~~ declaring a certain intent of the General Assembly; establishing a Community Parks and Playgrounds Program; authorizing the Program to provide certain grants for certain purposes; providing for the administration of the Program; requiring the Secretary of Natural Resources to adopt regulations to carry out the Program; providing for funding for the Program; ~~requiring the Governor to include certain funds in the annual capital budget in certain years for the Program;~~ providing for the application of this Act; *declaring the intent of the General Assembly*; defining a certain term; and generally relating to the Community Parks and Playgrounds Program.

~~BY repealing and reenacting, with amendments,  
Article - Natural Resources~~

~~Section 5-903(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)  
(As enacted by Chapter 2 of the Acts of the General Assembly of the 2007  
Special Session)~~

BY adding to

Article - Natural Resources  
Section 5-9C-01 through ~~5-9C-04~~ 5-9C-03 to be under the new subtitle  
"Subtitle 9C. Community Parks and Playgrounds Program"  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article - Natural Resources**

~~5-903.~~

~~(a) (1) Of the funds distributed to Program Open Space under § 13-209 of the Tax Property Article, up to \$3,000,000 may be transferred by an appropriation in the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of the State Finance and Procurement Article, to the Maryland Heritage Areas Authority Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions Article to be used for the purposes provided in that subtitle.~~

~~(2) (i) 1. Of the remaining funds not appropriated under paragraph (1) of this subsection:~~

~~A. One half of the funds shall be used for recreation and open space purposes by the Department and the Historic St. Mary's City Commission; and~~

~~B. 20% of the funds or \$21,000,000, whichever is greater, shall be appropriated to the Forest and Park Service in the Department to operate State forests and parks.~~

~~2. Except as otherwise provided in this section, any funds the General Assembly appropriates to the State under this subsection shall be used only for land acquisition projects.~~

~~(ii) At least \$1,500,000 of the State's share of funds available under subparagraph (i)1A of this paragraph for this program shall be utilized to make grants to Baltimore City for projects which meet park purposes. The grants shall be in~~

~~addition to any funds Baltimore City is eligible to receive under subsection (b) of this section, and may be used for acquisition or development. In order for Baltimore City to be eligible for a State grant, the Department shall review projects or land to be acquired within Baltimore City, and upon the Department's recommendation, the Board of Public Works may approve projects and land including the cost. Title to the land shall be in the name of the Mayor and City Council of Baltimore City. The State is not responsible for costs involved in the development or maintenance of the land.~~

~~(iii) 1. A portion of the State's share of funds available under subparagraph (i)1A of this paragraph for this Program not to exceed \$8,000,000 for each fiscal year may be transferred by an appropriation in the State budget to the Rural Legacy Program under Subtitle 9A of this title.~~

~~2. In each fiscal year, up to \$2 million of the funds transferred under this subparagraph to the Rural Legacy Program may be used to purchase zero coupon bonds for easements.~~

~~3. Sums allocated to the Rural Legacy Program may not revert to the General Fund of the State.~~

~~(iv) 1. A PORTION OF THE STATE'S SHARE OF FUNDS AVAILABLE UNDER SUBPARAGRAPH (i)1A OF THIS PARAGRAPH FOR THIS PROGRAM NOT TO EXCEED \$5,000,000 FOR EACH FISCAL YEAR MAY BE TRANSFERRED BY AN APPROPRIATION IN THE STATE BUDGET TO THE COMMUNITY PARKS AND PLAYGROUNDS PROGRAM UNDER SUBTITLE 9C OF THIS TITLE.~~

~~2. NOTWITHSTANDING SUBPARAGRAPH (i)2 OF THIS PARAGRAPH, FUNDS TRANSFERRED UNDER THIS SUBPARAGRAPH TO THE COMMUNITY PARKS AND PLAYGROUNDS PROGRAM MAY BE USED FOR REHABILITATION OR IMPROVEMENT OF EXISTING PARKS OR TO BUY AND INSTALL PLAYGROUND EQUIPMENT IN AREAS SPECIFIED IN § 5-9C-02(A) OF THIS TITLE.~~

#### **SUBTITLE 9C. COMMUNITY PARKS AND PLAYGROUNDS PROGRAM.**

##### **5-9C-01.**

**IN THIS SUBTITLE, "PROGRAM" MEANS THE COMMUNITY PARKS AND PLAYGROUNDS PROGRAM.**

##### **5-9C-02.**

**(A) THE GENERAL ASSEMBLY DECLARES THAT:**

(1) IT IS STATE PUBLIC POLICY TO BOTH RESTORE EXISTING PARK AND GREEN SPACE SYSTEMS AND CREATE NEW PARK AND GREEN SPACE SYSTEMS IN THE ~~MUNICIPALITIES~~ MUNICIPAL CORPORATIONS OF THE STATE AND BALTIMORE CITY; AND

(2) FUNDING SOURCES IN THE FORM OF FLEXIBLE GRANTS ~~SHOULD~~ SHALL BE MADE AVAILABLE TO ~~LOCAL GOVERNMENTS AND~~ THE GOVERNING BODIES OF ~~MUNICIPALITIES~~ MUNICIPAL CORPORATIONS AND BALTIMORE CITY TO ~~REHABILITATE, EXPAND, OR IMPROVE EXISTING PARKS, PURCHASE LAND TO CREATE NEW PARKS, DEVELOP NEW PARKS, OR TO PURCHASE AND INSTALL PLAYGROUND EQUIPMENT IN OLDER URBAN NEIGHBORHOODS AND INTENSELY DEVELOPED RURAL AREAS THROUGHOUT THE STATE;~~

(I) REHABILITATE, EXPAND, IMPROVE, OR MAINTAIN EXISTING PARKS;

(II) PURCHASE LAND TO CREATE NEW PARKS;

(III) DEVELOP NEW PARKS;

(IV) PURCHASE AND INSTALL PLAYGROUND EQUIPMENT IN URBAN NEIGHBORHOODS AND RURAL AREAS THROUGHOUT THE STATE; OR

(V) BE USED FOR ENVIRONMENTALLY ORIENTED PARKS AND RECREATION PROJECTS.

(B) (1) THERE IS A COMMUNITY PARKS AND PLAYGROUNDS PROGRAM TO PROVIDE FLEXIBLE GRANTS TO ~~LOCAL GOVERNMENTS AND~~ THE GOVERNING BODIES OF ~~MUNICIPALITIES~~ MUNICIPAL CORPORATIONS AND BALTIMORE CITY FOR THE PURPOSES SET FORTH IN SUBSECTION (A) OF THIS SECTION.

(2) THE DEPARTMENT'S PROGRAM OPEN SPACE SHALL ADMINISTER THE PROGRAM.

(C) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

5-9C-03.

**THE PROGRAM ~~IS~~ MAY BE FUNDED:**

**(1) ~~UNDER § 5-903(A)(2)(IV) OF THIS TITLE FROM THE GENERAL FUND OF THE STATE; AND~~**

**(2) ~~BY THE PROCEEDS FROM THE SALE OF STATE GENERAL OBLIGATION BONDS AS PROVIDED IN § 5-9C-04 OF THIS SUBTITLE.~~**

**~~5-9C-04.~~**

**~~IN FISCAL YEAR 2010 AND EACH FISCAL YEAR THEREAFTER THE GOVERNOR SHALL INCLUDE IN THE ANNUAL CAPITAL BUDGET AN AMOUNT NOT LESS THAN \$5,000,000 FOR THE PROGRAM.~~**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only to funding for projects that secure flexible grants through the Community Parks and Playgrounds Program in accordance with Title 5, Subtitle 9C of the Natural Resources Article, as enacted by Section 1 of this Act, beginning in fiscal year 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That, it is the intent of the General Assembly that the Community Parks and Playgrounds Program enacted by Section 1 of this Act replace the existing Community Parks and Playgrounds Program within the Department of Natural Resources. It is also the intent of the General Assembly that, to the extent funds are available, the Governor provide funding for the Community Parks and Playgrounds Program for the purposes established under Section 1 of this Act.

SECTION ~~2~~ ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 248**

**(House Bill 1604)**

AN ACT concerning

**Department of Natural Resources - ~~Community Municipal Parks~~ Community Parks and Playgrounds and ~~Playgrounds~~ Program**

FOR the purpose of ~~authorizing a portion of certain funds to be transferred from Program Open Space to the Community Parks and Playgrounds Program;~~ declaring a certain intent of the General Assembly; establishing a ~~Community Municipal Parks~~ Community Parks and Playgrounds and ~~Playgrounds~~ Program; authorizing the Program to provide certain grants for certain purposes; providing for the administration of the Program; requiring the Secretary of Natural Resources to adopt regulations to carry out the Program; providing for funding for the Program; ~~requiring the Governor to include certain funds in the annual capital budget in certain years for the Program;~~ defining a certain term; providing for the application of this Act; declaring the intent of the General Assembly; and generally relating to the ~~Community Municipal Parks~~ Community Parks and Playgrounds and ~~Playgrounds~~ Program.

~~BY repealing and reenacting, with amendments,~~  
 Article – Natural Resources  
 Section 5-903(a)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)  
 (As enacted by Chapter 2 of the Acts of the General Assembly of the 2007 Special Session)

BY adding to  
 Article – Natural Resources  
 Section 5-9C-01 through ~~5-9C-04~~ 5-9C-03 to be under the new subtitle  
 “Subtitle 9C. ~~Community Municipal Parks~~ Community Parks and Playgrounds and ~~Playgrounds~~ Program”  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

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

**Article – Natural Resources**

~~5-903.~~

(a) (1) ~~Of the funds distributed to Program Open Space under § 13-200 of the Tax Property Article, up to \$3,000,000 may be transferred by an appropriation in the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of the State Finance and Procurement Article, to the Maryland Heritage Areas Authority Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions Article to be used for the purposes provided in that subtitle.~~

~~(2) (i) 1. Of the remaining funds not appropriated under paragraph (1) of this subsection:~~

~~A. One half of the funds shall be used for recreation and open space purposes by the Department and the Historic St. Mary's City Commission; and~~

~~B. 20% of the funds or \$21,000,000, whichever is greater, shall be appropriated to the Forest and Park Service in the Department to operate State forests and parks.~~

~~2. Except as otherwise provided in this section, any funds the General Assembly appropriates to the State under this subsection shall be used only for land acquisition projects.~~

~~(ii) At least \$1,500,000 of the State's share of funds available under subparagraph (i)1A of this paragraph for this program shall be utilized to make grants to Baltimore City for projects which meet park purposes. The grants shall be in addition to any funds Baltimore City is eligible to receive under subsection (b) of this section, and may be used for acquisition or development. In order for Baltimore City to be eligible for a State grant, the Department shall review projects or land to be acquired within Baltimore City, and upon the Department's recommendation, the Board of Public Works may approve projects and land including the cost. Title to the land shall be in the name of the Mayor and City Council of Baltimore City. The State is not responsible for costs involved in the development or maintenance of the land.~~

~~(iii) 1. A portion of the State's share of funds available under subparagraph (i)1A of this paragraph for this Program not to exceed \$8,000,000 for each fiscal year may be transferred by an appropriation in the State budget to the Rural Legacy Program under Subtitle 9A of this title.~~

~~2. In each fiscal year, up to \$2 million of the funds transferred under this subparagraph to the Rural Legacy Program may be used to purchase zero coupon bonds for easements.~~

~~3. Sums allocated to the Rural Legacy Program may not revert to the General Fund of the State.~~

~~(iv) 1. A PORTION OF THE STATE'S SHARE OF FUNDS AVAILABLE UNDER SUBPARAGRAPH (i)1A OF THIS PARAGRAPH FOR THIS PROGRAM NOT TO EXCEED \$5,000,000 FOR EACH FISCAL YEAR MAY BE TRANSFERRED BY AN APPROPRIATION IN THE STATE BUDGET TO THE COMMUNITY PARKS AND PLAYGROUNDS PROGRAM UNDER SUBTITLE 9C OF THIS TITLE.~~

~~2. NOTWITHSTANDING SUBPARAGRAPH (1)2 OF THIS PARAGRAPH, FUNDS TRANSFERRED UNDER THIS SUBPARAGRAPH TO THE COMMUNITY PARKS AND PLAYGROUNDS PROGRAM MAY BE USED FOR REHABILITATION OR IMPROVEMENT OF EXISTING PARKS OR TO BUY AND INSTALL PLAYGROUND EQUIPMENT IN AREAS SPECIFIED IN § 5-9C-02(A) OF THIS TITLE.~~

**SUBTITLE 9C. ~~COMMUNITY MUNICIPAL PARKS~~ COMMUNITY PARKS AND PLAYGROUNDS AND PLAYGROUNDS PROGRAM.**

**5-9C-01.**

IN THIS SUBTITLE, "PROGRAM" MEANS THE ~~COMMUNITY MUNICIPAL PARKS~~ COMMUNITY PARKS AND PLAYGROUNDS AND PLAYGROUNDS PROGRAM.

**5-9C-02.**

(A) THE GENERAL ASSEMBLY DECLARES THAT:

(1) IT IS STATE PUBLIC POLICY TO BOTH RESTORE EXISTING PARK AND GREEN SPACE SYSTEMS AND CREATE NEW PARK AND GREEN SPACE SYSTEMS IN THE ~~MUNICIPALITIES~~ MUNICIPAL CORPORATIONS OF THE STATE AND BALTIMORE CITY; AND

(2) FUNDING SOURCES IN THE FORM OF FLEXIBLE GRANTS ~~SHOULD~~ SHALL BE MADE AVAILABLE TO ~~LOCAL GOVERNMENTS AND~~ THE GOVERNING BODIES OF ~~MUNICIPALITIES~~ MUNICIPAL CORPORATIONS AND BALTIMORE CITY TO ~~REHABILITATE, EXPAND, OR IMPROVE EXISTING PARKS, CREATE NEW PARKS, OR TO PURCHASE AND INSTALL PLAYGROUND EQUIPMENT IN OLDER NEIGHBORHOODS AND INTENSELY DEVELOPED AREAS THROUGHOUT THE STATE;~~

(i) REHABILITATE, EXPAND, IMPROVE, OR MAINTAIN EXISTING PARKS;

(ii) PURCHASE LAND TO CREATE NEW PARKS;

(iii) DEVELOP NEW PARKS;

(iv) PURCHASE AND INSTALL PLAYGROUND EQUIPMENT IN URBAN NEIGHBORHOODS AND RURAL AREAS THROUGHOUT THE STATE; OR



(V) BE USED FOR ENVIRONMENTALLY ORIENTED PARKS AND RECREATION ~~PROGRAMS~~ PROJECTS.

(B) (1) THERE IS A ~~COMMUNITY MUNICIPAL PARKS~~ COMMUNITY PARKS AND PLAYGROUNDS AND PLAYGROUNDS PROGRAM TO PROVIDE FLEXIBLE GRANTS TO ~~LOCAL GOVERNMENTS AND~~ THE GOVERNING BODIES OF ~~MUNICIPALITIES~~ MUNICIPAL CORPORATIONS AND BALTIMORE CITY FOR THE PURPOSES SET FORTH IN SUBSECTION (A) OF THIS SECTION.

(2) THE DEPARTMENT'S PROGRAM OPEN SPACE SHALL ADMINISTER THE PROGRAM.

(C) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

**5-9C-03.**

**THE PROGRAM ~~IS~~ MAY BE FUNDED:**

(1) ~~UNDER § 5-903(A)(2)(IV) OF THIS TITLE~~ FROM THE GENERAL FUND OF THE STATE; AND

(2) BY THE PROCEEDS FROM THE SALE OF STATE GENERAL OBLIGATION BONDS AS PROVIDED IN § 5-9C-04 OF THIS SUBTITLE.

~~**5-9C-04.**~~

~~IN FISCAL YEAR 2010 AND EACH FISCAL YEAR THEREAFTER THE GOVERNOR SHALL INCLUDE IN THE ANNUAL CAPITAL BUDGET AN AMOUNT NOT LESS THAN \$5,000,000 FOR THE PROGRAM.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only to funding for projects that secure flexible grants through the ~~Municipal Parks~~ Community Parks and Playgrounds Program in accordance with Title 5, Subtitle 9C of the Natural Resources Article, as enacted by Section 1 of this Act, beginning in fiscal year 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That, it is the intent of the General Assembly that the Community Parks and Playgrounds Program enacted by Section 1 of this Act replace the existing Community Parks and Playground Program within the Department of Natural Resources. It is also the intent of the General Assembly that, to the extent funds are available, the Governor provide funding for the Community Parks and Playgrounds Program for the purposes established under Section 1 of this Act.

SECTION ~~2~~ ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 249**

**(House Bill 5)**

AN ACT concerning

**Kent County - Alcoholic Beverages - Class A Light Wine Licenses**

FOR the purpose of adding Kent County to the list of counties in which a Class A light wine license may be issued to a holder of a Class 3 manufacturer's license or a Class 4 manufacturer's license; and generally relating to alcoholic beverages in Kent County.

BY repealing and reenacting, with amendments,  
Article 2B - Alcoholic Beverages  
Section 4-201(a) and (e)(1)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
Article 2B - Alcoholic Beverages  
Section 4-201(c)(1) and (e)(2)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article 2B - Alcoholic Beverages**

4-201.

- (a) A Class A light wine license may be issued only in:
  - (1) Anne Arundel County;

- (2) Baltimore County;
- (3) Calvert County;
- (4) Caroline County;
- (5) Carroll County;
- (6) Cecil County;
- (7) Dorchester County;
- (8) Frederick County;
- (9) Garrett County;
- (10) Harford County;
- (11) Howard County;
- (12) KENT COUNTY;**
- [(12)] **(13)** Montgomery County;
- [(13)] **(14)** Queen Anne's County;
- [(14)] **(15)** St. Mary's County;
- [(15)] **(16)** Somerset County;
- [(16)] **(17)** Talbot County;
- [(17)] **(18)** Washington County;
- [(18)] **(19)** Wicomico County; and
- [(19)] **(20)** Worcester County.

(c) (1) A Class A light wine license may be issued by the license issuing authority of the county in which the place of business is located to any holder of a Class 4 manufacturer's license.

- (e) (1) This subsection applies only in the following counties:
  - (i) Anne Arundel County;

- (ii) Baltimore County;
- (iii) Frederick County;
- (iv) Garrett County;
- (v) Harford County;
- (VI) KENT COUNTY;**
- [(vi)] **(VII)** Somerset County;
- [(vii)] **(VIII)** Talbot County; and
- [(viii)] **(IX)** Washington County.

(2) A Class A light wine license may be issued to a holder of a Class 3 manufacturer's license, who makes wine from agricultural products grown in Maryland.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 250**

**(House Bill 36)**

AN ACT concerning

### **Judges' Retirement System – Employment on Faculty of Public Institution of Higher Education**

FOR the purpose of establishing that a certain limitation on earnings and reduction of retirement allowance for retired judges does not apply to a retiree who is employed as a member of the faculty of a public institution of higher education in the State; and generally relating to the employment of retired judges.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions

Section 27-406  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 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**

27-406.

(a) This section does not apply to a retiree who:

(1) is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; or

(2) is [reemployed] **EMPLOYED** as a member of the faculty of a [community college] **PUBLIC INSTITUTION OF HIGHER EDUCATION** in the State.

(b) A retiree may accept employment in which all or part of the compensation for the employment comes from municipal, county, or State funds, if the retiree immediately notifies the Board of Trustees of:

- (1) the retiree's intention to accept the employment; and
- (2) the compensation that the retiree will receive.

(c) (1) The Board of Trustees shall reduce the retirement allowance of a retiree who accepts employment as provided under subsection (b) of this section if the retiree's current employer is any unit of State government and the retiree's employer at the time of the retiree's last separation from employment with the State before the retiree commenced receiving a service retirement allowance was also a unit of State government.

(2) The reduction required under paragraph (1) of this subsection shall equal the amount that the sum of the retiree's annual retirement allowance and the retiree's annual compensation exceeds the amount of the compensation on which the retirement allowance is based.

(d) If a retiree accepts employment as allowed by subsection (a) of this section and is subsequently awarded retirement benefits because of that employment, the Board of Trustees shall reduce the retiree's benefits under this subtitle by the amount of the retirement benefits resulting from the subsequent employment if the retiree's current employer is any unit of State government and the retiree's employer at the time of the retiree's last separation from employment with the State before the

retiree commenced receiving a service retirement allowance was also a unit of State government.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 251

(House Bill 115)

AN ACT concerning

**Medical Assistance Programs and Maryland Children's Health Program -  
Statements on State-Issued ~~Checks~~ Check Stubs**

FOR the purpose of requiring the Department of Health and Mental Hygiene to collaborate with the Office of the Comptroller or the Office of the State Treasurer to form a statement advising certain individuals that they may be eligible to enroll in certain medical assistance programs or the Maryland Children's Health Program and to print the statement on certain State-issued ~~checks~~ check stubs; requiring that a certain statement require certain contact information; authorizing that a certain statement may be altered under certain circumstances; and generally relating to medical assistance programs and Maryland Children's Health Program statements on State-issued ~~checks~~ check stubs.

BY adding to

Article - Health - General  
Section 15-102.1(c) and 15-304(c)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article - Health - General**

15-102.1.

(c) (1) THE DEPARTMENT SHALL COLLABORATE WITH THE OFFICE OF THE COMPTROLLER OR THE OFFICE OF THE STATE TREASURER TO:

(i) FORM A ONE-SENTENCE STATEMENT ADVISING THAT INDIVIDUALS WHO CANNOT AFFORD HEALTH INSURANCE MAY BE ELIGIBLE TO ENROLL IN A MEDICAL ASSISTANCE PROGRAM; AND

(ii) PRINT THE STATEMENT FORMED UNDER ITEM (I) OF THIS PARAGRAPH:

1. ON EACH STATE-ISSUED TAX REFUND CHECK STUB;

2. ~~ON EACH STATE-ISSUED VENDOR PAYMENT CHECK; AND~~

~~3.~~ ONCE EACH PAY QUARTER, ON EACH STATE-ISSUED EMPLOYEE PAYCHECK STUB; AND

3. ON EACH STATE-ISSUED CHILD SUPPORT PAYMENT CHECK STUB.

(2) THE STATEMENT SHALL INCLUDE A TELEPHONE NUMBER OR OTHER CONTACT INFORMATION THAT AN INDIVIDUAL MAY USE TO RECEIVE MORE INFORMATION ON ELIGIBILITY FOR MEDICAL ASSISTANCE PROGRAMS.

(3) THE STATEMENT MAY BE ALTERED BY THE DEPARTMENT IN COLLABORATION WITH THE OFFICE OF THE COMPTROLLER OR THE OFFICE OF THE STATE TREASURER TO:

(i) PROVIDE THE MOST CURRENT INFORMATION;

(ii) FIT WITHIN THE SPACE CONSTRAINTS OF THE DIFFERENT TYPES OF CHECKS LISTED IN PARAGRAPH (1)(II) OF THIS SUBSECTION; OR

(iii) COMBINE IT WITH THE STATEMENT REQUIRED UNDER § 15-304(C) OF THIS TITLE, IF APPROPRIATE.

15-304.

(c) (1) THE DEPARTMENT SHALL COLLABORATE WITH THE OFFICE OF THE COMPTROLLER OR THE OFFICE OF THE STATE TREASURER TO:

(I) FORM A ONE-SENTENCE STATEMENT ADVISING THAT INDIVIDUALS WHO CANNOT AFFORD HEALTH INSURANCE MAY BE ELIGIBLE TO ENROLL IN THE MARYLAND CHILDREN'S HEALTH PROGRAM; AND

(II) PRINT THE STATEMENT FORMED UNDER ITEM (I) OF THIS PARAGRAPH:

1. ON EACH STATE-ISSUED TAX REFUND CHECK STUB;

2. ~~ON EACH STATE-ISSUED VENDOR PAYMENT CHECK; AND~~

~~3.~~ ONCE EACH PAY QUARTER, ON EACH STATE-ISSUED EMPLOYEE PAYCHECK STUB; AND

3. ON EACH STATE-ISSUED CHILD SUPPORT PAYMENT CHECK STUB.

(2) THE STATEMENT SHALL CONTAIN A TELEPHONE NUMBER OR OTHER CONTACT INFORMATION THAT AN INDIVIDUAL MAY USE TO RECEIVE MORE INFORMATION ON ELIGIBILITY FOR THE MARYLAND CHILDREN'S HEALTH PROGRAM.

(3) THE STATEMENT MAY BE ALTERED BY THE DEPARTMENT IN COLLABORATION WITH THE OFFICE OF THE COMPTROLLER OR THE OFFICE OF THE STATE TREASURER TO:

(i) PROVIDE THE MOST CURRENT INFORMATION;

(ii) FIT WITHIN THE SPACE CONSTRAINTS OF THE DIFFERENT TYPES OF CHECKS LISTED IN PARAGRAPH (1)(II) OF THIS SUBSECTION; OR

(iii) COMBINE IT WITH THE STATEMENT REQUIRED UNDER § 15-102.1(C) OF THIS TITLE, IF APPROPRIATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.



## CHAPTER 252

(House Bill 139)

AN ACT concerning

~~Education — Multiple Suspensions~~  
Task Force to Study Issues Related to Students Subject to Multiple  
 Suspensions

FOR the purpose of ~~requiring certain principals to report certain suspensions of certain students in writing to certain county superintendents within certain periods of time; requiring certain principals to refer certain students to certain pupil services teams and give certain notice to certain students and certain parents or guardians that certain pupil services teams shall meet within a certain period of time; requiring certain notice to be provided in certain languages or certain modes of communication; requiring certain pupil services teams to meet with certain students and certain parents or guardians to develop certain plans, determine certain dates and times for certain subsequent meetings, identify certain resources to be used for certain purposes, and review certain student records within a certain period of time; requiring certain pupil services teams to refer to certain community resources lists in developing certain plans; and generally relating to student suspensions~~ establishing a Task Force to Study Issues Related to Students Subject to Multiple Suspensions; establishing the membership of the Task Force; providing for the designation of the chair of the Task Force; requiring the Task Force to evaluate and make recommendations regarding certain issues; requiring the Task Force to submit a certain report to the Governor and the General Assembly by a certain date; prohibiting a member of the Task Force from receiving certain compensation; authorizing a member of the Task Force to receive certain reimbursements; providing for the termination of this Act; and generally relating to the Task Force to Study Issues Related to Students Subject to Multiple Suspensions.

~~BY adding to~~

~~Article — Education~~

~~Section 7-305(c-1)~~

~~Annotated Code of Maryland~~

~~(2006 Replacement Volume and 2007 Supplement)~~

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

~~Article — Education~~

~~7-305.~~

~~(C-1) (1) IF A STUDENT IS SUBJECT TO MULTIPLE SUSPENSIONS THAT BRING THE CUMULATIVE NUMBER OF DAYS THAT THE STUDENT IS ABSENT FROM SCHOOL TO MORE THAN 10 SCHOOL DAYS IN A SCHOOL YEAR, THE PRINCIPAL IMMEDIATELY SHALL REPORT ANY SUBSEQUENT SUSPENSIONS IN WRITING TO THE COUNTY SUPERINTENDENT.~~

~~(2) WITHIN 5 DAYS AFTER A SUSPENSION THAT BRINGS THE CUMULATIVE NUMBER OF DAYS THAT THE STUDENT IS ABSENT FROM SCHOOL TO MORE THAN 10 SCHOOL DAYS IN A SCHOOL YEAR THE PRINCIPAL SHALL:~~

~~(i) REFER THE STUDENT TO THE SCHOOL'S PUPIL SERVICES TEAM; AND~~

~~(ii) GIVE WRITTEN NOTICE TO THE STUDENT AND THE PARENT OR GUARDIAN OF THE STUDENT THAT THE SCHOOL'S PUPIL SERVICES TEAM SHALL MEET.~~

~~(3) THE NOTICE REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION SHALL BE PROVIDED IN THE NATIVE LANGUAGE OR OTHER MODE OF COMMUNICATION OF THE PARENT OR GUARDIAN OF THE STUDENT.~~

~~(4) WITHIN 10 DAYS AFTER THE REFERRAL TO THE SCHOOL'S PUPIL SERVICES TEAM, THE PUPIL SERVICES TEAM SHALL MEET WITH THE STUDENT AND THE PARENT OR GUARDIAN OF THE STUDENT IN ORDER TO:~~

~~(i) DEVELOP A PLAN TO PREVENT FURTHER SUSPENSIONS;~~

~~(ii) DETERMINE DATES AND TIMES FOR SUBSEQUENT MEETINGS TO REVIEW AND REVISE THE PLAN AS NECESSARY;~~

~~(iii) IDENTIFY ADDITIONAL RESOURCES THAT MAY BE USED TO MINIMIZE THE LIKELIHOOD OF ADDITIONAL SUSPENSIONS INCLUDING:~~

~~1. REFERRAL TO COMMUNITY CONFERENCING OR MEDIATION, OR BOTH;~~

~~2. REFERRAL TO COMMUNITY MENTAL HEALTH SERVICES; AND~~

~~3. STAFF TRAINING ON POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORTS; AND~~

~~(IV) REVIEW THE STUDENT'S RECORD AND OTHER RELEVANT INFORMATION TO DETERMINE WHETHER THE STUDENT MAY HAVE A DISABILITY THAT WARRANTS A REFERRAL TO THE SCHOOL-BASED INDIVIDUALIZED EDUCATION PROGRAM TEAM.~~

~~(5) THE SCHOOL'S PUPIL SERVICES TEAM SHALL REFER TO A COMMUNITY RESOURCES LIST PROVIDED BY THE COUNTY BOARD IN ACCORDANCE WITH § 7-310 OF THIS SUBTITLE IN DEVELOPING A PLAN UNDER PARAGRAPH (4)(I) OF THIS SUBSECTION.~~

(a) There is a Task Force to Study Issues Related to Students Subject to Multiple Suspensions.

(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 State Superintendent of Schools, or the State Superintendent's designee;

(4) The Secretary of Health and Mental Hygiene, or the Secretary's designee;

(5) The following members appointed by the Governor:

(i) One local school superintendent, as a representative of the Public Schools Superintendents Association of Maryland;

(ii) One member of a local board of education, as a representative of the Maryland Association of Boards of Education;

(iii) Four directors of student services from local school systems, selected to reflect the geographic diversity of the State;

(iv) Three school principals, one each from an elementary school, a middle school, and a high school;

(v) A supervisor of school counseling from a local school system;

(vi) A supervisor of psychological services from a local school system;

(vii) A supervisor of health services from a local school system;

(viii) A supervisor of pupil personnel from a local school system;

(ix) Two teachers from local school systems, selected to reflect the geographic diversity of the State;

(x) ~~Two~~ ~~One~~ parent ~~representatives~~ ~~representative~~ of students enrolled in local school systems, selected to reflect the geographic diversity of the State; ~~and~~

(xi) ~~Two~~ ~~students~~ ~~One~~ ~~student~~ who ~~represent~~ ~~represents~~ a statewide ~~organizations~~ ~~organization~~ of students enrolled in local school systems;

(xii) One representative of a child advocacy group;

(xiii) One representative of an organization that represents special education students;

(xiv) One representative from a local law enforcement agency; and

(xv) One representative of the juvenile justice system in the State.

(c) The Governor shall designate the chair of the Task Force.

(d) The State Department of Education shall provide staff support for the Task Force.

(e) A member of the Task Force:

(1) May not receive compensation for serving on the Task Force; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) Study the feasibility of mandating that local school systems throughout the State establish student services teams to provide case management to students who incur one or more suspensions in a school year that result in the student's absence for 10 or more school days;

(2) Examine the fiscal impact of mandating that local school systems throughout the State establish student services teams to provide case management to students who incur one or more suspensions in a school year that result in the student's absence for 10 or more school days;

(3) Examine and make findings regarding parent/guardian involvement in matters related to student suspensions from school and recommend ways to enhance parent/guardian roles and responsibilities to curb student suspensions; and

(4) Make recommendations regarding the practices and processes encompassed in a mandate to establish student services teams to provide case management to students who incur one or more suspensions in a school year that result in the student's absence for 10 or more school days, including:

(i) Timelines for providing case management;

(ii) Engagement of parents/guardians; and

(iii) Case management follow-up and related services.

(g) On or before January 15, 2009, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2008. It shall remain effective for a period of 1 year and, at the end of May 31, 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, 2008.**

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## CHAPTER 253

(House Bill 142)

AN ACT concerning

**Department of Health and Mental Hygiene – ~~Renaming and~~ Review of Reports and Commissions**

FOR the purpose of ~~renaming the Department of Health and Mental Hygiene to be the Department of Health; renaming the Secretary of Health and Mental Hygiene to be the Secretary of Health;~~ requiring the Department of ~~Health to~~ Health and Mental Hygiene to conduct a certain review and make a certain report to the Governor and General Assembly on or before a certain date; providing that a certain review does not include a review of certain health occupations boards; requiring the publisher of the Annotated Code of Maryland to make certain technical changes; prohibiting the use of certain documents reflecting the renaming of the Department until certain documents already in print have been used; and generally relating to ~~renaming~~ the Department of Health and Mental Hygiene and a review of reports and commissions.

~~BY repealing and reenacting, without amendments,  
Article ~~Health General~~  
Section ~~1 101(a)~~  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, with amendments,  
Article ~~Health General~~  
Section ~~1 101(c) and (j), 2 101, and 2 102(a)~~  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 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.**~~

- ~~(a) In this article the following words have the meanings indicated.~~
- ~~(e) "Department" means the Department of Health [and Mental Hygiene].~~
- ~~(j) "Secretary" means the Secretary of Health [and Mental Hygiene].~~

~~**2 101.**~~

~~There is a Department of Health [and Mental Hygiene], established as a principal department of the State government.~~

~~**2 102.**~~

~~(a) The head of the Department is the Secretary of Health [and Mental Hygiene], who shall be appointed by the Governor with the advice and consent of the Senate.~~

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

(a) The Department of Health and Mental Hygiene shall conduct a comprehensive review of the Department in which the Department identifies:

(1) the boards, commissions, councils, and committees that are operated by the Department or that otherwise involve the Department;

(2) methods to streamline or consolidate the boards, commissions, councils, and committees that are found by the Department to be duplicative or unnecessary; and

(3) the reports that are required by the General Assembly to be submitted by the Department.

(b) In conducting the review required by subsection (a) of this section, the Department shall ensure that the health care needs of the citizens of the State are considered and maintained.

(c) The review of the Department required under subsection (a) of this section does not include a review of the health occupations boards under the jurisdiction of the Department.

~~(d)~~ (d) On or before December 1, 2008, the Department shall report, in accordance with § 2-1246 of the State Government Article, to the Governor and General Assembly on the review required under subsection (a) of this section, and shall include in the report:

(1) a description of the boards, commissions, councils, and committees operated by the Department or that otherwise involve the Department;

(2) a list of the reports required by the General Assembly to be submitted by the Department; and

(3) legislative and administrative recommendations for the streamlining and consolidation of duplicative or unnecessary boards, commissions, councils, committees, and legislative reports including the justification for the recommendations.

~~SECTION 3. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the~~

~~Department of Legislative Services, shall correct, with no further action required by the General Assembly, terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2008 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That letterhead, business cards, and other documents reflecting the renaming of the Department of Health and Mental Hygiene to be the Department of Health may not be used until all letterhead, business cards, and other documents already in print and reflecting the name of the Department before the effective date of this Act have been used.~~

SECTION ~~5.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 254

(House Bill 148)

AN ACT concerning

### **Garrett County - Tobacco Products - Distribution to Minors**

FOR the purpose of prohibiting a person from distributing certain tobacco-containing and tobacco-related products to a minor in Garrett County; establishing a certain civil infraction and certain civil penalty; and generally relating to the distribution of tobacco products to minors in Garrett County.

BY repealing and reenacting, with amendments,  
Article 24 - Political Subdivisions - Miscellaneous Provisions  
Section 15-102.1  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

### **Article 24 - Political Subdivisions - Miscellaneous Provisions**

15-102.1.



- (a) In this section, “distribute” means to:
- (1) Give, sell, deliver, dispense, or issue;
  - (2) Offer to give, sell, deliver, dispense, or issue; or
  - (3) Cause or hire any person to give, sell, deliver, dispense, or issue or offer to give, sell, deliver, dispense, or issue.
- (b) This section applies only in **GARRETT COUNTY AND St. Mary’s County**.
- (c) A person may not:
- (1) Distribute any tobacco product to a minor, unless the minor is acting solely as the agent of the minor’s employer who is engaged in the business of distributing tobacco products;
  - (2) Distribute cigarette rolling papers to a minor; or
  - (3) Subject to subsection (d) of this section, distribute to a minor a coupon redeemable for a tobacco product.
- (d) Subsection (c)(3) of this section does not apply to the distribution of a coupon that is redeemable for a tobacco product if the coupon:
- (1) Is contained in a newspaper, magazine, or other type of publication and the coupon is incidental to the primary purpose of the publication; or
  - (2) Is sent through the mail.
- (e) A person has not violated this section if:
- (1) The person examined the driver’s license or other valid government–issued identification presented by the recipient of a tobacco product, cigarette rolling paper, or coupon redeemable for a tobacco product; and
  - (2) The license or other identification positively identified the recipient as being at least 18 years old.
- (f) **(1) [A] IN ST. MARY’S COUNTY**, A person who violates this section is committing a civil infraction and is subject to a civil penalty of:
- [(1)] (1) \$300 for the first violation; and**

[(2)] (II) \$500 for any subsequent violation within a 24-month period from the previous citation.

(2) IN GARRETT COUNTY, A PERSON WHO VIOLATES THIS SECTION IS COMMITTING A CIVIL INFRACTION AND IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$300.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 255

(House Bill 190)

AN ACT concerning

~~Howard County~~ Annual Financial Audit - Filing Date

~~Ho. Co. 06-08~~

FOR the purpose of altering the date by which ~~Howard County~~ *a county, municipal corporation, or taxing district* must file its annual financial audit with the Department of Legislative Services; making stylistic changes; and generally relating to the filing of ~~the annual financial audit by Howard County~~ *annual audit reports of counties, municipal corporations, and taxing districts.*

BY repealing and reenacting, with amendments,  
Article 19 - Comptroller  
Section ~~40~~ *40(a)*  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

### Article 19 - Comptroller

40.

(a) (1) Except as provided in paragraph (2) of this subsection, each county, [incorporated city or town] **MUNICIPAL CORPORATION**, and taxing district created by and situated within the State shall have its books, accounts, ~~records~~ **RECORDS**, and reports examined at least once during each fiscal year by the persons and for the purposes specified in this section. The examination shall be made by a certified public accountant in the capacity of either an independent auditor or official auditor of any county or [incorporated city] **MUNICIPAL CORPORATION**. The auditor shall be in compliance with the provisions of the Maryland Public Accountancy Act. The official auditor shall be approved by the Legislative Auditor for the purposes specified in this section. On such examination, inquiry shall be made into the methods, ~~accuracy~~ **ACCURACY**, and legality of the accounts, records, ~~files~~ **FILES**, and reports of each county, [incorporated city or town] **MUNICIPAL CORPORATION**, and taxing district. The Legislative Auditor upon ~~his~~ **THE LEGISLATIVE AUDITOR'S** own initiative may review or audit the books, ~~records~~ **RECORDS**, and reports of any county, [incorporated city or town] **MUNICIPAL CORPORATION**, or taxing district. Any county, [incorporated city or town] **MUNICIPAL CORPORATION**, or taxing district may request the Legislative Auditor to audit its books, ~~records~~ **RECORDS**, and reports. If the request is approved, the costs of the examination shall be borne by the auditee. The results of the audit shall be reported, subject to § 2-1246 of the State Government Article, to the Legislative Auditor on such form or forms and in such manner as the Legislative Auditor may prescribe. ~~[This] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THIS~~ report shall be made to the Legislative Auditor by ~~November 1 after the close of the fiscal year~~ **THE DATE THE COUNTY'S, MUNICIPAL CORPORATION'S, OR TAXING DISTRICT'S FINANCIAL REPORT IS REQUIRED TO BE SUBMITTED UNDER § 37 OF THIS SUBTITLE**, except that the report may be made to the Legislative Auditor by January 1 after the close of the fiscal year for a county, incorporated city or town or taxing district having a population of more than 400,000]. An audit report filed with the Legislative Auditor is a public record under the provisions of § 10-611 of the State Government Article. Each year the Legislative Auditor shall review the audit reports submitted and shall make a full and detailed report in writing to the State Comptroller and, subject to § 2-1246 of the State Government Article, to the Executive Director of the State Department of Legislative Services of the result of the examination of the books, accounts, ~~records~~ **RECORDS**, and reports of each county, [incorporated city or town] **MUNICIPAL CORPORATION**, and taxing district, together with such suggestions as he may think advisable to be made with respect to methods of bookkeeping, changes in the uniform system of financial ~~reporting~~ **REPORTING**, and changes in the reports of the counties, [incorporated cities or towns] **MUNICIPAL CORPORATIONS**, and taxing districts. In conducting the reviews specified in this section, the Legislative Auditor may review the working papers and other documentation of the auditor. As a result of the Legislative Auditor's reviews, audit reports, working papers, or other documentation may be referred to the State Board of Public Accountancy for action as prescribed in the Maryland Public Accountancy Act. It shall also be the duty of the Legislative Auditor to report all violations by any county, [incorporated city or town] **MUNICIPAL**

CORPORATION, and taxing district of the requirement and provisions specified in the sections of this subtitle to the State Comptroller and, subject to § 2-1246 of the State Government Article, to the Executive Director of the State Department of Legislative Services. Should any county or [incorporated city or town] MUNICIPAL CORPORATION or taxing district fail or refuse to file the audit reports as provided in this section with the Legislative Auditor within the time prescribed or fail or refuse to submit an audit report including financial statements that have been prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards, the State Comptroller, acting upon the advice of the Executive Director of the State Department of Legislative Services, shall be authorized to order the discontinuance of payment of all funds, grants, or State aid which the county, [incorporated city or town] MUNICIPAL CORPORATION, or taxing district is entitled to receive under State law. This provision shall have specific reference to all funds, grants, or State aid which the county, [incorporated city or town] MUNICIPAL CORPORATION, or taxing district is entitled to receive under applicable provisions of State law distributed by the State Comptroller, the clerks of the court, or other units of State government.

(2) Unless the Legislative Auditor determines, on a case-by-case basis, that more frequent audits are required, the Legislative Auditor may authorize [an incorporated city or town] A MUNICIPAL CORPORATION or taxing district created by the State with annual revenues of less than \$50,000 in the prior 4 fiscal years to have an audit conducted once every 4 years.

~~(3) (i) EACH COUNTY, MUNICIPAL CORPORATION, OR TAXING DISTRICT WITH A POPULATION OF MORE THAN 400,000 MAY BY JANUARY 1 AFTER THE CLOSE OF THE FISCAL YEAR FILE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES ITS ANNUAL FINANCIAL AUDIT.~~

~~(ii) UNLESS SUBPARAGRAPH (i) OF THIS PARAGRAPH APPLIES, HOWARD COUNTY MAY BY DECEMBER 1 AFTER THE CLOSE OF THE FISCAL YEAR FILE WITH THE DEPARTMENT OF LEGISLATIVE SERVICES ITS ANNUAL FINANCIAL AUDIT.~~

~~(b) Each county shall establish uniform rules and regulations for the examination and auditing of the books, accounts, and records of every special taxing district created by and situated within the county which:~~

- ~~(1) Is not subject to the provisions of subsection (a) of this section;~~
- ~~(2) Receives moneys which were collected by the county from a county property tax levy imposed at the request of the special taxing district;~~
- ~~(3) Has annual expenditures of over \$50,000; and~~

~~(4) Has moneys disbursed and expended by a person or body independent of the county government.~~

~~(c) At a minimum, the rules and regulations required by subsection (b) of this section shall provide for the examination and audit to:~~

~~(1) Be conducted by a certified public accountant in the capacity of either an independent auditor or official auditor of the county who shall be in compliance with the provisions of the Maryland Public Accountancy Act or by an auditing committee approved by the official auditor of the county;~~

~~(2) Determine whether tax funds have been received, deposited and disbursed in accordance with approved appropriations and State and local law;~~

~~(3) Include the following financial statements:~~

~~(i) Balance sheet;~~

~~(ii) Statement of revenues;~~

~~(iii) Statement of expenditures and encumbrances; and~~

~~(iv) Statement of changes in fund balance; and~~

~~(4) Be completed and filed with the appropriate county officials not later than 90 days following the close of the fiscal year.~~

~~(d) For a special district created by and situated within the county with annual expenditures of less than \$50,000, the county shall require annual financial reports and shall require an audit every 4 years, unless the county determines, on a case by case basis, that more frequent audits are required.~~

~~(e) If a special district subject to subsection (b) or (d) of this section does not submit a financial report or audit report as required by the county, the county may withhold the distributions of taxes imposed on behalf of the special district until the financial report and/or audit report is received.~~

~~(f) At the time it forwards its audit report to the Legislative Auditor, the county also shall forward copies of all audit reports and financial reports received from the special districts subject to subsection (b) or (d) of this section, together with a separate report to the Legislative Auditor on the results of the county's review of each district's compliance with the provisions of subsections (b) through (e) of this section. The Legislative Auditor shall review the audit reports and information received from~~

~~the county and submit recommendations as appropriate based on the results of the review.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 256

(House Bill 216)

AN ACT concerning

### **Hereditary and Congenital Disorders – Newborn Screening**

FOR the purpose of establishing in the Department of Health and Mental Hygiene a certain system for screening newborn infants for hereditary and congenital disorders; establishing the Department's public health laboratory as the sole laboratory authorized to perform the screening tests; requiring the Department to establish protocols for obtaining specimens for testing; requiring the Department to determine the screening tests to be performed; authorizing postscreening testing by certain licensed laboratories under certain circumstances; authorizing the Secretary of Health and Mental Hygiene to delegate certain newborn screening under certain circumstances; requiring the Department to adopt certain regulations; requiring the Department to conduct a certain study; requiring the Department to submit a certain report to certain committees of the General Assembly on or before a certain date; providing for a delayed effective date of this Act; and generally relating to the screening and evaluation of newborn infants for hereditary and congenital disorders.

BY adding to

Article – Health – General  
Section 13–111 and 13–112  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

### **Article – Health – General**

**13-111.**

(A) THE DEPARTMENT SHALL ESTABLISH A COORDINATED STATEWIDE SYSTEM FOR SCREENING ALL NEWBORN INFANTS IN THE STATE FOR CERTAIN HEREDITARY AND CONGENITAL DISORDERS ASSOCIATED WITH SEVERE PROBLEMS OF HEALTH OR DEVELOPMENT, EXCEPT WHEN THE PARENT OR GUARDIAN OF THE NEWBORN INFANT OBJECTS.

(B) EXCEPT AS PROVIDED IN § 13-112 OF THIS SUBTITLE, THE DEPARTMENT'S PUBLIC HEALTH LABORATORY IS THE SOLE LABORATORY AUTHORIZED TO PERFORM TESTS ON SPECIMENS FROM NEWBORN INFANTS COLLECTED TO SCREEN FOR HEREDITARY AND CONGENITAL DISORDERS AS DETERMINED UNDER SUBSECTION (D)(2) OF THIS SECTION.

(C) THE SYSTEM FOR NEWBORN SCREENING SHALL INCLUDE:

(1) LABORATORY TESTING AND THE REPORTING OF TEST RESULTS; AND

(2) FOLLOW-UP ACTIVITIES TO FACILITATE THE RAPID IDENTIFICATION AND TREATMENT OF AN AFFECTED CHILD.

(D) IN CONSULTATION WITH THE STATE ADVISORY COUNCIL ON HEREDITARY AND CONGENITAL DISORDERS, THE DEPARTMENT SHALL:

(1) ESTABLISH PROTOCOLS FOR A HEALTH CARE PROVIDER TO OBTAIN AND DELIVER TEST SPECIMENS TO THE DEPARTMENT'S PUBLIC HEALTH LABORATORY;

(2) DETERMINE THE SCREENING TESTS THAT THE DEPARTMENT'S PUBLIC HEALTH LABORATORY IS REQUIRED TO PERFORM;

(3) MAINTAIN A COORDINATED STATEWIDE SYSTEM FOR NEWBORN SCREENING THAT CARRIES OUT THE PURPOSE DESCRIBED IN SUBSECTION (C) OF THIS SECTION THAT INCLUDES:

(i) COMMUNICATING THE RESULTS OF SCREENING TESTS TO THE HEALTH CARE PROVIDER OF THE ~~NEWBORN~~ NEWBORN INFANT;

(ii) LOCATING NEWBORN INFANTS WITH ABNORMAL TEST RESULTS;

(III) SHARING NEWBORN SCREENING INFORMATION BETWEEN HOSPITALS, HEALTH CARE PROVIDERS, TREATMENT CENTERS, AND LABORATORY PERSONNEL; AND

(IV) DELIVERING NEEDED CLINICAL, DIAGNOSTIC, AND TREATMENT INFORMATION TO HEALTH CARE PROVIDERS, PARENTS, AND CAREGIVERS; AND

(4) ADOPT REGULATIONS THAT SET FORTH THE STANDARDS AND REQUIREMENTS FOR NEWBORN SCREENING FOR HEREDITARY AND CONGENITAL DISORDERS THAT ARE REQUIRED UNDER THIS SUBTITLE, INCLUDING:

(I) PERFORMING NEWBORN SCREENING TESTS;

(II) COORDINATING THE REPORTING, FOLLOW-UP, AND TREATMENT ACTIVITIES WITH PARENTS, CAREGIVERS, AND HEALTH CARE PROVIDERS; AND

(III) ESTABLISHING FEES FOR NEWBORN SCREENING THAT DO NOT EXCEED AN AMOUNT SUFFICIENT TO COVER THE ADMINISTRATIVE, LABORATORY, AND FOLLOW-UP COSTS ASSOCIATED WITH THE PERFORMANCE OF SCREENING TESTS UNDER THIS SUBTITLE.

**13-112.**

(A) THE SECRETARY MAY CONTRACT OR DELEGATE THE SCREENING REQUIRED UNDER § 13-111 OF THIS SUBTITLE TO ANOTHER ENTITY WITH THE APPROVAL OF THE STATE ADVISORY COUNCIL ON HEREDITARY AND CONGENITAL DISORDERS.

(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A LABORATORY OTHER THAN THE DEPARTMENT'S PUBLIC HEALTH LABORATORY MAY PERFORM POSTSCREENING ~~COMPLEMENTARY~~ CONFIRMATORY OR DIAGNOSTIC TESTS ON NEWBORN INFANTS FOR HEREDITARY AND CONGENITAL DISORDERS.

(C) BEFORE OFFERING OR PERFORMING A POSTSCREENING TEST ON A NEWBORN INFANT FOR HEREDITARY AND CONGENITAL DISORDERS UNDER SUBSECTION (A) OF THIS SECTION, A LABORATORY SHALL:

(1) OBTAIN AND MAINTAIN A LICENSE ISSUED BY THE SECRETARY AS REQUIRED BY TITLE 17 OF THIS ARTICLE; AND



**(2) MEET ALL THE STANDARDS AND REQUIREMENTS FOR A LABORATORY TO PERFORM TESTS ON NEWBORN INFANTS FOR HEREDITARY AND CONGENITAL DISORDERS THAT ARE ESTABLISHED BY THE SECRETARY.**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of Health and Mental Hygiene shall study whether a coordinated statewide system for screening newborn infants in the State for certain hereditary and congenital disorders should be applied to all newborn infants in the State.

(b) The Department shall report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the conclusions from the study required under subsection (a) of this section on or before December 1, 2008.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2009.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect ~~October 1, 2008~~ June 1, 2009.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 257

**(House Bill 217)**

AN ACT concerning

### **Vital Records – Copies to County Registrars of Vital Records**

FOR the purpose of authorizing the Secretary of Health and Mental Hygiene to provide a copy of an original birth certificate to the registrar for vital records of a county or Baltimore City where the birth took place; requiring the Secretary of the Department, under certain circumstances, to provide a copy of the original birth, ~~health~~ death, or fetal death certificate to the registrar in the county in which the subject of the certificate resides or resided; authorizing county health departments to use birth, death, and fetal death certificates to carry out public health functions; and generally relating to vital records.

BY repealing and reenacting, with amendments,

Article – Health – General  
Section 4–204  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article – Health – General**

4–204.

(a) The Secretary shall collect, index, and safeguard from fire, loss, or damage each certificate of birth, death, and fetal death.

(b) After registration of a completed **BIRTH**, [death] **DEATH**, or fetal death certificate, the Secretary shall [send] **PROVIDE** a copy of the original certificate to the county registrar for the county where the event occurred[. The copy may be photographic or electronic or produced by other means as prescribed by the Secretary] **AND THE COUNTY REGISTRAR WHERE THE SUBJECT OF THE CERTIFICATE RESIDES OR RESIDED IF THE COUNTY OF RESIDENCE IS DIFFERENT FROM THE COUNTY WHERE THE EVENT OCCURRED.**

(c) **A COPY OF A CERTIFICATE PROVIDED TO A COUNTY REGISTRAR UNDER THIS SECTION MAY BE USED BY THE COUNTY HEALTH DEPARTMENT TO CARRY OUT PUBLIC HEALTH FUNCTIONS.**

(d) **A COPY OF A CERTIFICATE PROVIDED UNDER THIS SECTION MAY BE PHOTOGRAPHIC OR ELECTRONIC OR PRODUCED BY OTHER MEANS AS PRESCRIBED BY THE SECRETARY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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**CHAPTER 258**

**(House Bill 230)**

AN ACT concerning

**Vehicle Laws – School Crossing Guards – Authority to Direct Traffic**

FOR the purpose of authorizing a school crossing guard who meets certain qualifications to stop or otherwise direct vehicles and pedestrians on a highway or on school grounds under certain circumstances; requiring drivers to obey the directions of a school crossing guard exercising authority under this Act; providing for the construction of this Act; and generally relating to the authority of school crossing guards.

BY adding to

Article – Transportation  
 Section 21–107  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation  
 Section 27–101(b)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)

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

**Article – Transportation**

**21–107.**

**(A) A SCHOOL CROSSING GUARD WHO MEETS THE QUALIFICATIONS IN SUBSECTION (B) OF THIS SECTION MAY STOP OR OTHERWISE DIRECT VEHICLES AND PEDESTRIANS ON A HIGHWAY OR ON SCHOOL GROUNDS TO ASSIST:**

**(1) PEDESTRIANS IN THE SAFE CROSSING OF HIGHWAYS AT A SCHOOL CROSSING; AND**

**(2) SCHOOL VEHICLES IN ENTERING AND LEAVING SCHOOL GROUNDS.**

**(B) A SCHOOL CROSSING GUARD IS QUALIFIED TO DIRECT TRAFFIC AS DESCRIBED IN SUBSECTION (A) OF THIS SECTION IF THE SCHOOL CROSSING GUARD:**

**(1) IS 18 YEARS OF AGE OR OLDER;**

(2) IS UNDER THE CONTROL OF A LOCAL LAW ENFORCEMENT AGENCY OR A COUNTY SCHOOL BOARD;

(3) HAS COMPLETED TRAINING TO PERFORM ANY TRAFFIC DIRECTION DUTIES TO WHICH THE GUARD IS ASSIGNED AS PRESCRIBED BY THE LAW ENFORCEMENT AGENCY OR COUNTY SCHOOL BOARD THAT HAS CONTROL OVER THE SCHOOL CROSSING GUARD; AND

(4) IS WEARING AN APPROPRIATE UNIFORM AS SPECIFIED BY THE LAW ENFORCEMENT AGENCY OR COUNTY SCHOOL BOARD THAT HAS CONTROL OVER THE SCHOOL CROSSING GUARD.

(C) A PERSON MAY NOT WILLFULLY DISOBEY A LAWFUL DIRECTION OF A SCHOOL CROSSING GUARD EXERCISING THE AUTHORITY GRANTED IN THIS SECTION.

(D) NOTHING IN THIS SECTION PROHIBITS A SCHOOL CROSSING GUARD WHO DOES NOT MEET THE QUALIFICATIONS SPECIFIED IN SUBSECTION (B) OF THIS SECTION FROM ASSISTING A PEDESTRIAN TO CROSS A HIGHWAY, PROVIDING THE SCHOOL CROSSING GUARD DOES NOT ATTEMPT TO DO SO BY DIRECTING TRAFFIC.

27-101.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 259

(House Bill 238)

AN ACT concerning

**Maryland Health Insurance Plan – Status, Operation, and Regulation**

FOR the purpose of transferring the Maryland Health Insurance Plan from the Maryland Insurance Administration and establishing the Maryland Health Insurance Plan as an independent unit of the State government; altering the composition of the Board of Directors of the Plan; authorizing the Executive Director of the Plan to employ certain staff; repealing a certain exemption of the Board from certain State personnel laws; requiring the Board to develop a certain master plan document; requiring the Board to file the master plan documents with the Maryland Insurance Commissioner and provide the document to a member, at no charge, on request of the member; requiring the Board to develop a certain certificate of coverage; requiring the Board to update the certificate of coverage under certain circumstances; requiring the Board to provide the most recent version of the certificate of coverage to certain persons under certain circumstances; requiring the Board to make the most recent version of the certificate of coverage available on the Plan's website; requiring the Board to provide notice of a change to the certificate of coverage to certain persons; specifying the circumstances under which the Board may make changes to a certain benefit package; providing for the effective date of a change to a certain benefit package; requiring the Board to submit a certain report to certain committees of the General Assembly on or before a certain date each year; providing that if there is a conflict between a provision of the master plan document and a provision of the certificate of coverage a certain provision will control; requiring the Plan to comply with the terms of certain written representations or authorizations under certain circumstances; requiring the contract between the Board and the Plan Administrator to require the Administrator to comply with certain provisions of law; providing that the Plan is not subject to certain laws; requiring the Commissioner to regulate the Plan; requiring the Plan and the Board of Directors of the Plan to comply with certain provisions of law; providing that certain provisions of this Act do not limit the authority of the Commissioner to impose certain penalties or take certain action under certain circumstances; authorizing the Commissioner to require the Plan to make certain restitution to certain individuals under certain circumstances; prohibiting the Commissioner from imposing a fine or administrative penalty on the Plan; requiring the Commissioner to provide a copy of an adopted examination report or the results of certain reviews to the Board and to make recommendations for any corrective action to be taken by the Board; requiring the Board to determine the steps necessary to implement corrective action; requiring certain moneys to be deposited into the Maryland Health Insurance Plan Fund; requiring the Maryland Insurance Administration to provide fiscal and personnel services to the Plan at no charge during ~~certain fiscal years~~ a certain fiscal year; making a certain stylistic change; providing for the application of this Act; and generally relating to the Maryland Health Insurance Plan.

BY repealing and reenacting, with amendments,

Article – Insurance  
Section 14–502, 14–503, 14–505, and 14–506  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY adding to  
Article – Insurance  
Section 14–509  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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

**Article – Insurance**

14–502.

- (a) There is a Maryland Health Insurance Plan.
- (b) The Plan is an independent unit [that operates within the Administration] **OF THE STATE GOVERNMENT.**
- (c) The purpose of the Plan is to decrease uncompensated care costs by providing access to affordable, comprehensive health benefits for medically uninsurable residents of the State by July 1, 2003.
- (d) It is the intent of the General Assembly that the Plan operate as a nonprofit entity and that Fund revenue, to the extent consistent with good business practices, be used to subsidize health insurance coverage for medically uninsurable individuals.

**(E) (1) THE OPERATIONS OF THE PLAN ARE SUBJECT TO THE PROVISIONS OF THIS SUBTITLE WHETHER THE OPERATIONS ARE PERFORMED DIRECTLY BY THE PLAN ITSELF OR THROUGH AN ENTITY CONTRACTED WITH THE PLAN.**

**(2) THE PLAN SHALL ENSURE THAT ANY ENTITY CONTRACTED WITH THE PLAN COMPLIES WITH THE PROVISIONS OF THIS SUBTITLE WHEN PERFORMING SERVICES THAT ARE SUBJECT TO THIS SUBTITLE ON BEHALF OF THE PLAN.**

14–503.

- (a) There is a Board for the Plan.

(b) The Plan shall operate subject to the supervision and control of the Board.

(c) The Board consists of ~~nine~~ ~~11~~ 10 members, of whom:

(1) [one shall be the Commissioner;

(2)] one shall be the Executive Director of the Maryland Health Care Commission **OR THE DESIGNEE OF THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION;**

[(3)](2) one shall be the Executive Director of the Health Services Cost Review Commission **OR THE DESIGNEE OF THE EXECUTIVE DIRECTOR OF THE HEALTH SERVICES COST REVIEW COMMISSION;**

[(4)](3) one shall be the Secretary [of the Department] of Budget and Management **OR THE DESIGNEE OF THE SECRETARY OF BUDGET AND MANAGEMENT;**

[(5)](4) ~~two~~ ~~THREE~~ TWO shall be appointed by the Director of the Health, Education, and Advocacy Unit in the Office of the Attorney General in accordance with subsection (d) of this section;

[(6)](5) one shall be appointed by the Commissioner to represent carriers operating in the State;

[(7)](6) one shall be appointed by the Commissioner to represent insurance producers selling insurance in the State; [and]

[(8)](7) one shall be an individual who is an owner or employee of a minority-owned business in the State, appointed by the Governor; ~~AND~~

**(8) ONE SHALL BE THE SECRETARY OF THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE OR THE DESIGNEE OF THE SECRETARY OF HEALTH AND MENTAL HYGIENE; AND**

**(9) ONE SHALL BE APPOINTED BY THE GOVERNOR TO REPRESENT HOSPITALS IN THE STATE.**

(d) (1) (i) Each Board member appointed under subsection [(c)(5)] **(C)(4)** of this section shall be a consumer who does not have a substantial financial

interest in a person regulated under this article or under Title 19, Subtitle 7 of the Health – General Article.

(ii) One of the Board members appointed under subsection [(c)(5)](C)(4) of this section shall be a member of a racial minority.

(2) The term of an appointed member is 4 years.

(3) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(4) An appointed 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.

(e) Each member of the Board is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) (1) The Board shall appoint an Executive Director who shall be the chief administrative officer of the Plan.

(2) The Executive Director shall serve at the pleasure of the Board.

(3) The Board shall determine the appropriate compensation for the Executive Director.

(4) Under the direction of the Board, the Executive Director shall perform any duty or function that is necessary for the operation of the Plan.

**(g) (1) THE EXECUTIVE DIRECTOR MAY EMPLOY A STAFF FOR THE PLAN IN ACCORDANCE WITH THE STATE BUDGET.**

**(2) STAFF FOR THE PLAN ARE IN THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.**

**(3) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, MAY DETERMINE THE APPROPRIATE JOB CLASSIFICATIONS AND GRADES FOR ALL STAFF.**

[(g)](H) The Board is not subject to[:

(1)] the provisions of the State Finance and Procurement Article[;].



[(2) the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System; or

(3) the provisions of Divisions II and III of the State Personnel and Pensions Article.]

[(h)](I) (1) The Board shall adopt a plan of operation for the Plan.

(2) The Board shall submit the plan of operation and any amendment to the plan of operation to the Commissioner for approval.

[(i)](J) On an annual basis, the Board shall submit to the Commissioner an audited financial report of the Fund prepared by an independent certified public accountant.

[(j)](K) (1) The Board shall adopt regulations necessary to operate and administer the Plan.

(2) Regulations adopted by the Board may include:

(i) residency requirements for Plan enrollees;

(ii) Plan enrollment procedures; and

(iii) any other Plan requirements as determined by the Board.

[(k)](L) In order to maximize volume discounts on the cost of prescription drugs, the Board may aggregate the purchasing of prescription drugs for enrollees in the Plan and enrollees in the Senior Prescription Drug Assistance Program established under Part II of this subtitle.

[(l)](M) (1) The Board shall report on or before December 1 of each year to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on:

(i) the number of members enrolled in the Plan;

(ii) any increase or decrease in the number of members enrolled in the Plan from the previous year;

(iii) any actions taken by the Board to increase enrollment or benefits offered through the Plan; and

(iv) the amount of any surplus in the Fund at the end of the previous fiscal year.

(2) For those members enrolled in the Plan whose eligibility in the Plan is subject to the requirements of the federal tax credit for health insurance costs under Section 35 of the Internal Revenue Code, the Board shall report on or before December 1, 2003, and annually thereafter, to the Governor, and subject to § 2-1246 of the State Government Article, to the General Assembly on the number of members enrolled in the Plan and the costs to the Plan associated with providing insurance to those members.

14-505.

(a) (1) The Board shall establish a standard benefit package to be offered by the Plan.

(2) The Board may exclude from the benefit package:

(i) a health care service, benefit, coverage, or reimbursement for covered health care services that is required under this article or the Health – General Article to be provided or offered in a health benefit plan that is issued or delivered in the State by a carrier; or

(ii) reimbursement required by statute, by a health benefit plan for a service when that service is performed by a health care provider who is licensed under the Health Occupations Article and whose scope of practice includes that service.

**(B) (1) THE BOARD SHALL DEVELOP A MASTER PLAN DOCUMENT THAT SETS FORTH IN DETAIL ALL OF THE TERMS AND CONDITIONS OF THE STANDARD BENEFIT PACKAGE REQUIRED BY SUBSECTION (A)(1) OF THIS SECTION, INCLUDING:**

**(I) THE BENEFITS PROVIDED IN THE PACKAGE;**

**(II) ANY EXCLUSIONS FROM COVERAGE;**

**(III) ANY CONDITIONS REQUIRING PREAUTHORIZATIONS OR UTILIZATION REVIEW AS A CONDITION TO OBTAINING A BENEFIT OR SERVICE;**

**(IV) ANY CONDITIONS OR LIMITATIONS ON THE SELECTION OF A PRIMARY CARE PROVIDER OR PROVIDER OF SPECIALTY MEDICAL CARE;**

**(V) ANY COST-SHARING REQUIREMENTS, INCLUDING ANY PREMIUMS, DEDUCTIBLES, COINSURANCE, AND COPAYMENT AMOUNTS FOR WHICH A MEMBER MAY BE RESPONSIBLE; AND**

(VI) THE PROCEDURES TO BE FOLLOWED IN PRESENTING A CLAIM.

(2) THE BOARD SHALL:

(I) FILE THE MASTER PLAN DOCUMENT WITH THE COMMISSIONER; AND

(II) PROVIDE A COPY OF THE MOST RECENT VERSION OF THE MASTER PLAN DOCUMENT TO A MEMBER, AT NO CHARGE, ON REQUEST OF THE MEMBER.

(c) (1) THE BOARD SHALL DEVELOP A CERTIFICATE OF COVERAGE THAT DESCRIBES THE ESSENTIAL FEATURES OF THE PLAN AND THE STANDARD BENEFIT PACKAGE.

(2) THE CERTIFICATE OF COVERAGE SHALL:

(I) BE WRITTEN IN CLEAR AND EASY TO UNDERSTAND LANGUAGE; AND

(II) BE SUFFICIENTLY ACCURATE AND COMPREHENSIVE TO REASONABLY INFORM MEMBERS OF THEIR RIGHTS AND OBLIGATIONS UNDER THE STANDARD BENEFIT PACKAGE.

(3) THE BOARD SHALL UPDATE THE CERTIFICATE OF COVERAGE AS NECESSARY TO REFLECT CHANGES TO THE STANDARD BENEFIT PACKAGE.

(4) THE BOARD SHALL:

(I) WITHIN 30 DAYS AFTER A MEMBER'S ENROLLMENT IN THE PLAN, PROVIDE THE MOST RECENT VERSION OF THE CERTIFICATE OF COVERAGE TO:

1. THE MEMBER; OR

2. IF DEPENDENTS ARE INCLUDED IN THE COVERAGE, TO THE FAMILY UNIT;

(II) MAKE THE MOST RECENT VERSION OF THE CERTIFICATE OF COVERAGE AVAILABLE ON THE PLAN WEBSITE; AND

**(III) PROVIDE NOTICE OF ANY CHANGE TO THE STANDARD BENEFIT PACKAGE TO:**

**1. EACH MEMBER OF THE PLAN TO WHOM A CERTIFICATE OF COVERAGE PREVIOUSLY HAS BEEN PROVIDED; OR**

**2. IF DEPENDENTS ARE INCLUDED IN THE COVERAGE, TO EACH FAMILY UNIT TO WHICH A CERTIFICATE OF COVERAGE PREVIOUSLY HAS BEEN PROVIDED.**

**(D) THE BOARD MAY MAKE A CHANGE TO THE STANDARD BENEFIT PACKAGE ONLY IF:**

**(1) THE PROPOSED CHANGE IS SUBMITTED IN WRITING TO THE BOARD AT LEAST 15 DAYS BEFORE THE MEETING AT WHICH A VOTE ON THE PROPOSED CHANGE WILL BE TAKEN;**

**(2) CONSIDERATION OF THE PROPOSED CHANGE IS LISTED AS AN ACTION ITEM ON THE AGENDA FOR THE MEETING;**

**(3) THE PROPOSED CHANGE IS SET FORTH IN A WRITTEN MOTION THAT:**

**(I) IDENTIFIES THE SPECIFIC CHANGES TO BE MADE; AND**

**(II) IS INCLUDED IN THE MINUTES OF THE MEETING OF THE BOARD AT WHICH THE MOTION IS MADE;**

**(4) THE DELIBERATIONS AND VOTE ON THE PROPOSED CHANGE OCCUR DURING A PUBLIC SESSION OF A MEETING WITH THE BOARD; AND**

**(5) THE VOTE APPROVING THE PROPOSED CHANGE IS REFLECTED IN THE MINUTES OF THE MEETING OF THE BOARD AT WHICH THE VOTE IS TAKEN.**

**(E) A CHANGE TO THE STANDARD BENEFIT PACKAGE IS NOT EFFECTIVE UNTIL THE LATER OF:**

**(1) 30 DAYS AFTER THE DATE THE BOARD ADOPTS THE CHANGE;**

**(2) THE DATE AN UPDATED MASTER PLAN DOCUMENT REFLECTING THE CHANGE IS FILED WITH THE COMMISSIONER; OR**

**(3) 15 DAYS AFTER NOTICE OF THE CHANGE AND THE EFFECTIVE DATE OF CHANGE IS:**

**(I) SENT TO:**

- 1. EACH MEMBER OF THE PLAN; OR**
- 2. IF DEPENDENTS ARE INCLUDED IN THE COVERAGE, TO THE FAMILY UNIT; AND**

**(II) POSTED ON THE PLAN WEBSITE.**

**(F) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE BOARD SHALL REPORT TO THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE AND THE SENATE FINANCE COMMITTEE ON:**

**(1) THE CURRENT STANDARD BENEFIT PACKAGE OFFERED BY THE PLAN; AND**

**(2) ANY CHANGES TO THE STANDARD BENEFIT PACKAGE IMPLEMENTED DURING THE IMMEDIATELY PRECEDING FISCAL YEAR.**

**(G) (1) IF THERE IS A CONFLICT BETWEEN A PROVISION OF THE MASTER PLAN DOCUMENT AND A PROVISION OF THE CERTIFICATE OF COVERAGE, THE PROVISION THAT IS MOST BENEFICIAL TO THE MEMBER SHALL CONTROL.**

**(2) NOTWITHSTANDING THE TERMS AND CONDITIONS OF THE STANDARD BENEFIT PACKAGE, THE MASTER PLAN DOCUMENT, OR THE CERTIFICATE OF COVERAGE, THE PLAN SHALL COMPLY WITH THE TERMS OF ANY WRITTEN REPRESENTATION OR AUTHORIZATION OF COVERAGE MADE BY OR ON BEHALF OF THE PLAN TO THE EXTENT THAT A MEMBER HAS INCURRED COSTS FOR HEALTH CARE SERVICES IN REASONABLE RELIANCE ON THE WRITTEN REPRESENTATION OR AUTHORIZATION.**

**[(b)](H) (1) The Board shall establish a premium rate for Plan coverage subject to review and approval by the Commissioner.**

**(2) The premium rate may vary on the basis of family composition.**

**(3) If the Board determines that a standard risk rate would create market dislocation, the Board may adjust the premium rate based on member age.**

(4) The Board may charge different premiums based on the benefit package delivery system or cost-sharing arrangement when more than one benefit package delivery system or cost-sharing arrangement is offered.

**[(c)](I)** (1) The Board shall determine a standard risk rate by considering the premium rates charged by carriers in the State for coverage comparable to that of the Plan.

(2) The premium rate for Plan coverage:

(i) may not be less than 110% of the standard risk rate established under paragraph (1) of this subsection; and

(ii) may not exceed 200% of the standard risk rate.

(3) Premium rates shall be reasonably calculated to encourage enrollment in the Plan.

(4) The Board may subsidize premiums, deductibles, and other policy expenses, based on a member's income.

**[(d)](J)** (1) Notwithstanding the provisions of subsection **[(b)](H)** of this section, if the Board has implemented a preexisting condition limitation, the Board may offer members an optional endorsement to remove the preexisting condition limitation.

(2) The Board may charge an actuarially justified additional premium amount in addition to the premium rate for the standard benefit package for the optional endorsement under paragraph (1) of this subsection.

(3) An amount charged in addition to the premium rate for the standard benefit package for the optional endorsement under paragraph (1) of this subsection shall be subject to review and approval by the Commissioner.

**[(e)](K)** Losses incurred by the Plan shall be subsidized by the Fund.

14-506.

(a) (1) The Board shall select an Administrator to administer the Plan.

(2) The Administrator shall be selected based on criteria adopted by the Board in regulation, which shall include:

(i) the Administrator's proven ability to provide health insurance coverage to individuals;

(ii) the efficiency and timeliness of the Administrator's claim processing procedures;

(iii) an estimate of total charges for administering the Plan;

(iv) the Administrator's proven ability to apply effective cost containment programs and procedures; and

(v) the financial condition and stability of the Administrator.

(b) **(1)** The Administrator shall serve for a period of time specified in its contract with the Plan subject to removal for cause and any other terms, conditions, and limitations contained in the contract.

**(2) THE CONTRACT BETWEEN THE BOARD AND THE ADMINISTRATOR SHALL REQUIRE THE ADMINISTRATOR TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE TO WHICH THE PLAN IS SUBJECT.**

(c) The Administrator shall perform functions relating to the Plan as required by the Board, including:

(1) determination of eligibility;

(2) data collection;

(3) case management;

(4) financial tracking and reporting;

(5) payment of claims; and

(6) premium billing.

(d) **(1)** Each year, the Plan Administrator shall submit to the Commissioner an accounting of medical claims incurred, administrative expenses, and premiums collected.

**(2)** Plan losses shall be certified by the Commissioner in accordance with paragraph **(3)** of this subsection and returned to the Administrator by the Board.

**(3)** Administrative expenses and fees shall be paid as provided in the Administrator's contract with the Board.

(e) (1) The Board may contract with a qualified, independent third party for any service necessary to carry out the powers and duties of the Board.

(2) Unless permission is granted specifically by the Board, a third party hired by the Board may not release, publish, or otherwise use any information to which the third party had access under its contract.

(f) The Administrator shall submit regular reports to the Board regarding the operation of the Plan.

(g) The Administrator shall submit an annual report to the Board that includes:

- (1) the net written and earned premiums for the year;
- (2) the expense of the administration for the year; and
- (3) the paid and incurred losses for the year.

**14-509.**

**(A) THE COMMISSIONER SHALL REGULATE THE PLAN.**

**(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PLAN IS NOT SUBJECT TO THE INSURANCE LAWS OF THE STATE.**

**(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE PLAN SHALL BE SUBJECT TO:**

- (1) §§ 2-205, 2-207, 2-208, AND 2-209 OF THIS ARTICLE;**
- (2) §§ 15-112, 15-112.1, 15-113, AND 15-130 OF THIS ARTICLE;**
- (3) §§ 15-401, 15-402, 15-403, AND 15-403.1 OF THIS ARTICLE;**
- (4) §§ 15-830, 15-831, AND 15-833 OF THIS ARTICLE;**
- (5) §§ 15-1001, 15-1003, 15-1004, 15-1005, 15-1006, 15-1007, 15-1008, AND 15-1009 OF THIS ARTICLE;**
- (6) TITLE 15, SUBTITLES 10A, 10B, AND 10D OF THIS ARTICLE;**

**AND**



(7) §§ 27-303 AND 27-304 OF THIS ARTICLE.

(D) (1) THE PLAN IS NOT SUBJECT TO § 15-10B-12 OF THIS ARTICLE.

(2) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE COMMISSIONER TO IMPOSE THE PENALTY AUTHORIZED UNDER § 15-10B-12 OF THIS ARTICLE ON A PRIVATE REVIEW AGENT CONDUCTING UTILIZATION REVIEW ON BEHALF OF THE PLAN.

(E) (1) THE COMMISSIONER MAY NOT IMPOSE A FINE OR ADMINISTRATIVE PENALTY ON THE PLAN.

(2) IF THE COMMISSIONER FINDS THAT THE PLAN HAS VIOLATED A PROVISION OF THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE THE PLAN TO MAKE RESTITUTION TO EACH CLAIMANT WHO HAS SUFFERED ACTUAL ECONOMIC DAMAGES BECAUSE OF THE VIOLATION.

(3) SUBJECT TO THE TERMS OF THE MASTER PLAN DOCUMENT, THE RESTITUTION AUTHORIZED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT EXCEED THE AMOUNT OF ACTUAL ECONOMIC DAMAGES SUSTAINED BY THE CLAIMANT.

(4) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE COMMISSIONER TO TAKE ACTION AGAINST ANY PERSON WITH RESPECT TO ANY PROVISION OF THIS ARTICLE, OTHER THAN THIS SUBTITLE, THAT IS APPLICABLE TO THAT PERSON.

(F) (1) THE COMMISSIONER SHALL:

(I) PROVIDE A COPY OF AN ADOPTED EXAMINATION REPORT OR THE RESULTS OF ANY REVIEW CONDUCTED UNDER THIS SUBTITLE TO THE BOARD; AND

(II) MAKE RECOMMENDATIONS FOR CORRECTIVE ACTION TO BE TAKEN BY THE BOARD.

(2) (I) BASED ON THE COMMISSIONER'S RECOMMENDATIONS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD SHALL DETERMINE THE STEPS NECESSARY TO IMPLEMENT CORRECTIVE ACTION TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE, INCLUDING WHETHER TO EXERCISE ANY REMEDIES AVAILABLE TO THE BOARD UNDER THE CONTRACT BETWEEN THE BOARD AND THE PLAN ADMINISTRATOR.

(II) IF THE BOARD EXERCISES ITS RIGHT TO IMPOSE FISCAL SANCTIONS OR LIQUIDATED DAMAGES UNDER THE TERMS OF A CONTRACT BETWEEN THE BOARD AND THE PLAN ADMINISTRATOR, THE MONEYS SHALL BE DEPOSITED IN THE FUND.

(3) THIS SUBSECTION DOES NOT LIMIT THE AUTHORITY OF THE COMMISSIONER TO:

(I) IMPOSE THE PENALTY UNDER § 15-10B-12 OF THIS ARTICLE ON A PRIVATE REVIEW AGENT CONDUCTING UTILIZATION REVIEW ON BEHALF OF THE PLAN; OR

(II) IMPOSE THE PENALTIES UNDER TITLE 8, SUBTITLE 3 OF THIS ARTICLE ON A THIRD PARTY ADMINISTRATOR OPERATING ON BEHALF OF THE PLAN.

SECTION 2. AND BE IT FURTHER ENACTED, That during fiscal year ~~2008~~ 2009, the Maryland Insurance Administration shall provide fiscal and personnel services to the Maryland Health Insurance Plan at no charge.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to any contract that becomes effective, is entered into, or is modified on or after the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 260

(House Bill 239)

AN ACT concerning

**Anne Arundel County and City of Annapolis - Fire and Explosive  
~~Investigations - Deputy Fire Marshal~~ Investigators - Qualifications**

FOR the purpose of ~~requiring that an Anne~~ altering the definition of "Anne Arundel County or City of Annapolis fire and explosive ~~investigator have the rank of deputy fire marshal or higher~~ investigator" to include certain additional

qualifications; and generally relating to fire and explosive ~~investigations~~  
investigators in Anne Arundel County and the City of Annapolis.

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 2–208.2  
Annotated Code of Maryland  
(2001 Volume and 2007 Supplement)

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

### Article – Criminal Procedure

2–208.2.

(a) In this section, “Anne Arundel County or City of Annapolis fire and explosive investigator” means an individual who:

(1) is assigned FULL TIME to the Fire and Explosive Investigations Section of the Anne Arundel County or City of Annapolis Fire Marshal’s Office AND IS A PAID EMPLOYEE;

(2) ~~has the rank of a [fire rescue lieutenant] or higher; and~~ DEPUTY FIRE MARSHAL BEEN EMPLOYED BY THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE DEPARTMENT AS A FIREFIGHTER FOR AT LEAST 5 YEARS;

(3) has successfully completed a training program from a police training school approved by the Police Training Commission established under Title 3, Subtitle 2 of the Public Safety Article; AND

(4) AT ALL TIMES MAINTAINS ACTIVE CERTIFICATION BY THE POLICE TRAINING COMMISSION.

(b) Except as provided in subsection (c) of this section, an Anne Arundel County or City of Annapolis fire and explosive investigator has the same authority granted to the State Fire Marshal or a full-time investigative and inspection assistant of the Office of the State Fire Marshal under § 2–208 of this subtitle:

(1) while operating in Anne Arundel County or the City of Annapolis;  
and

(2) while operating outside Anne Arundel County or the City of Annapolis when:

(i) the Anne Arundel County or City of Annapolis fire and explosive investigator is participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;

(ii) the Anne Arundel County or City of Annapolis fire and explosive investigator is rendering assistance to another law enforcement officer;

(iii) the Anne Arundel County or City of Annapolis fire and explosive investigator is acting at the request of a law enforcement officer or State law enforcement officer; or

(iv) an emergency exists.

(c) The Anne Arundel County or City of Annapolis Fire Chief:

(1) may limit the authority of an Anne Arundel County or City of Annapolis fire and explosive investigator under this section; and

(2) shall express the limitation in a written policy.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 261**

**(House Bill 256)**

AN ACT concerning

### **Cecil County - Public Facilities Bonds**

FOR the purpose of authorizing and empowering the County Commissioners of Cecil County, from time to time, to borrow not more than \$5,000,000 in order to finance the cost of the construction and improvement of certain public facilities in Cecil County and to effect that borrowing by the issuance and sale at public or private sale of its general obligation bonds in like amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the

County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds, and the interest thereon and any income derived therefrom, from all State, county, municipal, and other taxation in the State of Maryland; and relating generally to the issuance and sale of the bonds by Cecil County.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used in this Act, the term "County" means that body politic and corporate of the State of Maryland known as the County Commissioners of Cecil County; and the term "construction and improvement of public facilities" means the alteration, construction, reconstruction, enlargement, expansion, extension, improvement, replacement, rehabilitation, renovation, upgrading and repair, and related architectural, financial, legal, planning, designing, or engineering services, for public capital projects in Cecil County, including any finance charges or interest prior to or during such financing and any other costs or expenditures incurred by the County in connection with the projects.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, \$5,000,000 and to evidence its borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like 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 pursuant to a resolution of the County which shall describe generally the public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be in the best interests of the County; the manner of executing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or

conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of and security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds.

In case any officer whose signature appears on any bond ceases to be such officer before delivery, the signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until delivery. The bonds and their issue and sale shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

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 bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment shall be made to the Treasurer of Cecil County or such other official of the County as may be designated to receive payment in a resolution passed by the County Commissioners of Cecil County before 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 public facilities for which the bonds are sold.

If the net proceeds of the sale of any issue of bonds exceeds the amount needed to finance the public facilities described in the resolution, the excess funds 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 adopts a resolution allocating the excess funds to the construction, improvement, or development of other public facilities.

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 assume the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, if the proceeds from the taxes so levied in any fiscal year prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any deficiency. The County may apply to the payment of the principal of and interest on any bonds issued under this Act any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality of either, or from any other source. If such funds are granted for the purpose of assisting the County in financing the construction, improvement, development, or renovation of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, taxes that might otherwise be required to be levied under this Act may be reduced or need not be levied.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is hereby further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, upon purchase or redemption, any bonds issued under this Act. The validity of any refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations being refunded. The powers granted under this Act 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 purchase in the open market any of its outstanding bonds issued under this Act, prior to their maturity, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds which are, by their terms, redeemable. The proceeds of the sale of any 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 delivery. The County may, by appropriate resolution, provide for the replacement of any bonds issued under this Act which may have become mutilated or lost or destroyed upon whatever conditions and after receiving whatever indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued under this Act, their transfer, the interest payable on them, and any income derived from them from time to time (including any profit made in their sale) 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.

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 additional, alternative, and supplemental authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and may not be regarded as in derogation of any power now existing; and all previously enacted laws authorizing the County to borrow money are hereby continued to the extent that the power contained in them is continuing or has not been exercised, unless any law is expressly repealed by this Act, and the validity of any bonds issued under previously enacted laws is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect its purposes. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of any inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 262

(House Bill 257)

AN ACT concerning

### **Pharmacy Benefits Managers – Contracts with Pharmacies and Pharmacists**

FOR the purpose of requiring a pharmacy benefits manager to ~~enter into certain contracts with pharmacy providers under certain circumstances; specifying certain requirements of the contracts~~ disclose certain information to a pharmacy or a pharmacist at the time of entering into a contract with the pharmacy or pharmacist and at a certain time before a contract change; specifying provisions that apply to audits carried out by pharmacy benefits managers of pharmacies or pharmacy claims, pharmacists, and claims of pharmacies and pharmacists; making certain provisions of law applicable to pharmacy benefits managers; requiring a pharmacy benefits manager to establish a certain appeals process; establishing a process for a pharmacy or pharmacist to file a certain complaint with the Maryland Insurance Commissioner; establishing a certain process for review of the underpayment of a claim *requiring a pharmacy benefits manager to establish a certain process for review of a failure to pay the contractual reimbursement amount of certain claims; making certain provisions of law*



applicable to health maintenance organizations; providing for the application of this Act; ~~providing certain penalties; providing that this Act may not be construed to limit the applicability of certain provisions of law under certain circumstances;~~ defining certain terms; and generally relating to regulation of pharmacy benefits managers' contracts with pharmacies and pharmacists.

BY adding to

Article – Insurance

Section 15-1601 ~~through 15-1604~~ 15-1603 to be under the new subtitle  
“Subtitle 16. Pharmacy Benefits Managers”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Health – General

Section 19-706(ppp)

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

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

### Article – Insurance

#### SUBTITLE 16. PHARMACY BENEFITS MANAGERS.

#### 15-1601.

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

~~(2) “EXTRAPOLATION AUDIT” MEANS AN AUDIT OF A SAMPLE OF PRESCRIPTION DRUG BENEFIT CLAIMS SUBMITTED BY A PHARMACY PROVIDER TO A PHARMACY BENEFITS MANAGER OR ITS DESIGNATED CONTRACTOR OR AGENT THAT IS USED TO ESTIMATE AUDIT RESULTS FOR A LARGER BATCH OR GROUP OF CLAIMS.~~

~~(3) (i) “PHARMACY BENEFITS MANAGEMENT SERVICES” MEANS THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG BENEFITS.~~

~~(ii) “PHARMACY BENEFITS MANAGEMENT SERVICES” INCLUDES:~~

~~1. PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE;~~

~~2. PROCESSING OF PRESCRIPTION DRUG CLAIMS;~~

~~3. ADMINISTRATION OF PAYMENTS RELATED TO PRESCRIPTION DRUG CLAIMS; AND~~

~~4. NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACY PROVIDERS.~~

~~(4) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(5) "PHARMACY PROVIDER" MEANS A PHARMACY OR A PHARMACIST.~~

~~(6) (i) "PURCHASER" MEANS A PERSON THAT ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.~~

~~(ii) "PURCHASER" INCLUDES THE STATE.~~

~~(b) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15, SUBTITLE 1 OF THE HEALTH GENERAL ARTICLE.~~

~~(c) IF THE PHARMACY BENEFITS MANAGEMENT SERVICES PERFORMED BY A PHARMACY BENEFITS MANAGER FOR A PURCHASER INCLUDE NEGOTIATING OR ENTERING INTO CONTRACTUAL ARRANGEMENTS WITH PHARMACY PROVIDERS, BEFORE THE PHARMACY BENEFITS MANAGER MAY PROVIDE PHARMACY BENEFITS MANAGEMENT SERVICES FOR THE PURCHASER, THE PHARMACY BENEFITS MANAGER SHALL ENTER INTO ANY NECESSARY WRITTEN CONTRACTS WITH PHARMACY PROVIDERS.~~

~~(d) A CONTRACT WITH A PHARMACY PROVIDER SHALL REQUIRE THE PHARMACY BENEFITS MANAGER TO:~~

~~(1) DISCLOSE TO THE PHARMACY PROVIDER:~~

~~(i) THE TERMS, CONDITIONS, FEES, BENEFIT DESIGNS, PROCESS, AND PROCEDURES FOR ACCESSING THE PHARMACY BENEFITS~~

~~MANAGEMENT SERVICES PROVIDED BY THE PHARMACY BENEFITS MANAGER;  
AND~~

~~(H) THE PHARMACY BENEFITS MANAGER'S PROCEDURES  
FOR HANDLING DISPUTES; AND~~

~~(2) PROVIDE AT LEAST 30 DAYS' WRITTEN NOTICE TO THE  
PHARMACY PROVIDER OF BENEFIT CHANGES, INCLUDING ADDITIONS OR  
DELETIONS TO COVERED PRESCRIPTION DRUGS, WITH THE EXCEPTION OF NEW  
DRUGS APPROVED BY THE U.S. FOOD AND DRUG ADMINISTRATION.~~

~~(E) THE FOLLOWING PROVISIONS SHALL APPLY TO AUDITS OF  
PHARMACIES OR CLAIMS FROM PHARMACIES CARRIED OUT BY PHARMACY  
BENEFITS MANAGERS OR THE AGENTS OF PHARMACY BENEFITS MANAGERS:~~

~~(1) A PHARMACY BENEFITS MANAGER OR THE AGENT OF A  
PHARMACY BENEFITS MANAGER SHALL PROVIDE WRITTEN NOTICE TO A  
PHARMACY AT LEAST 2 WEEKS BEFORE BEGINNING THE AUDIT;~~

~~(2) ONLY CLAIMS THAT HAVE BEEN SPECIFICALLY REQUESTED  
FOR AUDITING MAY BE SUBJECT TO AN AUDIT;~~

~~(3) A PHARMACY BENEFITS MANAGER MAY NOT REQUIRE  
EXTRAPOLATION AUDITS AS A CONDITION OF A CONTRACT OR PARTICIPATION  
IN A NETWORK OR PROGRAM OF THE PHARMACY BENEFITS MANAGER;~~

~~(4) (I) ANY AUDIT FINDING OF AN OVERPAYMENT OR  
UNDERPAYMENT SHALL BE BASED ON AN ACTUAL OVERPAYMENT OR  
UNDERPAYMENT FOUND IN CLAIMS SUBJECT TO AUDIT; AND~~

~~(H) THE OVERPAYMENT OR UNDERPAYMENT MAY NOT BE A  
PROJECTED AMOUNT BASED ON THE NUMBER OF PATIENTS WITH A SIMILAR  
DIAGNOSIS WHO PURCHASE DRUGS AT THE PHARMACY OR ON THE NUMBER OF  
SIMILAR ORDERS OR REFILLS FOR SIMILAR DRUGS;~~

~~(5) A CLAIM MAY NOT BE SUBJECTED TO AN AUDIT MORE THAN 1  
YEAR AFTER THE CLAIM WAS ADJUDICATED BY THE PHARMACY BENEFITS  
MANAGER;~~

~~(6) A PHARMACY BENEFITS MANAGER MAY NOT RECOUP BY  
SETOFF ANY MONEYS THAT THE PHARMACY BENEFITS MANAGER CONTENDS  
ARE DUE AS A RESULT OF AN AUDIT UNTIL THE PHARMACY HAS THE  
OPPORTUNITY TO REVIEW AND CONCUR WITH THE AUDIT FINDINGS;~~

~~(7) ANY MONEYS DUE TO A PHARMACY BENEFITS MANAGER OR A PHARMACY AS A RESULT OF AN AUDIT SHALL BE REMITTED WITHIN 30 DAYS OF NOTIFICATION; AND~~

~~(8) IF THE PHARMACY BENEFITS MANAGER AND THE PHARMACY CANNOT AGREE ON THE MONEYS DUE AS A RESULT OF AN AUDIT, THE COMMISSIONER SHALL REVIEW THE AUDIT AND DETERMINE IF ANY MONEYS ARE DUE.~~

~~(F) ON OR BEFORE APRIL 1, 2009, THE COMMISSIONER SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

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

(B) "BENEFICIARY" MEANS AN INDIVIDUAL WHO RECEIVES PRESCRIPTION DRUG COVERAGE OR BENEFITS FROM A PURCHASER.

(C) "ERISA" HAS THE MEANING STATED IN § 8-301 OF THIS ARTICLE.

(D) "NONPROFIT HEALTH MAINTENANCE ORGANIZATION" HAS THE MEANING STATED IN § 6-121(A) OF THIS ARTICLE.

(E) "PHARMACIST" HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.

(F) "PHARMACY" HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.

(G) (1) "PHARMACY BENEFITS MANAGEMENT SERVICES" MEANS:

(I) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED RATE FOR DISPENSATION WITHIN THE STATE TO BENEFICIARIES;

(II) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG COVERAGE PROVIDED BY A PURCHASER FOR BENEFICIARIES; AND

(III) ANY OF THE FOLLOWING SERVICES PROVIDED WITH REGARD TO THE ADMINISTRATION OF PRESCRIPTION DRUG COVERAGE:

1. MAIL SERVICE PHARMACY;

**2. CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO BENEFICIARIES;**

**3. CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT SERVICES;**

**4. REBATE CONTRACTING AND ADMINISTRATION;**

**5. PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION, AND GENERIC SUBSTITUTION PROGRAMS; OR**

**6. DISEASE MANAGEMENT PROGRAMS.**

**(2) "PHARMACY BENEFITS MANAGEMENT SERVICES" DOES NOT INCLUDE ANY SERVICE PROVIDED BY A NONPROFIT HEALTH MAINTENANCE ORGANIZATION THAT OPERATES AS A GROUP MODEL, PROVIDED THAT THE SERVICE:**

**(i) IS PROVIDED SOLELY TO A MEMBER OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION; AND**

**(ii) IS FURNISHED THROUGH THE INTERNAL PHARMACY OPERATIONS OF THE NONPROFIT HEALTH MAINTENANCE ORGANIZATION.**

**(H) "PHARMACY BENEFITS MANAGER" MEANS A PERSON THAT PERFORMS PHARMACY BENEFITS MANAGEMENT SERVICES.**

**(i) (1) "PURCHASER" MEANS THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM, AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION THAT:**

**(i) PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS IN THE STATE; AND**

**(ii) ENTERS INTO AN AGREEMENT WITH A PHARMACY BENEFITS MANAGER FOR THE PROVISION OF PHARMACY BENEFITS MANAGEMENT SERVICES.**

**(2) "PURCHASER" DOES NOT INCLUDE A PERSON THAT PROVIDES PRESCRIPTION DRUG COVERAGE OR BENEFITS THROUGH PLANS SUBJECT TO ERISA AND THAT DOES NOT PROVIDE PRESCRIPTION DRUG COVERAGE OR**

BENEFITS THROUGH INSURANCE, UNLESS THE PERSON IS A MULTIPLE EMPLOYER WELFARE ARRANGEMENT AS DEFINED IN § 514(B)(6)(A)(II) OF ERISA.

15-1602.

~~THE PROVISIONS OF §§ 15-1008 AND 15-1009(B) OF THIS TITLE, SUBTITLE 10D OF THIS TITLE, AND § 27-303(2) OF THIS ARTICLE SHALL APPLY TO PHARMACY BENEFITS MANAGERS IN THE SAME MANNER THEY APPLY TO CARRIERS.~~

~~15-1603.~~

AT THE TIME OF ENTERING INTO A CONTRACT WITH A PHARMACY OR A PHARMACIST, AND AT LEAST 30 WORKING DAYS BEFORE ANY CONTRACT CHANGE, A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO THE PHARMACY OR PHARMACIST:

(1) THE APPLICABLE TERMS, CONDITIONS, AND REIMBURSEMENT RATES;

(2) THE PROCESS AND PROCEDURES FOR VERIFYING PHARMACY BENEFITS AND BENEFICIARY ELIGIBILITY;

(3) THE DISPUTE RESOLUTION AND AUDIT APPEALS PROCESS;  
AND

(4) THE PROCESS AND PROCEDURES FOR VERIFYING THE PRESCRIPTION DRUGS INCLUDED ON THE FORMULARIES USED BY THE PHARMACY BENEFITS MANAGER.

~~15-1604~~ 15-1603.

(A) THIS SECTION DOES NOT APPLY TO AN AUDIT THAT INVOLVES PROBABLE OR POTENTIAL FRAUD OR WILLFUL MISREPRESENTATION BY A PHARMACY OR PHARMACIST.

(B) A PHARMACY BENEFITS MANAGER SHALL CONDUCT AN AUDIT OF A PHARMACY OR PHARMACIST UNDER CONTRACT WITH THE PHARMACY BENEFITS MANAGER IN ACCORDANCE WITH THIS SECTION.

(C) A PHARMACY BENEFITS MANAGER MAY NOT SCHEDULE AN ONSITE AUDIT TO BEGIN DURING THE FIRST 5 CALENDAR DAYS OF A MONTH UNLESS REQUESTED BY THE PHARMACY OR PHARMACIST.

(D) WHEN CONDUCTING AN AUDIT, A PHARMACY BENEFITS MANAGER SHALL:

(1) IF THE AUDIT IS ONSITE, PROVIDE WRITTEN NOTICE TO THE PHARMACY OR PHARMACIST AT LEAST 2 WEEKS BEFORE CONDUCTING THE INITIAL ONSITE AUDIT FOR EACH AUDIT CYCLE;

(2) EMPLOY THE SERVICES OF A PHARMACIST IF THE AUDIT REQUIRES THE CLINICAL OR PROFESSIONAL JUDGMENT OF A PHARMACIST;

(3) FOR PURPOSES OF VALIDATING THE PHARMACY RECORD WITH RESPECT TO ORDERS OR REFILLS OF A DRUG THAT IS A CONTROLLED DANGEROUS SUBSTANCE, ALLOW THE PHARMACY OR PHARMACIST TO USE HOSPITAL OR PHYSICIAN RECORDS THAT ARE:

(I) WRITTEN; OR

(II) TRANSMITTED ELECTRONICALLY;

(4) AUDIT EACH PHARMACY AND PHARMACIST UNDER THE SAME STANDARDS AND PARAMETERS AS OTHER SIMILARLY SITUATED PHARMACIES OR PHARMACISTS AUDITED BY THE PHARMACY BENEFITS MANAGER;

(5) ONLY AUDIT CLAIMS SUBMITTED OR ADJUDICATED WITHIN THE 2-YEAR PERIOD IMMEDIATELY PRECEDING THE AUDIT, UNLESS A LONGER PERIOD IS PERMITTED UNDER FEDERAL OR STATE LAW;

(6) DELIVER THE PRELIMINARY AUDIT REPORT TO THE PHARMACY OR PHARMACIST WITHIN 120 CALENDAR DAYS AFTER THE COMPLETION OF THE AUDIT, WITH REASONABLE EXTENSIONS ALLOWED;

~~(7) ALLOW A PHARMACY OR PHARMACIST AT LEAST 30 WORKING DAYS FOLLOWING RECEIPT OF THE PRELIMINARY AUDIT REPORT, WITH REASONABLE EXTENSIONS ALLOWED, IN WHICH TO PRODUCE DOCUMENTATION TO ADDRESS ANY DISCREPANCY FOUND DURING THE AUDIT; AND~~

~~(8) DELIVER THE FINAL AUDIT REPORT TO THE PHARMACY OR PHARMACIST WITHIN 6 MONTHS AFTER DELIVERY OF:~~

~~(I) THE PRELIMINARY AUDIT REPORT; OR~~

~~(II) THE DECISION ON ANY APPEAL MADE THROUGH THE PROCESS PROVIDED UNDER SUBSECTION (G) OF THIS SECTION.~~

(7) IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION, ALLOW A PHARMACY OR PHARMACIST TO PRODUCE DOCUMENTATION TO ADDRESS ANY DISCREPANCY FOUND DURING THE AUDIT; AND

(8) DELIVER THE FINAL AUDIT REPORT TO THE PHARMACY OR PHARMACIST:

(I) WITHIN 6 MONTHS AFTER DELIVERY OF THE PRELIMINARY AUDIT REPORT IF THE PHARMACY OR PHARMACIST DOES NOT REQUEST AN INTERNAL APPEAL UNDER SUBSECTION (G) OF THIS SECTION; OR

(II) WITHIN 30 DAYS AFTER THE CONCLUSION OF THE INTERNAL APPEALS PROCESS UNDER SUBSECTION (G) OF THIS SECTION IF THE PHARMACY OR PHARMACIST REQUESTS AN INTERNAL APPEAL.

(E) A PHARMACY BENEFITS MANAGER MAY NOT USE THE ACCOUNTING PRACTICE OF EXTRAPOLATION TO CALCULATE OVERPAYMENTS OR UNDERPAYMENTS.

(F) THE RECOUPMENT OF A CLAIMS PAYMENT FROM A PHARMACY OR PHARMACIST BY A PHARMACY BENEFITS MANAGER SHALL BE BASED ON AN ACTUAL OVERPAYMENT OR DENIAL OF AN AUDITED CLAIM UNLESS THE PROJECTED OVERPAYMENT OR DENIAL IS PART OF A SETTLEMENT AGREED TO BY THE PHARMACY OR PHARMACIST.

~~(G) (1) A PHARMACY BENEFITS MANAGER SHALL ESTABLISH AN APPEALS PROCESS, IN ACCORDANCE WITH THE PROVISIONS OF SUBTITLE 10D OF THIS TITLE, UNDER WHICH A PHARMACY OR PHARMACIST MAY APPEAL A DISPUTED CLAIM IN A PRELIMINARY AUDIT REPORT.~~

~~(2) IF THE PHARMACY BENEFITS MANAGER REVERSES OR MODIFIES ITS PRELIMINARY AUDIT REPORT AS A RESULT OF AN APPEAL OF A DISPUTED CLAIM BY A PHARMACY OR PHARMACIST, THE PHARMACY BENEFITS MANAGER SHALL DISMISS THE PRELIMINARY AUDIT REPORT OR THE UNSUBSTANTIATED PORTION OF THE PRELIMINARY AUDIT REPORT WITH NO FURTHER PROCEEDINGS.~~



(G) (1) A PHARMACY BENEFITS MANAGER SHALL ESTABLISH AN INTERNAL APPEALS PROCESS UNDER WHICH A PHARMACY OR PHARMACIST MAY APPEAL ANY DISPUTED CLAIM IN A PRELIMINARY AUDIT REPORT.

(2) UNDER THE INTERNAL APPEALS PROCESS, A PHARMACY BENEFITS MANAGER SHALL ALLOW A PHARMACY OR PHARMACIST TO REQUEST AN INTERNAL APPEAL WITHIN 30 WORKING DAYS AFTER RECEIPT OF THE PRELIMINARY AUDIT REPORT, WITH REASONABLE EXTENSIONS ALLOWED.

(3) THE PHARMACY BENEFITS MANAGER SHALL INCLUDE IN ITS PRELIMINARY AUDIT REPORT A WRITTEN EXPLANATION OF THE INTERNAL APPEALS PROCESS, INCLUDING THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON TO WHOM AN INTERNAL APPEAL SHOULD BE ADDRESSED.

~~(3)~~ (4) THE DECISION OF THE PHARMACY BENEFITS MANAGER ON AN APPEAL OF A DISPUTED CLAIM IN A PRELIMINARY AUDIT REPORT BY A PHARMACY OR PHARMACIST SHALL BE REFLECTED IN THE FINAL AUDIT REPORT.

(5) THE PHARMACY BENEFITS MANAGER SHALL DELIVER THE FINAL AUDIT REPORT TO THE PHARMACY OR PHARMACIST WITHIN 30 CALENDAR DAYS AFTER CONCLUSION OF THE INTERNAL APPEALS PROCESS.

(H) (1) A PHARMACY BENEFITS MANAGER MAY NOT RECOUP BY SETOFF ANY MONEYS FOR AN OVERPAYMENT OR DENIAL OF A CLAIM UNTIL 30 WORKING DAYS AFTER THE DATE THE FINAL AUDIT REPORT HAS BEEN ~~PROVIDED~~ DELIVERED TO THE PHARMACY OR PHARMACIST.

(2) A PHARMACY BENEFITS MANAGER SHALL REMIT ANY MONEY DUE TO A PHARMACY OR PHARMACIST AS A RESULT OF AN UNDERPAYMENT OF A CLAIM WITHIN 30 WORKING DAYS AFTER THE FINAL AUDIT REPORT HAS BEEN PROVIDED TO THE PHARMACY OR PHARMACIST.

(3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, A PHARMACY BENEFITS MANAGER MAY WITHHOLD FUTURE PAYMENTS BEFORE THE DATE THE FINAL AUDIT REPORT HAS BEEN PROVIDED TO THE PHARMACY OR PHARMACIST IF THE IDENTIFIED DISCREPANCY FOR ALL DISPUTED CLAIMS IN A PRELIMINARY AUDIT REPORT FOR AN INDIVIDUAL AUDIT EXCEEDS \$25,000.

~~(I) (1) A PHARMACY BENEFITS MANAGER SHALL ESTABLISH A REASONABLE INTERNAL PROCESS FOR A PHARMACY OR PHARMACIST TO REQUEST THE REVIEW OF AN UNDERPAYMENT OF A CLAIM.~~

~~(2) (I) A PHARMACY OR PHARMACIST MAY REQUEST A PHARMACY BENEFITS MANAGER TO REVIEW AN UNDERPAYMENT OF A CLAIM WITHIN 1 YEAR AFTER THE DATE THE CLAIM WAS PAID BY THE PHARMACY BENEFITS MANAGER.~~

~~(II) THE PHARMACY BENEFITS MANAGER SHALL GIVE WRITTEN NOTICE OF ITS REVIEW DECISION WITHIN 90 CALENDAR DAYS AFTER RECEIPT OF THE REQUEST FOR REVIEW.~~

~~(3) IF THE PHARMACY BENEFITS MANAGER DETERMINES THROUGH THE INTERNAL PROCESS THAT THE PHARMACY BENEFITS MANAGER UNDERPAID A PHARMACY OR PHARMACIST, THE PHARMACY BENEFITS MANAGER SHALL PAY ANY MONEY DUE TO THE PHARMACY OR PHARMACIST WITHIN 30 WORKING DAYS AFTER COMPLETION OF THE INTERNAL PROCESS.~~

~~(4) (I) IF THE PHARMACY OR PHARMACIST DISAGREES WITH THE PHARMACY BENEFITS MANAGER'S REVIEW OF AN UNDERPAYMENT OF A CLAIM THROUGH ITS INTERNAL PROCESS, THE PHARMACY OR PHARMACIST MAY FILE A COMPLAINT WITH THE COMMISSIONER FOR REVIEW OF THE UNDERPAYMENT BY THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE TO DETERMINE IF THE PHARMACY BENEFITS MANAGER'S CALCULATION OF THE PAYMENT AMOUNT WAS ARBITRARY AND CAPRICIOUS.~~

~~(II) A COMPLAINT FILED UNDER THIS SUBSECTION SHALL BE FILED WITHIN 30 WORKING DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE PHARMACY BENEFITS MANAGER'S REVIEW DECISION.~~

*(1) (1) A PHARMACY BENEFITS MANAGER SHALL ESTABLISH A REASONABLE INTERNAL REVIEW PROCESS FOR A PHARMACY TO REQUEST THE REVIEW OF A FAILURE TO PAY THE CONTRACTUAL REIMBURSEMENT AMOUNT OF A SUBMITTED CLAIM.*

*(2) A PHARMACY MAY REQUEST A PHARMACY BENEFITS MANAGER TO REVIEW A FAILURE TO PAY THE CONTRACTUAL REIMBURSEMENT AMOUNT OF A CLAIM WITHIN 180 CALENDAR DAYS AFTER THE DATE THE SUBMITTED CLAIM WAS PAID BY THE PHARMACY BENEFITS MANAGER.*

(3) THE PHARMACY BENEFITS MANAGER SHALL GIVE WRITTEN NOTICE OF ITS REVIEW DECISION WITHIN 90 CALENDAR DAYS AFTER RECEIPT OF A REQUEST FOR REVIEW FROM A PHARMACY UNDER THIS SUBSECTION.

(4) IF THE PHARMACY BENEFITS MANAGER DETERMINES THROUGH THE INTERNAL REVIEW PROCESS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THE PHARMACY BENEFITS MANAGER UNDERPAID A PHARMACY, THE PHARMACY BENEFITS MANAGER SHALL PAY ANY MONEY DUE TO THE PHARMACY WITHIN 30 WORKING DAYS AFTER COMPLETION OF THE INTERNAL REVIEW PROCESS.

(5) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT THE ABILITY OF A PHARMACY AND A PHARMACY BENEFITS MANAGER TO CONTRACTUALLY AGREE THAT A PHARMACY MAY HAVE MORE THAN 180 CALENDAR DAYS TO REQUEST AN INTERNAL REVIEW OF A FAILURE OF THE PHARMACY BENEFITS MANAGER TO PAY THE CONTRACTUAL AMOUNT OF A SUBMITTED CLAIM.

(J) ON REQUEST OF THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE, A PHARMACY BENEFITS MANAGER SHALL PROVIDE A COPY OF ITS AUDIT PROCEDURES OR INTERNAL APPEALS PROCESS.

~~(G) (K) (1) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH VIOLATION OF THIS SECTION SUBTITLE.~~

~~(2) IN ADDITION TO OR INSTEAD OF ASSESSING A CIVIL PENALTY, THE COMMISSIONER MAY REQUIRE THE PHARMACY BENEFITS MANAGER TO MAKE RESTITUTION TO ANY PERSON WHO HAS SUFFERED FINANCIAL INJURY BECAUSE OF THE VIOLATION OF THIS SECTION SUBTITLE.~~

### Article - Health - General

19-706.

(PPP) THE PROVISIONS OF TITLE 15, SUBTITLE 16 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That ~~this Act~~ the provisions of § 15-1602 of the Insurance Article, as enacted by Section 1 of this Act, shall apply to contracts entered into or renewed between a pharmacist or pharmacy and a pharmacy benefits manager on or after January 1, 2009.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to audits conducted by pharmacy benefits managers on or after January 1, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed to limit the applicability of §§ 15-1008, 15-1009(b), 27-303(2), 27-304(4), and 27-304(15) of the Insurance Article to claim denials made by or on behalf of an insurer, nonprofit health service plan, dental plan organization, or health maintenance organization.

SECTION ~~2~~ ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 263

(House Bill 265)

AN ACT concerning

### **Family Law - Emergency Placement of Children - Criminal History Records Checks**

FOR the purpose of authorizing a local department of social services to request that a certain agency perform a federal name-based criminal history records check on certain individuals if a child is placed in an emergency ~~in-home~~ out-of-home placement; authorizing a certain agency to provide certain results to a local department; requiring a local department to submit fingerprints to the Department of Public Safety and Correctional Services under certain circumstances; requiring the Department to conduct a certain criminal history records check under certain circumstances; requiring that a child be removed from an emergency ~~in-home~~ out-of-home placement under certain circumstances; requiring a certain individual to submit certain information to a local department under certain circumstances; requiring a certain individual to pay a certain fee under certain circumstances; defining a certain term; and generally relating to emergency ~~in-home~~ out-of-home placements and criminal history records checks.

BY adding to  
Article - Family Law  
Section 5-569

Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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

**Article - Family Law**

**5-569.**

(A) IN THIS SECTION, “EMERGENCY ~~HOME~~ OUT-OF-HOME PLACEMENT” MEANS ~~THOSE LIMITED INSTANCES WHEN~~ AN OUT-OF-HOME PLACEMENT IN WHICH A LOCAL DEPARTMENT PLACES A CHILD IN THE HOME OF A PRIVATE INDIVIDUAL, INCLUDING A NEIGHBOR, FRIEND, OR RELATIVE, AS A RESULT OF A SUDDEN UNAVAILABILITY OF THE CHILD’S PRIMARY CARETAKER.

(B) (1) IF A CHILD IS PLACED IN AN EMERGENCY ~~IN-HOME~~ OUT-OF-HOME PLACEMENT, A LOCAL DEPARTMENT MAY REQUEST THAT A DESIGNATED STATE OR LOCAL LAW ENFORCEMENT AGENCY IN THE STATE OR OTHER LOCATION APPROVED BY THE DEPARTMENT PERFORM A FEDERAL NAME-BASED CHECK ON ANY INDIVIDUAL DESCRIBED IN § 5-561(C)(4), (5)(II), AND (6)(II) OF THIS SUBTITLE.

(2) THE DESIGNATED AGENCY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION MAY PROVIDE THE RESULTS OF THE NAME-BASED CHECK TO THE LOCAL DEPARTMENT.

(3) WITHIN 15 CALENDAR DAYS AFTER THE LOCAL DEPARTMENT RECEIVES THE RESULTS OF THE NAME-BASED CHECK, THE LOCAL DEPARTMENT SHALL SUBMIT A COMPLETE SET OF FINGERPRINTS TO THE DEPARTMENT FOR EACH INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ON WHOM A NAME-BASED CHECK WAS PERFORMED.

(4) WITHIN 15 CALENDAR DAYS AFTER THE DATE ON WHICH THE NAME-BASED CHECK WAS PERFORMED, THE DEPARTMENT SHALL PERFORM A CRIMINAL HISTORY RECORDS CHECK, IN ACCORDANCE WITH § 5-564 OF THIS SUBTITLE.

(C) A CHILD SHALL BE REMOVED IMMEDIATELY FROM AN EMERGENCY ~~IN-HOME~~ OUT-OF-HOME PLACEMENT IF ANY INDIVIDUAL REQUIRED TO SUBMIT TO A NAME-BASED CHECK FAILS TO COMPLY WITH THIS SECTION.

(D) WHEN THE PLACEMENT OF A CHILD IN A HOME IS DENIED AS A RESULT OF A NAME-BASED CRIMINAL HISTORY RECORDS CHECK OF AN INDIVIDUAL AND THE INDIVIDUAL CONTESTS THAT DENIAL, THE INDIVIDUAL SHALL SUBMIT TO THE LOCAL DEPARTMENT:

(1) A COMPLETE SET OF FINGERPRINTS; AND

(2) WRITTEN PERMISSION ALLOWING THE LOCAL DEPARTMENT TO FORWARD THE FINGERPRINTS TO THE DEPARTMENT FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION.

(E) AN INDIVIDUAL WHO IS REQUIRED TO SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK UNDER THIS SECTION SHALL PAY THE FEES REQUIRED UNDER § 5-561(H) OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 264

(House Bill 272)

AN ACT concerning

### Medical Stop-Loss Insurance

FOR the purpose of providing that certain provisions of law relating to surplus lines insurance do not apply to medical stop-loss insurance; authorizing medical stop-loss insurance to be sold, issued, or delivered in the State only by certain carriers that hold certain certificates of authority; prohibiting medical stop-loss insurers from issuing, delivering, or offering policies of medical stop-loss insurance if the policies have certain attachment points below certain amounts; making medical stop-loss insurers subject to certain sanctions under certain circumstances; providing for the interpretation of certain provisions of this Act; defining certain terms; making certain conforming changes; and generally relating to medical stop-loss insurance and the regulation of medical stop-loss insurers.

BY repealing and reenacting, with amendments,

Article – Insurance  
Section 3–302(a)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 15–129  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

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

**Article – Insurance**

3–302.

- (a) This subtitle does not apply to:
- (1) life insurance;
  - (2) health insurance;
  - (3) annuities;
  - (4) reinsurance;
  - (5) wet marine and transportation insurance, except as provided in subsection (b) of this section;
  - (6) insurance on a subject that is located, resident, or to be performed wholly outside the State;
  - (7) insurance on vehicles or aircraft owned and principally garaged outside the State;
  - (8) insurance on property or operation of railroads engaged in interstate commerce; [or]
  - (9) insurance:
    - (i) on aircraft owned or operated by aircraft manufacturers or operated in scheduled interstate flight;

(ii) on cargo of the aircraft described in subitem (i) of this item;  
or

(iii) against liability arising out of the ownership, maintenance, or use of the aircraft described in subitem (i) of this item, other than workers' compensation or employer's liability; OR

**(10) MEDICAL STOP-LOSS INSURANCE, AS DEFINED IN § 15-129 OF THIS ARTICLE.**

15-129.

(a) (1) In this section the following words have the meanings indicated.

(2) "Aggregate attachment point" means the percentage of expected claims in a policy year above which the **MEDICAL** stop-loss insurer assumes all or part of the liability for losses incurred by the insured.

**(3) "CARRIER" MEANS:**

**(I) AN INSURER; OR**

**(II) A NONPROFIT HEALTH SERVICE PLAN.**

**[(3)] (4)** "Expected claims" means the amount of claims that, in the absence of **MEDICAL** stop-loss insurance, are projected to be incurred by the insured using reasonable and accepted actuarial principles.

**(5) "MEDICAL STOP-LOSS INSURANCE" MEANS INSURANCE, OTHER THAN REINSURANCE, THAT IS PURCHASED BY A PERSON, OTHER THAN A CARRIER OR A HEALTH CARE PROVIDER, TO PROTECT THE PERSON AGAINST CATASTROPHIC, EXCESS, OR UNEXPECTED LOSSES INCURRED BY THAT PERSON'S OBLIGATIONS TO THIRD PARTIES UNDER THE TERMS OF A HEALTH BENEFIT PLAN.**

**(6) "MEDICAL STOP-LOSS INSURER" MEANS A CARRIER THAT IS AUTHORIZED TO SELL, ISSUE, AND DELIVER POLICIES OF MEDICAL STOP-LOSS INSURANCE IN THE STATE.**

**[(4)] (7)** "Specific attachment point" means the dollar amount in losses attributable to a single individual in a policy year beyond which the **MEDICAL** stop-loss insurer assumes all or part of the liability for losses incurred by the insured.



[(5) “Stop-loss insurance” means insurance that is purchased by a person, other than a health care provider, to protect the person against catastrophic, excess, or unexpected losses sustained by the person.]

(b) This section applies to each **MEDICAL STOP-LOSS INSURER AND EACH MEDICAL** stop-loss insurance policy or contract that is delivered or issued for delivery in the State.

(c) **MEDICAL STOP-LOSS INSURANCE MAY ONLY BE SOLD, ISSUED, OR DELIVERED IN THE STATE BY A CARRIER THAT HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER THAT AUTHORIZES THE CARRIER TO ENGAGE IN THE BUSINESS OF HEALTH INSURANCE OR TO ACT AS A NONPROFIT HEALTH SERVICE PLAN.**

[(c)] (D) [An] **A MEDICAL STOP-LOSS** insurer may not issue, deliver, or offer a policy or contract of **MEDICAL** stop-loss insurance, if the policy has:

- (1) a specific attachment point of less than \$10,000; or
- (2) an aggregate attachment point of less than 115% of expected claims.

[(d)] (E) [An] **A MEDICAL STOP-LOSS** insurer who offers or issues a **MEDICAL** stop-loss insurance policy that does not meet the requirements of this section shall be subject to the sanctions set forth in § 4-113 of this article for authorized insurers and § 4-212 of this article for unauthorized insurers.

[(e)] (F) Nothing in this section shall be construed as:

- (1) imposing any requirement or duty on any person other than [an insurer] **A CARRIER**; or
- (2) treating any **MEDICAL** stop-loss **INSURANCE** policy as a [direct] policy of **INDIVIDUAL, GROUP, OR BLANKET** health insurance **COVERING THE PARTICIPANTS IN THE UNDERLYING HEALTH BENEFIT PLAN.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

**Approved by the Governor, April 24, 2008.**

## CHAPTER 265

### (House Bill 289)

AN ACT concerning

#### **Task Force on Health Care Access and Reimbursement - Extension**

FOR the purpose of extending the date on which the Task Force on Health Care Access and Reimbursement is required to submit its final report and recommendations; extending the termination date of the Task Force; and generally relating to the Task Force on Health Care Access and Reimbursement.

BY repealing and reenacting, with amendments,  
Article - Health - General  
Section 19-710.3  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 505 of the Acts of the General Assembly of 2007  
Section 2

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

#### **Article - Health - General**

19-710.3.

- (a) There is a Task Force on Health Care Access and Reimbursement.
- (b) The Task Force consists of the following members:
  - (1) Two members of the House of Delegates, appointed by the Speaker of the House;
  - (2) Two members of the Senate of Maryland, appointed by the President of the Senate;
  - (3) The Secretary of Health and Mental Hygiene;
  - (4) The Attorney General, or the Attorney General's designee;

(5) The Insurance Commissioner, or the Insurance Commissioner's designee;

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

(7) Six individuals appointed by the Governor.

(c) In performing its duties, the Task Force may consult with individuals and entities that the Secretary of Health and Mental Hygiene deems appropriate.

(d) (1) The Secretary of Health and Mental Hygiene shall:

(i) Chair the Task Force;

(ii) Establish subcommittees and appoint subcommittee chairs as necessary to facilitate the work of the Task Force; and

(iii) Provide staff support for the Task Force from the Department.

(2) To the extent practicable, the members appointed to the Task Force shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

(3) In performing its duties, the Task Force shall invite all interested groups, including physician groups, health care provider specialty groups, employers, and health insurance carriers, to present testimony or other information to the Task Force concerning:

(i) The issues to be studied by the Task Force;

(ii) Data on the reimbursements paid to physicians and other health care providers by health insurance carriers;

(iii) Trends relating to reimbursement rates and total payments to physicians and other health care providers by health insurance carriers; and

(iv) Data and trends in physician and other health care provider workforce supply and future demand.

(e) The Task Force shall examine:

(1) Reimbursement rates and total payments to physicians and other health care providers by specialty and geographic area and trends in such reimbursement rates and total payments, including a comparison of reimbursement rates, total payments, and trends in other states;

(2) The impact of changes in reimbursements on access to health care and on health care disparities, volume of services, and quality of care;

(3) The effect of competition on payments to physicians and other health care providers;

(4) The trends for physician and other health care provider shortages by specialty and geographic area and any impact on health care access and quality caused by such shortages, including emergency department overcrowding;

(5) The amount of uncompensated care being provided by physicians and other health care providers and the trends in uncompensated care in Maryland and in other states;

(6) The extent to which current reimbursement methods recognize and reward higher quality of care;

(7) Methods used by large purchasers of health care to evaluate adequacy and cost of provider networks; and

(8) (i) The practice by certain health insurance carriers of requiring health care providers who join a provider network of a carrier to also serve on a provider network of a different carrier; and

(ii) The effect of the practice described in item (i) of this item on health care provider payments and willingness to serve on provider networks of health insurance carriers.

(f) The Task Force shall develop recommendations regarding:

(1) Specific options that are available, given limitations of the federal ERISA law, to change physician and other health care provider reimbursements, if needed;

(2) The sufficiency of present statutory formulas for the reimbursement of noncontracting physicians and other health care providers by health maintenance organizations;

(3) Whether the Maryland Insurance Administration and the Attorney General currently have sufficient authority to regulate rate setting and

market-related practices of health insurance carriers that may have the effect of unreasonably reducing reimbursements;

(4) Whether there is a need to enhance the ability of physicians and other health care providers to negotiate reimbursement rates with health insurance carriers, without unduly impairing the ability of the carriers to appropriately manage their provider networks;

(5) Whether there is a need to establish a rate-setting system for physicians and other health care providers similar to the system established to set hospital rates in Maryland;

(6) The advisability of the use of payment methods linked to quality of care or outcomes; and

(7) The need to prohibit a health insurance carrier from requiring health care providers who join a provider network of the carrier to also serve on a provider network of a different carrier.

(g) (1) The Task Force shall report 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 31, 2007.

(2) If the Task Force determines it will not complete its work by December 31, 2007, the Task Force shall, in the same manner as provided in paragraph (1) of this subsection:

(i) Submit an interim report of its findings and recommendations on or before December 1, 2007; and

(ii) Submit a final report of its findings and recommendations on or before [June 30, 2008] **DECEMBER 1, 2008**.

(3) Notwithstanding paragraph (2) of this subsection, the Task Force shall submit its findings and recommendations relating to subsection (f)(7) of this section on or before December 31, 2007.

(h) 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.

### **Chapter 505 of the Acts of 2007**

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 5 MONTHS** and, at the

end of [June 30, 2008] **DECEMBER 1, 2008**, 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 June 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 266

(House Bill 312)

AN ACT concerning

### **Procurement – Security Requirements – ~~Repeal~~ Extension of Sunset Provision**

FOR the purpose of ~~repealing~~ altering the format of certain affidavits required to be attached to certain bid security; altering a certain reporting requirement on the implementation of included in a certain Act on relating to security requirements for procurement; ~~repealing~~ altering the termination provision of a certain Act relating to security requirements for procurement; and generally relating to security requirements for procurement.

~~BY repealing and reenacting, without amendments,  
Article 83A – Department of Business and Economic Development  
Section 5-1035 and 5-1037  
Annotated Code of Maryland  
(2003 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, without amendments,  
Article – Economic Development  
Section 5-568 and 5-569  
Annotated Code of Maryland  
(As enacted by Chapter 306 (H.B. 1050) of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 13-207 and 17-104  
Annotated Code of Maryland  
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
 Article – State Finance and Procurement  
~~Section 13-207, 13-208, 13-216, and 17-104~~  
Section 13-208 and 13-216  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2007 Supplement)

~~BY repealing~~  
~~Chapter 299 of the Acts of the General Assembly of 2006~~  
~~Section 2~~

BY repealing and reenacting, with amendments,  
 Chapter 299 of the Acts of the General Assembly of 2006  
 Section ~~3 and 4~~ 2, 3, and 4

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**~~

~~5-1035.~~

~~(a) Subject to the restrictions of this Part VI, the Authority, on application, may guarantee any surety up to the lesser of 90 percent or \$5,000,000 of its losses incurred under a bid bond, a payment bond, or a performance bond on any contract financed by the federal government or a state government, a local government, a private entity, or a utility regulated by the Public Service Commission.~~

~~(b) The term of a guaranty under this Part VI may not exceed the contract term.~~

~~(c) The Authority may vary the terms and conditions of the guaranty from surety to surety, based upon the Authority's history of experience with that surety and upon any other factor that the Authority considers relevant.~~

~~(d) (1) The Authority may execute and perform bid, performance, and payment bonds as a surety for the benefit of a principal in connection with any contract financed by the federal government or a state government, a local government, a private entity, or a utility regulated by the Public Service Commission.~~

~~(2) The bonds:~~

~~(i) May not exceed \$5,000,000 each; and~~

~~(ii) Shall be subject to the approval of the Authority, based on the bond worthiness of the principal as determined by the Authority on review of an application.~~

~~(3) The monetary limit in this subsection does not apply if the sources of funding for the bonds are grants.~~

~~(e) (1) The Authority may not approve a guaranty or a bond under this Part VI unless the Authority considers the economic impact of the contract, for which a bond is sought to be guaranteed or issued, to be substantial.~~

~~(2) To determine the economic impact of a contract, the Authority may consider:~~

- ~~(i) The amount of the guaranty obligation;~~
- ~~(ii) The terms of the bond to be guaranteed;~~
- ~~(iii) The number of new jobs that will be created by the contract to be bonded; and~~
- ~~(iv) Any other factor that the Authority considers relevant.~~

~~5-1037.~~

~~(a) To qualify for a surety bond or guaranty under the Program, a principal shall meet the requirements of this section.~~

~~(b) The principal shall satisfy the Authority that:~~

- ~~(1) (i) The principal is of good moral character; or~~
- ~~(ii) If the principal is not an individual, the principal is owned by individuals of good moral character;~~

~~(2) As determined from creditors, employers, and other individuals who have personal knowledge of the principal:~~

- ~~(i) The principal has a reputation for financial responsibility; or~~
- ~~(ii) If the principal is not an individual, a majority of the principal is owned by individuals with a reputation for financial responsibility;~~

~~(3) The principal is a resident of Maryland or has its principal place of business in Maryland; and~~



~~(4) The principal is unable to obtain adequate bonding on reasonable terms through normal channels.~~

~~(e) The principal shall certify to the Authority and the Authority shall be satisfied that:~~

~~(1) A bond is required in order to bid on a contract or to serve as a prime contractor or subcontractor;~~

~~(2) A bond is not obtainable on reasonable terms and conditions without assistance under the Maryland Small Business Surety Bond Program; and~~

~~(3) The principal will not subcontract more than 75 percent of the dollar value of the contract.~~

### Article - Economic Development

#### 5-568.

(a) The Authority may guarantee a surety up to the lesser of 90% or \$5,000,000 of its loss under a bid bond, payment bond, or performance bond on a contract financed by the federal government, a state government, a local government, a private entity, or a utility that the Public Service Commission regulates.

(b) The term of a guaranty under this part may not exceed the contract term, including:

(1) the maintenance or warranty period required by the contract; and

(2) the period during which the surety may be liable for latent defects.

(c) The Authority may vary the terms and conditions of a guaranty based on:

(1) the Authority's history of experience with a surety; and

(2) any other factor the Authority considers relevant.

#### 5-569.

(a) The Authority may execute and perform a bid bond, performance bond, and payment bond as a surety for the benefit of a principal in connection with a contract financed by the federal government or a state government, a local government, a private entity, or a utility regulated by the Public Service Commission.

(b) (1) This subsection does not apply if the sources of funding for the bonds are grants.

(2) The bonds may not exceed \$5,000,000 each.

(c) Bonds are subject to the approval of the Authority based on the bond worthiness of the principal.

### Article - State Finance and Procurement

13-207.

(a) Except as otherwise provided in this section, a procurement officer may not require a bidder or offeror to provide bid security on a procurement contract if the procurement officer expects the price to be \$100,000 or less.

(b) (1) A procurement officer shall require a bidder or offeror to provide bid security on a procurement contract for construction if:

(i) the price is expected to exceed \$100,000; or

(ii) the price is expected to be \$100,000 or less but federal law or a condition of federal assistance requires the security.

(2) The amount of bid security required for a procurement contract for construction shall be:

(i) at least 5% of the bid or price proposal; or

(ii) if the bid or price proposal states a rate but not a total price, an amount determined by the procurement officer.

(c) (1) A procurement officer may require a bidder or offeror to provide bid security on a procurement contract for services, supplies, or construction related services if the price of the procurement contract is expected to exceed \$50,000.

(2) A procurement officer shall require a bidder or offeror to provide bid security on a procurement contract for services, supplies, or construction related services if federal law or a condition of federal assistance requires the security.

(3) The amount of bid security required for a procurement contract for services, supplies, or construction related services shall be an amount determined by the procurement officer. If a bid or proposal states a rate but not a total price, the procurement officer shall determine the dollar amount of the bid security.

- (d) Bid security under this section shall be:
- (1) a bond provided by a surety company authorized to do business in the State;
  - (2) a bond provided by an individual surety that meets the requirements of this section;
  - (3) cash; or
  - (4) another form of security:
    - (i) authorized by federal or State regulation; or
    - (ii) that is satisfactory to the unit awarding the contract.
- (e) A bond provided by an individual surety shall be acceptable as bid security under this section if:
- (1) the contractor has been denied corporate surety credit;
  - (2) the individual surety only transacts business through an insurance agency licensed by the Maryland Insurance Administration;
  - (3) the individual surety attaches ~~the GSA Standard Form 28, Affidavit of Individual Surety,~~ **AN AFFIDAVIT OF INDIVIDUAL SURETY IN A FORMAT THAT THE BOARD REQUIRES** to the bid security;
  - (4) the individual surety provides a UCC-1 filing security interest to the unit for one or more of the assets listed in item (5)(i) through (iv) and (vi) of this subsection at the time the bond is furnished; and
  - (5) the individual surety pledges one or more assets in an amount equal to or greater than the aggregate penal amounts of the bonds required by the solicitation, including:
    - (i) cash or certificates of deposit;
    - (ii) cash equivalents held with a federally insured financial institution, or assets that are evidenced by a security interest, including an irrevocable trust receipt issued by the financial institution or by an independent trustee in the name of the unit that:
      1. are issued in accordance with § 9-109 of the Commercial Law Article;

2. contain a payout clause in the event that default cannot be remedied; and

3. identify the solicitation or contract number for which the security interest is provided;

(iii) United States government securities at market value;

(iv) stocks and bonds that:

1. are actively traded on a national United States security exchange;

2. are accompanied by certificates issued in the name of the individual surety; and

3. are pledged at 90% of their 52-week low, as reflected at the time of submission of the bond;

(v) real property:

1. that is owned by the contractor or individual surety in fee simple or with cotenants that all agree to act jointly;

2. that may include the granting of a mortgage or deed of trust on real property located within the State if satisfactory to the unit;

3. for which the face amount of the mortgage or deed of trust on the real property located within the State does not exceed 75% of the contractor's or individual surety's equity interest in the property; and

4. for which a mortgage or deed of trust accepted under this subsection is recorded by an official designated by the unit where the real property is situated in accordance with § 3-103 of the Real Property Article; or

(vi) irrevocable letters of credit that:

1. are issued by a federally insured financial institution in the name of the contracting agency;

2. identify the agency and the solicitation or contract number for which the irrevocable letter of credit is provided; and

3. contain a payout clause if that default cannot be remedied.

(f) Any asset listed under subsection (e)(5) of this section shall be pledged only for the intended security and may not be pledged for any other security or contract in or outside the State until the asset is released by the unit.

13-208.

(a) Except as provided under subsection (b) of this section, if a procurement officer requires bid security, the procurement officer shall reject a bid or proposal that is not accompanied by proper security.

(b) A procurement officer may accept a bid or proposal that is accompanied by bid security in less than the amount required if:

(1) the procurement officer determines that:

(i) the deficiency in the amount is insubstantial; and

(ii) acceptance of the bid or proposal would be in the best interests of the State; and

(2) the procurement officer further determines that:

(i) the bid or proposal was the only one submitted and there is no time for rebidding;

(ii) the bid security became inadequate as a result of the correction of a mistake in the bid or proposal or as a result of a modification in the bid or proposal in accordance with applicable regulations, and the bidder or offeror increased the amount of bid security to required limits within 48 hours after the correction or modification; or

(iii) after consideration of the risks involved and the difference between the lowest bid and the next lowest bid, it would be fiscally advantageous to the State to accept the lowest bid or proposal.

13-216.

(a) Except as provided in subsection (b) of this section, a procurement officer may not require a contractor to provide a performance bond, payment bond, or other security on a procurement contract for construction, construction related services, services, or supplies if the price of the procurement contract is \$100,000 or less.

(b) A procurement officer shall require a contractor to provide a performance bond, payment bond, or other security if federal law or a condition of federal assistance requires the security.

(c) If the price of a procurement contract for construction exceeds \$100,000, a procurement officer shall require a contractor to provide security as required under Title 17, Subtitle 1 of this article.

(d) A procurement officer may require a contractor to provide a performance bond or other security on a procurement contract for supplies, services, or construction related services if:

- (1) circumstances warrant security; and
- (2) the price of the procurement contract exceeds \$100,000.

17-104.

(a) Payment security or performance security required under this subtitle shall be:

- (1) a bond executed by a surety company authorized to do business in the State;
- (2) a bond executed by an individual surety that meets the requirements of this section;
- (3) cash in an amount equivalent to a bond; or
- (4) another form of security:
  - (i) authorized by federal or State regulation; or
  - (ii) that is satisfactory to the public body awarding the contract.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, performance security may include the granting of a mortgage or deed of trust on real property located within the State if such security is satisfactory to the public body awarding the contract.

(2) The face amount of a mortgage or deed of trust on real property granted as security under this subsection may not exceed 75% of the contractor's equity interest in the property.

(3) A mortgage or deed of trust accepted under this subsection shall be recorded by an official designated by the public body accepting the mortgage or deed of trust in the land records of the county where the real property is situated in accordance with § 3-103 of the Real Property Article.

(c) A bond executed by an individual surety shall be acceptable as payment security or performance security under this subtitle if:

(1) the contractor has been denied corporate surety credit;

(2) the individual surety only transacts business through an insurance agency licensed by the Maryland Insurance Administration;

(3) the individual surety attaches ~~the GSA Standard Form 28, Affidavit of Individual Surety,~~ **AN AFFIDAVIT OF INDIVIDUAL SURETY IN A FORMAT THAT THE BOARD REQUIRES** to the bid security;

(4) the individual surety provides a UCC-1 filing security interest to the public body for one or more of the assets listed in item (5)(i) through (iv) and (vi) of this subsection at the time the bond is furnished; and

(5) the individual surety pledges one or more assets in an amount equal to or greater than the aggregate penal amounts of the bonds required by the solicitation, including:

(i) cash or certificates of deposit;

(ii) cash equivalents held with a federally insured financial institution, or assets that are evidenced by a security interest, including an irrevocable trust receipt issued by the financial institution or by an independent trustee in the name of the public body that:

1. are issued in accordance with § 9-109 of the Commercial Law Article;

2. contain a payout clause in the event that default cannot be remedied; and

3. identify the solicitation or contract number for which the security interest is provided;

(iii) United States government securities at market value;

(iv) stocks and bonds that:

- 1. are actively traded on a national United States security exchange;
- 2. are accompanied by certificates issued in the name of the individual surety; and
- 3. are pledged at 90% of their 52-week low, as reflected at the time of submission of the bond;

(v) real property:

- 1. that is owned by the contractor or individual surety in fee simple or with cotenants that all agree to act jointly;
- 2. that may include the granting of a mortgage or deed of trust on real property located within the State if satisfactory to the public body;
- 3. for which the face amount of the mortgage or deed of trust on the real property located within the State does not exceed 75% of the contractor's or individual surety's equity interest in the property; and
- 4. for which a mortgage or deed of trust accepted under this subsection is recorded by an official designated by the unit where the real property is situated in accordance with § 3-103 of the Real Property Article; or

(vi) irrevocable letters of credit that:

- 1. are issued by a federally insured financial institution in the name of the contracting agency;
- 2. identify the agency and the solicitation or contract number for which the irrevocable letter of credit is provided; and
- 3. contain a payout clause if that default cannot be remedied.

(d) Any asset listed under subsection (c)(5) of this section shall be pledged only for the intended security and may not be pledged for any other security or contract in or outside the State until the asset is released by the public body.

**Chapter 299 of the Acts of 2006**

~~§~~SECTION 2. AND BE IT FURTHER ENACTED, That on or before ~~September 30, 2007, and annually thereafter through September 30, 2009, inclusive,~~ **SEPTEMBER 30, 2009 AND EVERY 2 YEARS THEREAFTER** the Procurement Advisor



appointed by the Board of Public Works shall report to the Governor, and, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and House Health and Government Operations Committee, regarding the ~~implementation~~ **EFFECTIVENESS** of this ~~Act~~ **ACT**, including the impact of this Act on small business and minority business enterprises.†

SECTION ~~†3.† 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 requirement for bid security or for payment security or performance security due before the effective date of this Act.

SECTION ~~†4.† 3~~ AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2006. †It shall remain effective for a period of ~~3~~ **8** years and, at the end of ~~September 30, 2009~~ **SEPTEMBER 30, 2014**, 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, 2008.

**Approved by the Governor, April 24, 2008.**

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## CHAPTER 267

(House Bill 335)

AN ACT concerning

**Cecil County - Waste Disposal - Northeast Maryland Waste Disposal Authority**

FOR the purpose of authorizing Cecil County to become a participating county in the Northeast Waste Disposal Authority by the Board of County Commissioners filing a resolution of participation with the Secretary of State and the Department of Legislative Services; and generally relating to Cecil County and the Northeast Waste Disposal Authority.

BY repealing and reenacting, with amendments,  
 Article - Natural Resources  
 Section 3-903(a)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

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

**Article – Natural Resources**

3-903.

(a) (1) There is hereby created a body politic and corporate to be known as the “Northeast Maryland Waste Disposal Authority” which is constituted a public instrumentality of the State of Maryland. The exercise by the Authority of the powers conferred by this subtitle shall be deemed to be the performance of an essential public function.

(2) The Authority was organized and commenced its activities on October 21, 1980, when there were filed with the Secretary of State and the Department of Legislative Services certified copies of the resolutions of participation of at least two of the following four counties: Mayor and City Council of Baltimore, Baltimore County, Maryland, Anne Arundel County, Maryland, and Harford County, Maryland.

(3) Montgomery County, Maryland, also became a participating county in the Authority by filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Montgomery County, Maryland, had all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have, including the power to participate in projects and to enter into contracts with the Authority, including the contracts relating to the Authority’s Southwest Resource Recovery Facility located in the City of Baltimore, in order to defray and provide for the Authority’s costs of acquiring, constructing, operating, or providing a project, including debt service requirements of the Authority relating to a project.

(4) Carroll County, Maryland, may also become a participating county in the Authority by the County Commissioners of Carroll County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Carroll County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(5) Howard County, Maryland, may also become a participating county in the Authority by the County Council of Howard County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Howard County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(6) Frederick County, Maryland, may also become a participating county in the Authority by the County Commissioners of Frederick County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Frederick County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

**(7) CECIL COUNTY, MARYLAND, MAY ALSO BECOME A PARTICIPATING COUNTY IN THE AUTHORITY BY THE BOARD OF COUNTY COMMISSIONERS OF CECIL COUNTY FILING CERTIFIED COPIES OF A RESOLUTION OF PARTICIPATION WITH THE SECRETARY OF STATE AND THE DEPARTMENT OF LEGISLATIVE SERVICES, WHEREUPON CECIL COUNTY, MARYLAND, SHALL HAVE ALL OF THE RIGHTS, PRIVILEGES, AND POWERS UNDER THIS SUBTITLE THAT THE OTHER PARTICIPATING COUNTIES HAVE OR MAY HAVE.**

**[(7)] (8)** Each resolution of participation contained:

(i) A declaration by the county of its intention and consent to participate in the activities of the Authority; and

(ii) Such provisions, if any, as the participating counties approved and required as being necessary or desirable for the Authority to be an organization described in § 501(c)(3) of the Internal Revenue Code.

**[(8)] (9)** Each resolution of participation was presented by the chief executive officer of a county to the body exercising legislative powers of that county and was effective after adoption by such legislative body and approval by such chief executive officer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 268**

**(House Bill 353)**

AN ACT concerning

**Criminal Law - ~~Restitution~~ - Destruction of Funerary Objects and ~~Limit on Judgment for Acts of Child~~ - Restitution**

FOR the purpose of requiring a person who violates a certain prohibition against destroying funerary objects to ~~restore or pay the full value~~ pay for the restoration of certain property to a certain owner; ~~increasing the absolute limit of a judgment of restitution for a child's acts arising out of a single incident;~~ and generally relating to ~~restitution~~ destruction of funerary objects.

BY repealing and reenacting, with amendments,  
Article - Criminal Law  
Section 10-404  
Annotated Code of Maryland  
(2002 Volume and 2007 Supplement)

~~BY repealing and reenacting, with amendments,  
Article - Criminal Procedure  
Section 11-604  
Annotated Code of Maryland  
(2001 Volume and 2007 Supplement)~~

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

**Article - Criminal Law**

10-404.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, a person may not willfully destroy, damage, deface, or remove:

(i) an associated funerary object or another structure placed in a cemetery; or

(ii) a building, wall, fence, railing, or other work, for the use, protection, or ornamentation of a cemetery.

(2) The provisions of paragraph (1) of this subsection do not prohibit the removal of a funerary object or a building, wall, fence, railing, or other object installed for the use, protection, or ornamentation of a cemetery or burial site, for the purpose of repair or replacement, either at the request of or with the permission of heirs or descendants of the deceased or the owner or manager of the cemetery or burial site.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, a person may not willfully destroy, damage, or remove a tree, plant, or shrub in a cemetery.

(2) The provisions of paragraph (1) of this subsection do not prohibit normal maintenance of a cemetery or burial site, including trimming of trees and shrubs, removal of weeds or noxious growths, grass cutting, or other routine care and maintenance.

(c) A person may not engage in indecent or disorderly conduct in a cemetery.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) for a violation of subsection (a) of this section, imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both; and

(2) for a violation of subsection (b) or (c) of this section, imprisonment not exceeding 2 years or a fine not exceeding \$500 or both.

**(E) A PERSON WHO VIOLATES THIS SECTION SHALL ~~RESTORE OR PAY THE FULL VALUE FOR THE RESTORATION OF ANY DAMAGED OR DEFACED REAL OR PERSONAL PROPERTY~~ IN A CEMETERY TO THE OWNER OF THE PROPERTY OR THE OWNER OF THE CEMETERY.**

~~[(e)]~~ (F) This section does not prohibit the removal of human remains or a funerary object from an abandoned cemetery if:

(1) the removal is authorized in writing by the State's Attorney of the county in which the cemetery containing the human remains or funerary object is located; and

(2) the human remains or funerary object are placed in an accessible place in a permanent cemetery.

### ~~Article Criminal Procedure~~

#### ~~11-604.~~

~~(a) Subject to subsection (b) of this section and notwithstanding any other law, if a child is the defendant or child respondent, the court may order the child, the child's parent, or both to pay restitution.~~

~~(b) A judgment of restitution for ~~[\$10,000]~~ \$15,000 issued under Part I of this subtitle is the absolute limit for each child's acts arising out of a single incident.~~

~~(e) (1) A court may not enter a judgment of restitution against a parent under Part I of this subtitle unless the parent has been afforded a reasonable opportunity to be heard and to present evidence.~~

~~(2) A hearing under this subsection may be held as part of the sentencing or disposition hearing.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 269

(House Bill 382)

AN ACT concerning

**Cecil County - Alcoholic Beverages - Restaurants - Percentage of Receipts  
from Food Sales**

FOR the purpose of altering the minimum percentage of annual receipts from the sale of food required of a restaurant licensed to sell alcoholic beverages in Cecil County; and generally relating to alcoholic beverages in Cecil County.

BY repealing and reenacting, with amendments,  
Article 2B - Alcoholic Beverages  
Section 11-508  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article 2B - Alcoholic Beverages**

11-508.

(a) (1) In Cecil County, notwithstanding any other provisions of this subtitle, the hours during which sales of any alcoholic beverages may be made under any class of license issued under this article on any day, Monday through Saturday, are from 6 a.m. daily to 2 a.m. on the following day. It is unlawful for any person to sell or for any person to consume any alcoholic beverages on any premises licensed under this article between the hours of 2 a.m. and 6 a.m. on any day of the week or at any time on Sunday between 2 a.m. and 8 a.m. It is lawful for Class C “on-sale” (clubs) beer, beer and light wine, or beer, wine and liquor licensees in Cecil County to permit the sale and consumption of alcoholic beverages between the hours of 8 a.m. and 11 p.m. on Sundays and as provided in § 11-402(i) of this article.

(2) Subject to paragraph (3) of this subsection, it is lawful for a licensee in Cecil County to sell alcoholic beverages authorized by its license on Sunday during the following hours:

(i) For a Class A license, between 8 a.m. and 11 p.m.;

(ii) For a Class B license or a Class BLX beer, wine and liquor license, between 8 a.m. and 11 p.m.; and

(iii) For a Class D license, between 1 p.m. and 10 p.m.

(3) (i) Except for a holder of a Class BLX beer, wine and liquor license, a licensee who seeks to sell alcoholic beverages within the times allowed under paragraph (2) of this subsection must first pay an additional license fee of \$500.

(ii) “On-sales” may be conducted within the times allowed under paragraph (2) of this subsection only by a licensee who is:

1. A restaurant, as defined under subsection (b) of this section; or

2. A holder of a Class BLX beer, wine and liquor license.

(b) For the purpose of subsection (a) of this section, “restaurant” means a business establishment for the accommodation of the public:

(1) That is fully equipped with a proper and adequate dining room and with sufficient facilities for preparing and serving meals;

(2) That has been approved by the Board of License Commissioners of Cecil County; and

(3) Wherein the average annual receipts from the sale of food comprise at least [51 percent] **25%** of the average receipts of the business.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 270

(House Bill 393)

AN ACT concerning

### Communicable Diseases or Conditions - Reporting

FOR the purpose of ~~repealing certain requirements for certain reports made by physicians and institutions regarding infectious and contagious diseases; providing that certain reports made by physicians and institutions regarding infectious and contagious diseases are confidential and are not medical records; providing that certain physician and institution reports are not discoverable~~ requiring certain individuals to submit a certain report to a certain health officer under certain circumstances; requiring certain reports to contain certain information, be in a certain format, and be transmitted in a certain manner; providing that certain provisions of this Act do not apply to or restrict the use of certain statistics, information, or other material; authorizing the Secretary of Health and Mental Hygiene to disseminate and disclose certain information under certain circumstances; repealing the time limitation in which the director of certain medical laboratories has to make a certain report; requiring the director of the State's public health laboratory to submit a certain report to the Secretary under certain circumstances; requiring the director of a medical laboratory to submit clinical material to the Secretary under certain circumstances; repealing the list of the diseases or conditions that are reportable by a medical laboratory director; authorizing the Secretary to discuss certain laboratory reports with certain healthcare providers and with a patient in a certain manner under certain circumstances; ~~providing that certain reports made by a medical laboratory director regarding infectious and contagious diseases are confidential and are not medical records; providing that certain reports made by a medical laboratory are not discoverable~~ requiring the Secretary to adopt certain regulations; defining a certain term; and generally relating to the reporting of communicable diseases and conditions.

BY repealing and reenacting, with amendments,  
Article - Health - General



Section 18-201, 18-202, and 18-205  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

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

**Article - Health - General**

18-201.

(a) A physician with reason to suspect that a patient under the physician's care has A CONDITION OR an infectious or contagious disease, except human immunodeficiency virus or acquired immunodeficiency syndrome, that endangers public health AND THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE shall submit immediately a report to the health officer for the county where the physician cares for that patient.

(b) ¶The report shall:

**(1) CONTAIN THE INFORMATION AND BE IN A FORMAT SPECIFIED OR APPROVED BY THE SECRETARY; AND**

**(2) BE TRANSMITTED AS DIRECTED BY THE SECRETARY.**

~~(1) Be on the form that the Secretary provides;~~

~~(2) Identify the disease or suspected disease;~~

~~(3) State the name, age, race, sex, and residence address of the patient; and~~

~~(4) Be signed by the physician.~~

(c) (1) All physician reports required under this section are:

(i) Confidential;

(ii) Not open to public inspection; and

(iii) Subject to subpoena or discovery in any criminal or civil proceeding only pursuant to a court order sealing the court record. ~~¶(1) ALL REPORTS REQUIRED UNDER THIS SECTION;~~

~~(I) ARE CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; BUT~~

~~(II) ARE NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE.~~

~~(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5) OF THIS SECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A REPORT MADE UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER.~~

~~(3)~~ (2) THE SECRETARY MAY PREPARE AND DISSEMINATE GENERALLY NONINDIVIDUALLY IDENTIFIABLE INFORMATION ABOUT ONE OR MORE CASES OF A CONDITION OR DISEASE BASED ON ANY REPORT RECEIVED UNDER THIS SECTION, FOR ANY PURPOSE CONSISTENT WITH THE SECRETARY'S LAWFUL DUTIES AS AUTHORIZED BY AN ACT OF THE MARYLAND GENERAL ASSEMBLY.

(3) THIS SUBSECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING THE IDENTITY OF ANY INDIVIDUAL WHO IS THE SUBJECT OF THE CONFIDENTIAL RECORD.

[(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.

~~(5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH A REPORT RECEIVED UNDER THIS SECTION MAY BE MADE:~~

~~(I) TO A GOVERNMENTAL ENTITY FOR THE PURPOSE OF TAKING ENFORCEMENT ACTION AUTHORIZED BY STATUTE OR REGULATIONS OR TAKING ACTION TO PROTECT THE PUBLIC HEALTH OR SAFETY; OR~~

~~(H) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY IN REGULATIONS.~~

18-202.

(a) In this section, "institution" includes:

- (1) A hospital; and
- (2) A lodging facility.

(b) When the administrative head of an institution has reason to believe that an individual on the premises of the institution has A CONDITION OR an infectious or contagious disease, except human immunodeficiency virus or acquired immunodeficiency syndrome, THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE, the administrative head immediately shall submit a report to the health officer for the county where the institution is located.

(c) ~~¶~~The report shall:

(1) CONTAIN THE INFORMATION AND BE IN A FORMAT SPECIFIED OR APPROVED BY THE SECRETARY; AND

(2) BE TRANSMITTED AS DIRECTED BY THE SECRETARY.

~~(1) State the name and residence address of the individual believed to have the disease;~~

~~(2) Identify the infectious or contagious disease;~~

~~(3) State the name of the administrative head of the institution; and~~

~~(4) State the address of the institution.~~

(d) (1) All institution reports required under this section are:

- (i) Confidential;
- (ii) Not open to public inspection; and

(iii) Subject to subpoena or discovery in any criminal or civil proceeding only pursuant to a court order sealing the court record. ~~1 (1) ALL REPORTS REQUIRED UNDER THIS SECTION:~~

~~(I) ARE CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; BUT~~

~~(II) ARE NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE.~~

~~(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5) OF THIS SUBSECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A REPORT MADE UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER.~~

(2) THIS SUBSECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING THE IDENTITY OF ANY INDIVIDUAL WHO IS THE SUBJECT OF THE CONFIDENTIAL RECORD.

(3) THE SECRETARY MAY PREPARE AND DISSEMINATE ~~GENERALLY~~ NONINDIVIDUALLY IDENTIFIABLE INFORMATION ABOUT ONE OR MORE CASES OF A CONDITION OR A DISEASE BASED ON ANY REPORT RECEIVED UNDER THIS SECTION, FOR ANY PURPOSE CONSISTENT WITH THE SECRETARY'S LAWFUL DUTIES AS AUTHORIZED BY AN ACT OF THE MARYLAND GENERAL ASSEMBLY.

[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.

~~(5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH A REPORT RECEIVED UNDER THIS SECTION MAY BE MADE:~~

~~(i) TO A GOVERNMENTAL ENTITY FOR THE PURPOSE OF TAKING ENFORCEMENT ACTION AUTHORIZED BY STATUTE OR REGULATIONS OR TAKING ACTION TO PROTECT THE PUBLIC HEALTH OR SAFETY; OR~~

~~(ii) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY IN REGULATIONS.~~

18-205.

(A) IN THIS SECTION ~~[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(1)~~ “CLINICAL MATERIAL” MEANS:

~~(1)~~ (1) AN ORGANISM ISOLATED FROM A CLINICAL SPECIMEN;

~~(2)~~ (2) MATERIAL DERIVED OR PREPARED FROM A CLINICAL SPECIMEN IN WHICH EVIDENCE OF A COMMUNICABLE DISEASE HAS BEEN IDENTIFIED OR DETECTED; OR

~~(3)~~ (3) IF THE ORGANISM OR MATERIAL DESCRIBED IN SUBPARAGRAPHS (1) OR (2) OF THIS PARAGRAPH IS NOT AVAILABLE, MATERIAL FROM AN INDIVIDUAL THAT HAS ALREADY BEEN OBTAINED BY THE MEDICAL LABORATORY, IN THE FOLLOWING ORDER OF PREFERENCE:

~~1.~~ (I) A PATIENT SPECIMEN;

~~2.~~ (II) NUCLEIC ACID MICROBIAL GENETIC MATERIAL; OR

~~3.~~ (III) OTHER LABORATORY MATERIAL.

~~(2) [“invasive” “INVASIVE disease” means a disease in which an organism is detected in a specimen taken from a normally sterile body site.~~

(b) (1) [The] EXCEPT FOR THE DIRECTOR OF THE STATE’S PUBLIC HEALTH LABORATORY SYSTEM, 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] **INFECTIOUS OR CONTAGIOUS DISEASE OR CONDITION THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE.**

**(2) THE DIRECTOR OF THE STATE'S PUBLIC HEALTH LABORATORY SYSTEM SHALL SUBMIT A REPORT TO THE SECRETARY IF AN EXAMINATION OF A HUMAN SPECIMEN SHOWS EVIDENCE OF ANY INFECTIOUS OR CONTAGIOUS DISEASE OR CONDITION THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE.**

**[(2)] (3)** 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] **INFECTIOUS OR CONTAGIOUS DISEASE OR CONDITION THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE.**

**(4) A DIRECTOR OF A MEDICAL LABORATORY SHALL SUBMIT CLINICAL MATERIAL TO THE SECRETARY AS DIRECTED BY THE SECRETARY.**

[(c) The diseases or conditions reportable by a medical laboratory director under this section are:

- (1) Amoebiasis.
- (2) Anaplasmosis.
- (3) Anthrax.
- (4) Arbovirus infection (all types).
- (5) Babesiosis.
- (6) Bacteremia in newborns.
- (7) Botulism.
- (8) Brucellosis.
- (9) Campylobacter infection.
- (10) CD 4+ count.
- (11) Chlamydia infection.

- (12) Cholera.
- (13) Coccidioidomycosis.
- (14) Creutzfeldt–Jakob Disease.
- (15) Cryptosporidiosis.
- (16) Cyclosporiasis.
- (17) Dengue fever.
- (18) Diphtheria.
- (19) Ehrlichiosis.
- (20) Encephalitis, infectious.
- (21) E. Coli 0157:H7 infection.
- (22) Giardiasis.
- (23) Gonorrhea.
- (24) Haemophilus influenzae, invasive disease.
- (25) Hansen disease (leprosy).
- (26) Hantavirus infection.
- (27) Hepatitis, viral, types A, B, C, and other types.
- (28) Human immunodeficiency virus infection.
- (29) Isosporiasis.
- (30) Legionellosis.
- (31) Leptospirosis.
- (32) Listeriosis.
- (33) Lyme disease.

- (34) Malaria.
- (35) Measles.
- (36) Meningococcal invasive disease.
- (37) Meningitis, infectious.
- (38) Microsporidiosis.
- (39) Mumps.
- (40) Pertussis.
- (41) Pesticide related illness.
- (42) Plague.
- (43) Poliomyelitis.
- (44) Psittacosis.
- (45) Q fever.
- (46) Rabies.
- (47) Ricin toxin.
- (48) Rocky Mountain spotted fever.
- (49) Rubella and congenital rubella syndrome.
- (50) Salmonellosis (nontyphoid fever types).
- (51) Severe acute respiratory syndrome.
- (52) Shiga-like toxin production.
- (53) Shigellosis.
- (54) Smallpox and other orthopox viruses.
- (55) Staphylococcal enterotoxin.
- (56) Streptococcal invasive disease, group A.



- (57) Streptococcal invasive disease, group B.
- (58) Streptococcus pneumoniae, invasive disease.
- (59) Syphilis.
- (60) Trichinosis.
- (61) Tuberculosis.
- (62) Tularemia.
- (63) Typhoid fever.
- (64) Varicella (chickenpox), fatal cases only.
- (65) Vibriosis, noncholera.
- (66) Viral hemorrhagic fevers (all types).
- (67) Yellow fever.
- (68) Yersiniosis.]

[(d)] (C) (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)(65) of this section] if the disease is found in a specimen obtained from the patient's teeth, gingival tissues, or oral mucosa.

[(e)] (D) The report shall:

**(1) CONTAIN THE INFORMATION AND BE IN A FORMAT SPECIFIED OR APPROVED BY THE SECRETARY; AND**

**(2) BE TRANSMITTED AS DIRECTED BY THE SECRETARY.**

~~(1) Be [either in the form that the Department prescribes or on the form that the Department provides] **IN A FORMAT SPECIFIED OR APPROVED BY THE SECRETARY AND BE TRANSMITTED AS DIRECTED BY THE SECRETARY;** 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) The name, age, sex, and residence address of the patient from whom the specimen was taken; and~~

~~(iii) The name and address of the physician who requested the test.~~

**[(f)] (E)** This section does not relieve a person of the duty to report under § 18-201, § 18-201.1, § 18-202, or § 18-202.1 of this subtitle.

**[(g)] (F)** (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)] (G)** The Secretary, a health officer, or an agent of the Secretary or health officer may discuss a laboratory report with the attending physician **OR ANOTHER HEALTH CARE PROVIDER CARING FOR A PATIENT**, but, if the physician **OR ANOTHER HEALTH CARE PROVIDER CARING FOR A PATIENT** is NOT reasonably available, may communicate with a patient [only with the consent of the attending physician] **DIRECTLY IN A MANNER PRESCRIBED BY THE SECRETARY.**

**[(i)] (H)** (1) [Except as provided in paragraph (2) of this subsection, all laboratory] **ALL** 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.†

~~(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.~~

~~(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5) OF THIS SECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A REPORT MADE UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER.~~

~~(3)~~ (4) THE SECRETARY MAY PREPARE AND DISSEMINATE GENERALLY NONINDIVIDUALLY IDENTIFIABLE INFORMATION ABOUT ONE OR MORE CASES OF A CONDITION OR A DISEASE BASED ON ANY REPORT MADE UNDER THIS SECTION, FOR ANY PURPOSE CONSISTENT WITH THE SECRETARY'S LAWFUL DUTIES AS AUTHORIZED BY AN ACT OF THE MARYLAND GENERAL ASSEMBLY.

~~(4)~~ (5) 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.

~~(5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH A REPORT RECEIVED UNDER THIS SECTION MAY BE MADE:~~

~~(i) TO A GOVERNMENTAL ENTITY FOR THE PURPOSE OF TAKING ENFORCEMENT ACTION AUTHORIZED BY STATUTE OR REGULATIONS OR TAKING ACTION TO PROTECT THE PUBLIC HEALTH OR SAFETY; OR~~

~~(ii) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY IN REGULATIONS.~~

(6) THIS SUBSECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING THE IDENTITY OF ANY INDIVIDUAL WHO IS THE SUBJECT OF THE CONFIDENTIAL RECORD.

[(j)](i) 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.

(j) THE SECRETARY SHALL ADOPT REGULATIONS THAT DESIGNATE THE DISEASES OR CONDITIONS THAT ARE REPORTABLE BY A DIRECTOR OF A MEDICAL LABORATORY UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 271

(House Bill 404)

AN ACT concerning

**Insurance Fraud – Required Disclosure Statements**

FOR the purpose of requiring insurers to disclose certain information regarding insurance fraud in a certain manner on certain applications for insurance, ~~claim forms, and payments;~~ and certain claim forms; providing that the lack of a certain statement does not constitute a defense in certain proceedings; providing a ~~certain exception~~ certain exceptions to a certain disclosure requirement; providing for the application of this Act requiring certain insurers to comply with this Act on or before a certain date; defining a certain term; and generally relating to insurance fraud.

BY renumbering

Article – Insurance

Section 27–805

to be Section 27–806

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Insurance

Section 27–805

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 27–805 of Article – Insurance of the Annotated Code of Maryland be renumbered to be Section(s) 27–806.

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

### Article – Insurance

#### 27–805.

**(A) IN THIS SECTION, “CLAIM FORM” MEANS ANY DOCUMENT SUPPLIED BY AN INSURER TO A CLAIMANT THAT A CLAIMANT IS REQUIRED TO COMPLETE AND SUBMIT IN SUPPORT OF A CLAIM FOR BENEFITS.**

**(A) (B) (1) ~~ALL~~ EXCEPT AS PROVIDED IN SUBSECTION ~~(B)~~ (C) OF THIS SECTION, ALL APPLICATIONS FOR INSURANCE AND ALL CLAIM FORMS, REGARDLESS OF THE FORM OF TRANSMISSION, ~~PROVIDED AND REQUIRED BY AN INSURER OR REQUIRED BY LAW AS A CONDITION OF PAYMENT OF A CLAIM,~~ SHALL CONTAIN ~~A~~ THE FOLLOWING STATEMENT, ~~PERMANENTLY AFFIXED TO THE APPLICATION OR CLAIM FORM, THAT CLEARLY STATES IN SUBSTANCE THE FOLLOWING~~ OR A SUBSTANTIALLY SIMILAR STATEMENT:**

~~“IT IS A CRIME TO KNOWINGLY PROVIDE, OR TO KNOWINGLY ASSIST, ABET, OR CONSPIRE WITH ANOTHER TO PROVIDE FALSE, INCOMPLETE, OR MISLEADING INFORMATION TO AN INSURANCE COMPANY WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE THE COMPANY OR ANY OTHER PERSON. PENALTIES INCLUDE IMPRISONMENT, FINES, AND DENIAL OF INSURANCE BENEFITS.”~~

“ANY PERSON WHO KNOWINGLY AND WILLFULLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR WHO KNOWINGLY AND WILLFULLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.”

(2) THE LACK OF THE STATEMENT REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION DOES NOT CONSTITUTE A DEFENSE IN ANY LEGAL PROCEEDING.

~~(B)~~ (C) SUBSECTION (A)(1) (B)(1) OF THIS SECTION DOES NOT APPLY TO:

(1) REINSURANCE APPLICATIONS OR CLAIM FORMS; OR

(2) THE UNIFORM CLAIMS FORM FOR REIMBURSEMENT OF HOSPITAL SERVICES OR THE UNIFORM CLAIMS FORM FOR REIMBURSEMENT OF HEALTH CARE PRACTITIONERS SERVICES ADOPTED BY THE COMMISSIONER UNDER § 15-1003 OF THIS ARTICLE.

~~(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ALL PAYMENTS, IN WHATEVER FORM MADE PURSUANT TO A CLAIM, SHALL CONTAIN A STATEMENT, PERMANENTLY AFFIXED TO THE INSTRUMENT AT OR NEAR THE AREA PROVIDED FOR PAYEE ENDORSEMENT, THAT CLEARLY STATES IN SUBSTANCE THE FOLLOWING:~~

~~“BY ENDORSEMENT OF THIS CHECK, THE PAYEE, UNDER PENALTY OF FINE OR IMPRISONMENT, OR BOTH, CERTIFIES (1) ENTITLEMENT TO THIS PAYMENT FOR BENEFITS OR SERVICES, AND (2) THAT NO FALSE STATEMENTS OR REPRESENTATIONS HAVE BEEN MADE IN SUPPORT OF THE CLAIM FOR PAYMENT. FALSE REPRESENTATIONS COULD RESULT IN CRIMINAL PENALTIES.”~~

~~(C) THE WARNING REQUIRED UNDER SUBSECTION (B) OF THIS SECTION IS NOT REQUIRED ON FORMS RELATING TO REINSURANCE.~~

SECTION 3. AND BE IT FURTHER ENACTED, That all insurers subject to the provisions of § 27–805 of the Insurance Article, as enacted by Section 2 of this Act, shall comply with this Act on or before April 1, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 272**

**(House Bill 409)**

AN ACT concerning

**Maryland Home Improvement Commission – Home Improvement Guaranty Fund – Claims**

FOR the purpose of altering the maximum amount of money that the Maryland Home Improvement Commission may award from the Home Improvement Guaranty Fund to certain claimants for certain acts or omissions; altering the maximum amount of a certain claim for which the Commission may issue certain orders under certain circumstances; providing for the construction of this Act; and generally relating to the Home Improvement Guaranty Fund.

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 8–405 and 8–407  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

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

**Article – Business Regulation**

8–405.

(a) Subject to this subtitle, an owner may recover compensation from the Fund for an actual loss that results from an act or omission by a licensed contractor or

a violation of § 8-607(4) of this title as found by the Commission or a court of competent jurisdiction.

(b) For purposes of recovery from the Fund, the act or omission of a licensed contractor includes the act or omission of a subcontractor, salesperson, or employee of the licensed contractor, whether or not an express agency relationship exists.

(c) A claimant shall comply with a written agreement to submit a dispute to arbitration before seeking recovery from the Fund.

(d) The Commission may deny a claim if the Commission finds that the claimant unreasonably rejected good faith efforts by the contractor to resolve the claim.

(e) The Commission may not award from the Fund:

(1) more than [~~\$15,000~~] **\$20,000** to 1 claimant for acts or omissions of 1 contractor;

(2) more than \$100,000 to all claimants for acts or omissions of 1 contractor unless, after the Commission has paid out \$100,000 on account of acts or omissions of the contractor, the contractor reimburses \$100,000 to the Fund;

(3) an amount for attorney fees, consequential damages, court costs, interest, personal injury damages, or punitive damages; or

(4) an amount as a result of a default judgment in court.

(f) (1) A claim against the Fund based on the act or omission of a particular contractor may not be made by:

(i) a spouse or other immediate relative of the contractor;

(ii) an employee, officer, or partner of the contractor; or

(iii) an immediate relative of an employee, officer, or partner of the contractor.

(2) An owner may make a claim against the Fund only if the owner:

(i) resides in the home as to which the claim is made; or

(ii) does not own more than 3 residences or dwelling places.



(g) A claim shall be brought against the Fund within 3 years after the claimant discovered or, by use of ordinary diligence, should have discovered the loss or damage.

8-407.

(a) The procedures for notice, hearings, and judicial review that apply to proceedings under Subtitle 3 of this title also apply to proceedings to recover from the Fund.

(b) On receipt of a claim, the Commission shall:

(1) send a copy of the claim to the contractor alleged to be responsible for the actual loss; and

(2) require a written response to the claim within 10 days.

(c) (1) The Commission:

(i) shall review the claim and any response to it; and

(ii) may investigate the claim.

(2) On the basis of its review and any investigation, the Commission may:

(i) set the matter for a hearing;

(ii) dismiss the claim, if the claim is frivolous, legally insufficient, or made in bad faith; or

(iii) issue a proposed order to pay all or part of the claim or deny the claim if the total claim against a particular contractor does not exceed **[\$2,500] \$5,000**.

(d) (1) The Commission shall send the proposed order to the claimant and the contractor, at the most recent address on record with the Commission, by:

(i) personal delivery; or

(ii) both regular mail and certified mail, return receipt requested.

(2) Within 21 days after service, receipt, or attempted delivery of the proposed order, the claimant or contractor may submit to the Commission:

- (i) a written request for a hearing before the Commission; or
- (ii) a written exception to the proposed order.

(3) If the claimant or contractor submits a timely exception to the proposed order, the Commission may:

- (i) issue a revised proposed order;
- (ii) set a hearing on the claim; or
- (iii) dismiss the claim.

(4) Unless the claimant or contractor submits a timely request for a hearing or a timely exception, the proposed order is final.

(e) (1) At a hearing on a claim, the claimant has the burden of proof.

(2) If a subcontractor or salesperson is necessary to adjudicate a claim fairly, the Commission shall issue a subpoena for that person to appear at the hearing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply to any claim pending before the Maryland Home Improvement Commission for which the Commission has not issued a final decision prior to the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 273**

**(House Bill 415)**

AN ACT concerning

**Department of Labor, Licensing, and Regulation – Occupational and Professional Licensing Design Boards – Fee-Setting Authority**

FOR the purpose of ~~repealing~~ altering certain termination provisions relating to the State Occupational and Professional Licensing Design Boards' Fund; repealing certain provisions ~~rendered inapplicable by this Act~~ related to certain fees that are no longer applicable; and generally relating to the authority of the Department of Labor, Licensing, and Regulation, the State Board of Architects, the State Board of Certified Interior Designers, the State Board of Examiners of Landscape Architects, the State Board for Professional Engineers, and the State Board for Professional Land Surveyors to set fees.

BY repealing

Chapter 227 of the Acts of the General Assembly of 2003  
Section 7 ~~and 8~~

BY repealing and reenacting, with amendments,

Chapter 227 of the Acts of the General Assembly of 2003  
Section 8

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

### **Chapter 227 of the Acts of 2003**

[SECTION 7. AND BE IT FURTHER ENACTED, That any fees repealed under this Act shall remain in full force and effect until the fees authorized to be set in accordance with Section 2 of this Act are adopted and made effective.]

‡SECTION 8. AND BE IT FURTHER ENACTED, That Sections ~~2, 6, and 7~~ 2 AND 6 of this Act shall remain effective for a period of ~~5~~ 10 years and 1 month and, at the end of June 30, ~~2008~~ 2013, with no further action required by the General Assembly, these sections shall be abrogated and of no further force and effect.‡

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

**Approved by the Governor, April 24, 2008.**

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## **CHAPTER 274**

**(House Bill 458)**

AN ACT concerning

**State Personnel – Executive Pay ~~Plan Plans~~ – Reporting Requirements –  
~~Repeal~~**

FOR the purpose of ~~repealing~~ altering a certain requirements requirement that the Secretary of Budget and Management provide ~~certain reports~~ a report to the Department of Legislative Services on Executive Pay Plan employees under certain circumstances; requiring the Secretary of Transportation to provide a report to the Department of Legislative Services on Executive Pay Plan employees under certain circumstances; repealing a certain reporting requirement; and generally relating to reports by the Secretary of Budget and Management and the Secretary of Transportation on the Executive Pay Plan.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 8–103  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY repealing  
Article – State Personnel and Pensions  
Section 8–108(c)(3)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 2–103.4(h)  
Annotated Code of Maryland  
(2001 Replacement Volume and 2007 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**

8–103.

~~¶(a)~~ Subject to the approval of the Governor, the Secretary shall adopt regulations to carry out this subtitle.

~~¶(b)~~ **(1)** Subject to § 2–1246 of the State Government Article, the Secretary shall submit to the Department of Legislative Services, on or before ~~September 1~~ **JULY 15, OCTOBER 15, JANUARY 15, AND APRIL 15** of each ~~year,~~ **FISCAL YEAR:**

(I) a list of the position, pay grade and step, TITLE, NAME, and pay rate of each employee who was included in the Executive Pay Plan as of the LAST DAY OF THE preceding ~~June 30~~ FISCAL QUARTER; AND

(II) THE DETAILS OF ANY LUMP-SUM INCREASES GIVEN TO EMPLOYEES IN THE EXECUTIVE PAY PLAN DURING THE PRECEDING FISCAL QUARTER.‡

(2) (I) THE QUARTERLY REPORTS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE EACH FLAT-RATE EMPLOYEE POSITION IN THE EXECUTIVE PAY PLAN.

(II) EACH FLAT-RATE EMPLOYEE POSITION INCLUDED IN THE QUARTERLY REPORTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE ASSIGNED A UNIQUE IDENTIFIER THAT:

1. DESCRIBES THE PROGRAM TO WHICH THE POSITION IS ASSIGNED FOR BUDGETARY PURPOSES; AND

2. CORRESPONDS TO THE POSITION IDENTIFICATION NUMBER USED IN THE BUDGET DATA PROVIDED ANNUALLY BY THE SECRETARY TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

8-108.

(c) [(3) Subject to § 2-1246 of the State Government Article, the Secretary shall submit to the Department of Legislative Services a copy of documentation for any specific recruitment, retention, or other issue that warranted a pay increase under this subsection.]

### Article - Transportation

2-103.4.

(h) (1) The Secretary shall establish an executive pay plan that conforms to the provisions of §§ 8-101, 8-102, 8-103(b), 8-104, 8-108, and 8-109 of the State Personnel and Pensions Article that govern the executive pay plan of the State. The Secretary shall have the same authority to implement an executive pay plan as is delegated to the Secretary of Budget and Management.

(2) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SECRETARY SHALL SUBMIT TO THE DEPARTMENT OF LEGISLATIVE SERVICES, ON OR BEFORE JULY 15, OCTOBER 15, JANUARY 15, AND APRIL 15 OF EACH FISCAL YEAR:

(I) A LIST OF THE POSITION, PAY GRADE AND STEP, TITLE, NAME, AND PAY RATE OF EACH EMPLOYEE WHO WAS INCLUDED IN THE EXECUTIVE PAY PLAN AS OF THE LAST DAY OF THE PRECEDING FISCAL QUARTER; AND

(II) THE DETAILS OF ANY LUMP-SUM INCREASES GIVEN TO EMPLOYEES IN THE EXECUTIVE PAY PLAN DURING THE PRECEDING FISCAL QUARTER.

(3) (I) THE QUARTERLY REPORTS REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL INCLUDE EACH FLAT-RATE EMPLOYEE POSITION IN THE EXECUTIVE PAY PLAN.

(II) EACH FLAT-RATE EMPLOYEE POSITION INCLUDED IN THE QUARTERLY REPORTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE ASSIGNED A UNIQUE IDENTIFIER THAT:

1. DESCRIBES THE PROGRAM TO WHICH THE POSITION IS ASSIGNED FOR BUDGETARY PURPOSES; AND

2. CORRESPONDS TO THE POSITION IDENTIFICATION NUMBER USED IN THE BUDGET DATA PROVIDED ANNUALLY BY THE SECRETARY TO THE DEPARTMENT OF LEGISLATIVE SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 275

(House Bill 478)

AN ACT concerning

### Motor Vehicle Administration – Commercial Drivers' Licenses

FOR the purpose of prohibiting the Motor Vehicle Administration from expunging certain driving records of certain individuals under certain circumstances; expanding the circumstances under which an individual is subject to

disqualification from holding a commercial driver's license; providing that, on termination of a disqualification period of less than 1 year for holding a commercial driver's license, the holder of the license may apply for reinstatement of the license and the Administration shall reissue the license when the applicant pays any required reinstatement fees; altering the definition of "commercial motor vehicle"; prohibiting a person from driving a commercial motor vehicle on a highway or certain other property under certain circumstances; altering the circumstances under which certain offenses may be considered by the Administration for purposes of disqualifications from holding a commercial driver's license; providing that, for purposes of certain commercial driver's license disqualifications, a person may not drive, operate, or be in physical control of a commercial motor vehicle under certain circumstances; requiring the Administration to maintain certain records relating to holding a commercial driver's license; requiring the Administration to suspend under certain circumstances the commercial driver's license of a person who fails to comply with certain court notices to appear in court or pay a fine; requiring the Administration to cooperate with other states' driver licensing authorities to develop certain procedures; making a certain stylistic change; and generally relating to commercial drivers' licenses.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 16–117.1, 16–205.1(b), 16–208.1, 16–803(c), 16–808, 16–812, 16–813,  
and 16–819

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Transportation

Section 26–207

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 16–815

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

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

### **Article – Transportation**

16–117.1.

(a) In this section, "criminal offense" does not include any violation of the Maryland Vehicle Law.

(b) Except as provided in ~~subsection (c)~~ **SUBSECTIONS (C) AND (E)** of this section and in Subtitle 8 of this title, if a licensee applies for the expungement of the licensee's public driving record, the Administration shall expunge the record if, at the time of application:

(1) The licensee does not have charges pending for allegedly committing a moving violation or a criminal offense involving a motor vehicle; and

(2) (i) The licensee has not been convicted of a moving violation or a criminal offense involving a motor vehicle for the preceding 3 years, and the licensee's license never has been suspended or revoked;

(ii) The licensee has not been convicted of a moving violation or a criminal offense involving a motor vehicle for the preceding 5 years, and the licensee's record shows not more than one suspension and no revocations; or

(iii) Within the preceding 10 years:

1. The licensee has not been convicted of nor been granted probation before judgment for a violation of § 20-102 or § 21-902 of this article;

2. The licensee's driving record shows no convictions from another jurisdiction of a moving violation identical or substantially similar to § 20-102 or § 21-902 of this article; and

3. The licensee has not been convicted of any other moving violation or criminal offense involving a motor vehicle, regardless of the number of suspensions or revocations.

(c) The Administration may refuse to expunge a driving record if it determines that the individual requesting the expungement has not driven a motor vehicle on the highways during the particular conviction-free period on which the request is based.

(d) The Administration shall expunge from its driver record data base the driving record of an individual or a probation before judgment disposition of an individual:

(1) Who has not been convicted of a moving violation or criminal offense involving a motor vehicle for the preceding 3 years;



- (2) Who has not been convicted of, or been granted probation before judgment for:
- (i) A violation of § 20–102 of this article;
  - (ii) A violation of § 21–902 of this article; or
  - (iii) A moving violation identical or substantially similar to § 20–102 or § 21–902 of this article; and
- (3) Whose license or privilege to drive never has been suspended or revoked.

**(E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE ADMINISTRATION MAY NOT EXPUNGE ANY DRIVING RECORDS BEFORE THE EXPIRATION OF THE TIME THEY ARE REQUIRED TO BE RETAINED UNDER § 16-819 OF THIS TITLE.**

16–205.1.

(b) (1) Except as provided in subsection (c) of this section, a person may not be compelled to take a test. However, the detaining officer shall advise the person that, on receipt of a sworn statement from the officer that the person was so charged and refused to take a test, or was tested and the result indicated an alcohol concentration of 0.08 or more, the Administration shall:

- (i) In the case of a person licensed under this title:
  - 1. Except as provided in item 2 of this item, for a test result indicating an alcohol concentration of 0.08 or more at the time of testing:
    - A. For a first offense, suspend the driver’s license for 45 days; or
    - B. For a second or subsequent offense, suspend the driver’s license for 90 days;
  - 2. For a test result indicating an alcohol concentration of 0.15 or more at the time of testing:
    - A. For a first offense, suspend the driver’s license for 90 days; or

B. For a second or subsequent offense, suspend the driver's license for 180 days; or

3. For a test refusal:

A. For a first offense, suspend the driver's license for 120 days; or

B. For a second or subsequent offense, suspend the driver's license for 1 year;

(ii) In the case of a nonresident or unlicensed person:

1. Except as provided in item 2 of this item, for a test result indicating an alcohol concentration of 0.08 or more at the time of testing:

A. For a first offense, suspend the person's driving privilege for 45 days; or

B. For a second or subsequent offense, suspend the person's driving privilege for 90 days;

2. For a test result indicating an alcohol concentration of 0.15 or more at the time of testing:

A. For a first offense, suspend the person's driving privilege for 90 days; or

B. For a second or subsequent offense, suspend the person's driving privilege for 180 days; or

3. For a test refusal:

A. For a first offense, suspend the person's driving privilege for 120 days; or

B. For a second or subsequent offense, suspend the person's driving privilege for 1 year; and

(iii) In addition to any applicable driver's license suspensions authorized under this section, in the case of a person operating a commercial motor vehicle or who holds a commercial driver's license who refuses to take a test:

1. Disqualify the person's commercial driver's license for a period of 1 year for a first offense, 3 years for a first offense which occurs while

transporting hazardous materials required to be placarded, and disqualify for life ~~for a second or subsequent offense, TO INCLUDE AN OFFENSE SPECIFIED IN § 16-812(A) OF THIS TITLE, which occurs while operating any commercial motor vehicle IN THIS STATE OR ANY OTHER STATE~~ **IF THE PERSON'S COMMERCIAL DRIVER'S LICENSE HAS BEEN PREVIOUSLY DISQUALIFIED FOR AT LEAST 1 YEAR UNDER:**

**A. § 16-812(A) OR (B) OF THIS TITLE;**

**B. A FEDERAL LAW; OR**

**C. ANY OTHER STATE'S LAW;** or

2. If the person holds a commercial driver's license issued by another state, disqualify the person's privilege to operate a commercial motor vehicle and report the refusal and disqualification to the person's resident state which may result in further penalties imposed by the person's resident state.

(2) Except as provided in subsection (c) of this section, if a police officer stops or detains any person who the police officer has reasonable grounds to believe is or has been driving or attempting to drive a motor vehicle while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title, and who is not unconscious or otherwise incapable of refusing to take a test, the police officer shall:

(i) Detain the person;

(ii) Request that the person permit a test to be taken;

(iii) Advise the person of the administrative sanctions that shall be imposed for test results indicating an alcohol concentration of at least 0.08 but less than 0.15 at the time of testing;

(iv) Advise the person of the administrative sanctions, including ineligibility for modification of a suspension or issuance of a restrictive license unless the person participates in the Ignition Interlock System Program under § 16-404.1 of this title, that shall be imposed for refusal to take the test and for test results indicating an alcohol concentration of 0.15 or more at the time of testing; and

(v) Advise the person of the additional criminal penalties that may be imposed under § 27-101(x) of this article on conviction of a violation of § 21-902 of this article if the person knowingly refused to take a test arising out of the same circumstances as the violation.

(3) If the person refuses to take the test or takes a test which results in an alcohol concentration of 0.08 or more at the time of testing, the police officer shall:

- (i) Confiscate the person's driver's license issued by this State;
- (ii) Acting on behalf of the Administration, personally serve an order of suspension on the person;
- (iii) Issue a temporary license to drive;
- (iv) Inform the person that the temporary license allows the person to continue driving for 45 days if the person is licensed under this title;
- (v) Inform the person that:

1. The person has a right to request, at that time or within 10 days, a hearing to show cause why the driver's license should not be suspended concerning the refusal to take the test or for test results indicating an alcohol concentration of 0.08 or more at the time of testing, and the hearing will be scheduled within 45 days; and

2. If a hearing request is not made at that time or within 10 days, but within 30 days the person requests a hearing, a hearing to show cause why the driver's license should not be suspended concerning the refusal to take the test or for test results indicating an alcohol concentration of 0.08 or more at the time of testing will be scheduled, but a request made after 10 days does not extend a temporary license issued by the police officer that allows the person to continue driving for 45 days;

(vi) Advise the person of the administrative sanctions that shall be imposed in the event of failure to request a hearing, failure to attend a requested hearing, or upon an adverse finding by the hearing officer;

(vii) Inform the person that, if the person refuses a test or takes a test that indicates an alcohol concentration of 0.15 or more at the time of testing, the person may participate in the Ignition Interlock System Program under § 16-404.1 of this title instead of requesting a hearing under this paragraph, if the following conditions are met:

1. The person's driver's license is not currently suspended, revoked, canceled, or refused;

2. The person was not charged with a moving violation arising out of the same circumstances as an administrative offense under this section that involved a death of, or serious physical injury to, another person; and

3. Within the same time limits set forth in item (v) of this paragraph, the person:

A. Surrenders a valid Maryland driver's license or signs a statement certifying that the driver's license is no longer in the person's possession; and

B. Elects in writing to participate in the Ignition Interlock System Program for 1 year; and

(viii) Within 72 hours after the issuance of the order of suspension, send any confiscated driver's license, copy of the suspension order, and a sworn statement to the Administration, that states:

1. The officer had reasonable grounds to believe that the person had been driving or attempting to drive a motor vehicle on a highway or on any private property that is used by the public in general in this State while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title;

2. The person refused to take a test when requested by the police officer, the person submitted to the test which indicated an alcohol concentration of 0.08 or more at the time of testing, or the person submitted to the test which indicated an alcohol concentration of 0.15 or more at the time of testing; and

3. The person was fully advised of the administrative sanctions that shall be imposed, including the fact that a person who refuses to take the test or takes a test that indicates an alcohol concentration of 0.15 or more at the time of testing is ineligible for modification of a suspension or issuance of a restrictive license under subsection (n)(1) or (2) of this section.

16-208.1.

(a) In addition to any suspensions or revocations of an individual's license or privilege to drive provided for in this title, if the individual holds a Class A, B, or C license issued under § 16-815 of this title or is operating a commercial motor vehicle, the Administration shall disqualify the individual from operating a commercial motor vehicle if the convictions resulted from an offense or offenses **THAT OCCURRED IN**

THIS STATE OR ANY OTHER STATE that would subject the individual to disqualification under § 16-812 of this title.

(b) Any disqualification imposed under subsection (a) of this section shall be for the period of time provided in § 16-812 of this title.

(c) If an individual has been disqualified from operating a commercial motor vehicle pursuant to subsection (a) of this section, but that individual is otherwise eligible for a license or privilege to operate vehicles other than commercial motor vehicles, the Administration may issue a noncommercial driver's license to that individual.

(d) The Administration may not issue a commercial driver's license to an individual until the disqualification imposed under subsection (a) of this section has expired.

~~(e) Notwithstanding any law to the contrary, if an individual has been disqualified from operating a commercial motor vehicle pursuant to subsection (a) of this section, that individual may not drive a commercial motor vehicle after the period of disqualification unless the individual:~~

- ~~(1) Applies for a commercial driver's license;~~
- ~~(2) Is qualified to be issued a commercial driver's license;~~
- ~~(3) Pays the fees required by § 16-818(a)(3) of this title; and~~
- ~~(4) Is issued a commercial driver's license by the Administration.~~

~~(E)~~ **(E)** Notwithstanding any law to the contrary, if an individual has been disqualified from driving a commercial motor vehicle under the provisions of § 16-812(i) of this title, that individual may not drive a commercial motor vehicle as defined in § 16-812(i) until the period of disqualification is completed AND THE INDIVIDUAL IS ISSUED A COMMERCIAL DRIVER'S LICENSE BY THE ADMINISTRATION.

16-803.

(c) (1) "Commercial motor vehicle (CMV)" means a motor vehicle or combination of motor vehicles used to transport passengers or property, if the motor vehicle:

(i) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit **WITH A GROSS VEHICLE WEIGHT RATING OF MORE THAN 10,000 POUNDS;**

- (ii) Has a gross vehicle weight rating of 26,001 or more pounds;
- (iii) Is designed to transport 16 or more passengers, including the driver; or
- (iv) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which requires the motor vehicle to be placarded under hazardous materials regulations (49 CFR Part 172, Subpart F).

(2) “Commercial motor vehicle (CMV)” does not include a vehicle that is:

- (i)
  - 1. Controlled and operated by a farmer;
  - 2. Used to transport agricultural products, farm machinery, or farm supplies to or from a farm;
  - 3. Not used in the operations of a common or contract motor carrier; and
  - 4. Used within 150 miles of the person’s farm;
- (ii) An emergency vehicle:
  - 1. Equipped with audible and visual signals; and
  - 2. Operated by a member of or a person in the employ of a volunteer or paid fire or rescue organization;
- (iii) A vehicle owned or operated by the United States Department of Defense if it is controlled and operated by:
  - 1. Any active duty military personnel;
  - 2. Any member of the military reserves or National Guard on active duty, including personnel on full-time National Guard duty and personnel on part-time training; or
  - 3. Any National Guard military technician; or
- (iv) A motor vehicle designed and constructed primarily to provide temporary living quarters for recreational, camping, or travel use.

16-808.

(a) A person may not drive a commercial motor vehicle on any highway or any property specified in § 21-101.1 of this article:

- (1) Unless authorized to do so under this title;
- (2) While the person's driver's license or privilege to drive is refused in this State or any other state;
- (3) While the person's driver's license or privilege to drive is canceled in this State;
- (4) While the person's driver's license or privilege to drive is canceled by any other state;
- (5) While the person's driver's license or privilege to drive is suspended in this State;
- (6) While the person's driver's license or privilege to drive is suspended by any other state;
- (7) While the person's driver's license or privilege to drive is revoked in this State;
- (8) While the person's driver's license or privilege to drive is revoked by any other state; or
- (9) While the person is:
  - (i) Disqualified from driving a commercial motor vehicle in this State or any other state; **OR**
  - (ii) Disqualified from driving a commercial motor vehicle by the United States Department of Transportation[]; or
  - (iii) Subject to an out-of-service order, as defined in § 16-812(i)(1)(ii) of this subtitle].

**(B) ~~A~~ WHILE A PERSON IS SUBJECT TO A DRIVER OR VEHICLE OUT-OF-SERVICE ORDER, AS DEFINED IN § 16-812(I)(1)(II) OF THIS SUBTITLE, THE PERSON MAY NOT DRIVE A COMMERCIAL MOTOR VEHICLE ON ANY HIGHWAY OR ANY PROPERTY SPECIFIED IN § 21-101.1 OF THIS ARTICLE ~~WHILE THE PERSON IS SUBJECT TO A DRIVER OR VEHICLE OUT-OF-SERVICE ORDER, AS DEFINED IN § 16-812(I)(1)(II) OF THIS SUBTITLE:~~**



(1) WHILE TRANSPORTING NONHAZARDOUS MATERIALS;

(2) WHILE TRANSPORTING HAZARDOUS MATERIALS REQUIRED TO BE PLACARDED; OR

(3) WHILE OPERATING A VEHICLE DESIGNED TO TRANSPORT 16 OR MORE PASSENGERS, INCLUDING THE DRIVER.

[(b)] (C) If a person has been issued a valid commercial driver's license, the person may not drive a commercial motor vehicle on any highway or any property specified in § 21-101.1 of this article without the valid commercial driver's license in the person's possession.

16-812.

(a) The Administration shall disqualify any individual from driving a commercial motor vehicle for a period of 1 year if:

(1) The individual is convicted of committing any of the following offenses while driving a commercial motor vehicle:

(i) A violation of § 21-902 of this article;

(ii) A violation of a federal law or any other state's law which is substantially similar in nature to the provisions in § 21-902 of this article;

(iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation;

(iv) A crime, other than a crime described in subsection (e) of this section, that is punishable by death or imprisonment for a term exceeding 1 year; [or]

(v) A violation of § 25-112 of this article; OR

~~(VI) A VIOLATION OF § 16-205.1 OF THIS TITLE.~~

(VI) A VIOLATION OF § 2-209, § 2-503, § 2-504, § 2-505, OR § 2-506 OF THE CRIMINAL LAW ARTICLE.

(2) The individual holds a commercial driver's license and is convicted of committing any of the following offenses while driving a noncommercial motor vehicle:

- (i) A violation of § 21-902(a), (c), or (d) of this article;
- (ii) A violation of a federal law or any other state's law which is substantially similar in nature to the provisions in § 21-902(a), (c), or (d) of this article;
- (iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation;
- (iv) A crime, other than a crime described in subsection (e) of this section, that is punishable by death or imprisonment for a term exceeding 1 year;

(3) The individual, while driving a commercial motor vehicle **OR WHILE HOLDING A COMMERCIAL DRIVER'S LICENSE**, refuses to undergo testing as provided in § 16-205.1 of this title or as is required by any other state's law or by federal law in the enforcement of 49 CFR § 383.51 Table 1, or 49 CFR § 392.5(a)(2);

(4) The individual drives or attempts to drive a commercial motor vehicle while the alcohol concentration of the person's blood or breath is 0.04 or [more] **GREATER; [or]**

(5) The individual drives a commercial motor vehicle when, as a result of prior violations committed while driving a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled or the driver is disqualified from driving a commercial motor vehicle; ~~OR~~

~~(6) THE INDIVIDUAL CAUSES A FATALITY THROUGH THE NEGLIGENT OPERATION OF A COMMERCIAL MOTOR VEHICLE, INCLUDING, BUT NOT LIMITED TO, THE CRIMES OF MOTOR VEHICLE MANSLAUGHTER, HOMICIDE BY MOTOR VEHICLE, OR NEGLIGENT HOMICIDE.~~

(b) If any of the offenses in subsection (a) of this section occurred while transporting a hazardous material required to be placarded, the Administration shall disqualify the individual for a period of 3 years.

(c) The Administration shall disqualify any person from driving a commercial motor vehicle for life for 2 or more violations of any of the offenses specified in subsection (a) or (b) of this section, or any combination of those offenses, arising from 2 or more separate incidents, ~~REGARDLESS OF WHETHER THE VIOLATIONS OCCURRED IN THIS OR ANY OTHER STATE.~~

(d) The Administration shall adopt regulations establishing guidelines, including conditions, under which a disqualification for life may be reduced to a period of time which may be permitted by federal regulations.

(e) The Administration shall disqualify any person from driving a commercial motor vehicle for life who is convicted of using a motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled dangerous substance, or possession with intent to manufacture, distribute, or dispense a controlled dangerous substance.

(f) The Administration shall disqualify any person from driving a commercial motor vehicle for a period of 60 days if convicted under the laws of this State or any other state of 2 serious traffic violations arising from separate incidents occurring within a 3-year period committed:

(1) While operating a commercial motor vehicle; or

(2) While holding a commercial driver's license and operating a noncommercial vehicle, and the conviction would result in suspension, revocation, or cancellation of the driver's license.

(g) The Administration shall disqualify any person from driving a commercial motor vehicle for a period of 120 days if convicted under the laws of this State or any other state of 3 serious traffic violations arising from separate incidents occurring within a 3-year period committed:

(1) While operating a commercial motor vehicle; or

(2) While holding a commercial driver's license and operating a noncommercial motor vehicle, and the conviction would result in suspension, revocation, or cancellation of the driver's license.

(h) The Administration may disqualify a person from driving a commercial motor vehicle for a controlled dangerous substance offense in the manner provided under Article 41, Title 1, Subtitle 5 of the Code.

(i) (1) In this subsection the following terms have the meanings indicated:

(i) "Commercial motor vehicle" means:

1. A "commercial motor vehicle" as defined in § 16-803 of this subtitle; and

2. Except as provided in § 16-803(c)(2) of this subtitle, any self-propelled or towed vehicle used on a public highway to transport passengers or property, if the vehicle has a gross vehicle weight rating of 10,001 or more pounds.

(ii) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, State, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is put out of service pursuant to Title 49, §§ 386.72, 392.5, 392.9A, 395.13, and 396.9 of the Code of Federal Regulations, compatible laws, or the North American Uniform Out-of-Service Criteria.

(2) A driver who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified for the period of time specified in regulation by the United States Secretary of Transportation.

(j) A driver who is convicted of a violation of any of the provisions of §§ 21-701 through 21-704 of this article pertaining to railroad grade crossings or any other federal, state, or local law or regulation pertaining to railroad grade crossings that is substantially similar to §§ 21-701 through 21-704 of this article, while operating a commercial motor vehicle, is disqualified for the period of time specified in regulation by the United States Secretary of Transportation.

(k) (1) The Administration shall cancel a commercial driver's license if the applicant provides information that is incomplete or incorrect.

(2) If the Administration determines, in its check of an applicant's license status and record prior to issuing a commercial driver's license, or at any time after the commercial driver's license has been issued, that the applicant has falsified any information or certification submitted in connection with an application for a commercial driver's license, the Administration shall suspend, cancel, or revoke the commercial driver's license or pending application, or disqualify the person from operating a commercial motor vehicle, for a period of not less than 60 days.

(l) After suspending, revoking, or canceling a commercial driver's license, or after disqualifying a person who holds a commercial driver's license from operating a commercial motor vehicle, the Administration shall update its records to reflect that action within 10 days.

(m) After suspending, revoking, or canceling a nonresident commercial driver's privilege, or after disqualifying a nonresident driver from operating a commercial motor vehicle, the Administration shall notify the licensing authority of the state which issued the commercial driver's license within 10 days.

(n) An individual who is disqualified from driving a commercial motor vehicle under this section shall surrender the individual's driver's license to the Administration.

(o) The Administration may issue a noncommercial driver's license of an appropriate class to an individual who is disqualified under this section if:

(1) The individual surrenders the commercial driver's license; and

(2) The individual's driving privilege is not otherwise refused, suspended, revoked, or canceled in this State or any other state.

(p) **(1) (i) ON TERMINATION OF A DISQUALIFICATION PERIOD OF LESS THAN 1 YEAR, AN INDIVIDUAL MAY APPLY FOR RESTORATION OF THE INDIVIDUAL'S COMMERCIAL DRIVER'S LICENSE.**

**(ii) THE ADMINISTRATION SHALL REISSUE A COMMERCIAL DRIVER'S LICENSE UNDER THIS PARAGRAPH WHEN THE APPLICANT PAYS ANY REQUIRED FEES.**

**(2) ~~Upon~~ ON termination of a disqualification period OF AT LEAST 1 YEAR,** an individual may apply for a new commercial driver's license.

**(3)** The Administration shall issue a commercial driver's license to the applicant when the applicant:

~~(1)~~ **(i)** Passes the skills and knowledge tests required by this subtitle;

~~(2)~~ **(ii)** Is eligible to drive pursuant to the Commercial Driver's License Information System, and National Driver's Register;

~~(3)~~ **(iii)** Surrenders any previously issued driver's instructional permit or license; and

~~(4)~~ **(iv)** Pays the fees required by § 16-818(a)(1) of this subtitle.

(q) If an individual is disqualified based on multiple offenses committed at the same time, or arising out of circumstances simultaneous in time and place, or arising out of the same incident, the Administration:

(1) Shall disqualify the individual from driving a commercial motor vehicle for the offense which results in the lengthiest period of disqualification; and

(2) May not impose any additional periods of disqualification for the remainder of the offenses.

(r) Notwithstanding any other provision of law, an offense described in this section or § 16-205.1 of this title committed by an individual in a noncommercial

motor vehicle may not be considered an offense for the purposes of disqualification if the offense occurred before~~§~~:

(1)~~§~~ September 30, 2005~~§~~; or

(2) The initial issuance to the individual of a commercial driver's license by any state~~§~~.

16-813.

(a) **(1)** An individual may not drive, operate, or be in physical control of a commercial motor vehicle while the individual has any alcohol concentration in the individual's blood or breath.

**(2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION AND FOR THE PURPOSE OF DISQUALIFYING AN INDIVIDUAL'S COMMERCIAL DRIVER'S LICENSE FOR A VIOLATION OF § 16-812(A) OF THIS SUBTITLE, AN INDIVIDUAL MAY NOT DRIVE, OPERATE, OR BE IN PHYSICAL CONTROL OF A COMMERCIAL MOTOR VEHICLE WHILE THE INDIVIDUAL HAS AN ALCOHOL CONCENTRATION OF 0.04 OR GREATER IN THE INDIVIDUAL'S BLOOD OR BREATH.**

(b) A person who drives, operates, or is in physical control of a commercial motor vehicle while having alcohol in the person's system or who, subject to § 16-205.1 of this title, refuses to take a chemical test to determine the alcohol concentration, shall be placed out of service for the 24-hour period immediately following the time the police officer or employer detects alcohol in the driver's blood or breath.

16-815.

(a) **(1)** A Class A commercial driver's license authorizes the licensee to drive the following motor vehicles and combinations of motor vehicles:

(i) Any combination of vehicles with a gross combination weight rating of 26,001 or more pounds if the GVWR of the vehicles being towed is in excess of 10,000 pounds; and

(ii) Any vehicle or combination of vehicles that a Class B commercial driver's license authorizes its holder to drive.

**(2)** An individual who is issued a Class A commercial driver's license under this subsection may not drive or attempt to drive a motor vehicle on any highway in this State unless a Class A commercial driver's license or an appropriately endorsed Class A commercial driver's license authorizes the individual to drive a vehicle of the class that the individual is driving or attempting to drive.

(b) (1) A Class B commercial driver's license authorizes the licensee to drive the following motor vehicles and combinations of motor vehicles:

(i) Any single vehicle with a gross vehicle weight rating (GVWR) of 26,001 or more pounds;

(ii) Any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR; and

(iii) Any vehicle that a Class C commercial driver's license authorizes its holder to drive.

(2) An individual who is issued a Class B commercial driver's license under this subsection may not drive or attempt to drive a motor vehicle on any highway in this State unless a Class B commercial driver's license or an appropriately endorsed Class B commercial driver's license authorizes the individual to drive a vehicle of the class that the individual is driving or attempting to drive.

(c) (1) A Class C commercial driver's license authorizes the licensee to drive the following motor vehicles and combinations of motor vehicles:

(i) Any single vehicle less than 26,001 pounds gross vehicle weight rating (GVWR);

(ii) Any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR; and

(iii) Any vehicle which a noncommercial Class C driver's license authorizes its holder to drive, except for motorcycles.

(2) An individual who is issued a Class C commercial driver's license under this subsection may not drive or attempt to drive a motor vehicle on any highway in this State unless a Class C commercial driver's license or an appropriately endorsed Class C commercial driver's license authorizes the individual to drive a vehicle of the class that the individual is driving or attempting to drive.

(d) (1) A commercial driver's instructional permit authorizes the holder to operate commercial motor vehicles of Class A, B, and C subject to the conditions of Subtitle 1 of this title.

(2) An instructional permit is not a license within the meaning of the single license restriction placed upon drivers of commercial motor vehicles.

(e) (1) In addition to the requirements contained in subsections (a), (b), and (c) of this section, an operator must obtain State-issued endorsements of an operator's commercial driver's license to operate commercial motor vehicles which are:

- (i) Double/triple trailers;
- (ii) Vehicles designed to transport 16 or more passengers including the driver (passenger vehicles);
- (iii) School buses; or
- (iv) Tank vehicles.

(2) A school bus endorsement authorized under this subsection is also an endorsement for vehicles designed to transport 16 or more passengers including the driver (passenger vehicles).

(f) (1) In addition to the requirements contained in subsections (a), (b), and (c) of this section, an operator must obtain a State-issued endorsement of an operator's commercial driver's license to operate a commercial motor vehicle that is required to be placarded for hazardous materials.

(2) Before an operator can obtain a State-issued endorsement under this subsection, the operator shall apply to the Criminal Justice Information System Central Repository for a national and State criminal history records check.

(3) The Administration may not issue a hazardous materials endorsement of a commercial driver's license without the approval of the Transportation Security Administration of the federal Department of Homeland Security.

(4) The Department of Public Safety and Correctional Services and the Director of the Criminal Justice Information System Central Repository, in consultation with the Administration, may adopt regulations to carry out this section.

(g) (1) In this subsection, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) An operator requesting a State-issued endorsement under subsection (f) of this section shall apply to the Central Repository for a national and a State criminal history records check.

(3) As part of the application for a criminal history records check, the operator shall submit to the Central Repository:



(i) Two complete sets of the operator's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) The fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(iii) The mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(4) (i) The Central Repository shall provide a receipt to the operator for the fees paid under paragraph (3)(ii) and (iii) of this subsection.

(ii) The operator's employer may pay the fees or reimburse the operator for the fees required under paragraph (3)(ii) and (iii) of this subsection.

(5) (i) In accordance with §§ 10-201 through 10-234 of the Criminal Procedure Article, the Central Repository shall forward to the operator and the Transportation Security Administration of the federal Department of Homeland Security, a printed statement of the operator's criminal history record information.

(ii) If criminal history record information is reported to the Central Repository after the date of the criminal history records check, the Central Repository shall provide to the Transportation Security Administration of the federal Department of Homeland Security and the operator a revised printed statement of the operator's criminal history record information.

(6) In accordance with regulations adopted by the Department of Public Safety and Correctional Services, the Administration shall verify periodically a list of operators of commercial motor vehicles that are required to be placarded for hazardous materials.

(7) Information obtained from the Central Repository under this section shall be:

(i) Confidential and may not be disseminated; and

(ii) Used only for the purpose authorized by this section.

(8) The subject of a criminal history records check under this subsection may contest the contents of the printed statement issued by the Central Repository as provided in § 10-223 of the Criminal Procedure Article.

**(A) THE ADMINISTRATION SHALL RETAIN A RECORD OF:**

**(1) EACH COMMERCIAL DRIVER'S LICENSE APPLICATION THAT IT RECEIVES; AND**

**(2) EACH COMMERCIAL DRIVER'S LICENSE THAT IT ISSUES.**

**(B) THE ADMINISTRATION SHALL RETAIN AS PART OF THE DRIVING RECORD:**

**(1) EACH CONVICTION FOR ANY OFFENSE RELATED TO THE USE OR OPERATION OF A MOTOR VEHICLE WHICH IS PROHIBITED BY STATE LAW, MUNICIPAL ORDINANCE, OR ADMINISTRATIVE RULE OR REGULATION, OR REPORTED BY ANOTHER STATE'S DRIVER LICENSING AUTHORITY; AND**

**(2) EACH ADMINISTRATIVE ACTION TAKEN BY THE ADMINISTRATION OR REPORTED BY ANOTHER STATE'S DRIVER LICENSING AUTHORITY.**

**(C) The Administration shall retain the driving records of individuals who have been issued commercial driver's licenses for at least the period of time required by the Commercial Driver's License Information System (CDLIS) established by the Secretary, United States Department of Transportation.**

**26-207.**

**(A) IF A PERSON HOLDING A COMMERCIAL DRIVER'S LICENSE FAILS TO COMPLY WITH A NOTICE TO APPEAR IN COURT OR A NOTICE FOR FAILURE TO PAY A FINE FOR A TRAFFIC CITATION ISSUED TO THE PERSON UNDER THE LAWS OR REGULATIONS OF ANOTHER STATE, AND THE OTHER STATE'S DRIVER LICENSING AUTHORITY NOTIFIED THE ADMINISTRATION OF THE NONCOMPLIANCE, ON RECEIPT OF THE NOTICE OF NONCOMPLIANCE AND AFTER GIVING THE PERSON 10 DAYS' WRITTEN NOTICE, THE ADMINISTRATION SHALL SUSPEND THE DRIVING PRIVILEGES OF THE PERSON UNTIL RECEIPT OF A NOTICE OF COMPLIANCE FROM THE OTHER STATE.**

**(B) IN COOPERATION WITH OTHER STATES' DRIVER LICENSING AUTHORITIES, THE ADMINISTRATION SHALL DEVELOP PROCEDURES TO CARRY OUT THE PROVISIONS OF THIS SECTION THAT RELATE TO THE SUSPENSION OF DRIVING PRIVILEGES.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 276

(House Bill 525)

AN ACT concerning

**Prescription Drug Monitoring Program**  
**Advisory Council on Prescription Drug Monitoring - Study**

~~FOR the purpose of requiring the Department of Health and Mental Hygiene to establish and maintain a certain Prescription Drug Monitoring Program within the Department; establishing the powers and duties of the Secretary of Health and Mental Hygiene under the Program; requiring prescription monitoring data to be destroyed after a certain time period unless a certain request for retention of certain information is submitted to the Department; creating a certain Advisory Board on Prescription Drug Monitoring to assist in the design, implementation, and evaluation of the Program; establishing the chair, the terms of the members, and the responsibilities of the Board; requiring the Secretary to appoint a multidisciplinary consultation team to assist in the interpretation of prescription monitoring data; requiring dispensers to submit electronically certain information to the Program except in certain circumstances; prohibiting the Board and the Secretary from charging a fee or imposing an assessment on certain persons for certain purposes; making prescription monitoring data confidential and privileged and not subject to certain means of legal compulsion except under certain circumstances; authorizing certain agencies and persons to obtain access to prescription monitoring data under certain circumstances; establishing immunity from liability for certain agencies and persons relating to the operation and use of the Program; providing for education and training relating to the Program; establishing penalties for violations of the requirements of the Program; defining certain terms; providing that implementation of the Program is contingent on the Board obtaining certain federal, State, or private funds; prohibiting the Program from collecting prescription monitoring data before a certain date; and generally relating to the creation and operation of the Prescription Drug Monitoring Program.~~ FOR the purpose of establishing an Advisory Council on Prescription Drug Monitoring in the Department of Health and Mental Hygiene; establishing the membership and chair of the Council;

requiring the Council to study the establishment of a certain prescription drug monitoring program; requiring the study to make recommendations to the Secretary of Health and Mental Hygiene for establishing a prescription drug monitoring program for certain purposes; requiring the Council to include certain items in its study and recommendations; requiring the Council to submit a certain interim report and a certain final report on or before certain dates; defining a certain term; providing for the termination of this Act; and generally relating to an Advisory Council on Prescription Drug Monitoring and a study of a prescription drug monitoring program.

BY adding to

Article – Health – General

Section 21-2A-01 ~~through 21-2A-09 to be under the new subtitle “Subtitle 2A- Prescription Drug Monitoring Program~~ to be under the new subtitle “Subtitle 2A. Advisory Council on Prescription Drug Monitoring”

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

Preamble

WHEREAS, Thousands of Marylanders suffer from chronic pain and other conditions that make access to pain medications and other pharmaceutical therapies necessary and beneficial; and

WHEREAS, Increasing numbers of Maryland adults and adolescents are engaging in prescription drug abuse and diversion to the detriment of their health and welfare; and

WHEREAS, Maryland should have a Prescription Drug Monitoring Program that supports the lawful use of controlled substances without interfering with legitimate professional practice and patient care; and

WHEREAS, A Prescription Drug Monitoring Program should assist health care professionals and law enforcement professionals in the identification, treatment, and prevention of prescription drug abuse and in the identification and investigation of unlawful prescription drug diversion; and

WHEREAS, Data concerning monitored prescription drugs under a Prescription Drug Monitoring Program would be available for research purposes, including research about the effects of the Prescription Drug Monitoring Program itself; now, therefore,

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

## Article - Health - General

**SUBTITLE 2A. ~~PRESCRIPTION DRUG MONITORING PROGRAM~~ ADVISORY COUNCIL ON PRESCRIPTION DRUG MONITORING.****21-2A-01.**

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

~~(B) "AUTHORIZED RECIPIENT" MEANS:~~

~~(1) A DISPENSER;~~

~~(2) A PRESCRIBER;~~

~~(3) A FEDERAL LAW ENFORCEMENT AGENCY;~~

~~(4) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;~~

~~(5) A LICENSING ENTITY;~~

~~(6) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;~~

~~(7) A PATIENT WITH RESPECT TO INFORMATION ABOUT THE PATIENT;~~

~~OR~~

~~(8) ANY PERSON UNDER CONTRACT WITH THE DEPARTMENT CONCERNING THE OPERATION OF THE PROGRAM.~~

~~(C) "BOARD" MEANS THE ADVISORY BOARD ON PRESCRIPTION DRUG MONITORING.~~

~~(D) (1) "DISPENSER" MEANS A PERSON WHO DISPENSES A MONITORED PRESCRIPTION DRUG TO A PATIENT OR THE PATIENT'S AGENT IN THE STATE.~~

~~(2) "DISPENSER" INCLUDES A PERSON OPERATING BY MAIL OR OTHER MEANS FROM A PLACE OF BUSINESS OUTSIDE THE STATE.~~

~~(3) "DISPENSER" DOES NOT INCLUDE A LICENSED HOSPITAL PHARMACY THAT DISPENSES A MONITORED PRESCRIPTION DRUG FOR INPATIENT HOSPITAL CARE.~~

~~(E) "DISPENSES" HAS THE MEANING STATED IN § 12-101 OF THE HEALTH OCCUPATIONS ARTICLE.~~

~~(F) "FEDERAL LAW ENFORCEMENT AGENCY" MEANS:~~

~~(1) ANY ENTITY WITHIN THE UNITED STATES DEPARTMENT OF JUSTICE, INCLUDING:~~

~~(i) THE DRUG ENFORCEMENT ADMINISTRATION;~~

~~(ii) THE FEDERAL BUREAU OF INVESTIGATION; AND~~

~~(iii) A UNITED STATES ATTORNEY'S OFFICE; OR~~

~~(2) THE OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.~~

~~(G) "LICENSING ENTITY" MEANS AN ENTITY AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO LICENSE, REGULATE, OR DISCIPLINE A PRESCRIBER OR DISPENSER.~~

~~(H) "MONITORED PRESCRIPTION DRUG" MEANS A PRESCRIPTION DRUG THAT CONTAINS A SUBSTANCE LISTED IN SCHEDULE II THROUGH SCHEDULE IV.~~

~~(I) "PRESCRIBER" MEANS A LICENSED HEALTH CARE PROFESSIONAL WHO IS AUTHORIZED BY LAW TO PRESCRIBE A MONITORED PRESCRIPTION DRUG.~~

~~(J) "PRESCRIPTION DRUG" HAS THE MEANING STATED IN § 21-201 OF THIS TITLE.~~

~~(K) "PRESCRIPTION MONITORING DATA" MEANS THE INFORMATION SUBMITTED TO THE PROGRAM.~~

~~(L) "PROGRAM" MEANS THE PRESCRIPTION DRUG MONITORING PROGRAM ESTABLISHED UNDER THIS SUBTITLE.~~

~~(M) "SCHEDULE II" MEANS THE LIST OF CONTROLLED DANGEROUS SUBSTANCES SET FORTH IN § 5-403 OF THE CRIMINAL LAW ARTICLE.~~

~~(N) "SCHEDULE III" MEANS THE LIST OF CONTROLLED DANGEROUS SUBSTANCES SET FORTH IN § 5-404 OF THE CRIMINAL LAW ARTICLE.~~

~~(O) "SCHEDULE IV" MEANS THE LIST OF CONTROLLED DANGEROUS SUBSTANCES SET FORTH IN § 5-405 OF THE CRIMINAL LAW ARTICLE.~~

~~(P) "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:~~

- ~~(1) A STATE, COUNTY, OR MUNICIPAL POLICE DEPARTMENT OR AGENCY;~~
- ~~(2) A SHERIFF'S OFFICE;~~
- ~~(3) A STATE'S ATTORNEY'S OFFICE; OR~~
- ~~(4) THE OFFICE OF THE ATTORNEY GENERAL.~~

~~21-2A-02.~~

~~(A) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN, IN CONSULTATION WITH THE BOARD, A PRESCRIPTION DRUG MONITORING PROGRAM THAT ELECTRONICALLY COLLECTS AND STORES DATA CONCERNING MONITORED PRESCRIPTION DRUGS.~~

~~(B) THE SECRETARY MAY:~~

~~(1) ASSIGN RESPONSIBILITY FOR THE OPERATION OF THE PROGRAM TO ANY UNIT IN THE DEPARTMENT; AND~~

~~(2) CONTRACT WITH ANY QUALIFIED PERSON AS THE SECRETARY DEEMS NECESSARY FOR THE EFFICIENT AND ECONOMICAL OPERATION OF THE PROGRAM.~~

~~(C) THE SECRETARY, IN CONSULTATION WITH THE BOARD, SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.~~

~~(D) THE REGULATIONS ADOPTED BY THE SECRETARY SHALL:~~

~~(1) ASSIST HEALTH CARE PROVIDERS AND LAW ENFORCEMENT PROFESSIONALS IN:~~

~~(i) THE IDENTIFICATION, TREATMENT, AND PREVENTION OF PRESCRIPTION DRUG ABUSE; AND~~

~~(ii) THE IDENTIFICATION AND INVESTIGATION OF UNLAWFUL PRESCRIPTION DRUG DIVERSION;~~

~~(2) PROMOTE A BALANCED USE OF PRESCRIPTION MONITORING DATA TO ASSIST APPROPRIATE LAW ENFORCEMENT ACTIVITIES WHILE PRESERVING THE PROFESSIONAL PRACTICE OF HEALTH CARE PROVIDERS AND THE ACCESS OF PATIENTS TO OPTIMAL PHARMACEUTICAL CARE;~~

~~(3) IDENTIFY THE CIRCUMSTANCES UNDER WHICH PRESCRIPTION MONITORING DATA ARE PROVIDED TO AN AUTHORIZED RECIPIENT, WITH SUCH CIRCUMSTANCES TO PARALLEL AS CLOSELY AS IS APPROPRIATE AN AUTHORIZED RECIPIENT'S AUTHORITY TO ACCESS SIMILAR CONFIDENTIAL INFORMATION UNDER FEDERAL AND STATE LAWS AND REGULATIONS IN EFFECT AT THE TIME THE PROGRAM WAS ESTABLISHED;~~

~~(4) IDENTIFY THE CIRCUMSTANCES UNDER WHICH AN AUTHORIZED RECIPIENT MAY DISCLOSE PRESCRIPTION MONITORING DATA PROVIDED BY THE PROGRAM;~~

~~(5) IDENTIFY THE CIRCUMSTANCES UNDER WHICH A FEDERAL LAW ENFORCEMENT AGENCY, A STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR A LICENSING ENTITY THAT HAS RECEIVED PRESCRIPTION MONITORING DATA SHALL CONSULT WITH THE MULTIDISCIPLINARY CONSULTATION TEAM ESTABLISHED UNDER § 21-2A-04 OF THIS SUBTITLE ABOUT THE INTERPRETATION OF THE PRESCRIPTION MONITORING DATA;~~

~~(6) PROMOTE APPROPRIATE AND REAL TIME, IF FEASIBLE, ACCESS TO PRESCRIPTION MONITORING DATA BY DISPENSERS AND PRESCRIBERS TO HELP PREVENT SUBSTANCE ABUSE AND PRESCRIPTION DRUG DIVERSION;~~

~~(7) REQUIRE THE BOARD TO APPLY FOR FEDERAL GRANT MONEY, AS APPROPRIATE;~~

~~(8) ENSURE THAT THE PROGRAM IS DESIGNED TO:~~

~~(i) PREVENT, TO THE FULLEST EXTENT POSSIBLE, THE BURDEN ON DISPENSERS IN THEIR COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND~~

~~(ii) RECEIVE PRESCRIPTION MONITORING DATA IN A MANNER COMPATIBLE WITH EXISTING DATA SUBMISSION PRACTICES OF DISPENSERS; AND~~

~~(9) ENSURE THAT:~~

~~(i) CONFIDENTIAL OR PRIVILEGED PATIENT INFORMATION IS KEPT CONFIDENTIAL; AND~~

~~(ii) RECORDS OR INFORMATION PROTECTED BY THE PRIVILEGE BETWEEN A HEALTH CARE PROVIDER AND A PATIENT, OR OTHERWISE REQUIRED BY LAW TO BE HELD CONFIDENTIAL, IS FILED IN A MANNER THAT, EXCEPT AS OTHERWISE PROVIDED IN § 21-2A-06 OF THIS SUBTITLE, DOES NOT DISCLOSE THE IDENTITY OF THE PERSON PROTECTED;~~



~~(E) PRESCRIPTION MONITORING DATA SHALL BE DESTROYED AFTER 2 YEARS, UNLESS A LAW ENFORCEMENT AGENCY OR A HEALTH OCCUPATIONS BOARD HAS SUBMITTED A WRITTEN REQUEST TO THE DEPARTMENT FOR RETENTION OF SPECIFIC INFORMATION.~~

~~21-2A-03.~~

(A) IN THIS SUBTITLE, "COUNCIL" MEANS THE ADVISORY COUNCIL ON PRESCRIPTION DRUG MONITORING.

~~(A)~~ (B) THERE IS AN ADVISORY ~~BOARD~~ COUNCIL ON PRESCRIPTION DRUG MONITORING IN THE DEPARTMENT.

~~(B)~~ (C) THE ~~BOARD~~ COUNCIL CONSISTS OF THE FOLLOWING ~~21~~ MEMBERS:

(1) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(2) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;

(3) THE PRESIDENT OF THE MARYLAND BOARD OF PHARMACY, OR THE PRESIDENT'S DESIGNEE;

(4) THE CHAIR OF THE MARYLAND BOARD OF PHYSICIANS, OR THE CHAIR'S DESIGNEE;

(5) THE PRESIDENT OF THE MARYLAND BOARD OF NURSING, OR THE PRESIDENT'S DESIGNEE;

(6) THE CHAIR OF THE MARYLAND HEALTH CARE COMMISSION, OR THE CHAIR'S DESIGNEE;

(7) FOUR PHYSICIANS AND ONE NURSE PRACTITIONER WITH EXPERTISE IN AREAS OF PRACTICE THAT INVOLVE PAIN MANAGEMENT AND SUBSTANCE ABUSE AND ADDICTION TREATMENT, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH:

(i) THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND, THE MARYLAND STATE MEDICAL SOCIETY, THE MARYLAND PHYSICAL MEDICINE AND REHABILITATION SOCIETY, AND THE MARYLAND SOCIETY OF ANESTHESIOLOGISTS WITH RESPECT TO THE PHYSICIAN APPOINTMENTS; AND

(II) THE MARYLAND NURSES COALITION, THE MARYLAND COALITION OF NURSE PRACTITIONERS, THE NURSE PRACTITIONER ASSOCIATION OF MARYLAND, THE MARYLAND ASSOCIATION OF NURSE ANESTHETISTS, AND THE MARYLAND NURSES ASSOCIATION WITH RESPECT TO THE NURSE PRACTITIONER APPOINTMENT;

(8) FOUR PHARMACISTS, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND PHARMACISTS ASSOCIATION, THE MARYLAND ASSOCIATION OF CHAIN DRUG STORES, ~~EPIC PHARMACIES~~ UNIVERSITY OF MARYLAND SCHOOL OF PHARMACY, AND ANY OTHER APPROPRIATE ORGANIZATION:

(I) THREE OF WHOM REPRESENT THE PERSPECTIVE OF INDEPENDENT AND CHAIN PHARMACIES AND PHARMACISTS; AND

(II) ONE OF WHOM REPRESENTS THE PERSPECTIVE OF HOSPITAL OUTPATIENT PHARMACIES;

~~(9) A FEDERAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE DRUG ENFORCEMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF JUSTICE;~~

~~(10)~~ (9) A MEMBER OF THE SOCIETY OF ADDICTION MEDICINE;

(10) A STATE LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND STATE POLICE;

~~(11)~~ ~~(10)~~ (11) A LOCAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND CHIEFS OF POLICE ASSOCIATION;

~~(12)~~ ~~(11)~~ (12) A PROSECUTOR, APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND STATE'S ATTORNEYS ASSOCIATION; ~~AND~~

~~(13)~~ ~~(12)~~ (13) TWO MARYLAND CITIZENS WHO REPRESENT THE PERSPECTIVE OF PAIN PATIENTS, APPOINTED BY THE SECRETARY FROM A LIST SUBMITTED BY THE MARYLAND PAIN INITIATIVE; AND

~~(13)~~ (14) ANY OTHER INDIVIDUAL OR REPRESENTATIVE AT THE SECRETARY'S DISCRETION.

~~(C)~~ (D) THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE BOARD COUNCIL.

~~(D) (1) THE TERM OF A MEMBER APPOINTED BY THE SECRETARY IS 3 YEARS.~~

~~(2) IF A VACANCY OCCURS DURING THE TERM OF AN APPOINTED MEMBER, THE SECRETARY SHALL APPOINT A SUCCESSOR WHO SHALL SERVE UNTIL THE TERM EXPIRES.~~

(E) THE BOARD COUNCIL SHALL:

~~(1) MEET NOT FEWER THAN THREE TIMES ANNUALLY;~~

~~(2) MAKE RECOMMENDATIONS TO THE SECRETARY REGARDING THE DESIGN AND IMPLEMENTATION OF THE PROGRAM, IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE, INCLUDING RECOMMENDATIONS ABOUT:~~

~~(i) REGULATIONS AND THE NEED FOR ANY FURTHER LEGISLATION CONCERNING THE PROGRAM; AND STUDY THE ESTABLISHMENT OF A PRESCRIPTION DRUG MONITORING PROGRAM THAT ELECTRONICALLY COLLECTS AND STORES DATA CONCERNING MONITORED PRESCRIPTION DRUGS.~~

(F) THE COUNCIL SHALL MAKE RECOMMENDATIONS TO THE SECRETARY FOR ESTABLISHING A PRESCRIPTION DRUG MONITORING PROGRAM THAT:

(1) ASSISTS HEALTH CARE PROVIDERS AND LAW ENFORCEMENT PROFESSIONALS IN:

(i) THE IDENTIFICATION, TREATMENT, AND PREVENTION OF PRESCRIPTION DRUG ABUSE; AND

(ii) THE IDENTIFICATION AND INVESTIGATION OF UNLAWFUL PRESCRIPTION DRUG DIVERSION;

(2) PROMOTES A BALANCED USE OF PRESCRIPTION DRUG MONITORING DATA TO ASSIST APPROPRIATE LAW ENFORCEMENT ACTIVITIES WHILE PRESERVING THE PROFESSIONAL PRACTICE OF HEALTH CARE PROVIDERS AND THE ACCESS OF PATIENTS TO OPTIMAL PHARMACEUTICAL CARE; AND

(3) PROMOTES APPROPRIATE AND REAL-TIME ACCESS TO PRESCRIPTION DRUG MONITORING DATA BY DISPENSERS AND PRESCRIBERS TO HELP PREVENT SUBSTANCE ABUSE AND PRESCRIPTION DRUG DIVERSION.

(G) IN ITS STUDY AND RECOMMENDATIONS, THE COUNCIL SHALL:

(1) IDENTIFY THE PRESCRIPTION DRUGS TO BE MONITORED;

(2) IDENTIFY THE TYPES OF DISPENSERS THAT SHALL BE REQUIRED TO SUBMIT INFORMATION TO A PRESCRIPTION DRUG MONITORING PROGRAM;

(3) DETERMINE THE DATA A DISPENSER MUST SUBMIT TO A PRESCRIPTION DRUG MONITORING PROGRAM FOR A MONITORED PRESCRIPTION DRUG;

(4) DETERMINE THE PROCESS FOR SUBMITTING PRESCRIPTION DRUG MONITORING DATA TO A PRESCRIPTION DRUG MONITORING PROGRAM;

(5) SPECIFY RECIPIENTS AUTHORIZED TO RECEIVE PRESCRIPTION DRUG MONITORING DATA FROM A PRESCRIPTION DRUG MONITORING PROGRAM;

(6) IDENTIFY THE CIRCUMSTANCES UNDER WHICH PRESCRIPTION DRUG MONITORING DATA ARE PROVIDED TO AN AUTHORIZED RECIPIENT;

(7) IDENTIFY THE CIRCUMSTANCES UNDER WHICH AN AUTHORIZED RECIPIENT MAY DISCLOSE PRESCRIPTION DRUG MONITORING DATA PROVIDED BY A PRESCRIPTION DRUG MONITORING PROGRAM;

(8) DETERMINE HOW TO ENSURE THAT CONFIDENTIAL OR PRIVILEGED PATIENT INFORMATION IS KEPT CONFIDENTIAL;

(9) DEFINE THE PROCESS FOR INTERPRETING PRESCRIPTION DRUG MONITORING DATA FOR DISCIPLINARY OR LAW ENFORCEMENT PURPOSES;

(10) DETERMINE THE MOST EFFICIENT AND EFFECTIVE OPERATION OF A PRESCRIPTION DRUG MONITORING PROGRAM;

(11) DETERMINE THE COST OF AND SOURCES OF FUNDS FOR ESTABLISHING AND OPERATING A PRESCRIPTION DRUG MONITORING

PROGRAM, INCLUDING THE COST OF AND SOURCES OF FUNDS FOR SUBMITTING AND RECEIVING PRESCRIPTION DRUG MONITORING DATA TO AND FROM THE PROGRAM;

(12) DETERMINE WHETHER THE ESTABLISHMENT AND OPERATION OF A PRESCRIPTION DRUG MONITORING PROGRAM IS FEASIBLE WITHOUT ADDITIONAL COST TO DISPENSERS AND AUTHORIZED RECIPIENTS;

(13) DETERMINE A TIME LINE FOR ESTABLISHING AND IMPLEMENTING A PRESCRIPTION DRUG MONITORING PROGRAM;

(14) IDENTIFY THE TYPES OF EDUCATION AND TRAINING NEEDED TO IMPLEMENT A PRESCRIPTION DRUG MONITORING PROGRAM;

(15) DETERMINE THE NEED FOR IMMUNITY FROM LIABILITY IN CONNECTION WITH THE SUBMISSION OR RECEIPT OF PRESCRIPTION DRUG MONITORING DATA; AND

(16) DETERMINE THE NEED FOR PENALTIES FOR IMPROPER SUBMISSION OR USE OF PRESCRIPTION DRUG MONITORING DATA.

(H) THE COUNCIL SHALL SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN INTERIM REPORT ON OR BEFORE DECEMBER 31, 2008, AND A FINAL REPORT ON OR BEFORE DECEMBER 31, 2009 ON THE COUNCIL'S STUDY AND RECOMMENDATIONS.

~~(H) SOURCES OF FUNDING, INCLUDING GRANT FUNDS UNDER THE HAROLD ROGERS PRESCRIPTION DRUG MONITORING PROGRAM AND OTHER SOURCES OF FEDERAL, PRIVATE, OR STATE FUNDS;~~

~~(3) (i) PROVIDE WITHIN 180 DAYS AFTER ITS FIRST MEETING, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AN INTERIM REPORT TO THE GENERAL ASSEMBLY SETTING FORTH THE BOARD'S ANALYSIS AND RECOMMENDATIONS UNDER ITEM (2) OF THIS SUBSECTION REGARDING THE DESIGN, IMPLEMENTATION, AND FUNDING OF THE PROGRAM; AND~~

~~(H) PROVIDE ANNUALLY TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN ANALYSIS OF THE IMPACT OF THE PROGRAM ON PATIENT ACCESS TO PHARMACEUTICAL CARE AND ON CURBING PRESCRIPTION~~

~~DRUG DIVERSION IN THE STATE, INCLUDING ANY RECOMMENDATIONS RELATED TO MODIFICATION OR CONTINUATION OF THE PROGRAM; AND~~

~~(4) PROVIDE ONGOING ADVICE AND CONSULTATION ON THE IMPLEMENTATION AND OPERATION OF THE PROGRAM, INCLUDING RECOMMENDATIONS REGARDING:~~

~~(i) CHANGES IN THE PROGRAM TO REFLECT ADVANCES IN TECHNOLOGY AND BEST PRACTICES IN THE FIELD OF ELECTRONIC HEALTH RECORDS AND ELECTRONIC PRESCRIPTION MONITORING; AND~~

~~(ii) THE DESIGN AND IMPLEMENTATION OF AN ONGOING EVALUATION COMPONENT OF THE PROGRAM.~~

~~21-2A-04.~~

~~(A) THE SECRETARY SHALL APPOINT A MULTIDISCIPLINARY CONSULTATION TEAM.~~

~~(B) THE MULTIDISCIPLINARY CONSULTATION TEAM SHALL REFLECT THE DIVERSITY AND BALANCE OF PERSPECTIVES REPRESENTED ON THE BOARD.~~

~~(C) THE MULTIDISCIPLINARY CONSULTATION TEAM SHALL CONSIST OF:~~

~~(1) PROGRAM STAFF;~~

~~(2) MEMBERS OF THE BOARD; AND~~

~~(3) ANY CONSULTANTS THAT THE SECRETARY DETERMINES WILL HELP ACHIEVE THE DIVERSITY AND BALANCE OF PERSPECTIVES REPRESENTED ON THE BOARD.~~

~~(D) IN ACCORDANCE WITH REGULATION, THE MULTIDISCIPLINARY CONSULTATION TEAM SHALL ASSIST A FEDERAL LAW ENFORCEMENT AGENCY, A STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR A LICENSING ENTITY THAT HAS RECEIVED PRESCRIPTION MONITORING DATA FROM THE PROGRAM IN INTERPRETING THE DATA AND CONSIDERING WHETHER THE DATA, IN THE CONTEXT OF THE NATURE OF A PRESCRIBER'S OR A DISPENSER'S PRACTICE, A PATIENT'S MEDICAL CONDITION, OR ANY OTHER RELEVANT FACTS, SUGGEST THE NEED FOR FURTHER INVESTIGATION.~~

~~21-2A-05.~~

~~(A) FOR EACH MONITORED PRESCRIPTION DRUG THAT IS DISPENSED, A DISPENSER SHALL SUBMIT TO THE PROGRAM INFORMATION SPECIFIED BY THE SECRETARY, INCLUDING:~~

- ~~(1) A PATIENT IDENTIFIER;~~
- ~~(2) THE PRESCRIPTION DRUG DISPENSED;~~
- ~~(3) THE DATE OF DISPENSING;~~
- ~~(4) THE QUANTITY DISPENSED;~~
- ~~(5) THE PRESCRIBER; AND~~
- ~~(6) THE PHARMACY FROM WHICH THE DRUG IS DISPENSED.~~

~~(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A DISPENSER SHALL SUBMIT PRESCRIPTION MONITORING DATA TO THE PROGRAM BY ELECTRONIC SUBMISSION.~~

~~(C) THE PROGRAM, FOR GOOD CAUSE SHOWN, MAY AUTHORIZE A DISPENSER TO:~~

- ~~(1) SUBMIT PRESCRIPTION MONITORING DATA BY AN ALTERNATIVE FORM OF SUBMISSION; OR~~
- ~~(2) OMIT ONE OR MORE ELEMENTS OF PRESCRIPTION MONITORING DATA.~~

~~(D) THE BOARD AND THE SECRETARY MAY NOT CHARGE A FEE OR IMPOSE AN ASSESSMENT ON A HOSPITAL, DISPENSER, OR PRESCRIBER FOR:~~

- ~~(1) THE ESTABLISHMENT, MAINTENANCE, OR ADMINISTRATION OF THE PROGRAM; OR~~
- ~~(2) THE TRANSMISSION OF INFORMATION TO OR FROM THE PROGRAM.~~

~~21-2A-06.~~

~~(A) PRESCRIPTION MONITORING DATA:~~

~~(1) ARE CONFIDENTIAL AND PRIVILEGED, AND NOT SUBJECT TO DISCOVERY, SUBPOENA, OR OTHER MEANS OF LEGAL COMPULSION IN CIVIL LITIGATION;~~

~~(2) ARE NOT PUBLIC RECORDS; AND~~

~~(3) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (D) OF THIS SECTION OR AS OTHERWISE PROVIDED BY LAW, MAY NOT BE DISCLOSED TO ANY PERSON.~~

~~(B) THE PROGRAM MAY, IN ACCORDANCE WITH REGULATION, DISCLOSE PRESCRIPTION MONITORING DATA TO AN AUTHORIZED RECIPIENT:~~

~~(1) IN CONNECTION WITH THE MEDICAL CARE OF A PATIENT;~~

~~(2) IN CONNECTION WITH THE DISPENSING OF A MONITORED PRESCRIPTION DRUG; OR~~

~~(3) FOR THE PURPOSE OF FURTHERING AN EXISTING BONA FIDE INDIVIDUAL INVESTIGATION.~~

~~(C) EXCEPT AS PROVIDED BY REGULATION, AN AUTHORIZED RECIPIENT WHO RECEIVES PRESCRIPTION MONITORING DATA FROM THE PROGRAM MAY NOT DISCLOSE THE DATA.~~

~~(D) THE PROGRAM MAY DISCLOSE PRESCRIPTION MONITORING DATA AFTER REDACTION OF ALL INFORMATION THAT COULD IDENTIFY A PATIENT, PRESCRIBER, DISPENSER, OR OTHER INDIVIDUAL.~~

~~21-2A-07.~~

~~(A) THE DEPARTMENT AND ITS AGENTS AND EMPLOYEES ARE NOT SUBJECT TO LIABILITY ARISING FROM:~~

~~(1) THE INACCURACY OF ANY INFORMATION SUBMITTED TO THE PROGRAM IN ACCORDANCE WITH THIS SUBTITLE; AND~~

~~(2) THE UNAUTHORIZED USE OR DISCLOSURE OF PRESCRIPTION MONITORING DATA PROVIDED TO AN AUTHORIZED RECIPIENT.~~

~~(B) AN AUTHORIZED RECIPIENT, ACTING IN GOOD FAITH, IS NOT SUBJECT TO LIABILITY ARISING SOLELY FROM:~~



~~(1) REQUESTING OR RECEIVING, OR FAILING TO REQUEST OR RECEIVE, PRESCRIPTION MONITORING DATA FROM THE PROGRAM; OR~~

~~(2) ACTING, OR FAILING TO ACT, ON THE BASIS OF PRESCRIPTION MONITORING DATA PROVIDED BY THE PROGRAM.~~

~~21-2A-08.~~

~~(A) THE PROGRAM, IN CONSULTATION WITH THE BOARD, SHALL DEVELOP AND IMPLEMENT, OR CONTRACT WITH A VENDOR TO DEVELOP AND IMPLEMENT, EDUCATION AND TRAINING COURSES RELATING TO THE PROGRAM.~~

~~(B) THE COURSES REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY RELATE TO:~~

~~(1) THE TRANSMISSION, ACCESS, AND USE OF PRESCRIPTION MONITORING DATA;~~

~~(2) ISSUES ARISING IN PRESCRIBING AND DISPENSING MONITORED PRESCRIPTION DRUGS;~~

~~(3) ISSUES CONCERNING IDENTIFYING AND TREATING SUBSTANCE ABUSE AND ADDICTION; AND~~

~~(4) THE ROLE OF MONITORED PRESCRIPTION DRUGS IN THE MANAGEMENT OF PAIN, INCLUDING THE DISTINCTION BETWEEN ADDICTION AND PHYSICAL DEPENDENCE.~~

~~21-2A-09.~~

~~(A) A DISPENSER WHO KNOWINGLY FAILS TO SUBMIT PRESCRIPTION MONITORING DATA TO THE PROGRAM AS REQUIRED UNDER THIS SUBTITLE SHALL BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500 FOR EACH FAILURE TO SUBMIT REQUIRED INFORMATION.~~

~~(B) AN AUTHORIZED RECIPIENT WHO KNOWINGLY DISCLOSES OR USES PRESCRIPTION MONITORING DATA IN VIOLATION OF THIS SUBTITLE SHALL BE GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$10,000 OR BOTH.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That implementation of the Prescription Drug Monitoring Program to be established under § 21-2A-02 of the Health General Article, as enacted by Section 1 of this Act, is contingent on the Department of Health and Mental Hygiene obtaining federal, private, or State funds to carry out the purposes of this Act.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Prescription Drug Monitoring Program to be established under § 21-2A-02 of the Health General Article, as enacted by Section 1 of this Act, may not collect prescription monitoring data before June 1, 2009.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect October 1, 2008.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008. It shall remain effective for a period of 2 years and, at the end of May 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 24, 2008.**

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## CHAPTER 277

(House Bill 543)

AN ACT concerning

### **Agriculture - Maryland Dairy Farmer Emergency Trust Fund**

FOR the purpose of establishing the Maryland Dairy Farmer Emergency Trust Fund; establishing the purpose and uses of the Fund; requiring the Secretary of Agriculture to administer the Fund and establish certain procedures; requiring that certain unspent or unencumbered funds, in excess of a certain amount, revert to the General Fund of the State; specifying that the State Treasurer shall hold the Fund separately and that the Comptroller shall account for the Fund; designating the moneys to be deposited into the Fund; ~~requiring authorizing the Governor to appropriate to the Fund a certain amount to make~~ an appropriation to the Fund each fiscal year; and generally relating to the Maryland Dairy Farmer Emergency Trust Fund.

BY adding to  
Article - Agriculture

Section 2-1301 to be under the new subtitle "Subtitle 13. Maryland Dairy Farmer Emergency Trust Fund"  
 Annotated Code of Maryland  
 (2007 Replacement Volume)

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

**Article - Agriculture**

**SUBTITLE 13. MARYLAND DAIRY FARMER EMERGENCY TRUST FUND.**

**2-1301.**

(A) IN THIS SECTION, "FUND" MEANS THE MARYLAND DAIRY FARMER EMERGENCY TRUST FUND.

(B) THERE IS A MARYLAND DAIRY FARMER EMERGENCY TRUST FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE FINANCIAL ASSISTANCE TO DAIRY FARMERS DURING PERIODS OF ECONOMIC HARDSHIP DUE TO DEPRESSED MILK PRICES.

(D) THE SECRETARY SHALL ADMINISTER THE FUND.

(E) (1) AT THE END OF EACH FISCAL YEAR, ANY UNSPENT OR UNENCUMBERED BALANCE IN THE FUND THAT EXCEEDS \$15,000,000 SHALL REVERT TO THE GENERAL FUND IN ACCORDANCE WITH § 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) (1) THE FUND CONSISTS OF:

(i) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(ii) ANY 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~~ MAY INCLUDE ~~\$5,000,000~~ AN APPROPRIATION IN THE STATE BUDGET EACH FISCAL YEAR FOR THE FUND.

(G) THE FUND MAY BE USED ONLY TO PROVIDE FINANCIAL ASSISTANCE TO DAIRY FARMERS DURING PERIODS OF ECONOMIC HARDSHIP DUE TO DEPRESSED MILK PRICES.

(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 SHALL BE CREDITED TO THE FUND.

(I) THE SECRETARY SHALL ESTABLISH PROCEDURES FOR DAIRY FARMERS TO APPLY FOR FINANCIAL ASSISTANCE FROM THE FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.

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## CHAPTER 278

(House Bill 576)

AN ACT concerning

### **Children, Youth, and Families – Local Coordinating Councils – Membership**

FOR the purpose of altering the membership of local coordinating councils for services to children with special needs.

BY repealing and reenacting, without amendments,

Article – Human Services

Section 8–405

Annotated Code of Maryland

(2007 Volume)

BY repealing and reenacting, with amendments,

Article – Human Services

Section 8–406(a)

Annotated Code of Maryland

(2007 Volume)

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

**Article - Human Services**

8-405.

There is a local coordinating council in each county.

8-406.

(a) Each local coordinating council shall include:

(1) at least one representative from:

(i) the Department of Juvenile Services;

(ii) the Developmental Disabilities Administration;

(iii) the Alcohol and Drug Abuse Administration;

(iv) the Mental Hygiene Administration or the local core service agency;

(v) the local board of education;

(vi) the local health department;

(vii) the local department of social services; **AND**

(viii) [the local office of the division of rehabilitation services; and

(ix)] the local management board; ~~and~~

(2) a parent, parent advocate, or both, appointed by the chair of the local coordinating council in consultation with the child advocacy community; **AND**

**(3) A NONVOTING REPRESENTATIVE OF THE LOCAL OFFICE OF THE DIVISION OF REHABILITATIVE SERVICES TO REPRESENT INDIVIDUALS WHO ARE 16 YEARS OLD AND OLDER.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**