

ELECTION LAW.

Title 1.

Definitions and General Provisions.

Subtitle 1. Definitions.

Sec.

- 1-101. Definitions [Subject to amendment effective December 1, 2011].
- (a) In general.
 - (b) Absentee ballot.
 - (c) Authorized candidate campaign committee.
 - (d) Ballot or official ballot.
 - (e) Ballot face.
 - (f) Ballot issue committee.
 - (g) Ballot style.
 - (h) Campaign finance entity.
 - (i) Campaign finance report.
 - (j) Campaign manager.
 - (k) Campaign material.
 - (l) Candidate.
 - (m) Contest.
 - (n) Continuing political committee.
 - (o) Contribution.
 - (p) County.
 - (q) Disabled.
 - (r) Distributor.
 - (s) Document ballot.
 - (t) Driver's license.
 - (u) Elderly.
 - (v) Election.
 - (w) Election cycle.
 - (x) Election register.
 - (y) Electronic signature.
 - (z) Electronic storage format.
 - (aa) Expenditure.
 - (bb) Independent expenditure.
 - (cc) Local board.
 - (dd) Majority party.
 - (ee) Partisan organization.
 - (ff) Political action committee.
 - (gg) Political committee.
 - (hh) Political party.
 - (ii) Precinct.
 - (jj) Principal minority party.
 - (kk) Principal political parties.
 - (ll) Provisional ballot.
 - (mm) Responsible officers.
 - (nn) Sample ballot.
 - (oo) Slate.
 - (pp) Specimen ballot.
 - (qq) State Administrator.
 - (rr) State Board.
 - (ss) Transfer.
 - (tt) Treasurer.
 - (uu) Vote.
 - (vv) Voting machine.
 - (ww) Voting machine ballot.
 - (xx) Voting system.
 - (yy) Write-in candidate.

Sec.

(zz) Write-in vote.

Subtitle 2. Statement of Purpose.

1-201. Statement of purpose.

Subtitle 3. General Provisions.

- 1-301. Computation of time.
1-302. Transmittal of document by facsimile.
1-303. Dissemination of voter registration materials — Apartment buildings.
1-304. Political restrictions in Montgomery County for individuals in quasi-judicial capacities.

Title 2.

Powers and Duties of the State and Local Boards.

Subtitle 1. State Board.

- 2-101. In general.
2-102. Powers and duties [Subject to amendment effective December 1, 2011].
2-103. State Administrator.
2-104. Statewide biennial preelection meeting.
2-105. Judicial proceedings; intervention by State Board.
2-106. Records management.
2-107. Maryland Election Modernization Fund.

Subtitle 2. Local Boards.

- 2-201. Organization.
2-202. Powers and duties.
2-203. Local government funding.
2-204. Compensation of local board members.
2-205. Counsel to local board.
2-206. Election director.
2-207. Local board employees.

Subtitle 3. Provisions Generally Applicable.

- 2-301. Bar to political activities.
2-302. Hours of business.
2-303. Precincts.

Title 3.

Voter Registration.

Subtitle 1. Registration — Generally.

- 3-101. Statewide voter registration list.
3-102. Qualifications for voter registration.

Subtitle 2. Methods of Application.

- 3-201. Applying to register to vote.
3-202. Voter registration applications.
3-203. Application for registration at Motor Vehicle Administration.

REGISTRATION AND ELECTION LAWS

- Sec.
3-204. Application for registration at voter registration agency.
3-204.1. Online voter registration system.
3-205. Certain acts by voter registration volunteers or individuals assisting others to register prohibited.

Subtitle 3. Administration of Registration.

- 3-301. Processing voter registration applications.
3-302. Registration closing.
3-303. Change of party affiliation or to or from a decline.
3-304. Change of name or address.

Subtitle 4. Municipal Registration.

- 3-401. Definitions.
 (a) In general.
 (b) Universal registration.
 (c) Voter registry.
3-402. Applicability.
3-403. Municipal registration procedure.

Subtitle 5. Statewide Voter Registration List.

- 3-501. Removal of voters from registry.
3-502. Change of address information; procedures.
3-503. Inactive list.
3-504. Information from other agencies; death verification and removal from statewide voter registration list.
3-505. Retention of voter registration records.
3-506. Copies of list.
3-507. [Redesignated].
3-508, 3-509. [Repealed].

Subtitle 6. Resolution of Registration Disputes and Challenges.

- 3-601. [Repealed].
3-601.1. Clerical error.
3-602. Administrative complaint.
3-603. [Repealed].

Title 4.

Political Parties.

Subtitle 1. Formation of Political Parties.

- 4-101. Applicability.
4-102. New political parties.
4-103. Loss of status as a political party.

Subtitle 2. Political Party Governing Bodies.

- 4-201. Political party State central committees.
4-202. Composition of local central committees of principal political parties — Generally.
4-203. Composition of central committees — Local provisions.

- Sec.
4-204. Constitution and bylaws.
4-205. Prohibited practices.

Title 5.

Candidates.

Subtitle 1. General Provisions.

- 5-101. In general.

Subtitle 2. Qualifications.

- 5-201. In general.
5-202. Residency requirement.
5-203. Voter registration and party affiliation.
5-204. Candidacy for more than one office.
5-205. Governor and Lieutenant Governor unit.

Subtitle 3. Certificate of Candidacy.

- 5-301. In general.
5-302. Filing.
5-303. When filed.
5-304. Manner of filing.
5-305. Petition to challenge residency of certain candidates.

Subtitle 4. Filing Fees.

- 5-401. Amount.
5-402. Return of filing fees.
5-403. Disposition of filing fees.

Subtitle 5. Withdrawal of Candidacy After Filing but Before Primary Election.

- 5-501. Scope.
5-502. Time for withdrawal.
5-503. Place and manner of withdrawal.
5-504. Effect of withdrawal of candidacy.

Subtitle 6. Qualification for Primary Election Ballot.

- 5-601. Candidates qualifying.

Subtitle 7. Nomination.

- 5-701. In general.
5-702. Nomination by primary election.
5-703. Nomination by petition.
5-703.1. Nomination by political party not required to nominate candidates by party primary.
5-704. Write-in candidates.
5-705. Certificate of nomination or election after primary election.
5-706. Candidate defeated in primary election.

Subtitle 8. Declination of Nomination.

- 5-801. Declination of nomination.

Subtitle 9. Vacancies in Candidacy Occurring Before a Primary Election.

- 5-901. Offices other than Governor and Lieutenant Governor — No filed candidate.

ELECTION LAW

- Sec.
5-902. Governor and Lieutenant Governor — Vacancy in candidacy before the filing deadline.
5-903. Lieutenant Governor — Vacancy in candidacy occurring after the filing deadline.
5-904. Governor — Vacancy in candidacy after the filing deadline when more than one Governor and Lieutenant Governor unit files for nomination.
5-905. Governor and Lieutenant Governor — Vacancy in candidacy after the filing deadline when only one Governor and Lieutenant Governor unit files for nomination.

Subtitle 10. Filling Vacancies in Nomination After a Primary Election.

- 5-1001. Certificate of nomination to fill vacancies.
5-1002. Statewide offices.
5-1003. Shared district candidates — More than one county in a congressional or General Assembly district.
5-1004. Local offices and districts entirely within one county.
5-1005. Governor and Lieutenant Governor.

Subtitle 11. Vacancies in Candidacy for Petition Candidates.

- 5-1101. Governor and Lieutenant Governor units.
5-1102. [Repealed].

Subtitle 12. Miscellaneous Provisions.

- 5-1201. Effect of failure to designate successor candidate and file certificate.
5-1202. Certificate of candidacy and payment of filing fee required of successor candidates.
5-1203. Qualifying for general election ballot.
5-1204. Revising the ballot.

Subtitle 13. Late Vacancies Before the General Election.

- 5-1301. Applicable to offices other than Governor or Lieutenant Governor.
5-1302. Deadline for filing certificate of designation and consequence of vacancy occurring after deadline.
5-1303. Canvass and certification of votes when late vacancy occurs.

Title 6.

Petitions.

Subtitle 1. Definitions and General Provisions.

- 6-101. Definitions.
(a) In general.
(b) Affidavit.

- Sec.
(c) Chief election official.
(d) Circulator.
(e) Election authority.
(f) Legal authority.
(g) Local petition.
(h) Page.
(i) Petition.
(j) Sponsor.
6-102. Applicability.
6-103. Regulations; guidelines; forms.

Subtitle 2. Content and Process of Petitions.

- 6-201. Content of petitions.
6-202. Advance determinations.
6-203. Signers; information provided by signers.
6-204. Circulators; affidavit of the circulator.
6-205. Filing of petitions.
6-206. Determinations at time of filing.
6-207. Verification of signatures.
6-208. Certification.
6-209. Judicial review.
6-210. Schedule of process.
6-211. Prohibited practices and penalties.

Title 7.

Questions.

- 7-101. Applicability.
7-102. Qualification of questions.
7-103. Text of questions.
7-104. Petitions relating to questions.
7-105. Publication of questions.

Title 8.

Elections.

Subtitle 1. Elections Generally.

- 8-101. Conduct and uniformity of elections.
8-102. Notice of elections.
8-103. Emergencies.

Subtitle 2. Primary Elections.

- 8-201. Date of the primary.
8-202. Political parties using the primary.
8-203. Certification of candidates.
8-204. Unopposed candidates.
8-205. Write-in votes prohibited.

Subtitle 3. General Elections.

- 8-301. Date of general election.

Subtitle 4. Special Elections.

- 8-401. Time of special elections.

Subtitle 5. Presidential Elections.

- 8-501. Selection of convention delegates and alternate delegates.

REGISTRATION AND ELECTION LAWS

- Sec.
8-502. Candidates for President — Primary election.
8-503. Presidential electors — Nomination [Subject to contingent amendment].
8-504. Presidential electors — Election [Subject to contingent amendment].
8-505. Presidential electors — Meeting [Subject to contingent amendment].

Subtitle 5A. Agreement Among the States to Elect the President by National Popular Vote.

- 8-5A-01. Agreement Among the States to Elect the President by National Popular Vote.

Subtitle 6. United States Senators.

- 8-601. Year of elections.
8-602. Special election to fill vacancy.

Subtitle 7. Representatives in Congress.

- 8-701. Congressional districts — Generally.
8-702. First congressional district.
8-703. Second congressional district.
8-704. Third congressional district.
8-705. Fourth congressional district.
8-706. Fifth congressional district.
8-707. Sixth congressional district.
8-708. Seventh congressional district.
8-709. Eighth congressional district.
8-710. Congressional vacancy — Governor's proclamation.
8-711. Congressional vacancy — Certification of candidates and nominees.

Subtitle 8. Boards of Education.

- 8-801. Applicability.
8-802. Nonpartisan election.
8-803. Qualification for candidacy.
8-804. Primary elections.
8-805. Vacancies in nomination.
8-806. General election.

Title 9.

Voting.

Subtitle 1. Voting Systems.

- 9-101. Use of certified system in polling places and for absentee voting [Subject to contingent abrogation].
9-102. Certification of voting systems [Subject to contingent abrogation].
9-103. Decertification.
9-104. Borrowing to purchase voting system.
9-105. Acquisition of voting systems.
9-106. [Repealed].

Subtitle 2. Ballots.

- 9-201. In general.
9-202. Responsibilities for preparation.

- Sec.
9-203. Standards.
9-204. Uniformity.
9-205. Content.
9-206. Arrangement — Format.
9-207. Ballots — Certification; display; printing.
9-208. Late changes in ballots.
9-209. Judicial review.
9-210. Arrangement of ballots — Candidates and offices.
9-211. Arrangement of ballots — Questions.
9-212. Ballots with multiple ballot faces — Instructions to voters.
9-213. Absentee and provisional ballots — Content.
9-214. Specimen ballots.
9-215. Printing.
9-216. Ballot accountability.
9-217. Prohibited practices.

Subtitle 3. Absentee Voting.

- 9-301. In general.
9-302. Documentation by local boards.
9-303. Guidelines.
9-304. Permissible unless federal preemption.
9-305. Applications for absentee ballot.
9-306. Review of application; issuance or rejection.
9-307. Use of an agent in absentee ballot process.
9-308. Assistance in marking ballot.
9-309. Instructions.
9-310. Envelopes.
9-311. Additional compensation and expenses.
9-312. Penalty for offenses relating to absentee voting.

Subtitle 4. Provisional Ballots.

- 9-401. In general.
9-402. Documentation by local boards.
9-403. Guidelines.
9-404. Requirements for casting provisional ballots.
9-405. Completion of provisional ballot.
9-406. Assistance in casting provisional ballot.
9-407. Instructions; envelopes.
9-408. Penalty for violations.

Title 10.

Polling Places.

Subtitle 1. Polling Place Sites.

- 10-101. In general.
10-102. Alternative polling places — Elderly individuals and individuals with disabilities.

Subtitle 2. Election Judges.

- 10-201. In general.
10-202. Qualifications for election judges.

ELECTION LAW

Sec.

- 10-203. Appointment of election judges.
- 10-204. Oath.
- 10-205. Compensation of election judges.
- 10-206. Instruction for election judges.
- 10-207. Removal of an election judge.

Subtitle 3. Polling Place Procedures.

- 10-301. Hours for voting.
- 10-301.1. Early voting and early voting centers.
- 10-302. Delivery of equipment and supplies.
- 10-303. Authority and duties of election judges.
- 10-304. Duties of police officers.
- 10-305. Vacancy in polling place staff during voting hours.
- 10-306. Information for voters at polling place.
- 10-307. Responsibilities of the local board.
- 10-308. Access to voting room.
- 10-309. Responsibilities of election judges on election day — Before the polls open.
- 10-310. Responsibilities of election judges on election day — Voting hours.
- 10-311. Challengers and watchers.
- 10-312. Challenge of an individual's right to vote.
- 10-313. Write-in voting.
- 10-314. Closing of the polls.
- 10-315. Time off for employees to vote.

Title 11.

Canvassing.

Subtitle 1. Definitions.

- 11-101. Definitions.
 - (a) In general.
 - (b) Board of canvassers.
 - (c) Canvass.
 - (d) Counting center.
 - (e) Removable data storage device.
 - (f) Unofficial returns.
 - (g) Vote tabulation or vote counting.
 - (h) Vote tallying.

Subtitle 2. Closing the Polls.

- 11-201. Regulations.
- 11-202. Election judges — Procedures for vote counting.

Subtitle 3. Vote Canvassing by Local Board.

- 11-301. Organization of local boards of canvassers.
- 11-302. Canvassing of absentee ballots.
- 11-303. Canvassing of provisional ballots.
- 11-304. Rejected absentee ballot; appeal.
- 11-305. Administrative complaints.
- 11-306. Custody and security of documents and records related to the canvass.
- 11-307. Errors in canvass documents.
- 11-308. Verification of vote count.

Subtitle 4. Certification of Election Results by Local Board.

Sec.

- 11-401. Certified copies of results.
- 11-402. Release and publication of returns.
- 11-403. Security and inspection of voting system.

Subtitle 5. Statewide Canvass and Certification.

- 11-501. State Board — Canvass of primary election results.
- 11-502. Board of State Canvassers.
- 11-503. Board of State Canvassers — Canvass of election results.

Subtitle 6. Certification of General Election Results and Issuance of Commissions of Election.

- 11-601. Governor — Determination and proclamation of votes.
- 11-602. Governor — Commissions of election.
- 11-603. State Board — Certification of results.
- 11-604. Member of Congress — Effect of certification.
- 11-605. Municipal referenda — Reporting of results.

Title 12.

Contested Elections.

Subtitle 1. Recounts.

- 12-101. Petition for recount.
- 12-102. Counterpetition for recount.
- 12-103. Recount on question — Petition.
- 12-104. Recount on question — Counterpetition.
- 12-105. Bond.
- 12-106. Duties of the State Board and local boards.
- 12-107. Costs.

Subtitle 2. Judicial Review of Elections.

- 12-201. Scope of subtitle.
- 12-202. Judicial challenges.
- 12-203. Procedure.
- 12-204. Judgment.

Title 13.

Campaign Finance.

Subtitle 1. General Provisions.

- 13-101. Scope of title.
- 13-102. Independent expenditures by an individual.
- 13-103. Summary of campaign finance law; forms.
- 13-104. Acceptance of electronic signature.

REGISTRATION AND ELECTION LAWS

Subtitle 2. Campaign Finance Organization and Activity.

Part I. In General.

Sec.

- 13-201. Scope.
- 13-202. Campaign finance entity required.
- 13-203. Campaign finance report required.
- 13-204, 13-205. [Reserved].

Part II. Organization.

- 13-206. [Repealed].
- 13-207. Political committees — In general.
- 13-208. Political committees — Statement of organization.
- 13-209. Slates.
- 13-210. Lobbyists.
- 13-211. [Repealed].
- 13-212. Campaign manager.
- 13-213. [Reserved].

Part III. Campaign Finance Officers — Responsibility, Qualifications, and Eligibility.

- 13-214. Responsibility.
- 13-215. Qualifications and eligibility.
- 13-216, 13-217. [Reserved].

Part IV. Campaign Finance Activity and Records.

- 13-218. Treasurer — Control of contributions and expenditures.
- 13-219. [Repealed].
- 13-220. Campaign accounts.
- 13-221. Books and records.
- 13-222. Campaign contribution receipts.
- 13-223, 13-224. [Reserved].

Part V. Contributions — Limits.

- 13-225. In general.
- 13-226. Contributions other than transfers.
- 13-227. Transfers — Limits.
- 13-228. Transfers — By political action committee to candidate.
- 13-229. Transfers — Prohibited.
- 13-230. Loans.
- 13-231. Personal funds — Use by candidate or spouse.
- 13-232. Contributions — When deemed received.
- 13-233. Right of individual to volunteer.
- 13-234. Method of money contribution.

Part VI. Contributions — Prohibitions.

- 13-235. During General Assembly session.
- 13-236. State funded entities.
- 13-237, 13-238. [Reserved].

Part VII. Contributions — Miscellaneous Provisions.

- 13-239. Anonymous contributions — In general.

Sec.

- 13-240. Anonymous contributions — Money received from gaming activity.
- 13-241. Payroll deductions — In general.
- 13-242. Payroll deductions — Employee membership entities.
- 13-243. Collections by membership entities.
- 13-244. [Reserved].

Part VIII. Expenditures — Miscellaneous Provisions.

- 13-245. Prohibited expenditures.
- 13-246. Presentation of claim for payment.
- 13-247. Disposition of surplus funds.

Subtitle 3. General Reporting Requirements.

Part I. General Provisions.

- 13-301. Application.
- 13-302, 13-303. [Reserved].

Part II. Reporting Requirements.

- 13-304. Reports to the State Board or a local board.
- 13-305. Exception to filing requirements.
- 13-306. Independent expenditure report.
- 13-307. Electioneering communication report.
- 13-308. [Reserved].

Part III. Deadlines and Reporting Periods.

- 13-309. Filing deadlines — In general.
- 13-310. Filing deadlines — Final report required.
- 13-311. Final report — Disposal of funds.
- 13-312. Reporting periods.
- 13-313. Termination of campaign finance entity by the State Board.
- 13-314, 13-315. [Reserved].

Part IV. Place of Filing.

- 13-316. Filing location.
- 13-317. [Repealed].
- 13-318, 13-319. [Reserved].

Part V. Implementing Provisions.

- 13-320. Forms.
- 13-321. Notice.
- 13-322. Timeliness.
- 13-323. Receipt.
- 13-324. Electronic filing.
- 13-325, 13-326. [Reserved].

Part VI. Violations.

- 13-327. Failure to file — In general.
- 13-328. Failure to file — Lists of violators.
- 13-329, 13-330. [Reserved].

Part VII. Sanctions.

- 13-331. Late filing fees.
- 13-332. Disqualification — Eligibility to be candidate or treasurer.

ELECTION LAW

- Sec.
13-333. Disqualification — Assuming office.
13-334. Forfeiture of salary.
13-335. Referral for prosecution.
13-336. Provisions mandatory.
13-337. Relief from sanctions.
13-338, 13-339. [Reserved].

Part VIII. Administrative Procedures.

- 13-340. Distribution of fees.
13-341. Retention of documents.

Subtitle 4. Campaign Materials.

Part I. General Provisions.

- 13-401. Authority line.
13-402. Advertising rates.
13-403. Retention of copies.
13-404. Regulations governing electronic media.
13-405. [Reserved].

Part II. Legislative Newsletters.

- 13-406. Definitions.
 (a) In general.
 (b) Incumbent.
 (c) Legislative newsletter.
 (d) Publication expense.
13-407. Scope of part.
13-408. Payment of publication expenses.
13-409. Late filing fee.

Subtitle 5. Local Provisions.

- 13-501. Special provisions — Prince George's County.
13-502. Special provisions — Montgomery County.
13-503. Special provisions — Howard County.
13-504. Applicability of Title 15, Subtitle 8, Part VIII of the State Government Article to contributions.

Subtitle 6. Prohibited Acts and Penalties.

- 13-601. False statements, entries and electronic submissions.
13-602. Prohibited acts.
13-603. Other violations — Criminal penalties.
13-604. Other violations — Civil penalties.
13-605. Injunction.

Title 14.

Disclosure by Persons Doing Public Business.

- 14-101. Definitions.
 (a) In general.
 (b) Applicable contribution.
 (c) Business entity.
 (d) Candidate.
 (e) Contract.
 (f) Contribution.

- Sec.
 (g) Doing public business.
 (h) Governmental entity.
 (i) "Make a contribution".
14-102. Applicability.
14-103. Attribution of contribution to candidate.
14-104. Statement of contributions.
14-105. Attributable contributions.
14-106. Contracts — Time of attribution.
14-107. Violations.
14-108. Liberal construction.

Title 15.

Public Financing Act.

- 15-101. Purpose.
15-102. Definitions.
 (a) In general.
 (b) Comptroller.
 (c) Eligible gubernatorial ticket.
 (d) Eligible private contribution.
 (e) Fund.
 (f) Gubernatorial ticket.
 (g) Public contribution.
 (h) Seed money.
 (i) Treasurer.
15-103. Fair Campaign Financing Fund.
15-104. Eligible gubernatorial ticket — Qualification.
15-105. Eligible gubernatorial ticket — Expenditure limitation.
15-106. Public contributions — Distributions.
15-107. Public contributions — Use.
15-108. Balance in Fund.
15-109. Administration of title.
15-110. Violations.
15-111. Short title.

Title 16.

Offenses and Penalties.

Subtitle 1. Voter Registration.

- 16-101. Offenses relating to registration.

Subtitle 2. Voting and Electoral Operations.

- 16-201. Offenses relating to voting.
16-202. Voting by person convicted of felony; conditions.
16-203. Disobeying lawful command of election official.
16-204. Disturbing the peace.
16-205. Interfering with election officials.
16-206. Offenses as to ballots and balloting in general.
16-207. Use of alcoholic beverages at a polling place.

Subtitle 3. Conduct of Election Officials.

- 16-301. Neglect of duties; corrupt or fraudulent acts.

REGISTRATION AND ELECTION LAWS

- Sec.
16-302. Tampering with election records.
16-303. Operation of polling place.
16-304. Adding or deleting votes or provisional ballots.

Subtitle 4. Petitions.

- 16-401. Offenses relating to petitions.

Subtitle 5. Oaths.

- 16-501. False oath or affirmation.

Subtitle 6. Canvassing.

- 16-601. False reports.

Subtitle 7. Election Records and Documents.

- 16-701. Defacing or removing records.

Subtitle 8. Voting Equipment.

- Sec.
16-801. Destruction of voting equipment.
16-802. Tampering with voting equipment.
16-803. Removal or destruction of equipment or supplies.
16-804. Tampering with electronic voting system.

Subtitle 9. Other Offenses.

- 16-901. Offenses relating to certificates of candidacy or nomination.
16-902. Wagers on elections.
16-903. Individuals attired or equipped as officials prohibited; exceptions.

Subtitle 10. General Penalty Provisions.

- 16-1001. General penalty provisions.
16-1002. Violations of § 16-201(a)(6) or (7) or § 16-903 of this title.

TITLE 1.

DEFINITIONS AND GENERAL PROVISIONS.

Subtitle 1. Definitions.

- Sec.
1-101. Definitions [Subject to amendment effective December 1, 2011].
- (a) In general.
 - (b) Absentee ballot.
 - (c) Authorized candidate campaign committee.
 - (d) Ballot or official ballot.
 - (e) Ballot face.
 - (f) Ballot issue committee.
 - (g) Ballot style.
 - (h) Campaign finance entity.
 - (i) Campaign finance report.
 - (j) Campaign manager.
 - (k) Campaign material.
 - (l) Candidate.
 - (m) Contest.
 - (n) Continuing political committee.
 - (o) Contribution.
 - (p) County.
 - (q) Disabled.
 - (r) Distributor.
 - (s) Document ballot.
 - (t) Driver's license.
 - (u) Elderly.
 - (v) Election.
 - (w) Election cycle.
 - (x) Election register.
 - (y) Electronic signature.
 - (z) Electronic storage format.
 - (aa) Expenditure.
 - (bb) Independent expenditure.
 - (cc) Local board.

Sec.

- (dd) Majority party.
- (ee) Partisan organization.
- (ff) Political action committee.
- (gg) Political committee.
- (hh) Political party.
- (ii) Precinct.
- (jj) Principal minority party.
- (kk) Principal political parties.
- (ll) Provisional ballot.
- (mm) Responsible officers.
- (nn) Sample ballot.
- (oo) Slate.
- (pp) Specimen ballot.
- (qq) State Administrator.
- (rr) State Board.
- (ss) Transfer.
- (tt) Treasurer.
- (uu) Vote.
- (vv) Voting machine.
- (ww) Voting machine ballot.
- (xx) Voting system.
- (yy) Write-in candidate.
- (zz) Write-in vote.

Subtitle 2. Statement of Purpose.

- 1-201. Statement of purpose.

Subtitle 3. General Provisions.

- 1-301. Computation of time.
1-302. Transmittal of document by facsimile.
1-303. Dissemination of voter registration materials — Apartment buildings.
1-304. Political restrictions in Montgomery County for individuals in quasi-judicial capacities.

Subtitle 1. Definitions.

§ 1-101. Definitions [Subject to amendment effective December 1, 2011; amended version follows this section].

(a) *In general.* — In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(b) *Absentee ballot.* — “Absentee ballot” means a ballot not used in a polling place.

(c) *Authorized candidate campaign committee.* — “Authorized candidate campaign committee” means a political committee established under Title 13 of this article and authorized by a candidate to promote the candidate’s candidacy.

- (d) *Ballot or official ballot.* — (1) “Ballot” or “official ballot” includes:
- (i) an absentee ballot;
 - (ii) a provisional ballot;

- (iii) a document ballot; or
- (iv) a voting machine ballot.
- (2) “Ballot” or “official ballot” does not include:
 - (i) a sample ballot; or
 - (ii) a specimen ballot.
- (e) *Ballot face*. — “Ballot face” means a single side of a sheet on which are printed some or all of the contests to be voted on by a voter.
- (f) *Ballot issue committee*. — “Ballot issue committee” means a political committee that is formed to promote the success or defeat of a question to be submitted to a vote at an election.
- (g) *Ballot style*. — “Ballot style” means a unique aggregation of contests that make up the ballot for a particular group of voters identified by common characteristics of residence location, party affiliation, or both.
- (h) *Campaign finance entity*. — “Campaign finance entity” means a political committee established under Title 13 of this article.
- (i) *Campaign finance report*. — “Campaign finance report” means a report, statement, affidavit, or other document that is:
 - (1) authorized or required under this article;
 - (2) related to the campaign finance activities of a campaign finance entity or to expenses associated with a legislative newsletter; and
 - (3) filed or submitted on a form prescribed by the State Board under this article.
- (j) *Campaign manager*. — “Campaign manager” means a person designated by a candidate, or the candidate’s representative, to exercise general overall responsibility for the conduct of the candidate’s political campaign.
- (k) *Campaign material*. — (1) “Campaign material” means any material that:
 - (i) contains text, graphics, or other images;
 - (ii) relates to a candidate, a prospective candidate, or the approval or rejection of a question; and
 - (iii) is published or distributed.
 (2) “Campaign material” includes:
 - (i) material transmitted by or appearing on the Internet or other electronic medium; and
 - (ii) an oral commercial campaign advertisement.
- (l) *Candidate*. — (1) “Candidate” means an individual who files a certificate of candidacy for a public or party office.
 (2) “Candidate” includes:
 - (i) an incumbent judge of the Court of Appeals or Court of Special Appeals at an election for continuance in office; and
 - (ii) an individual, prior to that individual filing a certificate of candidacy, if a campaign finance entity has been established on behalf of that individual.
- (m) *Contest*. — (1) “Contest” means:
 - (i) the aggregate of candidates who run against each other or among themselves for nomination for, or election to, an office or multiple offices of the same category; or

(ii) the positive and negative voting options for a question submitted to the voters.

(2) “Contest” includes, in a general election for an office, the write-in option.

(n) *Continuing political committee.* — “Continuing political committee” means a political committee that is permitted to continue in existence from year to year.

(o) *Contribution.* — (1) “Contribution” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party, or question.

(2) “Contribution” includes proceeds from the sale of tickets to a campaign fund-raising event.

(p) *County.* — “County” means a county of the State or Baltimore City.

(q) *Disabled.* — “Disabled” means having a temporary or permanent physical disability.

(r) *Distributor.* — (1) “Distributor” means a person engaged for profit in the distribution of campaign material by hand delivery or direct mail.

(2) “Distributor” does not include salaried employees, agents, or volunteers of the person.

(s) *Document ballot.* — (1) “Document ballot” means a ballot used with a voting system in which the voter individually is issued a ballot on which to indicate one or more votes.

(2) “Document ballot” includes:

- (i) a machine-read ballot, such as an optically scanned ballot; and
- (ii) a hand-counted paper ballot.

(t) *Driver’s license.* — “Driver’s license” includes an identification card issued by the Motor Vehicle Administration.

(u) *Elderly.* — “Elderly” means 65 years of age or older.

(v) *Election.* — (1) “Election” means the process by which voters cast votes on one or more contests under the laws of this State or the United States.

(2) “Election” includes, unless otherwise specifically provided in this article, all general elections, primary elections, and special elections.

(3) “Election” does not include, unless otherwise specifically provided in this article, a municipal election other than in Baltimore City.

(w) *Election cycle.* — “Election cycle” means the period that begins on the January 1 that follows a gubernatorial election and continues until the December 31 that is 4 years later.

(x) *Election register.* — “Election register” means the list of voters eligible to vote:

- (1) in a precinct on election day; or
- (2) in a county early voting center during early voting.

(y) *Electronic signature.* — “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(z) *Electronic storage format.* — “Electronic storage format” means a computer disk or other information storage and retrieval medium approved by the State Board.

(aa) *Expenditure*. — “Expenditure” means a gift, transfer, disbursement, or promise of money or a thing of value by or on behalf of a campaign finance entity to:

(1) promote or assist in the promotion of the success or defeat of a candidate, political party, or question at an election; or

(2) pay for the publication expense of a legislative newsletter under Title 13, Subtitle 4 of this article.

(bb) *Independent expenditure*. — “Independent expenditure” means an expenditure by a person to aid or promote the success or defeat of a candidate if the expenditure is not made in coordination with, or at the request or suggestion of, the candidate, a campaign finance entity of the candidate, or an agent of the candidate.

(cc) *Local board*. — “Local board” means a county board of elections.

(dd) *Majority party*. — “Majority party” means the political party to which the incumbent Governor belongs, if the incumbent Governor is a member of a principal political party. If the incumbent Governor is not a member of one of the two principal political parties, “majority party” means the principal political party whose candidate for Governor received the highest number of votes of any party candidate at the last preceding general election.

(ee) *Partisan organization*. — “Partisan organization” means a combination of two or more individuals formed for the purpose of organizing a new political party.

(ff) *Political action committee*. — “Political action committee” means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate;

(4) a political committee organized and operated solely to support or oppose a single candidate; or

(5) a political committee organized and operated solely to support or oppose a ballot issue.

(gg) *Political committee*. — “Political committee” means a combination of two or more individuals that assists or attempts to assist in promoting the success or defeat of a candidate, political party, or question submitted to a vote at any election.

(hh) *Political party*. — “Political party” means an organized group that is qualified as a political party in accordance with Title 4 of this article.

(ii) *Precinct*. — “Precinct” includes:

(1) an election district in a county that is not divided into precincts;

(2) an election precinct in an election district that is divided into precincts; or

(3) a precinct in a ward of the City of Baltimore.

(jj) *Principal minority party*. — “Principal minority party” means the principal political party whose candidate for Governor received the second highest number of votes of any party candidate at the last preceding general election.

(kk) *Principal political parties*. — “Principal political parties” means the majority party and the principal minority party.

(ll) *Provisional ballot*. — “Provisional ballot” means a ballot that is cast by an individual but not counted until the individual’s qualifications to vote have been confirmed by the local board.

(mm) *Responsible officers*. — “Responsible officers” means the chairman and treasurer of a political committee.

(nn) *Sample ballot*. — “Sample ballot” means a facsimile of a ballot used for informational purposes by a person or entity other than a local board.

(oo) *Slate*. — “Slate” means a political committee of two or more candidates who join together to conduct and pay for joint campaign activities.

(pp) *Specimen ballot*. — “Specimen ballot” means a facsimile of a ballot used by a local board to provide notice to registered voters of the contents of the ballot.

(qq) *State Administrator*. — “State Administrator” means the State Administrator of Elections.

(rr) *State Board*. — “State Board” means the State Board of Elections.

(ss) *Transfer*. — “Transfer” means a monetary contribution that is made by one campaign finance entity to another campaign finance entity, other than one made by or to a political club.

(tt) *Treasurer*. — “Treasurer” means an individual appointed in accordance with Title 13, Subtitle 2 of this article.

(uu) *Vote*. — “Vote” means to cast a ballot that is counted.

(vv) *Voting machine*. — “Voting machine” includes:

- (1) a mechanical lever machine; and
- (2) a direct recording electronic voting device.

(ww) *Voting machine ballot*. — “Voting machine ballot” means a ballot posted on or in the voting machine and referred to by the voter to indicate the voting locations for each contest.

(xx) *Voting system*. — “Voting system” means a method of casting and tabulating ballots or votes.

(yy) *Write-in candidate*. — “Write-in candidate” means an individual whose name will not appear on the ballot but who files a certificate of candidacy in accordance with § 5-303 of this article.

(zz) *Write-in vote*. — “Write-in vote” means a vote cast, in a contest at a general election, for an individual whose name is not on the ballot for that contest. (An. Code 1957, art. 33, §§ 1-101(a)-(rr), 13-401(c), 13-402(a), 13-501(a)(1), 13-502(a)(1), (b); 2002, ch. 291, §§ 2, 4; ch. 404, § 2; 2003, ch. 379, §§ 1, 2; 2004, ch. 19; 2005, ch. 25, § 1; ch. 572, §§ 1, 2; 2006, ch. 510; 2007, ch. 159, §§ 1, 2; 2008, ch. 543; 2009, ch. 445, §§ 1, 2, 3; 2011, ch. 287.)

Effect of amendments. — Chapter 543, Acts 2008, effective July 1, 2008, added (x) and redesignated accordingly.

Section 1, ch. 445, Acts 2009, effective October 1, 2009, deleted former (ii). Section 2, ch. 445, redesignated subsections (x) through (hh) as (y) through (ii). Section 3, ch. 445, added (x).

Chapter 287, Acts 2011, effective October 1, 2011, reenacted (k) without change.

Editor’s note. — Section 1, ch. 291, Acts

2002, provides that “Article — Election Law of the Annotated Code of Maryland be added.”

Section 2, ch. 291, Acts 2002, effective January 1, 2003, transferred former Titles 1 through 12 and 16 of Article 33 to be Titles 1-12 and 16 of this article.

Section 6, ch. 291, Acts 2002, provides that “the Revisor’s Notes, Special Revisor’s Notes, General Revisor’s Notes, captions, and catchlines contained in this Act are not law and

may not be considered to have been enacted as a part of this Act.”

Section 7, ch. 291, Acts 2002, provides that “nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on January 1, 2003, shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.”

Section 8, ch. 291, Acts 2002, provides that “except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act [January 1, 2003] and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after January 1, 2003, and may be terminated, completed, consummated or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.”

Section 9, ch. 291, Acts 2002, provides that “the continuity of every commission, office, department, agency or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.”

Section 10, ch. 291, Acts 2002, provides that “except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.”

Section 11, ch. 291, Acts 2002, provides 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, cross-refer-

ences and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2002 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction an editor’s note following the section affected.”

Section 12, ch. 291, Acts 2002, provides that “this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on January 1, 2003, concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.”

Section 13, ch. 291, Acts 2002, provides that “this Act shall take effect January 1, 2003.”

Section 3, ch. 404, Acts 2002, provides that “§ 2 of this Act shall take effect January 1, 2003, on the taking effect of Chapter 291 (S.B. 1) of the Acts of the General Assembly of 2002. If § 2 of this Act takes effect, § 1 of this Act shall be abrogated and of no further force and effect.” Senate Bill 1 was signed into law as Chapter 291 of the Acts of the General Assembly of 2002 on May 6, 2002.

Section 11, ch. 25, Acts 2005, provides that “the provisions of this Act are intended solely to correct technical errors in the law and there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.”

Chapters 287 and 575, Acts 2011, both amended (k). Neither of the chapters referred to the other, and effect has been given to both, as they amended (k) without change.

Constitutionality. — Former Art. 33, 1-101(gg) (see now subsection (mm) of this section) was held to be unconstitutional in that the statute violated the rights imposed by Article I of the Maryland Constitution and the articles 7 and 24 of the Declaration of Rights in that it treated inactive voters differently from active voters. *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 832 A.2d 214 (2003).

“Registered voter.” — Because § 12-202(a) of this article does not distinguish among voters registered by party or, for that matter, by no party, any registered voter has standing to sue under the statute and assert the procedure laid out in § 12-203 of this article, and one need not be a registered voter in a particular political party to be considered a registered voter for purposes of (mm) or, therefore, § 12-202. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Political party as lobbyist. — A political party recognized by and regulated under the State Election Law is not required to register as a lobbyist with the State Ethics Commission pursuant to the Public Ethics Law, as a result of its communications with public officials or employees. A political party could be subject to some provisions of the lobbying law if it hired

regulated lobbyists to engage in lobbying activities unrelated to any electoral issue. 90 Op. Att’y Gen. 74 (May 27, 2005).

Contributions for administrative expenses impermissible. — If a campaign finance entity were to make a contribution (i.e., transfer) to a political party with the proviso that it could only be devoted to the party’s ongoing administrative expenses unrelated to any particular election, that expenditure would be for a nonelectoral purpose and would not be permissible. 92 Op. Att’y Gen. 92 (Aug. 6, 2007).

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party’s later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the show was created especially for a campaign purpose. Third, if the program appears to be part of the station’s ordinary broadcasting busi-

ness, sponsored by paid commercial advertisements, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any reason a candidate or potential candidate might have for hosting this type of show, from the station’s perspective, the show would not amount to an unpaid “infomercial”. 95 Op. Att’y Gen. 110 (May 24, 2010).

Supplementation of signatures on charter amendment referendum petition. — Because silence on the issue was construed as permissive, contrary to the arguments of defendant city council, art. 23A, § 14 of the Code allowed for plaintiff firefighters to supplement the signature for a petition for a charter amendment referendum; unlike art. 23A, § 14 of the Code, § 6-205 of this article, which did not apply to municipal elections as provided in (v)(3) of this section, allowed for additional signatures for a petition for referendum. Int’l Ass’n of Fire Fighters, Local 1715 v. Mayor of Cumberland, 407 Md. 1, 962 A.2d 374 (2008).

Stated in *Md. Green Party v. State Bd. of Elections*, 165 Md. App. 113, 884 A.2d 789 (2005), cert. denied, 390 Md. 501, 889 A.2d 418 (2006); *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

(Amendment effective December 1, 2011.)

§ 1-101. Definitions.

(a) *In general.* — *In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.*

(b) *Absentee ballot.* — *“Absentee ballot” means a ballot not used in a polling place.*

(c) *Authorized candidate campaign committee.* — *“Authorized candidate campaign committee” means a political committee established under Title 13 of this article and authorized by a candidate to promote the candidate’s candidacy.*

(d) *Ballot or official ballot.* — (1) *“Ballot” or “official ballot” includes:*

- (i) *an absentee ballot;*
- (ii) *a provisional ballot;*
- (iii) *a document ballot; or*
- (iv) *a voting machine ballot.*

(2) *“Ballot” or “official ballot” does not include:*

- (i) *a sample ballot; or*
- (ii) *a specimen ballot.*

(e) *Ballot face.* — *“Ballot face” means a single side of a sheet on which are printed some or all of the contests to be voted on by a voter.*

(f) *Ballot issue committee.* — “Ballot issue committee” means a political committee that is formed to promote the success or defeat of a question to be submitted to a vote at an election.

(g) *Ballot style.* — “Ballot style” means a unique aggregation of contests that make up the ballot for a particular group of voters identified by common characteristics of residence location, party affiliation, or both.

(h) *Campaign finance entity.* — “Campaign finance entity” means a political committee established under Title 13 of this article.

(i) *Campaign finance report.* — “Campaign finance report” means a report, statement, affidavit, or other document that is:

(1) authorized or required under this article;

(2) related to the campaign finance activities of a campaign finance entity or to expenses associated with a legislative newsletter; and

(3) filed or submitted on a form prescribed by the State Board under this article.

(j) *Campaign manager.* — “Campaign manager” means a person designated by a candidate, or the candidate’s representative, to exercise general overall responsibility for the conduct of the candidate’s political campaign.

(k) *Campaign material.* — (1) “Campaign material” means any material that:

(i) contains text, graphics, or other images;

(ii) relates to a candidate, a prospective candidate, or the approval or rejection of a question; and

(iii) is published or distributed.

(2) “Campaign material” includes:

(i) material transmitted by or appearing on the Internet or other electronic medium; and

(ii) an oral commercial campaign advertisement.

(l) *Candidate.* — (1) “Candidate” means an individual who files a certificate of candidacy for a public or party office.

(2) “Candidate” includes:

(i) an incumbent judge of the Court of Appeals or Court of Special Appeals at an election for continuance in office; and

(ii) an individual, prior to that individual filing a certificate of candidacy, if a campaign finance entity has been established on behalf of that individual.

(m) *Contest.* — (1) “Contest” means:

(i) the aggregate of candidates who run against each other or among themselves for nomination for, or election to, an office or multiple offices of the same category; or

(ii) the positive and negative voting options for a question submitted to the voters.

(2) “Contest” includes, in a general election for an office, the write-in option.

(n) *Continuing political committee.* — “Continuing political committee” means a political committee that is permitted to continue in existence from year to year.

(o) *Contribution.* — (1) “Contribution” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity

to promote or assist in the promotion of the success or defeat of a candidate, political party, or question.

(2) “Contribution” includes proceeds from the sale of tickets to a campaign fund-raising event.

(p) County. — “County” means a county of the State or Baltimore City.

(q) Disabled. — “Disabled” means having a temporary or permanent physical disability.

(r) Distributor. — (1) “Distributor” means a person engaged for profit in the distribution of campaign material by hand delivery or direct mail.

(2) “Distributor” does not include salaried employees, agents, or volunteers of the person.

(s) Document ballot. — (1) “Document ballot” means a ballot used with a voting system in which the voter individually is issued a ballot on which to indicate one or more votes.

(2) “Document ballot” includes:

- (i) a machine-read ballot, such as an optically scanned ballot; and
- (ii) a hand-counted paper ballot.

(t) Driver’s license. — “Driver’s license” includes an identification card issued by the Motor Vehicle Administration.

(u) Elderly. — “Elderly” means 65 years of age or older.

(v) Election. — (1) “Election” means the process by which voters cast votes on one or more contests under the laws of this State or the United States.

(2) “Election” includes, unless otherwise specifically provided in this article, all general elections, primary elections, and special elections.

(3) “Election” does not include, unless otherwise specifically provided in this article, a municipal election other than in Baltimore City.

(w) Election cycle. — “Election cycle” means the period that begins on the January 1 that follows a gubernatorial election and continues until the December 31 that is 4 years later.

(x) Election register. — “Election register” means the list of voters eligible to vote:

- (1) in a precinct on election day; or
- (2) in a county early voting center during early voting.

(y) Electronic signature. — “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(z) Electronic storage format. — “Electronic storage format” means a computer disk or other information storage and retrieval medium approved by the State Board.

(aa) Expenditure. — “Expenditure” means a gift, transfer, disbursement, or promise of money or a thing of value by or on behalf of a campaign finance entity to:

- (1) promote or assist in the promotion of the success or defeat of a candidate, political party, or question at an election; or
- (2) pay for the publication expense of a legislative newsletter under Title 13, Subtitle 4 of this article.

(bb) Independent expenditure. — (1) “Independent expenditure” means an expenditure by a person expressly advocating the success or defeat of a clearly

identified candidate or ballot issue if the expenditure is not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.

(2) For purposes of this subsection, “clearly identified” means:

- (i) the name of the candidate appears;
- (ii) a photograph or drawing of the candidate appears; or
- (iii) the identity of the candidate or ballot issue is apparent by unambiguous reference.

(cc) Local board. — “Local board” means a county board of elections.

(dd) Majority party. — “Majority party” means the political party to which the incumbent Governor belongs, if the incumbent Governor is a member of a principal political party. If the incumbent Governor is not a member of one of the two principal political parties, “majority party” means the principal political party whose candidate for Governor received the highest number of votes of any party candidate at the last preceding general election.

(ee) Partisan organization. — “Partisan organization” means a combination of two or more individuals formed for the purpose of organizing a new political party.

(ff) Political action committee. — “Political action committee” means a political committee that is not:

- (1) a political party;
- (2) a central committee;
- (3) a slate;

(4) a political committee organized and operated solely to support or oppose a single candidate; or

(5) a political committee organized and operated solely to support or oppose a ballot issue.

(gg) Political committee. — “Political committee” means a combination of two or more individuals that assists or attempts to assist in promoting the success or defeat of a candidate, political party, or question submitted to a vote at any election.

(hh) Political party. — “Political party” means an organized group that is qualified as a political party in accordance with Title 4 of this article.

(ii) Precinct. — “Precinct” includes:

- (1) an election district in a county that is not divided into precincts;
- (2) an election precinct in an election district that is divided into precincts;

or

- (3) a precinct in a ward of the City of Baltimore.

(jj) Principal minority party. — “Principal minority party” means the principal political party whose candidate for Governor received the second highest number of votes of any party candidate at the last preceding general election.

(kk) Principal political parties. — “Principal political parties” means the majority party and the principal minority party.

(ll) Provisional ballot. — “Provisional ballot” means a ballot that is cast by an individual but not counted until the individual’s qualifications to vote have been confirmed by the local board.

(mm) Responsible officers. — “Responsible officers” means the chairman and treasurer of a political committee.

(nn) *Sample ballot.* — “*Sample ballot*” means a facsimile of a ballot used for informational purposes by a person or entity other than a local board.

(oo) *Slate.* — “*Slate*” means a political committee of two or more candidates who join together to conduct and pay for joint campaign activities.

(pp) *Specimen ballot.* — “*Specimen ballot*” means a facsimile of a ballot used by a local board to provide notice to registered voters of the contents of the ballot.

(qq) *State Administrator.* — “*State Administrator*” means the State Administrator of Elections.

(rr) *State Board.* — “*State Board*” means the State Board of Elections.

(ss) *Transfer.* — “*Transfer*” means a monetary contribution that is made by one campaign finance entity to another campaign finance entity, other than one made by or to a political club.

(tt) *Treasurer.* — “*Treasurer*” means an individual appointed in accordance with Title 13, Subtitle 2 of this article.

(uu) *Vote.* — “*Vote*” means to cast a ballot that is counted.

(vv) *Voting machine.* — “*Voting machine*” includes:

(1) a mechanical lever machine; and

(2) a direct recording electronic voting device.

(ww) *Voting machine ballot.* — “*Voting machine ballot*” means a ballot posted on or in the voting machine and referred to by the voter to indicate the voting locations for each contest.

(xx) *Voting system.* — “*Voting system*” means a method of casting and tabulating ballots or votes.

(yy) *Write-in candidate.* — “*Write-in candidate*” means an individual whose name will not appear on the ballot but who files a certificate of candidacy in accordance with § 5-303 of this article.

(zz) *Write-in vote.* — “*Write-in vote*” means a vote cast, in a contest at a general election, for an individual whose name is not on the ballot for that contest.

(2011, ch. 575.)

Effect of amendments. — Chapter 543, Acts 2008, effective July 1, 2008, added (x) and redesignated accordingly.

Section 1, ch. 445, Acts 2009, effective October 1, 2009, deleted former (ii). Section 2, ch. 445, redesignated subsections (x) through (hh) as (y) through (ii). Section 3, ch. 445, added (x).

Amendment effective December 1, 2011. — Chapter 575, Acts 2011, effective December 1, 2011, reenacted (k) without change; added the (bb)(1) designation added (bb)(2); in (bb)(1) substituted “expressly advocating” for “to aid or promote,” added “clearly identified,” added “or ballot issue,” and added “or a ballot issue committee”; and made related and stylistic changes.

Editor’s note. — Section 1, ch. 291, Acts 2002, provides that “Article — Election Law of the Annotated Code of Maryland be added.”

Section 2, ch. 291, Acts 2002, effective January 1, 2003, transferred former Titles 1 through

12 and 16 of Article 33 to be Titles 1-12 and 16 of this article.

Section 6, ch. 291, Acts 2002, provides that “the Revisor’s Notes, Special Revisor’s Notes, General Revisor’s Notes, captions, and catchlines contained in this Act are not law and may not be considered to have been enacted as a part of this Act.”

Section 7, ch. 291, Acts 2002, provides that “nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on January 1, 2003, shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.”

Section 8, ch. 291, Acts 2002, provides that “except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of no-

menclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act [January 1, 2003] and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after January 1, 2003, and may be terminated, completed, consummated or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.”

Section 9, ch. 291, Acts 2002, provides that “the continuity of every commission, office, department, agency or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.”

Section 10, ch. 291, Acts 2002, provides that “except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.”

Section 11, ch. 291, Acts 2002, provides 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, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2002 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction an editor’s note following the section affected.”

Section 12, ch. 291, Acts 2002, provides that “this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on January 1, 2003, concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.”

Section 13, ch. 291, Acts 2002, provides that “this Act shall take effect January 1, 2003.”

Section 3, ch. 404, Acts 2002, provides that “§ 2 of this Act shall take effect January 1, 2003, on the taking effect of Chapter 291 (S.B. 1) of the Acts of the General Assembly of 2002. If § 2 of this Act takes effect, § 1 of this Act shall be abrogated and of no further force and effect.” Senate Bill 1 was signed into law as Chapter 291 of the Acts of the General Assembly of 2002 on May 6, 2002.

Section 11, ch. 25, Acts 2005, provides that “the provisions of this Act are intended solely to correct technical errors in the law and there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.”

Chapters 287 and 575, Acts 2011, both amended (k). Neither of the chapters referred to the other, and effect has been given to both, as they amended (k) without change.

Section 4, ch. 575, Acts 2011, provides that the act shall take effect December 1, 2011.

Constitutionality. — Former Art. 33, 1-101(gg) (see now subsection (mm) of this section) was held to be unconstitutional in that the statute violated the rights imposed by Article I of the Maryland Constitution and the articles 7 and 24 of the Declaration of Rights in that it treated inactive voters differently from active voters. *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 832 A.2d 214 (2003).

“Registered voter.” — Because § 12-202(a) of this article does not distinguish among voters registered by party or, for that matter, by no party, any registered voter has standing to sue under the statute and assert the procedure laid out in § 12-203 of this article, and one need not be a registered voter in a particular political party to be considered a registered voter for purposes of (mm) or, therefore, § 12-202. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Political party as lobbyist. — A political party recognized by and regulated under the State Election Law is not required to register as a lobbyist with the State Ethics Commission pursuant to the Public Ethics Law, as a result of its communications with public officials or employees. A political party could be subject to some provisions of the lobbying law if it hired regulated lobbyists to engage in lobbying activities unrelated to any electoral issue. 90 Op. Att’y Gen. 74 (May 27, 2005).

Contributions for administrative expenses impermissible. — If a campaign finance entity were to make a contribution (i.e., transfer) to a political party with the proviso that it could only be devoted to the party’s ongoing administrative expenses unrelated to any particular election, that expenditure would be for a nonelectoral purpose and would not be permissible. 92 Op. Att’y Gen. 92 (Aug. 6, 2007).

Radio broadcasts did not constitute ille-

gal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party's later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the show was created especially for a campaign purpose. Third, if the program appears to be part of the station's ordinary broadcasting business, sponsored by paid commercial advertisements, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any

reason a candidate or potential candidate might have for hosting this type of show, from the station's perspective, the show would not amount to an unpaid "infomercial". 95 Op. Atty. Gen. 110 (May 24, 2010).

Supplementation of signatures on charter amendment referendum petition. — Because silence on the issue was construed as permissive, contrary to the arguments of defendant city council, art. 23A, § 14 of the Code allowed for plaintiff firefighters to supplement the signature for a petition for a charter amendment referendum; unlike art. 23A, § 14 of the Code, § 6-205 of this article, which did not apply to municipal elections as provided in (v)(3) of this section, allowed for additional signatures for a petition for referendum. Int'l Ass'n of Fire Fighters, Local 1715 v. Mayor of Cumberland, 407 Md. 1, 962 A.2d 374 (2008).

Stated in Md. Green Party v. State Bd. of Elections, 165 Md. App. 113, 884 A.2d 789 (2005), cert. denied, 390 Md. 501, 889 A.2d 418 (2006); Lamone v. Capozzi, 396 Md. 53, 912 A.2d 674 (2006).

Subtitle 2. Statement of Purpose.

§ 1-201. Statement of purpose.

The intention of this article is that the conduct of elections should inspire public confidence and trust by assuring that:

- (1) all persons served by the election system are treated fairly and equitably;
- (2) all qualified persons may register and vote and that those who are not qualified do not vote;
- (3) those who administer elections are well-trained, that they serve both those who vote and those who seek votes, and that they put the public interest ahead of partisan interests;
- (4) full information on elections is provided to the public, including disclosure of campaign receipts and expenditures;
- (5) citizen convenience is emphasized in all aspects of the election process;
- (6) security and integrity are maintained in the casting of ballots, canvass of votes, and reporting of election results;
- (7) the prevention of fraud and corruption is diligently pursued; and
- (8) any offenses that occur are prosecuted. (An. Code 1957, art. 33, § 1-201; 2002, ch. 291, §§ 2, 4.)

Maryland Law Review. — For comment on County Council v. Montgomery Ass'n, 274 Md. 52, 333 A.2d 596 (1975), cited in a note below, see 35 Md. L. Rev. 543 (1976).

Legislative intent. — The General Assembly did not intend that local governments

should enact election laws, but rather intended that the conduct and regulation of elections be strictly a State function. County Council v. Montgomery Ass'n, 274 Md. 52, 333 A.2d 596 (1975).

*Subtitle 3. General Provisions.***§ 1-301. Computation of time.**

(a) *In general.* — (1) Except as provided in subsection (b) of this section, in computing the time under this article for performing an act, Saturdays, Sundays, and legal holidays shall be included.

(2) In a computation of time under this article, the day of performing an act and the day of registration or election shall be excluded.

(b) *Exception.* — If a computation of time would require an act to be performed on a Saturday, Sunday, or legal holiday, the act shall be performed on the next regular business day following that Saturday, Sunday, or legal holiday. (An. Code 1957, art. 33, § 1-301; 2002, ch. 291, §§ 2, 4.)

Cross references. — For present provisions concerning computation of time, see Article 1, § 36.

Construction. — Section 1-1 (b) of former

Art. 33 (see now this section) was an exception to the general law and was to be strictly construed. *Pumphrey v. Stockett*, 187 Md. 318, 49 A.2d 804 (1946).

§ 1-302. Transmittal of document by facsimile.

(a) *In general.* — Except as provided in subsection (b) of this section, the filing of any document specified in this article may be made by electronic facsimile transmittal.

(b) *Exception.* — A document may not be filed by electronic facsimile transmittal if the document is required to contain a signed affidavit. (An. Code 1957, art. 33, § 1-302; 2002, ch. 291, §§ 2, 4.)

§ 1-303. Dissemination of voter registration materials — Apartment buildings.

(a) *“Voter information material” defined.* — In this section, “voter information material” means:

(1) campaign literature that is campaign material under Title 13, Subtitle 4 of this article; or

(2) registration or voting information issued by the State Board or a local board.

(b) *Applicability.* — This section applies only:

(1) in Montgomery County; and

(2) to apartment buildings, condominiums, or other multifamily residential structures where access to the entrance of individual residential units is restricted by the owner or governing board of the entire structure.

(c) *Requirements.* — (1) The owner or governing board of a multifamily residential structure shall designate a public area within the structure where, for the 60-day period immediately prior to each primary election and general election, voter information material may be distributed or deposited.

(2) The designated public area shall be readily accessible to the residents of the structure.

(3) Voter information material deposited in the designated public area shall remain available for residents of the structure for a period of at least 10 days.

(d) *Violations.* — Upon written notification by a person whose rights under this section were violated, the local board shall:

(1) notify the owner or governing board regarding the apparent violation and the requirements of this section; and

(2) request compliance with the requirements of this section. (An. Code 1957, art. 33, § 1-303; 2002, ch. 291, §§ 2, 4.)

§ 1-304. Political restrictions in Montgomery County for individuals in quasi-judicial capacities.

This article does not preempt restrictions on political activities that are:

(1) provided in or authorized by the Montgomery County Charter; and

(2) imposed on any of the following individuals:

(i) an officer or employee of the Montgomery County government who serves in a quasi-judicial capacity; or

(ii) a member of a Montgomery County government board or commission who serves in a quasi-judicial capacity. (An. Code 1957, art. 33, § 1-304; 2002, ch. 291, §§ 2, 4.)

TITLE 2.

POWERS AND DUTIES OF THE STATE AND LOCAL BOARDS.

Subtitle 1. State Board.

- Sec.
2-101. In general.
2-102. Powers and duties [Subject to amendment effective December 1, 2011].
2-103. State Administrator.
2-104. Statewide biennial preelection meeting.
2-105. Judicial proceedings; intervention by State Board.
2-106. Records management.
2-107. Maryland Election Modernization Fund.

Subtitle 2. Local Boards.

- 2-201. Organization.

Sec.

- 2-202. Powers and duties.
2-203. Local government funding.
2-204. Compensation of local board members.
2-205. Counsel to local board.
2-206. Election director.
2-207. Local board employees.

Subtitle 3. Provisions Generally Applicable.

- 2-301. Bar to political activities.
2-302. Hours of business.
2-303. Precincts.

Subtitle 1. State Board.

§ 2-101. In general.

(a) *Membership.* — There is a State Board of Elections consisting of five members.

(b) *Office; staff.* — The State Board shall maintain its principal office in Annapolis and have staff, subject to the State Personnel and Pensions Article, as provided in the State budget.

(c) *Appointment.* — (1) Each member of the State Board shall:

(i) subject to subsection (g)(2) of this section, be appointed by the Governor in accordance with paragraph (2) of this subsection, with the advice and consent of the Senate of Maryland;

(ii) be a registered voter in the State for the 5 years immediately preceding the appointment;

(iii) subject to subsection (f)(3) of this section, be eligible for reappointment;

(iv) conform to the restrictions specified under § 2-301 of this title; and

(v) be subject to removal by the Governor for incompetence, misconduct, or other good cause, upon written charges filed by the Governor with the State Board and after having been afforded notice and ample opportunity to be heard.

(2) Subject to subsection (e) of this section, the Governor shall appoint as a member of the State Board an individual whose name is submitted to the Governor by the State Central Committee of the principal political party entitled to the appointment.

(d) *Oath.* — Before taking office, each appointee to the State Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) *Political party affiliation.* — (1) Each member of the State Board shall be a member of one of the principal political parties.

(2) A person may not be appointed to the State Board if the appointment will result in the State Board having more than three or fewer than two members of the same principal political party.

(f) *Term.* — (1) The term of a member is 4 years and begins on July 1.

(2) The terms of the members are staggered as required by the terms provided for members of the State Board on July 1, 1999.

(3) A member may not serve more than three consecutive terms.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(g) *Vacancy.* — (1) If a vacancy occurs on the State Board, it shall be filled for the remainder of the unexpired term and until a successor is appointed and qualifies.

(2) An appointment made while the Senate of Maryland is not in session shall be considered temporary until the appointee is confirmed by the Senate.

(h) *Chairman.* — Not later than August 1 each year, the State Board shall elect one of its members as chairman.

(i) *Compensation.* — Each member shall receive:

(1) per diem compensation as provided in the State budget for each day that the member is actually engaged in the discharge of official duties, as authorized by the State Board and in accordance with the State budget; and

(2) reimbursement for all necessary and proper expenses, as provided in the State budget. (An. Code 1957, art. 33, § 2-101; 2002, ch. 291, §§ 2, 4; 2005, ch. 4.)

§ 2-102. Powers and duties [Subject to amendment effective December 1, 2011; amended version follows this section].

(a) *In general.* — The State Board shall manage and supervise elections in the State and ensure compliance with the requirements of this article and any applicable federal law by all persons involved in the elections process.

(b) *Specific powers and duties.* — In exercising its authority under this article and in order to ensure compliance with this article and with any requirements of federal law, the State Board shall:

(1) supervise the conduct of elections in the State;

(2) direct, support, monitor, and evaluate the activities of each local board;

(3) have a staff sufficient to perform its functions;

(4) adopt regulations to implement its powers and duties;

(5) receive, and in its discretion audit, campaign finance reports;

(6) appoint a State Administrator in accordance with § 2-103 of this subtitle;

(7) maximize the use of technology in election administration, including the development of a plan for a comprehensive computerized elections management system;

(8) canvass and certify the results of elections as prescribed by law;

(9) make available to the general public, in a timely and efficient manner, information on the electoral process, including a publication that includes the text of this article, relevant portions of the Maryland Constitution, and information gathered and maintained regarding elections;

(10) subject to § 2-106 of this subtitle and § 13-341 of this article, receive, maintain, and serve as a depository for elections documents, materials, records, statistics, reports, certificates, proclamations, and other information prescribed by law or regulation;

(11) prescribe all forms required under this article; and

(12) serve as the official designated office in accordance with the Uniformed and Overseas Citizens Absentee Voting Act for providing information regarding voter registration and absentee ballot procedures for absent uniformed services voters and overseas voters with respect to elections for federal office.

(c) *Majority vote required.* — The powers and duties assigned to the State Board under this article shall be exercised in accordance with an affirmative vote by a supermajority of the members of the State Board. (An. Code 1957, art. 33, § 2-102; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2; 2004, ch. 25; 2006, ch. 61, § 1; 2010, ch. 72, § 5.)

Editor's note. — Pursuant to § 5, ch. 72, Acts 2010, “§ 2-106 of this subtitle and § 13-341 of this article” was substituted for “§§ 2-106 and 13-341 of this article” in (b)(10).

Standing. — In light of the powers and duties conferred upon the former State Administrative Board of Election Laws (now State Board of Elections) by the General Assembly, the State Board had standing to raise equal protection and uniformity issues in the context of individual voter registration issues. *State Admin. Bd. of Election Laws v. Board of Supvrs.*, 342 Md. 586, 679 A.2d 96 (1996).

Purge of inactive voters held unlawful. — An order to purge inactive voters by the former State Administrative Board of Election Laws was held unlawful; at the time of the former Board's order, a purge of inactive registrants was not a permissible method of registration cancellation, and neither could the order be justified on equal protection or

uniformity theories. *State Admin. Bd. of Election Laws v. Board of Supvrs.*, 342 Md. 586, 679 A.2d 96 (1996).

Certification of electronic voting system upheld. — Trial court found that the Maryland State Board of Elections acted reasonably in purchasing and certifying an electronic voting system, namely the Diebold AccuVote-TS direct recording electronic voting system, which was used in the November 2, 2004 elections and, therefore, the trial court did not abuse its discretion in denying challenging voters' and candidates' request for a preliminary injunction to decertify the system. The trial court properly applied an arbitrary and capricious standard of review in assessing the State Board's purchase and certification of the system, noting the deference the State Board was due with regard to the selection and certification of a uniform voting system. *Schade v. Md. State Bd. of Elections*, 401 Md. 1, 930 A.2d 304 (2007).

(Amendment effective December 1, 2011.)

§ 2-102. Powers and duties.

(a) *In general.* — *The State Board shall manage and supervise elections in the State and ensure compliance with the requirements of this article and any applicable federal law by all persons involved in the elections process.*

(b) *Specific powers and duties.* — *In exercising its authority under this article and in order to ensure compliance with this article and with any requirements of federal law, the State Board shall:*

- (1) *supervise the conduct of elections in the State;*
- (2) *direct, support, monitor, and evaluate the activities of each local board;*
- (3) *have a staff sufficient to perform its functions;*
- (4) *adopt regulations to implement its powers and duties;*

(5) receive, and in its discretion audit, campaign finance reports, independent expenditure reports filed under § 13-306 of this article, and electioneering communication reports filed under § 13-307 of this article;

(6) appoint a State Administrator in accordance with § 2-103 of this subtitle;

(7) maximize the use of technology in election administration, including the development of a plan for a comprehensive computerized elections management system;

(8) canvass and certify the results of elections as prescribed by law;

(9) make available to the general public, in a timely and efficient manner, information on the electoral process, including a publication that includes the text of this article, relevant portions of the Maryland Constitution, and information gathered and maintained regarding elections;

(10) subject to § 2-106 of this subtitle and § 13-341 of this article, receive, maintain, and serve as a depository for elections documents, materials, records, statistics, reports, certificates, proclamations, and other information prescribed by law or regulation;

(11) prescribe all forms required under this article; and

(12) serve as the official designated office in accordance with the Uniformed and Overseas Citizens Absentee Voting Act for providing information regarding voter registration and absentee ballot procedures for absent uniformed services voters and overseas voters with respect to elections for federal office.

(c) *Majority vote required.* — The powers and duties assigned to the State Board under this article shall be exercised in accordance with an affirmative vote by a supermajority of the members of the State Board.

(2011, ch. 575.)

Amendment effective December 1, 2011. — Chapter 575, Acts 2011, effective December 1, 2011, added “independent expenditure reports filed under § 13-306 of this article, and electioneering communication reports filed under § 13-307 of this article” in (b)(5).

Editor’s note. — Section 2, ch. 575, Acts 2011, provides that “only independent expenditures or disbursements for an electioneering

communication made after the effective date of this Act shall be considered in determining whether a person has made the aggregate amount of independent expenditures or disbursements for electioneering communications that subjects the person to the requirements of this Act.”

Section 4, ch. 575, Acts 2011, provides that the act shall take effect December 1, 2011.

§ 2-103. State Administrator.

(a) *In general.* — There is a State Administrator of Elections.

(b) *Specific powers and duties.* — The State Administrator shall:

(1) be appointed by the State Board, with the advice and consent of the Senate of Maryland, and serve at the pleasure of the State Board;

(2) receive a salary as provided in the State budget;

(3) as provided in the State budget, employ and supervise:

(i) a deputy administrator, who shall serve as State Administrator in the event the State Administrator resigns, becomes disabled, or dies, pending the appointment of a successor State Administrator; and

(ii) pursuant to the State Personnel and Pensions Article, other staff of the State Board;

(4) supervise the operations of the local boards;

(5) perform all duties and exercise all powers that are assigned by law to the State Administrator or delegated by the State Board;

(6) implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list;

(7) provided the State Board is fully constituted with five duly confirmed members, be subject to removal by the affirmative vote of four duly confirmed members of the State Board for incompetence, misconduct, or other good cause except that:

(i) prior to removal, the State Board shall set forth written charges stating the grounds for dismissal and afford the State Administrator notice and an ample opportunity to be heard; and

(ii) subsequent to a valid vote for removal by at least four duly confirmed members of the State Board, the State Administrator is authorized to continue to serve until a successor is appointed and confirmed by the Senate of Maryland; and

(8) be the chief State election official.

(c) *Oath of office required.* — Before taking office, the appointee to the office of State Administrator shall take the oath required by Article I, § 9 of the Maryland Constitution. (An. Code 1957, art. 33, § 2-103; 2002, ch. 291, §§ 2, 4; 2005, ch. 4; ch. 572, § 1; 2006, ch. 38; ch. 61, § 2.)

Editor's note. — Pursuant to § 7, ch. 61, Acts 2006, the amendments made by this act are deemed to have abrogated on June 30, 2008.

Office generally. — Former office of supervisor of elections was civil office within the meaning of Article II, § 10 of the Maryland Constitution, although General Assembly could abolish office or change mode of appointment. *Riggin v. Lankford*, 134 Md. 146, 105 A. 172 (1919).

Appointment of administrator. — Appellant held, under a prior similar provision, to have been properly appointed by Governor when the Senate was not in session, in place of his nominee rejected by Senate. *Riggin v. Lankford*, 134 Md. 146, 105 A. 172 (1919).

Vacancy. — Power was vested in Governor to fill a vacancy in the former office of supervisor of elections both by statute and by Article II, § 11 of the Maryland Constitution. *Truitt v. Collins*, 122 Md. 526, 89 A. 850 (1914).

§ 2-104. Statewide biennial preelection meeting.

(a) *In general.* — In the year preceding each year in which a primary and general election is to be held throughout the State, the State Board shall conduct a meeting for the members of the local boards.

(b) *Mandatory attendance; exceptions.* — Unless excused by the State Administrator in accordance with regulations of the State Board, the following individuals are required to attend the meeting:

(1) the members, substitute members, counsel, and election director of each local board; and

(2) any other individuals designated by the State Board or a local board to attend the meeting.

(c) *Time; place; purpose.* — (1) The meeting shall be held at a time and place and continue for such period of time as the State Board considers necessary.

(2) The purpose of the meeting is to instruct the members of the local boards, the election directors, the counsel to local boards, and the other employees who are in attendance, concerning their duties in the conduct of elections.

(d) *Reimbursement of expenses.* — Each member, substitute member, election director, counsel, or other employee who is required or authorized to attend the meeting shall be reimbursed by the county government:

(1) for all reasonable expenses for each day that the individual attends the meeting; and

(2) for mileage from the individual's place of residence to the place of meeting and return, in accordance with the Standard State Travel Regulations. (An. Code 1957, art. 33, § 2-104; 2002, ch. 291, §§ 2, 4.)

§ 2-105. Judicial proceedings; intervention by State Board.

In any judicial proceeding in which a local board is a party, the State Board:

(1) immediately after the action has been filed, shall be provided by certified mail by the local board with a copy of the complaint or other pleading that initiated the proceeding; and

(2) may join as a party to the proceeding. (An. Code 1957, art. 33, § 2-105; 2002, ch. 291, §§ 2, 4.)

§ 2-106. Records management.

(a) *In general.* — The State Board and each local board shall maintain and dispose of its public records in accordance with the program for records management adopted by the State Board under Title 10, Subtitle 6, Part IV of the State Government Article.

(b) *Use of record as evidence in court.* — If produced and proved by a representative of the applicable board, a copy of a public record that is certified by and kept under the seal of the principal administrative officer of that board shall be evidence in any court to the same extent as the original record. (An. Code 1957, art. 33, § 2-106; 2002, ch. 291, §§ 2, 4.)

§ 2-107. Maryland Election Modernization Fund.

(a) *Established; characteristics.* — (1) There is a Maryland Election Modernization Fund.

(2) The Fund is established as a continuing fund for programs relating to the federal Help America Vote Act of 2002 and related expenditures.

(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) *Composition.* — The Fund consists of:

- (1) moneys appropriated in the State budget to the Fund;
- (2) moneys otherwise appropriated for the purposes of the Fund, which may be transferred to the Fund by an approved budget amendment; and
- (3) moneys received by the State from the federal government under the federal Help America Vote Act of 2002 or under other federal programs for similar purposes.

(c) *Expenditures.* — Expenditures from the Fund may be made only in accordance with an appropriation for:

- (1) complying with requirements of the federal Help America Vote Act of 2002;
- (2) improving the administration of elections for federal office;
- (3) educating voters regarding voting procedures, voting rights, and voting technology;
- (4) training election officials, poll workers, and election volunteers;
- (5) developing the State plan required by the federal Help America Vote Act of 2002;
- (6) improving, acquiring, leasing, modifying, or replacing voting systems and technology and methods for casting and counting votes;
- (7) improving the quantity and accessibility of polling places, including providing physical access for individuals with disabilities, nonvisual access for individuals with visual impairments, and access for individuals with limited proficiency in the English language;
- (8) establishing toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specific polling place locations, and other relevant information; and
- (9) any other uses that may be allowed for funds received under the federal Help America Vote Act of 2002. (2003, ch. 197.)

Subtitle 2. Local Boards.

§ 2-201. Organization.

(a) *In general.* — (1) There is a county board of elections in each county of the State.

(2) Each local board and its staff is subject to the direction and authority of the State Board and is accountable to the State Board for its actions in all matters regarding the implementation of the requirements of this article and any applicable federal law.

(b) *Membership.* — (1) Except as provided in subsections (j), (k), and (l) of this section, each local board consists of three regular members and two substitute members.

(2) Two regular members and one substitute member shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) Except as provided in subsection (l) of this section, in the event of the absence of a regular member or a vacancy in the office of a regular member, the substitute member of the same political party shall exercise the powers and duties of a regular member until the regular member returns or the vacancy is filled as prescribed in subsection (h) of this section.

(c) *Appointment.* — Each regular and substitute member of a local board shall:

(1) be appointed in accordance with subsection (g) of this section;

(2) be a registered voter in the county for which the individual is appointed for the 5 years immediately preceding the appointment; and

(3) be eligible for reappointment.

(d) *Term.* — (1) The term of a member is 4 years and begins on the first Monday in June of each year following a gubernatorial election.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(e) *Oath.* — Before taking office, a member shall take and subscribe to the oath prescribed in Article I, § 9 of the Maryland Constitution.

(f) *Removal.* — The Governor may remove a member for incompetence, misconduct, or other good cause, upon written charges stating the Governor's grounds for dismissal and after affording the member notice and an ample opportunity to be heard.

(g) *Appointment process.* — (1) The Governor shall request the county central committee representing the majority party or the principal minority party, as appropriate, to submit a list of at least four eligible individuals from which the Governor may make an appointment of a regular member or a substitute member of the local board.

(2) The Governor may reject all of the nominees if the Governor determines them to be unfit or incompetent, in which case the Governor shall notify the State Board in writing and request an additional list of at least four eligible nominees from the county central committee. A third list may be requested in the same manner.

(3) If a list containing the names of four eligible nominees is not submitted within 20 days of a request or if all the nominees on three lists are rejected, the Governor may appoint any eligible person who is a member of the appropriate political party.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, each appointment shall be subject to confirmation by the Senate of Maryland.

(ii) In Caroline, Dorchester, and Kent counties, if there is no resident Senator of the particular county, the confirmation required under subparagraph (i) of this paragraph shall be by the House of Delegates of Maryland.

(iii) If an appointee is rejected, the Governor shall make another appointment from the list or lists submitted under paragraphs (1) and (2) of this subsection. If a list is not provided, or the nominees on three lists are rejected, the Governor may appoint an eligible individual as provided in paragraph (3) of this subsection.

(h) *Filling of vacancies.* — (1) Except as provided in subsections (j), (k), and (l) of this section, if a member of a local board dies, resigns, is removed, or becomes ineligible:

(i) the substitute member belonging to the same political party shall become a regular member of the local board; and

(ii) the Governor shall appoint an eligible person from the same political party to be the new substitute member.

(2) If a substitute member of a local board becomes a regular member as provided in paragraph (1)(ii) of this subsection, dies, resigns, is removed, or becomes ineligible when the confirming legislative body is not in session, the Governor shall appoint an eligible person from the same political party as the predecessor substitute member to fill the vacancy. That individual shall serve until the earlier of:

(i) the adjournment of the next session of the General Assembly; or

(ii) the appointment of another individual to fill the same vacancy.

(i) *President of local board.* — A board shall meet within 20 days after the beginning of the term to elect one of its regular members as president.

(j) *Special provision — Prince George’s County.* — (1) In Prince George’s County, the local board consists of five regular members and three substitute members.

(2) Four regular members and two substitute members shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) If a vacancy occurs on the local board among the members from the majority party, the Governor shall designate one of the substitute members from that party to fill the vacancy.

(k) *Special provision — Montgomery County.* — (1) In Montgomery County, the local board consists of five regular members and two substitute members.

(2) Three regular members and one substitute member shall be of the majority party, and two regular members and one substitute member shall be of the principal minority party.

(l) *Special provisions — For specific counties and Baltimore City.* — (1) In Allegany County, Baltimore City, Caroline County, Charles County, Frederick County, Harford County, Somerset County, Washington County, Wicomico County, and Worcester County, the local board consists of five regular members.

(2) Three regular members shall be of the majority party, and two regular members shall be of the principal minority party.

(3) (i) If a vacancy occurs on the local board, the Governor shall appoint an eligible person from the same political party as the predecessor member to fill the vacancy in accordance with subsection (g) of this section for the remainder of the unexpired term and until a successor is appointed and qualifies.

(ii) An appointment made while the Senate of Maryland is not in session shall be considered temporary until the appointee is confirmed by the Senate. (An. Code 1957, art. 33, § 2-201; 2002, ch. 291, §§ 2, 4; 2007, ch. 79; 2010, ch. 344; 2011, chs. 35, 247, 305, 350, 429.)

Effect of amendments. — Chapter 344, Acts 2010, effective June 6, 2011, substituted “subsections (j), (k), and (l)” for “subsections (j) and (k)” in (b)(1) and the introductory language of (h)(1); in (b)(3) added the exception; added (l); and made related changes.

Chapter 35, Acts 2011, effective June 6, 2011, in (1)(1) added “and Harford County”; and made a related change.

Chapter 247, Acts 2011, effective June 6, 2011, reenacted (a) and (b) without change; in (1)(1) added “and Washington County”; and made a related change.

Chapter 305, Acts 2011, effective June 6, 2011, reenacted (a) and (b) without change; in (1)(1) added “Caroline County, Somerset County” and deleted “and Somerset County” after “Worcester County”; and made a related change.

Chapter 350, Acts 2011, effective June 6, 2011, reenacted (a) and (b) without change; in (1)(1) added “Charles County, Somerset County”

and deleted “and Somerset County” after “Worcester County”; and made a related change.

Chapter 429, Acts 2011, effective June 6, 2011, reenacted (a) and (b) without change; in (1)(1) added “Allegany County, Baltimore City, Charles County, Frederick County, Somerset County” and deleted “and Somerset County” after “Worcester County”; and made a related change.

Editor’s note. — Chapters 35, 247, 305, 350, and 429, Acts 2011, all amended (1)(1). None of the chapters referred to the others, and effect has been given to all. The counties have been arranged in alphabetical order.

§ 2-202. Powers and duties.

(a) *Applicability.* — Except for the City of Baltimore, the provisions of this section do not apply to a municipal corporation in the State in which the municipal or charter elections are regulated by the public local laws of the State or the charter of the municipal corporation.

(b) *Powers and duties.* — Each local board, in accordance with the provisions of this article and regulations adopted by the State Board, shall:

(1) oversee the conduct of all elections held in its county and ensure that the elections process is conducted in an open, convenient, and impartial manner;

(2) pursuant to the State Personnel and Pensions Article, or its county merit system, whichever is applicable, appoint an election director to manage the operations and supervise the staff of the local board;

(3) maintain an office and be open for business as provided in this article, and provide the supplies and equipment necessary for the proper and efficient conduct of voter registration and election, including:

- (i) supplies and equipment required by the State Board; and
- (ii) office and polling place equipment expenses;

(4) adopt any regulation it considers necessary to perform its duties under this article, which regulation shall become effective when it is filed with and approved by the State Board;

(5) serve as the local board of canvassers and certify the results of each election conducted by the local board;

(6) establish and alter the boundaries and number of precincts in accordance with § 2-303 of this title, and provide a suitable polling place for each precinct, and assign voters to precincts;

(7) provide to the general public timely information and notice, by publication or mail, concerning voter registration and elections;

(8) make determinations and hear and decide challenges and appeals as provided by law;

(9) (i) aid in the prosecution of an offense under this article; and

(ii) when the board finds there is probable cause to believe an offense has been committed, refer the matter to the appropriate prosecutorial authority;

(10) maintain and dispose of its records in accordance with the plan adopted by the State Board under § 2-106 of this title; and

(11) administer voter registration and absentee voting for nursing homes and assisted living facilities in accordance with procedures established by the State Administrator, subject to the approval of the State Board.

(c) *Special provision — Garrett County.* — In Garrett County, following each decennial census of the United States, the local board shall:

(1) evaluate the population of the county commissioner districts to determine whether the districts are of substantially equal population; and

(2) recommend to the Garrett County Delegation to the General Assembly any adjustments of the boundaries of those districts that are necessary to maintain districts of substantially equal population. (An. Code 1957, art. 33, § 2-202; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1; 2006, ch. 61, § 1.)

Legislative intent. — The General Assembly did not intend, under a prior similar provision, that local governments should enact election laws, but rather intended that the conduct and regulation of elections be strictly a State function. *County Council v. Montgomery Ass'n*, 274 Md. 52, 333 A.2d 596 (1975).

Orders to local boards. — The supervisory authority of the former State Administrative Board of Election Laws (now State Board of Elections) over local election boards is pervasive: if local boards are engaging in acts or omissions in the conduct of voter registration which violate the legal rights of Maryland citizens possessing the qualifications to vote, the State Board clearly has the authority to issue to the local boards lawful orders that will correct the problem, and may defend the propriety of the order on the ground that the local board's action or omission resulted in denying legal rights to Maryland citizens. *State Admin. Bd. of Election Laws v. Board of Supvrs.*, 342 Md. 586, 679 A.2d 96 (1996).

Local campaign finance regulation. — This article fully occupies the field of campaign finance regulation and addresses both campaign contributions and disclosure of contributions by those doing public business; accordingly, a county may not legislate on these matters. 75 Op. Att'y Gen. 343 (April 4, 1990).

Bribery laws. — A county code prohibition against attempting to influence the vote of any member of the county council by promising future contributions, or threatening to withhold future contributions, would be a proper exercise of the county's power under former Article 40A, § 6-301. 75 Op. Att'y Gen. 343 (April 4, 1990).

Special elections. — If charter counties may impose the additional duties on election boards to conduct special elections for county offices, the requirements, dates, etc., associated with the special elections must be coordinated with the requirements and the election boards' duties under a prior similar version of this article. *Prince George's County v. Board of Supvrs. of Elections*, 337 Md. 496, 654 A.2d 1303 (1995).

Affirmative duty to report violations. — If a local board discovers what it regards as probable cause to believe that there has been a violation of any election law, it has an affirmative duty to cause a prosecution to be instituted by referring the matter to the appropriate prosecutor and to assist him in pursuing any prosecution which he deems appropriate. 62 Op. Att'y Gen. 385 (1977).

Quoted in *Getty v. Carroll County Bd. of Elections*, 399 Md. 710, 926 A.2d 216 (2007).

§ 2-202.1. Regulations; duties regarding alteration of precinct boundaries or locations of polling places.

Abrogated.

Editor's note. — Pursuant to § 7, ch. 61, Acts 2006, this section is deemed to have abrogated on June 30, 2008.

§ 2-203. Local government funding.

Each county shall appropriate the funds essential for the operations of its local board to enable the local board to pay the reasonable expenses incurred by the local board to exercise the powers and perform the duties prescribed for it by law, including:

- (1) personnel expenses, such as compensation, workers' compensation, and unemployment insurance;
 - (2) polling place operation expenses; and
 - (3) supplies and equipment required under § 2-202(b) (3) of this subtitle.
- (An. Code 1957, art. 33, § 2-203; 2002, ch. 291, §§ 2, 4.)

County required to provide sufficient funds. — A county governing body is legally required to provide sufficient funds to enable a local board to sustain the level of service that the local board, with the approval of the State Board, determines to be essential. 76 Op. Att'y Gen. 194 (June 12, 1991).

County commissioners required to make levy to pay indebtedness contracted by supervisors for primary election voting booths, ballots, etc., incurred in accordance with a local law. *Kenneweg v. Allegany County Comm'rs*, 102 Md. 119, 62 A. 249 (1905).

§ 2-204. Compensation of local board members.

(a) *Regular members.* — Each regular member of a local board shall receive the salary and reimbursement of expenses provided in the county budget, but in no event may the annual compensation be less than the following amounts:

- (1) in Allegany County, the amount set by the County Commissioners under Article 24, Title 12, Subtitle 1 of the Code;
- (2) in Anne Arundel County, \$2,400;
- (3) in Baltimore City, \$11,000 for the president and \$10,000 for other regular members;
- (4) in Baltimore County, \$4,000 for the president and \$3,000 for other regular members;
- (5) in Calvert County, \$3,000 and reimbursement for expenses in the performance of their duties;
- (6) in Caroline County, \$3,250 for the president, \$3,000 for other regular members, and reimbursement for expenses incurred in the performance of election duties in accordance with the Standard State Travel Regulations;
- (7) in Carroll County, \$3,000;
- (8) in Cecil County, \$1,250 for the president, \$1,000 for other regular members, and reimbursement for actual expenses incurred in the performance of election activities which occur outside the county;
- (9) in Charles County, \$800;
- (10) in Dorchester County, \$3,000 and expenses as authorized by the County Commissioners;
- (11) in Frederick County, \$5,500 for the president and \$5,000 for other regular members;
- (12) in Garrett County, the amount set by the County Commissioners under Chapter 91 of the Public Local Laws of Garrett County;
- (13) in Harford County, \$2,000 for the president and \$1,700 for other regular members;

(14) in Howard County, \$2,800 for the president and \$2,000 for other regular members;

(15) in Kent County, \$1,500 for the president and \$1,500 for other regular members;

(16) in Montgomery County, \$5,000 for the president and \$4,500 for other regular members;

(17) in Prince George's County, \$5,000 for the president and \$4,500 for other regular members;

(18) in Queen Anne's County, \$1,500 for the president and \$1,200 for other regular members;

(19) in St. Mary's County, \$800;

(20) in Somerset County, \$1,000;

(21) in Talbot County, \$600;

(22) in Washington County, the amount set by the County Commissioners;

(23) in Wicomico County, \$2,400 for the president and \$1,800 for other regular members; and

(24) in Worcester County, \$1,500 for the president and \$1,200 for other regular members.

(b) *Substitute members.* — (1) Consistent with paragraph (2) of this subsection, each substitute member shall be compensated for each day of service as provided in the county budget.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a substitute member shall be compensated at a rate of at least \$25 for each meeting of the local board that the substitute member attends.

(ii) 1. In Calvert County, a substitute member shall be paid at least \$50 for each meeting that the substitute member attends.

2. In Garrett County, a substitute member shall be paid the amount set by the County Commissioners under Chapter 91 of the Public Local Laws of Garrett County.

3. In Kent County, a substitute member shall be paid at least \$50 for each meeting that the substitute member attends. (An. Code 1957, art. 33, § 2-204; 2002, ch. 291, §§ 2, 4; 2005, ch. 79; 2006, ch. 551; 2007, ch. 363; 2009, chs. 79, 80; 2010, ch. 344; 2011, chs. 247, 305, 429.)

Effect of amendments. — Chapters 79 and 80, Acts 2009, effective October 1, 2009, made identical changes. Each added “at least” in (b)(2)(ii)7.

Chapter 344, Acts 2010, effective June 6, 2011, reenacted (a)(20), (a)(23), (a)(24), (b)(1), and (b)(2)(i) without change and repealed (b)(2)(ii)7.

Chapter 247, Acts 2011, effective June 6, 2011, in (a)(22) substituted “the amount set by the County Commissioners” for “\$5,000 for the president and \$4,500 for other regular members”; and deleted (b)(2)(ii)6.

Chapter 305, Acts 2011, effective June 6, 2011, in (a)(6) substituted “\$3,250” for “\$2,750” and “\$3,000” for “\$2,500.”

Chapter 429, Acts 2011, effective June 6, 2011, reenacted (a)(3), (a)(9), and (a)(11) with-

out change; deleted former (b)(2)(ii)1 and (b)(2)(ii)3 and redesignated accordingly.

Editor's note. — Section 2, ch. 551, Acts 2006, provides 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 substitute member of the Baltimore City Board of Elections in office on the effective date of this Act [October 1, 2006], but the provisions of this Act concerning the salary or compensation of the substitute member of the Baltimore City Board of Elections shall take effect at the beginning of the next following term of office.”

Section 3, ch. 363, Acts 2007, provides 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 president and other members of the Frederick County Board of Elections in office on the effective date of this Act [June 1, 2007], but the provisions of this Act concerning the salary or compensation of the president and other members of the Frederick County Board of Elections shall take effect at the beginning of the next following term of office.”

Section 2, chs. 79 and 80, Acts 2009, provides 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 substitute member of the Wicomico County local board of elections in office on the effective date of this Act [October 1, 2009], but the provisions of this Act concerning

the salary or compensation of the substitute member of the Wicomico County local board of elections shall take effect at the beginning of the next following term of office.”

Chapters 247, 305 and 429, Acts 2011, all amended (a). None of the chapters referred to the others, and effect has been given to all, as they affected different portions of (a) or amended it without change. Chapters 247 and 429 both amended (b)(2)(ii). Neither of the chapters referred to the other, and the amendments have been reconciled as follows: Former (b)(2)(ii)1, (b)(2)(ii)3, and (b)(2)(ii)6 have been deleted, and the remainder redesignated accordingly.

§ 2-205. Counsel to local board.

(a) *In general.* — Each local board may appoint or retain as counsel an individual who is:

- (1) a registered voter of its county; and
- (2) admitted to practice law in the State.

(b) *Compensation.* — (1) Except as provided in paragraph (2) of this subsection, the salary of counsel shall be set by the local board in accordance with the county budget.

(2) (i) In Anne Arundel County, the counsel may not be compensated less than the salary of a local board member.

(ii) In Baltimore County, the counsel may not be compensated less than \$2,000 annually.

(iii) In Montgomery County, the counsel shall receive an annual salary of \$2,000.

(iv) In Prince George’s County, the counsel shall receive an annual salary of \$4,500.

(v) In Worcester County, the counsel shall receive an annual salary as provided in the county budget, but not less than \$800.

(c) *Additional compensation.* — In accordance with the county budget and in addition to the compensation specified in subsection (b) of this section, each local board may provide counsel with appropriate additional compensation for services that the local board determines are necessary. (An. Code 1957, art. 33, § 2-205; 2002, ch. 291, §§ 2, 4; 2009, chs. 79, 80; 2010, ch. 72.)

Effect of amendments. — Chapters 79 and 80, Acts 2009, effective October 1, 2009, made identical changes. Each deleted (b)(2)(v) and redesignated accordingly.

Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, added “annually” in (b)(2)(ii).

Editor’s note. — Section 2, chs. 79 and 80, Acts 2009, provides 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 substitute member of the Wicomico County local board of elections in office on the effective date of this Act [October 1, 2009], but the provisions of this Act concerning the salary or compensation of the substitute member of the Wicomico County local board of elections shall take effect at the beginning of the next following term of office.”

Payment for services of counsel. — See *Anne Arundel County Comm’rs v. Melvin*, 107 Md. 533, 69 A. 256 (1908).

§ 2-206. Election director.

Subject to the requirements of this article and the policies and guidance of the local board, the election director may:

- (1) appoint the employees of the local board;
- (2) train judges of election;
- (3) give notice of elections;
- (4) upon the request of an elderly or disabled voter whose polling place is not structurally barrier free, provide an alternate polling place to the voter;
- (5) issue voter acknowledgment notices and voter notification cards;
- (6) receive certificates of candidacy;
- (7) verify petitions;
- (8) in consultation with the local board, conduct the canvass following an election; and

(9) subject to § 9-306 of this article, process and reject absentee ballot applications. (An. Code 1957, art. 33, § 2-206; 2002, ch. 291, §§ 2, 4; ch. 404, § 2; 2004, ch. 19; 2005, ch. 572, § 1; 2006, ch. 61, § 2; 2010, ch. 72.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, deleted “nominating” following “verify” in (7), deleted (8) and redesignated accordingly.

Editor’s note. — Pursuant to § 7, ch. 61, Acts 2006, the amendments made by this act are deemed to have abrogated on June 30, 2008.

§ 2-207. Local board employees.

(a) *Applicability.* — (1) This section applies to each employee of a local board.

- (2) This section does not apply to:
 - (i) local board counsel; or
 - (ii) an election judge.

(b) *Method of funding not effective.* — This section does not alter in any manner the method by which the salary of an employee of a local board is funded by the county in which the employee is employed.

(c) *Personnel system requirements.* — (1) Except as provided in subsection (f) of this section, if the employees of a local board are covered by its county merit system:

- (i) the employees shall be classified employees under the county merit system; and
- (ii) the employees may be appointed and removed subject to the personnel regulations of the county in which the local board is located.

(2) If the employees of a local board are not covered by its county merit system:

- (i) the employees shall be in the skilled service or professional service of the State Personnel Management System;
- (ii) appointment and removal of the employees shall be in accordance with the provisions of the State Personnel and Pensions Article that govern skilled service or professional service employees; and

EL, § 2-301

REGISTRATION AND ELECTION LAWS

(iii) notwithstanding § 4-201 of the State Personnel and Pensions Article, upon recommendation of the State Administrator, the State Board shall determine the fixed rate of compensation of the employees.

(d) *Voter registration required.* — Each classified employee shall be a registered voter of the State.

(e) *Restrictions.* — An employee of a local board is subject to the restrictions and requirements of § 2-301 of this title.

(f) *Prince George's County election director.* — The election director in Prince George's County shall be in the exempt service under the Prince George's County Personnel System. (An. Code 1957, art. 33, § 2-207; 2002, ch. 291, §§ 2, 4; ch. 303, § 2; 2008, ch. 36.)

Effect of amendments. — Chapter 36, Acts 2008, approved April 8, 2008, and effective from the date of enactment, substituted "title" for "article" in (e).

Subtitle 3. Provisions Generally Applicable.

§ 2-301. Bar to political activities.

(a) *Applicability.* — This section applies to:

- (1) a member of the State Board;
- (2) a regular or substitute member of a local board;
- (3) the State Administrator;
- (4) an employee of the State Board or of a local board, including the election director of a board;
- (5) counsel appointed under § 2-205 of this title; and
- (6) an election judge.

(b) *In general.* — (1) An individual subject to this section may not, while holding the position:

(i) hold or be a candidate for any elective public or political party office or any other office created under the Constitution or laws of this State;

(ii) use the individual's official authority for the purpose of influencing or affecting the result of an election; or

(iii) except as provided in paragraph (2) of this subsection, as to any candidate or any matter that is subject to an election under this article:

1. be a campaign manager;
2. be a treasurer or subtreasurer for a campaign finance entity; or
3. take any other active part in political management or a political campaign.

(2) Notwithstanding paragraph (1)(iii) of this subsection, an election judge may engage in the activities of a political campaign, except:

(i) while performing official duties on election day; and

(ii) by serving as a campaign manager for a candidate or as the treasurer for a campaign finance entity. (An. Code 1957, art. 33, §§ 2-301, 13-201(a); 2002, ch. 291, §§ 2, 4; ch. 303, § 2; 2003, ch. 21, § 1; 2006, ch. 61, § 2.)

Editor's note. — Pursuant to § 7, ch. 61, Acts 2006, the amendments made by this act are deemed to have abrogated on June 30, 2008.

§ 2-302. Hours of business.

(a) *State Board.* — (1) The State Board shall be open for business during regular business hours on each State government workday.

(2) The State Board shall remain open until 9 p.m. on the last day for:

(i) the filing of a certificate of candidacy for each election conducted under this article; and

(ii) the close of voter registration prior to each election conducted under this article.

(b) *Local boards.* — (1) Each local board shall be open for business:

(i) on each day that is a county government workday in its county;

(ii) on each election day; and

(iii) until 9 p.m. on the last day for:

1. the filing of a certificate of candidacy for an election conducted in the county, if a certificate can be filed with the local board;

2. the close of voter registration prior to each election held in the county; and

3. the filing of an application by a voter for a change in party affiliation.

(2) The members of each local board shall be available as needed on an election day and during the canvass of each election.

(3) The hours that a local board is open for business:

(i) may be the same as the regular business hours of its county government; or

(ii) for the convenience of the public, may be different from the regular business hours of its county government, except that the number of business hours the office is open each business day must be at least equivalent to the number of business hours that the county government is open. (An. Code 1957, art. 33, § 2-302; 2002, ch. 291, §§ 2, 4.)

§ 2-303. Precincts.

(a) *In general.* — (1) Subject to paragraph (2) of this subsection, as it deems it expedient for the convenience of voters, a local board may:

(i) create and alter the boundaries for precincts in the county;

(ii) designate the location for polling places in any election district, ward, or precinct in the county; and

(iii) combine or abolish precincts.

(2) (i) Except as provided under subparagraph (iii) of this paragraph, a local board shall establish a separate precinct on campus or within one-half mile of the campus to specifically serve a public or private institution of higher education if the local board determines that at least 500 students, faculty, and staff who attend or work at the institution are registered voters in the precinct in which the institution is located.

(ii) If, in accordance with subparagraph (i) of this paragraph, a polling place is established at an institution of higher education that receives State funds, that institution shall:

1. provide without charge to the local board a facility for use as a polling place that meets all applicable requirements under this article and as established by the State Board; and

2. provide assistance to the local board in recruiting election judges to staff the polling place.

(iii) A local board may not be required to establish a separate precinct as provided under subparagraph (i) of this paragraph if there is an established precinct within one-half mile of the public or private institution of higher education's campus that serves the voters who attend or work at the public or private institution of higher education.

(b) *Period in which changes may not be made.* — Except as provided in subsection (e) of this section, a local board may not create or change a precinct boundary or polling place during the period beginning the Tuesday that is 13 weeks prior to a primary election, through the day of the general election.

(c) *Boundaries.* — Any precinct boundary established by a local board subsequent to July 1, 1987 shall follow visible features as defined by the Bureau of the Census, United States Department of Commerce.

(d) *Notice of change.* — Within 5 days of creating a new precinct or changing a precinct boundary, a local board shall send to the State Administrator a written description of the new boundary and a map of the area involved.

(e) *Changes before and after decennial census.* — (1) Unless the action is approved in advance by the State Administrator, during the period January 1, in the second year preceding the decennial census, through the effective date of any redistricting based on the census, a local board may not create a new precinct or change a precinct boundary.

(2) Upon receipt of the written description and map relating to a precinct boundary established during the period described in paragraph (1) of this subsection, the State Administrator shall immediately forward the documents to the Secretary of the Department of Planning and the Executive Director of the Department of Legislative Services.

(f) *Emergency changes.* — Notwithstanding any restrictions imposed by this section, subject to the approval of the State Board, a local board may create a new precinct or change a precinct boundary or polling place if the local board determines that an emergency exists.

(g) *Regulations.* — (1) The regulations adopted by the State Board shall include procedures for the creation of new precincts and changes to precinct boundaries or polling places.

(2) A local board may create a new precinct or make a change in a precinct boundary or polling place only in accordance with regulations adopted by the State Board. (An. Code 1957, art. 33, § 2-303; 2002, ch. 291, §§ 2, 4; 2003, ch. 380; 2006, ch. 61, § 1; 2008, ch. 36.)

Effect of amendments. — Chapter 36, Acts 2008, approved April 8, 2008, and effective from the date of enactment, substituted “subsection” for “section” and made a minor, stylistic change in (a)(1).

Quoted in *Getty v. Carroll County Bd. of Elections*, 399 Md. 710, 926 A.2d 216 (2007).

TITLE 3.

VOTER REGISTRATION.

<i>Subtitle 1. Registration — Generally.</i>	Sec.	(a) In general.
Sec.		(b) Universal registration.
3-101. Statewide voter registration list.		(c) Voter registry.
3-102. Qualifications for voter registration.	3-402. Applicability.	
<i>Subtitle 2. Methods of Application.</i>	3-403. Municipal registration procedure.	
3-201. Applying to register to vote.	<i>Subtitle 5. Statewide Voter Registration List.</i>	
3-202. Voter registration applications.	3-501. Removal of voters from registry.	
3-203. Application for registration at Motor Vehicle Administration.	3-502. Change of address information; procedures.	
3-204. Application for registration at voter registration agency.	3-503. Inactive list.	
3-204.1. Online voter registration system.	3-504. Information from other agencies; death verification and removal from statewide voter registration list.	
3-205. Certain acts by voter registration volunteers or individuals assisting others to register prohibited.	3-505. Retention of voter registration records.	
<i>Subtitle 3. Administration of Registration.</i>	3-506. Copies of list.	
3-301. Processing voter registration applications.	3-507. [Redesignated].	
3-302. Registration closing.	3-508, 3-509. [Repealed].	
3-303. Change of party affiliation or to or from a decline.	<i>Subtitle 6. Resolution of Registration Disputes and Challenges.</i>	
3-304. Change of name or address.	3-601. [Repealed].	
<i>Subtitle 4. Municipal Registration.</i>	3-601.1. Clerical error.	
3-401. Definitions.	3-602. Administrative complaint.	
	3-603. [Repealed].	

Subtitle 1. Registration — Generally.

§ 3-101. Statewide voter registration list.

- (a) *Established.* — There shall be a statewide voter registration list.
- (b) *Contents.* — The statewide voter registration list shall:
- (1) be the official voter registration list for the State;
 - (2) contain the name and other information for every legally registered voter in the State;
 - (3) allow each local board to obtain immediate electronic access to the information contained in the list;
 - (4) be coordinated with other agency databases in the State;
 - (5) be used to produce precinct registers for use in polling places on election day; and
 - (6) include voting history information on a current basis for a period covering at least the 5 preceding years.
- (c) *Responsibilities of State Administrator.* — The State Administrator shall:
- (1) define, maintain, and administer the statewide voter registration list;
 - (2) with the local boards, ensure the currency and accuracy of each individual voter's registration record;
 - (3) instruct the local boards on:
 - (i) processing voter registration applications and name and address changes;

(ii) entering voter registration information into the statewide voter registration list; and

(iii) removing from the statewide voter registration list information about voters who are no longer eligible to be registered voters; and

(4) subject to relevant federal law and to regulations adopted by the State Board, establish and conduct a program to identify voters who have changed their addresses.

(d) *Time for registration.* — Registration shall be conducted continuously under the supervision of the State Administrator and in accordance with the provisions of this title, applicable federal law, and regulations adopted by the State Board.

(e) *Data necessary to maintain accurate voter registration list.* — (1) A State agency shall provide any data to the State Board that the State Administrator determines is necessary to maintain an accurate statewide voter registration list.

(2) Subject to paragraph (3) of this subsection, the State Board may not disclose data provided under paragraph (1) of this subsection except as provided in Title 10, Subtitle 6, Part III of the State Government Article.

(3) (i) The State Board may enter into agreements with other states to exchange any data that the State Administrator determines is relevant to maintaining accurate voter registration lists.

(ii) The State Board may exchange data that is not subject to public disclosure under Title 10, Subtitle 6, Part III of the State Government Article with other persons as the State Administrator determines is necessary for the sole purpose of maintaining accurate voter registration lists.

(iii) A person who receives data that is not subject to public disclosure under Title 10, Subtitle 6, Part III of the State Government Article under this paragraph may not use or redisclose that data except for the purpose of maintaining accurate voter registration lists.

(f) *Length of registration.* — A registered voter:

(1) shall remain registered when the voter moves to another county in the State; and

(2) may not be required to register again unless the voter's registration is canceled in accordance with Subtitle 5 of this title. (2005, ch. 572, § 1; 2010, ch. 72; 2011, chs. 288, 289.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, substituted “voters; and” for “voters” in (c)(3)(iii), and substituted “subject” for “Subject” in (c)(4).

Chapters 288 and 289, Acts 2011, effective June 1, 2011, made identical changes. Each added (e) and redesignated accordingly.

Editor's note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, repealed former § 3-101 and enacted a new section in lieu thereof.

Section 2, chs. 288 and 289, Acts 2011, provides that

“(a) In this section, ‘fully automated voter

registration system’ means a voter registration system at the Motor Vehicle Administration that:

“(1) eliminates the use of paper voter registration forms by requiring each applicant who wishes to register to vote or update a voter registration record during a driver's license or identification card transaction or other transaction to electronically submit all the information required to register or update the applicant's registration at the time of the transaction; and

“(2) transmits the information submitted under item (1) of this subsection electronically directly to elections officials.

“(b) The State Board of Elections and the Motor Vehicle Administration shall jointly submit a report to the House Committee on Ways and Means, Senate Education, Health, and Environmental Affairs Committee, House Appropriations Committee, and Senate Budget and Taxation Committee by October 1, 2011, concerning actions taken and plans made to implement a fully automated voter registration system at the Motor Vehicle Administration.

“(c) The report submitted under this section shall include:

“(1) a detailed timeline for complete implementation of a fully automated voter registration system at the Motor Vehicle Administration;

“(2) a detailed estimate of the fiscal impact of implementing a fully automated voter registration system; and

“(3) any other issues relating to the implementation of a fully automated voter registration system that the State Board of Elections and the Motor Vehicle Administration consider relevant.”

University of Baltimore Law Review. — For comment, “Rights of the Maryland Probationer: A Primer for the Practitioner,” see 11 U. Balt. L. Rev. 272 (1982).

University of Baltimore Law Forum. — For article, “Statutory Construction and the Right to Vote,” see 20.1 U. Balt. Law Forum 6 (1990).

Scope of authority. — Under a prior, similar section, privilege to vote in a state is within jurisdiction of state itself, to be exercised as the state may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals, in violation of the federal Constitution. *Drueding v. Devlin*, 234 F. Supp. 721 (D. Md. 1964).

Registration to be permanent. — Under a prior, similar section, an order to purge inactive voters by the former State Administrative Board of Election Laws was held unlawful; at the time of the State Board’s order, a purge of inactive registrants was not a permissible method of registration cancellation.

Voters deemed registered. — Under a prior, similar section, a voter who has been deleted from a municipal corporation’s registration list pursuant to the municipal corporation’s town charter provision which purges voters who failed to vote in the five preceding calendar years, but who has voted in a State or county election and thus was not removed from the county registration list pursuant to § 3-20 of former Article 33, “shall be deemed” to be registered for elections in the municipal corporation.

Cited in *Nader For President 2004 v. Md. State Bd. of Elections*, 399 Md. 681, 926 A.2d 199 (2007).

§ 3-102. Qualifications for voter registration.

(a) *In general.* — (1) Except as provided in subsection (b) of this section, an individual may become registered to vote if the individual:

(i) is a citizen of the United States;

(ii) is at least 16 years old;

(iii) is a resident of the State as of the day the individual seeks to register; and

(iv) registers pursuant to this title.

(2) Notwithstanding paragraph (1)(ii) of this subsection, an individual under the age of 18 years:

(i) may vote in a primary election in which candidates are nominated for a general or special election that will occur when the individual is at least 18 years old; and

(ii) may not vote in any other election.

(b) *Exceptions.* — An individual is not qualified to be a registered voter if the individual:

(1) has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction;

(2) is under guardianship for mental disability and a court of competent jurisdiction has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process; or

(3) has been convicted of buying or selling votes. (An. Code 1957, art. 33, § 3-102; 2002, ch. 291, §§ 2, 4; chs. 304, 305; 2005, ch. 572, § 1; 2007, ch. 159, § 2; 2010, chs. 203, 204, 270, 271.)

Effect of amendments. — Chapters 203 and 204, Acts 2010, effective June 1, 2010, made identical changes. Each added “and a court of competent jurisdiction has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process” in (b)(2).

Chapters 270 and 271, Acts 2010, effective June 1, 2010, made identical changes. Each added the (a)(1) designation and redesignated accordingly; rewrote (a)(1)(ii); and added (a)(2).

Constitutionality. — The requirements of a prior similar provision were not so unreasonable that they amounted to an irrational or unreasonable discrimination. *Drueding v. Devlin*, 234 F. Supp. 721 (D. Md. 1964), *aff’d*, 380 U.S. 125, 85 S. Ct. 807, 13 L. Ed. 2d 792 (1965).

The several states may impose age, residence and other requirements, so long as such requirements do not discriminate against any class of citizens by reason of race, color or other invidious ground and are not so unreasonable as to violate the equal protection clause of the Fourteenth Amendment. *Drueding v. Devlin*, 234 F. Supp. 721 (D. Md. 1964), *aff’d*, 380 U.S. 125, 85 S. Ct. 807, 13 L. Ed. 2d 792 (1965).

Defining a resident as a domiciliary for registration purposes excludes a mere property owner and is not unconstitutional. *Reeder v. Board of Supvrs. of Elections*, 269 Md. 261, 305 A.2d 132 (1973).

Purpose of section. — The purpose of a prior similar provision was: (1) identifying the voter, and as a protection against fraud; and (2) to ensure that the voter would become in fact a member of the community, and as such have a common interest in all matters pertaining to its government. *Drueding v. Devlin*, 234 F. Supp. 721 (D. Md. 1964), *aff’d*, 380 U.S. 125, 85 S. Ct. 807, 13 L. Ed. 2d 792 (1965).

Exceptions. — The penalty of disenfranchisement is one specifically recognized by the Fourteenth Amendment. *Thiess v. State Admin. Bd. of Election Laws*, 387 F. Supp. 1038 (D. Md. 1974).

Total population figures may be used as the basis for redistricting. — The Maryland Constitution requires that a person be a United States citizen and a citizen of Maryland to vote in a State election. However, the use of total population figures as the basis for State legislative redistricting does not violate the one person-one vote requirement of the Fourteenth Amendment. 94 Op. Att’y Gen. 125 (July 2, 2009).

Citizenship requirement. — In order to be

registered to vote, an individual must be a citizen of the United States, under (a)(1) of this section. Thus, § 8-207(a) of the Courts Article requires indirectly, among other qualifications, that jurors be citizens of the United States. *Owens v. State*, 399 Md. 388, 924 A.2d 1072 (2007), *cert. denied*, 128 S. Ct. 1064, 2008 U.S. LEXIS 1009, 169 L. Ed. 2d 813 (U.S. 2008).

Residency requirement. — An unmarried man, a clerk on a steamboat, who sleeps on the boat, is not entitled to register in home port of vessel. *Howard v. Skinner*, 87 Md. 556, 40 A. 379 (1898).

Person claiming place where he conducted saloon and restaurant, and slept in room above same, as his residence was held to be resident of precinct where saloon was located within meaning of election laws. *Hill v. Board of Registry*, 171 Md. 653, 187 A. 869 (1937).

A person who once lived in a ward is entitled to register and vote there until he acquires a residence in another place. *Jones v. Skinner*, 87 Md. 560, 40 A. 381 (1898).

Residents on grounds of the National Institutes of Health, a federal enclave in Montgomery County, are qualified to vote in Maryland elections, and it violates the Fourteenth Amendment to the Constitution of the United States to deny them that right. *Evans v. Cornman*, 398 U.S. 419, 90 S. Ct. 1752, 26 L. Ed. 2d 370 (1970).

A nonresident of a county was not entitled to register as a voter for local issues or offices there or otherwise. *Reeder v. Board of Supvrs. of Elections*, 269 Md. 261, 305 A.2d 132 (1973).

There is no intrinsic reason why a person may not maintain a fixed, present domicile in a place without a conventional dwelling, and such a residence, however unconventional it may be, satisfies the purposes of the constitutional residency requirement; it deters fraud by linking the person to a particular locale, and a person who really does maintain a fixed domicile in an out-of-doors location is as much a member of the community as the citizens of the community who are fortunate enough to have housing. 69 Op. Att’y Gen. 138 (1984).

Requirement of a residential address in order to register to vote would effectively be imposing an additional qualification for voting: occupancy of a dwelling with mail service. The Maryland Constitution does not require that particular form of residence, and the General Assembly may not enlarge upon constitutional qualifications. 69 Op. Att’y Gen. 138 (1984).

Homeless citizen must provide a mailing address as a prerequisite to registration; however, the address of an institution at which the voter

regularly picks up mail would suffice. 69 Op. Att’y Gen. 138 (1984).

An individual who owns and sometimes occupies residential property in a city may register to vote in that county only if that individual has elected to make the city his or her primary residence. 89 Op. Att’y Gen. 166 (Sept. 13, 2004).

Mailing address other than residence. — Other methods of verifying continued residence and the severe penalty for false registration indicate that the General Assembly did not intend to disenfranchise all voters whose mailing address is at a place other than their residences. 69 Op. Att’y Gen. 138 (1984).

“Infamous crimes.” — All felonies are to be considered infamous for purposes of this section. 58 Op. Att’y Gen. 301 (1973).

In view of the currently existing “laundry list” of infamous crimes issued by the Attorney General of Maryland, the phrase “infamous crimes” is not so vague as to offend notions of fair notice, nor does it fail to provide reasonably clear guidelines for law enforcement officials and triers of fact. *Thiess v. State Admin. Bd. of Election Laws*, 387 F. Supp. 1038 (D. Md. 1974).

For discussion of what factors to consider in determining whether an “infamous crime” has been committed, see 60 Op. Att’y Gen. 245 (1975).

For nonexhaustive index issued by Attorney General of offenses that, under Maryland law, are “infamous crimes,” see 67 Op. Att’y Gen. 176 (1982).

Perjury is “infamous crime.” — Perjury is infamous crime subjecting one to disenfranchisement. *Hourie v. State*, 53 Md. App. 62, 452 A.2d 440 (1982), *aff’d*, 298 Md. 50, 467 A.2d 1016 (1983).

Providing false information on State tax return is “infamous crime.” — Conviction for willfully providing false information on State tax return in violation of former Article 81, § 221 (now see § 13-1024 of the Tax - General Article) constitutes conviction of an “infamous crime” within the meaning of a prior similar version of this section so as to disqualify person so convicted from continued registration as a qualified voter. 67 Op. Att’y Gen. 176 (1982).

Common law simple assault is not “infamous crime.” — Because common law simple assault is neither a felony nor an “infamous crime” under Maryland law, the defendant did not lose his right to vote as a result of his

assault conviction; however, he lost his right to sit on a jury because of the assault conviction. *United States v. Hassan El*, 5 F.3d 726 (4th Cir. 1993), cert. denied, 511 U.S. 1006, 114 S. Ct. 1374, 128 L. Ed. 2d 50 (1994).

Convicted of theft or other infamous crime. — A voter should not be disqualified during a period in which the sentence is suspended pending the outcome of an appeal. 60 Op. Att’y Gen. 245 (1975).

The criminal proceeding in which there is adjudication of guilt and sentencing is the “conviction” for purposes of a prior similar provision. *State v. Broadwater*, 317 Md. 342, 563 A.2d 420 (1989).

Registration requirement. — Registration is not one of the qualifications for voting but is a mechanism for evidencing which voters have the requisite qualifications. *Board of Supvrs. of Elections v. Goodsell*, 284 Md. 279, 396 A.2d 1033 (1979).

Because the five-year registration requirement for County Executive set forth in the Prince George’s County charter fails to withstand the applicable strict scrutiny standard, it discriminates against those county residents who are registered for a lesser period of time, in violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution and the due process clause, article 24 of the Maryland Declaration of Rights. *Board of Supvrs. of Elections v. Goodsell*, 284 Md. 279, 396 A.2d 1033 (1979).

Person previously convicted of a felony can be a qualified voter. — There is no basis in a prior similar provision for concluding that any ex-convict who merely attempts to register will put himself in jeopardy of prosecution. *Thiess v. State Admin. Bd. of Election Laws*, 387 F. Supp. 1038 (D. Md. 1974).

One must be a qualified and registered voter in order to vote and to serve in an elective office; in order to be registered as a qualified voter an individual may register, even if previously convicted of a felony, so long as there is only one such conviction and the entire sentence for such conviction has been fully served. *United States v. Slatkin*, 984 F. Supp. 916 (D. Md. 1995).

Applied in *Owens v. State*, 170 Md. App. 35, 906 A.2d 989 (2006), *aff’d*, 924 A.2d 1072, 2007 Md. LEXIS 461 (Md. 2007).

Cited in *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 832 A.2d 214 (2003); *Nader For President 2004 v. Md. State Bd. of Elections*, 399 Md. 681, 926 A.2d 199 (2007).

Subtitle 2. Methods of Application.

§ 3-201. Applying to register to vote.

- (a) *In general.* — An individual may apply to become a registered voter:
- (1) at a local board office or the State Board office;

- (2) at a registration site administered by a local board;
- (3) by mail;
- (4) when applying to the Motor Vehicle Administration for the issuance, renewal, or modification of a driver's license or identification card;
- (5) when applying for services at a voter registration agency;
- (6) through the State Board's online voter registration system; or
- (7) with the assistance of a volunteer authorized by the State or local board.

(b) *Volunteer*. — An individual who is at least 18 years old or will be 18 years old on or before the day of the next succeeding general or special election may be a volunteer under subsection (a)(7) of this section. (An. Code 1957, art. 33, § 3-201; 2002, ch. 291, §§ 2, 4; 2005, ch. 569; 2011, chs. 292, 293.)

Effect of amendments. — Chapters 292 and 293, Acts 2011, effective June 1, 2011, redesignated accordingly; in (b) substituted “subsection (a)(7)” for “subsection (a)(6)”; and made identical changes. Each added (a)(6) and made related changes.

§ 3-202. Voter registration applications.

(a) *Statewide voter registration application*. — (1) The statewide voter registration application shall:

- (i) require the signature of the applicant, subject to the penalties of perjury, by which the applicant swears or affirms that the information contained in the registration application is true and that the applicant meets all of the qualifications to become a registered voter;
- (ii) state the penalties for the submission of a false application; and
- (iii) provide the applicant with the opportunity to cancel a current registration.

(2) The following information shall be made available to each applicant who is completing a statewide voter registration application:

- (i) the qualifications to become a registered voter;
- (ii) if an individual declines to register, this fact will remain confidential and be used only for voter registration purposes;
- (iii) if an individual registers to vote, the office at which the application is submitted will remain confidential and will be used only for voter registration purposes; and
- (iv) notification to the applicant that submission of the form to an individual other than an official, employee, or agent of a local board does not assure that the form will be filed or filed in a timely manner.

(3) The statewide voter registration application may not require:

- (i) notarization or other formal authentication; or
- (ii) any additional information, other than the information necessary to enable election officials to determine the eligibility of the applicant and to administer voter registration and other parts of the election process.

(4) (i) A statewide voter registration application shall be produced exclusively by the State Board.

(ii) No other registration form may be used for registration purposes except:

1. a voter registration application produced by a local board with the approval of the State Board;
2. as provided in subsection (b) of this section;
3. as provided in § 3-203(b) of this subtitle;
4. any other form prescribed by federal law for voter registration; or
5. a federal write-in absentee ballot if used by a voter authorized to vote a federal write-in absentee ballot under federal law.

(b) *National voter registration application.* — The voter registration application form prescribed pursuant to the National Voter Registration Act of 1993 shall be accepted by the appropriate election official for purposes of voter registration.

(c) *Change of name, address, or party affiliation using voter registration applications.* — The application described in this section may be used by a registered voter to change the voter's name, address, or party affiliation. (An. Code 1957, art. 33, § 3-202; 2002, ch. 291, §§ 2, 4; 2004, ch. 19; 2006, ch. 354.)

University of Baltimore Law Review. — For article, "Federal Jurisdiction Over Local Vote Fraud," see 13 U. Balt. L. Rev. 1 (1983).

§ 3-203. Application for registration at Motor Vehicle Administration.

(a) *Opportunity for registration.* — The Motor Vehicle Administration shall provide the opportunity to apply to register to vote or update a voter registration record to each individual who:

- (1) applies for or renews a driver's license or identification card; or
- (2) changes a name or address on an existing driver's license or identification card.

(b) *Oral or written inquiry; procedures upon registration or declination.* — (1) The Motor Vehicle Administration shall inquire orally or in writing whether the applicant wishes to register to vote or update a voter registration record during the transactions specified under subsection (a) of this section.

(2) If the applicant chooses to register to vote or to update a voter registration record:

(i) all applicable information received by the Motor Vehicle Administration in the course of completing a transaction under subsection (a) of this section shall be transferred to a voter registration application;

(ii) any additional necessary information shall be obtained by the Motor Vehicle Administration and may not duplicate any information already obtained while completing a transaction under subsection (a) of this section; and

(iii) a voter registration application with all of the applicant's voter registration information shall be presented to the applicant to sign or affirm electronically.

(3) (i) An applicant may decline to register to vote, update the applicant's voter registration record, or change the applicant's name or address by:

1. affirmatively indicating as such on the application; or
2. failing to sign the voter registration application.

(ii) The Motor Vehicle Administration shall maintain declination information in a manner specified jointly by the Motor Vehicle Administration and the State Board.

(4) Within 5 days of the receipt of an application under subsection (a) of this section, the Motor Vehicle Administration shall forward to the State Board the voter registration information in a manner and format specified jointly by the Motor Vehicle Administration and the State Board.

(c) *Application; content.* — (1) (i) In consultation with the Motor Vehicle Administration, the State Board shall prepare a voter registration application to be used for voter registration at the Motor Vehicle Administration.

(ii) Except as provided in this section, the voter registration portion of the application may not require information that duplicates information required in the driver's license or identification card portion of the application.

(2) The voter registration portion of the application shall:

(i) contain the same information as the statewide voter registration application prescribed in § 3-202(a) of this subtitle; and

(ii) require only the minimum amount of information necessary, including the applicant's telephone number:

1. to prevent duplicate voter registration; and

2. to enable the appropriate election official to assess the eligibility of an applicant and to administer voter registration and other aspects of the election process.

(3) The application shall contain a box for the applicant to check, with the statement, "I do not wish to register to vote at this time".

(d) *Driver's license renewal or change of name or address.* — The Motor Vehicle Administration shall follow the procedures established jointly by the Motor Vehicle Administration and the State Board to process the voter registration information received under this section.

(e) *Failure to register to vote.* — Information relating to the failure of an applicant for a driver's license or identification card to register to vote may not be used for any purpose other than the maintenance of registration statistics. (An. Code 1957, art. 33, § 3-203; 2002, ch. 291, §§ 2, 4; 2004, ch. 19.)

§ 3-204. Application for registration at voter registration agency.

(a) *Designation.* — (1) The State Board shall designate public agencies and nongovernmental agencies as voter registration agencies where qualified individuals may apply to register to vote.

(2) The State Board shall designate the following offices as voter registration agencies:

(i) all offices in the State that provide public assistance;

(ii) all offices in the State that provide State-funded programs primarily engaged in providing services to individuals with disabilities; and

(iii) all public institutions of higher education in the State.

(3) The State Board and the Secretary of Defense shall jointly develop and implement procedures for persons to apply to register to vote at recruitment

offices of the armed forces of the United States, which shall be deemed voter registration agencies.

(b) *Duties of agencies; registration documents.* — Except for a public institution of higher education in the State, which institution shall comply with the requirements of subsection (c) of this section, each voter registration agency, as provided in subsection (a)(2) and (3) of this section, shall:

(1) distribute a voter registration application approved by the State Board or the Federal Election Commission with each application for service or assistance it renders and with each recertification, renewal, or change of address form relating to such service or assistance;

(2) provide a document to prospective registrants that includes:

(i) the question, “If you are not registered to vote where you live now, would you like to apply to register to vote here today?”;

(ii) if the agency provides public assistance, the statement, “Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.”;

(iii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote together with the statement (in close proximity to the boxes and in prominent type), “If you do not check either box, you will be considered to have decided not to register to vote at this time.”;

(iv) the statement, “If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.”;

(v) the statement, “If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the State Board of Elections.”; and

(vi) the address and toll free telephone number of the State Board;

(3) provide each applicant who does not decline to register to vote and who accepts assistance the same degree of assistance with regard to completion of the registration application as is provided by the office with regard to the completion of its own applications, unless the applicant refuses such assistance; and

(4) accept the completed voter registration application for transmittal to the appropriate election board.

(c) *Registration application provided by a public institution of higher education.* — At the time that an individual enrolls, registers, or pays for course work provided by a public institution of higher education in the State, the institution shall provide the individual with an opportunity to request a voter registration application. If the individual requests a voter registration application, the institution shall provide, or cause to be provided, an application to the individual.

(d) *Return of registration application by applicant.* — An applicant may mail the voter registration application to the appropriate State election official or return it to the voter registration agency for transmittal to the appropriate election official.

EL, § 3-204.1

REGISTRATION AND ELECTION LAWS

(e) *Forwarding of registration application to election officials.* — Within 5 days from the acceptance of a voter registration application, the voter registration agency shall forward the application to the appropriate State election official.

(f) *Individuals with disabilities.* — If a voter registration agency is an office described in subsection (a)(2)(ii) of this section, which provides services to an individual with a disability at the individual's home, the agency shall provide the services described in subsection (b) of this section at the individual's home.

(g) *Conduct of service providers.* — (1) An individual who provides any service described in subsection (b) of this section may not:

(i) seek to influence an applicant's political preference or party registration;

(ii) display any political preference or party allegiance; or

(iii) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(2) No information relating to a declination to register to vote in connection with an application made at an office designated as a voter registration agency may be used for any purpose other than the maintenance of voter registration statistics.

(3) Notwithstanding § 3-501 of this title and § 10-611 of the State Government Article, the identity of a voter registration agency through which a particular voter has registered may not be disclosed to the public.

(h) *Regulations.* — Regulations necessary to carry out the requirements of this section and § 3-203 of this subtitle, including provisions for training the employees of voter registration agencies and the Motor Vehicle Administration, shall be adopted by the State Board in cooperation with each agency. (An. Code 1957, art. 33, § 3-204; 2002, ch. 291, §§ 2, 4; 2005, ch. 25, § 1.)

§ 3-204.1. Online voter registration system.

(a) *In general.* — The State Board may operate an online voter registration system that allows an individual to electronically:

(1) apply to become a registered voter; or

(2) change the individual's name, address, or party affiliation in the individual's existing voter registration record.

(b) *Procedure — Registration.* — To apply to register to vote through the online voter registration system, an individual shall:

(1) complete the electronic voter registration application;

(2) affirmatively attest, subject to the penalties of perjury, that the information contained in the voter registration application is true and that the applicant meets all of the qualifications to become a registered voter;

(3) provide one of the following:

(i) a Maryland driver's license number or Maryland identification card number; or

(ii) if the individual is an absent uniformed services voter or overseas voter as defined in the federal Uniformed and Overseas Citizens Absentee

Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number; and

(4) affirmatively consent to the use of one of the following as the individual's signature for the application being submitted:

(i) the electronic copy of the individual's signature that is on file with the Motor Vehicle Administration; or

(ii) the individual's Social Security number.

(c) *Procedure — Changes to existing registration.* — To change an individual's name, address, or party affiliation in the individual's existing voter registration record, an individual shall:

(1) complete the electronic voter registration application;

(2) affirmatively attest, subject to the penalties of perjury, that the information contained in the voter registration application is true and that the applicant meets all of the qualifications to be a registered voter;

(3) provide one of the following:

(i) a Maryland driver's license number or Maryland identification card number;

(ii) a Maryland voter identification number on the individual's voter notification card; or

(iii) if the individual is an absent uniformed services voter or overseas voter as defined in the federal Uniformed and Overseas Citizens Absentee Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number; and

(4) affirmatively consent to the use of one of the following as the individual's signature for the application being submitted:

(i) the electronic copy of the individual's signature that is on file with the Motor Vehicle Administration;

(ii) the electronic copy of the individual's signature that is on file in the statewide voter registration list; or

(iii) the individual's Social Security number.

(d) *Duties of Motor Vehicle Administration.* — The Motor Vehicle Administration shall transmit an electronic copy of an individual's driver's license or identification card signature to the State Board within 5 days of being notified by the State Board that the individual submitted a voter registration application through the online voter registration system.

(e) *Additional powers of State Board; regulations.* — The State Board may:

(1) take any additional measures it deems necessary to ensure the integrity and accuracy of voter registration applications submitted through the online voter registration system; and

(2) adopt any regulations necessary to administer the online voter registration system. (2011, chs. 292, 293.)

Editor's note. — Section 2, chs. 292 and 293, Acts 2011, provides that the acts shall take effect June 1, 2011.

§ 3-205. Certain acts by voter registration volunteers or individuals assisting others to register prohibited.

A voter registration volunteer or any individual assisting another individual to register to vote may not:

(1) copy or collect the following information contained on a voter registration application:

- (i) Maryland driver's license number;
- (ii) Maryland identification number;
- (iii) Social Security number; or

(iv) other information from a voter registration application that is protected from public disclosure;

(2) use any voter registration information for a purpose inconsistent with § 3-507 of this title; and

(3) receive any form of compensation, including bonuses, that is based on the number of voter registration applications collected. (2006, ch. 354.)

Subtitle 3. Administration of Registration.

§ 3-301. Processing voter registration applications.

(a) *Receipt of registration applications by local boards.* — When a voter registration application is received by a local board, the local board shall:

(1) if the applicant resides in the county of the local board, determine whether the applicant is qualified to become a registered voter; or

(2) if the applicant resides in a different county in the State, immediately forward the application to the proper county.

(b) *Qualified applicants.* — The information contained in the voter registration application for a qualified applicant shall be electronically entered into the statewide voter registration list on an expedited basis at the time voter registration information is provided to the local board and shall be assigned to the county in which the applicant resides unless registration is closed pursuant to § 3-302 of this subtitle.

(c) *Notification of voters.* — (1) The election director in the county where an applicant resides shall send a voter acknowledgment notice, in a format prescribed by the State Board, to each applicant informing the applicant whether he or she is qualified to become registered, and, if not qualified, the reasons why.

(2) (i) A voter notification card sent to a qualified applicant may serve as a voter acknowledgment notice.

(ii) 1. The voter notification card shall contain the name and address of the voter, the date of issue, and the district or ward and precinct of the voter.

2. The card is evidence that the individual to whom it is issued is a registered voter on the date appearing on the card.

3. The election director shall issue a replacement card on request of the voter and a new card when a relevant change is made in the voter's

registration record if the voter continues to reside in the county. (An. Code 1957, art. 33, § 3-301; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1; 2011, ch. 65.)

Effect of amendments. — Chapter 65, Acts 2011, enacted April 12, 2011, and effective from date of enactment, added “The information contained in the voter registration application for” in (b) and made related changes.

§ 3-302. Registration closing.

(a) *When registration is closed.* — Registration is closed beginning at 9 p.m. on the 21st day preceding an election until the 11th day after that election.

(b) *Receipt of applications after registration is closed — Generally.* — A voter registration application received when registration is closed shall be accepted and retained by a local board, but the registration of the applicant does not become effective until registration reopens.

(c) *Receipt of applications after registration is closed — Exceptions.* — A voter registration application that is received by the local board after the close of registration shall be considered timely received for the next election provided:

(1) there is sufficient evidence, as determined by the local board pursuant to regulations adopted by the State Board, that the application was mailed on or before registration was closed for that election; or

(2) the application was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board prior to the close of registration. (An. Code 1957, art. 33, § 3-302; 2002, ch. 291, §§ 2, 4; ch. 303, § 2; 2010, chs. 270, 271.)

Effect of amendments. — Chapters 270 and 271, Acts 2010, effective June 1, 2010, made identical changes. Each reenacted the section without change.

§ 3-303. Change of party affiliation or to or from a decline.

(a) *In general.* — Notification of a change of party affiliation or a change to or from a decline may be made:

(1) by information provided on a voter registration application by the same methods provided for registration under Subtitle 2 of this title;

(2) by written notice, signed by the voter and sent by mail or otherwise delivered to the local board in the county where the voter’s current voter registration address is located or to which the voter has moved;

(3) by making application in person at the office of the local board in the county where the voter’s current voter registration address is located or to which the voter has moved;

(4) by information on a voter authority card or other appropriate form filled out in a polling place; or

(5) by changing a name or address with the Motor Vehicle Administration.

(b) *Processing changes.* — Party affiliation changes or changes to or from a decline:

(1) shall be processed at any time that registration is open; and

(2) except as provided in subsection (c) of this section, may not be processed when registration is closed.

(c) *Time of request.* — If a local board receives a request for a party affiliation change after the close of registration, the local board shall make the change and it shall become effective for the next election provided:

(1) there is sufficient evidence, as determined by the local boards pursuant to regulations adopted by the State Board, that the request was mailed on or before the close of registration for that election; or

(2) the request was submitted by the voter to the Motor Vehicle Administration, a voter registration agency, another local board, or the State Board on or before the close of registration for that election. (An. Code 1957, art. 33, § 3-303; 2002, ch. 291, §§ 2, 4, 11; 2003, ch. 380; 2010, chs. 270, 271; 2011, chs. 292, 293.)

Effect of amendments. — Chapters 270 and 271, Acts 2010, effective June 1, 2010, made identical changes. Each rewrote the section.

Chapters 292 and 293, Acts 2011, effective June 1, 2011, made identical changes. Each rewrote (a); added (b); and redesignated accordingly.

Constitutionality. — A provision in the election laws that a person may not change his party affiliation within a certain number of

months preceding a primary election does not violate Article 7 of the Declaration of Rights, which provides that every citizen shall have the right of suffrage, if he has the constitutional qualifications of Article I, § 1 of the Constitution, which provides that any citizen having such qualifications shall be entitled to vote “at all elections hereafter to be held in this State.” *Hennegan v. Geartner*, 186 Md. 551, 47 A.2d 393 (1946).

§ 3-304. Change of name or address.

(a) *Notification of change of name or address.* — (1) Notification of a change of address or of a change of name may be made:

(i) by information provided on a voter registration application by the same methods provided for registration pursuant to Subtitle 2 of this title;

(ii) by written notice, signed by the voter and sent by mail or otherwise delivered to the local board in the county where the voter’s current voter registration address is located or to which the voter has moved;

(iii) by making application in person at the office of the local board in the county where the voter’s current voter registration address is located or to which the voter has moved;

(iv) by information on a voter authority card or other appropriate form filled out in a polling place; or

(v) by changing a name or address with the Motor Vehicle Administration.

(2) Except as provided by regulations adopted by the State Board, name and address changes may not be processed when registration is closed.

(b) *Entering electronically name and address change.* — The local board in the county in which the voter resides shall electronically enter the change of name or address into the statewide voter registration list on an expedited basis at the time the information is provided to the local board. (An. Code 1957, art. 33, § 3-304; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1.)

Change of name. — The election laws do not compel all married women to register to vote in their husbands' surnames.

Mailing address other than residence. — Other methods of verifying continued residence and the severe penalty for false registration

(former § 24-1 of former Article 33; see now § 16-101 of this article) indicate that the General Assembly did not intend to disenfranchise all voters whose mailing address is at a place other than their residences.

Subtitle 4. Municipal Registration.

§ 3-401. Definitions.

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

(b) *Universal registration.* — “Universal registration” means an election administration in which the list of individuals eligible to vote in a municipal election includes those residents of the municipal corporation who are included on the statewide voter registration list at addresses within the municipal corporation.

(c) *Voter registry.* — “Voter registry” means the list provided by a local board of registered voters who are residents of the municipal corporation. (An. Code 1957, art. 33, § 3-401; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1.)

University of Baltimore Law Forum. — For a note, “Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and

Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters,” see 39 U. Balt. L. F. 231 (2009).

Cited in Doe v. Montgomery County Bd. of Elections, 406 Md. 697, 962 A.2d 342 (2008).

§ 3-402. Applicability.

This subtitle does not apply to a municipal corporation that:

- (1) does not require voter registration for its elections;
- (2) prior to January 1, 1990, used the voter registry supplied by the local board as qualification for voting in municipal elections; or
- (3) provides for the local board to conduct municipal elections. (An. Code 1957, art. 33, § 3-402; 2002, ch. 291, §§ 2, 4.)

§ 3-403. Municipal registration procedure.

(a) *In general.* — A voter residing in a municipal corporation is considered to be registered for elections in that municipal corporation if the voter is included on the statewide voter registration list at an address within the municipal corporation.

(b) *Request for development of universal registration plan.* — (1) Not less than 6 months prior to its municipal election, each municipal corporation shall submit a request to the appropriate local board for the development of a plan and a schedule to implement universal registration.

(2) The application shall include the name of the individual designated as the municipal corporation liaison who is responsible for working with the local board in the development of the plan and the schedule for implementation of the plan.

(c) *Duty of local board to respond.* — Within 10 days after receipt of the application, the local board shall respond to the municipal corporation liaison and shall designate a local board liaison.

(d) *Initial meeting.* — At a mutually agreed upon time, the local board liaison and the municipal corporation liaison shall conduct meetings with other appropriate individuals, if required, for the purpose of developing a schedule and plan for implementing registration under this title.

(e) *The plan.* — The plan shall include:

(1) procedures for identifying by geographical reference the municipal boundaries, precincts, wards, or districts and the methods for including this information in the statewide voter registration database;

(2) information on whether the municipal corporation wants the exclusion or inclusion of political party affiliation on the voter registry, and whether the local board can provide the exclusion or inclusion;

(3) the format of the voter registry, and whether it is to be divided according to a registrant's municipal polling place;

(4) information on whether:

(i) the dates of birth are to be printed on the voter registry;

(ii) the names of registrants under the age of 18 years are to be included on the voter registry; and

(iii) the board can provide these exclusions or inclusions;

(5) the timing for furnishing the voter registry for use in the municipal elections, including the deadline for accepting voter registration applications of those individuals residing in the municipal corporation prior to the municipal elections;

(6) procedures for obtaining, updating, and maintaining in the statewide voter registration list the voter history of registrants who vote in municipal elections; and

(7) procedures for obtaining, updating, and maintaining changes to the boundaries of the municipal corporation, the precincts, the wards, or the districts that result from annexations, subdivision development, street name changes, or street abandonments.

(f) *Certified list of registered voters.* — (1) The local board shall provide to a municipal corporation at no cost a certified list of registered voters residing within the boundaries of the municipal corporation in compliance with the plan established pursuant to subsection (e) of this section.

(2) (i) On request by a municipal corporation, the local board shall also provide at no cost a certified list of registered voters who reside within the boundaries of the municipal corporation 90 days prior to the municipal election. The request for this preliminary list of voters shall be made to the board before or during the negotiations authorized in subsection (d) of this section.

(ii) Within 20 days after receiving the preliminary list of registered voters, a municipal corporation shall notify the local board of any potential errors in the list of registered voters, including errors in the residency of registered voters.

(iii) If the actual residency of any individual listed on the voter registry is in doubt, the local board shall notify the individual in accordance with

§ 3-502 of this title within 10 days after receiving notification from the municipal corporation.

(g) *Supplemental list maintained by municipal corporation.* — This section may not be construed to prohibit a municipal corporation from administering and maintaining a supplemental list of those individuals who are not on the statewide voter registration list but who may otherwise be qualified to register to vote with the municipal corporation.

(h) *Removal of voter from supplemental voter registry.* — (1) Whenever the registration of any voter is removed for any reason from the supplemental voter registry maintained by the municipal corporation, the municipal corporation shall send a notice of this action and the reason for the action to the last known address of the voter.

(2) The voter shall be given at least 15 days to respond to indicate whether the voter wishes to remain on the municipal corporation's voter registry.

(3) If the voter wishes to remain on the list and continues to be qualified under the municipal corporation's voter registration requirements, the voter's name shall be reinstated to the municipal corporation's supplemental voter registry upon written request of the voter.

(i) *Reimbursement of local board.* — (1) The State shall reimburse a local board or a county government for reasonable initial set-up costs of implementing the plan for universal registration, including the costs associated with:

(i) the identification of the appropriate boundaries; and

(ii) the identification of voters who are to be included in the voter registry.

(2) The local board shall request and, subject to the approval of the State Board, receive a reimbursement for these costs from a fund administered by the State Board. The initial set-up costs incurred directly by a municipal corporation may be reimbursed for circumstances authorized by the State Board.

(j) *Voter registration forms.* — Upon request by the municipal corporation, the local board shall provide voter registration forms to the municipal corporation.

(k) *Duty of State Board to cooperate.* — The State Board shall cooperate with the local boards and municipal election officials to effectuate the provisions of this section. (An. Code 1957, art. 33, § 3-403; 2002, ch. 291, §§ 2, 4; 2005, ch. 25, § 12; ch. 572, § 1.)

Maryland Law Review. — For note, "The Maryland Survey: 2000-2001: Recent Decisions; V. Election Law," see 61 Md. L. Rev. 917 (2002).

Subtitle 5. Statewide Voter Registration List.

Editor's note. — Chapter 572, Acts 2005, redesignated § 3-502 as § 3-501, § 3-504(a) effective January 1, 2006, revised Subtitle 5 of through (e) as § 3-502, § 3-504(f) as § 3-503, § Title 3. Ch. 572 deleted §§ 3-501, 3-503, 3-506, 3-505 as § 3-504, and § 3-507 as § 3-506; and 3-508, and 3-509 and enacted a new § 3-505; made amendments throughout.

§ 3-501. Removal of voters from registry.

An election director may remove a voter from the statewide voter registration list only:

- (1) at the request of the voter, provided the request is:
 - (i) signed by the voter;
 - (ii) authenticated by the election director; and
 - (iii) in a format acceptable to the State Board or on a cancellation notice provided by the voter on a voter registration application;
- (2) upon determining, based on information provided pursuant to § 3-504 of this subtitle, that the voter is no longer eligible because:
 - (i) the voter is not qualified to be a registered voter as provided in § 3-102(b) of this title; or
 - (ii) the voter is deceased;
- (3) if the voter has moved outside the State, as determined by conducting the procedures established in § 3-502 of this subtitle; or
- (4) if, in accordance with the administrative complaint process under § 3-602 of this title, the State Administrator or the State Administrator's designee has determined that the voter is not qualified to be registered to vote. (An. Code 1957, art. 33, § 3-502; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1; 2006, ch. 61, § 2; ch. 354; 2009, ch. 60, § 5; 2010, ch. 72.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, substituted “§ 3-504” for “§ 3-503” in (2) and substituted “State Administrator or the State Administrator’s designee” for “local board” in (4).

Editor’s note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, repealed for-

mer § 3-501 of this article and redesignated former § 3-502 of this article to be present § 3-501 of this article.

Pursuant to § 7, ch. 61, Acts 2006, the amendments made by this act are deemed to have abrogated on June 30, 2008.

Pursuant to § 5, ch. 60, Acts 2009, “if” was substituted for “If” in (4).

§ 3-502. Change of address information; procedures.

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

(2) “Confirmation notice” means a notice, approved by the State Board, that is sent by forwardable mail with a return card.

(3) “Return card” means a postage prepaid and preaddressed card on which the voter may report the voter’s current address.

(b) *Change of address; same jurisdiction.* — Upon receiving any information that a voter currently registered in the State has moved to a different address within the State, the appropriate election official shall change the voter’s record and send the voter a confirmation notice.

(c) *Change of residence outside State.* — If it appears from information provided by the postal service or an agency specified in § 3-504(b) of this subtitle that a voter has moved to a different address outside the State, the election official in the county where the voter most recently resided in the State shall send the voter a confirmation notice informing the voter of his or her potential inactive status as described in § 3-503 of this subtitle.

(d) *Duty to correct.* — Upon receipt of a return card, the election director shall:

- (1) make any needed corrections in the statewide voter registration list; and
- (2) in accordance with State Board guidelines, retain original voter registration documents.

(e) *Removal from statewide voter registration list; grounds.* — The election director may not remove a voter from the statewide voter registration list on the grounds of a change of address unless:

- (1) the voter confirms in writing that the voter has changed residence to a location outside the State; or
- (2) (i) the voter has failed to respond to a confirmation notice under subsection (c) of this section; and
 - (ii) the voter has not voted or appeared to vote (and, if necessary, corrected the record of the voter's address) in an election during the period beginning with the date of the notice through the next two general elections. (An. Code 1957, art. 33, § 3-504; 2002, ch. 291, §§ 2, 4; ch. 404, § 2; ch. 19, § 10; 2003, ch. 21, § 1; ch. 380; 2005, ch. 572, § 1.)

Editor's note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, redesignated former § 3-504 of this article to be present § 3-502 of this article.

University of Baltimore Law Forum. — For a note, "Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters," see 39 U. Balt. L. F. 231 (2009).

Constitutionality. — Subdivisions (e)(2), (f)(1), (f)(3), (f)(4), and (f)(5) of this section were held to be unconstitutional in that the statute violated the rights imposed by Article I of the Maryland Constitution and the Maryland Constitution Declaration of Rights Article 7 and 24 in that it treated inactive voters differently from active voters. Md. Green Party v. Md. Bd. of Elections, 377 Md. 127, 832 A.2d 214 (2003).

On reconsideration, the Court of Appeals

adhered to its original determination that a procedure, authorized by (f), allowing purging of voters from an active roll, even for purposes of signing candidate petitions, if they failed to confirm that they had not moved, violated Article I, § 2 of the Maryland Constitution; the court interpreted the State constitutional provision, and its own opinion, in harmony with both the National Voter Registration Act of 1993, 42 U.S.C.S. § 1973gg et seq., and the Help America Vote Act of 2002, 42 U.S.C.S. § 15301 et seq. Md. Green Party v. Md. Bd. of Elections, 377 Md. 127, 832 A.2d 214 (2003).

Registration list maintenance. — The removal procedure set forth in (e) does not violate any constitutional provisions. The State Board's directions to local boards concerning these procedures are consistent with federal and State law. 90 Op. Att'y Gen. 133 (Sept. 28, 2005).

Quoted in Doe v. Montgomery County Bd. of Elections, 406 Md. 697, 962 A.2d 342 (2008).

§ 3-503. Inactive list.

(a) *In general.* — If a voter fails to respond to a confirmation notice under § 3-502(c) of this subtitle, the voter's name shall be placed into inactive status on the statewide voter registration list.

(b) *Restoration to active status.* — A voter shall be restored to active status on the statewide voter registration list after completing and signing any of the following election documents:

- (1) a voter registration application;
- (2) a petition governed by Title 6;
- (3) a certificate of candidacy;

(4) an absentee ballot application; or

(5) a written affirmation of residence completed on election day to entitle the voter to vote either at the election district or precinct for the voter's current residence or the voter's previous residence, as determined by the State Board.

(c) *Removal.* — An inactive voter who fails to vote in an election in the period ending with the second general election shall be removed from the statewide voter registration list.

(d) *Counting for official administrative purposes.* — Registrants placed into inactive status may not be counted for official administrative purposes including establishing precincts and reporting official statistics. (2005, ch. 572, § 1; 2006, chs. 44, 354.)

Editor's note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, repealed former § 3-503 and enacted a new section in lieu thereof.

University of Baltimore Law Forum. — For a note, "Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters," see 39 U. Balt. L. F. 231 (2009).

Constitutionality. — Names of inactive voters should have been included by a county board of elections in calculating what percentage of registered voters were required to sign a referendum petition because, under art. I, § 2 of the Maryland Constitution, any statutory provision or administrative regulation that treated inactive voters differently from active voters was invalid; therefore, to the extent that this section permitted the maintenance of two

lists to determine an individual's registration status in order to exclude inactive voters from the list of registered voters, it was unconstitutional. *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

To the extent that this section permits the maintenance of two lists to determine an individual's registration status in order to exclude inactive voters from the list of registered voters, it is unconstitutional under art. I, § 2 of the Maryland Constitution. *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Voters in inactive status not required to be included in count of voters to establish early voting centers. — Counting registered voters for the purpose of establishing early voting centers is an "official administrative purpose" and therefore voters in inactive status are not required to be included in the count. 94 Op. Att'y Gen. 151 (Sept. 22, 2009).

§ 3-504. Information from other agencies; death verification and removal from statewide voter registration list.

(a) *Information reported to State Administrator.* — (1) (i) Information from the agencies specified in this paragraph shall be reported to the State Administrator in a format and at times prescribed by the State Board.

(ii) The Department of Health and Mental Hygiene shall report the names and residence addresses (if known) of all individuals at least 16 years of age reported deceased within the State since the date of the last report.

(iii) The clerk of the circuit court for each county and the administrative clerk for each District Court shall report the names and addresses of all individuals convicted, in the respective court, of a felony since the date of the last report.

(iv) The clerk of the circuit court for each county shall report the former and present names and residence addresses (if known) of all individuals whose names have been changed by decree or order of the court since the date of the last report.

(2) The State Administrator shall make arrangements with the clerk of the United States District Court for the District of Maryland to receive reports of names and addresses, if available, of individuals convicted of a felony in that court.

(b) *Information reported to local boards.* — (1) The State Administrator shall transmit to the appropriate local board information gathered pursuant to subsection (a) of this section.

(2) Every agency or instrumentality of any county which acquires or condemns or razes or causes to be condemned or razed any building used as a residence within the county shall promptly report this fact and the location of the building to the local board in the county or city.

(3) Registration cancellation information provided by an applicant on any voter registration application shall be provided to the appropriate local board by the State Administrator or another local board.

(4) A local board may:

(i) make arrangements to receive change of address information from an entity approved by the State Board; and

(ii) pay a reasonable fee to the entity for the information.

(c) *Death verification; removal from registry.* — (1) Whenever a local board becomes aware of an obituary or any other reliable report of the death of a registered voter, the election director shall mail a notice to the registered voter, as prescribed by the State Board, to verify whether the voter is in fact deceased.

(2) On receipt of a verification of the death of a voter, provided in accordance with the notice mailed under paragraph (1) of this subsection, the election director may remove the voter from the statewide voter registration list under § 3-501 of this subtitle. (An. Code 1957, art. 33, § 3-505; 2002, ch. 291, §§ 2, 4; ch. 404, § 2; 2005, ch. 572, § 1; 2007, ch. 159, § 2.)

Editor's note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, redesignated former § 3-505 of this article to be present § 3-504 of this article.

Change of name. — The provisions of subsection (a)(iv) of a former version of this section do not require that a married woman register to vote in the surname of her husband unless her name has been changed by legal proceedings. *Stuart v. Board of Supvrs. of Elections*, 266 Md. 440, 295 A.2d 223 (1972).

Nothing in the language of subsection (a)(iv) of a former version of this section purports to compel all married women to register to vote in their husbands' surnames. *Stuart v. Board of Supvrs. of Elections*, 266 Md. 440, 295 A.2d 223 (1972).

While a married woman may choose to adopt the surname of her husband — this being the long-standing custom and tradition which has

resulted in the vast majority of married women adopting their husbands' surnames as their own — the mere fact of the marriage does not, as a matter of law, operate to establish the custom and tradition of the majority as a rule of law binding upon all. *Stuart v. Board of Supvrs. of Elections*, 266 Md. 440, 295 A.2d 223 (1972).

Board may make cross-reference notation to fact of marriage. — In restoring the maiden name of a married woman to the voter registry, the board of supervisors of elections may make whatever cross-reference notation to the fact of her marriage that it thinks administratively feasible to meet the avowed needs of voter identification and prevention of dual registrations. *Stuart v. Board of Supvrs. of Elections*, 266 Md. 440, 295 A.2d 223 (1972).

Quoted in *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Stated in *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 832 A.2d 214 (2003).

§ 3-505. Retention of voter registration records.

(a) *In general.* — The State Board shall adopt regulations for the retention and storage of and reasonable access to original voter registration applications and other voter registration records the State Board considers appropriate.

(b) *Public inspection.* — (1) Voter registration records stored and retained in a local board office shall be open to public inspection.

(2) For the purpose of public inspection, original voter registration records:

(i) subject to § 4-527(b) of the Family Law Article and except upon the special order of the local board, shall be available at all times when a local board is open; and

(ii) may not be removed from the office of the local board except:

1. on order of a court; or

2. for temporary removal solely for purposes of data processing.

(c) *Time of retention.* — (1) Consistent with regulations adopted by the State Board, local boards shall maintain for at least 2 years all records concerning programs to ensure the accuracy and currency of the statewide voter registration list.

(2) Except for records concerning a declination to register or the identity of a voter registration agency through which a particular voter applies for registration, the records described in paragraph (1) of this subsection are accessible under Title 10, Subtitle 6, Part III of the State Government Article (Access to Public Records). (2005, ch. 527, § 1; 2006, chs. 374, 375.)

Editor's note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, redesignated former § 3-505 to be present § 3-504 of this article and enacted a new § 3-505 in lieu thereof.

§ 3-506. Copies of list.

(a) *Providing — Registered voter.* — (1) A copy of a list of registered voters shall be provided to a Maryland registered voter on receipt of:

(i) a written application; and

(ii) a statement, signed under oath, that the list is not intended to be used for:

1. commercial solicitation; or

2. any other purpose not related to the electoral process.

(2) In consultation with the local boards, the State Board shall adopt regulations that specify:

(i) the time for a list to be provided under this subsection;

(ii) the authorization to be required for providing a list;

(iii) the fee to be paid for providing a list;

(iv) the information to be included on a list;

(v) the format of the information; and

(vi) the medium or media on which the information is to be provided.

(b) *Providing — Jury commissioner.* — (1) The State Administrator or a designee shall provide a copy of the statewide voter registration list and voter

registration records to a jury commissioner on request and without charge by means agreed to with the Administrative Office of the Courts.

(2) On application of the Attorney General, a circuit court may compel compliance with paragraph (1) of this subsection.

(c) *Prohibited act and penalties.* — A person who knowingly allows a list of registered voters, under the person’s control, to be used for any purpose not related to the electoral process is guilty of a misdemeanor and, on conviction, is subject to the penalties under Title 16 of this article. (2006, ch. 372, § 13.)

Editor’s note. — Section 2, ch. 372, Acts 2006, effective October 1, 2006, repealed former § 3-506. Section 13 of ch. 372 enacted current § 3-506 in lieu thereof.

Section 14, ch. 372, Acts 2006, provides that “nothing in this Act may be construed to affect the validity, powers, duties, or acts of any grand or trial jury in existence before or on the effective date of this Act [October 1, 2006] or the powers or duties of any member of such jury.”

Section 15, ch. 372, Acts 2006, provides that “all laws or parts of laws, public general or

public local, inconsistent with this Act, are repealed to the extent of the inconsistency.”

Any member of public entitled to inspect and copy registration records. — In the absence of a “special order of the board” or a “reasonable regulation” by the board so providing, any member of the public is entitled to inspect and copy registration records of the board pursuant to former § 3-11 (a) of former Article 33 (now see repealed § 3-506 of this article), without any of the restrictions set forth in this section. 62 Op. Att’y Gen. 396 (1977).

§ 3-507. Copies of registration lists.

Redesignated.

Editor’s note. — Section 1, ch. 572, effective January 1, 2006, redesignated this section to be § 3-506 of this article.

§§ 3-508, 3-509. Maintenance and storage of voter registration records; reports of registration by local boards; statement of registration by State Board.

Repealed by Acts 2005, ch. 572, § 1, effective January 1, 2006.

Subtitle 6. Resolution of Registration Disputes and Challenges.

§ 3-601. Temporary certificate of registration.

Repealed by Acts 2003, ch. 379, § 2, effective October 1, 2003.

§ 3-601.1. Clerical error.

(a) *“Clerical error” defined.* — In this section, “clerical error” means an inadvertent mistake in a voter registration record made by an election official.

(b) *Determination by election director.* — The State Administrator or an election director shall make the determination whether an error in a voter registration record is a clerical error.

(c) *Correction of error.* — If the State Administrator or election director determines that a clerical error has been made, the State Administrator or election director shall:

- (1) cause the error to be corrected; and
- (2) promptly notify the voter of the correction.

(d) *Name of registered voter missing from precinct register on election day.* — (1) On election day, if it is alleged that the name of a registered voter is missing from the precinct register because of a clerical error, the chief election judge shall contact the State Board or local board to determine whether a clerical error has been made.

(2) If the State Administrator or election director determines that the absence of the name from the precinct register is the result of a clerical error, the State Administrator or election director shall authorize the chief election judge to:

- (i) issue a blank voter authority card to the affected voter; and
- (ii) allow the affected voter to vote after the affected voter completes the voter authority card and provides any other documentation required by the State Board. (2002, ch. 404, § 2; 2005, ch. 572, § 1; 2006, ch. 44.)

§ 3-602. Administrative complaint.

(a) *In general.* — Under the procedures established by the State Board, an administrative complaint may be filed by:

- (1) a person who feels aggrieved by an action of a local board regarding voter registration; or
- (2) a local board with reason to believe that a registration has been erroneously added to or omitted from the statewide voter registration list other than by clerical error.

(b) *Presumption of residency.* — In determining whether an individual is or is not a resident of an election district or precinct, the presumption shall be that an individual shown to have acquired a residence in one locality retains that residence until it is affirmatively shown that the individual has acquired a residence elsewhere.

(c) *Judicial review.* — (1) Except as provided in paragraph (2) of this subsection, a final determination issued under the administrative complaint procedures established by the State Board is not subject to judicial review.

(2) Any final determination regarding the eligibility of an individual to register to vote or remain registered to vote is subject to judicial review.

(i) 1. A petition for judicial review shall be filed with the Circuit Court for Anne Arundel County.

2. The petition may be brought at any time, except that it may not be later than the third Tuesday preceding the next succeeding election.

(ii) 1. The court, on presentation of satisfactory evidence, may, in its discretion, dispose of the matter summarily or otherwise set the matter for hearing.

2. On appropriate order of the court, the State Board shall make the required corrections.

(d) *Appeal.* — (1) An appeal may be taken from any ruling of the circuit court to the Court of Special Appeals.

(2) The appeal shall be taken within 5 days from the date of the decision by the circuit court, and the appeal shall be heard and decided by the Court of

Special Appeals as soon after the transmission of the record as practicable. (2005, ch. 572, § 1; 2006, ch. 354.)

Editor's note. — Section 1, ch. 572, Acts 2005, effective January 1, 2006, repealed former § 3-602 and enacted a new section in lieu thereof.

§ 3-603. Appeal of registration denial.

Repealed by Acts 2005, ch. 572, § 1, effective January 1, 2006.

TITLE 4.

POLITICAL PARTIES.

<i>Subtitle 1. Formation of Political Parties.</i>	Sec.
Sec.	4-202. Composition of local central committees of principal political parties — Generally.
4-101. Applicability.	
4-102. New political parties.	
4-103. Loss of status as a political party.	4-203. Composition of central committees — Local provisions.
<i>Subtitle 2. Political Party Governing Bodies.</i>	4-204. Constitution and bylaws.
4-201. Political party State central committees.	4-205. Prohibited practices.

Subtitle 1. Formation of Political Parties.

§ 4-101. Applicability.

Except as to a matter of compelling State interest, if any provision of this title relating to party governance conflicts with the constitution and bylaws of a political party, the constitution and bylaws shall apply to the extent of the conflict. (An. Code 1957, art. 33, § 4-101; 2002, ch. 291, §§ 2, 4.)

§ 4-102. New political parties.

(a) *Formation.* — Any group of registered voters may form a new political party by:

(1) filing with the State Board on the prescribed form a petition meeting the requirements of subsection (b) of this section and of Title 6 of this article; and

(2) adopting and filing an interim constitution and bylaws in accordance with subsection (e) of this section.

(b) *Requirements of petition.* — (1) The petition shall state:

(i) the partisan organization's intent to organize a State political party;

(ii) the name of the partisan organization;

(iii) the name and signature of the State chairman of the partisan organization; and

(iv) the names and addresses of 25 registered voters, including the State chairman, who shall be designated as constituting the initial governing body of the partisan organization.

(2) (i) Appended to the petition shall be papers bearing the signatures of at least 10,000 registered voters who are eligible to vote in the State as of the first day of the month in which the petition is submitted.

(ii) Signatures on the petition must have been affixed to the petition not more than 2 years before the filing date of the last qualifying signature.

(c) *Filing of petition.* — (1) Except as provided in paragraph (2) of this subsection, a petition for the formation of a new political party, or any additional signatures to a petition, may be filed at any time.

(2) A petition for the formation of a new political party, or any additional signatures to a petition, may be filed:

(i) in the year of an election at which the President is elected except:

1. during the period of time that registration is closed before and after a primary election in accordance with § 3-302(a) of this article; and

2. after the first Monday in August until registration reopens after the general election in accordance with § 3-302(a) of this article;

(ii) in the year of an election at which the Governor is elected, except after the first Monday in August until registration reopens after the general election in accordance with § 3-302(a) of this article; or

(iii) when a special primary election and a special election are proclaimed by the Governor in accordance with § 8-710 of this article except:

1. after the fifth Monday before the special primary election through the tenth day following the special primary election; and

2. after the fifth Monday before the special election through the fifteenth day following the special election.

(d) *Role and responsibilities of State Board.* — (1) (i) If the petition is certified under Title 6 of this article, the State Board shall promptly notify the State chairman of the partisan organization.

(ii) Upon the filing of a constitution and bylaws with the State Board by a partisan organization in accordance with subsection (e) of this section, the State Board shall:

1. review the constitution and bylaws to determine whether the constitution and bylaws meet the requirements of subsection (e) of this section; and

2. if the constitution and bylaws meet the requirements of subsection (e) of this section, promptly notify the partisan organization designated in the petition that it is considered a State political party for the purposes of this article.

(2) If the petition does not meet the requirements of this section and of Title 6 of this article:

(i) the State Board shall declare the petition insufficient;

(ii) the partisan organization is not a State political party for the purposes of this article; and

(iii) the State Board shall promptly notify the State chairman of the partisan organization.

(e) *Constitution and bylaws.* — (1) The constitution and bylaws of a new political party shall:

(i) comply with the requirements of § 4-204 of this title; and

(ii) be adopted by the individuals designated in the petition as the initial governing body at an organizational meeting held within 90 days after the date of the filing of the last qualifying signature on its petition.

(2) The individual designated in the petition as the State chairman of the political party shall convene the organizational meeting under paragraph (1)(ii) of this subsection and shall preside as president pro tem of the meeting until party officers are elected.

(f) *Nomination of candidates.* — Unless a new political party is required to hold a primary election to nominate its candidates under Title 8 of this article, the new political party may nominate its candidates in accordance with the constitution and bylaws adopted by the political party and submitted to the

State Board. (An. Code 1957, art. 33, § 4-102; 2002, ch. 291, §§ 2, 4; 2006, ch. 120; 2010, ch. 72, § 5.)

Editor's note. — Pursuant to § 5, ch. 72, Acts 2010, “bylaws” was substituted for “by-laws” in (f).

University of Baltimore Law Forum. — For note, “Recent Development: Nader for President 2004 v. Md. State Bd. of Elections: Invalidation of Petition Signatures Solely on the Basis of the Maryland State Board of Election’s ‘County-Match’ Requirement Was Improper and Disenfranchised Voters,” see 38 U. Balt. L. F. 83 (2007).

When candidate may designate affiliated party on ballot. — If all of the requirements in a former version of this section are met by a group of voters and they have successfully formed a political party, then a properly nominated candidate may designate that party on the ballot as the party with which he is affiliated. 62 Op. Att’y Gen. 411 (1977).

Placement of nominees on ballot. — If a party fully complies with the requirements for new party formation in a former version of this section and thereafter selects its presidential and vice presidential nominees at a national convention, those properly certified nominees should be placed on the general election ballot in Maryland. 69 Op. Att’y Gen. 133 (1984).

Quoted in Md. Green Party v. Md. Bd. of Elections, 377 Md. 127, 832 A.2d 214 (2003); Md. Green Party v. State Bd. of Elections, 165 Md. App. 113, 884 A.2d 789 (2005), cert. denied, 390 Md. 501, 889 A.2d 418 (2006).

Cited in Nader For President 2004 v. Md. State Bd. of Elections, 399 Md. 681, 926 A.2d 199 (2007).

§ 4-103. Loss of status as a political party.

(a) *Retention of status.* — (1) Unless extended pursuant to paragraph (2) of this subsection, a new political party shall retain its status as a political party until December 31 in the year of the second statewide general election following the party’s qualification under § 4-102 of this subtitle.

(2) The political party shall retain its status as a political party through either of the following:

(i) if the political party has nominated a candidate for the highest office on the ballot in a statewide general election, and the candidate receives at least 1% of the total vote for that office, the political party shall retain its status through December 31 in the year of the next following general election; or

(ii) if the State voter registration totals, as of December 31, show that at least 1% of the State’s registered voters are affiliated with the political party, the political party shall retain its status until the next following December 31.

(b) *Notification by State Board.* — The State Board shall promptly notify the State chairman of a group that loses its status as a political party.

(c) *Effect of loss of status.* — A group that loses its status as a political party may regain that status only by complying with all the requirements for qualifying as a new party under § 4-102 of this subtitle. (An. Code 1957, art. 33, § 4-103; 2002, ch. 291, §§ 2, 4; 2006, ch. 44.)

Subtitle 2. Political Party Governing Bodies.

§ 4-201. Political party State central committees.

(a) *In general.* — Each political party shall have a State central committee that:

(1) is the governing body of the political party; and

(2) may be composed of the members of the central committees of the counties during their terms in office.

(b) *Selection of chairman.* — (1) A party's State central committee shall select the chairman or co-chairmen of the party State central committee.

(2) The chairman or co-chairmen shall be residents of the State during their tenure in office.

(c) *Rules of procedure.* — A party's State central committee shall determine its own rules of procedure, not inconsistent with the provisions of this article. (An. Code 1957, art. 33, § 4-201; 2002, ch. 291, §§ 2, 4.)

Central committee must adopt constitution and bylaws and hold convention. — Political party must have State central committee to adopt a constitution and bylaws and to hold a party convention. *Wood v. Putterman*, 316 F. Supp. 646 (D. Md.), aff'd, 400 U.S. 859, 91 S. Ct. 104, 27 L. Ed. 2d 99 (1970).

Primary election machinery is not available to party which has not adopted them.

— The primary election machinery of former § 5-1 of former Article 33 (now see § 8-202 of this article) is only available to a political party if it complied with former § 11-1 (a) (see now subsections (a) and (e) of this section). *Barnhart v. Mandel*, 311 F. Supp. 814 (D. Md. 1970).

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 4-202. Composition of local central committees of principal political parties — Generally.

(a) *Election of members of county central committee.* — (1) A principal political party shall elect the members of the county central committee at a primary election.

(2) Except as otherwise provided in this section or § 4-203 of this subtitle, the central committee for a county shall consist of the number of members determined by the party's constitution.

(b) *Selection of chairman.* — (1) Except as provided in paragraph (2) of this subsection, the party central committee for each county shall select the chairman of that county's party central committee.

(2) In Baltimore County, the Chairman of the Republican Party Central Committee shall be elected at large.

(c) *Residency of members.* — (1) An individual elected to serve as a member of a party central committee shall be a resident of the county in which that central committee is located.

(2) (i) An individual elected from a county who ceases to reside in that county shall be considered to have resigned and may not continue to serve on the central committee.

(ii) An individual elected from a specific legislative district who ceases to reside in that district shall be considered to have resigned and may not continue to serve on the central committee.

(d) *Residency of member selected to fill vacancy.* — (1) (i) An individual selected to fill a vacancy in a party central committee shall be a resident of the county in which that central committee is located.

(ii) An individual selected to fill a vacancy of a member elected from a specific legislative district in a party central committee shall be a resident of that legislative district.

(2) Upon relinquishing residency in the county or legislative district in which a member of a party central committee was selected to fill a vacancy, the member shall be considered to have resigned.

(e) *Filling of vacancies.* — (1) Except as provided in paragraph (2) of this subsection, a vacancy in the party central committee for a county, or for a legislative district of Baltimore City, Anne Arundel County, or Baltimore County, shall be filled by the remaining members of the committee elected from that county or legislative district.

(2) If a political party does not have county central committees or central committees for legislative districts, vacancies shall be filled in accordance with party rules.

(f) *Tenure of members.* — (1) Except as provided in paragraph (2) of this subsection, the tenure in office of a member of the central committee of any political party shall:

(i) begin at the time the results of that election are certified; and

(ii) continue to the extent of any extension in time between primary elections by reason of any change in the date of holding primary elections by a political party in the State.

(2) The tenure in office of a member of the Republican Party Central Committee shall begin on the 14th day following the gubernatorial general election.

(3) For purposes of this subsection, upon relinquishing residency in the county, a member of a party central committee shall be considered to have resigned. (An. Code 1957, art. 33, § 4-202; 2002, ch. 291, §§ 2, 4; 2006, ch. 570; 2008, ch. 529; 2010, ch. 443.)

Effect of amendments. — Chapter 529, Acts 2008, effective June 1, 2008, reenacted (a) and (f) without change.

Chapter 443, Acts 2010, effective June 1, 2010, reenacted (a) without change.

Editor's note. — Section 2, ch. 443, Acts 2010, provides that “this Act shall apply to the election for the members of the Montgomery County Republican and Democratic Party Central committees that is held at the primary election on September 14, 2010.”

Application of amendment. — The 1976 amendment to a prior similar provision was applicable to a committee member elected in 1974. *Dorf v. Skolnik*, 280 Md. 101, 371 A.2d 1094 (1977).

Residency requirement. — “Reside” or

“resident” means “domicile” unless a contrary intent is shown, and domicile is the place with which an individual has a settled connection for legal purposes and the place where a person has his true, fixed, permanent home, habitation and principal establishment, without any present intention of removing therefrom, and to which place he has, whenever he is absent, the intention of returning. *Dorf v. Skolnik*, 280 Md. 101, 371 A.2d 1094 (1977).

A prior version of this section would not cause one to vacate his position on the central committee because of a move from one district to another within the same county. 62 Op. Att’y Gen. 442 (1977).

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 4-203. Composition of central committees — Local provisions.

(a) *Anne Arundel County.* — In Anne Arundel County, the members of the Democratic and Republican Party Central Committees for the county shall be elected as follows:

(1) three members shall be elected from each legislative district wholly contained within Anne Arundel County; and

(2) one member shall be elected from that portion within Anne Arundel County of any legislative district that is partially contained within Anne Arundel County.

(b) *Baltimore City*. — (1) (i) In Baltimore City, the Democratic Party Central Committee consists of seven members elected from each of the six legislative districts of Baltimore City.

(ii) Each member shall reside in, and be elected by the voters of, the legislative district that the member represents.

(2) (i) The members of the Republican Party Central Committee shall be elected from each councilmanic district of Baltimore City.

(ii) Two members shall be elected from each councilmanic district.

(c) *Baltimore County*. — (1) Except as provided in paragraph (2)(ii) of this subsection, in Baltimore County, members of the party central committees may not run at large.

(2) The Republican Party Central Committee shall consist of:

(i) four members elected from each councilmanic district in the county; and

(ii) a chairman elected from the county at large.

(3) For the Baltimore County Democratic Party Central Committee:

(i) twenty-five members, five from each district, shall be elected from legislative districts 6, 8, 10, 11, and 42, each district being located wholly within Baltimore County;

(ii) two members shall be elected from that part of legislative district 5 that is located in Baltimore County;

(iii) four members shall be elected from that part of legislative district 7 that is located in Baltimore County; and

(iv) four members shall be elected from that part of legislative district 12 that is located in Baltimore County.

(4) Only individuals affiliated with the Democratic Party and who are registered to vote in Baltimore County may vote for the election of members to the Baltimore County Democratic Party Central Committee under this section.

(5) The number of Democratic Party Central Committee members to be elected from each legislative district, or portion of legislative district, in Baltimore County shall be determined upon completion of each legislative districting.

(d) *Calvert County*. — In Calvert County, the Democratic Party Central Committee consists of nine members elected by the voters of the county at large as follows:

(1) two members who reside in the first election district and receive the largest number of votes cast for candidates from that district;

(2) two members who reside in the second election district and receive the largest number of votes cast for candidates from that district;

(3) two members who reside in the third election district and receive the largest number of votes cast for candidates from that district; and

(4) three members who reside in Calvert County and who receive the highest number of votes cast in Calvert County for the remaining candidates.

(e) *Carroll County*. — In Carroll County, the Republican Party Central Committee shall consist of nine members elected at large.

(f) *Montgomery County*. — (1) In Montgomery County, for the Democratic Party Central Committee:

(i) two members are elected from each of the legislative districts that lie wholly within Montgomery County;

(ii) one member is elected from the Montgomery County part of each legislative district that is partially within Montgomery County; and

(iii) members shall be elected at large equal to the number of legislative districts that lie wholly within Montgomery County, except that not more than two members at large may reside in the same legislative district.

(2) Any vacancy in a seat on the Democratic Party Central Committee held initially by a member elected from a legislative district shall be filled by a person residing in that district.

(3) Any reference to the Democratic Party Central Committee for Montgomery County or any portion of it means the entire membership of the Montgomery County Democratic Party Central Committee, and in no event do the members of the Central Committee elected from a district comprise a separate central committee.

(g) *Prince George's County*. — (1) (i) In Prince George's County, members of the Republican Party Central Committee:

1. may not run at large; and

2. shall be elected from within legislative districts of Prince George's County or within that portion of any legislative district lying within Prince George's County.

(ii) The number of members of the Republican Party Central Committee shall consist of two members from each of the eight legislative districts lying within Prince George's County.

(2) (i) In Prince George's County, the Democratic Party Central Committee consists of 24 members.

(ii) 1. Two members shall reside in and be elected by the eligible voters of each of the eight legislative districts lying within Prince George's County.

2. At least one member shall reside in each single-member or two-member delegate district of any district in which there are such districts.

(iii) In addition to the members of the committee elected from legislative districts, eight members of the committee shall be elected by all the eligible voters in the county, and at the time of election, each member shall reside in a different one of the eight legislative districts within Prince George's County.

(iv) A candidate for election to the Democratic Party Central Committee shall declare at the time of filing for candidacy which seat on the Central Committee the candidate is seeking.

(v) If a member who was elected from a specific legislative district ceases to reside in that district, the member may not continue to serve on the Central Committee.

(h) *Worcester County*. — (1) In Worcester County, the Democratic Party Central Committee consists of 11 members as follows:

(i) seven members who shall reside in and be elected, respectively, by the eligible voters of each of the seven county commissioner districts; and

(ii) four members who shall reside in Worcester County, be elected at large by the eligible voters of the entire county, and receive the highest number of votes cast for candidates in the at large election.

(2) (i) A candidate for election to the Democratic Party Central Committee shall declare at the time of filing a certificate of candidacy which seat the candidate is seeking.

(ii) A member elected to represent a specific county commissioner district who ceases to reside in that district may not continue to serve on the Central Committee.

(3) Any vacancy in a seat on the Central Committee held by an individual elected from a county commissioner district shall be filled by an individual who resides in that district. (An. Code 1957, art. 33, § 4-203; 2002, ch. 192, § 2; ch. 276, § 2; ch. 291, §§ 2, 4; 2003, ch. 21, § 1; ch. 77; 2004, ch. 308; 2005, ch. 126; 2006, chs. 377, 552, 570; 2008, ch. 529; 2010, chs. 72, 443.)

Effect of amendments. — Chapter 529, Acts 2008, effective June 1, 2008, reenacted (h) without change.

Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, substituted “that” for “which” in (f)(2)(ii) [(f)(1)(ii)].

Chapter 443, Acts 2010, effective June 1, 2010, deleted (f)(1); redesignated accordingly; rewrote the introductory language of (f)(1) and (f)(1)(iii); in (f)(2) substituted “the Democratic Party Central Committee” for “a party central committee”; and made a stylistic change.

Editor’s note. — Section 4, ch. 276, Acts 2002, provides that “if, by June 30, 2002, a court has issued an order that alters the Legislative Districting Plan of 2002 with respect to legislative districts lying in whole or in part in Baltimore County, then the Baltimore County Democratic Party Central Committee shall consist of five members elected from each councilmanic district in Baltimore County.” A revised Legislative Districting Plan was issued by the Court on June 21, 2002.

The Maryland Court of Appeals rendered an opinion, dated June 11, 2002, declaring that, for reasons to be stated in an opinion to be filed, significant portions of the 2002 Legislative Redistricting Plan violated the Maryland Constitution, and that the Plan was, therefore, invalid. The Court further stated that it would

endeavor to prepare a constitutional plan with the assistance of technical consultants which the Court subsequently appointed in accordance with its Order dated June 21, 2002.

Section 2, ch. 77, Acts 2003, provides that “the next election for the Baltimore County Democratic Party Central Committee members will be in 2006 on the same day the primary election for the Governor is held. Members elected at this time will serve 4-year terms. The members of the Baltimore County Democratic Party Central Committee who were elected in 2002 shall complete their term that expires in 2006.”

Section 4, ch. 72, Acts 2010, approved April 13, 2010, and effective from date of enactment, provides that “the provisions of this Act are intended solely to correct technical errors in the law and there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.”

Section 2, ch. 443, Acts 2010, provides that “this Act shall apply to the election for the members of the Montgomery County Republican and Democratic Party Central committees that is held at the primary election on September 14, 2010.”

Chapters 72 and 443, Acts 2010, both amended (f). Neither chapter referred to the other, and effect has been given to both, as they made identical amendments to (f)(2)(ii).

§ 4-204. Constitution and bylaws.

(a) *Adoption.* — Except as otherwise provided in this article, each political party shall adopt and be governed by a constitution and all bylaws and rules adopted in accordance with the constitution.

(b) *Required provisions.* — (1) The constitution and bylaws of each political party shall provide:

(i) for such matters as in its opinion are necessary for the proper conduct of party affairs;

(ii) for the selection of a State governing body;

(iii) for the calling of regular meetings, advance notification of meetings, and special notice for special meetings;

(iv) for the establishment of a quorum;

(v) a method of amending the political party's constitution and bylaws;

(vi) procedures for filling a vacancy in a nomination for public office;

(vii) for a principal political party, for the convening of a meeting of the central committee within 45 days after the primary election in each gubernatorial election year;

(viii) if the political party is required to nominate its candidates by petition, procedures for determining which of two or more party members who qualify for nomination in the same contest shall be designated on the ballot as nominees of the political party; and

(ix) for the adoption of rules governing the political party.

(2) The Republican Party State Central Committee may adopt provisions in its constitution and bylaws providing for the removal of members of the Republican State Central Committee who fail to discharge the minimum responsibilities of a State central committee member.

(c) *Adoption of constitution and bylaws by county central committee of a principal political party.* — (1) In accordance with the constitution and bylaws of a principal political party, the central committee of that party for each county shall adopt a constitution, bylaws, and rules.

(2) Until a central committee adopts a constitution, bylaws, and rules, the central committee shall be governed by the State central committee.

(d) *Filing.* — (1) Within 30 days after the adoption or amendment by a political party of a constitution, bylaw, or rule, the political party shall file a copy of the constitution, bylaw, or rule with the State Board.

(2) Within 30 days after the adoption or amendment by a central committee of any county of a constitution, bylaw, or rule, the local central committee shall file a copy of the constitution, bylaw, or rule with the State central committee and the State Board.

(e) *New political parties.* — (1) The constitution and bylaws adopted by a new political party shall conform to the requirements of subsections (a), (b), and (c)(1) of this section.

(2) If a new political party decides to form local central committees, the political party shall notify the State Board of the number and size of the local central committees within 6 months after the date the State Board notified the political party that it is considered a State political party. (An. Code 1957, art. 33, § 4-204; 2002, ch. 291, §§ 2, 4; 2006, ch. 44.)

§ 4-205. Prohibited practices.

(a) *Prohibition on incorporation.* — A political party in the State may not incorporate under the general laws of the State providing for the formation of a corporation.

(b) *Exclusive authority of party central committee.* — Unless it is the party State central committee, an organization may not represent that it is the official organization or governing body of any political party.

EL, § 4-205

REGISTRATION AND ELECTION LAWS

(c) *Penalty.* — A person who violates this section shall be guilty of a misdemeanor and shall be subject to the penalties provided in Title 16 of this article. (An. Code 1957, art. 33, § 4-205; 2002, ch. 291, §§ 2, 4.)

Legislative intent. — The legislative intent of subsection (b) of a former version of this section is to reach the situation where there is a claim by an organization, other than the State central committee, that it is the official party organization. *Culotta v. Raimondi*, 251 Md. 384, 247 A.2d 519 (1968).

Subsection (b) directed against group action. — Subsection (b) is directed against group action and not that of an individual candidate (under a former version of this section). *Culotta v. Raimondi*, 251 Md. 384, 247 A.2d 519 (1968).

TITLE 5.

CANDIDATES.

- Subtitle 1. General Provisions.*
- Sec.
5-101. In general.
- Subtitle 2. Qualifications.*
- 5-201. In general.
5-202. Residency requirement.
5-203. Voter registration and party affiliation.
5-204. Candidacy for more than one office.
5-205. Governor and Lieutenant Governor unit.
- Subtitle 3. Certificate of Candidacy.*
- 5-301. In general.
5-302. Filing.
5-303. When filed.
5-304. Manner of filing.
5-305. Petition to challenge residency of certain candidates.
- Subtitle 4. Filing Fees.*
- 5-401. Amount.
5-402. Return of filing fees.
5-403. Disposition of filing fees.
- Subtitle 5. Withdrawal of Candidacy After Filing but Before Primary Election.*
- 5-501. Scope.
5-502. Time for withdrawal.
5-503. Place and manner of withdrawal.
5-504. Effect of withdrawal of candidacy.
- Subtitle 6. Qualification for Primary Election Ballot.*
- 5-601. Candidates qualifying.
- Subtitle 7. Nomination.*
- 5-701. In general.
5-702. Nomination by primary election.
5-703. Nomination by petition.
5-703.1. Nomination by political party not required to nominate candidates by party primary.
5-704. Write-in candidates.
5-705. Certificate of nomination or election after primary election.
5-706. Candidate defeated in primary election.
- Subtitle 8. Declination of Nomination.*
- 5-801. Declination of nomination.
- Subtitle 9. Vacancies in Candidacy Occurring Before a Primary Election.*
- 5-901. Offices other than Governor and Lieutenant Governor — No filed candidate.
- Sec.
5-902. Governor and Lieutenant Governor — Vacancy in candidacy before the filing deadline.
5-903. Lieutenant Governor — Vacancy in candidacy occurring after the filing deadline.
5-904. Governor — Vacancy in candidacy after the filing deadline when more than one Governor and Lieutenant Governor unit files for nomination.
5-905. Governor and Lieutenant Governor — Vacancy in candidacy after the filing deadline when only one Governor and Lieutenant Governor unit files for nomination.
- Subtitle 10. Filling Vacancies in Nomination After a Primary Election.*
- 5-1001. Certificate of nomination to fill vacancies.
5-1002. Statewide offices.
5-1003. Shared district candidates — More than one county in a congressional or General Assembly district.
5-1004. Local offices and districts entirely within one county.
5-1005. Governor and Lieutenant Governor.
- Subtitle 11. Vacancies in Candidacy for Petition Candidates.*
- 5-1101. Governor and Lieutenant Governor units.
5-1102. [Repealed].
- Subtitle 12. Miscellaneous Provisions.*
- 5-1201. Effect of failure to designate successor candidate and file certificate.
5-1202. Certificate of candidacy and payment of filing fee required of successor candidates.
5-1203. Qualifying for general election ballot.
5-1204. Revising the ballot.
- Subtitle 13. Late Vacancies Before the General Election.*
- 5-1301. Applicable to offices other than Governor or Lieutenant Governor.
5-1302. Deadline for filing certificate of designation and consequence of vacancy occurring after deadline.
5-1303. Canvass and certification of votes when late vacancy occurs.

*Subtitle 1. General Provisions.***§ 5-101. In general.**

(a) *Applicability.* — This subtitle governs the process by which an individual becomes a candidate for a public or party office in an election governed by this article.

(b) *Compliance required.* — An individual's name may not be placed on the ballot and submitted to the voters at an election unless the individual complies with the requirements of this title. (An. Code 1957, art. 33, § 5-101; 2002, ch. 291, §§ 2, 4.)

*Subtitle 2. Qualifications.***§ 5-201. In general.**

An individual may become a candidate for a public or party office only if the individual satisfies the qualifications for that office established by law and, in the case of a party office, by party constitution or bylaws. (An. Code 1957, art. 33, § 5-201; 2002, ch. 291, §§ 2, 4.)

§ 5-202. Residency requirement.

A candidate for public or party office must be a registered voter at an address that satisfies any residence requirement for the office that is imposed by law and, in the case of a party office, by party rules. (An. Code 1957, art. 33, § 5-202; 2002, ch. 291, §§ 2, 4.)

§ 5-203. Voter registration and party affiliation.

(a) *Voter registration required.* — (1) This subsection does not apply to a candidate for:

- (i) President or Vice President of the United States; or
- (ii) any federal office who seeks nomination by petition.

(2) Unless the individual is a registered voter affiliated with the political party, an individual may not be a candidate for:

- (i) an office of that political party; or
- (ii) except as provided in subsection (b) of this section, nomination by that political party.

(b) *Party affiliation — Exception for judicial and county board of education candidates.* — The requirements for party affiliation specified under subsection (a) of this section do not apply to a candidate for:

- (1) a judicial office; or
- (2) a county board of education. (An. Code 1957, art. 33, § 5-203; 2002, ch. 291, §§ 2, 4.)

University of Baltimore Law Forum. — For an article, “The Selection and Election of Circuit Judges in Maryland: A Time for Change,” see 40 U. Balt. L. F. 39 (2010).

Party affiliation. — Judicial candidates in a principal party's primary election need not be affiliated with the principal party under (b). For example, a judicial candidate officially regis-

tered as a member of the Republican Party may be a candidate in the Democratic Party's primary election. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Filing in elections of both parties. — Judicial candidates may file as a candidate in the primary elections of both principal political parties at the same time under (b) and 5-706 of

this title. As a result, judicial candidates often “cross-file” in the two primary elections and could lose in one party's primary election yet attain access to the general election ballot by winning the other party's primary election. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 5-204. Candidacy for more than one office.

(a) *Public office.* — An individual simultaneously may not be a candidate for more than one public office.

(b) *Party office.* — An individual simultaneously may not be a candidate for more than one office of a political party.

(c) *Candidacy for both party office and public office.* — Unless otherwise prohibited by rule of the applicable political party, an individual simultaneously may be a candidate for a party office and a public office. (An. Code 1957, art. 33, § 5-204; 2002, ch. 291, §§ 2, 4.)

§ 5-205. Governor and Lieutenant Governor unit.

(a) *Designation.* — In accordance with Article II of the Maryland Constitution, when a candidate for nomination for Governor files a certificate of candidacy for that office, the candidate shall designate a candidate for Lieutenant Governor.

(b) *Filing as a unit.* — The candidates for nomination for Governor and Lieutenant Governor each shall file for nomination and be considered a unit for nomination to the offices of Governor and Lieutenant Governor.

(c) *Listing on the ballot.* — (1) The names of the candidates of a unit for Governor and Lieutenant Governor shall be listed jointly on the ballot.

(2) A vote cast for a candidate for Governor also shall be a vote cast for the candidate for Lieutenant Governor. (An. Code 1957, art. 33, § 5-205; 2002, ch. 291, §§ 2, 4.)

Subtitle 3. Certificate of Candidacy.

§ 5-301. In general.

(a) *In general.* — An individual may become a candidate for a public or party office only if:

(1) the individual files a certificate of candidacy in accordance with this subtitle; and

(2) the individual does not file a certificate of withdrawal under Subtitle 5 of this title.

(b) *Determination by State Board or local board.* — The appropriate board shall determine whether an individual filing a certificate of candidacy meets the requirements of this article, including:

(1) the voter registration and party affiliation requirements under Subtitle 2 of this title; and

(2) the campaign finance reporting requirements under Title 13 of this article.

(c) *Listing of name on ballot.* — (1) On the certificate of candidacy, a candidate shall designate how the candidate's name is to appear on the ballot.

(2) Except as provided in paragraph (3) of this subsection, a candidate shall file a certificate of candidacy in which the candidate lists any given name, an initial letter of any other given name, and surname.

(3) A candidate may file a certificate of candidacy in a name different than that specified under paragraph (2) of this subsection if the candidate files an affidavit, under penalties of perjury, attesting that the candidate is generally known by that other name in:

(i) press accounts concerning the candidate, if any; or

(ii) if press accounts do not exist, the candidate's everyday encounters with members of the community.

(4) Except for the use of quotation marks to enclose a portion of a name, the use of symbols, titles, degrees, or other professional designations on a certificate of candidacy is prohibited.

(d) *Petition candidates.* — A candidate who seeks nomination by petition shall file a certificate of candidacy as provided in § 5-703 of this title.

(e) *Write-in candidates.* — A write-in candidate shall file a certificate of candidacy as provided under this subtitle.

(f) *Exception for appellate judges.* — (1) (i) On or before August 31 in the year in which a judge of the Court of Appeals must stand for continuance in office, the Clerk of the Court of Appeals shall provide written notice to the State Board of the name of the judge that is to be placed on the ballot at the next succeeding general election together with the identification of the judicial circuit from which the qualified voters of that circuit may cast a vote for the judge's continuance in office.

(ii) On or before August 31 in the year in which a judge of the Court of Special Appeals must stand for continuance in office, the Clerk of the Court of Special Appeals shall provide written notice to the State Board of the name of the judge that is to be placed on the ballot at the next succeeding general election together with:

1. the identification of the judicial circuit from which the qualified voters of that circuit may cast a vote for the judge's continuance in office; or

2. a statement that the voters of the entire State may cast a vote for the judge's continuance in office.

(2) An incumbent judge of the Court of Appeals or Court of Special Appeals is not required to file a certificate of candidacy for an election for continuance in office.

(g) *Exception for candidates nominated by national party presidential nominating convention.* — (1) A candidate for President or Vice President of the United States nominated by a national party convention is not required to file a certificate of candidacy under this section.

(2) If more than one written notice naming different presidential and vice presidential nominees is provided to the State Board by persons purporting to be the presiding officer of the same party convention, the State Board shall

require the chairman of the State party to provide written reaffirmation of the party's nominees within 5 days after the State Board's demand.

(h) *Written notice.* — (1) On or before August 31 in the year in which a member of the Anne Arundel County Board of Education must stand for continuance in office, the Anne Arundel County Board of Education shall provide written notice to the State Board of the name of the member that is to be placed on the ballot at the next succeeding general election.

(2) An incumbent member of the Anne Arundel County Board of Education is not required to file a certificate of candidacy for an election for continuance in office. (An. Code 1957, art. 33, § 5-301; 2002, ch. 291, §§ 2, 4; 2003, ch. 222; 2007, ch. 454.)

Quoted in *Ross v. State Bd. of Elections*, 387 Md. 649, 876 A.2d 692 (2005).

Cited in *Abrams v. Lamone*, 398 Md. 146, 919 A.2d 1223 (2007).

§ 5-302. Filing.

(a) *On form.* — A certificate of candidacy shall be filed under oath on the prescribed form.

(b) *Filing with State Board.* — The certificate of candidacy shall be filed with the State Board if the candidacy is for:

- (1) an office to be voted upon by the voters of the entire State;
- (2) the General Assembly of Maryland;
- (3) Representative in Congress;
- (4) the office of judge of the circuit court for a county; or

(5) an office of elected delegate to a presidential national convention provided for under Title 8, Subtitle 5 of this article.

(c) *Filing with local board.* — (1) If the candidacy is for an office other than an office described in subsection (b) of this section, the certificate of candidacy shall be filed with the local board of the applicable county.

(2) In accordance with regulations adopted by the State Board, each local board shall provide the name and other required information for each candidate to the State Board. (An. Code 1957, art. 33, § 5-302; 2002, ch. 291, §§ 2, 4; ch. 19, § 10; 2011, ch. 169.)

Effect of amendments. — Chapter 169, Acts 2011, effective October 1, 2011, added the (c)(1) designation and added (c)(2).

Cited in *Abrams v. Lamone*, 398 Md. 146, 919 A.2d 1223 (2007).

§ 5-303. When filed.

(a) *In general.* — Except as provided in subsections (b) and (c) of this section:

(1) in the year in which the Governor is elected, a certificate of candidacy shall be filed not later than 9 p.m. on the Wednesday following the second Tuesday in April in the year in which the primary election will be held; and

(2) for any other regularly scheduled election, a certificate of candidacy shall be filed not later than 9 p.m. on the Wednesday that is 83 days before the day on which the primary election will be held.

(b) *Special election.* — A certificate of candidacy for an office to be filled by a special election under this article shall be received and filed in the office of

the appropriate board not later than 5 p.m. on the Monday that is 3 weeks or 21 days prior to the date for the special primary election specified by the Governor in the proclamation for the special primary election.

(c) *Write-in candidate.* — The certificate of candidacy for the election of a write-in candidate shall be filed by the earlier of:

(1) 7 days after a total expenditure of at least \$51 is made to promote the candidacy by a campaign finance entity of the candidate; or

(2) 5 p.m. on the Wednesday preceding the day of the election for which the certificate is filed. (An. Code 1957, art. 33, § 5-303; 2002, ch. 291, §§ 2, 4; 2007, ch. 219; 2008, ch. 118; 2011, ch. 169.)

Effect of amendments. — Chapter 118, Acts 2008, enacted April 17, 2008, and effective from date of enactment, added “or if there . . . special general election” and made a related change at the end of (b).

Chapter 169, Acts 2011, effective October 1, 2011, added the (a)(1) designation and added (a)(2); in (a)(1) added “in the year in which the Governor is elected” and substituted “Wednesday following the second Tuesday in April in the year in” for “Monday that is 10 weeks or 70 days before the day on”; and made related changes.

Editor’s note. — Pursuant to § 3, ch. 118, Acts 2008, the amendments are deemed to have abrogated on December 31, 2008.

Bill review letter. — Chapter 118, Acts 2008, (House Bill 1627) was approved for constitutionality and legal sufficiency, and provided for a special election process in the event of a vacancy in the Office of Representative in Congress after the regular primary election has taken place. This bill allows the Governor to proclaim and hold one special general election without a special primary election. Preference was given to vest the recommendation of local central committees of political parties for the

nomination of candidates to fill vacancies. This bill abrogated at the end of 2008 and has no future effect on elections after that time. (Letter of the Attorney General dated April 15, 2008.)

Filing deadlines constitutional. — Fixing of deadline for filing of certificates of candidacy is not unreasonable or an unconstitutional restriction, in view of the necessity for making timely preparations for elections. *Andrews v. Secretary of State*, 235 Md. 106, 200 A.2d 650 (1964).

Provisions not discretionary. — Where the election statutes fix a date for filing petitions or certificates of candidacy, such documents must be filed before the expiration of the time fixed, and the election officials may not exercise any discretion in the matter. *Andrews v. Secretary of State*, 235 Md. 106, 200 A.2d 650 (1964).

The provisions of a former version of this section, setting a time within which a certificate of candidacy is to be filed, are mandatory and leave no discretion in either the election officials or the courts. *McGinnis v. Board of Supvrs. of Elections*, 244 Md. 65, 222 A.2d 391 (1966).

§ 5-304. Manner of filing.

(a) *Manner of filing.* — (1) A certificate of candidacy may be filed:

(i) in person; or

(ii) if authorized by subsection (b) of this section, by certified mail, personal messenger, or other delivery service designated by the filer.

(2) A certificate of candidacy may not be filed by facsimile service or other electronic transmission.

(b) *Filing other than in person.* — A certificate of candidacy may be filed as permitted under subsection (a)(1)(ii) of this section, if:

(1) the individual filing the certificate is unable to do so in person because of illness, military service, or temporary absence from the State; and

(2) the certificate is accompanied by an affidavit signed by the individual filing the certificate setting forth fully the facts that prevent that individual from filing the certificate in person.

(c) *Content.* — On the certificate of candidacy form prescribed by the State Board, the candidate shall specify:

- (1) the office, including, if applicable, the party, district, and circuit to which the candidacy relates;
- (2) the year of the election;
- (3) the name of the individual filing the certificate;
- (4) the address on the statewide voter registration list or the current address of that individual;
- (5) a statement that the individual satisfies the requirements of law for candidacy for the office for which the certificate is being filed; and
- (6) any information requested by the State Board to verify the accuracy of the information provided by the individual under this subsection.

(d) *Additional requirements.* — The certificate of candidacy shall be accompanied by:

- (1) a filing fee satisfying the requirements of § 5-401 of this title;
- (2) a separate form, unless such a form has previously been filed, establishing a campaign finance entity under Title 13 of this article;
- (3) evidence that the individual has filed:
 - (i) a financial disclosure statement with the State Ethics Commission in accordance with the requirements of Title 15, Subtitle 6 of the State Government Article; or
 - (ii) any other financial disclosure report required by law; and
- (4) any additional information required by the State Board.

(e) *Acceptance by appropriate board.* — The appropriate board shall accept the certificate of candidacy if it determines that all requirements are satisfied. (An. Code 1957, art. 33, § 5-304; 2002, ch. 291, §§ 2, 4; ch. 19, § 10; 2005, ch. 572, § 1.)

§ 5-305. Petition to challenge residency of certain candidates.

(a) *Applicability.* — This section applies only to a petition that will affect the right of a candidate to have the candidate's name appear on the ballot in a primary or general election.

(b) *In general.* — A registered voter who is a resident of the district or other geographic area in which a candidate is seeking office may file a petition with the circuit court for that district or geographic area to challenge the candidate's residency as provided in § 5-202 of this title.

(c) *Filing requirements.* — (1) The petition must be filed 6 days after the filing dates provided in §§ 5-303 and 5-703(c) of this title.

(2) Judicial review of any petition that is filed under subsection (b) of this section shall be expedited by the circuit court that hears the cause to the extent necessary in consideration of the deadlines established by law, and in no case, longer than 7 days from the date the petition is filed. (2004, ch. 338; 2011, ch. 169.)

Effect of amendments. — Chapter 169, Acts 2011, effective October 1, 2011, rewrote (c)(1).

Subtitle 4. Filing Fees.

§ 5-401. Amount.

(a) *In general.* — (1) This section does not apply to a write-in candidate.

(2) Unless exempted under subsection (c) of this section, an individual who files a certificate of candidacy shall pay a filing fee at the time the certificate of candidacy is filed.

(b) *Specific amount.* — The filing fee shall be as follows:

- (1) President and Vice President of the United States.....No fee
- (2) Governor or Lieutenant Governor.....\$290 each
- (3) Comptroller of the Treasury.....\$290
- (4) Attorney General.....\$290
- (5) United States Senator.....\$290
- (6) Representative in Congress.....\$100
- (7) Member of the General Assembly.....\$50
- (8) Mayor of the City of Baltimore.....\$150
- (9) Comptroller of the City of Baltimore.....\$150
- (10) City Council of Baltimore:
 - (i) President.....\$150
 - (ii) member at large voted on by the voters of the entire City of Baltimore.....\$150
 - (iii) member voted on by less than the entire City of Baltimore...\$50
- (11) offices of the City of Baltimore, not specified in items (8), (9), and (10) of this subsection, that are voted on by the voters of the entire City of Baltimore.....\$150
- (12) any other public office.....\$25
- (13) member of a party central committee.....\$10

(c) *Waiver of filing fee.* — (1) A candidate may petition for a waiver of the filing fee in accordance with this subsection.

(2) The filing fee required by this section shall be waived if the candidate establishes inability to pay the fee.

(3) A candidate may demonstrate inability to pay the filing fee by attaching to the certificate of candidacy when it is filed a sworn statement on the form prescribed by the State Board of inability to pay which sets forth:

- (i) the nature, extent, and liquidity of the candidate’s assets; and
- (ii) the candidate’s disposable net income.

(4) At its discretion and in order to conduct any investigation of the petition for waiver, the appropriate board may request that the candidate provide additional information concerning the candidate’s financial status.

(5) If the appropriate board determines that the candidate is unable to pay the required filing fee, the certificate of candidacy shall be issued without payment of the fee. (An. Code 1957, art. 33, § 5-401; 2002, ch. 291, §§ 2, 4; 2010, ch. 72, § 5.)

Editor's note. — Pursuant to § 5, ch. 72, Acts 2010, “items (8), (9), and (10) of this subsection” was substituted for “paragraphs (8), (9), and (10)” in (b)(11).

Filing fee requirement for write-in candidates. — A former requirement that non-indigent write-in candidates for certain Baltimore City offices file certificates of candidacy

and pay a filing fee of \$150 in order to become “official” candidates and to have the votes cast for them reported publicly, impermissibly infringing on rights protected by the First and Fourteenth Amendments to the United States Constitution. *Dixon v. Maryland State Admin. Bd. of Election Laws*, 878 F.2d 776 (4th Cir. 1989).

§ 5-402. Return of filing fees.

(a) *Candidate entering military service.* — Upon request, a candidate who pays a filing fee is entitled to a return of the filing fee upon the filing of the certificate of withdrawal on the form prescribed by the State Board if the candidate enters into active duty with the armed services of the United States during the period between the last date allowed for the withdrawal of candidacy and the printing of the ballots.

(b) *Return for good cause.* — Subject to the approval of the State Board, the filing fee paid by a candidate may be returned to the candidate for good cause. (An. Code 1957, art. 33, § 5-402; 2002, ch. 291, §§ 2, 4.)

§ 5-403. Disposition of filing fees.

(a) *In general.* — Filing fees paid by candidates under § 5-401 of this subtitle shall be distributed as specified in this section.

(b) *Fees received by local board.* — Filing fees received by a local board shall be transferred to the governing body of the county.

(c) *Fees received by State Board.* — Filing fees received by the State Board shall be divided and distributed:

(1) with respect to candidates for statewide office:

- (i) \$60 to the Baltimore City Board of Elections; and
- (ii) \$10 each to each other local board;

(2) with respect to candidates for any other public or party office in a multicounty district, in equal amounts to the local board of each county that contains part of the district to which the candidacy relates; and

(3) with respect to a candidate for a public or party office in a district wholly contained within one county, to the local board of that county. (An. Code 1957, art. 33, § 5-403; 2002, ch. 291, §§ 2, 4; ch. 303, § 2.)

Subtitle 5. Withdrawal of Candidacy After Filing but Before Primary Election.

§ 5-501. Scope.

An individual who has filed a certificate of candidacy may withdraw the candidacy by filing a certificate of withdrawal as provided in this subtitle. (An. Code 1957, art. 33, § 5-501; 2002, ch. 291, §§ 2, 4.)

§ 5-502. Time for withdrawal.

(a) *In general.* — Subject to § 5-402 of this title, an individual who has filed a certificate of candidacy may withdraw the candidacy by filing a certificate of

withdrawal on the form prescribed by the State Board within 2 days after the filing date established under § 5-303 of this title.

(b) *Special elections.* — An individual who has filed a certificate of candidacy for the special election to fill a vacancy for Representative in Congress may withdraw the certificate on the prescribed form within 2 days after the filing date established in the proclamation issued by the Governor. (An. Code 1957, art. 33, § 5-502; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 6; ch. 222; 2007, ch. 219; 2011, ch. 169.)

Effect of amendments. — Chapter 169, Acts 2011, effective October 1, 2011, substituted “2 days” for “10 days” in (a).

Date of withdrawal. — Should any question arise as to timeliness of candidate’s with-

drawal affidavit, the resolution of that question is controlled by the date of actual receipt in the office of the Secretary of State. 61 Op. Att’y Gen. 352 (1976).

§ 5-503. Place and manner of withdrawal.

(a) *In general.* — Except as provided in subsection (b) of this section, the certificate of withdrawal shall be filed with the appropriate board with which the individual filed the certificate of candidacy.

(b) *Special elections.* — The proclamation issued by the Governor under § 8-710 of this article for a special election to fill a vacancy for Representative in Congress shall allow any individual who has filed a certificate of candidacy to withdraw the candidacy as provided under the terms of the proclamation. (An. Code 1957, art. 33, § 5-503; 2002, ch. 291, §§ 2, 4.)

§ 5-504. Effect of withdrawal of candidacy.

(a) *In general.* — If a certificate of withdrawal is filed under this subtitle:

(1) the certificate of candidacy to which the certificate of withdrawal relates is void;

(2) the name of the candidate may not be submitted to the voters for nomination and election to the office to which the certificate relates unless the individual files a new certificate of candidacy within the time limit prescribed for filing; and

(3) except as provided in § 5-402 of this title, the filing fee for the certificate of candidacy may not be refunded.

(b) *Name to appear on ballot; exception.* — Except for the offices of Governor and Lieutenant Governor, the name of any individual who files a certificate of candidacy and does not withdraw shall appear on the primary election ballot unless, by the 10th day after the filing deadline specified under § 5-303 of this title, the individual’s death or disqualification is known to the applicable board with which the certificate of candidacy was filed. (An. Code 1957, art. 33, § 5-504; 2002, ch. 291, §§ 2, 4; 2006, ch. 44.)

Subtitle 6. Qualification for Primary Election Ballot.

§ 5-601. Candidates qualifying.

The name of a candidate shall remain on the ballot and be submitted to the voters at a primary election if:

(1) the candidate has filed a certificate of candidacy in accordance with the requirements of § 5-301 of this title and has satisfied any other requirements of this article relating to the office for which the individual is a candidate, provided the candidate:

(i) has not withdrawn the candidacy in accordance with Subtitle 5 of this title;

(ii) has not died or become disqualified, and that fact is known to the applicable board by the deadline prescribed in § 5-504(b) of this title;

(iii) does not seek nomination by petition pursuant to the provisions of § 5-703 of this title; or

(iv) is not a write-in candidate; or

(2) the candidate has qualified to have the candidate's name submitted to the voters in a presidential primary election under Title 8, Subtitle 5 of this article. (An. Code 1957, art. 33, § 5-601; 2002, ch. 291, §§ 2, 4.)

Cited in *Abrams v. Lamone*, 398 Md. 146, 919 A.2d 1223 (2007).

Subtitle 7. Nomination.

§ 5-701. In general.

Nominations for public offices that are filled by elections governed by this article shall be made:

(1) by party primary, for candidates of a principal political party;

(2) by petition, for candidates not affiliated with any political party; or

(3) in accordance with the constitution and by-laws of the political party, for candidates of a political party that does not nominate by party primary. (An. Code 1957, art. 33, § 5-701; 2002, ch. 291, §§ 2, 4; 2006, ch. 120.)

Cross references. — For present provisions concerning provisions regarding the nomination and election of candidates for an elected county board of education, see §§ 8-801 through 8-805 of this article.

New party candidates. — Candidates of new party may be nominated as provided in a

former version of this section. *Iverson v. Jones*, 171 Md. 649, 187 A. 863 (1937).

Quoted in *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 832 A.2d 214 (2003).

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 5-702. Nomination by primary election.

A candidate for public office of a political party shall be nominated in accordance with the requirements of Subtitles 2 through 4 of this title unless the candidate is:

(1) nominated by:

(i) petition under § 5-703 of this subtitle; or

(ii) political party under § 5-703.1 of this subtitle; or

(2) a write-in candidate under § 5-704 of this subtitle. (An. Code 1957, art. 33, § 5-702; 2002, ch. 291, §§ 2, 4; 2006, ch. 120.)

Placement of nominees on ballot. — If a party has been properly formed and so is considered a party for purposes of a former version

of this article, and its nominees have been properly nominated, pursuant to a prior similar provision, then its nominees may designate the

party as the political party with which they are affiliated and, if they do so, the party's name will appear on the ballot, at both statewide and local elections, next to that of its nominees. 62 Op. Att'y Gen. 411 (1977).

If a party (i) fully complies with the requirements for new party formation in Title 4 of a

former version of this article and (ii) thereafter selects its presidential and vice presidential nominees at a national convention, those properly certified nominees should be placed on the general election ballot in Maryland. 69 Op. Att'y Gen. 133 (1984).

§ 5-703. Nomination by petition.

(a) *Scope.* — Except for a candidate for a nonpartisan county board of education, this section applies to any candidate for public office subject to this title.

(b) *In general.* — A candidate for a public office may be nominated by petition under this subtitle if the candidate is not affiliated with any political party.

(c) *Declaration of intent.* — (1) A candidate for public office who seeks nomination by petition shall file a declaration of intent to seek nomination by petition.

(2) The declaration of intent shall be filed with the board at which the candidate files a certificate of candidacy under Subtitle 3 of this title.

(3) The declaration of intent shall be filed as follows:

(i) in a year in which the Governor is elected or the Baltimore City municipal election is held, by the date and time specified for a candidate to file a certificate of candidacy;

(ii) in a year in which the President is elected, by July 1; and

(iii) for a special election to fill a vacancy for Representative in Congress, by the date and time specified for a candidate to file a certificate of candidacy in the Governor's proclamation.

(4) A candidate who seeks nomination by petition may not be charged a fee for filing the declaration of intent.

(d) *Certificate of candidacy.* — (1) A candidate for public office who seeks nomination by petition shall file a certificate of candidacy not later than 5 p.m. on the first Monday in August in the year of the general election for the office.

(2) Except for the time of filing, the certificate of candidacy for a candidate who seeks nomination by petition shall comply with the requirements for a certificate of candidacy under Subtitle 3 of this title.

(e) *Petition signatures requirements.* — (1) A candidate who seeks nomination by petition may not have the candidate's name placed on the general election ballot unless the candidate files with the appropriate board petitions signed by not less than 1% of the total number of registered voters who are eligible to vote for the office for which the nomination by petition is sought, except that the petitions shall be signed by at least 250 registered voters who are eligible to vote for the office.

(2) The petitions shall be filed as required in Title 6 of this article.

(3) The number of registered voters required to satisfy the requirements of paragraph (1) of this subsection shall be determined as of January 1 of the year of the primary election for which the nomination is sought.

(f) *Time and place for filing petition signatures.* — (1) Except as provided in paragraph (2) of this subsection, a petition that contains the required number

of signatures specified under subsection (e)(1) of this section shall be filed with the appropriate board by 5 p.m. on the first Monday in August in the year in which the general election is held.

(2) In a special election to fill a vacancy in the office of Representative in Congress, a petition that contains the required number of signatures shall be filed with the State Board by 5 p.m. on the day of the special primary election. (An. Code 1957, art. 33, § 5-703; 2002, ch. 291, §§ 2, 4; 2006, ch. 120; 2008, ch. 118; 2010, ch. 72, § 5; chs. 270, 271.)

Effect of amendments. — Chapter 118, Acts 2008, approved April 17, 2008, and effective from date of enactment, added “or if there is only a special general election, on the day by which the State central committees of the political parties must designate their candidates under § 8-710(e) of this article for the special general election” at the end of (f)(2).

Chapters 270 and 271, Acts 2010, effective June 1, 2010, made identical changes. Each substituted “January 1 of the year of” for “the deadline for changing party affiliation before” in (e)(3).

Editor’s note. — Pursuant to § 3, ch. 118, Acts 2008, the amendments are deemed to have abrogated on December 31, 2008.

Pursuant to § 5, ch. 72, Acts 2010, “subsection” was substituted for “section” in (e)(3).

Bill review letter. — Chapter 118, Acts 2008, (House Bill 1627) was approved for constitutionality and legal sufficiency, and provided for a special election process in the event of a vacancy in the Office of Representative in Congress after the regular primary election has taken place. This bill allows the Governor to proclaim and hold one special general election without a special primary election. Preference was given to vest the recommendation of local central committees of political parties for the nomination of candidates to fill vacancies. This bill abrogated at the end of 2008 and has no future effect on elections after that time. (Letter of the Attorney General dated April 15, 2008.)

University of Baltimore Law Forum. — For an article, “The Selection and Election of

Circuit Judges in Maryland: A Time for Change,” see 40 U. Balt. L. F. 39 (2010).

Independent candidate’s access to ballot. — Whether filing dates for the nominating petitions needed for an independent candidate to qualify for a position on the general election ballot are unconstitutionally burdensome on the independent candidate’s access to the ballot should be decided under the constitutional standards announced in *Storer v. Brown*, 415 U.S. 724, 94 S. Ct. 1274, 39 L. Ed. 2d 714 (1974). *Mandel v. Bradley*, 432 U.S. 173, 97 S. Ct. 2238, 53 L. Ed. 2d 199 (1977).

Deadlines not discretionary. — Since the affidavits regarding signers of a petition for nomination are required by a former version of this section to “accompany” such petitions, they must be filed with the petition by the deadline. *Chamberlain v. Board of Supvrs. of Elections*, 212 Md. 342, 129 A.2d 121 (1957).

Where the election statutes fix a date for filing petitions or certificates of candidacy, election officials may not exercise any discretion in the matter; the fixing of a deadline is not an unreasonable or unconstitutional restriction in view of the necessity of making timely preparations for the election. *Chamberlain v. Board of Supvrs. of Elections*, 212 Md. 342, 129 A.2d 121 (1957); *Andrews v. Secretary of State*, 235 Md. 106, 200 A.2d 650 (1964).

Quoted in *Md. Green Party v. State Bd. of Elections*, 165 Md. App. 113, 884 A.2d 789 (2005), cert. denied, 390 Md. 501, 889 A.2d 418 (2006).

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 5-703.1. Nomination by political party not required to nominate candidates by party primary.

(a) *Scope.* — Except for a candidate for a nonpartisan county board of education, this section applies to any candidate for public office subject to this title.

(b) *In general.* — A candidate for a public office may be nominated by a political party under this subtitle if the political party is not required to nominate its candidates by party primary.

(c) *Declaration of intent.* — (1) A candidate for public office who seeks political party nomination under this section shall file a declaration of intent to seek political party nomination.

(2) The declaration of intent shall be filed with the board at which the candidate files a certificate of candidacy under Subtitle 3 of this title.

(3) The declaration of intent shall be filed as follows:

(i) in a year in which the Governor is elected, by the date and time specified for a candidate to file a certificate of candidacy;

(ii) in the year in which the President and Mayor of Baltimore City are elected, by July 1; and

(iii) for a special election to fill a vacancy:

1. for Representative in Congress, by the date and time specified in the Governor's proclamation for a candidate to file a certificate of candidacy; or

2. for a local public office, by the date and time specified in the county proclamation for a candidate to file a certificate of candidacy.

(4) A candidate who seeks nomination by political party may not be charged a fee for filing the declaration of intent.

(d) *Time of filing; compliance with requirements for certificate of candidacy.*

— (1) A candidate for public office who seeks nomination by political party shall file a certificate of candidacy not later than 5 p.m. on the first Monday in August in the year of the general election for the office.

(2) Except for the time of filing, the certificate of candidacy for a candidate who seeks nomination by political party shall comply with the requirements for a certificate of candidacy under Subtitle 3 of this title.

(e) *Certificate of nomination.* — A candidate for nomination by political party may not have the candidate's name placed on the general election ballot unless the candidate files with the appropriate board, on a form the State Board prescribes, a certificate of nomination signed by the officers of the political party. (2006, ch. 120.)

University of Baltimore Law Forum. —

For an article, "The Selection and Election of Circuit Judges in Maryland: A Time for Change," see 40 U. Balt. L. F. 39 (2010).

§ 5-704. Write-in candidates.

An individual who seeks election as a write-in candidate shall file a certificate of candidacy as required under § 5-303 of this title. (An. Code 1957, art. 33, § 5-704; 2002, ch. 291, §§ 2, 4.)

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 5-705. Certificate of nomination or election after primary election.

(a) *In general.* — A certificate of nomination that entitles a candidate for public office to have the candidate's name listed on the general election ballot

and submitted to the voters at the general election shall be issued in accordance with this section.

(b) *Issuance of certificates of nomination.* — (1) The State Board shall issue a certificate of nomination to each candidate who files a certificate of candidacy with the State Board and who qualifies for the nomination.

(2) The local board with which a candidate files a certificate of candidacy shall issue a certificate of nomination to each candidate who qualifies for the nomination.

(3) A political party may have only one candidate as its nominee for any position to be filled in a general election.

(4) A certificate of nomination may not contain the name of more than one nominee for each office to be filled at the election.

(c) *Issuance of certificate of election.* — Following the certification of the primary elections returns by the board responsible for the certification of the results of that election, that board shall issue a certificate of election to:

(1) each candidate for delegate to a national party convention who is certified by the State Board to have been elected in accordance with the party's rules; and

(2) each candidate to a party central committee who is certified by the local board to have been elected to that position. (An. Code 1957, art. 33, § 5-705; 2002, ch. 291, §§ 2, 4.)

University of Baltimore Law Forum. — For an article, “The Selection and Election of Circuit Judges in Maryland: A Time for Change,” see 40 U. Balt. L. F. 39 (2010).

Major party presidential candidate. — A major party presidential candidate who does not choose to campaign in the Maryland primary or loses the primary may still appear on the Maryland ballot in November if he is nominated by the party convention. *Anderson v. Morris*, 636 F.2d 55 (4th Cir. 1980).

One candidate as nominee. — State may

properly conclude that intraparty disputes should be settled in party primaries, that the general election ballot is reserved for major political struggles, that it should not be the forum for continuing intraparty feuds and that losers in primaries should not be permitted to continue the struggle, all to the end that the general election ballot shall present the electorate with understandable choices and the winner shall have sufficient support to govern effectively. *Anderson v. Morris*, 636 F.2d 55 (4th Cir. 1980).

§ 5-706. Candidate defeated in primary election.

(a) *Scope.* — This section does not apply to:

(1) a candidate for the office of judge of the circuit court;

(2) a candidate selected by a political party to fill a vacancy in nomination under Subtitle 9 or Subtitle 10 of this title; or

(3) a candidate defeated in a presidential preference primary.

(b) *Candidacy not allowed.* — The name of a candidate who is defeated for the nomination for a public office may not appear on the ballot at the next succeeding general election as a candidate for any office. (An. Code 1957, art. 33, § 5-706; 2002, ch. 291, §§ 2, 4.)

In general. — Judicial candidates may file as a candidate in the primary elections of both principal political parties at the same time. Md. Code Ann., Elec. §§ 5-203(b) and 5-706. As a result, judicial candidates often “cross-file” in the two primary elections and could lose in one

party's primary election yet attain access to the general election ballot by winning the other party's primary election. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

*Subtitle 8. Declination of Nomination.***§ 5-801. Declination of nomination.**

(a) *In general.* — A nominee may decline the nomination by filing a certificate of declination on the prescribed form.

(b) *When and where filed.* — The certificate of declination shall be under oath and filed:

(1) with the board at which the certificate of candidacy was filed; and

(2) (i) in the year of a gubernatorial election or the year of an election for the Mayor of the City of Baltimore, within 2 days after the election results are certified; or

(ii) in the year of a presidential election, by the 70th day preceding the general election.

(c) *Effect of declination.* — If a certificate of declination is filed under this section:

(1) the certificate of nomination to which the certificate of declination relates is void;

(2) a vacancy in nomination is created to be filled in accordance with the provisions of Subtitle 10 of this title;

(3) the name of the individual who declined the nomination may not appear on the ballot unless the individual is selected to fill that vacancy; and

(4) the filing fee for the certificate of candidacy of that individual may not be refunded. (An. Code 1957, art. 33, § 5-801; 2002, ch. 291, §§ 2, 4.)

*Subtitle 9. Vacancies in Candidacy Occurring Before a Primary Election.***§ 5-901. Offices other than Governor and Lieutenant Governor — No filed candidate.**

(a) *In general.* — This section does not apply to vacancy in nomination in the office of a Governor and Lieutenant Governor unit.

(b) *Scope.* — This section applies to a vacancy in candidacy for a primary election that occurs because no candidate for the political party files a certificate of candidacy for the election.

(c) *How filled — Offices covering more than one county.* — (1) Except for a vacancy in candidacy for the election of a member of the Senate of Maryland or the House of Delegates as provided in paragraph (2) of this subsection, the vacancy in candidacy for a political party that is entitled to have a candidate on the ballot for an office elected by the voters of more than one county shall be filled by the State central committee or governing body of that political party.

(2) (i) In a State legislative district or a State delegate district comprising more than one county, a vacancy in candidacy for a political party that is entitled to have a candidate on the ballot shall be filled by a vote of the central committee in the counties in the district.

(ii) In filling the vacancy in candidacy under subparagraph (i) of this paragraph, the central committee of each county where the vacancy occurs

shall cast a vote proportionate to its share of the population of the district as reported in the most recent decennial census of the United States.

(iii) If no person receives a majority of the votes cast under subparagraph (ii) of this paragraph, or if there is a tie vote by the central committees, the vacancy in candidacy shall be filled by the State central committee of the political party.

(d) *Other offices.* — For any public or party office not described in subsection (c) of this section, a vacancy in candidacy under this section shall be filled by the central committee of the political party in the county in which the office is located.

(e) *Certificate of designation required from central committee.* — A central committee authorized to fill a vacancy in candidacy for an office under this section shall file a certificate of designation of candidacy with the appropriate board designated to receive the certificate of candidacy for that office 5 days after the filing date provided in § 5-303 of this title.

(f) *Certificates of candidacy required of nominee to fill vacancy.* — The individual designated by a central committee under subsection (e) of this section to fill a vacancy shall file a certificate of candidacy in accordance with Subtitle 3 of this title with the appropriate board by the date specified for the applicable central committee to file a certificate of designation under subsection (e) of this section. (An. Code 1957, art. 33, § 5-901; 2002, ch. 291, §§ 2, 4; 2011, ch. 169.)

Effect of amendments. — Chapter 169, Acts 2011, effective October 1, 2011, substituted “5 days after the filing date provided in § 5-303 of this title” for “by the fifth day after the date on which a candidate may withdraw a

certificate of candidacy before the primary election” in (e).

Applied in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 5-902. Governor and Lieutenant Governor — Vacancy in candidacy before the filing deadline.

(a) *In general.* — If either of the candidates of a Governor and Lieutenant Governor unit dies, withdraws the candidacy, or becomes disqualified for any reason prior to the deadline for filing a certificate of candidacy for a primary election under § 5-303 of this title, the remaining candidate may:

(1) designate a successor candidate who shall file a certificate of candidacy before the later of:

(i) the deadline specified under § 5-303 of this title; or

(ii) the fifth day following the death, withdrawal, or disqualification of the former candidate;

(2) withdraw under Subtitle 5 of this title; or

(3) after withdrawing under paragraph (2) of this subsection, form a successor unit for the candidacy for the offices of Governor and Lieutenant Governor by filing a certificate of candidacy by the date specified under subsection (b) of this section.

(b) *Time of filing.* — The candidates of the successor unit for Governor and Lieutenant Governor formed under subsection (a)(3) of this section each shall file a certificate of candidacy as a successor unit before the later of:

(1) the deadline for filing a certificate of candidacy for the primary election under § 5-303 of this title; or

(2) the fifth day following the death, withdrawal, or disqualification of the former candidate. (An. Code 1957, art. 33, § 5-902; 2002, ch. 291, §§ 2, 4.)

§ 5-903. Lieutenant Governor — Vacancy in candidacy occurring after the filing deadline.

(a) *Designation of successor candidate.* — (1) If a candidate for Lieutenant Governor dies, withdraws the candidacy, or becomes disqualified for any reason after the deadline for filing a certificate of candidacy for a primary election under § 5-303 of this title, the remaining candidate for Governor of that unit may designate a successor candidate for Lieutenant Governor.

(2) Provided the successor candidate for Lieutenant Governor files a certificate of candidacy in accordance with subsection (b) of this section, the name of the successor candidate for Lieutenant Governor shall appear on the ballot.

(b) *Certificate of candidacy required.* — (1) The successor candidate for Lieutenant Governor designated by the candidate for Governor under subsection (a) of this section shall file a certificate of candidacy with the State Board.

(2) The certificate of candidacy shall be filed:

(i) by the fifth day following the withdrawal deadline specified under § 5-502 of this title, if the former Lieutenant Governor candidate files a certificate of withdrawal;

(ii) by the fifth day following the death or disqualification of the former Lieutenant Governor candidate, if that former candidate dies or is disqualified less than 45 days before the day of the primary election; or

(iii) not later than 40 days before the day of the primary, if the former Lieutenant Governor candidate dies or is disqualified 45 days or more before the day of the primary election.

(3) A certificate of candidacy for a successor candidate for Lieutenant Governor under subsection (b)(2)(ii) of this section may not be filed less than 10 days before the day of the primary election.

(c) *Death or disqualification occurring less than 10 days before the primary — Effect.* — If the death or disqualification of a former Lieutenant Governor candidate occurs less than 10 days before the day of the primary election, the existing Governor and Lieutenant Governor unit whose filing is complete:

(1) shall remain on the ballot; and

(2) if nominated, a vacancy in the nomination of the candidate for Lieutenant Governor shall be declared and be filled under § 5-1005(b) of this title as if the death or disqualification had occurred after the primary election. (An. Code 1957, art. 33, § 5-903; 2002, ch. 291, §§ 2, 4.)

§ 5-904. Governor — Vacancy in candidacy after the filing deadline when more than one Governor and Lieutenant Governor unit files for nomination.

(a) *Scope.* — This section does not apply if only one Governor and Lieuten-

ant Governor unit files a certificate of candidacy for the nomination of a political party for those offices in a primary election.

(b) *In general.* — (1) If a candidate for Governor dies, withdraws the candidacy, or becomes disqualified for any reason after the deadline for filing a certificate of candidacy for a primary election under § 5-303 of this title, the remaining candidate for Lieutenant Governor of that unit may:

(i) designate the Lieutenant Governor candidate as the successor candidate for Governor and appoint a successor candidate for Lieutenant Governor; or

(ii) designate a successor candidate for Governor.

(2) The names of any Governor and Lieutenant Governor candidate unit that is designated under paragraph (1) of this subsection shall be listed jointly on the primary election ballot.

(c) *Certificate of candidacy required.* — (1) The successor candidate for Governor designated by the Lieutenant Governor candidate under subsection (b)(1)(ii) of this section, or the former candidate for Lieutenant Governor who subsequently is designated as the candidate for Governor together with the candidate appointed as the successor candidate for Lieutenant Governor under subsection (b)(1)(i) of this section, each shall file a certificate of candidacy with the State Board.

(2) The certificate of candidacy shall be filed:

(i) by the fifth day following the withdrawal deadline specified under § 5-502 of this title, if the former candidate for Governor files a certificate of withdrawal;

(ii) by the fifth day following the day of the death or disqualification of the former candidate for Governor, if that former candidate dies or is disqualified less than 45 days before the day of the primary election; or

(iii) not later than 40 days before the day of the primary election, if the former candidate for Governor dies or is disqualified 45 days or more before the day of the primary election.

(3) A certificate of candidacy may not be filed under subsection (c)(2)(ii) of this section less than 10 days before the day of the primary election.

(d) *Death or disqualification of candidate for Governor occurring less than 10 days before the primary election.* — If the death or disqualification of a former candidate for Governor occurs less than 10 days before the day of the primary election, the existing Governor and Lieutenant Governor unit whose filing is complete:

(1) shall remain on the ballot; and

(2) if nominated, a vacancy in the office of Governor shall be declared and filled under § 5-1005 of this title as if the death or disqualification had occurred after the primary election. (An. Code 1957, art. 33, § 5-904; 2002, ch. 291, §§ 2, 4.)

§ 5-905. Governor and Lieutenant Governor — Vacancy in candidacy after the filing deadline when only one Governor and Lieutenant Governor unit files for nomination.

(a) *In general.* — If only a single Governor and Lieutenant Governor unit

files for the nomination of a political party, and the candidate for Governor dies, withdraws the candidacy, or is disqualified for any reason after the filing deadline specified under § 5-303 of this title, the remaining candidate for Lieutenant Governor is disqualified.

(b) *Designation of successor candidate by State central committee.* — (1) In the event of a vacancy in nomination under subsection (a) of this section, the State central committee of the political party to which the candidates belong shall select a successor candidate for Governor.

(2) The State central committee shall make its selection by the 10th day following the death, withdrawal, or disqualification of the gubernatorial candidate.

(3) The candidate disqualified for the office of Lieutenant Governor under subsection (a) of this section is eligible to be chosen as the successor candidate for Governor.

(c) *Selection of successor nominee for Lieutenant Governor.* — (1) The successor candidate for Governor selected by the State central committee under subsection (b) of this section promptly shall select a successor candidate for Lieutenant Governor.

(2) If the former candidate for Lieutenant Governor is not selected as the successor candidate for Governor, that individual is eligible to be selected again as the candidate for Lieutenant Governor.

(d) *Certificates of designation and candidacy required.* — By the deadline date specified under subsection (b)(2) of this section for the selection of the successor candidate for Governor by the appropriate State central committee, in accordance with Subtitle 3 of this title:

(1) the State central committee making the selection shall file a certificate of designation for those offices with the State Board for:

(i) its successor candidate for Governor; and

(ii) the successor candidate for Lieutenant Governor designated under subsection (c)(1) of this section; and

(2) the successor candidates for Governor and Lieutenant Governor each shall file a certificate of candidacy for those offices with the State Board. (An. Code 1957, art. 33, § 5-905; 2002, ch. 291, §§ 2, 4; 2010, ch. 72, § 5.)

Editor's note. — Pursuant to § 5, ch. 72, Acts 2010, "of this title" was substituted for "of this article" in (a).

Subtitle 10. Filling Vacancies in Nomination After a Primary Election.

§ 5-1001. Certificate of nomination to fill vacancies.

(a) *Local boards.* — When a local board receives a certificate of designation and a certificate of candidacy to fill a vacancy in nomination under this subtitle, it shall notify the State Board of the change by the end of the next business day following the receipt of the certificates.

(b) *State Board.* — When the State Board is notified by a local board of a change in nomination under subsection (a) of this section or when a certificate

of designation and a certificate of candidacy to fill a vacancy in nomination is filed directly with the State Board under this subtitle, the State Board shall:

(1) certify the nomination and substitute, for the name of the original nominee, the name of the individual who has been designated and determined to be qualified to have that individual's name placed on the ballot as a successor nominee; and

(2) certify the new nomination to the appropriate local boards.

(c) *State Board to notify local boards.* — If the State Board has already issued a certificate of nomination for a nominee under this section, it promptly shall certify to the appropriate local boards:

(1) the name and residence of the individual designated by the State central committee of the political party as the successor nominee to fill the vacancy;

(2) the office for which the successor nominee is nominated;

(3) the political party the successor nominee represents; and

(4) the name of the individual for whom the successor nominee is substituted.

(d) *Prior certificate void.* — If a successor nominee to fill a vacancy in office is certified by the State Board under this section, the certificate of nomination for the prior nominee is void. (An. Code 1957, art. 33, § 5-1001; 2002, ch. 291, §§ 2, 4.)

§ 5-1002. Statewide offices.

(a) *Scope.* — This section applies only to a nominee for statewide office, except for a Governor and Lieutenant Governor unit.

(b) *Filled by State central committee.* — (1) A vacancy in nomination that occurs because a nominee dies, declines the nomination, or is disqualified for any cause shall be filled by the State central committee of the political party to which the nominee belongs.

(2) By the later of the 40th day before the general election or the fifth day following the death, declination, or disqualification of the former nominee:

(i) the State central committee shall file a certificate of designation for the nominee with the State Board; and

(ii) the successor nominee designated by the State central committee under subparagraph (i) of this paragraph shall file a certificate of candidacy with the State Board. (An. Code 1957, art. 33, § 5-1002; 2002, ch. 291, §§ 2, 4.)

§ 5-1003. Shared district candidates — More than one county in a congressional or General Assembly district.

(a) *Scope.* — This section applies to a vacancy in nomination for Representative in Congress, State Senator, or member of the House of Delegates, if the district includes more than one county.

(b) *In general — Filling the vacancy.* — (1) A vacancy in nomination under this section that occurs because the nominee dies, withdraws the candidacy, or is disqualified for any reason shall be filled by:

(i) a vote of the central committees of the political party in each of the counties included in the district of that nominee; or

(ii) a State central committee for a nonprincipal political party that does not have local central committees.

(2) The central committee of each county shall cast a vote that is proportionate to its share of the population in that district as reported in the most recent decennial census of the United States and promptly notify its State central committee of the results of its vote.

(3) (i) If no person receives a majority of the votes cast under paragraph (2) of this subsection, or if there is a tie vote by the central committees, the vacancy in nomination shall be filled by the State central committee.

(ii) In the event of a tie vote, the nominee selected by the State central committee shall be one of the candidates involved in the tie.

(4) By the later of the 40th day before the general election or the fifth day following the death, declination, or disqualification of the nominee:

(i) the State central committee shall file a certificate of designation for the nominee with the State Board; and

(ii) the successor nominee designated by the State central committee under subparagraph (i) of this paragraph shall file a certificate of candidacy with the State Board. (An. Code 1957, art. 33, § 5-1003; 2002, ch. 291, §§ 2, 4; 2006, ch. 120.)

§ 5-1004. Local offices and districts entirely within one county.

(a) *In general.* — A vacancy in nomination for an office that is entirely in one county shall be filled by:

(1) a central committee in that county as provided in this section; or

(2) a State central committee for a nonprincipal political party that does not have a local central committee.

(b) *Time for filling.* — If a nominee for an office that is entirely in one county dies, declines the nomination, becomes disqualified, or gains a tie vote with another candidate in a primary election, the vacancy in nomination shall be filled by the later of:

(1) the 40th day before the general election; or

(2) the fifth day following the death, declination, or disqualification of the nominee.

(c) *How filled.* — (1) The vacancy shall be filled by the central committee of the same political party as the individual vacating the nomination.

(2) If the office is to be voted on by the voters of the entire county, the vacancy shall be filled by the central committee of that county.

(3) If the office is voted on only by the voters of one legislative district and the central committee is elected by legislative district, the vacancy shall be filled by the members of the central committee of that legislative district.

(4) If the office is for Representative in Congress and is a district that is wholly within one county, the vacancy shall be filled by the central committee for that county.

(5) By the deadline prescribed in subsection (b) of this section:

(i) the applicable central committee shall file a certificate of designation with the applicable board; and

(ii) the successor nominee designated by the applicable central committee under subparagraph (i) of this paragraph shall file a certificate of candidacy with the applicable board.

(d) *Tie votes.* — If the vacancy results because of a tie vote between two or more candidates, the nominee selected by the central committee under this section shall be one of those candidates. (An. Code 1957, art. 33, § 5-1004; 2002, ch. 291, §§ 2, 4; 2006, ch. 120.)

Local vacancies. — Local vacancies are in effect defined in a former version of this section as those existing in a nomination for any office in any county or legislative district of Baltimore. *Valle v. Pressman*, 229 Md. 591, 185 A.2d 368 (1962).

“Vacancy” in Baltimore not “local vacancy.” — Vacancy in Baltimore is not within

definition of local vacancy because it is not one in a legislative district but rather one for a political subdivision comprised of six legislative districts. *Valle v. Pressman*, 229 Md. 591, 185 A.2d 368 (1962).

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 5-1005. Governor and Lieutenant Governor.

(a) *Scope.* — This section applies:

(1) to the nominees of a Governor and Lieutenant Governor unit; and

(2) whether or not a certificate of nomination has been issued to the nominees by the State Board.

(b) *Lieutenant Governor — Vacancy in nomination — Designation of successor nominee for Lieutenant Governor.* — (1) If, after the primary election, a candidate for Lieutenant Governor dies, declines the nomination, or becomes disqualified, the remaining nominee for Governor of that unit may designate a successor nominee for Lieutenant Governor.

(2) By the fifth day following the day of the death, declination, or disqualification of the nominee for Lieutenant Governor:

(i) the nominee for Governor shall designate the successor nominee for Lieutenant Governor and notify the State central committee of the applicable political party of the selection;

(ii) the State central committee of the political party of the nominee shall file a certificate of designation with the State Board; and

(iii) the successor nominee for Lieutenant Governor shall file a certificate of candidacy with the State Board.

(c) *Governor — Vacancy in nomination — Disqualification of Lieutenant Governor nominee and selection of successor nominee for Governor.* — (1) If a nominee for Governor dies, declines the nomination, or becomes disqualified after the primary election, the remaining nominee for Lieutenant Governor is disqualified, except as otherwise provided in this section.

(2) (i) The State central committee of the political party of the nominee for Lieutenant Governor disqualified under paragraph (1) of this subsection shall select a successor nominee for Governor.

(ii) The disqualified nominee for Lieutenant Governor is eligible to be chosen as the nominee for Governor.

(3) (i) The successor nominee for Governor promptly shall select a successor nominee for Lieutenant Governor and notify the State central committee of the applicable political party of the selection.

(ii) The disqualified nominee for Lieutenant Governor is eligible to be selected again as the nominee for Lieutenant Governor.

(4) Except as provided under paragraph (5) of this subsection, by the fifth day following the death, declination, or disqualification of the former nominee for Governor:

(i) the State central committee shall file a certificate of designation for the successor nominee for Governor and the successor nominee for Lieutenant Governor with the State Board; and

(ii) each of the successor nominees shall file a certificate of candidacy with the State Board.

(5) A State central committee may not file a certificate of designation for a successor nominee for Governor under this subsection within 10 days of the day of the general election.

(6) A Governor and Lieutenant Governor unit shall remain on the ballot for the general election if:

(i) a nominee for Governor dies, declines the nomination, or is disqualified less than 15 days before the general election; and

(ii) a certificate of designation and certificates of candidacy for successor nominees for Governor and Lieutenant Governor are not filed in accordance with this section.

(7) If a Governor and Lieutenant Governor unit comprised of a nominee for Governor who has died, declined the nomination, or become disqualified remains on the ballot as provided under paragraph (6) of this subsection, during the campaign period following the death, declination, or disqualification of the gubernatorial nominee until the general election, the Lieutenant Governor nominee officially becomes the gubernatorial nominee and may assert that status in the campaign.

(8) If a Governor and Lieutenant Governor unit comprised of a nominee for Governor who has died, declined the nomination, or become disqualified remains on the ballot as provided under paragraph (6) of this subsection and is elected, the vacancy resulting from the death, declination, or disqualification shall be filled as if it had occurred after the general election in accordance with applicable law. (An. Code 1957, art. 33, § 5-1005; 2002, ch. 291, §§ 2, 4.)

Subtitle 11. Vacancies in Candidacy for Petition Candidates.

§ 5-1101. Governor and Lieutenant Governor units.

(a) *In general.* — This section applies to petition candidates for the office of Governor and Lieutenant Governor.

(b) *Vacancy occurring prior to the filing deadline for the primary election.* — (1) If either of the candidates of a Governor and Lieutenant Governor unit nominated by petition under § 5-703 of this title dies, withdraws a certificate of candidacy, or becomes disqualified prior to the deadline for filing a certificate

of candidacy for a primary election under § 5-303 of this title, the remaining candidate may:

(i) select a successor candidate and:

1. file a certificate or designation with the State Board; and
2. have the individual designated file a certificate of candidacy with the State Board in accordance with paragraph (2) of this subsection; or

(ii) withdraw the certificate of candidacy and form a new unit for Governor and Lieutenant Governor.

(2) Each member of the successor unit for Governor and Lieutenant Governor formed under this section shall file a certificate of candidacy before the later of:

(i) the deadline specified under § 5-303 of this title; or

(ii) the fifth day following the death, withdrawal, or disqualification of the former nominee.

(c) *Vacancy in nomination occurring after the deadline for filing for a primary election.* — (1) Subject to paragraph (2) of this subsection, if either of the nominees of a Governor and Lieutenant Governor unit nominated by petition dies, withdraws a certificate of candidacy, or becomes disqualified after the deadline for filing a certificate of candidacy for a primary election under § 5-303 of this title, the remaining nominee may:

(i) designate another nominee as the successor nominee for the vacancy in nomination; or

(ii) assume the vacancy in nomination of the prior nominee and designate another nominee for the position in the unit that formerly was held by the successor nominee who assumed the vacancy created by the death, withdrawal, or disqualification of the prior nominee.

(2) (i) The successor nominees or the nominee who exercises the option to assume a position in the Governor and Lieutenant Governor unit previously held by a nominee who dies, withdraws a certificate of candidacy, or becomes disqualified shall file with the State Board either:

1. a certificate of candidacy, if no certificate was filed previously; or

2. a change of candidacy, if the nominee is a candidate for a different office as a part of the successor unit.

(ii) The certificate of candidacy:

1. shall be filed by the fifth day following the death, withdrawal, or disqualification of a prior nominee after the deadline specified in paragraph (1) of this subsection; and

2. may not be filed within 10 days of the day of the general election.

(d) *Late vacancy — Governor and Lieutenant Governor unit to remain on the ballot.* — If a nominee for Governor or Lieutenant Governor subject to this section dies, withdraws a certificate of candidacy, or becomes disqualified less than 15 days before the day of the general election and the certificate of candidacy required by subsection (b) of this section is not filed with the State Board, the unit:

(1) shall remain on the ballot; and

(2) if elected, the vacancy resulting from the death, declination, or disqualification shall be filled as if it had occurred after the general election, in accordance with this article or other applicable provisions of law.

EL, § 5-1102

REGISTRATION AND ELECTION LAWS

(e) *Certificate of nomination.* — (1) The certificate for nomination by petition for a nominee subject to this section shall be issued by the State Board under § 5-703 of this title.

(2) No additional petitions are required if one of the members of the original Governor and Lieutenant Governor unit remains a nominee of the successor unit. (An. Code 1957, art. 33, § 5-1101; 2002, ch. 291, §§ 2, 4.)

§ 5-1102. Candidates other than Governor and Lieutenant Governor.

Repealed by Acts 2006, ch. 120, § 1, approved April 25, 2006, and effective from date of enactment.

*Subtitle 12. Miscellaneous Provisions.***§ 5-1201. Effect of failure to designate successor candidate and file certificate.**

(a) *Governor and Lieutenant Governor candidates.* — (1) Except as otherwise specifically provided in this title, if either nominee of a Governor and Lieutenant Governor unit dies, declines the nomination, or is disqualified, the remaining nominee shall cease to be a candidate if:

(i) a successor nominee is not designated or selected under this subtitle; and

(ii) the certificate of designation and certificate of candidacy required under this subtitle are not filed in a timely manner.

(2) If a successor nominee for Governor or Lieutenant Governor is not designated or selected as required under this subtitle, the name of the remaining nominee may not appear on the ballot.

(b) *Candidates for other offices.* — If an individual designated as a successor nominee for an office other than Governor or Lieutenant Governor does not file the certificate of candidacy required under this subtitle or otherwise fails to comply with the requirements of this title, the name of that individual may not appear on the ballot. (An. Code 1957, art. 33, § 5-1201; 2002, ch. 291, §§ 2, 4.)

§ 5-1202. Certificate of candidacy and payment of filing fee required of successor candidates.

An individual selected or designated to fill a vacancy in candidacy or nomination under this title shall:

(1) file a certificate of candidacy with the appropriate board in accordance with Subtitle 3 of this title; and

(2) unless exempted under this title, pay the filing fee specified under § 5-401 of this title. (An. Code 1957, art. 33, § 5-1202; 2002, ch. 291, §§ 2, 4.)

§ 5-1203. Qualifying for general election ballot.

(a) *In general.* — At each general election, the names of the following nominees shall be submitted to the voters:

(1) each candidate nominated under this title who has satisfied the requirements of this article or other provisions of law, provided the candidate has not:

- (i) declined the nomination; or
 - (ii) died or become disqualified and the provisions of this article do not require that the name of the nominee nonetheless be submitted to the voters;
- (2) each nominee who has qualified for a presidential election under Title 8, Subtitle 5 of this article; and

(3) each incumbent judge of the Court of Appeals or the Court of Special Appeals whose name is required to be submitted to the voters for continuance in office under Article IV, § 5A of the Maryland Constitution.

(b) *Certification of nominees to the ballot.* — In accordance with Title 9, Subtitle 2 of this article, the State Board shall certify to each local board the name of each nominee who has qualified for the general election ballot as the nominee's name is to appear on the ballots in that county. (An. Code 1957, art. 33, § 5-1203; 2002, ch. 291, §§ 2, 4.)

§ 5-1204. Revising the ballot.

(a) *Sufficient time.* — If a vacancy in candidacy is properly filled and certified to the appropriate board within the time prescribed under this title and the State Administrator, in consultation with the election director of the local board, determines that there is sufficient time for the local board to change the ballots with the correct names, the local board shall change the ballots.

(b) *Insufficient time.* — If a vacancy in candidacy is properly filled and certified to the appropriate board within the time prescribed under this title, and the State Administrator, in consultation with the election director of the local board, determines that there is not sufficient time for the local board to change the ballots with the correct names, the local board shall take appropriate measures to notify the voters of:

- (1) the change in candidacy;
- (2) the procedure to be used by the voter to record the voter's vote; and
- (3) the procedure to be used by the local board to conduct the canvass.

(c) *Use of stickers on voting machine.* — Repealed by Acts 2004, ch. 19, § 1, effective July 1, 2004. (An. Code 1957, art. 33, § 5-1204; 2002, ch. 291, §§ 2, 4; 2004, ch. 19.)

Subtitle 13. Late Vacancies Before the General Election.

§ 5-1301. Applicable to offices other than Governor or Lieutenant Governor.

(a) *Scope.* — Except for a candidate or nominee to fill a vacancy for the office of Governor or Lieutenant Governor, this subtitle applies to a candidate or nominee to fill a vacancy for any public office subject to this title.

(b) *Not applicable to Governor and Lieutenant Governor.* — A nominee to fill a vacancy for Governor or Lieutenant Governor is subject to the requirements

of Subtitle 10 of this title. (An. Code 1957, art. 33, § 5-1301; 2002, ch. 291, §§ 2, 4.)

§ 5-1302. Deadline for filing certificate of designation and consequence of vacancy occurring after deadline.

(a) *Deadline.* — A certificate of designation may not be filed later than 10 days before the day of the general election.

(b) *Vacancy created.* — If the name of a nominee who has died, declined the nomination, or been disqualified appears on the ballot and receives a number of votes that would have been sufficient for election if the nominee had not died, declined, or been disqualified for the nomination, the vacancy thereby created shall be:

(1) deemed to have occurred after the day of the general election; and

(2) filled in accordance with this article or other provisions of law. (An. Code 1957, art. 33, § 5-1302; 2002, ch. 291, §§ 2, 4.)

§ 5-1303. Canvass and certification of votes when late vacancy occurs.

(a) *Vacancy after primary election.* — (1) If a nominee dies, declines the nomination, or is disqualified after the primary election but before a certificate of nomination is issued by the appropriate board with which candidates for that office must file a certificate of candidacy under § 5-302 of this title, the canvass and certification of the primary election results shall proceed as though the candidate had not died, declined the nomination, or been disqualified.

(2) If, following the canvass and certification, the individual who is certified as the nominee has died, declined the nomination, or been disqualified, a successor nominee may be named in the manner provided by law.

(b) *Vacancy after general election.* — (1) If a winning candidate dies, declines the office, or becomes disqualified after the general election but before the certification of the general election results, the canvass and certification shall proceed as though the candidate had not died, declined the office, or been disqualified.

(2) If, following the canvass and certification of the general election results, the individual who is declared elected has died, declined the office, or been disqualified, the office shall be declared vacant and filled in the manner provided by law. (An. Code 1957, art. 33, § 5-1303; 2002, ch. 291, §§ 2, 4.)

TITLE 6.

PETITIONS.

Subtitle 1. Definitions and General Provisions. *Subtitle 2. Content and Process of Petitions.*

Sec.		Sec.	
6-101.	Definitions. <ul style="list-style-type: none">(a) In general.(b) Affidavit.(c) Chief election official.(d) Circulator.(e) Election authority.(f) Legal authority.(g) Local petition.(h) Page.(i) Petition.(j) Sponsor.	6-201.	Content of petitions.
6-102.	Applicability.	6-202.	Advance determinations.
6-103.	Regulations; guidelines; forms.	6-203.	Signers; information provided by signers.
		6-204.	Circulators; affidavit of the circulator.
		6-205.	Filing of petitions.
		6-206.	Determinations at time of filing.
		6-207.	Verification of signatures.
		6-208.	Certification.
		6-209.	Judicial review.
		6-210.	Schedule of process.
		6-211.	Prohibited practices and penalties.

Subtitle 1. Definitions and General Provisions.

§ 6-101. Definitions.

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

(b) *Affidavit.* — “Affidavit” means a statement executed under penalty of perjury.

(c) *Chief election official.* — “Chief election official” means:

- (1) as to the State Board, the State Administrator; or
- (2) as to a local board, the election director.

(d) *Circulator.* — “Circulator” means an individual who attests to one or more signatures affixed to a petition.

(e) *Election authority.* — “Election authority” means:

- (1) the State Board; or
- (2) as to a local petition, the local board for that county.

(f) *Legal authority.* — “Legal authority” means:

- (1) the Attorney General; or
- (2) as to a local petition, the counsel to the local board appointed under § 2-205 of this article for that county.

(g) *Local petition.* — “Local petition” means a petition:

- (1) on which the signatures from only one county may be counted; and
- (2) that does not seek to:

- (i) refer a public local law enacted by the General Assembly; or
- (ii) nominate an individual for an office for which a certificate of candidacy is required to be filed with the State Board.

(h) *Page.* — “Page” means a piece of paper comprising a part of a petition.

(i) *Petition.* — “Petition” means all of the associated pages necessary to fulfill the requirements of a process established by the law by which individuals affix their signatures as evidence of support for:

- (1) placing the name of an individual, the names of individuals, or a question on the ballot at any election;

EL, § 6-102

REGISTRATION AND ELECTION LAWS

(2) the creation of a new political party; or

(3) the appointment of a charter board under Article XI-A, § 1A of the Maryland Constitution.

(j) *Sponsor*. — “Sponsor” means the person who coordinates the collection of signatures for a petition and who, if the petition is filed, is named on the information page as required by § 6-201 of this title. (An. Code 1957, art. 33, § 6-101; 2002, ch. 291, §§ 2, 4; 2003, ch. 380.)

Cited in *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006).

§ 6-102. Applicability.

(a) *In general*. — Except as provided in subsection (b) of this section, this title applies to any petition authorized by law to place the name of an individual or a question on the ballot or to create a new political party.

(b) *Not applicable to municipal petitions*. — This title does not apply to a petition filed pursuant to Article 23A of the Code.

(c) *Title construed consistent with Maryland Constitution*. — This title may not be interpreted to conflict with any provision relating to petitions specified in the Maryland Constitution. (An. Code 1957, art. 33, § 6-102; 2002, ch. 291, §§ 2, 4.)

§ 6-103. Regulations; guidelines; forms.

(a) *Regulations*. — (1) The State Board shall adopt regulations, consistent with this title, to carry out the provisions of this title.

(2) The regulations shall:

(i) prescribe the form and content of petitions;

(ii) specify procedures for the circulation of petitions for signatures;

(iii) specify procedures for the verification and counting of signatures;

and

(iv) provide any other procedural or technical requirements that the State Board considers appropriate.

(b) *Guidelines, instructions, and forms*. — (1) The State Board shall:

(i) prepare guidelines and instructions relating to the petition process;

and

(ii) design and arrange to have printed sample forms conforming to this subtitle for each purpose for which a petition is authorized by law.

(2) The guidelines, instructions, and forms shall be provided to the public, on request, without charge. (An. Code 1957, art. 33, § 6-103; 2002, ch. 291, §§ 2, 4.)

Cited in *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006).

*Subtitle 2. Content and Process of Petitions.***§ 6-201. Content of petitions.**

(a) *In general.* — A petition shall contain:

- (1) an information page; and
- (2) signature pages containing not less than the total number of signatures required by law to be filed.

(b) *Information page.* — The information page shall contain:

- (1) a description of the subject and purpose of the petition, conforming to the requirements of regulations;
- (2) identification of the sponsor and, if the sponsor is an organization, of the individual designated to receive notices under this subtitle;
- (3) the required information relating to the signatures contained in the petition;
- (4) the required affidavit made and executed by the sponsor or, if the sponsor is an organization, by an individual responsible to and designated by the organization; and
- (5) any other information required by regulation.

(c) *Signature page.* — Each signature page shall contain:

- (1) a description of the subject and purpose of the petition, conforming to the requirements of regulations;
- (2) if the petition seeks to place a question on the ballot, either:
 - (i) a fair and accurate summary of the substantive provisions of the proposal; or
 - (ii) the full text of the proposal;
- (3) a statement, to which each signer subscribes, that:
 - (i) the signer supports the purpose of that petition process; and
 - (ii) based on the signer's information and belief, the signer is a registered voter in the county specified on the page and is eligible to have his or her signature counted;
- (4) spaces for signatures and the required information relating to the signers;
- (5) a space for the name of the county in which each of the signers of that page is a registered voter;
- (6) a space for the required affidavit made and executed by the circulator; and
- (7) any other information required by regulation.

(d) *Petition relating to questions.* — If the petition seeks to place a question on the ballot and the sponsor elects to print a summary of the proposal on each signature page as provided in subsection (c)(2)(i) of this section:

- (1) the circulator shall have the full text of the proposal present at the time and place that each signature is affixed to the page; and
- (2) the signature page shall state that the full text is available from the circulator.

(e) *Signature page to meet requirements at all times.* — A signature page shall satisfy the requirements of subsections (c) and (d)(2) of this section before

any signature is affixed to it and at all relevant times thereafter. (An. Code 1957, art. 33, § 6-201; 2002, ch. 291, §§ 2, 4.)

Quoted in Doe v. Montgomery County Bd. of State Bd. of Elections, 399 Md. 681, 926 A.2d Elections, 406 Md. 697, 962 A.2d 342 (2008). 199 (2007).

Cited in Nader For President 2004 v. Md.

§ 6-202. Advance determinations.

(a) *In general.* — The format of the petition prepared by a sponsor may be submitted to the chief election official of the appropriate election authority, in advance of filing the petition, for a determination of its sufficiency.

(b) *Advice of legal authority.* — In making the determination, the chief election official may seek the advice of the legal authority. (An. Code 1957, art. 33, § 6-202; 2002, ch. 291, §§ 2, 4.)

Cited in Roskelly v. Lamone, 396 Md. 27, 912 County Bd. of Elections, 406 Md. 697, 962 A.2d A.2d 658 (2006); Roskelly v. Lamone, 396 Md. 342 (2008).
27, 912 A.2d 658 (2006); Doe v. Montgomery

§ 6-203. Signers; information provided by signers.

(a) *In general.* — To sign a petition, an individual shall:

(1) sign the individual's name as it appears on the statewide voter registration list or the individual's surname of registration and at least one full given name and the initials of any other names; and

(2) include the following information, printed or typed, in the spaces provided:

(i) the signer's name as it was signed;

(ii) the signer's address;

(iii) the date of signing; and

(iv) other information required by regulations adopted by the State Board.

(b) *Validation and counting.* — The signature of an individual shall be validated and counted if:

(1) the requirements of subsection (a) of this section have been satisfied;

(2) the individual is a registered voter assigned to the county specified on the signature page and, if applicable, in a particular geographic area of the county;

(3) the individual has not previously signed the same petition;

(4) the signature is attested by an affidavit appearing on the page on which the signature appears;

(5) the date accompanying the signature is not later than the date of the affidavit on the page; and

(6) if applicable, the signature was affixed within the requisite period of time, as specified by law.

(c) *Removal of signature.* — (1) A signature may be removed:

(i) by the signer upon written application to the election authority with which the petition will be filed if the application is received by the election authority prior to the filing of that signature; or

(ii) prior to the filing of that signature, by the circulator who attested to that signature or by the sponsor of the petition, if it is concluded that the signature does not satisfy the requirements of this title.

(2) A signature removed pursuant to paragraph (1)(ii) of this subsection may not be included in the number of signatures stated on the information page included in the petition. (An. Code 1957, art. 33, § 6-203; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1.)

University of Baltimore Law Forum. — For note, “Recent Development: Nader for President 2004 v. Md. State Bd. of Elections: Invalidation of Petition Signatures Solely on the Basis of the Maryland State Board of Election’s ‘County-Match’ Requirement Was Improper and Disenfranchised Voters,” see 38 U. Balt. L. F. 83 (2007).

For a note, “Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters,” see 39 U. Balt. L. F. 231 (2009).

Validation of names. — Election board must count names on petition and determine that they are those of registered voters of appropriate jurisdiction. *Burroughs v. Raynor*, 56 Md. App. 432, 468 A.2d 141 (1983).

Trial court’s judgment that found a State law and State regulation permitting the invalidation of signatures on a petition to establish a political party and have the name of the political party’s candidate on the ballot in the upcoming presidential election, solely on the basis that the signatories who were otherwise eligible to vote had signed the petition sheet for the “wrong county” in that they had signed regarding a county other than county in which they were registered to vote, had to be reversed as the State law and State regulation were invalid as applied since they disenfranchised voters without a valid constitutional basis for doing so. *Nader For President 2004 v. Md. State Bd. of Elections*, 399 Md. 681, 926 A.2d 199 (2007).

Signature validation requirements in this section are mandatory rather than suggestive. *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Trial court erred in finding that signatures on a referendum petition that did not comport with a county’s voter registration identification list were valid because the signature validation requirements in this section were mandatory rather than suggestive. *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Court of appeals did not defer to a county board of elections’ interpretation of (a)(1) because the statute was clear and unambiguous. *Montgomery County Volunteer Fire-Rescue*

Ass’n v. Montgomery County Bd. of Elections, 418 Md. 463, 15 A.3d 798 (2011).

Signature on a petition for referendum is but one component of a voter’s identity that is to be considered in the validation process, and if the signer’s entire entry is statutorily sufficient under this section, an illegible signature, on its own, does not preclude validation. *Montgomery County Volunteer Fire-Rescue Ass’n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

Subsection (b)(1) directs an election authority to validate a referendum petition signer’s entry if there is sufficient cumulative information on the face of the petition, e.g., a signature, a printed name, address, date of signing, and other information required by regulation, evidencing compliance with (a), to determine the identity of the signer, so a board of elections should not stop the validation process merely because the signature is itself illegible, because, if the signature field is illegible, as may often be the case, the election authority is able pursuant to this section and § 6-204 of this subtitle to validate a signature and ensure that the name of the individual who signed the petition is listed as a registered voter, pursuant to § 6-207 of this subtitle. *Montgomery County Volunteer Fire-Rescue Ass’n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

Guidelines of the State Board of Elections used to validate names on referendum petitions were improper because the guidelines distorted the purpose of (a)(1), concerning the signatures of petition signers, that was to provide one element among many that a board of elections had to use to satisfy the requirements of validation. *Montgomery County Volunteer Fire-Rescue Ass’n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

County board of elections improperly rejected illegible or partially legible signatures on a referendum petition, when the signers provided other statutorily required information, because this unduly emphasized the signature component of a petition entry by requiring an exact “match” between a signature and a voter registration list’s printed name by inferring that a petitioning party had to tell signers to consult the list and sign and print the signers’ names precisely as they appeared on the list, as (a)(1)

did not state such a procedure was required to exercise the constitutionally protected right to referendum. *Montgomery County Volunteer Fire-Rescue Ass'n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

When read together, this section and § 6-204 of this subtitle are not ambiguous because (1) § 6-204 of this subtitle requires that every signature page of a petition include an affidavit made and executed by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed, and (2) the purpose of the circulator's attestation is to assure the validity of the signatures and the fairness of the petition process, under § 6-204(b) of this subtitle; this statutory provision for the affidavit of a circulator who attests under penalty of perjury that the signer affixed his or her information in the circulator's presence clearly addresses prevention of fraud in the petitioning process and is plainly intended to bolster the validity of the signature entries. *Montgomery County Volunteer Fire-Rescue Ass'n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

When read together, § 6-207 of this subtitle and this section, regarding election petitions, are not ambiguous because, (1) plainly, the

purpose of the signature requirement in (a)(1) is to provide a personal attestation, as a signature is often used, to evidence support for the petition and to provide a unique identifier in conjunction with the printed name, address, date, and other information required by the State Board of Elections, and (2) the later information is used to subsequently verify the eligibility of the petition signer to support the petition. *Montgomery County Volunteer Fire-Rescue Ass'n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

No violation of constitutional rights. — Motion to dismiss was granted because defendants' actions in applying this section to the citizen's signature were valid in that there was a rational relationship between separating those signatures which meet this section's requirements from those which did not and the legitimate governmental purpose of detecting fraudulent or otherwise improper signatures upon a referendum petition. *Kendall v. Howard County Md.*, — F. Supp. 2d — (D. Md. Oct. 20, 2009).

Applied in *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 832 A.2d 214 (2003).

Quoted in *Md. Green Party v. State Bd. of Elections*, 165 Md. App. 113, 884 A.2d 789 (2005), cert. denied, 390 Md. 501, 889 A.2d 418 (2006).

§ 6-204. Circulators; affidavit of the circulator.

(a) *In general.* — Each signature page shall contain an affidavit made and executed by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed.

(b) *Requirements.* — The affidavit shall contain the statements, required by regulation, designed to assure the validity of the signatures and the fairness of the petition process.

(c) *Age of circulator.* — A circulator must be at least 18 years old at the time any of the signatures covered by the affidavit are affixed. (An. Code 1957, art. 33, § 6-204; 2002, ch. 291, §§ 2, 4.)

Validation of names. — Section 6-203(b)(1) of this subtitle directs an election authority to validate a referendum petition signer's entry if there is sufficient cumulative information on the face of the petition, e.g., a signature, a printed name, address, date of signing, and other information required by regulation, evidencing compliance with § 6-203(a) of this subtitle, to determine the identity of the signer, so a board of elections should not stop the validation process merely because the signature is itself illegible, because, if the signature field is illegible, as may often be the case, the election authority is able pursuant to § 6-203 of this subtitle and this section to validate a signature and ensure that the name of the individual who signed the petition is listed as a registered

voter, pursuant to § 6-207 of this subtitle. *Montgomery County Volunteer Fire-Rescue Ass'n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

When read together, § 6-203 and this section are not ambiguous because (1) this section requires that every signature page of a petition include an affidavit made and executed by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed, and (2) the purpose of the circulator's attestation is to assure the validity of the signatures and the fairness of the petition process, under (b); this statutory provision for the affidavit of a circulator who attests under penalty of perjury that the signer affixed his or her information in

the circulator's presence clearly addresses prevention of fraud in the petitioning process and is plainly intended to bolster the validity of the signature entries. *Montgomery County Volun-*

teer Fire-Rescue Ass'n v. Montgomery County Bd. of Elections, 418 Md. 463, 15 A.3d 798 (2011).

§ 6-205. Filing of petitions.

(a) *In general.* — (1) Unless otherwise required by the Maryland Constitution, a petition shall be filed, in person by or on behalf of the sponsor, in the office of the appropriate election authority.

(2) If the Maryland Constitution provides that a petition shall be filed with the Secretary of State, the Secretary of State shall deliver the petition to the State Board within 24 hours.

(3) If the Maryland Constitution provides that a petition shall be filed with an official or governmental body of a county, the official or governmental body, after determining that the petition is in conformance with the requirements of law, shall dispatch the petition to the local board for that county within 24 hours.

(4) A petition forwarded under paragraph (2) or (3) of this subsection shall be processed under this subtitle as if it had been filed with the election authority.

(b) *Regulations.* — The regulations adopted by the State Board may provide that the signature pages of a petition required to be filed with the State Board be delivered by the sponsor, or an individual authorized by the sponsor, to the appropriate local board or boards for verification and counting of signatures.

(c) *Acceptance of petition.* — A petition may not be accepted for filing unless the information page indicates that the petition satisfies any requirements established by law for the time of filing and for the number and geographic distribution of signatures.

(d) *Additional signatures.* — Subsequent to the filing of a petition under this subtitle, but prior to the deadline for filing the petition, additional signatures may be added to the petition by filing an amended information page and additional signature pages conforming to the requirements of this subtitle. (An. Code 1957, art. 33, § 6-205; 2002, ch. 291, §§ 2, 4.)

Supplementation of signatures. — Because silence on the issue was construed as permissive, contrary to the arguments of defendant city council, art. 23A, § 14 of the Code allowed for plaintiff firefighters to supplement the signature for a petition for a charter amendment referendum; unlike art. 23A, § 14 of the Code, this section, which did not apply to

municipal elections as provided in § 1-101(v)(3) of this article, allowed for additional signatures for a petition for referendum. *Int'l Ass'n of Fire Fighters, Local 1715 v. Mayor of Cumberland*, 407 Md. 1, 962 A.2d 374 (2008).

Cited in *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006).

§ 6-206. Determinations at time of filing.

(a) *Review by chief election official.* — Promptly upon the filing of a petition with an election authority, the chief election official of the election authority shall review the petition.

(b) *Determinations.* — Unless a determination of deficiency is made under subsection (c) of this section, the chief election official shall:

(1) make a determination that the petition, as to matters other than the validity of signatures, is sufficient; or

(2) defer a determination of sufficiency pending further review.

(c) *Declaration of deficiency.* — The chief election official shall declare that the petition is deficient if the chief election official determines that:

(1) the petition was not timely filed;

(2) after providing the sponsor an opportunity to correct any clerical errors, the information provided by the sponsor indicates that the petition does not satisfy any requirements of law for the number or geographic distribution of signatures;

(3) an examination of unverified signatures indicates that the petition does not satisfy any requirements of law for the number or geographic distribution of signatures;

(4) the requirements relating to the form of the petition have not been satisfied;

(5) based on the advice of the legal authority:

(i) the use of a petition for the subject matter of the petition is not authorized by law; or

(ii) the petition seeks:

1. the enactment of a law that would be unconstitutional or the election or nomination of an individual to an office for which that individual is not legally qualified to be a candidate; or

2. a result that is otherwise prohibited by law; or

(6) the petition has failed to satisfy some other requirement established by law.

(d) *Consistency with advance determination.* — A determination under this section may not be inconsistent with an advance determination made under § 6-202 of this subtitle.

(e) *Notice.* — Notice of a determination under this section shall be provided in accordance with § 6-210 of this subtitle. (An. Code 1957, art. 33, § 6-206; 2002, ch. 291, §§ 2, 4.)

Required signatures. — Whether a referendum petition filed pursuant to art. XVI, § 3(b) of the Maryland Constitution is valid is determined by reference to whether it contained, when filed, the required number of valid signatures — more than one-third of the number needed to complete the petition, and it would be an absurd result if, without a requirement of signature verification and validation, the deadline for filing the full number of the required signatures were extended on the basis of a petition containing unsubstantiated and, perhaps, invalid signatures, which would be subject to validation and verification, along with the subsequently filed signatures; to read art. XVI, §§ 2 and 3 of the Maryland Constitution and this section in this way would facilitate, if not encourage, the timely filing of

“sham” petitions, solely for the purpose of extending the deadline to June 30, with the hope of obtaining the requisite signatures during the extension period. If the framers had wished to allow this scenario under art. XVI of the Maryland Constitution, they would not have established the June 1 deadline in the first place. *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006).

Cited in *Kent Island Defense League, LLC v. Queen Anne’s County Bd. of Elections*, 145 Md. App. 684, 806 A.2d 341 (2002), cert. denied, 371 Md. 615, 810 A.2d 962 (2002); *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008); *Montgomery County Volunteer Fire-Rescue Ass’n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

§ 6-207. Verification of signatures.

(a) *In general.* — (1) Upon the filing of a petition, and unless it has been declared deficient under § 6-206 of this subtitle, the staff of the election authority shall proceed to verify the signatures and count the validated signatures contained in the petition.

(2) The purpose of signature verification under paragraph (1) of this subsection is to ensure that the name of the individual who signed the petition is listed as a registered voter.

(b) *State Board to establish process.* — The State Board, by regulation, shall establish the process to be followed by all election authorities for verifying and counting signatures on petitions.

(c) *Random sample verification.* — (1) The process established under subsection (b) of this section shall provide for optional verification of a random sample of signatures contained in a petition.

(2) Verification by random sample may only be used, with the approval of the State Board:

- (i) for a single-county petition containing more than 500 signatures; or
- (ii) in the case of a multicounty petition, by a local board that receives signature pages containing more than 500 signatures.

(3) Verification under this subsection shall require the random selection and verification of 500 signatures or 5% of the total signatures on the petition, whichever number is greater, to determine what percentage of the random sample is composed of signatures that are authorized by law to be counted. That percentage shall be applied to the total number of signatures in the petition to establish the number of valid signatures for the petition.

(4) (i) If the random sample verification establishes that the total number of valid signatures does not equal 95% or more of the total number required, the petition shall be deemed to have an insufficient number of signatures.

(ii) If the random sample verification establishes that the total number of valid signatures exceeds 105% of the total number required, the petition shall be deemed to have a sufficient number of signatures.

(iii) If the random sample verification establishes that the total number of valid signatures is at least 95% but not more than 105% of the total number required, a verification of all the signatures in the petition shall be conducted. (An. Code 1957, art. 33, § 6-207; 2002, ch. 291, §§ 2, 4; 2006, ch. 65.)

University of Baltimore Law Forum. — For a note, “Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters,” see 39 U. Balt. L. F. 231 (2009).

Examination and verification. — All signatures on all nominating petitions filed pursuant to prior similar version of this section should be examined and verified. 58 Op. Att’y Gen. 313 (1973).

When read together, § 6-203 of this subtitle and this section, regarding election petitions,

are not ambiguous because, (1) plainly, the purpose of the signature requirement in § 6-203(a)(1) of this subtitle is to provide a personal attestation, as a signature is often used, to evidence support for the petition and to provide a unique identifier in conjunction with the printed name, address, date, and other information required by the State Board of Elections, and (2) the later information is used to subsequently verify the eligibility of the petition signer to support the petition. *Montgomery County Volunteer Fire-Rescue Ass’n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

Section 6-203(b)(1) of this subtitle directs an

election authority to validate a referendum petition signer's entry if there is sufficient cumulative information on the face of the petition, e.g., a signature, a printed name, address, date of signing, and other information required by regulation, evidencing compliance with § 6-203(a) of this subtitle, to determine the identity of the signer, so a board of elections should not stop the validation process merely because the signature is itself illegible, because, if the signature field is illegible, as may often be the case, the election authority is able pursuant to

§§ 6-203 and 6-204 of this subtitle to validate a signature and ensure that the name of the individual who signed the petition is listed as a registered voter, pursuant to this section. *Montgomery County Volunteer Fire-Rescue Ass'n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

Quoted in *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Cited in *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006).

§ 6-208. Certification.

(a) *In general.* — At the conclusion of the verification and counting processes, the chief election official of the election authority shall:

(1) determine whether the validated signatures contained in the petition are sufficient to satisfy all requirements established by law relating to the number and geographical distribution of signatures; and

(2) if it has not done so previously, determine whether the petition has satisfied all other requirements established by law for that petition and immediately notify the sponsor of that determination, including any specific deficiencies found.

(b) *Certification.* — If the chief election official determines that a petition has satisfied all requirements established by law relating to that petition, the chief election official shall certify that the petition process has been completed and shall:

(1) with respect to a petition seeking to place the name of an individual or a question on the ballot, certify that the name or question has qualified to be placed on the ballot;

(2) with respect to a petition seeking to create a new political party, certify the sufficiency of the petition to the chairman of the governing body of the partisan organization; and

(3) with respect to the creation of a charter board under Article XI-A, § 1A of the Maryland Constitution, certify that the petition is sufficient.

(c) *Notice.* — Notice of a determination under this section shall be provided in accordance with § 6-210 of this subtitle. (An. Code 1957, art. 33, § 6-208; 2002, ch. 291, §§ 2, 4.)

University of Baltimore Law Forum. — For a note, “Recent Development: *Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters*,” see 39 U. Balt. L. F. 231 (2009).

Time limitation for certification. — While a prior similar version of this section does not contain a time limitation in which to question the adequacy of nominating petitions, it is implicit that such questioning must be done within a reasonable time after the filing of

the petitions. *Parker v. Board of Election Supvrs.*, 230 Md. 126, 186 A.2d 195 (1962).

Claim for election violations barred. — Suit alleging that certain nominating petitions were defective held to be barred by laches where not brought within a reasonable time. *Parker v. Board of Election Supvrs.*, 230 Md. 126, 186 A.2d 195 (1962).

Cited in *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006); *Nader For President 2004 v. Md. State Bd. of Elections*, 399 Md. 681, 926 A.2d 199 (2007); *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008); *Montgomery County Volunteer Fire-*

Rescue Ass'n v. Montgomery County Bd. of Elections, 418 Md. 463, 15 A.3d 798 (2011).

§ 6-209. Judicial review.

(a) *In general.* — (1) A person aggrieved by a determination made under § 6-202, § 6-206, or § 6-208(a)(2) of this subtitle may seek judicial review:

(i) in the case of a statewide petition, a petition to refer an enactment of the General Assembly pursuant to Article XVI of the Maryland Constitution, or a petition for a congressional or General Assembly candidacy, in the Circuit Court for Anne Arundel County; or

(ii) as to any other petition, in the circuit court for the county in which the petition is filed.

(2) The court may grant relief as it considers appropriate to assure the integrity of the electoral process.

(3) Judicial review shall be expedited by each court that hears the cause to the extent necessary in consideration of the deadlines established by law.

(b) *Declaration relief.* — Pursuant to the Maryland Uniform Declaratory Judgments Act and upon the complaint of any registered voter, the circuit court of the county in which a petition has been or will be filed may grant declaratory relief as to any petition with respect to the provisions of this title or other provisions of law. (An. Code 1957, art. 33, § 6-209; 2002, ch. 291, §§ 2, 4.)

University of Baltimore Law Forum. — For a note, “Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters,” see 39 U. Balt. L. F. 231 (2009).

Due process sufficient. — Motion to dismiss was granted because the costs of allowing thousands of people to demand a hearing on the validity of their signatures would be disproportionate to the benefits, given that the State provides a procedure by which a person aggrieved by a determination that a petition was deficient could seek judicial review in the cir-

cuit court for the county in which the petition was filed, under (a)(1). Kendall v. Howard County Md., — F. Supp. 2d — (D. Md. Oct. 20, 2009).

Quoted in Doe v. Montgomery County Bd. of Elections, 406 Md. 697, 962 A.2d 342 (2008).

Cited in Kent Island Defense League, LLC v. Queen Anne’s County Bd. of Elections, 145 Md. App. 684, 806 A.2d 341 (2002), cert. denied, 371 Md. 615, 810 A.2d 962 (2002); Nader For President 2004 v. Md. State Bd. of Elections, 399 Md. 681, 926 A.2d 199 (2007); Montgomery County Volunteer Fire-Rescue Ass’n v. Montgomery County Bd. of Elections, 418 Md. 463, 15 A.3d 798 (2011).

§ 6-210. Schedule of process.

(a) *Request for advance determination.* — (1) A request for an advance determination under § 6-202 of this subtitle shall be submitted at least 30 days, but not more than 2 years and 1 month, prior to the deadline for the filing of the petition.

(2) Within 5 business days of receiving the request for an advance determination, the election authority shall make the determination.

(b) *Notice.* — Within 2 business days after an advance determination under § 6-202 of this subtitle, or a determination of deficiency under § 6-206 or § 6-208 of this subtitle, the chief election official of the election authority shall notify the sponsor of the determination.

(c) *Verification and counting.* — The verification and counting of validated signatures on a petition shall be completed within 20 days after the filing of the petition.

(d) *Certification.* — Within 2 business days of the completion of the verification and counting processes, or, if judicial review is pending, within 2 business days after a final judicial decision, the appropriate election official shall make the certifications required by § 6-208 of this subtitle.

(e) *Judicial review.* — (1) Except as provided in paragraph (2) of this subsection, any judicial review of a determination, as provided in § 6-209 of this subtitle, shall be sought by the 10th day following the determination to which it relates.

(2) If the petition seeks to place the name of an individual or a question on the ballot at any election, judicial review shall be sought by the day specified in paragraph (1) of this subsection or the 63rd day preceding that election, whichever day is earlier. (An. Code 1957, art. 33, § 6-210; 2002, ch. 291, §§ 2, 4.)

University of Baltimore Law Forum. — For a note, “Recent Development: Doe v. Montgomery County Bd. of Elections: The Limitations Period for Judicial Review of Petition Certification Accrues after Aggrievement, and Mandatory Referendum Petition Signature Requirements Apply to Active and Inactive Voters,” see 39 U. Balt. L. F. 231 (2009).

Chief election official’s duty. — This section requires notice that a referendum petition does not contain sufficient signatures; it does not require actual notice, nor does it require that the chief election official ensure receipt of a deficiency determination by a petition sponsor or, by phone or otherwise, to investigate whether the sponsor has received the determination, as this section provides only that the chief election official of the election authority shall notify the sponsor of the determination and that judicial review shall be sought by the 10th day following the determination to which it relates. *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006).

Judicial review. — When the proponent of a referendum petition seeking a popular vote on legislation was told that he did not submit the valid signatures of at least one percent of the State’s voters by June 1, and he did not seek judicial review of this determination within 10 days of the date of the Secretary of State’s letter advising him of this, as required by (e), such

review was barred. *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006).

Person aggrieved by the State Administrator of Elections’ determination either as to sufficiency of a referendum petition or the number of signatures “may seek judicial review,” pursuant to § 6-209(a)(1) of this subtitle, but a petition for judicial review of such a determination shall be sought by the 10th day following the determination to which it relates, under subsection (e)(1) of this section. *Roskelly v. Lamone*, 396 Md. 27, 912 A.2d 658 (2006).

Declaratory judgment suit seeking judicial review of a county board of elections’ certification of a referendum petition was improperly dismissed by a trial court as untimely under the 10-day period for filing an appeal under (e)(1)-(2); although the bifurcated signature acceptance process set forth in Montgomery County, Md., Code art. 1, § 115, applied, the cause of action accrued on March 6, 2008, when the Board made its final certification decision rather than on February 20, 2008, when it accepted half of the petition signatures as valid. *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 962 A.2d 342 (2008).

Cited in *Nader For President 2004 v. Md. State Bd. of Elections*, 399 Md. 681, 926 A.2d 199 (2007); *Montgomery County Volunteer Fire-Rescue Ass’n v. Montgomery County Bd. of Elections*, 418 Md. 463, 15 A.3d 798 (2011).

§ 6-211. Prohibited practices and penalties.

Offenses and penalties relating to the petition process shall be as provided in Title 16 of this article. (An. Code 1957, art. 33, § 6-211; 2002, ch. 291, §§ 2, 4.)

TITLE 7.

QUESTIONS.

Sec.	Sec.
7-101. Applicability.	7-104. Petitions relating to questions.
7-102. Qualification of questions.	7-105. Publication of questions.
7-103. Text of questions.	

§ 7-101. **Applicability.**

This title applies to the following types of ballot questions:

- (1) a question relating to:
 - (i) the creation or adoption of a new Constitution or the calling of a constitutional convention; or
 - (ii) an amendment pursuant to Article XIV of the Maryland Constitution;
- (2) referral of an enactment of the General Assembly pursuant to Article XVI of the Maryland Constitution;
- (3) a question pursuant to Article XI-A of the Maryland Constitution relating to:
 - (i) the creation of a charter home rule county government;
 - (ii) the approval of a county charter; or
 - (iii) the amendment of a county charter;
- (4) a question relating to the creation of a code home rule county government pursuant to Article XI-F of the Maryland Constitution;
- (5) a question relating to the alteration of county boundaries or the creation of a new county pursuant to Article XIII of the Maryland Constitution;
- (6) a question referred to the voters pursuant to an enactment of the General Assembly;
- (7) a question on an enactment of a charter county pursuant to Article 25A, § 8 of the Code or a code county pursuant to Article 25B, § 10 of the Code;
- (8) a question relating to the incorporation of a new municipality pursuant to Article 23A, § 21 of the Code;
- (9) a question on the issuance of a bond pursuant to § 9-934 of the Environment Article; and
- (10) any other question that will be voted on in an election conducted pursuant to this article. (An. Code 1957, art. 33, § 7-101; 2002, ch. 291, §§ 2, 4.)

Maryland Law Review. — For discussion of interaction and interpretation of the budget and referendum amendments of the Maryland Constitution, see 39 Md. L. Rev. 558 (1980).

Vote on referendum is part of legislative process. — Vote on the referendum is part of State's legislative process, as is the passage of a bill by the General Assembly and its approval by the Governor. *Spaulding v. Blair*, 291 F.

Supp. 149 (D. Md.), aff'd, 403 F.2d 862 (4th Cir. 1968).

Submission of unconstitutional ordinance may be enjoined. — The district court has power to enjoin the submission to the voters of an ordinance which would be unconstitutional if passed. *Spaulding v. Blair*, 291 F. Supp. 149 (D. Md.), aff'd, 403 F.2d 862 (4th Cir. 1968).

§ 7-102. Qualification of questions.

(a) *Constitutional conventions and amendments.* — (1) A question relating to the holding of a constitutional convention qualifies for the ballot automatically every 20 years pursuant to Article XIV, § 2 of the Maryland Constitution.

(2) A question relating to the adoption of a new or altered Constitution qualifies upon its adoption by a duly constituted convention pursuant to Article XIV, § 2 of the Maryland Constitution.

(3) An amendment to the Constitution qualifies upon its passage by the General Assembly pursuant to Article XIV, § 1 of the Maryland Constitution.

(b) *Act of the General Assembly.* — A question on an act of the General Assembly pursuant to Article XVI of the Maryland Constitution qualifies upon the certification under Title 6 of this article, that the petition has satisfied all the requirements established by Article XVI.

(c) *County charter; code home rule.* — (1) A question relating to the creation of a home rule county government qualifies upon either:

(i) a determination by the appropriate local authority that the applicable petition has satisfied all the requirements established by law relating to the creation of a charter board; or

(ii) the adoption by the governing body of a county of an enactment proposing that the county become a code county.

(2) A question relating to the approval of a county charter qualifies upon the adoption of a proposed charter by a charter board pursuant to the requirements prescribed by Article XI-A of the Maryland Constitution.

(3) A question relating to the amendment of a county charter shall qualify either upon:

(i) the passage by the governing body of the county of a resolution proposing the amendment; or

(ii) a determination by the governing body of the county that a petition submitted has satisfied all the requirements established by law relating to petitions initiating charter amendments.

(d) *Creation of a new county or alteration of county boundaries.* — A question relating to the creation of a new county or the alteration of county boundaries qualifies upon the enactment of the implementing public general law.

(e) *Questions referred by the General Assembly.* — A question referred to the voters as provided in an enactment of the General Assembly qualifies upon the enactment of the law calling for the question.

(f) *County enactments.* — (1) A question on an enactment by a charter county qualifies pursuant to local law and Article 25A, § 8 of the Code.

(2) A question on an enactment by a code county qualifies pursuant to local law and Article 25B, § 10 of the Code.

(g) *Incorporation of a new municipal corporation.* — A question relating to the incorporation of a new municipal corporation qualifies upon the determination by the county governing body that the applicable petition has satisfied all the requirements established by law for that petition.

(h) *Bond.* — A referendum on a question of issuance of a bond pursuant to § 9-934 of the Environment Article qualifies upon submission of the question

to the appropriate local board. (An. Code 1957, art. 33, § 7-102; 2002, ch. 291, §§ 2, 4.)

Rights under federal Constitution not violated by submission of ch. 385, Acts 1967. — There is a clear distinction between: (a) An ordinance, an act or a constitutional provision which expressly authorized and constitutionalized the private right to discriminate, and (b) the submission to the voters by way of referendum of a proposed act in which a state undertakes to prohibit certain discriminatory acts and to enforce such prohibition in a particular way. The mere submission of the referendum question does not create a new statutory right to discriminate, nor repeal any present statutory prohibition. The rejection of

ch. 385, Acts 1967 (former Article 49B, §§ 21-27), by a “No” vote would not nullify the Thirteenth or Fourteenth Amendment, would not deprive plaintiffs of their rights under any federal statute now existing or to become effective on January 1, 1969, nor destroy any right plaintiffs now have under any Maryland statute. Submission of ch. 385 to referendum would not prevent the State from adopting a new statute, stronger or weaker than ch. 385, at any time in the future. *Spaulding v. Blair*, 291 F. Supp. 149 (D. Md.), *aff’d*, 403 F.2d 862 (4th Cir. 1968).

§ 7-103. Text of questions.

(a) *“County attorney” defined.* — In this section, “county attorney” means:

(1) the attorney or law department established by a county charter or local law to represent the county generally, including its legislative and executive officers; or

(2) if the county charter or local laws provide for different attorneys to represent the legislative and executive branches of county government, the attorney designated to represent the county legislative body.

(b) *General guidelines.* — Each question shall appear on the ballot containing the following information:

(1) a question number or letter as determined under subsection (d) of this section;

(2) a brief designation of the type or source of the question;

(3) a brief descriptive title in boldface type;

(4) a condensed statement of the purpose of the question; and

(5) the voting choices that the voter has.

(c) *Duty to prepare question.* — (1) The Secretary of State shall prepare and certify to the State Board, not later than the third Monday in August, the information required under subsection (b) of this section, for all statewide ballot questions and all questions relating to an enactment of the General Assembly which is petitioned to referendum.

(2) The State Board shall prepare and certify to the appropriate local board, not later than the second Monday in August, the information required under subsection (b) of this section for all questions that have been referred to the voters of one county or part of one county pursuant to an enactment of the General Assembly.

(3) (i) The county attorney of the appropriate county shall prepare and certify to the appropriate local board, not later than the third Monday in August, the information required under subsection (b) of this section for each question to be voted on in a single county or part of a county, except a question covered by paragraph (1) or paragraph (2) of this subsection.

(ii) If the information required under subsection (b) of this section has not been timely certified under subparagraph (i) of this paragraph, the clerk of

the circuit court for the jurisdiction shall prepare and certify that information to the local board not later than the fourth Monday in August.

(iii) A local board shall provide a copy of each certified question to the State Board within 48 hours after receipt of the certification from the certifying authority.

(d) *Numbering or lettering.* — (1) Each statewide question and each question relating to an enactment of the General Assembly which is petitioned to referendum shall be assigned a numerical identifier in the following order:

(i) by years of sessions of the General Assembly at which enacted; and

(ii) for each such session, by chapter numbers of the Session Laws of that session.

(2) A question that has been referred to the voters of one county or part of one county pursuant to an enactment of the General Assembly shall be assigned an alphabetical identifier in an order established by the State Board.

(3) Questions certified under subsection (c)(3)(i) or (ii) of this section shall be assigned an alphabetical identifier in an order established by the certifying authority, consistent with and following the questions certified by the State Board. (An. Code 1957, art. 33, § 7-103; 2002, ch. 291, §§ 2, 4; 2006, ch. 120.)

Maryland Law Review. — For discussion of interaction and interpretation of the budget and referendum amendments of the Maryland Constitution, see 39 Md. L. Rev. 558 (1980).

Challenge to ballot question not justiciable. — Petitioners' challenge to a ballot

question was not justiciable because the Maryland Secretary of State, who was responsible under (c) for drafting the ballot question, had not yet done so. *Smigiel v. Franchot*, 410 Md. 302, 978 A.2d 687 (2009).

§ 7-104. Petitions relating to questions.

(a) *Charter board.* — A petition for the election of a charter board may not be filed unless all of the signatures attached to the petition have been written by the signers within 6 months of the date when the petition is presented to the board.

(b) *Filing.* — A petition relating to a question arising under Article XI-A of the Maryland Constitution shall be filed with the appropriate governmental body or officer not later than the second Monday in August in the year of the election at which the question is to be voted on.

(c) *Statement of contributions and expenditures.* — (1) At the time of filing a petition under the provisions of Article XI-A or Article XVI of the Maryland Constitution, the person who files the petition shall also file a signed statement, under penalty of perjury, showing the contributions and expenditures for the petition including:

(i) the name and post office address of every contributor to the expense of the petition;

(ii) the amount contributed by each contributor; and

(iii) the name and address of each person to whom any money was paid or promised for providing a service related to the petition.

(2) If the statement under paragraph (1) of this subsection is not filed with the petition, the petition may not be certified under § 6-208 of this article.

(3) (i) The individual who signed the statement required under paragraph (1) of this subsection shall be a party to any proceeding to test the validity of the petition.

(ii) The proceeding shall be filed in the county where the person or association resides or maintains its principal place of business. (An. Code 1957, art. 33, § 7-104; 2002, ch. 291, §§ 2, 4.)

Notice requirements. — In its appraisal of compliance with the notice requirements, the Court of Appeals has clearly recognized the distinction between the effects of the failure to conform with such provisions when raised in preelection litigation, as compared with the effect to be given those same provisions, when not strictly followed, and when challenged by litigation attacking the results of an election. *Anne Arundel County v. McDonough*, 277 Md. 271, 354 A.2d 788 (1976).

Apprising voters of issues by nonstatu-

tory methods. — Achievement of the result intended by the requirement of statutes as to notice or publication — that is, the apprising of the voters of the issue to be voted on — by nonstatutory methods such as newspaper, radio and television discussions, or private advertisements or circulars, will be enough to uphold an election at which there was a full and apparently free vote. *Dutton v. Tawes*, 225 Md. 484, 171 A.2d 688, cert. denied and appeal dismissed, 368 U.S. 345, 82 S. Ct. 385, 7 L. Ed. 2d 342 (1961).

§ 7-105. Publication of questions.

(a) *Notice of submitted questions.* — A local board shall provide notice of each question to be submitted statewide and each question to be submitted to the voters of the county, by:

(1) specimen ballot mailed at least 1 week before the general election; or

(2) publication or dissemination by mass communication during the 3 weeks immediately preceding the general election at which a question will appear on the ballot.

(b) *Questions submitted under Article XIV or XVI, Maryland Constitution.*

— (1) For any question submitted under Article XIV or Article XVI of the Maryland Constitution, the notice required by subsection (a) of this section shall contain the information specified in § 7-103(b) of this title and a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practicable, summarizing the question.

(2) The statement required under paragraph (1) of this subsection shall be:

(i) prepared by the Department of Legislative Services;

(ii) approved by the Attorney General; and

(iii) submitted to the State Board by the fourth Monday in August.

(3) The statement required under paragraph (1) of this subsection is sufficient if it is:

(i) contained in an enactment by the General Assembly, and the enactment clearly specifies that the statement is to be used on the ballot; or

(ii) consistent with some other process mandated by the Maryland Constitution.

(c) *Regulations governing notice of questions.* — The State Board shall adopt regulations governing notice of questions to appear on the ballot, including the use and content of specimen ballots and the publication or dissemination of notice by mass communication.

(d) *Posting text; furnishing copies.* — (1) The complete text of a question shall be posted or available for public inspection in the office of the State Board and each applicable local board for 30 days prior to the general election.

(2) Copies of the complete text of all statewide questions shall be furnished by the State Board to the local boards in quantities as determined by the State Board, including quantities sufficient to provide one copy of each for posting in each polling place and in each local board office.

(3) An individual may receive without charge a copy of the complete text of all constitutional amendments and questions from a local board, either in person or by mail. (An. Code 1957, art. 33, § 7-105; 2002, ch. 291, §§ 2, 4.)

Notice period for charter amendments. — The November 2008 election results as to two proposed charter amendments would be considered valid, even though the county failed to comply fully with publication notice requirements in that the county published five notices of the proposed amendments during a three and one-half week period preceding the election rather than during five successive weeks, as required by the Maryland Constitution and

County Charter. The Attorney General agreed with the opinion of the County Attorney that in light of the publicity that the referendum otherwise received, and the distinction made by voters in rejecting one of the proposed amendments and adopting the other by very different margins, a court would likely apply the more lenient standard of review that is used in some post-election challenges. 94 Op. Att’y Gen. 111 (June 22, 2009).

TITLE 8.

ELECTIONS.

<i>Subtitle 1. Elections Generally.</i>	<i>Subtitle 5A. Agreement Among the States to Elect the President by National Popular Vote.</i>
Sec.	Sec.
8-101. Conduct and uniformity of elections.	8-5A-01. Agreement Among the States to Elect the President by National Popular Vote.
8-102. Notice of elections.	
8-103. Emergencies.	
<i>Subtitle 2. Primary Elections.</i>	<i>Subtitle 6. United States Senators.</i>
8-201. Date of the primary.	8-601. Year of elections.
8-202. Political parties using the primary.	8-602. Special election to fill vacancy.
8-203. Certification of candidates.	<i>Subtitle 7. Representatives in Congress.</i>
8-204. Unopposed candidates.	8-701. Congressional districts — Generally.
8-205. Write-in votes prohibited.	8-702. First congressional district.
<i>Subtitle 3. General Elections.</i>	8-703. Second congressional district.
8-301. Date of general election.	8-704. Third congressional district.
<i>Subtitle 4. Special Elections.</i>	8-705. Fourth congressional district.
8-401. Time of special elections.	8-706. Fifth congressional district.
<i>Subtitle 5. Presidential Elections.</i>	8-707. Sixth congressional district.
8-501. Selection of convention delegates and alternate delegates.	8-708. Seventh congressional district.
8-502. Candidates for President — Primary election.	8-709. Eighth congressional district.
8-503. Presidential electors — Nomination [Subject to contingent amendment].	8-710. Congressional vacancy — Governor's proclamation.
8-504. Presidential electors — Election [Subject to contingent amendment].	8-711. Congressional vacancy — Certification of candidates and nominees.
8-505. Presidential electors — Meeting [Subject to contingent amendment].	<i>Subtitle 8. Boards of Education.</i>
	8-801. Applicability.
	8-802. Nonpartisan election.
	8-803. Qualification for candidacy.
	8-804. Primary elections.
	8-805. Vacancies in nomination.
	8-806. General election.

Subtitle 1. Elections Generally.

§ 8-101. Conduct and uniformity of elections.

(a) *Conduct of elections.* — Under the supervision of the State Board, and in accordance with regulations and procedures adopted by the State Board, a local board shall conduct all elections held under this article in the county in which the board is located.

(b) *Uniformity of elections.* — Except where it would be inappropriate, or as otherwise provided in this article, the electoral process for primary elections, general elections, and special elections shall be uniform. (An. Code 1957, art. 33, § 8-101; 2002, ch. 291, §§ 2, 4.)

§ 8-102. Notice of elections.

(a) *Methods of notice.* — Except as required under subsection (d) of this section, a local board shall provide notice of each election in its county to the registered voters of the county by either:

- (1) specimen ballot mailed at least 1 week before the election; or

(2) publication or dissemination by mass communication during the calendar week preceding the election.

(b) *Content of notice.* — The notice shall include:

(1) the time and place of the election; and

(2) the offices, candidate names, and questions contained on the ballot.

(c) *Specimen ballots.* — (1) If a local board provides notice by mailing specimen ballots, a specimen ballot shall be mailed to all registered voters in the county who are eligible to vote in the election.

(2) The specimen ballot shall be a facsimile of the ballot that the voter is entitled to vote in the election.

(d) *Specimen ballot for general election in Prince George's County.* — (1) In Prince George's County for the general election, the Board shall:

(i) provide notice by mailing specimen ballots; and

(ii) mail a specimen ballot to the household of each registered voter in the county.

(2) The costs for mailing specimen ballots in Prince George's County shall be included in the county's annual budget appropriation to the local board.

(e) *Mass media publication.* — (1) Unless a local board mails a specimen ballot to its registered voters in accordance with subsection (c) or (d) of this section, the local board shall give notice of the election by newspaper publication or other means of mass communication.

(2) The notice of election under this subsection shall be arranged, if practicable, in the same order and form as the ballot.

(3) (i) If newspaper publication is used in a county, the notice shall be advertised in at least two newspapers of general circulation that are published in the county.

(ii) In a county in which only one newspaper is published, the notice shall be published in that newspaper. (An. Code 1957, art. 33, § 8-102; 2002, ch. 291, §§ 2, 4; 2009, ch. 60, § 5.)

Editor's note. — Pursuant to § 5, ch. 60, Acts 2009, "county" was substituted for "County" in (d)(1)(ii) and the second instance in (d)(2).

§ 8-103. Emergencies.

(a) *Declared state of emergency.* — In the event of a state of emergency, declared by the Governor in accordance with the provisions of law, that interferes with the electoral process, the emergency proclamation may:

(1) provide for the postponement, until a specific date, of the election in part or all of the State;

(2) specify alternate voting locations; or

(3) specify alternate voting systems.

(b) *Other emergency circumstances.* — (1) If emergency circumstances, not constituting a declared state of emergency, interfere with the electoral process, the State Board or a local board, after conferring with the State Board, may petition a circuit court to take any action the court considers necessary to

provide a remedy that is in the public interest and protects the integrity of the electoral process.

(2) The State Board shall develop guidelines concerning methods for addressing possible emergency situations. (An. Code 1957, art. 33, § 8-103; 2002, ch. 291, §§ 2, 4.)

Subtitle 2. Primary Elections.

§ 8-201. Date of the primary.

(a) *In general.* — (1) There shall be a statewide primary election in every even-numbered year.

(2) A primary election shall be held:

(i) in the year in which the Governor is elected, on the last Tuesday in June; and

(ii) in the year in which the President of the United States is elected, on the first Tuesday in April.

(b) *Baltimore City municipal primary.* — In Baltimore City, there shall be a primary election for municipal offices on the second Tuesday following the first Monday in September in the year following the election of the Governor. (An. Code 1957, art. 33, § 8-201; 2002, ch. 291, §§ 2, 4; 2007, ch. 219; 2011, ch. 169.)

Effect of amendments. — Chapter 169, Acts 2011, effective October 1, 2011, substituted “last Tuesday in June” for “second Tuesday after the first Monday in September” in

(a)(2)(i) and in (a)(2)(ii) substituted “first Tuesday in April” for “second Tuesday in February.” Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 8-202. Political parties using the primary.

(a) *In general.* — A principal political party, as determined by the statement of registration issued by the State Board:

(1) shall use the primary election to:

(i) nominate its candidates for public office; and

(ii) elect all members of the local central committees of the political party; and

(2) may use the primary election in the year of a presidential election to elect delegates to a national presidential nominating convention.

(b) *Requirements for nominees.* — Except for a nominee for President or Vice President, the name of a nominee of a principal political party may not appear on the ballot in a general election if the individual has not:

(1) been nominated in the primary election; or

(2) been designated to fill a vacancy in nomination in accordance with Subtitle 5 of this title.

(c) *Process to allow voting by persons unaffiliated with party.* — If a political party chooses to permit voters not affiliated with the party to vote in the party’s primary election, the chairman of the party’s State central committee shall so notify the State Board at least 6 months before the date of the primary election. (An. Code 1957, art. 33, § 8-202; 2002, ch. 291, §§ 2, 4; 2003, ch. 22; 2006, ch. 44; 2008, ch. 118.)

Effect of amendments. — Chapter 118, Acts 2008, enacted April 17, 2008, and effective from date of enactment, added (b)(3) and made related changes.

Editor's note. — Pursuant to § 3, ch. 118, Acts 2008, the amendments are deemed to have abrogated on December 31, 2008.

Bill review letter. — Chapter 118, Acts 2008, (House Bill 1627) was approved for constitutionality and legal sufficiency, and provided for a special election process in the event of a vacancy in the Office of Representative in Congress after the regular primary election has taken place. This bill allows the Governor to proclaim and hold one special general election without a special primary election. Preference was given to vest the recommendation of local central committees of political parties for the nomination of candidates to fill vacancies. This bill abrogated at the end of 2008 and has no future effect on elections after that time. (Letter of the Attorney General dated April 15, 2008.)

Primary election defined. — A primary election is merely an officially supervised party nominating procedure. *State Admin. Bd. of Election Laws v. Calvert*, 272 Md. 659, 327 A.2d 290 (1974), cert. denied, 419 U.S. 1110, 95 S. Ct. 784, 42 L. Ed. 2d 807 (1975).

Purpose of primary. — Direct primary is creature of General Assembly, designed for the purpose of permitting the members of a party to select their candidates under official supervision and control. *Hennegan v. Geartner*, 186 Md. 551, 47 A.2d 393 (1946).

No right to participate in primary of another party. — There is no fundamental right in any voter to participate in the primaries or conventions of parties other than the one to which the voter belongs. Neither Article 7 of the Declaration of Rights nor Article I, § 1 of the Maryland Constitution contains any such implication. *Hennegan v. Geartner*, 186 Md. 551, 47 A.2d 393 (1946).

Primary election ballot. — Candidates for member of a party State central committee who have no opposition at a primary election may be omitted from the ballot and declared elected. 58 Op. Att'y Gen. 297 (1973).

Name of individual who is sole candidate from his county for nomination by his party to the House of Delegates in a three-county district need not be printed upon the primary election ballot of that party. *State Admin. Bd. of Election Laws v. Calvert*, 272 Md. 659, 327 A.2d 290 (1974), cert. denied, 419 U.S. 1110, 95 S. Ct. 784, 42 L. Ed. 2d 807 (1975).

Quoted in *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 832 A.2d 214 (2003).

§ 8-203. Certification of candidates.

(a) *In general.* — Except as provided in subsection (b) of this section, in accordance with Title 9, Subtitle 2 of this article, the State Board shall certify to the local board of a county the names of candidates on the primary election ballots in that county.

(b) *Not applicable to special primary elections for Congress.* — This section does not apply to a special primary election for the office of Representative in Congress. (An. Code 1957, art. 33, § 8-203; 2002, ch. 291, §§ 2, 4.)

§ 8-204. Unopposed candidates.

If a candidate qualifies for the primary election ballot in accordance with § 5-601 of this article, and is unopposed for the nomination, the word “unopposed” shall be placed next to the candidate’s name. (An. Code 1957, art. 33, § 8-204; 2002, ch. 291, §§ 2, 4.)

Write-in privilege. — Write-in privileges are inconsistent with the whole theory of primary elections. *State Admin. Bd. of Election Laws v. Calvert*, 272 Md. 659, 327 A.2d 290 (1974), cert. denied, 419 U.S. 1110, 95 S. Ct. 784, 42 L. Ed. 2d 807 (1975).

Construction of voting machines. — Voting machines must be so constructed and ar-

ranged as to permit an individual to cast a vote for a candidate whose name does not appear on the official ballot, but this right is not applicable to primary elections. *State Admin. Bd. of Election Laws v. Calvert*, 272 Md. 659, 327 A.2d 290 (1974), cert. denied, 419 U.S. 1110, 95 S. Ct. 784, 42 L. Ed. 2d 807 (1975).

§ 8-205. Write-in votes prohibited.

A voter may not cast a write-in vote in a primary election. (An. Code 1957, art. 33, § 8-205; 2002, ch. 291, §§ 2, 4.)

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Subtitle 3. General Elections.

§ 8-301. Date of general election.

(a) *In general.* — (1) There shall be a statewide general election in each even-numbered year.

(2) A statewide general election shall be held on the Tuesday following the first Monday in November.

(b) *Baltimore City municipal election.* — In Baltimore City, there shall be a general election for municipal offices on the Tuesday following the first Monday in November in the year following the election of the Governor. (An. Code 1957, art. 33, § 8-301; 2002, ch. 291, §§ 2, 4.)

Early voting in elections unconstitutional. — Acts authorizing § 10-301.1 of the Elections Article, repealed by ch. 513, Acts 2007, which permitted early voting, were inconsistent with and in derogation of certain provisions of the Maryland Constitution, in particular, art. XV, § 7 of the Maryland Constitution

and art. I, § 1 of the Maryland Constitution, and were not constitutionally supported by art. I, § 3 of the Maryland Constitution; therefore, the acts were unconstitutional and void. *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

Subtitle 4. Special Elections.

§ 8-401. Time of special elections.

(a) *In general.* — A special primary election and a special general election may be held at a time other than the date of a regular primary election and a regular general election:

(1) to fill a vacancy in the office of Representative in Congress; or

(2) to fill a vacancy in the county council if the charter of that county provides for special elections.

(b) *Time of special election.* — (1) Special elections to fill a vacancy in the office of Representative in Congress shall be held at the time specified in Subtitle 7 of this title.

(2) Special elections to fill vacancies in a county council shall be held as provided in the county charter.

(c) *Time of special election — United States Senate.* — An election to fill a vacancy in the office of United States Senator shall be held concurrently with a regular election as provided in Subtitle 6 of this title. (An. Code 1957, art. 33, § 8-401; 2002, ch. 291, §§ 2, 4.)

Election to fill new board of county commissioners positions considered special election. — The proposed 2012 election to fill

new positions created by an expansion of a board of county commissioners would be a special election. Code home rule counties have not

been delegated the authority to conduct a special election for this purpose, but were the General Assembly to delegate such authority,

Article XVII of the Maryland Constitution would not bar a special election for this purpose in 2012. 96 Op. Att’y Gen. 36 (Aug. 3, 2011).

Subtitle 5. Presidential Elections.

§ 8-501. Selection of convention delegates and alternate delegates.

(a) *Process in accordance with party rules.* — Delegates and alternate delegates to the national presidential nominating convention of a political party shall be selected as provided in the national party rules of the party.

(b) *Certification to State Board.* — The State central committee of each political party shall certify to the State Board, not later than October 1 in the year preceding the election:

(1) the number of delegates and alternate delegates to be selected in the State and the mode or modes of selection; and

(2) in the case of a principal political party:

(i) if delegates are to be elected by district, the number of delegates to be elected from each district;

(ii) provisions for placing on the ballot the name of a presidential candidate, or the word “uncommitted”, adjacent to the name of each candidate for delegate;

(iii) provisions for how, if a candidate for delegate withdraws in accordance with § 5-502 of this article and the withdrawing candidate’s name would have appeared on the ballot adjacent to the name of a presidential candidate, that presidential candidate will designate a replacement candidate for delegate no later than 5 days after the deadline established in § 5-502 of this article; and

(iv) any other provisions of the national party rules of the party that relate to the election of delegates or alternate delegates at the primary election. (An. Code 1957, art. 33, § 8-501; 2002, ch. 291, §§ 2, 4; 2003, ch. 222; 2007, ch. 219.)

§ 8-502. Candidates for President — Primary election.

(a) *Applicability.* — This section applies to the placement on the ballot in the primary election of the names of individuals who are candidates for nomination by principal political parties to the office of President of the United States.

(b) *Procedure.* — An individual who desires to run in the primary election may be placed on the ballot only:

(1) by direction of the Secretary of State in accordance with subsection (c) of this section; or

(2) by filing, in accordance with subsection (d) of this section, a petition containing the signatures of at least 400 registered voters from each congressional district in the State.

(c) *Selection by Secretary of State.* — (1) The Secretary of State shall certify to the State Board the names of candidates for nomination by a principal

political party during the period beginning 90 days before the primary election and ending 80 days before the primary election.

(2) The Secretary of State shall certify the name of a presidential candidate on the ballot when the Secretary has determined, in the Secretary's sole discretion and consistent with party rules, that the candidate's candidacy is generally advocated or recognized in the news media throughout the United States or in Maryland, unless the candidate executes and files with the Secretary of State an affidavit stating without qualification that the candidate is not and does not intend to become a candidate for the office in the Maryland primary election.

(d) *Petition process.* — A candidate who seeks to be placed on the ballot by the petition process specified in subsection (b)(2) of this section shall file the petition, in the form prescribed by the State Board, on the Wednesday that is 83 days before the day of the election.

(e) *Democratic primary — Preference for “uncommitted”.* — The State Board shall establish a procedure for the Democratic presidential primary through which votes may be cast as uncommitted to any presidential candidate.

(f) *Certification of candidates.* — The names of the candidates for President qualifying under this section shall be certified to the local boards by the State Board and shall be printed on all ballots used for the primary election. (An. Code 1957, art. 33, § 8-502; 2002, ch. 291, §§ 2, 4; 2003, ch. 222; 2007, ch. 219; 2011, ch. 169.)

Effect of amendments. — Chapter 169, Acts 2011, effective October 1, 2011, substituted “Wednesday that is 83 days” for “Monday that is 70 days” in (d).

Constitutionality. — Subsection (b) of a prior similar version of this section does not violate the U.S. Constitution's First Amendment free speech rights and is therefore not void for vagueness because it vests sole discretion in Secretary of State. *La Rouche v. Sheehan*, 591 F. Supp. 917 (D. Md. 1984).

Media recognition provision does not violate equal protection clause. — The media recognition provision of paragraph (c) (2) of a prior similar version of this section does not violate the equal protection clause since it serves a legitimate State interest in providing a basis for a reasonable assessment of the seriousness of an individual's candidacy and for exclusion of frivolous candidates from the ballot, and, when read in its totality, it does not unfairly or unnecessarily burden a candidate's access to the ballot. *La Rouche v. Sheehan*, 591 F. Supp. 917 (D. Md. 1984).

Informal preliminary notice. — The Secretary of State may, through informal preliminary notice, notify potential candidates, seeking the nomination for the office of President of the United States, more than 70 days before the primary election that he is considering placing their names upon the ballots. 61 Op. Att'y Gen. 352 (1976).

“Favorite son candidate.” — The mere fact that an individual who is a “favorite son candidate” is only seeking nomination in his home state does not preclude the Secretary of State from determining to place him on Maryland's ballot if his candidacy is either generally advocated or recognized in national news media. 61 Op. Att'y Gen. 352 (1976).

Federal district court may not force Secretary to comply with section. — Federal district court does not have the authority to enjoin Secretary of State to comply with dictates of State law embodied in subsection (b) of a prior similar version of this section. *La Rouche v. Sheehan*, 591 F. Supp. 917 (D. Md. 1984).

Withdrawal of candidate. — Once the Secretary of State has finally determined in his sole discretion to place a candidate on Maryland's ballot, the only way for the candidate to remove his name is by filing a proper withdrawal affidavit, and the filing of a withdrawal affidavit is not precluded or “undone” by the candidate's appearing on the ballot in some other state. 61 Op. Att'y Gen. 352 (1976).

Should any question arise as to timeliness of candidate's withdrawal affidavit, the resolution of that question is controlled by the date of actual receipt in the office of the Secretary of State. 61 Op. Att'y Gen. 352 (1976).

§ 8-503. Presidential electors — Nomination [Subject to contingent amendment; amended version follows this section].

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

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

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

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

(3) The electors shall be certified to the State Board at least 30 days before the general election. (An. Code 1957, art. 33, § 8-503; 2002, ch. 291, §§ 2, 4; 2003, ch. 222.)

Editor's note. — Section 3, chs. 43, 44, Acts 2007, provides that "Section 1 of this Act may not take effect until the interstate compact entitled 'Agreement Among the States to Elect the President by National Popular Vote' is enacted in substantially the same form by states cumulatively possessing a majority of the electoral votes and the enactments of the compact have taken effect in each state; that Section 1 of this Act shall only govern the appointment of presidential electors in any year in which the

Agreement Among the States to Elect the President by National Popular Vote is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes; that all the states of the United States are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; and that the Department of Legislative Services shall notify the appropriate officials of the combined states of the enactment of this Act."

(Amendment subject to enactment of interstate compact).

§ 8-503. Presidential electors — Nomination.

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

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

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

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

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

(d) *Nomination where number is less than or greater than number of electoral votes.* — If the number of presidential electors nominated is less than or greater than the State's number of electoral votes, presidential electors shall be nominated as provided for under Article III of § 8-5A-01 of this title.

(2007, ch. 43 § 1; ch. 44, § 1.)

Amendment subject to enactment of interstate compact. — Section 1, chs. 43 and 44, Acts 2007, effective October 1, 2007, made identical changes. Each added (d).

Editor's note. — Section 3, chs. 43, 44, Acts 2007, provides that "Section 1 of this Act may not take effect until the interstate compact entitled 'Agreement Among the States to Elect the President by National Popular Vote' is enacted in substantially the same form by states cumulatively possessing a majority of the electoral votes and the enactments of the compact have taken effect in each state; that Section 1 of

this Act shall only govern the appointment of presidential electors in any year in which the Agreement Among the States to Elect the President by National Popular Vote is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes; that all the states of the United States are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; and that the Department of Legislative Services shall notify the appropriate officials of the combined states of the enactment of this Act."

§ 8-504. Presidential electors — Election [Subject to contingent amendment; amended version follows this section].

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

(2) Presidential electors shall be elected at large by the voters of the entire State.

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

(2) A vote for the candidates for President and Vice President of a political party shall be considered to be and counted as a vote for each of the presidential electors of the political party nominated in accordance with § 8-503 of this subtitle. (An. Code 1957, art. 33, § 8-504; 2002, ch. 291, §§ 2, 4.)

Editor's note. — Section 3, chs. 43, 44, Acts 2007, provides that "Section 1 of this Act may not take effect until the interstate compact entitled 'Agreement Among the States to Elect the President by National Popular Vote' is enacted in substantially the same form by states cumulatively possessing a majority of the electoral votes and the enactments of the compact have taken effect in each state; that Section 1 of this Act shall only govern the appointment of presidential electors in any year in which the

Agreement Among the States to Elect the President by National Popular Vote is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes; that all the states of the United States are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; and that the Department of Legislative Services shall notify the appropriate officials of the combined states of the enactment of this Act."

(Amendment subject to enactment of interstate compact).

§ 8-504. Presidential electors — Election.

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

(2) Presidential electors shall be elected under the procedure provided in § 8-5A-01 of this title.

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

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

(2007, ch. 43, § 1; ch. 44, § 1.)

Amendment subject to enactment of interstate compact. — Section 1, chs. 43 and 44, Acts 2007, effective October 1, 2007, made identical changes. Each substituted “under the procedure provided in § 8-5A-01 of this title” for “at large by the voters of the entire State” in (a)(2).

Editor’s note. — Section 3, chs. 43, 44, Acts 2007, provides that “Section 1 of this Act may not take effect until the interstate compact entitled ‘Agreement Among the States to Elect the President by National Popular Vote’ is enacted in substantially the same form by states cumulatively possessing a majority of the electoral votes and the enactments of the compact have taken effect in each state; that Section 1 of this Act shall only govern the appointment of presidential electors in any year in which the Agreement Among the States to Elect the President by National Popular Vote is, on July 20, in

effect in states cumulatively possessing a majority of the electoral votes; that all the states of the United States are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; and that the Department of Legislative Services shall notify the appropriate officials of the combined states of the enactment of this Act.”

Bill review letter. — Chapters 43 and 44, Acts 2007 (Senate Bill 634 and House Bill 148, respectively) were approved for constitutionality and legal sufficiency, although there may be possible challenges to this legislation based upon the State’s lack of authority to affect the Electoral College and the argument that the agreement must be approved by Congress under Article I, § 10 of the U.S. Constitution because it is an interstate compact. (Letter of the Attorney General dated April 9, 2007.)

§ 8-505. Presidential electors — Meeting [Subject to contingent amendment; amended version follows this section].

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

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

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

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

(c) *Voting by electors.* — After taking the oath prescribed by Article I, § 9 of the Maryland Constitution before the Clerk of the Court of Appeals or, in the Clerk's absence, before one of the Clerk's deputies, the presidential electors shall cast their votes for the candidates for President and Vice President who received a plurality of the votes cast in the State of Maryland. (An. Code 1957, art. 33, § 8-505; 2002, ch. 291, §§ 2, 4.)

Editor's note. — Section 3, chs. 43, 44, Acts 2007, provides that "Section 1 of this Act may not take effect until the interstate compact entitled 'Agreement Among the States to Elect the President by National Popular Vote' is enacted in substantially the same form by states cumulatively possessing a majority of the electoral votes and the enactments of the compact have taken effect in each state; that Section 1 of this Act shall only govern the appointment of presidential electors in any year in which the

Agreement Among the States to Elect the President by National Popular Vote is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes; that all the states of the United States are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; and that the Department of Legislative Services shall notify the appropriate officials of the combined states of the enactment of this Act."

(Amendment subject to approval of interstate compact).

§ 8-505. Presidential electors — Meeting.

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

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

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

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

(c) *Voting by electors.* — After taking the oath prescribed by Article I, § 9 of the Maryland Constitution before the Clerk of the Court of Appeals or, in the Clerk's absence, before one of the Clerk's deputies, the presidential electors shall cast their votes for the candidates for President and Vice President who received a plurality of the votes cast in the national popular vote total defined in § 8-5A-01 of this title.

(2007, ch. 43, § 1; ch. 44, § 1.)

Amendment subject to enactment of compact. — Section 1, chs. 43 and 44, Acts 2007, effective October 1, 2007, made identical changes. Each substituted "the national popular vote total defined in § 8-5A-01 of this title" for "the State of Maryland" in (c).

Editor's note. — Section 3, chs. 43, 44, Acts 2007, provides that "Section 1 of this Act may not take effect until the interstate compact entitled 'Agreement Among the States to Elect the President by National Popular Vote' is enacted in substantially the same form by states cumulatively possessing a majority of the electoral votes and the enactments of the compact

have taken effect in each state; that Section 1 of this Act shall only govern the appointment of presidential electors in any year in which the Agreement Among the States to Elect the President by National Popular Vote is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes; that all the states of the United States are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; and that the Department of Legislative Services shall notify the appropriate officials of the combined states of the enactment of this Act."

Bill review letter. — Chapters 43 and 44,

EL, § 8-5A-01

REGISTRATION AND ELECTION LAWS

Acts 2007 (Senate Bill 634 and House Bill 148, respectively) were approved for constitutionality and legal sufficiency, although there may be possible challenges to this legislation based upon the State's lack of authority to affect the

Electoral College and the argument that the agreement must be approved by Congress under Article I, § 10 of the U.S. Constitution because it is an interstate compact. (Letter of the Attorney General dated April 9, 2007.)

Subtitle 5A. Agreement Among the States to Elect the President by National Popular Vote.

§ 8-5A-01. Agreement Among the States to Elect the President by National Popular Vote.

The State of Maryland hereby enters the agreement among the states to elect the President by national popular vote as set forth in this section. The text of the agreement is as follows:

Article I. Membership.

Any state of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

Article II. Right of the People in Member States to Vote for President and Vice President.

Each member state shall conduct a statewide popular election for President and Vice President of the United States.

Article III. Manner of Appointing Presidential Electors in Member States.

Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each state of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a "national popular vote total" for each presidential slate.

The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the "national popular vote winner."

The presidential elector certifying official of each member state shall certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by Congress.

In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees.

The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

Article IV. Other Provisions.

This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a President's term shall not become effective until a President or Vice President shall have been qualified to serve the next term.

The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

This agreement shall terminate if the electoral college is abolished.

If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

Article V. Definitions.

For purposes of this agreement,

"chief executive" shall mean the Governor of a state of the United States or the Mayor of the District of Columbia;

"elector slate" shall mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate;

"chief election official" shall mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate;

"presidential elector" shall mean an elector for President and Vice President of the United States;

“presidential elector certifying official” shall mean the state official or body that is authorized to certify the appointment of the state’s presidential electors;

“presidential slate” shall mean a slate of two persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state;

“state” shall mean a state of the United States and the District of Columbia; and

“statewide popular election” shall mean a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis. (2007, ch. 43, § 2; ch. 44, § 2.)

Subtitle 6. United States Senators.

§ 8-601. Year of elections.

Except for a special election to fill a vacancy, an election for the office of United States Senator shall be held:

(1) in 1998 and every sixth year thereafter; and

(2) in 2000 and every sixth year thereafter. (An. Code 1957, art. 33, § 8-601; 2002, ch. 291, §§ 2, 4.)

§ 8-602. Special election to fill vacancy.

(a) *Appointed successor.* — (1) If there is a vacancy in the office of United States Senator, the Governor shall appoint an eligible individual to fill the vacancy.

(2) Except as provided in paragraph (3) of this subsection, the appointed individual shall serve until a successor is elected pursuant to subsection (b) of this section to fill the remainder of the term.

(3) The appointed individual shall serve for the remainder of the term if the vacancy occurs after the date that is 21 days before the deadline for filing certificates of candidacy for the election that is held in the fourth year of the term.

(b) *Special election.* — If the vacancy occurs before the date that is 21 days before the deadline for filing certificates of candidacy for the next succeeding regular statewide election, the Governor shall issue a proclamation immediately after the occurrence of the vacancy declaring that a special primary election and a special general election shall be held at the same time as the next regular statewide primary election and regular statewide general election. (An. Code 1957, art. 33, § 8-602; 2002, ch. 291, §§ 2, 4.)

*Subtitle 7. Representatives in Congress.***§ 8-701. Congressional districts — Generally.**

(a) *Use of population count.* — The population count used after each decennial census for the purpose of creating the congressional districting plan used to elect the State's Representatives in Congress:

(1) may not include individuals who:

(i) were incarcerated in State or federal correctional facilities, as determined by the decennial census; and

(ii) were not residents of the State before their incarceration; and

(2) shall count individuals incarcerated in the State or federal correctional facilities, as determined by the decennial census, at their last known residence before incarceration if the individuals were residents of the State.

(b) *State divided into districts.* — The State is divided into eight districts for the election of the State's Representatives in Congress.

(c) *Boundaries and geographic references.* — (1) The descriptions of congressional districts in this subtitle include the references indicated.

(2) The references to:

(i) election districts and wards are to the geographical boundaries of the election districts and wards as they existed on April 1, 2000; and

(ii) precincts are to the geographical boundaries of the precincts as reviewed and certified by the local boards or their designees, before they were reported to the U.S. Bureau of the Census as part of the 2000 census redistricting data program and as those precinct lines are specifically indicated in the P.L. 94-171 data or shown on the P.L. 94-171 census block maps provided by the U.S. Bureau of the Census and as reviewed and corrected by the Maryland Department of Planning. (An. Code 1957, art. 33, § 8-701; 2002, ch. 291, § 2; ch. 340, § 2; 2003, ch. 21, § 1; 2010, chs. 66, 67.)

Effect of amendments. — Chapters 66 and 67, Acts 2010, effective October 1, 2010, made identical changes. Each added (a) and redesignated accordingly.

Federal authority to redistrict. — Federal district court has power to adopt redistricting plan to remain in force till the General Assembly adopts its own constitutionally valid plan. *Maryland Citizens Comm. for Fair Congressional Redistricting, Inc. v. Tawes*, 253 F. Supp. 731 (D. Md.), *aff'd sub nom. Alton v. Tawes*, 384 U.S. 315, 86 S. Ct. 1590, 16 L. Ed. 2d 586 (1966).

Constitutionality of 1991 redistricting plan. — Congressional redistricting plan as set out in Chapter 4, Acts 1991, 2nd Special Ses-

sion, was not unconstitutional gerrymandering. *Anne Arundel County Republican Cent. Comm. v. State Advisory Bd. of Election Laws*, 781 F. Supp. 394 (D. Md. 1991), *aff'd*, 504 U.S. 938, 112 S. Ct. 2269, 119 L. Ed. 2d 197 (1992).

State's justifications were properly within the ambit of a state legislature's redistricting latitude and designed to achieve legitimate state goals, and were sufficient to warrant the very small numerical variance among congressional districts. *Anne Arundel County Republican Cent. Comm. v. State Advisory Bd. of Election Laws*, 781 F. Supp. 394 (D. Md. 1991), *aff'd*, 504 U.S. 938, 112 S. Ct. 2269, 119 L. Ed. 2d 197 (1992).

§ 8-702. First congressional district.

(a) *Included districts.* — The first congressional district consists of the following counties:

(1) Caroline County;

- (2) Cecil County;
- (3) Dorchester County;
- (4) Kent County;
- (5) Queen Anne's County;
- (6) Somerset County;
- (7) Talbot County;
- (8) Wicomico County; and
- (9) Worcester County.

(b) *Included portions of Anne Arundel County.* — The district also includes the following parts of Anne Arundel County:

- (1) election district 2, precincts 20 and 21;
- (2) election district 3, precincts 10, 11, 12, 15, 17, 18, 19, and 23;
- (3) election district 4, precincts 4, 12, and 13;
- (4) election district 5, precincts 1 through 9, 11, and 13 through 28;
- (5) that part of election district 3, precinct 13 that consists of census tract 7312.02, blocks 1000 through 1031, 2000, 3000, 3022, 4002 through 4006, 4008 through 4014, and 6000 through 6017;
- (6) that part of election district 4, precinct 6 that consists of census tract 7022.03, blocks 1000, 1001, 1003 through 1008, 1016, and 1017;
- (7) that part of election district 4, precinct 14 that consists of census tract 7021.00, blocks 1000 through 1019, 1021, 1022, and 1023;
- (8) that part of election district 5, precinct 10 that consists of census tract 7312.03, blocks 3000 through 3010, 3013, 3014, and 3015; and
- (9) that part of election district 5, precinct 12 that consists of the following census tracts and blocks:
 - (i) census tract 7306.04, blocks 3008, 3009, and 3011 through 3017; and
 - (ii) census tract 7307.00, blocks 2000, 2001, 5000 through 5004, 5007 through 5013, and 5015.

(c) *Included portions of Baltimore County.* — The district also includes the following parts of Baltimore County:

- (1) election district 8, precincts 19 and 20;
- (2) election district 9, precinct 8;
- (3) election district 10, precincts 2 through 5;
- (4) election district 11, precincts 1, 2, 3, 5, 6, 7, 12, 14, 17, and 18;
- (5) that part of election district 8, precinct 2 that consists of the following census tracts and blocks:
 - (i) census tract 4082.00, blocks 1001 through 1019; and
 - (ii) census tract 4083.01, blocks 1000 through 1033 and 2000 through 2002;
- (6) that part of election district 8, precinct 3 that consists of the following census tracts and blocks:
 - (i) census tract 4084.00, blocks 1003 through 1011, 1013, 1014, 1015, and 1019; and
 - (ii) census tract 4089.00, blocks 1000 through 1006, 2000, 2006, 2007, and 2999;
- (7) that part of election district 9, precinct 9 that consists of census tract 4901.00, blocks 2015 through 2017, 2019, 2020, and 3001 through 3014; and

(8) that part of election district 11, precinct 4 that consists of the following census tracts and blocks:

- (i) census tract 4111.02, blocks 2007, 2008, 2009, and 2017; and
- (ii) census tract 4113.02, blocks 1003, 1007, 1008, and 1018.

(d) *Included portions of Harford County.* — The district also includes the following parts of Harford County:

- (1) election district 1, precincts 2, 8, 9, 11, 12, 14, and 17;
- (2) election district 2, precinct 2;
- (3) election district 3, precincts 2, 3, and 6 through 21;
- (4) election district 4, precincts 2 and 5;
- (5) that part of election district 2, precinct 4 that consists of the following census tracts and blocks:

- (i) census tract 3022.00, block 1014; and
- (ii) census tract 3028.01, blocks 1001, 1002, and 1016;

(6) that part of election district 3, precinct 4 that consists of the following census tracts and blocks;

- (i) census tract 3031.00, blocks 1000 through 1009 and 2002 through 2010;
- (ii) census tract 3032.01, blocks 2012 and 3000 through 3006; and
- (iii) census tract 3051.00, block 4003; and

(7) that part of election district 5, precinct 1 that consists of census tract 3053.00, block 2023. (An. Code 1957, art. 33, § 8-702; 2002, ch. 291, § 2; ch. 340, § 2; 2003, ch. 21, § 1.)

Editor's note. — Section 2, ch. 340, Acts 2002, repealed former §§ 8-702 through 8-709 and enacted new sections in lieu thereof.

§ 8-703. Second congressional district.

(a) *Included portions of Anne Arundel County.* — The second congressional district consists of the following parts of Anne Arundel County:

- (1) election district 1, precincts 3 through 6, 9, and 12 through 20;
- (2) election district 2, precinct 19;
- (3) election district 3, precincts 1 through 4, 6 through 8, 14, 16, 20, 21, and 24; and
- (4) election district 4, precincts 7, 18, and 19.

(b) *Included portions of Baltimore County.* — The district also includes the following parts of Baltimore County:

- (1) election districts 12 and 15;
- (2) election district 2, precincts 10, 12 through 14, 16, 17, and 21;
- (3) election district 4, precinct 7;
- (4) election district 8, precincts 4 through 16 and 18;
- (5) election district 9, precincts 6, 7, 10, 11, 14 through 18, 20, and 23 through 25;
- (6) election district 11, precincts 8 through 11, 13, 15, and 16;
- (7) election district 14, precincts 3 through 5 and 8 through 11;
- (8) that part of election district 2, precinct 7 that consists of the following census tracts and blocks:

EL, § 8-703

REGISTRATION AND ELECTION LAWS

- (i) census tract 4023.06, blocks 2000 through 2003; and
 - (ii) census tract 4023.07, blocks 1000 through 1018;
- (9) that part of election district 2, precinct 8 that consists of the following census tracts and blocks:
- (i) census tract 4023.05, blocks 1002 and 1003;
 - (ii) census tract 4026.03, block 2032; and
 - (iii) census tract 4026.04, blocks 1000 through 1021, 2000 through 2011, and 2016 through 2025;
- (10) that part of election district 2, precinct 15 that consists of the following census tracts and blocks:
- (i) census tract 4025.07, blocks 1000, 1001, 1019 through 1030, 1032, 1033, 1035, and 2013 through 2026; and
 - (ii) census tract 4026.03, blocks 2000 through 2004 and 2008;
- (11) that part of election district 2, precinct 18 that consists of the following census tracts and blocks:
- (i) census tract 4025.04, blocks 1006 and 1007;
 - (ii) census tract 4025.05, blocks 1003 through 1009, 2003 through 2009, and 2011; and
 - (iii) census tracts 4025.07, blocks 1031, 1034, and 2027 through 2040;
- (12) that part of election district 2, precinct 20 that consists of census tract 4022.01, blocks 1000 through 1003 and 1007 through 1016;
- (13) that part of election district 4, precinct 4 that consists of the following census tracts and blocks:
- (i) census tract 4044.01, blocks 1000 through 1004, 1007, and 1032;
 - (ii) census tract 4044.02, blocks 1001 through 1007;
 - (iii) census tract 4046.00, blocks 1022, 2000 through 2002, 2015 through 2022, 2025, and 2029 through 2034; and
 - (iv) census tract 4049.00, blocks 1000, 1001, 1002, and 1005;
- (14) that part of election district 8, precinct 2 that consists of census tract 4083.01, blocks 2003 through 2006;
- (15) that part of election district 9, precinct 9 that consists of the following census tracts and blocks:
- (i) census tract 4901.00, block 2018;
 - (ii) census tract 4917.01, blocks 2000 and 2003 through 2010; and
 - (iii) census tract 4919.00, blocks 2003 through 2005;
- (16) that part of election district 11, precinct 4 that consists of the following census tracts and blocks:
- (i) census tract 4111.02, blocks 2010 through 2016 and 2999; and
 - (ii) census tract 4113.02, blocks 1000 through 1002, 1004 through 1006, 1009 through 1017, 1019 through 1056, 1994 through 1996, 1998, and 1999; and
- (17) that part of election district 14, precinct 2 that consists of census tract 4406.00, blocks 1000 through 1003 and 1015 through 1025.
- (c) *Included portions of Baltimore City.* — The district also includes the following parts of Baltimore City:
- (1) ward 25, precincts 6 through 18;
 - (2) ward 26, precincts 1, 2, 15, 17 through 24, and 27 through 36;

(3) ward 27, precincts 1, 4, 7 through 9, 16, 18, 22 through 24, and 31 through 37;

(4) that part of ward 27, precinct 25 that consists of the following census tracts and blocks:

(i) census tract 2708.03, blocks 1014, 1016, and 3015;

(ii) census tract 2709.02, blocks 1005 through 1011, 3000 through 3004, and 3007; and

(5) that part of ward 27, precinct 30 that consists of the following census tracts and blocks:

(i) census tract 2708.02, blocks 3001 through 3005 and 4008; and

(ii) census tract 2708.05, blocks 2000 through 2003.

(d) *Included portions of Harford County.* — The district also includes the following parts of Harford County:

(1) election district 6;

(2) election district 1, precincts 1, 3 through 7, 10, 13, 16, and 45;

(3) election district 2, precincts 1, 3, 10, 11, 15, and 19; and

(4) that part of election district 2, precinct 4 that consists of the following census tracts and blocks:

(i) census tract 3028.01, blocks 1017, 3000, and 3018 through 3022;

(ii) census tract 3029.01, blocks 2000, 2001, 2002, and 3000 through 3003; and

(iii) census tract 3063.00, block 1016. (An. Code 1957, art. 33, § 8-703; 2002, ch. 291, § 2; ch. 340, § 2.)

Editor's note. — Section 2, ch. 340, Acts 2002, repealed former §§ 8-702 through 8-709 and enacted new sections in lieu thereof.

§ 8-704. Third congressional district.

(a) *Included portions of Anne Arundel County.* — The third congressional district includes the following parts of Anne Arundel County:

(1) election district 6;

(2) election district 1, precincts 1, 2, 7, 8, 10, 11, 21, and 22;

(3) election district 2, precincts 1 through 18;

(4) election district 3, precincts 5, 9, and 22;

(5) election district 4, precincts 1, 2, 3, 5, 8 through 11, 15 through 17, and 20;

(6) election district 7, precincts 13 through 18, 20, and 23 through 25;

(7) that part of election district 3, precinct 13 that consists of census tract 7312.02, blocks 3001 through 3003;

(8) that part of election district 4, precinct 6 that consists of the following census tracts and blocks:

(i) census tract 7021.00, blocks 2021 through 2024 and 3009 through 3015;

(ii) census tract 7022.03, block 1002;

(iii) census tract 7024.01, blocks 1000, 1003, 1004, and 1005; and

(iv) census tract 7028.00, blocks 1000 and 1011;

EL, § 8-704

REGISTRATION AND ELECTION LAWS

(9) that part of election district 4, precinct 14 that consists of census tract 7021.00, block 1020;

(10) that part of election district 5, precinct 10 that consists of census tract 7312.03, blocks 5002 through 5005; and

(11) that part of election district 5, precinct 12 that consists of census tract 7306.04, blocks 3000 through 3007, 3010, and 3999.

(b) *Included portions of Baltimore County.* — The district also includes the following parts of Baltimore County:

(1) election district 13;

(2) election district 3, precincts 2 and 4 through 13;

(3) election district 4, precincts 1, 2, 3, 5, 6, and 8;

(4) election district 8, precinct 17;

(5) election district 9, precincts 1 through 5, 12, 13, 19, 21, and 22;

(6) election district 14, precincts 1, 6, 7, and 12;

(7) that part of election district 2, precinct 7 that consists of census tract 4023.05, blocks 1000, 1001, and 1004 through 1012;

(8) that part of election district 2, precinct 8 that consists of census tract 4026.03, blocks 2033 and 2034;

(9) that part of election district 2, precinct 15 that consists of census tract 4025.07, blocks 1002 through 1018 and 2000 through 2012;

(10) that part of election district 4, precinct 4 that consists of census tract 4044.02, blocks 2000 through 2003, 2006, and 3000 through 3008; and

(11) that part of election district 14, precinct 2 that consists of the following census tracts and blocks:

(i) census tract 4403.00, blocks 1000 through 1020;

(ii) census tract 4406.00, blocks 1004 through 1014, 1029, and 1030;

and

(iii) census tract 4408.00, blocks 1001 through 1013.

(c) *Included portions of Baltimore City.* — The district also includes the following parts of Baltimore City:

(1) wards 1, 2, 23, and 24;

(2) ward 3, precinct 3;

(3) ward 6, precinct 5;

(4) ward 8, precincts 1 and 2;

(5) ward 12, precinct 1;

(6) ward 13, precincts 1 through 5 and 13;

(7) ward 21, precincts 1 and 3;

(8) ward 22, precinct 2;

(9) ward 25, precincts 4 and 5;

(10) ward 26, precincts 3 through 12, 14, 16, 25, 26, and 37;

(11) ward 27, precincts 2, 3, 5, 6, 10 through 15, 17, 19, 41 through 57, and 67 through 72;

(12) that part of ward 21, precinct 2 that consists of the following census tracts and blocks:

(i) census tract 2101.00, blocks 3004 through 3022, 3034 through 3053, and 3055 through 3061;

(ii) census tract 2102.00, blocks 2019 through 2026 and 2039; and

- (iii) census tract 2503.02, blocks 1000 through 1004;
- (13) that part of ward 26, precinct 13 that consists of census tract 2604.04, blocks 2004, 2025 through 2029, and 3000;
- (14) that part of ward 27, precinct 21 that consists of census tract 2709.02, block 1000;
- (15) that part of ward 27, precinct 25 that consists of census tract 2709.02, blocks 1002, 1003, 1004, 2000, 2001, 3005, 3006, 3008, and 3009;
- (16) that part of ward 27, precinct 30 that consists of the following census tracts and blocks:
 - (i) census tract 2708.02, block 3006;
 - (ii) census tract 2708.05, blocks 2004 through 2008; and
 - (iii) census tract 2709.01, blocks 1000 through 1003 and 1007;
- (17) that part of ward 27, precinct 38 that consists of the following census tracts and blocks:
 - (i) census tract 2708.05, blocks 3000 through 3006 and 4001 through 4008; and
 - (ii) census tract 2710.02, blocks 5000 and 5001;
- (18) that part of ward 27, precinct 64 that consists of the following census tracts and blocks:
 - (i) census tract 2717.00, blocks 7000 and 7001; and
 - (ii) census tract 2719.00, blocks 2001, 2002, 2006 through 2012, 2015, 2016, 3000 through 3006, and 3011; and
- (19) that part of ward 27, precinct 66 that consists of the following census tracts and blocks:
 - (i) census tract 2719.00, blocks 4001 through 4009, 4013, 5000 through 5005, and 5010; and
 - (ii) census tract 2720.01, blocks 3000 and 3009.
- (d) *Included portions of Howard County.* — The district also includes the following parts of Howard County:
 - (1) election district 1, precincts 1 through 4 and 6 through 9;
 - (2) election district 5, precinct 5; and
 - (3) election district 6, precincts 4, 5, 8, 9, 11 through 13, 16 through 23, 26, and 29. (An. Code 1957, art. 33, § 8-704; 2002, ch. 291, § 2; ch. 340, § 2.)

Editor's note. — Section 2, ch. 340, Acts 2002, repealed former §§ 8-702 through 8-709 and enacted new sections in lieu thereof.

§ 8-705. Fourth congressional district.

- (a) *Included portions of Prince George's County.* — The fourth congressional district consists of the following parts of Prince George's County:
 - (1) election districts 2, 6, 12, 13, and 18;
 - (2) election district 3, precincts 3 and 4;
 - (3) election district 5, precinct 6;
 - (4) election district 7, precincts 1, 11, and 12;
 - (5) election district 9, precincts 3 and 5;
 - (6) election district 15, precinct 2;
 - (7) election district 16, precincts 1, 2, and 5;

EL, § 8-706

REGISTRATION AND ELECTION LAWS

- (8) election district 17, precincts 9, 11, and 12;
 - (9) election district 19, precinct 5;
 - (10) election district 20, precincts 3, 4, 5, 8, 9, and 10;
 - (11) that part of election district 5, precinct 4 that consists of the following census tracts and blocks:
 - (i) census tract 8013.01, block 1005; and
 - (ii) census tract 8013.06, blocks 2021, 2024, 3003, and 3004; and
 - (12) that part of election district 21, precinct 5 that consists of the following census tracts and blocks:
 - (i) census tract 8073.01, block 1001; and
 - (ii) census tract 8073.05, blocks 1002 through 1013 and 2001 through 2014.
- (b) *Included portions of Montgomery County.* — The district also includes the following parts of Montgomery County:
- (1) election districts 1 and 8;
 - (2) election district 2, precincts 2 through 5;
 - (3) election district 4, precincts 19 and 34;
 - (4) election district 5, precincts 2, 3, 6, 7, 10, 12 through 15, and 17 through 21;
 - (5) election district 9, precincts 11, 14, 17, 21, 22, 23, 25, and 30;
 - (6) election district 13, precincts 5, 12 through 15, 18, 22, 41, 46, 50 through 52, 60, and 66;
 - (7) that part of election district 2, precinct 1 that consists of the following census tracts and blocks:
 - (i) census tract 7001.01, block 2008;
 - (ii) census tract 7002.05, blocks 3003 through 3014;
 - (iii) census tract 7003.02, blocks 1000 through 1007, 1011 through 1017, 1026, 2000 through 2021, 3004 through 3011, and 3013 through 3022;
 - (iv) census tract 7003.04, blocks 1000 through 1037 and 2000 through 2005;
 - (v) census tract 7004.00, blocks 2000 and 2001; and
 - (vi) census tract 7008.09, blocks 3019 and 3020; and
 - (8) that part of election district 13, precinct 8 that consists of the following census tracts and blocks:
 - (i) census tract 7024.01, blocks 1007, 1008, 2000 through 2005, and 2014;
 - (ii) census tract 7024.02, blocks 1000, 1003, 2000, 2001, 2003 through 2006, 3000 through 3003, and 3005 through 3010; and
 - (iii) census tract 7025.00, block 1012. (An. Code 1957, art. 33, § 8-705; 2002, ch. 291, § 2; ch. 340, § 2.)

Editor's note. — Section 2, ch. 340, Acts 2002, repealed former §§ 8-702 through 8-709 and enacted new sections in lieu thereof.

§ 8-706. Fifth congressional district.

- (a) *Included counties.* — The fifth congressional district consists of the following counties:

- (1) Calvert County;
- (2) Charles County; and
- (3) St. Mary's County.

(b) *Included portions of Anne Arundel County.* — The district also includes the following parts of Anne Arundel County: election district 7, precincts 1 through 12, 19, 21, and 22.

(c) *Included portions of Prince George's County.* — The district also includes the following parts of Prince George's County:

- (1) election districts 1, 4, 8, 10, 11, and 14;
- (2) election district 3, precincts 1 and 2;
- (3) election district 5, precincts 1, 2, 3, 5, 7, and 8;
- (4) election district 7, precincts 2 through 10;
- (5) election district 9, precincts 1, 2, 4, and 6 through 11;
- (6) election district 15, precincts 1, 3, and 4;
- (7) election district 16, precincts 3 and 4;
- (8) election district 19, precincts 1 through 4;
- (9) election district 20, precincts 1, 2, 6, 7, and 11;
- (10) election district 21, precincts 1 through 4 and 6 through 17;

(11) that part of election district 5, precinct 4 that consists of the following census tracts and blocks:

(i) census tract 8013.01, blocks 1000 through 1004, 2002, 2003, 2004, and 5000 through 5010; and

(ii) census tract 8013.06, blocks 2019, 2025, 2026, 3000 through 3002, and 3005 through 3012; and

(12) that part of election district 21, precinct 5 that consists of census tract 8073.05, block 1014. (An. Code 1957, art. 33, § 8-706; 2002, ch. 291, § 2; ch. 340, § 2.)

Editor's note. — Section 2, ch. 340, Acts 2002, repealed former §§ 8-702 through 8-709 and enacted new sections in lieu thereof.

§ 8-707. Sixth congressional district.

(a) *Included counties.* — The sixth congressional district consists of the following counties:

- (1) Allegany County;
- (2) Carroll County;
- (3) Frederick County;
- (4) Garrett County; and
- (5) Washington County.

(b) *Included portions of Baltimore County.* — The district also includes the following parts of Baltimore County:

- (1) election districts 5, 6, and 7;
- (2) election district 4, precinct 9;
- (3) election district 8, precinct 1;
- (4) election district 10, precinct 1; and

(5) that part of election district 8, precinct 3 that consists of the following census tracts and blocks:

EL, § 8-708

REGISTRATION AND ELECTION LAWS

- (i) census tract 4081.00, blocks 1000 through 1009 and 1999; and
- (ii) census tract 4089.00, blocks 2001 through 2005.

(c) *Included portions of Harford County.* — The district also includes the following parts of Harford County:

- (1) election district 3, precinct 5;
- (2) election district 4, precincts 1, 3, 4, and 6;
- (3) election district 5, precinct 2;
- (4) that part of election district 3, precinct 4 that consists of census tract 3032.01, blocks 2009, 2010, and 2011; and
- (5) that part of election district 5, precinct 1 that consists of the following census tracts and blocks:
 - (i) census tract 3021.00, block 1009;
 - (ii) census tract 3051.00, blocks 3012 through 3014, 3019 through 3021, 4000, 4001, 4004, and 4005;
 - (iii) census tract 3052.00, blocks 1000 through 1012, 2000 through 2025, and 3000 through 3005; and
 - (iv) census tract 3053.00, blocks 1000 through 1013 and 2001 through 2022.

(d) *Included portions of Montgomery County.* — The district also includes the following parts of Montgomery County:

- (1) election district 12; and
- (2) that part of election district 2, precinct 1 that consists of census tract 7003.02, blocks 3000 through 3003 and 3012. (An. Code 1957, art. 33, § 8-707; 2002, ch. 291, § 2; ch. 340, § 2.)

Editor's note. — Section 2, ch. 340, Acts 2002, repealed former §§ 8-702 through 8-709 and enacted new sections in lieu thereof.

§ 8-708. Seventh congressional district.

(a) *Included portions of Baltimore County.* — The seventh congressional district includes the following parts of Baltimore County:

- (1) election district 1;
- (2) election district 2, precincts 1 through 6, 9, 11, and 19;
- (3) election district 3, precincts 1 and 3;
- (4) that part of election district 2, precinct 18 that consists of census tract 4025.04, blocks 2003 through 2010 and 2016 through 2023; and
- (5) that part of election district 2, precinct 20 that consists of census tract 4022.01, block 1017.

(b) *Included portions of Baltimore City.* — The district also includes the following parts of Baltimore City:

- (1) wards 4, 5, 7, 9, 10, 11, 14 through 20, and 28;
- (2) ward 3, precincts 1, 2, and 4;
- (3) ward 6, precincts 1 through 4;
- (4) ward 8, precincts 3 through 13;
- (5) ward 12, precincts 2 through 13;
- (6) ward 13, precincts 6 through 12;
- (7) ward 22, precinct 1;

- (8) ward 25, precincts 1, 2, and 3;
 - (9) ward 27, precincts 20, 26 through 29, 39, 40, 58 through 63, and 65;
 - (10) that part of ward 21, precinct 2 that consists of the following census tracts and blocks:
 - (i) census tract 2101.00, blocks 1000 through 1006, 1009 through 1013, and 2000 through 2019; and
 - (ii) census tract 2102.00, blocks 1000 and 1005;
 - (11) that part of ward 26, precinct 13 that consists of the following census tracts and blocks:
 - (i) census tract 2604.04, blocks 3001 through 3003; and
 - (ii) census tract 2610.00, blocks 1000 through 1007 and 2000 through 2003;
 - (12) that part of ward 27, precinct 21 that consists of the following census tracts and blocks:
 - (i) census tract 2702.00, blocks 2000 through 2008 and 3000 through 3011;
 - (ii) census tract 2703.01, blocks 2002 through 2010, 3000 through 3011, and 4003;
 - (iii) census tract 2709.02, block 1001; and
 - (iv) census tract 2709.03, block 1000;
 - (13) that part of ward 27, precinct 25 that consists of census tract 2709.02, blocks 2002 through 2007;
 - (14) that part of ward 27, precinct 30 that consists of the following census tracts and blocks:
 - (i) census tract 2709.01, blocks 1004, 1005, 1006, and 3000 through 3005; and
 - (ii) census tract 2710.02, blocks 1000 through 1005;
 - (15) that part of ward 27, precinct 38 that consists of census tract 2710.02, blocks 5002 and 5003;
 - (16) that part of ward 27, precinct 64 that consists of the following census tracts and blocks:
 - (i) census tract 2717.00, blocks 7002 through 7015; and
 - (ii) census tract 2719.00, blocks 3007 through 3010; and
 - (17) that part of ward 27, precinct 66 that consists of census tract 2719.00, blocks 4000, 4010 through 4012, and 5006 through 5009.
- (c) *Included portions of Howard County.* — The district also includes the following parts of Howard County:
- (1) election districts 2, 3, and 4;
 - (2) election district 1, precinct 5;
 - (3) election district 5, precincts 1 through 4 and 6 through 22; and
 - (4) election district 6, precincts 1, 2, 3, 6, 7, 10, 14, 15, 24, 25, 27, and 28.
- (An. Code 1957, art. 33, § 8-708; 2002, ch. 291, § 2; ch. 340, § 2.)

Editor's note. — Section 2, ch. 340, Acts 2002, repealed former §§ 8-702 through 8-709 and enacted new sections in lieu thereof.

§ 8-709. Eighth congressional district.

(a) *Included portions of Montgomery County.* — The eighth congressional district consists of the following parts of Montgomery County:

- (1) election districts 3, 6, 7, 10, and 11;
- (2) election district 4, precincts 1 through 16, 18, 20, 21, and 23 through 32;
- (3) election district 5, precincts 1, 5, 8, 9, 11, and 16;
- (4) election district 9, precincts 1 through 10, 12, 13, 15, 16, 18, 19, 20, 24, and 26 through 29;
- (5) election district 13, precincts 1 through 4, 6, 7, 9 through 11, 16, 17, 19 through 21, 23 through 40, 42 through 45, 47 through 49, 53 through 59, 61 through 65, 67, and 68; and
- (6) that part of election district 13, precinct 8 that consists of the following census tracts and blocks:
 - (i) census tract 7017.02, blocks 1004 and 1010;
 - (ii) census tract 7018.00, blocks 3002 through 3005;
 - (iii) census tract 7024.01, blocks 2006 through 2013 and 2015 through 2017;
 - (iv) census tract 7024.02, blocks 3004 and 3011 through 3019; and
 - (v) census tract 7025.00, blocks 1013 through 1024, 1028, 1029, 2011, 2012, 2014, and 2015.

(b) *Included portions of Prince George's County.* — The district also includes the following parts of Prince George's County:

- (1) election district 2, precinct 2; and
- (2) election district 17, precincts 1 through 8, 10, 13, and 14. (An. Code 1957, art. 33, § 8-709; 2002, ch. 291, § 2; ch. 340, § 2.)

Editor's note. — Section 2, ch. 340, Acts 2002, repealed former §§ 8-702 through 8-709 and enacted new sections in lieu thereof.

§ 8-710. Congressional vacancy — Governor's proclamation.

(a) *Effect of vacancy.* — (1) Except as provided in paragraph (2) of this subsection, if there is a vacancy in the office of Representative in Congress, the Governor shall issue a proclamation, within 10 days after the date that the vacancy occurs or becomes known to the Governor, declaring that a special primary election and a special general election shall be held to fill the vacancy.

(2) If the vacancy occurs during the period beginning 60 days before the regular primary election and ending on the last day of the term, the Governor may:

- (i) decline to issue a proclamation; and
- (ii) allow the office to remain vacant for the remainder of the term.

(b) *Governor's proclamation.* — (1) The Governor's proclamation shall specify the dates of the special primary election and the special general election.

(2) The special primary election shall be held on a Tuesday that is at least 36 days after the date of the proclamation.

(3) The special general election shall be held on a Tuesday that is at least 36 days after the date of the special primary election.

(c) *Notice and delivery of proclamation.* — (1) The Governor shall:

- (i) immediately give public notice of the proclamation; and
- (ii) deliver the proclamation to the State Administrator.

(2) The State Administrator shall:

- (i) immediately notify the State Board members and the local boards of the counties that comprise the congressional district; and
- (ii) forward to each of those local boards a copy of the proclamation.

(d) *Special primary and regular primary combined.* — (1) Notwithstanding any other provision of this section, if the vacancy occurs or becomes known to the Governor during the period beginning 120 days before the regular primary election for Representatives in Congress and ending 40 days before the primary election, the Governor's proclamation shall order that:

(i) the special primary election shall be merged with the regular primary election;

(ii) any individual who files a certificate of candidacy for the regular primary election shall be deemed to have filed a certificate of candidacy for the special primary election; and

(iii) any other qualified individual may file a certificate of candidacy, for both the special primary election and the regular primary election, not later than 9 p.m. on the day that is 2 days after the issuance of the proclamation.

(2) A vote cast for a candidate in the merged primary election shall be deemed a vote for that candidate in both the special primary election and the regular primary election.

(3) Two certificates of nomination, one for the special primary election and one for the regular primary election, shall be issued to each candidate nominated in the merged primary election.

(4) Notwithstanding any provision of this article:

(i) a nominee for the special primary election may decline the nomination by notifying the State Board not later than 5 p.m. on the Wednesday following the primary election;

(ii) the appropriate political party shall fill the vacancy in nomination not later than 5 p.m. on the Thursday following the primary election; and

(iii) a petition for recount and recanvass of the special primary election shall be filed not later than 5 p.m. on the Wednesday following the primary election. (An. Code 1957, art. 33, § 8-710; 2002, ch. 291, §§ 2, 4; 2008, ch. 118.)

Effect of amendments. — Chapter 118, Acts 2008, enacted April 17, 2008, and effective from date of enactment, in (a)(1) deleted “if there is a vacancy in the office of Representative in Congress” after “subsection”, added “in accordance with this section” and made related changes; added (a)(1)(ii) and the (a)(1)(i) designation and rewrote (a)(1)(i); in (b) added the exception and made stylistic changes; and added (e).

Editor's note. — Pursuant to § 3, ch. 118, Acts 2008, the amendments are deemed to have abrogated on December 31, 2008.

Bill review letter. — Chapter 118, Acts 2008, (House Bill 1627) was approved for constitutionality and legal sufficiency, and provided for a special election process in the event of a vacancy in the Office of Representative in Congress after the regular primary election has taken place. This bill allows the Governor to proclaim and hold one special general election without a special primary election. Preference was given to vest the recommendation of local central committees of political parties for the nomination of candidates to fill vacancies. This bill abrogated at the end of 2008 and has no

future effect on elections after that time. (Letter of the Attorney General dated April 15, 2008.)

§ 8-711. Congressional vacancy — Certification of candidates and nominees.

(a) *Before special primary.* — At least 20 days before the special primary election, the State Board shall certify to the appropriate local boards the name, residence, and party affiliation of each candidate who qualifies to appear on the primary election ballot.

(b) *Before special election.* — At least 20 days before the special general election, the State Board shall certify to the appropriate local boards the name, residence, and party affiliation of each nominee who qualifies to appear on the general election ballot. (An. Code 1957, art. 33, § 8-711; 2002, ch. 291, §§ 2, 4; 2008, ch. 118.)

Effect of amendments. — Chapter 118, Acts 2008, enacted April 17, 2008, and effective from date of enactment, added “If there is a special primary election” at the beginning of (a).

Editor’s note. — Pursuant to § 3, ch. 118, Acts 2008, the amendment is deemed to have abrogated on December 31, 2008.

Bill review letter. — Chapter 118, Acts 2008, (House Bill 1627) was approved for constitutionality and legal sufficiency, and provided for a special election process in the event of a vacancy in the Office of Representative in

Congress after the regular primary election has taken place. This bill allows the Governor to proclaim and hold one special general election without a special primary election. Preference was given to vest the recommendation of local central committees of political parties for the nomination of candidates to fill vacancies. This bill abrogated at the end of 2008 and has no future effect on elections after that time. (Letter of the Attorney General dated April 15, 2008.)

Subtitle 8. Boards of Education.

§ 8-801. Applicability.

Except as otherwise provided in this subtitle and in Title 3 of the Education Article, the provisions of this article relating to the nomination and election of candidates to public office shall govern the nomination and election of members to an elected county board of education. (An. Code 1957, art. 33, § 8-801; 2002, ch. 291, §§ 2, 4.)

§ 8-802. Nonpartisan election.

(a) *In general.* — (1) (i) Members of boards of education shall be elected on a nonpartisan basis.

(ii) In a primary election to nominate board of education candidates, any registered voter of the county, regardless of party affiliation or lack of party affiliation, is eligible to vote in those contests for nomination.

(2) Candidates for election to boards of education shall, without party designation or regard to party affiliation:

- (i) file certificates of candidacy;
- (ii) be certified to the ballot;
- (iii) appear on the ballot;
- (iv) be voted on; and

(v) be nominated and elected.

(b) *Exception.* — This section does not apply to candidates for nomination or election to a board of education if Title 3 of the Education Article requires a partisan election. (An. Code 1957, art. 33, § 8-802; 2002, ch. 291, §§ 2, 4.)

Applicability. — This section does not elaborate upon the meaning of “nonpartisan basis,” but clearly it applies to the election of board members, such as members of the boards of education. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Purpose. — Just as (a)(1)(i)’s purpose is to mandate a nonpartisan general election, (a)(1)(ii)’s purpose is to mandate a nonpartisan primary election. When the State truly establishes a nonpartisan primary, the primary is

characterized by the fact that unaffiliated voters are eligible to vote in it; indeed, the statute implies that a nonpartisan primary is defined by the ability of unaffiliated voters to vote in the primary, and if this be so, then the political primaries nominating circuit court judges cannot, by definition, be nonpartisan since unaffiliated voters are ineligible to vote in them. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 8-803. Qualification for candidacy.

(a) *Qualification.* — Before certifying the name of a board of education candidate to appear on the ballot, the local board shall determine whether the candidate qualifies as provided under Title 3 of the Education Article and Title 5 of this article.

(b) *Qualifying by petition prohibited.* — Unless Title 3 of the Education Article requires a partisan election, an individual may not qualify as a board of education candidate or nominee by filing a petition or being nominated by a political party. (An. Code 1957, art. 33, § 8-803; 2002, ch. 291, §§ 2, 4; 2006, ch. 120.)

§ 8-804. Primary elections.

(a) *Nomination.* — In each year that one or more members of a board of education are to be elected, candidates shall be nominated at the primary election.

(b) *Candidate who dies or is disqualified before primary.* — (1) If a candidate dies or becomes disqualified before the ballots are printed, or at a time when the ballots can be reprinted, the name of the candidate may not appear on the ballot.

(2) If a candidate dies or becomes disqualified after the ballots are printed and too late for the ballot to be reprinted, any votes cast for that candidate may not be counted.

(c) *Determination of nomination.* — (1) The candidates, equal in number to twice the number of offices to be filled, who receive the largest number of votes in the primary election shall be the nominated candidates.

(2) If two or more candidates each receive the lowest number of votes necessary to qualify for nomination, creating a tie for the last nomination for the office to be filled, each shall be a nominated candidate. (An. Code 1957, art. 33, § 8-804; 2002, ch. 291, §§ 2, 4.)

§ 8-805. Vacancies in nomination.

(a) *Nominee who dies, declines, or is disqualified.* — (1) If, after the primary election but before the general election, a nominee dies, declines the nomina-

tion, or becomes disqualified before the ballots are printed or at a time when the ballots can be reprinted, the name of the nominee may not appear on the ballot.

(2) If the number of remaining nominees is less than the number of offices to be filled, a new nominee shall be appointed in the same manner as provided in the Education Article for filling a vacancy on the board of education.

(b) *Votes cast for name remaining on ballot.* — If a nominee dies, declines the nomination, or is disqualified after the ballots are printed and too late for the ballot to be reprinted, and if that nominee receives sufficient votes to have been elected, the office shall be deemed vacant and shall be filled as if the vacancy had occurred during the term of office. (An. Code 1957, art. 33, § 8-805; 2002, ch. 291, §§ 2, 4.)

Cited in *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 8-806. General election.

(a) *Number of votes in contest.* — In a general election for board of education members, a voter may vote for a number of nominees equal to the number of members to be elected.

(b) *Election results.* — (1) The nominees, equal in number to the number of offices to be filled, who receive the largest number of votes in a general election shall be declared elected.

(2) (i) If two or more nominees each receive the lowest number of votes necessary to qualify for election, creating a tie for the last office to be filled, the office shall be considered vacant.

(ii) A vacancy occurring under subparagraph (i) of this paragraph shall be filled:

1. as if the vacancy occurred during the term of office for which the election is being held; and

2. by the selection of one of the nominees who ties in the general election. (An. Code 1957, art. 33, § 8-806; 2002, ch. 291, §§ 2, 4.)

TITLE 9.

VOTING.

Subtitle 1. Voting Systems.

- Sec.
9-101. Use of certified system in polling places and for absentee voting [Subject to contingent abrogation].
9-102. Certification of voting systems [Subject to contingent abrogation].
9-103. Decertification.
9-104. Borrowing to purchase voting system.
9-105. Acquisition of voting systems.
9-106. [Repealed].

Subtitle 2. Ballots.

- 9-201. In general.
9-202. Responsibilities for preparation.
9-203. Standards.
9-204. Uniformity.
9-205. Content.
9-206. Arrangement — Format.
9-207. Ballots — Certification; display; printing.
9-208. Late changes in ballots.
9-209. Judicial review.
9-210. Arrangement of ballots — Candidates and offices.
9-211. Arrangement of ballots — Questions.
9-212. Ballots with multiple ballot faces — Instructions to voters.
9-213. Absentee and provisional ballots — Content.
9-214. Specimen ballots.

- Sec.
9-215. Printing.
9-216. Ballot accountability.
9-217. Prohibited practices.

Subtitle 3. Absentee Voting.

- 9-301. In general.
9-302. Documentation by local boards.
9-303. Guidelines.
9-304. Permissible unless federal preemption.
9-305. Applications for absentee ballot.
9-306. Review of application; issuance or rejection.
9-307. Use of an agent in absentee ballot process.
9-308. Assistance in marking ballot.
9-309. Instructions.
9-310. Envelopes.
9-311. Additional compensation and expenses.
9-312. Penalty for offenses relating to absentee voting.

Subtitle 4. Provisional Ballots.

- 9-401. In general.
9-402. Documentation by local boards.
9-403. Guidelines.
9-404. Requirements for casting provisional ballots.
9-405. Completion of provisional ballot.
9-406. Assistance in casting provisional ballot.
9-407. Instructions; envelopes.
9-408. Penalty for violations.

Subtitle 1. Voting Systems.

§ 9-101. Use of certified system in polling places and for absentee voting [Subject to contingent abrogation].

(a) *Requirements subject to § 9-102(j) of this subtitle.* — The requirements of this section are subject to § 9-102(j) of this subtitle.

(b) *In general.* — The State Board, in consultation with the local boards, shall select and certify a voting system for voting in polling places and a voting system for absentee voting.

(c) *Use in all counties.* — The voting system selected and certified for voting in polling places and the voting system selected and certified for absentee voting shall be used in all counties.

(d) *Acquisition.* — The State Board shall acquire:

(1) the voting system selected and certified for voting in polling places; and

(2) the voting system selected and certified for absentee voting. (An. Code 1957, art. 33, § 9-101; 2002, ch. 291, §§ 2, 4; 2009, ch. 428.)

Effect of amendments. — Chapter 428, Acts 2009, enacted May 7, 2009, and effective from date of enactment, added (a) and made related changes.

Editor's note. — Section 4, ch. 564, Acts 2001, provides that “subject to § 5 of this Act, each county shall pay its share of one-half of the State’s cost of acquiring and operating the uniform statewide voting systems for voting in polling places and for absentee voting provided for under this Act, including the cost of maintenance, storage, printing of ballots, technical support and programming, related supplies and materials, and software licensing fees. A county’s share of the cost of acquiring and operating the uniform statewide voting systems shall be based upon the county’s voting age population.”

Section 6, ch. 564, Acts 2001, provides that “fifty percent of any federal funds received for improvements in voting systems and equipment shall be distributed to the State and fifty percent of any federal funds received for improvements in voting systems and equipment shall be distributed, on the basis of a county’s voting age population, to the counties that have implemented the uniform statewide voting system provided for under this Act in the fiscal year in which the funds are received.”

Section 2, ch. 428, Acts 2009, provides that “(1) The State Board of Elections shall notify the Department of Legislative Services no later than 15 days after the first election in which voting machines are used that:

“(i) produce a voter-verifiable paper record; and

“(ii) were examined by an independent testing laboratory this that is approved by the U.S.

Election Assistance Commission and shown by the testing laboratory to meet the requirements of § 9-102(f)(3) and (h)(1) of the Election Law Article.

“(2) Five days after the Department of Legislative Services receives notice under paragraph (1) of this section, this Act shall be abrogated and of no further force and effect.”

Early voting in elections unconstitutional. — Acts authorizing § 10-301.1 of the Elections Article, repealed by ch. 513, Acts 2007, which permitted early voting, were inconsistent with and in derogation of certain provisions of the Maryland Constitution, in particular, art. XV, § 7 of the Maryland Constitution and art. I, § 1 of the Maryland Constitution, and were not constitutionally supported by art. I, § 3 of the Maryland Constitution; therefore, the acts were unconstitutional and void. *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

Certification of electronic voting system upheld. — Trial court found that the Maryland State Board of Elections acted reasonably in purchasing and certifying an electronic voting system, namely the Diebold AccuVote-TS direct recording electronic voting system, which was used in the November 2, 2004 elections and, therefore, the trial court did not abuse its discretion in denying challenging voters’ and candidates’ request for a preliminary injunction to decertify the system. The trial court properly applied an arbitrary and capricious standard of review in assessing the State Board’s purchase and certification of the system, noting the deference the State Board was due with regard to the selection and certification of a uniform voting system. *Schade v. Md. State Bd. of Elections*, 401 Md. 1, 930 A.2d 304 (2007).

(Abrogation of amendment when contingency met.)

§ 9-101. Use of certified system in polling places and for absentee voting.

(a) In general. — *The State Board, in consultation with the local boards, shall select and certify a voting system for voting in polling places and a voting system for absentee voting.*

(b) Use in all counties. — *The voting system selected and certified for voting in polling places and the voting system selected and certified for absentee voting shall be used in all counties.*

(c) Acquisition. — *The State Board shall acquire:*

(1) the voting system selected and certified for voting in polling places; and

(2) the voting system selected and certified for absentee voting.

(2009, ch. 428.)

Editor's note. — Section 2, ch. 428, Acts 2009, provides that “(1) The State Board of Elections shall notify the Department of Legislative Services no later than 15 days after the first election in which voting machines are used that:

- “(i) produce a voter-verifiable paper record; and
- “(ii) were examined by an independent test-

ing laboratory this that is approved by the U.S. Election Assistance Commission and shown by the testing laboratory to meet the requirements of § 9-102(f)(3) and (h)(1) of the Election Law Article.

“(2) Five days after the Department of Legislative Services receives notice under paragraph (1) of this section, this Act shall be abrogated and of no further force and effect.”

§ 9-102. Certification of voting systems [Subject to contingent abrogation].

(a) *“Voter-verifiable paper record” defined.* — In this section, a “voter-verifiable paper record” includes:

- (1) a paper ballot prepared by the voter for the purpose of being read by a precinct-based optical scanner;
- (2) a paper ballot prepared by the voter to be mailed to the applicable local board, whether mailed from a domestic or an overseas location; and
- (3) a paper ballot created through the use of a ballot marking device.

(b) *Adoption of regulations.* — The State Board shall adopt regulations for the review, certification, and decertification of voting systems.

(c) *Periodic review.* — The State Board shall periodically review and evaluate alternative voting systems.

(d) *Standards for certification.* — The State Board may not certify a voting system unless the State Board determines that:

- (1) the voting system will:
 - (i) protect the secrecy of the ballot;
 - (ii) protect the security of the voting process;
 - (iii) count and record all votes accurately;
 - (iv) accommodate any ballot used under this article;
 - (v) protect all other rights of voters and candidates;
 - (vi) be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount, including a manual recount; and
 - (vii) provide a voter-verifiable paper record that:
 - 1. is an individual document that is physically separated from any other similar document and not part of a continuous roll;
 - 2. is sufficiently durable to withstand repeated handling for the purposes of mandatory random audits and recounts; and
 - 3. uses ink that does not fade, smear, or otherwise degrade and obscure or obliterate the paper record over time;
- (2) the voting system has been:
 - (i) examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission; and
 - (ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission or the U.S. Election Assistance Commission; and
- (3) the public interest will be served by the certification of the voting system.

(e) *Considerations for certification.* — In determining whether a voting system meets the required standards, the State Board shall consider:

- (1) the commercial availability of the system and its replacement parts and components;
- (2) the availability of continuing service for the system;
- (3) the cost of implementing the system;
- (4) the efficiency of the system;
- (5) the likelihood that the system will malfunction;
- (6) the system's ease of understanding for the voter;
- (7) the convenience of voting afforded by the system;
- (8) the timeliness of the tabulation and reporting of election returns;
- (9) the potential for an alternative means of verifying the tabulation;
- (10) accessibility for all voters with disabilities recognized by the Americans with Disabilities Act; and
- (11) any other factor that the State Board considers relevant.

(f) *Voting system for persons with disabilities.* — A voting system selected, certified, and implemented under this section shall:

- (1) provide access to voters with disabilities that is equivalent to access afforded voters without disabilities without creating a segregated ballot for voters with disabilities;
- (2) ensure the independent, private casting, inspection, verification, and correction of secret ballots by voters with disabilities in an accessible media by both visual and nonvisual means, including synchronized audio output and enhanced visual display; and
- (3) comply with both the Americans with Disabilities Act, P.L. 101-336, and the Help America Vote Act, P.L. 107-252, including accessibility standards adopted as part of the Voluntary Voting System Guidelines pursuant to the Help America Vote Act.

(g) *Voting system for persons with disabilities — Number of systems; backup equipment.* — (1) At least one voting system in each polling place on election day shall provide access for voters with disabilities in compliance with subsection (f) of this section.

(2) The State Board shall ensure that adequate backup equipment is available and contingency plans are established to ensure compliance with paragraph (1) of this subsection.

(h) *Evaluation of voting systems.* — Before the selection of a voting system, the State Board shall:

- (1) ensure that an accessible voting system conforms to the access requirements of the Voluntary Voting System Guidelines developed in accordance with the Help America Vote Act in effect at the time of selection; and
- (2) conduct an accessibility and usability evaluation of the voting system to assess its accessibility and usability by voters with disabilities, including:
 - (i) a public demonstration of the system; and
 - (ii) an evaluation by individuals representing a cross-section of voters with disabilities.

(i) *Regulations for each voting system.* — (1) The State Board shall adopt regulations relating to requirements for each voting system selected and certified under § 9-101 of this subtitle.

(2) The regulations shall specify the procedures necessary to assure that the standards of this title are maintained, including:

- (i) a description of the voting system;
- (ii) a public information program by the local board, at the time of introduction of a new voting system, to be directed to all voters, candidates, campaign groups, schools, and news media in the county;
- (iii) local election officials' responsibility for management of the system;
- (iv) the actions required to assure the security of the voting system;
- (v) the supplies and equipment required;
- (vi) the storage, delivery, and return of the supplies and equipment necessary for the operation of the voting system;
- (vii) standards for training election officials in the operation and use of the voting system;
- (viii) before each election and for all ballot styles to be used, testing by the members of the local board to ensure the accuracy of tallying, tabulation, and reporting of the vote, and observing of that testing by representatives of political parties and of candidates who are not affiliated with political parties;
- (ix) the number of voting stations or voting booths required in each polling place, in relation to the number of registered voters assigned to the polling place;
- (x) the practices and procedures in each polling place appropriate to the operation of the voting system;
- (xi) assuring ballot accountability in systems using a document ballot;
- (xii) the actions required to tabulate votes; and
- (xiii) postelection review and audit of the system's output.

(3) Certification of a voting system is not effective until the regulations applicable to the voting system have been adopted.

(j) *Requirements for systems where no commercially viable system available; independent testing; system with voter-verified paper record; discontinuation of systems not meeting requirements.* — (1) This subsection applies only if, at the time of procurement of a voting system, there is not a commercially available voting system that satisfies all the requirements of this section.

(2) (i) Except as otherwise provided in this subsection, the State Board shall select, certify, and deploy a voting system that satisfies all the requirements of this section.

(ii) Notwithstanding subsection (d)(2)(i) of this section, a voting system selected and certified under this subsection shall have been examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission or the National Association of State Election Directors.

(iii) Notwithstanding subsections (f)(3) and (h)(1) of this section, a voting system selected and certified is not required to comply with the accessibility standards of the Voluntary Voting System Guidelines under the Help America Vote Act.

(3) (i) Subject to paragraph (4) of this subsection, the State Board shall provide at least one voting machine in each polling place on election day that is:

- 1. accessible to voters with disabilities in accordance with subsection (f)(2) of this section; and

2. available for use by all voters.

(ii) A voting machine under this paragraph is not required to provide a voter-verifiable paper record in accordance with subsection (d)(1)(vii) of this section.

(4) (i) The State Board shall certify and deploy a voting machine that provides a voter-verifiable paper record within 2 years after a determination that:

1. the voting machine has been examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission and shown by the testing laboratory to meet the requirements of subsections (f)(3) and (h)(1) of this section;

2. the voting machine is compatible with the voting system selected and certified for voting in polling places in the State; and

3. the voting machine meets the State certification requirements under this section.

(ii) On certification and deployment of a voting machine that provides a voter-verifiable paper record in accordance with subparagraph (i) of this paragraph, the State Board shall discontinue the use of any voting machine that does not provide a voter-verifiable paper record. (An. Code 1957, art. 33, § 9-102; 2002, ch. 291, §§ 2, 4; 2007, chs. 547, 548; 2009, ch. 428.)

Effect of amendments. — Chapter 428, Acts 2009, enacted May 7, 2009, and effective from date of enactment, added (j).

Editor's note. — Section 2, chs. 547, 548, Acts 2007, as amended by ch. 428, Acts 2009, provides that “this Act shall apply to each election beginning with the 2010 gubernatorial primary election, that is required to be conducted in accordance with the Election Law Article.”

Section 3, chs. 547, 548, Acts 2007, provides that “if the Attorney General determines on or after the effective date of this Act [October 1, 2007] that any provision of this Act is in conflict with any law of the United States or a rule, regulation, or policy of the U.S. Election Assistance Commission, the conflicting provision of this Act shall be abrogated and of no force or effect. The Attorney General, within 5 days after determining the existence of a conflict, shall notify in writing the Department of Legislative Services, Legislative Services Building, 90 State Circle, Annapolis, MD 21401.”

Section 2, ch. 428, Acts 2009, provides that:

“(1) The State Board of Elections shall notify the Department of Legislative Services no later than 15 days after the first election in which voting machines are used that:

“(i) produce a voter-verifiable paper record; and

“(ii) were examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission and shown by the testing laboratory to meet the requirements of § 9-102(f)(3) and (h)(1) of the Election Law Article.

“(2) Five days after the Department of Legislative Services receives notice under paragraph (1) of this section, this Act shall be abrogated and of no further force and effect.”

Certification of electronic voting system upheld. — Trial court found that the Maryland State Board of Elections acted reasonably in purchasing and certifying an electronic voting system, namely the Diebold AccuVote-TS direct recording electronic voting system, which was used in the November 2, 2004 elections and, therefore, the trial court did not abuse its discretion in denying challenging voters' and candidates' request for a preliminary injunction to decertify the system. The trial court properly applied an arbitrary and capricious standard of review in assessing the State Board's purchase and certification of the system, noting the deference the State Board was due with regard to the selection and certification of a uniform voting system. *Schade v. Md. State Bd. of Elections*, 401 Md. 1, 930 A.2d 304 (2007).

(Abrogation of amendment when contingency met.)

§ 9-102. Certification of voting systems.

(a) “Voter-verifiable paper record” defined. — In this section, a “voter-verifiable paper record” includes:

(1) a paper ballot prepared by the voter for the purpose of being read by a precinct-based optical scanner;

(2) a paper ballot prepared by the voter to be mailed to the applicable local board, whether mailed from a domestic or an overseas location; and

(3) a paper ballot created through the use of a ballot marking device.

(b) Adoption of regulations. — The State Board shall adopt regulations for the review, certification, and decertification of voting systems.

(c) Periodic review. — The State Board shall periodically review and evaluate alternative voting systems.

(d) Standards for certification. — The State Board may not certify a voting system unless the State Board determines that:

(1) the voting system will:

(i) protect the secrecy of the ballot;

(ii) protect the security of the voting process;

(iii) count and record all votes accurately;

(iv) accommodate any ballot used under this article;

(v) protect all other rights of voters and candidates;

(vi) be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount, including a manual recount; and

(vii) provide a voter-verifiable paper record that:

1. is an individual document that is physically separated from any other similar document and not part of a continuous roll;

2. is sufficiently durable to withstand repeated handling for the purposes of mandatory random audits and recounts; and

3. uses ink that does not fade, smear, or otherwise degrade and obscure or obliterate the paper record over time;

(2) the voting system has been:

(i) examined by an independent testing laboratory that is approved by the U.S. Election Assistance Commission; and

(ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission or the U.S. Election Assistance Commission; and

(3) the public interest will be served by the certification of the voting system.

(e) Considerations for certification. — In determining whether a voting system meets the required standards, the State Board shall consider:

(1) the commercial availability of the system and its replacement parts and components;

(2) the availability of continuing service for the system;

(3) the cost of implementing the system;

- (4) *the efficiency of the system;*
- (5) *the likelihood that the system will malfunction;*
- (6) *the system's ease of understanding for the voter;*
- (7) *the convenience of voting afforded by the system;*
- (8) *the timeliness of the tabulation and reporting of election returns;*
- (9) *the potential for an alternative means of verifying the tabulation;*
- (10) *accessibility for all voters with disabilities recognized by the Americans with Disabilities Act; and*
- (11) *any other factor that the State Board considers relevant.*

(f) *Voting system for persons with disabilities. — A voting system selected, certified, and implemented under this section shall:*

(1) *provide access to voters with disabilities that is equivalent to access afforded voters without disabilities without creating a segregated ballot for voters with disabilities;*

(2) *ensure the independent, private casting, inspection, verification, and correction of secret ballots by voters with disabilities in an accessible media by both visual and nonvisual means, including synchronized audio output and enhanced visual display; and*

(3) *comply with both the Americans with Disabilities Act, P.L. 101-336, and the Help America Vote Act, P.L. 107-252, including accessibility standards adopted as part of the Voluntary Voting System Guidelines pursuant to the Help America Vote Act.*

(g) *Voting system for persons with disabilities — Number of systems; backup equipment. — (1) At least one voting system in each polling place on election day shall provide access for voters with disabilities in compliance with subsection (f) of this section.*

(2) *The State Board shall ensure that adequate backup equipment is available and contingency plans are established to ensure compliance with paragraph (1) of this subsection.*

(h) *Evaluation of voting systems. — Before the selection of a voting system, the State Board shall:*

(1) *ensure that an accessible voting system conforms to the access requirements of the Voluntary Voting System Guidelines developed in accordance with the Help America Vote Act in effect at the time of selection; and*

(2) *conduct an accessibility and usability evaluation of the voting system to assess its accessibility and usability by voters with disabilities, including:*

(i) *a public demonstration of the system; and*

(ii) *an evaluation by individuals representing a cross-section of voters with disabilities.*

(i) *Regulations for each voting system. — (1) The State Board shall adopt regulations relating to requirements for each voting system selected and certified under § 9-101 of this subtitle.*

(2) *The regulations shall specify the procedures necessary to assure that the standards of this title are maintained, including:*

(i) *a description of the voting system;*

(ii) *a public information program by the local board, at the time of introduction of a new voting system, to be directed to all voters, candidates, campaign groups, schools, and news media in the county;*

- (iii) local election officials' responsibility for management of the system;
 - (iv) the actions required to assure the security of the voting system;
 - (v) the supplies and equipment required;
 - (vi) the storage, delivery, and return of the supplies and equipment necessary for the operation of the voting system;
 - (vii) standards for training election officials in the operation and use of the voting system;
 - (viii) before each election and for all ballot styles to be used, testing by the members of the local board to ensure the accuracy of tallying, tabulation, and reporting of the vote, and observing of that testing by representatives of political parties and of candidates who are not affiliated with political parties;
 - (ix) the number of voting stations or voting booths required in each polling place, in relation to the number of registered voters assigned to the polling place;
 - (x) the practices and procedures in each polling place appropriate to the operation of the voting system;
 - (xi) assuring ballot accountability in systems using a document ballot;
 - (xii) the actions required to tabulate votes; and
 - (xiii) postelection review and audit of the system's output.
- (3) Certification of a voting system is not effective until the regulations applicable to the voting system have been adopted.
(2009, ch. 428.)

Editor's note. — “(1) The State Board of Elections shall notify the Department of Legislative Services no later than 15 days after the first election in which voting machines are used that:

- “(i) produce a voter-verifiable paper record; and
- “(ii) were examined by an independent testing laboratory that is approved by the U.S.

Election Assistance Commission and shown by the testing laboratory to meet the requirements of § 9-102(f)(3) and (h)(1) of the Election Law Article.

“(2) Five days after the Department of Legislative Services receives notice under paragraph (1) of this section, this Act shall be abrogated and of no further force and effect.”

§ 9-103. Decertification.

(a) *Decertification — In general.* — The State Board:

- (1) may decertify a voting system previously certified if the State Board determines that the system no longer merits certification; and
- (2) shall decertify a previously certified voting system if the voting system no longer meets one or more of the standards in § 9-102(d)(1)(i) through (iii) of this subtitle.

(b) *Time and conditions of decertification.* — The State Board shall determine the effective date and conditions of the decertification. (An. Code 1957, art. 33, § 9-103; 2002, ch. 291, §§ 2, 4; 2007, ch. 5, § 6.)

Certification of electronic voting system upheld. — Trial court found that the Maryland State Board of Elections acted reasonably in purchasing and certifying an electronic voting system, namely the Diebold AccuVote-TS direct recording electronic voting system, which was used in the November 2, 2004 elections and,

therefore, the trial court did not abuse its discretion in denying challenging voters' and candidates' request for a preliminary injunction to decertify the system. The trial court properly applied an arbitrary and capricious standard of review in assessing the State Board's purchase and certification of the system, noting the def-

erence the State Board was due with regard to the selection and certification of a uniform voting system. *Schade v. Md. State Bd. of Elections*, 401 Md. 1, 930 A.2d 304 (2007).

§ 9-104. Borrowing to purchase voting system.

(a) *“Bonds” defined.* — In this section, “bonds” means individual notes, bonds, or other evidences of indebtedness.

(b) *Authority to borrow money.* — A county may issue bonds to finance all or part of the costs of a voting system.

(c) *General obligation bonds.* — A county may:

(1) issue general obligation bonds to finance all or part of the costs of a voting system without regard to any constitutional, statutory, charter, or other limitations on the borrowing power of the county; and

(2) pledge its full faith and credit and taxing power to the payment of the principal of and interest on the bonds.

(d) *Bonds — Requirements.* — (1) This subsection applies to bonds issued under this section.

(2) The bonds of each issue shall be authorized by ordinance or resolution of the county governing body.

(3) The authorizing ordinance or resolution shall specify that the bonds:

(i) be dated;

(ii) bear interest at a rate or rates to be determined in the manner that is specified in the ordinance or resolution; and

(iii) mature at certain times.

(4) The authorizing ordinance or resolution may make the bonds redeemable before maturity:

(i) at the price set before bonds are issued; and

(ii) under the terms and conditions set before bonds are issued.

(5) The authorizing ordinance or resolution shall:

(i) cite the authority for the issuance of the bonds and the amount authorized;

(ii) determine the form of the bonds;

(iii) fix the denomination of the bonds; and

(iv) fix the place where principal and interest may be paid, which may include a bank or trust company inside or outside the State.

(6) The bonds shall be signed, manually or by facsimile, by an officer of the issuing county, and the seal of the county or facsimile thereof shall be affixed to the bonds and attested to in the manner that the governing body determines.

(7) The signature of an officer of the county or its facsimile that appears on a bond is valid even if that officer ceases to hold office before the bonds are delivered or takes office after the date of issuance of the bonds.

(8) The bonds shall have all the qualities and incidents of negotiable instruments under the Maryland Uniform Commercial Code.

(9) The bonds may be issued in such registered form as is specified in the authorizing ordinance or resolution.

(10) The bonds may be sold:

(i) at public or private negotiated sale as the county determines to be in its best interest; and

(ii) at the price or prices determined in the manner that is specified in the authorizing ordinance or resolution.

(e) *Bonds — Use of proceeds.* — (1) After payment of all costs and expenses incurred in connection with the preparation, sale, and delivery of the bonds, the entire proceeds from the sale of bonds issued under this section shall be used solely for the costs of the voting system for which the bonds were issued.

(2) Any balance remaining after the funding of costs of the voting system shall be used to provide for the payment of the principal of and the interest on, or the redemption of, the bonds.

(f) *General obligation bonds — Repayment.* — (1) (i) In each fiscal year in which general obligation bonds issued under this section are outstanding, the county shall levy or cause to be levied ad valorem taxes, on all of the assessable property within the county, at a rate or in an amount sufficient to provide for or assure the payment of the principal of and interest on the bonds when and as they become due and payable.

(ii) If the proceeds of taxes levied in any fiscal year prove inadequate for the payment, the county shall levy or cause to be levied additional taxes in the subsequent fiscal year to make up any deficiency.

(2) The proceeds of a levy under this subsection shall be used only to pay principal of and interest on outstanding bonds issued under this section.

(g) *Tax-exempt status.* — A bond issued under this section, its transfer, the interest payable on it, and the income from it, including any profit realized in the sale or exchange of it, shall at all times be and remain exempt from taxation of any kind and nature by:

(1) the State, a county, a municipal corporation, or other political subdivision of the State; or

(2) a unit of the State, a county, a municipal corporation, or other political subdivision of the State.

(h) *Application of other Code provisions.* — Article 31, §§ 9 through 11 of the Code do not apply to bonds issued under this section. (An. Code 1957, art. 33, § 9-104; 2002, ch. 291, §§ 2, 4.)

§ 9-105. Acquisition of voting systems.

(a) *In general.* — Acquisition of a voting system shall be by purchase, lease, or rental and shall be exempt from State, county, or municipal taxation.

(b) *Lease of voting machines to other entities.* — (1) A local board may lease a voting system to any governmental or nongovernmental entity within the county.

(2) The local board shall determine the terms and conditions of the lease.

(3) The local board shall pay to the governing body of the county, within 30 days of receipt, the proceeds of the lease. (An. Code 1957, art. 33, § 9-105; 2002, ch. 291, §§ 2, 4.)

§ 9-106. Voting machine custodians.

Repealed by Acts 2004, ch. 19, § 1, effective July 1, 2004.

*Subtitle 2. Ballots.***§ 9-201. In general.**

(a) *Requirement of ballots in voting.* — In any election conducted under this article:

- (1) all voting shall be by ballot; and
- (2) only votes cast on a ballot may be counted.

(b) *Compliance with this subtitle.* — All ballots shall comply with the provisions of this subtitle.

(c) *Other uses prohibited.* — A ballot may not be used for any purpose not authorized by this article. (An. Code 1957, art. 33, § 9-201; 2002, ch. 291, §§ 2, 4.)

Construction of subtitle. — The General Assembly, in prescribing the method by which the voter shall prepare his ballot, evidenced an intention that the voter must strictly observe the essential requirements of the law. *Mahoney v. Board of Supvrs. of Elections*, 205 Md. 325, 106 A.2d 927, 108 A.2d 143 (1954).

Early voting in elections unconstitutional. — Acts authorizing former § 10-301.1 of this article, repealed by ch. 513, Acts 2007,

which permitted early voting, were inconsistent with and in derogation of certain provisions of the Maryland Constitution, in particular, art. XV, § 7 of the Maryland Constitution and art. I, § 1 of the Maryland Constitution, and were not constitutionally supported by art. I, § 3 of the Maryland Constitution; therefore, the acts were unconstitutional and void. *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-202. Responsibilities for preparation.

(a) *State Board to certify ballots.* — The State Board shall certify the content and the arrangement of each ballot to be used in an election that is subject to this article.

(b) *Preparation by local boards.* — Each local board shall place questions, names of candidates, and other material on the ballot in that county in accordance with the content and arrangement prescribed by the State Board. (An. Code 1957, art. 33, § 9-202; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1.)

Applied in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-203. Standards.

Each ballot shall:

- (1) be easily understandable by voters;
- (2) present all candidates and questions in a fair and nondiscriminatory manner;
- (3) permit the voter to easily record a vote on questions and on the voter's choices among candidates;
- (4) protect the secrecy of each voter's choices; and
- (5) facilitate the accurate tabulation of the choices of the voters. (An. Code 1957, art. 33, § 9-203; 2002, ch. 291, §§ 2, 4.)

“Understandable to voters.” — Although it is not entirely clear, a prior similar version of this section evidently required that all ballot

titles, including those specifically prescribed by the initiating body, be a condensed statement in “understandable” language of every question to

be submitted to the vote of the people. 79 Op. Att’y Gen. 154 (December 19, 1994).

Insufficient ballot language. — Where a voter who read ballot language would have no inkling that a vote in favor of charter amendment could be a vote in favor of repealing absolutely the waiver of governmental immunity that had existed in the county, in one form or another, since the original charter of 1970, the language on the ballot did not and could not convey to a voter an understanding of the full and complete nature of what the charter

amendment involved. *Surratt v. Prince George’s County*, 320 Md. 439, 578 A.2d 745 (1990).

Presumption that tabulators performed duty. — The presumption has been that clerks (now the tabulators) performed duty required of them, i.e., compared their tallies and ascertained the total number of votes for each candidate. *Board of Canvassers of Election v. Noll*, 127 Md. 296, 96 A. 452 (1915).

Applied in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-204. Uniformity.

(a) *In general.* — Subject to the other provisions of this subtitle and to different presentations required or made desirable by different voting systems, all ballots used in an election shall be as uniform as possible.

(b) *Exception — Absentee ballots.* — Except as otherwise specifically provided in this title, or unless a provision is clearly inappropriate to absentee ballots, the provisions of this subtitle relating to ballot content and arrangement shall apply to the arrangement of absentee ballots.

(c) *Exception — Primary elections.* — If applicable for the voting system in use, the appropriate components of the voting system shall be configured for a primary election to permit the voter to vote only for the candidates for which the voter is entitled to vote. (An. Code 1957, art. 33, § 9-204; 2002, ch. 291, §§ 2, 4.)

Applied in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-205. Content.

Each ballot shall contain:

- (1) a heading as provided in § 9-206(a) of this subtitle;
- (2) a statement of each question that has met all of the qualifications to appear on the ballot;
- (3) the title of each office to be voted on;
- (4) the name, as specified in the certificate of candidacy, or as otherwise provided in Title 5 of this article, of each candidate who has been certified by the State Board;
- (5) a party designation for certain candidates as provided in this subtitle;
- (6) a means by which a voter may cast write-in votes, as provided in this subtitle; and
- (7) instructions to voters as provided in this subtitle. (An. Code 1957, art. 33, § 9-205; 2002, ch. 291, §§ 2, 4.)

Federal preemption. — Where the Maryland State Board of Elections complied with 42 U.S.C.S. § 1973ff-1(a)(8) by transmitting ballots containing only candidates for federal office to absent uniformed services and overseas voters 45 days prior to elections for federal office, compliance with § 1973ff-1 made compliance

with §§ 9-205, 9-213, and 9-217 of the Maryland Election Law Article impossible and preempted those provisions of State law. Thus, creating a federal-only absentee ballot that was not identical to the ballot used in polling places on election day did not violate State law. *Doe v. Walker*, 746 F. Supp. 2d 667 (D. Md. 2010).

Judicial review. — Reading §§ 9-205 and 9-209 of this subtitle together, it was clear that they provided a remedy only for ballot defects, not for a winning candidate's alleged lack of qualifications for failure to make certain mandatory campaign financial disclosures, so a

challenger's failure to file a challenge within the five-day time limit was entirely irrelevant; the challenge was, however, barred under the doctrine of laches. *Ross v. State Bd. of Elections*, 387 Md. 649, 876 A.2d 692 (2005).

§ 9-206. Arrangement — Format.

(a) *Heading.* — Except as provided in paragraph (2) of this subsection, a heading shall be printed at the top of the ballot and shall contain, in the following order:

- (1) the words "Official Ballot";
- (2) the type of election, i.e., regular or special, primary or general, and any other information required to identify the election being held;
- (3) the date of the election;
- (4) the words "State of Maryland" and the name of the county;
- (5) in a primary election, the name of the political party or the words "nonpartisan ballot", as applicable, for which the ballot or a portion of the ballot is to be used; and
- (6) if more than one ballot style will be used in the county in the election, the ballot style indicator.

(b) *Exception.* — The provisions of subsection (a) of this section do not apply to a voting machine ballot if the State Board determines there is insufficient space. (An. Code 1957, art. 33, § 9-206; 2002, ch. 291, §§ 2, 4.)

Cited in *Ross v. State Bd. of Elections*, 387 Md. 649, 876 A.2d 692 (2005).

§ 9-207. Ballots — Certification; display; printing.

(a) *Time of certification.* — The State Board shall certify the content and arrangement of each ballot:

- (1) for a primary election no more than 11 days after the filing date provided in § 5-303 of this title;
- (2) for a general election:
 - (i) in the year that the President of the United States is elected, at least 55 days before the election; and
 - (ii) in any other year, not more than 18 days after the primary election;
- (3) for a special primary election, at least 18 days before the election; and
- (4) for a special general election, not later than a date specified in the Governor's proclamation.

(b) *Exception — Later date set by Court of Appeals.* — The Court of Appeals, on petition of the State Board, may establish a later date in extraordinary circumstances.

(c) *Delivery to local boards.* — Within 24 hours after certification, the State Board shall publicly display the content and arrangement of each certified ballot on its Web site.

(d) *Preparation of ballot; public display.* — Except pursuant to a court order under § 9-209 of this subtitle, or as provided in § 9-208 of this subtitle, the

content and arrangement of the ballot may not be modified after the second day of the public display.

(e) *Printing of ballots.* — Unless a delay is required by court order, the State Board may begin to print the ballots after 2 days of public display and correct any noted errors. (An. Code 1957, art. 33, § 9-207; 2002, ch. 291, §§ 2, 4; 2003, ch. 222; 2011, ch. 169.)

Effect of amendments. — Chapter 169, Acts 2011, effective October 1, 2011, rewrote (a)(1) and (c); deleted former (d)(1) and redesignated accordingly; in (d) substituted “second” for “third”; and in (e) substituted “the State Board” for “a local board,” “2 days” for “3 days,” and “correct” for “with the approval of the State Board, correction of.”

Major party presidential candidate may appear on ballot if nominated. — A major party presidential candidate who does not choose to campaign in the Maryland primary or

loses the primary may still appear on the Maryland ballot in November if he is nominated by the party convention. *Anderson v. Morris*, 636 F.2d 55 (4th Cir. 1980).

Advisory questions. — The government of a charter county does not have the power to direct or request a local board of supervisors of elections to submit an advisory question to the electorate of the county by placing the same upon the general election ballot. 61 Op. Att’y Gen. 384 (1976).

§ 9-208. Late changes in ballots.

(a) *In general.* — If an error or a change in circumstances requires a local board to make a change in a ballot after the ballots have been printed, with the approval of the State Board the local board shall act as provided in this section.

(b) *Corrective actions.* — (1) If there is sufficient time, the local board shall reprint the ballot.

(2) If there is insufficient time for reprinting the ballot and if the voting system can accommodate it, the local board shall print a sufficient number of stickers incorporating the change or correction. The stickers shall be consistent with the printed ballots and be affixed to the ballots in the appropriate places.

(3) If there is insufficient time for reprinting the ballots and if the voting system cannot accommodate stickers, the local board shall notify the voters of the change or correction in accordance with regulations adopted by the State Board.

(c) *Notice of change in ballot.* — After any change or correction on a ballot, the local board shall immediately take all reasonable steps to notify all candidates on the ballot and any other persons whom the local board considers appropriate. (An. Code 1957, art. 33, § 9-208; 2002, ch. 291, §§ 2, 4.)

§ 9-209. Judicial review.

(a) *Timing.* — Within 2 days after the content and arrangement of the ballot are certified under § 9-207 of this subtitle, a registered voter may seek judicial review of the content and arrangement, or to correct any other error, by filing a sworn petition with the circuit court for the county.

(b) *Relief that may be granted.* — The circuit court may require the local board to:

- (1) correct an error;
- (2) show cause why an error should not be corrected; or
- (3) take any other action required to provide appropriate relief.

(c) *Errors discovered after printing.* — If an error is discovered after the ballots have been printed, and the local board fails to correct the error, a registered voter may seek judicial review not later than the second Monday preceding the election. (An. Code 1957, art. 33, § 9-209; 2002, ch. 291, §§ 2, 4; 2011, ch. 169.)

Effect of amendments. — Chapter 169, Acts 2011, effective October 1, 2011, in (a) substituted “2 days” for “3 days” and “certified” for “placed on public display.”

Maryland Law Review. — For note, “The Maryland Survey: 2004-2005: Recent Decisions: The Court of Appeals of Maryland: I. Civil Procedure, see 65 Md. L. Rev. 980 (2006).

Basis for challenge. — Reading §§ 9-205 and 9-209 of this subtitle together, it was clear that they provided a remedy only for ballot

defects, not for a winning candidate’s alleged lack of qualifications for failure to make certain mandatory campaign financial disclosures, so a challenger’s failure to file a challenge within the five-day time limit was entirely irrelevant; the challenge was, however, barred under the doctrine of laches. *Ross v. State Bd. of Elections*, 387 Md. 649, 876 A.2d 692 (2005).

Cited in *Abrams v. Lamone*, 398 Md. 146, 919 A.2d 1223 (2007).

§ 9-210. Arrangement of ballots — Candidates and offices.

(a) *Offices — Order of precedence.* — The offices to be voted on shall be arranged on the ballot in the following order, as applicable:

(1) public offices for which voters of the entire State may vote, in the following order:

(i) President of the United States, or President and Vice President of the United States;

(ii) Governor and Lieutenant Governor;

(iii) Comptroller;

(iv) Attorney General; and

(v) United States Senator;

(2) Representative in Congress;

(3) members of the General Assembly of Maryland, in the following order:

(i) Senate of Maryland; and

(ii) House of Delegates;

(4) members of the governing body of a county, in the following order:

(i) county executive; and

(ii) county council or county commissioner;

(5) offices in the government of the City of Baltimore, in the following order:

(i) Mayor;

(ii) President of the City Council;

(iii) Comptroller; and

(iv) member of the City Council;

(6) judicial offices, in the following order:

(i) judge of the circuit court; and

(ii) appellate judges, continuance in office, in the following order:

1. Court of Appeals; and

2. Court of Special Appeals;

(7) public offices for which the voters of a county may vote, in the following order:

(i) county treasurer;

- (ii) State's Attorney;
- (iii) clerk of the circuit court;
- (iv) register of wills;
- (v) judge of the orphans' court;
- (vi) sheriff; and
- (vii) other offices filled by partisan election;
- (8) party offices; and
- (9) offices filled by nonpartisan election.

(b) *Other offices.* — Any office not specified in subsection (a) of this section shall be placed on the ballot following the offices specified in subsection (a).

(c) *At large candidates listed first.* — Within any category of offices, if the ballot contains one or more contests for at large election and one or more contests for election by district, the contest or contests to be voted on at large shall appear first.

(d) *Instructions as to number of candidates to vote for.* — In a prominent position adjacent to the title of each office, there shall be instructions stating the number of candidates for whom the voter lawfully may vote.

(e) *Names of candidates.* — (1) A ballot shall contain the name of every candidate who is authorized under the provisions of this article to appear on the ballot.

(2) Each candidate shall be listed on the ballot in the contest for which the candidate has qualified.

(f) *Write-in votes.* — (1) In a general election, the voter shall be afforded the opportunity to cast a write-in vote for as many positions as are to be filled in a contest.

(2) On a document ballot, in each contest a blank line or lines for write-in voting shall follow the printed names on the ballot.

(3) This subsection does not apply to questions or the continuance in office of appellate judges.

(g) *General elections — Party designation.* — (1) Except for contests for judicial office or an office to be filled by nonpartisan election, the party affiliation of a candidate who is a nominee of a political party shall be indicated on the ballot.

(2) (i) A candidate who is not a nominee of a political party or affiliated with a partisan organization shall be designated as an “unaffiliated”.

(ii) A candidate who is affiliated with a partisan organization shall be designated under “other candidates”.

(3) The names of candidates for judge of the circuit court or for a county board of education, and the names of incumbent appellate judges, shall be placed on the ballot without a party label or other distinguishing mark or location which might indicate party affiliation.

(h) *Residence of candidates.* — (1) In an election of a member of the House of Delegates that is subject to the provisions of § 2-201(d) of the State Government Article, the name of a candidate shall be identified by the county in which the candidate resides.

(2) A candidate for President of the United States or Vice President of the United States shall be identified by the state in which the candidate resides.

(i) *Election of resident delegates.* — (1) If there is an election for members of the House of Delegates who are required to live in a specific county and only a certain number of delegates may be elected from that county, the ballot shall provide that a voter may not vote for more than that number of candidates from that specific county.

(2) In a legislative district where the delegates are to be elected by the voters of a multimember subdistrict that contains more than two counties or parts of more than two counties, a voter may cast a vote for the specified number of delegates to be elected in the subdistrict without regard to the county of residence of the candidate.

(j) *Arrangement by political party.* — (1) In a primary election:

(i) on a voting machine ballot, the names of the candidates for party nomination shall be grouped together by party; and

(ii) on a document ballot, the ballot shall include only the names of candidates for which the voter is entitled to vote.

(2) In a general election:

(i) on a voting machine ballot, the names of the candidates of a political party shall be grouped together in adjacent rows or columns, and the majority party candidates shall be placed in the first row or column, followed by the candidates of the principal minority party, followed by other political parties in descending order based on the number of voters registered with the party, and finally by candidates not nominees of a political party; and

(ii) on a document ballot, for each office the names of candidates shall be grouped together by party, with the majority party candidate or candidates listed first, followed by the candidate or candidates of the principal minority party, followed by the candidate or candidates of other political parties in descending order based on the statewide registration of the party, and finally by candidates who are not nominees of a political party.

(3) In both primary elections and general elections, when there is more than one candidate of the same political party for nomination or election to an office, the names of the candidates in the group shall be listed in alphabetical order by surname. In the primary election, candidates for Governor and Lieutenant Governor shall be arranged in the order of surnames of the gubernatorial candidates.

(k) *Arrangement of voting machine ballot — Compactness.* — On a voting machine ballot, the arrangement shall use the smallest number of rows or columns necessary, as evenly sized as possible, to accommodate all offices and candidates on the ballot. (An. Code 1957, art. 33, § 9-210; 2002, ch. 291, §§ 2, 4; 2010, ch. 72, § 5.)

Editor's note. — Pursuant to § 5, ch. 72, Acts 2010, “and” was added at the end of (a)(6)(i).

Constitutionality. — If no substantial State interest is served by a restriction which treats nonmajor party candidates differently from major party candidates, such a restriction cannot be constitutionally enforced. *Mathers v. Morris*, 515 F. Supp. 931 (D. Md.), aff'd, 649 F.2d 280 (4th Cir.), appeal dismissed, 454 U.S.

884, 102 S. Ct. 375, 70 L. Ed. 2d 199, cert. denied, 454 U.S. 895, 102 S. Ct. 393, 70 L. Ed. 2d 210, aff'd, 454 U.S. 934, 102 S. Ct. 467, 70 L. Ed. 2d 241 (1981).

Arrangement of names. — If more than one vertical column is required on the voting machines to accommodate the names of all the candidates for an office, the same number of names must be placed in each column as far as possible and there must be used the fewest

number of columns that will permit this. Board of Supvrs. of Elections v. Komenda, 259 Md. 149, 268 A.2d 563 (1970).

Candidates for member of House of Delegates from a multi-county district should be listed alphabetically and not separated by county or residence. 59 Op. Att’y Gen. 259 (1974).

Judicial candidates who were successful in primary elections should appear on the general election ballot in alphabetical order and without party designation of any kind, and no indication should be given on that ballot as to which candidates were successful in which party primaries. 61 Op. Att’y Gen. 399 (1976).

When candidate may designate affiliated party on ballot. — If a group of voters have successfully formed a political party, then a properly nominated candidate may designate that party on the ballot as the party with which he is affiliated. 62 Op. Att’y Gen. 411 (1977).

This section does not equate judicial elections with those that are nonpartisan; indeed, it does the exact opposite by excluding judicial offices

from the category of nonpartisan. Suessmann v. Lamone, 383 Md. 697, 862 A.2d 1 (2004).

Unlike other nominees on the general election ballot, judicial candidates are not designated on the general election ballot as the nominee of any political party, regardless of which primary the candidate won. Suessmann v. Lamone, 383 Md. 697, 862 A.2d 1 (2004).

When candidates designated under headings “independent” or “other candidates.” — Petition candidates who are registered as “declined” are to be designated on the ballot as “independent” if they are unaffiliated with either a political party or a partisan organization; petition candidates, whether registered as “declined” or with a party affiliation, who are affiliated with a partisan organization that is not a political party, are to be designated on the ballot under “other candidates.” 75 Op. Att’y Gen. 201 (August 8, 1990).

Cited in Ross v. State Bd. of Elections, 387 Md. 649, 876 A.2d 692 (2005).

§ 9-211. Arrangement of ballots — Questions.

(a) *Order of questions.* — Questions to be voted upon shall be placed on the ballot in the following order:

- (1) those relating to the creation or adoption of a new State Constitution;
 - (2) those proposing amendments to the Maryland Constitution;
 - (3) those relating to other enactments of the General Assembly;
 - (4) those relating to the creation or adoption of, or the amendment or other change in, the charter of a county;
 - (5) those relating to other enactments by the governing body of a county;
- and
- (6) other questions.

(b) *Numbering of questions.* — The numbering of questions on a ballot shall be as provided in Title 7 of this article. (An. Code 1957, art. 33, § 9-211; 2002, ch. 291, §§ 2, 4.)

Constitutional sufficiency of ballot question. — Where a legislative title is used as the ballot question under a prior similar version of this section, the prescriptions of Art. III, § 29 of the Maryland Constitution concerning the sufficiency of the title come into play, and the question must embrace one subject, fairly apprise the voters of the purpose of the act, not be misleading, and not be calculated to lead the public to believe that the proposed legislation is substantially different from that which would actually become law under the statute. Anne Arundel County v. McDonough, 277 Md. 271, 354 A.2d 788 (1976).

Notice requirements. — In its appraisal of compliance with the notice requirements, the Court of Appeals has clearly recognized the distinction between the effects of the failure to conform with such provisions when raised in pre-election litigation, as compared with the effect to be given those same provisions, when not strictly followed, and when challenged by litigation attacking the results of an election. Anne Arundel County v. McDonough, 277 Md. 271, 354 A.2d 788 (1976).

Cited in Ross v. State Bd. of Elections, 387 Md. 649, 876 A.2d 692 (2005).

§ 9-212. Ballots with multiple ballot faces — Instructions to voters.

If applicable to the voting system and the requirements of the election, instructions shall be printed on each ballot stating that additional candidates or questions appear on the reverse side of the ballot face or on other ballot faces. (An. Code 1957, art. 33, § 9-212; 2002, ch. 291, §§ 2, 4.)

§ 9-213. Absentee and provisional ballots — Content.

The content of both an absentee ballot and a provisional ballot issued to a voter shall be identical to the ballot used in the polling place of the voter's residence. (An. Code 1957, art. 33, § 9-213; 2002, ch. 291, §§ 2, 4.)

Federal preemption. — Where the Maryland State Board of Elections complied with 42 U.S.C.S. § 1973ff-1(a)(8) by transmitting ballots containing only candidates for federal office to absent uniformed services and overseas voters 45 days prior to elections for federal office, compliance with § 1973ff-1 made compliance

with §§ 9-205, 9-213, and 9-217 of the Maryland Election Law Article impossible and preempted those provisions of State law. Thus, creating a federal-only absentee ballot that was not identical to the ballot used in polling places on election day did not violate State law. *Doe v. Walker*, 746 F. Supp. 2d 667 (D. Md. 2010).

§ 9-214. Specimen ballots.

Each local board shall provide specimen ballots, so labeled, for all ballots to be used in each election:

- (1) for mailing to registered voters under Title 8 of this article, if mailing of specimen ballots is chosen or required in the county; and
- (2) for other informational purposes in accordance with the provisions of this article. (An. Code 1957, art. 33, § 9-214; 2002, ch. 291, §§ 2, 4.)

§ 9-215. Printing.

(a) *Standards.* — Each ballot shall be printed:

- (1) in plain, clear type in black ink;
- (2) on material of the size and arrangement that is required to fit the needs of the voting system; and
- (3) (i) in a general election, on clear white material; or
(ii) in a primary election, on material of a different color for voters of each political party and for voters not affiliated with a political party that nominates its candidates by primary election.

(b) *Number to be printed.* — Each local board shall arrange to have printed a supply of ballots that is at least the number that is the product of:

- (1) the percentage of voters in the county who voted in the election that was 4 years prior, plus 10%; multiplied by
- (2) the current number of registered voters in the county.

(c) *Regulations adopted by State Board.* — The regulations adopted by the State Board for the use of each voting system shall provide standards for the printing of ballots, which assure that:

- (1) the ballots will be printed and received in a timely fashion;
- (2) the ballots will be suitable for use in the election;

(3) the ballots are clear and legible; and

(4) the printing and paper stock employed are durable. (An. Code 1957, art. 33, § 9-215; 2002, ch. 291, §§ 2, 4.)

§ 9-216. Ballot accountability.

(a) *Accountability system required.* — Consistent with the regulations adopted by the State Board for the voting system or systems used in the county, and subject to the approval of the State Board, each local board shall establish and maintain a system to account for, and maintain control over, the ballots from the beginning of production through postelection storage and disposition.

(b) *Monitoring and review by State Board.* — The State Board shall monitor and periodically review the performance of the local boards in their compliance with subsection (a) of this section. (An. Code 1957, art. 33, § 9-216; 2002, ch. 291, §§ 2, 4.)

§ 9-217. Prohibited practices.

(a) *In general.* — A person may not use, distribute, possess, print, or reproduce a ballot other than as authorized in this article.

(b) *Penalties.* — A person who violates the provisions of subsection (a) of this section shall be subject to the penalties provided in Title 16 of this article. (An. Code 1957, art. 33, § 9-217; 2002, ch. 291, §§ 2, 4.)

Federal preemption. — Where the Maryland State Board of Elections complied with 42 U.S.C.S. § 1973ff-1(a)(8) by transmitting ballots containing only candidates for federal office to absent uniformed services and overseas voters 45 days prior to elections for federal office, compliance with § 1973ff-1 made compliance

with §§ 9-205, 9-213, and 9-217 of the Maryland Election Law Article impossible and preempted those provisions of State law. Thus, creating a federal-only absentee ballot that was not identical to the ballot used in polling places on election day did not violate State law. *Doe v. Walker*, 746 F. Supp. 2d 667 (D. Md. 2010).

Subtitle 3. Absentee Voting.

§ 9-301. In general.

(a) *Applicability.* — This subtitle applies to every election governed by this article.

(b) *Forms.* — The State Board shall prescribe all forms required to comply with:

(1) this subtitle; and

(2) any requirements of relevant federal law. (An. Code 1957, art. 33, § 9-301; 2002, ch. 291, §§ 2, 4.)

University of Baltimore Law Review. — For article, “Federal Jurisdiction Over Local Vote Fraud,” see 13 U. Balt. L. Rev. 1 (1983).

Early voting in elections unconstitutional. — Acts authorizing § 10-301.1 of the Elections Article, repealed by ch. 513, Acts 2007, which permitted early voting, were inconsistent with and in derogation of certain provi-

sions of the Maryland Constitution, in particular, art. XV, § 7 of the Maryland Constitution and art. I, § 1 of the Maryland Constitution, and were not constitutionally supported by art. I, § 3 of the Maryland Constitution; therefore, the acts were unconstitutional and void. *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-302. Documentation by local boards.

Each local board shall maintain a full record of absentee voting in the county, including, for each absentee voter:

- (1) the date and time of the board's receipt of an application for an absentee ballot;
- (2) the action taken with regard to the application;
- (3) the appropriate ballot style;
- (4) the date of issuance of a ballot;
- (5) if mailed, the address to which the ballot is sent;
- (6) the date and time of the receipt of a voted absentee ballot; and
- (7) any other information specified by the State Board. (An. Code 1957, art. 33, § 9-302; 2002, ch. 291, §§ 2, 4.)

Stated in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-303. Guidelines.

(a) *Established by State Board.* — The State Board shall establish guidelines for the administration of absentee voting by the local boards.

(b) *Content.* — The guidelines shall provide for:

- (1) the application process;
- (2) late application for absentee ballots;
- (3) ballot security, including storage of returned ballots;
- (4) determining timeliness of receipt of applications and ballots, including applications and ballots for overseas voters;
- (5) the canvass process;
- (6) notice of the canvass to candidates, political parties, campaign organizations, news media, and the general public;
- (7) observers of the process;
- (8) review of voted ballots and envelopes for compliance with the law and for machine tabulation acceptability;
- (9) standards for disallowance of ballots during the canvass; and
- (10) storage and retention of ballots following canvass and certification.

(c) *Periodic assessment and revision of guidelines.* — The State Board shall:

- (1) in consultation with the local boards, assess the guidelines before each primary election; and
- (2) revise the guidelines if indicated. (An. Code 1957, art. 33, § 9-303; 2002, ch. 291, §§ 2, 4.)

Stated in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-304. Permissible unless federal preemption.

An individual may vote by absentee ballot except to the extent preempted under an applicable federal law. (An. Code 1957, art. 33, § 9-304; 2002, ch. 291, §§ 2, 4; 2006, ch. 6.)

Absentee ballot oath. — The absentee ballot oath should track the language of Article I, § 3, of the Maryland Constitution that is, the voter should be required to swear or affirm that he or she will be absent or will be unable to vote in person on election day. 92 Op. Att’y Gen. 80 (July 18, 2007).

Timely returning absentee ballot. — Voter was not entitled to the injunctive relief that the voter sought and which the trial court denied in a case where the voter received the voter’s absentee ballot the evening of the day

that administrative regulations dictated that the ballot had to be mailed and the voter waited until the next day, one day late, to mail the ballot; the voter did not have to be accommodated for not timely returning the voter’s ballot, as it was necessary not to count noncompliant votes in order to safeguard the election process. *Fritzsche v. Md. State Bd. of Elections*, 397 Md. 331, 916 A.2d 1015 (2007).

Stated in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-305. Applications for absentee ballot.

(a) *Application.* — An application for an absentee ballot, signed by the voter, may be made:

- (1) on a form produced by the local board and supplied to the voter;
- (2) on a form provided under federal law; or
- (3) in a written request that includes:
 - (i) the voter’s name and residence address; and
 - (ii) the address to which the ballot is to be mailed, if different from the residence address.

(b) *Deadline for receipt of application.* — Except for a late application under subsection (c) of this section, an application for an absentee ballot must be received by a local board not later than the Tuesday preceding the election, at the time specified in the guidelines.

(c) *Late application.* — (1) Beginning on the Wednesday preceding the election, through the closing of the polls on election day, a registered voter or the voter’s duly authorized agent may apply in person for an absentee ballot at the office of the local board.

(2) A special application for an absentee ballot issued under this subsection shall be supplied by the staff of the local board to the voter or the voter’s duly authorized agent.

(3) The application shall be made under penalty of perjury but without a formal oath.

(4) After review of the application, the staff shall issue an absentee ballot to the voter or the voter’s duly authorized agent. (An. Code 1957, art. 33, § 9-305; 2002, ch. 291, §§ 2, 4; 2006, ch. 6.)

Stated in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-306. Review of application; issuance or rejection.

(a) *Review of application.* — Promptly after receipt of an application, the election director shall review the application and determine whether the applicant qualifies to vote by absentee ballot.

(b) *Transmittal of ballot.* — If the applicant qualifies to vote by absentee ballot, the local board shall send the ballot:

- (1) as soon as practicable after receipt of the request; or

(2) if the ballots have not been received from the printer, as soon as practicable after the local board receives delivery of the ballots.

(c) *Rejection of application.* — (1) If the members of the local board determine that the applicant is not entitled to vote by absentee ballot, the local board shall notify the applicant as soon as practicable after receipt of the application of the reasons for the rejection.

(2) (i) The local board may delegate the determination under paragraph (1) of this subsection to the staff of the local board.

(ii) If the determination has been delegated, the applicant may appeal the rejection to the members of the local board, who shall decide the appeal as expeditiously as practicable.

(d) *Number of ballots issued to a voter.* — Not more than one absentee ballot may be issued to a voter unless the election director of the local board has reasonable grounds to believe that an absentee ballot previously issued to the voter has been lost, destroyed, or spoiled. (An. Code 1957, art. 33, § 9-306; 2002, ch. 291, §§ 2, 4.)

§ 9-307. Use of an agent in absentee ballot process.

(a) *Use authorized.* — A qualified applicant may designate a duly authorized agent to pick up and deliver an absentee ballot under this subtitle.

(b) *Qualifications of agent.* — An agent of the voter under this section:

(1) must be at least 18 years old;

(2) may not be a candidate on that ballot;

(3) shall be designated in a writing signed by the voter under penalty of perjury; and

(4) shall execute an affidavit under penalty of perjury that the ballot was:

(i) delivered to the voter who submitted the application;

(ii) marked and placed in an envelope by the voter, or with assistance as allowed by regulation, in the agent's presence; and

(iii) returned to the local board by the agent. (An. Code 1957, art. 33, § 9-307; 2002, ch. 291, §§ 2, 4.)

Stated in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-308. Assistance in marking ballot.

(a) *In general.* — A voter who requires assistance in casting an absentee ballot by reason of disability, inability to write, or inability to read the ballot may be assisted by any individual other than:

(1) a candidate who is on that ballot;

(2) the voter's employer or an agent of the employer; or

(3) an officer or agent of the voter's union.

(b) *Certification of assistance.* — An individual rendering assistance under this section shall execute a certification as prescribed by the State Board and included in the instructions under § 9-309 of this subtitle. (An. Code 1957, art. 33, § 9-308; 2002, ch. 291, §§ 2, 4.)

Stated in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-309. Instructions.

An absentee ballot shall be accompanied by instructions, prescribed by the State Board, for marking and returning the ballot. (An. Code 1957, art. 33, § 9-309; 2002, ch. 291, §§ 2, 4.)

Improper instructions. — Election officials cannot effectively change the law by giving erroneous, ambiguous, or misleading instructions to the voters, and a court cannot com-

mand a board of canvassers to credit the improper instructions rather than the law. *Lamb v. Hammond*, 308 Md. 286, 518 A.2d 1057 (1987).

§ 9-310. Envelopes.

(a) *Required; prescribed by State Board.* — An absentee ballot shall be enclosed in specially printed envelopes, the form and content of which shall be prescribed by the State Board.

(b) *Optional procedures.* — (1) A local board may use either two envelopes or three envelopes.

(2) If two envelopes are used, the inner envelope shall be designated the “ballot/return envelope”, and, when issued, it shall fit inside the envelope designated the “outgoing envelope”.

(3) If three envelopes are used, the innermost envelope shall be designated the “ballot envelope”, which shall fit inside the envelope designated the “return envelope”, both of which, when issued, shall fit inside the envelope designated the “outgoing envelope”.

(c) *Oath.* — When voted and returned to the local board, an absentee ballot shall be enclosed in a ballot envelope or ballot/return envelope, on which has been printed an oath prescribed by the State Board. (An. Code 1957, art. 33, § 9-310; 2002, ch. 291, §§ 2, 4.)

Stated in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 9-311. Additional compensation and expenses.

(a) *In general.* — (1) The members of a local board shall each be entitled to extra compensation, in addition to their regular compensation, for duties actually performed under this subtitle.

(2) Except as provided in paragraph (3) of this subsection, the amount of the extra compensation shall be \$10 per day, or a greater amount set by the governing body of the county.

(3) In Baltimore City, the members of the local board shall receive \$200 per election for duties under this subtitle.

(b) *Additional expenses.* — The governing body of a county shall provide to the local board of the county an amount that is reasonable and necessary to pay for expenses, including the employment of temporary personnel, required for performing the duties required under this subtitle.

(c) *Payment to be the same as other appropriations.* — Payments under this section shall be made by the county governing body in the same manner that other funding is provided to the local board. (An. Code 1957, art. 33, § 9-311; 2002, ch. 291, §§ 2, 4.)

§ 9-312. Penalty for offenses relating to absentee voting.

Any person who is convicted of a violation of any of the provisions of this subtitle is subject to a fine of not more than \$1,000 or imprisonment for not more than 2 years or both. (An. Code 1957, art. 33, § 9-312; 2002, ch. 291, §§ 2, 4.)

Subtitle 4. Provisional Ballots.

§ 9-401. In general.

(a) *Applicability.* — This subtitle applies to every election governed by this article.

(b) *Forms.* — The State Board shall prescribe all forms required to comply with:

- (1) this subtitle; and
- (2) any requirements of relevant federal law.

(c) *Funding.* — The budget of the State Board for each fiscal year shall include funding necessary to support any additional personnel costs associated with the implementation of the provisional ballot system required under this article. (An. Code 1957, art. 33, § 9-401; 2002, ch. 291, §§ 2, 4.)

§ 9-402. Documentation by local boards.

Each local board shall maintain a full record of provisional ballot voting in the county, including, for each voter who votes using a provisional ballot:

- (1) the action taken with regard to the registration;
- (2) the appropriate ballot style; and
- (3) any other information specified by the State Board. (An. Code 1957, art. 33, § 9-402; 2002, ch. 291, §§ 2, 4.)

§ 9-403. Guidelines.

(a) *Established by State Board.* — The State Board shall establish guidelines for the administration of provisional ballot voting by the local boards.

(b) *Content.* — The guidelines shall provide for:

- (1) the provisional ballot application process;
- (2) ballot security, including storage of returned ballots;
- (3) the canvass process;
- (4) notice of the canvass to candidates, political parties, campaign organizations, news media, and the general public;
- (5) observers of the process;
- (6) review of ballots and envelopes submitted for compliance with the law and for machine tabulation acceptability;

- (7) standards for disallowance of ballots during the canvass;
 - (8) storage and retention of ballots following canvass and certification;
- and
- (9) the free access system required under § 11-303(f) of this article.
- (c) *Periodic assessment and revision of guidelines.* — The State Board shall:
- (1) in consultation with the local boards, assess the guidelines before each primary election; and
 - (2) revise the guidelines if indicated. (An. Code 1957, art. 33, § 9-403; 2002, ch. 291, §§ 2, 4; 2003, ch. 44, § 5; ch. 379, § 2.)

§ 9-404. Requirements for casting provisional ballots.

- (a) *In general.* — If an individual is eligible under subsection (b) of this section, the individual shall be issued and may cast a provisional ballot:
- (1) at a polling place on election day;
 - (2) at an early voting center during early voting; or
 - (3) at the local board office in the county where the individual resides after the close of registration and before the closing of the polls on election day.
- (b) *Eligibility.* — An individual is eligible to cast a provisional ballot if:
- (1) the individual declares in a written affirmation submitted with the provisional ballot that the individual is a registered voter in the State and is eligible to vote in that election; and
 - (2) (i) the individual's name does not appear on the election register;
 - (ii) an election official asserts that the individual is not eligible to vote;
- or
- (iii) the individual does not have the necessary identification.
- (c) *Under court order.* — In addition to the individuals who cast provisional ballots under subsections (a) and (b) of this section, any individual who appears to vote during a period covered by a court order or other order extending the time for closing the polls shall cast a provisional ballot. A provisional ballot cast under this subsection shall be separated and held apart from other provisional ballots cast by those not affected by the order. (An. Code 1957, art. 33, § 9-404; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2; 2009, ch. 445, § 3.)

Effect of amendments. — Section 3, ch. 445, Acts 2009, effective October 1, 2009, added (a)(2); redesignated accordingly; in (b)(2)(i) substituted “election” for “precinct”; and made related changes.

§ 9-405. Completion of provisional ballot.

Before an individual casts a provisional ballot:

- (1) the individual shall complete and sign the provisional ballot application prescribed by the State Board; and
- (2) the election official issuing the ballot shall give the individual written information advising the individual that, and describing how, the individual will be able to ascertain whether the vote was counted and, if it was not counted, the reason it was not. (An. Code 1957, art. 33, § 9-405; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2.)

§ 9-406. Assistance in casting provisional ballot.

(a) *In general.* — A voter who requires assistance in casting a provisional ballot by reason of disability, inability to write, or inability to read the ballot may be assisted by any individual other than:

- (1) a candidate who is on that ballot;
- (2) the individual's employer or an agent of the employer; or
- (3) an officer or agent of the individual's union.

(b) *Certification of assistance.* — An individual rendering assistance under this section shall execute a certification as prescribed by the State Board and included in the instructions under § 9-407 of this subtitle. (An. Code 1957, art. 33, § 9-406; 2002, ch. 291, §§ 2, 4; 2010, ch. 72.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, substituted “§ 9-407” for “§ 9-408” in (b).

§ 9-407. Instructions; envelopes.

(a) *Instructions.* — A provisional ballot shall be accompanied by instructions, prescribed by the State Board, for marking and returning the ballot.

(b) *Envelopes; electronic.* — When voted, a provisional ballot shall be:

(1) enclosed in an envelope designated “provisional ballot/return envelope”; or

(2) stored in an electronic format, as specified by the State Board. (An. Code 1957, art. 33, § 9-407; 2002, ch. 291, §§ 2, 4; ch. 404, § 2.)

§ 9-408. Penalty for violations.

Any person who is convicted of a violation of any of the provisions of this subtitle is subject to a fine of not more than \$1,000 or imprisonment for not more than 2 years or both. (An. Code 1957, art. 33, § 9-408; 2002, ch. 291, §§ 2, 4.)

TITLE 10.

POLLING PLACES.

Subtitle 1. Polling Place Sites.

- Sec.
10-101. In general.
10-102. Alternative polling places — Elderly individuals and individuals with disabilities.

Subtitle 2. Election Judges.

- 10-201. In general.
10-202. Qualifications for election judges.
10-203. Appointment of election judges.
10-204. Oath.
10-205. Compensation of election judges.
10-206. Instruction for election judges.
10-207. Removal of an election judge.

Subtitle 3. Polling Place Procedures.

- 10-301. Hours for voting.
10-301.1. Early voting and early voting centers.

- Sec.
10-302. Delivery of equipment and supplies.
10-303. Authority and duties of election judges.
10-304. Duties of police officers.
10-305. Vacancy in polling place staff during voting hours.
10-306. Information for voters at polling place.
10-307. Responsibilities of the local board.
10-308. Access to voting room.
10-309. Responsibilities of election judges on election day — Before the polls open.
10-310. Responsibilities of election judges on election day — Voting hours.
10-311. Challengers and watchers.
10-312. Challenge of an individual's right to vote.
10-313. Write-in voting.
10-314. Closing of the polls.
10-315. Time off for employees to vote.

Subtitle 1. Polling Place Sites.

§ 10-101. In general.

(a) *Designation of polling places — In general.* — (1) Each local board shall designate a polling place that meets the requirements of this subsection for each precinct in the county as established by the local board in accordance with Title 2 of this article.

(2) Each polling place shall:

- (i) provide an environment that is suitable to the proper conduct of an election;
- (ii) be located as conveniently as practicable for the majority of registered voters assigned to that polling place;
- (iii) except as authorized in paragraph (4) of this subsection, be in a public building;
- (iv) be in the precinct that it serves unless no suitable location for a polling place can be found within that precinct, in which case the board may establish the polling place in an adjacent precinct; and
- (v) whenever practicable, be selected and arranged to avoid architectural and other barriers that impede access or voting by elderly and physically disabled voters.

(3) (i) The public official responsible for the use of any public building requested by a local board for a polling place shall make available to the local board, without charge, the space that is needed in the building for the proper conduct of an election.

(ii) Light, heat, and custodial and janitorial services for the space shall be provided to the local board without charge.

(4) (i) If suitable space in a public building is not available, a local board may pay a reasonable fee for the use of space in a privately owned building.

(ii) Except as provided in subparagraphs (iii) and (iv) of this paragraph, an election may not be held in any building or part of any building used or occupied by an establishment that holds an alcoholic beverages license.

(iii) An election may be held in a building that is owned and occupied by an establishment that holds an alcoholic beverages license if:

1. the local board determines that there is no suitable alternative place to hold an election;

2. the licensee agrees not to sell or dispense alcoholic beverages during the period beginning 2 hours before the polls open and ending 2 hours after the polls close; and

3. where applicable, all ballots are removed from the polling place by the local board immediately following the election.

(iv) An early voting center may be located in a building that is partially occupied by an establishment that holds an alcoholic beverages license if:

1. the State Board, in collaboration with a local board, determines that the building is a suitable site for an early voting center; and

2. the entrance to a licensee's establishment is at least 100 feet from the entrance to the building that is closest to the part of the building where the early voting center is located.

(5) If a polling place is located in a building owned or leased by a volunteer fire company or rescue squad, the volunteer fire company or rescue squad may require the local board to pay for the use of the space that is needed in the building for the proper conduct of any election.

(b) *Local provisions.* — (1) (i) In Baltimore City, public buildings shall be used for polling places to the greatest extent feasible.

(ii) For rental of privately owned polling places in Baltimore City, the local board shall pay an amount as determined in the ordinance of estimates, provided that the amount is uniform on a citywide basis.

(2) In Charles County, the local board may use private firehouses, private halls, and other buildings for polling places.

(3) In Montgomery County, the County Board of Education shall make available the space and custodial service as needed for the proper conduct of elections upon application by the local board. (An. Code 1957, art. 33, § 10-101; 2002, ch. 291, §§ 2, 4; 2009, ch. 445, § 3.)

Effect of amendments. — Section 3, ch. 445, Acts 2009, effective October 1, 2009, substituted “subparagraphs (iii) and (iv)” for “subparagraph (iii)” in (a)(4)(ii) and added (a)(4)(iv).

§ 10-102. Alternative polling places — Elderly individuals and individuals with disabilities.

(a) *Reassignment.* — If the polling place assigned to an elderly or disabled voter is not structurally barrier free, the voter may request a reassignment by the local board.

(b) *Procedure for reassignment.* — (1) To qualify for a reassignment by the local board, the voter shall submit a request in writing to the local board not later than the close of registration for the election.

(2) The request may be made on a form prescribed by the State Board.

(c) *Responsibility of local board.* — On receipt of a request from an elderly or disabled voter under subsection (b) of this section, the local board shall either:

(1) assign the voter to an election district, ward, or precinct in the voter's county that contains a structurally barrier free polling place; or

(2) issue the voter an absentee ballot in accordance with the procedures established under Title 9, Subtitle 3 of this article.

(d) *Issuance of absentee ballot.* — Any ballot issued to a voter under subsection (c)(2) of this section shall be identical to the ballot used in the polling place originally assigned to the voter. (An. Code 1957, art. 33, § 10-102; 2002, ch. 291, §§ 2, 4; 2006, ch. 6.)

Subtitle 2. Election Judges.

§ 10-201. In general.

(a) *Number of election judges.* — (1) (i) Except as provided in subparagraph (ii) of this paragraph, each local board shall provide at least four election judges to be the staff for each polling place.

(ii) In a precinct with fewer than 200 registered voters, the local board may provide two election judges for that precinct's polling place.

(2) An election judge shall be appointed in accordance with the requirements of § 10-203 of this subtitle.

(b) *Political party affiliation.* — (1) Except as provided in paragraph (2) of this subsection, each polling place shall have an equal number of election judges from:

(i) the majority party; and

(ii) the principal minority party.

(2) (i) If the total number of election judges for a precinct is six or more:

1. a local board may provide one or more election judges who are not registered with either the majority party or principal minority political party; and

2. a local board may provide one or more election judges who are minors.

(ii) The number of election judges provided under this paragraph may not exceed the lesser of:

1. the number of election judges who belong to the majority party; or

2. the number of election judges who belong to the principal minority party. (An. Code 1957, art. 33, § 10-201; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1.)

§ 10-202. Qualifications for election judges.

(a) *Residency.* — (1) Except as provided in paragraph (2) of this subsection, an election judge shall be a registered voter who resides in the county for which the election judge is appointed.

EL, § 10-203

REGISTRATION AND ELECTION LAWS

(2) (i) If a qualified individual residing in the county cannot be found with reasonable effort, the local board may appoint a registered voter residing in any part of the State.

(ii) Subject to the provisions of § 3-210(c) of the Labor and Employment Article, a minor who is at least 17 years old and who is too young to be a registered voter may be appointed and serve as an election judge if the minor demonstrates, to the satisfaction of the local board, that the minor meets all of the other qualifications for registration in the county.

(b) *Communication skills.* — An election judge shall be able to speak, read, and write the English language.

(c) *Political activity prohibited.* — An election judge may not engage in any partisan or political activity that is proscribed by § 2-301 of this article.

(d) *State employee as an election judge.* — A State employee who serves as an election judge during hours that the employee is otherwise scheduled to work for the State:

(1) may use 1 hour of administrative leave for each hour of service as an election judge, up to a total of 8 hours for each day of service; and

(2) shall receive the election judge compensation as specified in § 10-205 of this subtitle.

(e) *Adoption of guidelines.* — A local board may adopt guidelines consistent with the provisions of this title for the determination of the qualifications of persons considered for appointment and for the process of appointment as election judges. To the extent not inconsistent with this subtitle, the guidelines may provide for the appointment of an election judge, other than the chief judge, to serve for less than a full day and for the judge to be compensated, on a pro rata basis, in accordance with the fees set under § 10-205 of this subtitle for a judge serving a full day. (An. Code 1957, art. 33, § 10-202; 2002, ch. 291, §§ 2, 4; 2003, ch. 367; 2005, ch. 505.)

§ 10-203. Appointment of election judges.

(a) *Responsibility and time for appointment.* — The election director, with the approval of the local board, shall appoint the election judges for each polling place for a term that begins on the Tuesday that is 13 weeks before each statewide primary election.

(b) *Chief judges.* — One or two election judges in each precinct shall:

(1) be designated chief judge; and

(2) supervise the staff at the polling place.

(c) *Term.* — The term of office for an election judge continues until the Tuesday that is 13 weeks before the next statewide primary election unless:

(1) the local board excuses the person for good cause; or

(2) a special election is held during the election judge's term of office and the State Board determines that a local board may not need the service of all of the appointed election judges.

(d) *Vacancy.* — A local board shall fill each vacant election judge position in the same manner as set forth in subsection (a) of this section. (An. Code 1957, art. 33, § 10-203; 2002, ch. 291, §§ 2, 4; 2009, ch. 445, § 3.)

Effect of amendments. — Section 3, ch. 445, Acts 2009, effective October 1, 2009, reenacted the section without change.

Effect of veto. — The veto upon the proposed appointment, allowed to each member of the board under a prior similar provision, when exercised prevented the selection of any judge or clerk proposed for selection; when the board

cannot agree upon an appointment and the two majority supervisors are to name three men to minority supervisor from whom he makes a selection, the selection of these names had to be by agreement and by joint act of majority supervisors. Board of Supvrs. of Elections v. Loden, 129 Md. 279, 98 A. 709 (1916).

§ 10-204. Oath.

(a) *Required.* — (1) Each election judge shall take and subscribe to a written oath prescribed in Article I, § 9 of the Maryland Constitution.

(2) The signed oath, when returned to the local board, shall constitute the commission of office for the election judge.

(b) *Forms.* — The State Board shall prescribe a form for the combined oath and commission required under this section. (An. Code 1957, art. 33, § 10-204; 2002, ch. 291, §§ 2, 4.)

§ 10-205. Compensation of election judges.

(a) *In general.* — (1) A local board may fix the compensation of election judges within the limits authorized for this purpose by the county's governing body.

(2) A local board shall pay an election judge for each election day and each early voting day that the election judge actually serves.

(b) *Local provisions.* — (1) In Allegany County, the compensation for each day actually served may not be less than:

- (i) \$100 per day for each chief election judge; and
- (ii) \$80 per day for every other election judge.

(2) (i) In Baltimore City, the compensation for each election day or early voting day actually served shall be:

- 1. not less than \$200 per day for each chief election judge; and
- 2. not less than \$150 per day for every other election judge.

(ii) 1. In Baltimore City, except as provided in subsubparagraph 2 of this subparagraph, an election judge shall receive \$20 as compensation for completing the course of instruction required under § 10-206(g)(1) of this subtitle.

2. Unless the local board excuses the election judge from service, an election judge who fails to serve on election day or on an early voting day may not receive the compensation authorized under this subparagraph.

(3) In Baltimore County, the compensation for each election day or early voting day actually served shall be:

- (i) \$225 per day for each chief election judge; and
- (ii) \$162.50 per day for every other election judge.

(4) In Calvert County, the compensation for each election day or early voting day actually served shall be:

- (i) \$125 per day for each chief election judge; and
- (ii) \$100 per day for every other election judge.

(5) In Harford County, the compensation for each election day or early voting day actually served shall be:

(i) not less than \$160 per day for each chief election judge; and

(ii) not less than \$125 per day for every other election judge.

(6) (i) In Prince George's County, the compensation for each election day or early voting day actually served shall be not less than:

1. \$250 per day for two chief election judges; and

2. \$200 per day for every other election judge.

(ii) 1. In Prince George's County, except as provided under subsubparagraph 2 of this subparagraph, election judges and alternate election judges shall receive \$50 as compensation for completing the course of instruction required under § 10-206 of this subtitle.

2. An election judge or alternate election judge may not receive the compensation authorized under this subparagraph if the election judge refuses to serve on an election day or on an early voting day, unless the local board excuses the election judge.

(7) (i) In Washington County, the compensation for each election day or early voting day actually served shall be:

1. \$175 per day for each chief election judge, plus a mileage allowance as determined by the Washington County Board; and

2. \$150 per day for every other election judge.

(ii) In Washington County, a chief election judge or election judge who successfully completes a course of instruction in poll working shall be eligible for additional compensation, if approved by the Washington County Board and provided for in the county budget. (An. Code 1957, art. 33, § 10-205; 2002, ch. 291, §§ 2, 4; 2005, ch. 79; 2006, ch. 551; 2007, ch. 5, §§ 1, 6; chs. 224, 617; 2009, ch. 445, § 3.)

Effect of amendments. — Section 3, ch. 445, Acts 2009, effective October 1, 2009, added the (a)(1) designation; added (a)(2); and added “or early voting day” or variants throughout the section.

Amendment effective upon commencement of official's next term. — Chapter 224, Acts 2007 (House Bill 181) was approved for constitutionality and legal sufficiency however, the bill must be executed in compliance with Article III, § of the Maryland Constitution, which holds “the compensation for a public officer cannot be increased during that official's term, unless the term exceeds four years” the bill has a provision which would increase the annual salary for election judges in Baltimore County the salary increase cannot take effect until the State's Attorney's next term begins. (Letter of the Attorney General dated April 23, 2007.)

Chapter 617, Acts 2007 (House Bill 637) was approved for constitutionality and legal sufficiency, although it was determined the salary increase for judges in Prince George's County will not apply to current election judges. Article III, § 35 of the Maryland Constitution prohibits increasing the compensation during an official's term unless the term extends beyond four years. (Letter of the Attorney General dated April 23, 2007.)

Increases in amount of compensation. — Given the dictates of Article III, § 35 of the Maryland Constitution, the increased salaries for election judges authorized by Chapters 700 and 719, Acts 1980, could not be awarded to incumbent judges as of the effective date of the legislation; however, such increases could be given effect when a judge began a new term. 65 Op. Att'y Gen. 381 (1980).

§ 10-206. Instruction for election judges.

(a) *Responsibility of State Board.* — In consultation with the local boards, the State Board shall:

(1) develop a program of instruction of election judges; and

(2) oversee the implementation of the program of instruction.

(b) *Training materials.* — The training materials utilized by the program may include:

- (1) an instruction manual and other written directives;
- (2) curriculum for training sessions; and
- (3) audiovisuals.

(c) *Evaluation.* — The State Board shall develop a process for the evaluation of the training program and the performance of the polling place staff in each county.

(d) *Contents of training program.* — To the extent appropriate, the training program shall be specific to each of the voting systems used in polling places in the State.

(e) *Uniform statewide training.* — The State Board shall provide election judges with uniform statewide training on the voting system, including:

- (1) all features of the voting system that provide access to voters with disabilities; and
- (2) the rights of voters with disabilities, including those rights guaranteed by State and federal law.

(f) *Responsibility of local board.* — Each local board shall conduct election judge training based on the program developed by the State Board.

(g) *Training required.* — (1) Except as provided in paragraph (2) of this subsection, each election judge shall participate in the training program provided for in subsection (a) of this section.

(2) An election judge who is appointed under emergency circumstances is not required to attend the course of instruction. (An. Code 1957, art. 33, § 10-206; 2002, ch. 291, §§ 2, 4; 2007, chs. 547, 548.)

Editor's note. — Section 2, chs. 547 and 548, Acts 2007, as amended by ch. 428, Acts 2009, provides that “this Act shall apply to each election beginning with the 2010 Gubernatorial Primary Election that is required to be conducted in accordance with the Election Law Article.”

Section 3, chs. 547 and 548, Acts 2007, provides that “if the Attorney General determines on or after the effective date of this Act [October 1, 2007] that any provision of this Act is in conflict with any law of the United States or a rule, regulation, or policy of the U.S. Election Assistance Commission, the conflicting provision of this Act shall be abrogated and of no force or effect. The Attorney General, within 5 days after determining the existence of a conflict, shall notify in writing the Department of Legislative Services, Legislative Services Building, 90 State Circle, Annapolis, MD 21401.”

Section 4, chs. 547 and 548, Acts 2007, pro-

vides that “this Act is contingent on the appropriation of sufficient general, special, or federal funds in the State budget no later than fiscal year 2009 for the State Board of Elections to perform the functions set forth in Section 1 of this Act, and if sufficient funds are not appropriated in the State budget to the State Board of Elections by fiscal year 2009 to perform the functions set forth in Section 1 of this Act, this Act shall be null and void without the necessity of further action by the General Assembly. Within 10 days after the fiscal year 2009 budget has been enacted by the General Assembly, the Department of Budget and Management shall determine and notify the Department of Legislative Services whether sufficient general, special, or federal funds have been appropriated in the fiscal year 2009 budget for the State Board of Elections to perform the functions set forth in Section 1 of this Act.” Pursuant to information provided by the Department of Legislative Services, as of June 9, 2008, this contingency has been met.

§ 10-207. Removal of an election judge.

(a) *Investigation of complaints.* — A local board shall investigate promptly

each complaint it receives regarding the fitness, qualification, or performance of an individual appointed to be an election judge.

(b) *Removal.* — A local board shall remove any election judge who is unfit or incompetent for the office. (An. Code 1957, art. 33, § 10-207; 2002, ch. 291, §§ 2, 4.)

Subtitle 3. Polling Place Procedures.

§ 10-301. Hours for voting.

(a) *Hours — In general.* — On an election day, a polling place shall be open from 7 a.m. until 8 p.m.

(b) *Closing hour.* — A voter who has appeared at a polling place by the closing hour to cast a ballot shall be allowed to vote. (An. Code 1957, art. 33, § 10-301; 2002, ch. 291, §§ 2, 4.)

Constitutionality of ch. 61, Acts 2006. — Acts authorizing former § 10-301.1 of this subtitle, which permitted early voting, were inconsistent with and in derogation of certain provisions of the Maryland Constitution, in particular, art. XV, § 7 of the Maryland Consti-

tion and art. I, § 1 of the Maryland Constitution, and were not constitutionally supported by art. I, § 3 of the Maryland Constitution; therefore, the acts were unconstitutional and void. *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

§ 10-301.1. Early voting and early voting centers.

(a) *In general.* — Except as provided under Title 9, Subtitle 3 of this article, during any regularly scheduled primary or general election a voter may vote:

(1) in the voter's assigned precinct on election day; or

(2) at an early voting center in the voter's county of residence on any early voting day in accordance with this section.

(b) *Establishment.* — (1) Each county shall have at least one early voting center established in the county as prescribed in this subsection.

(2) A county with fewer than 150,000 registered voters shall have one early voting center established in the county.

(3) A county with more than 150,000 but fewer than 300,000 registered voters shall have three early voting centers established in the county.

(4) A county with more than 300,000 registered voters shall have five early voting centers established in the county.

(c) *Designation.* — No later than 6 months before a primary election, the State Board, in collaboration with the local board in each county, shall designate each early voting center in that county.

(d) *Days and hours of operation.* — Each early voting center shall be open for voting as follows:

(1) for the 2010 gubernatorial primary and general elections:

(i) beginning the second Friday before a primary or general election through the Thursday before the elections, but excluding Sunday; and

(ii) during the hours between 10 a.m. and 8 p.m.; and

(2) for the 2012 presidential primary and general elections:

(i) beginning the second Saturday before a primary or general election through the Thursday before the elections; and

(ii) 1. during the hours between 10 a.m. and 8 p.m. on the Saturday and the Monday through the Thursday during the early voting period; and

2. during the hours between 12 noon and 6 p.m. on the Sunday during the early voting period.

(e) *Requirements.* — Each early voting center shall satisfy the requirements of § 10-101 of this title.

(f) *Information to public.* — Beginning 30 days prior to each early voting period the State Board and each local board shall undertake steps to inform the public about early voting and the location of early voting centers in each county, including:

- (1) a series of public service media announcements;
- (2) mailings to all registered voters in each county; and
- (3) other measures as appropriate.

(g) *Applicability of provisions of this article.* — Except as expressly provided in this section, any provision of this article that applies to voting on election day also applies to early voting.

(h) *Regulations and guidelines.* — The State Board shall adopt regulations and guidelines in accordance with the requirements of this section for the conduct of early voting. (2009, ch. 60, § 5; ch. 445, § 3.)

Editor's note. — Pursuant to § 5, ch. 60, Acts 2009, a colon was substituted for a semi-colon at the end of (d)(2).

Section 4, ch. 445, Acts 2009, provides that the act shall take effect October 1, 2009.

Former § 10-301.1, as enacted by ch. 291, Acts 2002, was repealed by Acts 2007, ch. 513, § 3.

Voters in inactive status not required to be included in count of voters to establish early voting centers. — Counting registered voters for the purpose of establishing early voting centers is an “official administrative purpose” and therefore voters in inactive status are not required to be included in the count. 94 Op. Att’y Gen. 151 (Sept. 22, 2009).

§ 10-302. Delivery of equipment and supplies.

(a) *In general.* — In a timely manner for each election, the local board shall provide for the delivery to each polling place the supplies, records, and equipment necessary for the conduct of the election.

(b) *Requirements.* — Each polling place shall be equipped with a computer device that contains a record of all registered voters in the county and that is capable of being networked to other polling place computer devices. (An. Code 1957, art. 33, § 10-302; 2002, ch. 291, §§ 2, 4; 2006, ch. 61, § 1; 2007, ch. 513, § 3.)

§ 10-303. Authority and duties of election judges.

(a) *In general.* — Under the supervision of a chief judge, an election judge shall:

(1) carry out the tasks assigned by the local board, including those set forth in any election judge instruction manual developed in accordance with § 10-206 of this title, during the period of time that begins before the election through the close of the polls and the return of materials to the local board; and

- (2) take measures throughout election day to assure that:
 - (i) each voter’s right to cast a ballot in privacy is maintained;
 - (ii) the integrity of the voting process is preserved;

EL, § 10-304

REGISTRATION AND ELECTION LAWS

- (iii) the accuracy of the counting process is protected;
- (iv) order in the polling place is maintained; and
- (v) all election laws are observed.

(b) *Wearing badge on election day.* — While serving as an election judge on an election day, an election judge shall wear a badge that:

- (1) is in plain view;
- (2) identifies the person as an election judge; and
- (3) identifies the person by name and by the ward and precinct or election district for which the person is an election judge.

(c) *Authority to keep order in the polling place.* — An election judge shall:

- (1) keep the peace; and
- (2) order the arrest of any person who:
 - (i) breaches the peace;
 - (ii) breaches any provision of this article; or
 - (iii) interferes with the work of the judges in conducting the election and carrying out their assigned tasks.

(d) *Protection of challengers and watchers.* — (1) An election judge shall protect a challenger or watcher in the exercise of the rights of a challenger or watcher as provided in § 10-311 of this subtitle.

(2) (i) An election judge is not required to admit a challenger or watcher to a polling place before the polls open if the challenger or watcher was not present at the polling place at least one-half hour before its opening.

(ii) An election judge may require challengers and watchers to leave a polling place before it opens if a majority of the election judges present agrees that the presence of the challengers and watchers will prevent the timely opening of the polling place.

(3) An election judge shall designate reasonable times for challengers and watchers to examine polling lists. (An. Code 1957, art. 33, § 10-303; 2002, ch. 291, §§ 2, 4.)

§ 10-304. Duties of police officers.

(a) *In general.* — (1) A police officer who is on duty at a polling place shall obey the order of an election judge for that polling place.

(2) A police officer making an arrest under an order of an election judge is fully protected in so doing as if the police officer received a valid warrant to make the arrest.

(b) *Protection of challengers and watchers.* — A police officer who is on duty at a polling place shall protect a challenger or watcher in the discharge of the duties of the challenger or watcher. (An. Code 1957, art. 33, § 10-304; 2002, ch. 291, §§ 2, 4.)

§ 10-305. Vacancy in polling place staff during voting hours.

(a) *Appointment of substitute election judge.* — If there is a vacancy in the polling place staff during voting hours:

(1) the local board may fill the vacancy with a substitute election judge who has been recruited and trained; or

(2) an election judge who is present at the polling place may fill the position of the absent election judge by appointing a person registered with the same party affiliation as the absent election judge.

(b) *Procedures.* — If a substitute election judge is appointed under subsection (a) of this section:

(1) either the election director, the election director's designee, or the election judge making the substitute appointment shall administer the oath required under § 10-204 of this title; and

(2) a chief election judge shall document any change in the polling place staff in the records of the polling place. (An. Code 1957, art. 33, § 10-305; 2002, ch. 291, §§ 2, 4.)

§ 10-306. Information for voters at polling place.

(a) *Development of instructions; preparation of materials.* — (1) The State Board, in consultation with the election directors of the local boards, shall specify and produce the following informational materials to be posted in each polling place:

- (i) a specimen ballot for that precinct;
- (ii) instructions relating to the availability of assistance to elderly and disabled voters;
- (iii) information regarding the date of the election and the hours during which the polling places will be open;
- (iv) instructions on how to vote, including how to cast a vote;
- (v) instructions for mail-in registrants and first-time voters;
- (vi) general information on voting rights under applicable federal and State laws and instructions on how to contact the appropriate local board if these rights are alleged to have been violated;
- (vii) information regarding provisional voting, including:
 1. information on the right of an individual to cast a provisional ballot;
 2. how to fill out the provisional ballot application and cast the provisional ballot; and
 3. the standards that will be applied in determining whether a provisional ballot will be counted; and
- (viii) general information on federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

(2) A local board may produce other materials appropriate for the polling places in the county.

(b) *Posting of information.* — Before the polls open, the election judges for each precinct shall post all information specified under subsection (a) of this section. (An. Code 1957, art. 33, § 10-306; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2.)

§ 10-307. Responsibilities of the local board.

(a) *In general.* — The members of each local board shall be available as needed on an election day.

(b) *Assistance to polling place staff.* — The local board shall provide the staff of each polling place with the means to contact and obtain support from the office of the local board on election day. (An. Code 1957, art. 33, § 10-307; 2002, ch. 291, §§ 2, 4.)

§ 10-308. Access to voting room.

(a) *Individuals allowed to have access to voting room.* — An election judge shall allow the following individuals to have access to the voting room at a polling place:

- (1) a voter;
- (2) an individual who accompanies a voter in need of assistance in accordance with § 10-310(c) of this subtitle;
- (3) polling place staff;
- (4) a member or other representative of the State Board or local board;
- (5) an accredited watcher or challenger under § 10-311 of this subtitle;
- (6) an individual under the age of 18 who accompanies a voter in accordance with § 10-310(c) of this subtitle, provided that:
 - (i) the individual is in the care of the voter and does not disrupt or interfere with normal voting procedures; and
 - (ii) the individual is not eligible to vote in that election; and
- (7) any other individual authorized by the State Board or local board.

(b) *Limitation.* — Notwithstanding the provisions of subsection (a)(6) of this section, not more than two individuals under the age of 18 may accompany a voter in accordance with § 10-310(c) of this subtitle. (An. Code 1957, art. 33, § 10-308; 2002, ch. 291, §§ 2, 4; 2004, ch. 317; 2011, ch. 585.)

Effect of amendments. — Chapter 585, “18” for “13”; added the (a)(6)(i) designation and Acts 2011, effective June 1, 2011, in the introductory language of (a)(6) and in (b) substituted added (a)(6)(ii); and made a related change.

§ 10-309. Responsibilities of election judges on election day — Before the polls open.

(a) *In general.* — In accordance with instructions provided by the election director, an election judge shall arrive at the polling place and, under the direction of the chief judge, set up the polling place to assure that the polls will be open and operational at 7 a.m.

(b) *Admission of challengers and watchers.* — Except as provided in § 10-303(d)(2)(ii) of this subtitle, an election judge shall admit an accredited challenger or watcher one-half hour before the polling place is open. (An. Code 1957, art. 33, § 10-309; 2002, ch. 291, §§ 2, 4.)

§ 10-310. Responsibilities of election judges on election day — Voting hours.

(a) *Qualification of voters.* — For each individual who seeks to vote, an election judge, in accordance with instructions provided by the local board, shall:

(1) locate the individual's name in the election register and locate the preprinted voting authority card and then authorize the individual to vote a regular ballot;

(2) (i) if the individual's name is not found on the election register, search the inactive list and if the name is found, authorize the individual to vote a regular ballot; or

(ii) if the individual's name is not on the inactive list, refer the individual for provisional ballot voting under § 9-404 of this article;

(3) establish the identity of the voter by requesting the voter to state the month and day of the voter's birth and comparing the response to the information listed in the election register;

(4) (i) except if a voter's personal information has been deemed confidential by the local board, verify the address of the voter's residence; or

(ii) conduct an alternative verification as established by the State Board, if the voter's personal information has been deemed confidential by the local board;

(5) if any changes to the voting authority card are indicated by a voter, make the appropriate changes in information on the card or other appropriate form; and

(6) have the voter sign the voting authority card and either issue the voter a ballot or send the voter to a machine to vote.

(b) *Right to vote.* — On the completion of the procedures set forth in subsection (a) of this section, a voter may vote in accordance with the procedures appropriate to the voting system used in the polling place.

(c) *Instruction of and assistance to voters.* — (1) Before a voter enters a voting booth, at the request of the voter, an election judge shall:

(i) instruct the voter about the operation of the voting system; and

(ii) allow the voter an opportunity to operate a model voting device, if appropriate to the voting system in use.

(2) (i) 1. After a voter enters the voting booth, at the request of the voter, two election judges representing different political parties shall instruct the voter on the operation of the voting device.

2. An election judge may not suggest in any way how the voter should vote for a particular ticket, candidate, or position on a question.

3. After instructing the voter, the election judges shall exit the voting booth and allow the voter to vote privately.

(ii) A voter may take into the polling place any written or printed material to assist the voter in marking or preparing the ballot.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, a voter who requires assistance in marking or preparing the ballot because of a physical disability or an inability to read the English language may choose any individual to assist the voter.

(ii) A voter may not choose the voter's employer or agent of that employer or an officer or agent of the voter's union to assist the voter in marking the ballot.

(4) If the voter requires the assistance of another in voting, but declines to select an individual to assist, an election judge, in the presence of another election judge that represents another political party, shall assist the voter in the manner prescribed by the voter.

(5) An individual assisting a voter may not suggest in any way how the voter should vote for a particular ticket, candidate, or position on a question.

(6) If a voter requires assistance under paragraph (4) or (5) of this subsection, the election judge shall record, on a form prescribed by the State Board, the name of the voter who required assistance and the name of the individual providing assistance to the voter.

(7) Except as provided in paragraph (3) or (4) of this subsection, an individual over the age of 17 years may not accompany a voter into a voting booth. (An. Code 1957, art. 33, § 10-310; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2; 2004, chs. 25, 317; 2006, ch. 41; 2009, ch. 445, § 3; 2011, ch. 585.)

Effect of amendments. — Section 3, ch. 445, Acts 2009, effective October 1, 2009, substituted “election register” for “precinct register” in (a)(1), (a)(2)(i), and (a)(3). Chapter 585, Acts 2011, effective June 1, 2011, substituted “17 years” for “12 years” in (c)(7).

§ 10-311. Challengers and watchers.

(a) *Designation and removal of challengers and watchers.* — (1) The following persons or entities have the right to designate a registered voter as a challenger or a watcher at each place of registration and election:

- (i) the State Board for any polling place in the State;
- (ii) a local board for any polling place located in the county of the local board;
- (iii) a candidate;
- (iv) a political party; and
- (v) any other group of voters supporting or opposing a candidate, principle, or proposition on the ballot.

(2) A person who appoints a challenger or watcher may remove the challenger or watcher at any time.

(b) *Rights of challengers and watchers.* — Except as provided in § 10-303(d)(2) of this subtitle and subsection (d) of this section, a challenger or watcher has the right to:

- (1) enter the polling place one-half hour before the polls open;
- (2) enter or be present at the polling place at any time when the polls are open;
- (3) remain in the polling place until the completion of all tasks associated with the close of the polls under § 10-314 of this subtitle and the election judges leave the polling place;
- (4) maintain a list of registered voters who have voted, or individuals who have cast provisional ballots, and take the list outside of the polling place; and

(5) enter and leave a polling place for the purpose of taking outside of the polling place information that identifies registered voters who have cast ballots or individuals who have cast provisional ballots.

(c) *Certificate.* — (1) (i) A certificate signed by any party or candidate shall be sufficient evidence of the right of a challenger or watcher to be present in the voting room.

(ii) The State Board shall prescribe a form that shall be supplied to the challenger or watcher by the person or entity designating the challenger or watcher.

(2) A challenger or watcher shall be positioned near the election judges and inside the voting room so that the challenger or watcher may see and hear each person as the person offers to vote.

(d) *Prohibited activities.* — (1) A challenger or watcher may not attempt to:

- (i) ascertain how a voter voted or intends to vote;
- (ii) converse in the polling place with any voter;
- (iii) assist any voter in voting; or
- (iv) physically handle an original election document.

(2) An election judge may eject a challenger or watcher who violates the prohibitions under paragraph (1) of this subsection.

(e) *Individuals other than accredited challengers or watchers.* — (1) Except as provided in paragraphs (2) and (3) of this subsection, an election judge shall permit an individual other than an accredited challenger or watcher who desires to challenge the right to vote of any other individual to enter the polling place for that purpose.

(2) A majority of the election judges may limit the number of nonaccredited challengers and watchers allowed in the polling place at any one time for the purpose of challenging the right of an individual to vote.

(3) A nonaccredited challenger or watcher shall leave the polling place as soon as a majority of the election judges decides the right to vote of the individual challenged by the challenger or watcher.

(4) In addition to restrictions provided under this subsection, all restrictions on the actions of an accredited challenger or watcher provided under this subtitle apply to a nonaccredited challenger or watcher. (An. Code 1957, art. 33, § 10-311; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2.)

§ 10-312. Challenge of an individual's right to vote.

(a) *Grounds for challenge; proof of identity.* — (1) The right of an individual to vote may be challenged at the polls only on the grounds of identity.

(2) An individual whose right to vote is challenged at the polls may establish the individual's identity by presenting any of the following forms of identification:

- (i) the individual's voter registration card;
- (ii) the individual's Social Security card;
- (iii) the individual's valid Maryland driver's license;
- (iv) any identification card issued to the individual by a political subdivision of the State, the State, the federal government, or any unit of a political subdivision of the State, the State, or the federal government;

EL, § 10-313**REGISTRATION AND ELECTION LAWS**

(v) any employee identification card of the individual that contains a photograph of the individual and is issued by the employer of the individual in the ordinary course of the employer's business; or

(vi) a copy of a current bill, bank statement, government check, paycheck, or other government document that shows the name and current address of the individual.

(3) If an individual establishes the individual's identity under paragraph (2) of this subsection, an election judge shall authorize the individual to vote a regular ballot.

(b) *In general.* — A challenge to an individual's right to vote shall be made before the individual is issued a ballot or a voting authority card.

(c) *Procedure at time of challenge.* — If a challenge is made, and the challenged individual does not present any of the forms of identification specified under subsection (a)(2) of this section, the election judge receiving the challenge shall:

(1) require the challenger to provide in writing, under penalty of perjury, the reasons for the challenge;

(2) offer the challenged individual the opportunity to:

(i) cast a provisional ballot; and

(ii) submit an attestation, witnessed by the election judge, of the individual's identity; and

(3) submit the provisional ballot and other materials related to the challenge to the local board.

(d) *Local board determination.* — During the canvass of provisional ballots, the local board shall determine, based on the information submitted by the challenger and the challenged individual, whether the challenged individual is:

(1) the registered voter he or she claims to be; and

(2) otherwise qualified to vote. (An. Code 1957, art. 33, § 10-312; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2; 2006, ch. 4.)

§ 10-313. Write-in voting.

(a) *Write-in voting permitted in certain elections.* — In any general election or special general election, a voter may write in a name for any office.

(b) *Responsibility of election judge.* — (1) When requested by a voter, an election judge shall provide information on write-in voting.

(2) (i) If a voter requests information on write-in voting, an election judge shall assure that the voter is fully informed of the procedure before voting.

(ii) If a voter is unable to write, the voter may have assistance as provided in § 10-310(c) of this subtitle. (An. Code 1957, art. 33, § 10-313; 2002, ch. 291, §§ 2, 4.)

§ 10-314. Closing of the polls.

(a) *Procedures.* — (1) The local board shall provide election judges with detailed procedures for the closing of the polls, specific to the voting system used.

(2) The procedures shall include directions on:

(i) the tabulation, recording, and reporting of votes if these activities are undertaken in the polling place;

(ii) the preparation, signing, and sealing of documents and other election materials;

(iii) the security of all equipment and materials in the polling place; and

(iv) the return of equipment and materials to the local board.

(b) *Admission of watchers to hear election results.* — If election results are produced in the polling place, the election judge shall admit watchers to hear the announced results.

(c) *Release of election judge from duty.* — A chief judge shall release an election judge from duty after the completion of the election judge's assigned tasks. (An. Code 1957, art. 33, § 10-314; 2002, ch. 291, §§ 2, 4.)

§ 10-315. Time off for employees to vote.

(a) *In general.* — Every employer in the State shall permit any employee who claims to be a registered voter in the State a period not to exceed 2 hours absence from work on election day in order to cast a ballot if the employee does not have 2 hours of continuous off-duty during the time that the polls are open.

(b) *Paid leave.* — The employer shall pay the employee for the 2 hours absence from work.

(c) *Proof of voting required.* — (1) Each employee shall furnish to the employer proof that the employee has voted or attempted to vote.

(2) The proof that an employee has voted or attempted to vote shall be on a form prescribed by the State Board. (An. Code 1957, art. 33, § 10-315; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2.)

Cross references. — For present provisions concerning hours of labor generally, see §§ 3-210 through 3-212 of the Labor and Employment Article.

TITLE 11.

CANVASSING.

Subtitle 1. Definitions.

Sec.

11-101. Definitions.

- (a) In general.
- (b) Board of canvassers.
- (c) Canvass.
- (d) Counting center.
- (e) Removable data storage device.
- (f) Unofficial returns.
- (g) Vote tabulation or vote counting.
- (h) Vote tallying.

Subtitle 2. Closing the Polls.

11-201. Regulations.

11-202. Election judges — Procedures for vote counting.

Subtitle 3. Vote Canvassing by Local Board.

11-301. Organization of local boards of canvassers.

11-302. Canvassing of absentee ballots.

11-303. Canvassing of provisional ballots.

11-304. Rejected absentee ballot; appeal.

11-305. Administrative complaints.

11-306. Custody and security of documents and records related to the canvass.

11-307. Errors in canvass documents.

11-308. Verification of vote count.

Subtitle 4. Certification of Election Results by Local Board.

Sec.

11-401. Certified copies of results.

11-402. Release and publication of returns.

11-403. Security and inspection of voting system.

Subtitle 5. Statewide Canvass and Certification.

11-501. State Board — Canvass of primary election results.

11-502. Board of State Canvassers.

11-503. Board of State Canvassers — Canvass of election results.

Subtitle 6. Certification of General Election Results and Issuance of Commissions of Election.

11-601. Governor — Determination and proclamation of votes.

11-602. Governor — Commissions of election.

11-603. State Board — Certification of results.

11-604. Member of Congress — Effect of certification.

11-605. Municipal referenda — Reporting of results.

Subtitle 1. Definitions.

§ 11-101. Definitions.

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

(b) *Board of canvassers.* — “Board of canvassers” means the local board of elections in a county after the local board organizes itself for the purpose of canvassing the vote after an election in that county.

(c) *Canvass.* — (1) “Canvass” means the entire process of vote tallying, vote tabulation, and vote verification or audit, culminating in the production and certification of the official election results.

(2) For absentee ballots, the “canvass” includes the opening of any envelope accompanying an absentee ballot and the assembly and review of absentee ballots in preparation for vote tallying.

(3) For provisional ballots, the “canvass” includes the review of the provisional ballot applications described in § 11-303 of this title and the assembly and review of provisional ballots in preparation for vote tallying.

(d) *Counting center.* — “Counting center” means one or more central locations designated by a local board to conduct the canvass.

(e) *Removable data storage device.* — “Removable data storage device” means a read-only memory device that is programmed to record votes as they are cast on an electronic voting system.

(f) *Unofficial returns.* — (1) “Unofficial returns” means a vote tabulation reported on election night after the polls close.

(2) “Unofficial returns” does not include the absentee ballot count or the provisional ballot count.

(g) *Vote tabulation or vote counting.* — “Vote tabulation” or “vote counting” means the aggregation of the votes cast by individual voters to produce vote totals at any level.

(h) *Vote tallying.* — “Vote tallying” means the recording of votes cast by individual voters on a certified voting system whether done by:

(1) a mechanical lever voting machine;

(2) an electronic voting device; or

(3) making marks manually on a tally sheet. (An. Code 1957, art. 33, § 11-101; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2.)

Remedies. — Persons injured by error of canvassers should appeal to the lower court to require an error to be corrected before applying for mandamus to compel such correction. *Dorsey v. Ennis*, 167 Md. 444, 175 A. 192 (1934).

Subtitle 2. Closing the Polls.

§ 11-201. Regulations.

The State Board shall adopt regulations consistent with the provisions of this title governing the canvass. (An. Code 1957, art. 33, § 11-201; 2002, ch. 291, §§ 2, 4.)

§ 11-202. Election judges — Procedures for vote counting.

(a) *In general.* — (1) Each qualified voter present at the polls at 8 p.m. on election day shall be allowed to vote before the election judges commence their duties under this section.

(2) In accordance with the provisions of this article and regulations adopted by the State Board, after the last voter has voted in an election, the election judges shall follow the instructions issued by the election director for closing the polls and for performing the tasks required in the postclosing period.

(b) *Specific duties.* — In accordance with this section, the election judges shall:

(1) secure the voting system to prevent further voting;

(2) if appropriate to the voting system, record the vote, produce vote totals for the polling place, and announce results to those present;

(3) complete all documents, records, and reports required by law or regulation after the closing of the polls;

(4) perform any other tasks assigned by the election director;

(5) assemble and account for materials to be returned to the local board, including, if applicable for the voting system used in that election:

- (i) removable data storage devices from voting equipment;
 - (ii) voted ballots;
 - (iii) precinct registers;
 - (iv) voting authority cards;
 - (v) signs and posters;
 - (vi) records, reports, logs, affidavits, certificates, and other documents;
 - (vii) keys to voting devices;
 - (viii) poll books; and
 - (ix) any other materials specified by the election director;
- (6) assure that equipment and materials left in the polling place for retrieval at a later time are stored in a secure manner; and
- (7) deliver materials and equipment to the local board and obtain receipts from the board certifying the delivery of the items.
- (c) *Observation of judges while performing their duties.* — Judges may be observed, while performing their duties under this section, until they have finished their work and leave the premises by:
- (1) authorized challengers, watchers, and observers in accordance with § 10-311 of this article;
 - (2) any candidate; and
 - (3) any other person lawfully present. (An. Code 1957, art. 33, § 11-202; 2002, ch. 291, §§ 2, 4.)

Subtitle 3. Vote Canvassing by Local Board.

§ 11-301. Organization of local boards of canvassers.

- (a) *In general.* — A board of canvassers shall:
- (1) convene at the designated counting center for that county on or before the day of the election, but not later than 5 p.m. on that day, and be sworn in;
 - (2) meet only in public session; and
 - (3) subject to regulations adopted by the State Board to ensure the integrity of the electoral process and that the accuracy of the vote tabulation is not impeded or compromised, provide for observation and understanding of the canvass by those individuals in attendance.
- (b) *Election of officers.* — Each board of canvassers shall elect by majority vote a chairman and secretary from among its members.
- (c) *Oath required.* — Each member of the board of canvassers shall take an oath, administered and recorded by the clerk of the circuit court, to canvass and declare the votes cast truthfully and to perform other duties required by law.
- (d) *Quorum required.* — (1) At the first meeting of the board of canvassers for the purpose of canvassing, a majority of the whole board of canvassers shall be a quorum.
- (2) If a quorum is not present, the members present shall adjourn until the next day.
- (e) *Majority vote required for decision making.* — Except as otherwise provided in this article, all decisions shall be reached by a majority vote of the members present.

(f) *Substitute members allowed.* — If a member is not present at the scheduled time for vote canvassing, a substitute member of the board of canvassers may be sworn in.

(g) *Representation from principal minority party required.* — At least one member of the board of canvassers present shall be a registered voter of the principal minority party.

(h) *The canvass.* — Once the board has satisfied the requirements of subsections (a) through (g) of this section, it may proceed with the canvass in accordance with the regulations of the State Board. (An. Code 1957, art. 33, § 11-301; 2002, ch. 291, §§ 2, 4.)

§ 11-302. Canvassing of absentee ballots.

(a) *In general.* — Following an election, each local board shall meet at its designated counting center to canvass the absentee ballots cast in that election in accordance with the regulations and guidelines established by the State Board.

(b) *Time for opening of absentee ballots.* — (1) A local board may not open any envelope of an absentee ballot prior to 8 a.m. on the Wednesday following election day.

(2) A local board may not delay the commencement of the canvass to await the receipt of late-arriving, timely absentee ballots.

(c) *Timely receipt required.* — (1) An absentee ballot shall be deemed timely received if it is received in accordance with the regulations and guidelines established by the State Board.

(2) An absentee ballot that is received after the deadline specified by the regulations and guidelines may not be counted.

(d) *Rejection of absentee ballots.* — (1) The State Board shall adopt regulations that reflect the policy that the clarity of the intent of the voter is the overriding consideration in determining the validity of an absentee ballot or the vote cast in a particular contest.

(2) A local board may not reject an absentee ballot except by unanimous vote and in accordance with regulations of the State Board.

(3) The local board shall reject an absentee ballot if:

(i) before the ballot is canvassed, the local board determines that the voter died before election day;

(ii) the voter failed to sign the oath on the ballot envelope;

(iii) the local board received more than one ballot from the same individual for the same election in the same ballot envelope; or

(iv) the local board determines that an absentee ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot.

(4) If the local board receives more than one legally sufficient ballot, in separate envelopes, from the same individual, the local board shall:

(i) count only the ballot with the latest properly signed oath; and

(ii) reject any other ballot.

(5) If the intent of the voter is not clearly demonstrated, the local board shall reject only the vote for that office or question.

(6) If an absentee voter casts a vote for an individual who has ceased to be a candidate, the vote for that candidate may not be counted, but that vote does not invalidate the remainder of the ballot. (An. Code 1957, art. 33, §§ 11-302, 11-303(d)(4)-(6); 2002, ch. 291, §§ 2, 4.)

§ 11-303. Canvassing of provisional ballots.

(a) *In general.* — Following an election, each local board shall meet at its designated counting center to canvass the provisional ballots cast in that election in accordance with the regulations and guidelines established by the State Board.

(b) *Time for opening provisional ballots.* — A local board may not open an envelope of a provisional ballot until the local board has approved the provisional ballot application.

(c) *Regulations for implementation.* — The State Board shall adopt regulations to implement this section.

(d) *Rejection of provisional ballot.* — (1) A local board may not reject a provisional ballot except by unanimous vote and in accordance with regulations of the State Board.

(2) The local board shall reject a provisional ballot if:

(i) pursuant to paragraph (4) of this subsection, the local board determines that the individual who cast the provisional ballot is not qualified to vote that provisional ballot;

(ii) the individual failed to sign the oath on the provisional ballot application;

(iii) the individual cast more than one ballot for the same election; or

(iv) the local board determines that a provisional ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot.

(3) If the intent of the voter with respect to a particular contest is not clearly demonstrated, the local board shall reject only the vote for that contest.

(4) For the purposes of this section, an individual is qualified to vote the provisional ballot cast if the local board determines that:

(i) the individual is registered in the State;

(ii) if the provisional ballot was cast because the voter failed to provide required identification, the individual who cast the provisional ballot has met the identification requirements established by the State Board; and

(iii) if the provisional ballot was cast during a period covered by a court order or other order extending the time for closing the polls, the order has not been invalidated by a subsequent court order.

(e) *Method of counting.* — A local board shall count:

(1) the entire provisional ballot if the address on the provisional ballot application is within the precinct where the provisional ballot was cast; or

(2) only the votes cast by the voter for each candidate or question applicable to the precinct in which the voter resides, as determined by the address on the provisional ballot application of the voter.

(f) *Confirmation.* — (1) The State Board shall ensure the establishment of a system that any individual who casts a provisional ballot may access without

cost to discover whether the ballot was counted and, if not counted, the reason it was not.

(2) The system established under paragraph (1) of this subsection shall ensure the confidentiality of the individual who accesses the system and the secrecy of each ballot. (An. Code 1957, art. 33, § 11-302.1; 2002, ch. 291, §§ 2, 4; ch. 404, § 2; ch. 547, § 2; 2003, ch. 21, § 1; ch. 379, § 2; 2006, ch. 4.)

Judicial review. — A candidate who was aggrieved by a decision concerning absentee ballots which was made by the former Board of Supervisors of Elections (now State Board of Elections) was entitled to judicial review of the Board's decision under subsection (c) of a prior similar provision; because of the availability of the judicial review action, no action could be brought under Subtitle 19 (see now Title 12) of Article 33 (see now Title 12 of this article).

Pelagatti v. Board of Supvrs. of Elections, 343 Md. 425, 682 A.2d 237 (1995).

Evidence held insufficient. — Unsuccessful candidate failed to show that allegedly invalid absentee ballots changed the outcome of an election where there was no evidence disclosing for whom any of the ballots at issue had been cast. *Pelagatti v. Board of Supvrs. of Elections*, 343 Md. 425, 682 A.2d 237 (1995).

§ 11-304. Rejected absentee ballot; appeal.

(a) *Right of appeal.* — A candidate or absentee voter aggrieved by the decision of a local board to reject, or not to reject, an absentee ballot shall have the right of appeal to the circuit court for the county.

(b) *Time of filing.* — The appeal must be filed within 5 days from the date of the completion of the official canvass by the board of all the votes cast at the election.

(c) *Procedures.* — The appeal shall be heard de novo, without a jury, as soon as possible.

(d) *Appeal to Court of Special Appeals.* — (1) The decision of the circuit court may be appealed to the Court of Special Appeals, provided the appeal is taken within 48 hours from the entry of the decision of the circuit court.

(2) The appeal shall be heard and decided on the original papers, including a written transcript of the testimony taken in the case.

(3) The original papers and the transcript shall be transmitted to the Court of Special Appeals within 5 days from the taking of the appeal, and the appeal shall be heard as soon as possible. (An. Code 1957, art. 33, § 11-303(a)-(d)(3); 2002, ch. 291, §§ 2, 4.)

§ 11-305. Administrative complaints.

Any person who asserts that an election official has violated the provisions of this article relating to provisional ballots may file an administrative complaint under procedures established by the State Board. (2003, ch. 379, § 2.)

Editor's note. — Section 2, ch. 379, Acts 2003, repealed former § 11-305 of this article, concerning rejection of provisional ballots and appeals related thereto and enacted this section in lieu thereof.

Correction of errors. — Such corrections as are authorized by statute should be

promptly made. *Board of Canvassers of Election v. Noll*, 127 Md. 296, 96 A. 452 (1915).

Scope of authority. — Canvassers are not authorized to correct mistakes. *Board of Canvassers of Election v. Noll*, 127 Md. 296, 96 A. 452 (1915).

The duties of canvassing officers are purely

ministerial, and the canvassers may only canvass and declare the result as shown by the returns. *Bowling v. Weakley*, 181 Md. 496, 30 A.2d 791 (1943).

The board of canvassers was not authorized to decide whether the candidate-elect was ineligible to take his oath as a member of the House of Delegates. *Bowling v. Weakley*, 181 Md. 496, 30 A.2d 791 (1943).

Rejection of returns by canvassers because seals on ballot boxes broken. — Canvassers may not reject returns from a precinct because the seals and strips of paper on the ballot boxes have been torn, broken and virtually destroyed. *Board of Canvassers of Election v. Noll*, 127 Md. 296, 96 A. 452 (1915).

§ 11-306. Custody and security of documents and records related to the canvass.

The person designated to maintain custody of the documents and records required under this title shall maintain and secure those items in accordance with the regulations adopted by the State Board. (An. Code 1957, art. 33, § 11-304; 2002, ch. 291, §§ 2, 4.)

§ 11-307. Errors in canvass documents.

(a) *In general.* — If a board of canvassers determines that there appears to be an error in the documents or records produced at the polling place following an election, then it immediately shall investigate the matter to ascertain whether the records or documents are correct.

(b) *Correction of errors.* — The board of canvassers may correct a document or record only in accordance with the regulations of the State Board. (An. Code 1957, art. 33, § 11-305; 2002, ch. 291, §§ 2, 4.)

§ 11-308. Verification of vote count.

(a) *In general.* — Within 10 days after any election, and before certifying the results of the election, each board of canvassers shall verify the vote count in accordance with the regulations prescribed by the State Board for the voting system used in that election.

(b) *Certification required upon completion of verification process.* — Upon completion of the verification process, the members of the board of canvassers shall:

(1) certify in writing that the election results are accurate and that the vote has been verified; and

(2) provide copies of the election results to the persons specified under § 11-401 of this title.

(c) *Dissent by a board member — Written statement required.* — (1) If a member of a board of canvassers dissents from a determination of an election result or reasonably believes that the conduct of a local board member or local board proceeding was not in compliance with applicable law or regulation or was otherwise illegal or irregular, the member shall prepare and file with the local board a distinct written statement of the reasons for the dissent or concern.

(2) The State Board shall maintain a file of the written statements submitted under this subsection by members of the local boards. (An. Code 1957, art. 33, § 11-306; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1.)

*Subtitle 4. Certification of Election Results by Local Board.***§ 11-401. Certified copies of results.**

(a) *Distribution of certified copies.* — (1) After each election, each board of canvassers shall transmit one certified copy of the election results in its county, attested by the signatures of the chairperson and secretary of the board of canvassers, to:

- (i) the Governor;
- (ii) the State Board; and
- (iii) the clerk of the circuit court for the appropriate county.

(2) The statement may be mailed or delivered in person.

(b) *Statement of votes cast for write-in candidates.* — After each general election in which votes have been cast for a write-in candidate, each board of canvassers shall transmit a statement of returns of the votes cast for write-in candidates who have filed a certificate of candidacy.

(c) *Time for transmittal.* — (1) The transmittal shall be made on the second Friday after a primary or general election or, if the canvass is completed after that date, within 48 hours after the completion of the canvass.

(2) (i) Except as specified in subparagraph (ii) of this paragraph, after a special primary or special election, the transmittal shall be made as soon as possible, but no later than the second Thursday after the election.

(ii) After a special primary or special election that is held at the same time as a primary or general election, the transmittal shall be made in accordance with paragraph (1) of this subsection.

(d) *Entry by clerk of the circuit court.* — The clerk of the circuit court shall record the election results filed with the court under this section. (An. Code 1957, art. 33, § 11-401; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1; ch. 380.)

Conditions for reporting of results of write-in voting invalid. — The State may not condition the reporting of the results of write-in voting on candidate certification, whether or

not accompanied by a fee. *Dixon v. Maryland State Admin. Bd. of Election Laws*, 878 F.2d 776 (4th Cir. 1989).

§ 11-402. Release and publication of returns.

(a) *Declaration of winners.* — Unless otherwise provided by the Maryland Constitution, and except as provided in subsection (b) of this section, each board of canvassers shall prepare a statement of election results by precinct for each candidate or question voted on at the election and declare:

(1) who is elected or nominated for office:

(i) in county government; or

(ii) for any other office voted for only within that county, if the certificate of candidacy for that office was issued by the local board; and

(2) whether or not a question is adopted or approved.

(b) *Reporting of absentee vote.* — The statement prepared by the board of canvassers under this section may not report the absentee vote separately by precinct.

(c) *Copies of election results.* — Each local board shall publish a sufficient number of copies of the complete election results, tabulated by precinct, and shall make the copies available to the public at cost.

(d) *Electronic format of election results.* — (1) In addition to the statement of election results specified under subsection (a) of this section, the State Board shall make available in an electronic format a report of election results for each candidate or question voted on at the election:

- (i) by precinct;
- (ii) by State legislative district, including any subdistrict;
- (iii) by county legislative district; and
- (iv) for each county as a whole.

(2) The State Board may make the report specified under paragraph (1) of this subsection available to the public at cost. (An. Code 1957, art. 33, § 11-402; 2002, ch. 291, §§ 2, 4; 2005, ch. 540; 2006, ch. 41.)

Maryland Law Review. — For discussion of interaction and interpretation of the budget and referendum amendments of the Maryland Constitution, see 39 Md. L. Rev. 558 (1980).

§ 11-403. Security and inspection of voting system.

(a) *In general.* — (1) Except as provided in subsection (b) of this section, and in accordance with regulations adopted by the State Board, the equipment and documentation of a voting system, including all paper and electronic documentation, shall remain secured following the verification required by § 11-306 of this title until:

- (i) the expiration of the period allowed for initiating a recount;
- (ii) in the event of a recount, the recount is completed; and
- (iii) the resolution of any election contest.

(2) After the expiration of the period specified in paragraph (1) of this subsection, the equipment and documentation of the voting system shall be maintained in accordance with regulations of the State Board.

(b) *Opening of voting system — Conditions.* — A voting system may be opened and the documents and equipment associated with it examined in the presence of the officer having custody of the voting system upon:

- (1) the order of any court of competent jurisdiction; or
- (2) the direction of any legislative committee charged with investigating a contested election affected by the use of the voting system. (An. Code 1957, art. 33, § 11-403; 2002, ch. 291, §§ 2, 4.)

Subtitle 5. Statewide Canvass and Certification.

§ 11-501. State Board — Canvass of primary election results.

(a) *Duties.* — Following each gubernatorial primary or special primary election to fill a vacancy in the office of Representative in Congress, the State Board shall:

EL, § 11-502**REGISTRATION AND ELECTION LAWS**

(1) convene within 2 days after the certified official election results are received from the local boards;

(2) if a majority of the members of the State Board is not present, adjourn for not more than 1 day;

(3) determine which candidates, by the greatest number of votes, have been nominated to each office and which questions have received a sufficient number of votes to be adopted or approved; and

(4) prepare and certify statewide election results based on the certified copies of the statements made by the boards of canvassers.

(b) *Dissent by a Board member — Written statement required.* — (1) If a member of the State Board dissents from a determination of an election result or reasonably believes that the conduct of a Board member or Board proceeding was not in compliance with applicable law or regulation or was otherwise illegal or irregular, the member shall prepare and file with the Board a distinct written statement of the reasons for the dissent or concern.

(2) The State Board shall maintain a file of the written statements submitted under this subsection by members of the Board. (An. Code 1957, art. 33, § 11-501; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1; ch. 380.)

§ 11-502. Board of State Canvassers.

(a) *Membership.* — The Board of State Canvassers consists of the following members:

- (1) the Secretary of State;
- (2) the Comptroller;
- (3) the State Treasurer;
- (4) the Clerk of the Court of Appeals; and
- (5) the Attorney General.

(b) *Quorum.* — Three members of the Board of State Canvassers constitute a quorum.

(c) *State Administrator of State Board to serve as secretary.* — The State Administrator of the State Board of Elections serves as secretary to the Board of State Canvassers.

(d) *State Treasurer — Appointment of deputy as designee.* — The State Treasurer may appoint, as the Treasurer's designee, a deputy treasurer to serve on the Board of State Canvassers. (An. Code 1957, art. 33, § 10-502; 2002, ch. 291, §§ 2, 4.)

§ 11-503. Board of State Canvassers — Canvass of election results.

(a) *Duties.* — The Board of State Canvassers shall:

(1) (i) convene only after a presidential primary election, a State general election, or a general or special general election that includes a candidate for member of the Congress of the United States;

(ii) convene within 35 days of that election; and

(iii) if a majority of members of the Board of State Canvassers is not present, adjourn for not more than 1 day;

(2) determine which candidates, by the greatest number of votes, have been elected to each office and which questions have received a sufficient number of votes to be adopted or approved;

(3) prepare statewide election results for each candidate and question, based on the certified copies of the statements made by the boards of canvassers; and

(4) prepare and transmit a certified statement of the election results to the State Board of Elections.

(b) *Dissent by a Board member — Written statement required.* — (1) If a member of the Board of State Canvassers dissents from a determination of an election result or reasonably believes that the conduct of a Board member or Board proceeding was not in compliance with applicable law or regulation or was otherwise illegal or irregular, the member shall prepare and transmit a distinct written statement of the reasons for the dissent or concern to the State Board of Elections.

(2) The State Board of Elections shall maintain a file of the written statements submitted under this subsection by members of the Board of State Canvassers. (An. Code 1957, art. 33, § 11-503; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1.)

Subtitle 6. Certification of General Election Results and Issuance of Commissions of Election.

§ 11-601. Governor — Determination and proclamation of votes.

(a) *Determination.* — On receipt, in accordance with this subtitle, of the returns of an election for electors to choose a President and Vice President of the United States or of an election to choose a member of Congress, the Governor shall:

(1) ascertain and enumerate the number of votes cast for each candidate for President and Vice President of the United States and declare elected the presidential electors of the candidates who receive the highest number of votes; and

(2) in each contest, ascertain and enumerate the number of votes cast for each candidate voted for as a member of Congress and declare elected the candidate who receives the highest number of votes.

(b) *Proclamation.* — After ascertaining and enumerating the number of votes for candidates as required by subsection (a) of this section, the Governor shall:

(1) sign and issue a proclamation declaring the name of each candidate who is elected; and

(2) cause the proclamation to be published in newspapers. (An. Code 1957, art. 41, § 2-405; 2002, ch. 291, §§ 2, 4.)

§ 11-602. Governor — Commissions of election.

The Governor shall issue a commission to an individual elected to or continued in office only if the individual's election is certified by the State Board. (An. Code 1957, art. 33, § 11-602; 2002, ch. 291, §§ 2, 4.)

§ 11-603. State Board — Certification of results.

(a) *In general.* — The State Board shall certify election results in accordance with the provisions of this article and regulations adopted by the State Board.

(b) *Notice to specified individuals.* — The State Board shall:

(1) promptly deliver under its seal a certified statement notifying:

- (i) each individual who is declared elected;
- (ii) each individual who is continued in office;

(iii) the Secretary and presiding officer of the United States Senate, in the case of the election of a United States Senator to represent the State; and

(iv) the Clerk and presiding officer of the United States House of Representatives, in the case of the election of a member of the House of Representatives to represent the State; and

(2) publish a sufficient number of copies of the certified statements of the votes cast throughout the State that are delivered to it by the Board of State Canvassers and make the copies available to the public at cost. (An. Code 1957, art. 33, § 11-601; 2002, ch. 291, §§ 2, 4; 2003, ch. 380.)

§ 11-604. Member of Congress — Effect of certification.

A certificate issued by the State Board to the Secretary and presiding officer of the United States Senate or to the Clerk and presiding officer of the House of Representatives of the United States under § 11-603(b)(1)(iii) and (iv) of this subtitle constitutes prima facie evidence of the right of the individual certified to be seated for office in the United States Congress. (An. Code 1957, art. 33, § 11-603; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1.)

§ 11-605. Municipal referenda — Reporting of results.

(a) *Reporting the results.* — In a county, municipal corporation, or other political subdivision in which a referendum vote is held on a law, ordinance, or resolution, the executive head of the county, municipal corporation, or other political subdivision promptly shall report the results of the referendum to the clerk of the court for the county.

(b) *Certification.* — As promptly as possible thereafter, the clerk of the court shall certify the results of the referendum to the State Board. (An. Code 1957, art. 33, § 11-604; 2002, ch. 291, §§ 2, 4.)

TITLE 12.

CONTESTED ELECTIONS.

<i>Subtitle 1. Recounts.</i>		Sec.
Sec.		12-107. Costs.
12-101. Petition for recount.		
12-102. Counterpetition for recount.	<i>Subtitle 2. Judicial Review of Elections.</i>	
12-103. Recount on question — Petition.	12-201. Scope of subtitle.	
12-104. Recount on question — Counterpetition.	12-202. Judicial challenges.	
12-105. Bond.	12-203. Procedure.	
12-106. Duties of the State Board and local boards.	12-204. Judgment.	

Subtitle 1. Recounts.

§ 12-101. Petition for recount.

(a) *In general.* — A candidate for public or party office who has been defeated based on the certified results of any election conducted under this article may petition for a recount of the votes cast for the office sought.

(b) *Contents of petition for recount.* — The petition shall specify that the recount be conducted:

- (1) in all of the precincts in which the office was on the ballot; or
- (2) only in the precincts designated in the petition.

(c) *Place of filing.* — The petition shall be filed with the board with which the candidate's certificate of candidacy was filed.

(d) *Time of filing.* — The petition must be filed within 3 days after the results of the election have been certified.

(e) *Notice of filing of petition.* — (1) The State Board shall promptly notify each appropriate local board of a petition that is filed with the State Board.

(2) A local board shall promptly notify the State Board of a petition that is filed with the local board. (An. Code 1957, art. 33, § 12-101; 2002, ch. 291, §§ 2, 4.)

Applicability of subtitle. — Relief on grounds that improper voters cast ballots or proper voters were denied right to vote must be sought in forums and by procedures provided by this article for the contesting of elections, and not in a recount and canvass proceeding.

Mahoney v. Board of Supvrs. of Elections, 205 Md. 344, 108 A.2d 151 (1954).

Place of filing. — Petition should be addressed to and filed with the board of election supervisors. *Yerkes v. Board of Supvrs. of Elections*, 140 Md. 455, 117 A. 772 (1922).

§ 12-102. Counterpetition for recount.

(a) *In general.* — An opposing candidate of the petitioner under § 12-101 of this subtitle may file a counterpetition if:

- (1) the petition filed under § 12-101 of this subtitle did not specify all of the precincts in which the office was on the ballot; and
- (2) on completion of the recount, the winner of the election is changed.

(b) *Contents of counterpetition.* — A counterpetition shall be a request for a recount of the votes for the office in the precincts not specified by the petitioner under § 12-101 of this subtitle.

(c) *Place of filing.* — The opposing candidate shall file the counterpetition with the board with which the candidate's certificate of candidacy was filed.

(d) *Time of filing.* — The petition must be filed within 2 days of the determination under subsection (a)(2) of this section.

(e) *Notice of filing of counterpetition.* — (1) The State Board shall promptly notify each appropriate local board of a counterpetition that is filed with the State Board.

(2) A local board shall promptly notify the State Board of a counterpetition that is filed with the local board. (An. Code 1957, art. 33, § 12-102; 2002, ch. 291, §§ 2, 4.)

§ 12-103. Recount on question — Petition.

(a) *In general.* — A petition for a recount based on the certified results of a question on the ballot in an election conducted under this article may be filed by a registered voter eligible to vote for that question.

(b) *Contents of petition for recount.* — The petition shall specify that the recount be conducted:

- (1) in all of the precincts in which the office was on the ballot; or
- (2) only in precincts designated in the petition.

(c) *Place of filing.* — (1) If the question was on the ballot in one county, the petition shall be filed in that county.

(2) If the question was on the ballot in more than one county, the petition shall be filed with the State Board.

(d) *Time of filing.* — The petition must be filed within 2 days after the results of the election are certified.

(e) *Notice of filing of petitions.* — (1) The State Board shall promptly notify each appropriate local board of a petition that is filed with the State Board.

(2) A local board shall promptly notify the State Board of a petition that is filed with the local board. (An. Code 1957, art. 33, § 12-103; 2002, ch. 291, §§ 2, 4.)

Comparison of poll and registration books, etc. — In jurisdictions where paper ballots are used, a candidate does not have the right to require the comparison of poll books and registration books in the recount, and similarly where voting machines are used, a can-

didate does not have the right to compare, or compel the authorities to compare, the voting authority cards and the permanent registration cards. *Mahoney v. Board of Supvrs. of Elections*, 205 Md. 344, 108 A.2d 151 (1954).

§ 12-104. Recount on question — Counterpetition.

(a) *In general.* — A counterpetition to a question filed under § 12-103 of this subtitle may be filed by a voter eligible to vote for that question, if:

- (1) the petition filed under § 12-103 of this subtitle did not specify all of the precincts in which the question was on the ballot; and
- (2) on completion of the recount, the outcome of the election is changed.

(b) *Contents of counterpetition.* — A counterpetition shall be a request for a recount of the votes for the question in the precincts not specified by the petitioner under § 12-103 of this subtitle.

(c) *Place of filing.* — (1) If the question was on the ballot in one county, the counterpetition shall be filed in that county.

(2) If the question was on the ballot in more than one county, the counterpetition shall be filed with the State Board.

(d) *Time of filing.* — The petition shall be filed within 2 days of the determination under subsection (a)(2) of this section.

(e) *Notice of filing of counterpetition.* — (1) The State Board shall promptly notify each appropriate local board of a counterpetition that is filed with the State Board.

(2) A local board shall promptly notify the State Board of a counterpetition that is filed with the local board. (An. Code 1957, art. 33, § 12-104; 2002, ch. 291, §§ 2, 4.)

§ 12-105. Bond.

(a) *In general.* — A petition or counterpetition filed under this subtitle shall be filed with a bond as provided under subsection (b) of this section.

(b) *Determination and setting of bond.* — (1) If a recount is being conducted in only one county, a judge of the circuit court of the county shall determine and set the bond to be filed by the petitioner or counterpetitioner sufficient to pay the reasonable costs of the recount.

(2) If the recount is being conducted in more than one county, a judge of the Circuit Court for Anne Arundel County shall determine and set the bond. (An. Code 1957, art. 33, § 12-105; 2002, ch. 291, §§ 2, 4.)

Fixing amount of bond. — See *Yerkes v. Board of Supvrs. of Elections*, 140 Md. 455, 117 A. 772 (1922).

§ 12-106. Duties of the State Board and local boards.

(a) *Duties of local boards.* — In accordance with regulations adopted by the State Board, the local board shall:

(1) conduct the recount and certify the official result of the election or question which is the subject of the recount; and

(2) ensure the public's ability to be present while the recount is conducted.

(b) *State Board to monitor conduct of recount.* — The State Board shall monitor and support the work of any local board conducting a recount to ensure compliance with this subtitle.

(c) *Termination of recount.* — The State Board shall establish a procedure that will allow petitioners and counterpetitioners to request that a recount be terminated prior to its completion.

(d) *Correction of returns.* — When a recount is completed, the local board, and when appropriate the State Board, shall correct the primary, general, or special election returns and certificates that were made by a canvassing board. (An. Code 1957, art. 33, § 12-106; 2002, ch. 291, §§ 2, 4.)

Scope of authority. — Supervisors (now the local board or State Board members) are required to exercise judgment and discretion in discharge of their duties and act in a quasi-judicial capacity. *White v. Laird*, 127 Md. 120, 96 A. 318 (1915).

No authority to ascertain whether or not particular individuals voted. — Judges of election are not authorized to, nor do they, attempt to ascertain whether or not particular individuals voted or did not vote, and the supervisors of election (now board members) in a recount have no greater power. *Mahoney v. Board of Supvrs. of Elections*, 205 Md. 344, 108 A.2d 151 (1954).

Discretion in counting or rejecting a

ballot. — The election supervisors (now board members), in making a recount of votes, are vested with discretion in determining whether a ballot should be counted or rejected; and there has never been any statutory provision for appeals to the courts from the recounts made by the election supervisors. *Mahoney v. Board of Supvrs. of Elections*, 205 Md. 325, 106 A.2d 927, 108 A.2d 143 (1954).

§ 12-107. Costs.

(a) *“Petitioner” defined.* — In this section, “petitioner” includes a counterpetitioner.

(b) *In general.* — (1) Except as provided in paragraph (2) of this subsection, each petitioner shall pay the cost of a recount requested under this subtitle and the petitioner’s bond is liable for the cost.

(2) The petitioner is not liable for the costs of the recount if:

(i) the outcome of the election is changed;

(ii) the petitioner has gained a number of votes, for the petitioner’s candidacy or for or against the question that is the subject of the petition, equal to 2% or more of the total votes cast for the office or on the question, in all precincts being recounted; or

(iii) 1. the margin of difference in the number of votes received by an apparent winner and the losing candidate with the highest number of votes for an office is 0.1% or less of the total votes cast for those candidates; or

2. in the case of a question, the margin of difference between the number of votes cast for and the number cast against the question is 0.1% or less.

(c) *Payment by county.* — If the petitioner is not liable for the costs of the recount as provided in subsection (b) of this section, a county shall pay the costs of the recount in that county. (An. Code 1957, art. 33, § 12-107; 2002, ch. 291, §§ 2, 4.)

Subtitle 2. Judicial Review of Elections.

§ 12-201. Scope of subtitle.

This subtitle applies to an issue arising in an election conducted under this article. (An. Code 1957, art. 33, § 12-201; 2002, ch. 291, §§ 2, 4.)

Standing to assert a claim. — In addition to this section’s limiting the types of issues the subtitle would cover, 12-202 of this subtitle limits to “registered voters” the types of litigants who may seek to get their complaint

before the court. For instance, a 15 year-old would have no statutory standing to assert a claim under § 12-202 because a minor cannot be a registered voter. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

§ 12-202. Judicial challenges.

(a) *In general.* — If no other timely and adequate remedy is provided by this article, a registered voter may seek judicial relief from any act or omission

relating to an election, whether or not the election has been held, on the grounds that the act or omission:

(1) is inconsistent with this article or other law applicable to the elections process; and

(2) may change or has changed the outcome of the election.

(b) *Place and time of filing.* — A registered voter may seek judicial relief under this section in the appropriate circuit court within the earlier of:

(1) 10 days after the act or omission or the date the act or omission became known to the petitioner; or

(2) 7 days after the election results are certified, unless the election was a gubernatorial primary or special primary election, in which case 3 days after the election results are certified. (An. Code 1957, art. 33, § 12-202; 2002, ch. 291, §§ 2, 4.)

Maryland Law Review. — For note, “The Maryland Survey: 2004-2005: Recent Decisions: The Court of Appeals of Maryland: I. Civil Procedure, see 65 Md. L. Rev. 980 (2006).

Terms and definitions. — Language of (a)(2) requires an illegal act or omission that may change or has changed the outcome of the election. The meaning of an act that “has changed” the outcome of an election is clear: but for the illegal act or omission, the election results would have been different. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Subsection (a)(2)’s demand has real bite. “May change” does not mean the barest possibility, a one percent probability of a change, or even a reasonable likelihood of affecting the outcome. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Timeliness of filing complaint. — Plaintiff firefighters filed their complaint within 10 days of the petition’s rejection on August 18, 2008, because that date, under (b), was the “final” determination about which they were aggrieved by defendant State and city officials that triggered the 10 day limitations period with which the firefighters complied. *Int’l Ass’n of Fire Fighters, Local 1715 v. Mayor of Cumberland*, 407 Md. 1, 962 A.2d 374 (2008).

Failure to prove that illegal action may change or has changed election results. — Voters could not be granted relief under this section because in their suit challenging an election outcome on grounds that State election law permitted the exclusion of unaffiliated voters like themselves from participating in judicial primary elections, they failed to prove by clear and convincing evidence that there was a substantial probability that the outcome of the election would have changed. They did not present anything beyond mere speculations as to how unaffiliated voters would have voted or how the election may have been changed had unaffiliated voters been permitted to vote. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Required proof that illegal action may change or has changed election results. —

Predecessor to this section was art. 33, § 19-5(1) of the Code, which before it was repealed was essentially identical to this title. A court interpreting § 19-5 determined that a petitioner in a contested election case was required to demonstrate only that the violation complained of “might” have changed the outcome, and a petitioner proves that an election law violation “might have changed the outcome” when the facts demonstrate a substantial probability that the outcome might have been changed. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

To sustain a judicial challenge pursuant to this section, the litigant must prove, by clear and convincing evidence, a substantial probability that the outcome would have been different but for the illegality. This is the level of probability anticipated by (a)(2)’s requirement that the judicial challenge be based on grounds that an illegal action “may change or has changed the outcome of the election.” *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Standing to assert a claim. — In addition to limiting the types of issues the subtitle would cover, § 12-201 of this subtitle, this section limits to “registered voters” the types of litigants who may seek to get their complaint before the court. For instance, a 15 year-old would have no statutory standing to assert a claim because a minor cannot be a registered voter. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Because (a) does not distinguish among voters registered by party or, for that matter, by no party, any registered voter has standing to sue under the statute, and assert the procedure laid out in § 12-203 of this subtitle, and one need not be a registered voter in a particular political party to be considered a registered voter for purposes of § 1-101(mm) of this arti-

cle [repealed by Chapter 572, Acts 2005] or, therefore, this section. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Applicability of remedy. — Statutory remedy of former section (now § 11-303 of this article) for a candidate who was aggrieved by a decision concerning absentee ballots, precluded seeking relief pursuant to a prior similar version of this subtitle. *Pelagatti v. Board of Supvrs. of Elections*, 343 Md. 425, 682 A.2d 237 (1995).

Reading §§ 9-205 and 9-209 of this article together, it was clear that they provided a remedy only for ballot defects, not for a winning candidate's alleged lack of qualifications for failure to make certain mandatory campaign financial disclosures, so a challenger's failure to file a challenge within the five-day time limit; although it was at least arguable that the challenge might have been filed within the 10-day time limit set by § 12-1202 of this title, the challenge was barred under the doctrine of laches because it could have been, and should have been, filed before the election, since the

challenger was well aware of the bases for the challenge some time before losing the election. *Ross v. State Bd. of Elections*, 387 Md. 649, 876 A.2d 692 (2005).

Certification of electronic voting system upheld. — Trial court found that the Maryland State Board of Elections acted reasonably in purchasing and certifying an electronic voting system, namely the Diebold AccuVote-TS direct recording electronic voting system, which was used in the November 2, 2004 elections and, therefore, the trial court did not abuse its discretion in denying challenging voters' and candidates' request for a preliminary injunction to decertify the system. The trial court properly applied an arbitrary and capricious standard of review in assessing the State Board's purchase and certification of the system, noting the deference the State Board was due with regard to the selection and certification of a uniform voting system. *Schade v. Md. State Bd. of Elections*, 401 Md. 1, 930 A.2d 304 (2007).

Cited in *Abrams v. Lamone*, 398 Md. 146, 919 A.2d 1223 (2007).

§ 12-203. Procedure.

(a) *In general.* — A proceeding under this subtitle shall be conducted in accordance with the Maryland Rules, except that:

(1) the proceeding shall be heard and decided without a jury and as expeditiously as the circumstances require;

(2) on the request of a party or sua sponte, the chief administrative judge of the circuit court may assign the case to a three-judge panel of circuit court judges; and

(3) an appeal shall be taken directly to the Court of Appeals within 5 days of the date of the decision of the circuit court.

(b) *Expedited appeal.* — The Court of Appeals shall give priority to hear and decide an appeal brought under subsection (a) (3) of this section as expeditiously as the circumstances require. (An. Code 1957, art. 33, § 12-203; 2002, ch. 291, §§ 2, 4.)

Standing to assert a claim against procedure. — Because § 12-202(a) of this subtitle does not distinguish among voters registered by party or, for that matter, by no party, any registered voter has standing to sue under the statute, and assert the procedure laid out in this section, and one need not be a registered voter in a particular political party to be considered a registered voter for purposes of § 1-101(mm) of this article [repealed by Chapter 572, Acts 2005] or, therefore, § 12-202. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

Certification of electronic voting system upheld. — Trial court found that the Maryland State Board of Elections acted reasonably in purchasing and certifying an electronic voting system, namely the Diebold AccuVote-TS direct

recording electronic voting system, which was used in the November 2, 2004 elections and, therefore, the trial court did not abuse its discretion in denying challenging voters' and candidates' request for a preliminary injunction to decertify the system. The trial court properly applied an arbitrary and capricious standard of review in assessing the State Board's purchase and certification of the system, noting the deference the State Board was due with regard to the selection and certification of a uniform voting system. *Schade v. Md. State Bd. of Elections*, 401 Md. 1, 930 A.2d 304 (2007).

Applied in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006).

Quoted in *Ross v. State Bd. of Elections*, 387 Md. 649, 876 A.2d 692 (2005).

Cited in *Fritzsche v. Md. State Bd. of Elec-*

tions, 397 Md. 331, 916 A.2d 1015 (2007); (2007); Smigiel v. Franchot, 410 Md. 302, 978
Abrams v. Lamone, 398 Md. 146, 919 A.2d 1223 A.2d 687 (2009).

§ 12-204. Judgment.

(a) *In general.* — The court may provide a remedy as provided in subsection (b) or (c) of this section if the court determines that the alleged act or omission materially affected the rights of interested parties or the purity of the elections process and:

- (1) may have changed the outcome of an election already held; or
- (2) may change the outcome of a pending election.

(b) *Act or omission that changed election outcome.* — If the court makes an affirmative determination that an act or omission was committed that changed the outcome of an election already held, the court shall:

- (1) declare void the election for the office or question involved and order that the election be held again at a date set by the court; or
- (2) order any other relief that will provide an adequate remedy.

(c) *Act or omission that may change outcome of pending election.* — If the court makes an affirmative determination that an act or omission has been committed that may change the outcome of a pending election, the court may:

- (1) order any relief it considers appropriate under the circumstances; and
- (2) if the court determines that it is the only relief that will provide a remedy, direct that the election for the office or question involved be postponed and rescheduled on a date set by the court.

(d) *Clear and convincing evidence.* — A determination of the court under subsection (a) of this section shall be based on clear and convincing evidence. (An. Code 1957, art. 33, § 12-204; 2002, ch. 291, §§ 2, 4.)

Entitlement to judicial review precluded action under this subtitle. — A candidate who was aggrieved by a decision concerning absentee ballots which was made by the former Board of Supervisors of Elections was entitled to judicial review of the Board's decision under former § 27-10(c) of former Article 33 (now see § 11-303 of this article). Because of the availability of that remedy, no action could be brought under a prior similar

version of this subtitle. *Pelagatti v. Board of Supvrs. of Elections*, 343 Md. 425, 682 A.2d 237 (1995).

Terms and definitions. — Pursuant to this section, a substantial probability, while less than a hundred percent, is significantly more than “more likely than not” and must be proven by clear and convincing evidence. *Suessmann v. Lamone*, 383 Md. 697, 862 A.2d 1 (2004).

TITLE 13.

CAMPAIGN FINANCE.

<i>Subtitle 1. General Provisions.</i>	Sec.
Sec.	13-232. Contributions — When deemed received.
13-101. Scope of title.	13-233. Right of individual to volunteer.
13-102. Independent expenditures by an individual.	13-234. Method of money contribution.
13-103. Summary of campaign finance law; forms.	Part VI. Contributions — Prohibitions.
13-104. Acceptance of electronic signature.	13-235. During General Assembly session.
<i>Subtitle 2. Campaign Finance Organization and Activity.</i>	13-236. State funded entities.
Part I. In General.	13-237, 13-238. [Reserved].
13-201. Scope.	Part VII. Contributions — Miscellaneous Provisions.
13-202. Campaign finance entity required.	13-239. Anonymous contributions — In general.
13-203. Campaign finance report required.	13-240. Anonymous contributions — Money received from gaming activity.
13-204, 13-205. [Reserved].	13-241. Payroll deductions — In general.
Part II. Organization.	13-242. Payroll deductions — Employee membership entities.
13-206. [Repealed].	13-243. Collections by membership entities.
13-207. Political committees — In general.	13-244. [Reserved].
13-208. Political committees — Statement of organization.	Part VIII. Expenditures — Miscellaneous Provisions.
13-209. Slates.	13-245. Prohibited expenditures.
13-210. Lobbyists.	13-246. Presentation of claim for payment.
13-211. [Repealed].	13-247. Disposition of surplus funds.
13-212. Campaign manager.	<i>Subtitle 3. General Reporting Requirements.</i>
13-213. [Reserved].	Part I. General Provisions.
Part III. Campaign Finance Officers — Responsibility, Qualifications, and Eligibility.	13-301. Application.
13-214. Responsibility.	13-302, 13-303. [Reserved].
13-215. Qualifications and eligibility.	Part II. Reporting Requirements.
13-216, 13-217. [Reserved].	13-304. Reports to the State Board or a local board.
Part IV. Campaign Finance Activity and Records.	13-305. Exception to filing requirements.
13-218. Treasurer — Control of contributions and expenditures.	13-306. Independent expenditure report.
13-219. [Repealed].	13-307. Electioneering communication report.
13-220. Campaign accounts.	13-308. [Reserved].
13-221. Books and records.	Part III. Deadlines and Reporting Periods.
13-222. Campaign contribution receipts.	13-309. Filing deadlines — In general.
13-223, 13-224. [Reserved].	13-310. Filing deadlines — Final report required.
Part V. Contributions — Limits.	13-311. Final report — Disposal of funds.
13-225. In general.	13-312. Reporting periods.
13-226. Contributions other than transfers.	13-313. Termination of campaign finance entity by the State Board.
13-227. Transfers — Limits.	13-314, 13-315. [Reserved].
13-228. Transfers — By political action committee to candidate.	Part IV. Place of Filing.
13-229. Transfers — Prohibited.	13-316. Filing location.
13-230. Loans.	13-317. [Repealed].
13-231. Personal funds — Use by candidate or spouse.	

EL, § 13-101

REGISTRATION AND ELECTION LAWS

Sec.

13-318, 13-319. [Reserved].

Part V. Implementing Provisions.

13-320. Forms.

13-321. Notice.

13-322. Timeliness.

13-323. Receipt.

13-324. Electronic filing.

13-325, 13-326. [Reserved].

Part VI. Violations.

13-327. Failure to file — In general.

13-328. Failure to file — Lists of violators.

13-329, 13-330. [Reserved].

Part VII. Sanctions.

13-331. Late filing fees.

13-332. Disqualification — Eligibility to be candidate or treasurer.

13-333. Disqualification — Assuming office.

13-334. Forfeiture of salary.

13-335. Referral for prosecution.

13-336. Provisions mandatory.

13-337. Relief from sanctions.

13-338, 13-339. [Reserved].

Part VIII. Administrative Procedures.

13-340. Distribution of fees.

13-341. Retention of documents.

Subtitle 4. Campaign Materials.

Part I. General Provisions.

13-401. Authority line.

13-402. Advertising rates.

Sec.

13-403. Retention of copies.

13-404. Regulations governing electronic media.

13-405. [Reserved].

Part II. Legislative Newsletters.

13-406. Definitions.

(a) In general.

(b) Incumbent.

(c) Legislative newsletter.

(d) Publication expense.

13-407. Scope of part.

13-408. Payment of publication expenses.

13-409. Late filing fee.

Subtitle 5. Local Provisions.

13-501. Special provisions — Prince George's County.

13-502. Special provisions — Montgomery County.

13-503. Special provisions — Howard County.

13-504. Applicability of Title 15, Subtitle 8, Part VIII of the State Government Article to contributions.

Subtitle 6. Prohibited Acts and Penalties.

13-601. False statements, entries and electronic submissions.

13-602. Prohibited acts.

13-603. Other violations — Criminal penalties.

13-604. Other violations — Civil penalties.

13-605. Injunction.

Subtitle 1. General Provisions.

§ 13-101. Scope of title.

(a) *In general.* — This title applies to each election conducted in accordance with this article.

(b) *Exception for campaign finance activity governed by federal law.* — This title does not apply to campaign finance activity required to be governed solely by federal law. (An. Code 1957, art. 33, §§ 13-101, 13-401(k), 13-402(b); 2002, ch. 291, § 4.)

Editor's note. — House Joint Resolution 7, provides in part that:

“(a) There is a Commission to Study Campaign Finance Law.

“(b) The Commission shall consist of the following 17 members:

“(1) Six individuals appointed by the President of the Senate of Maryland, including:

“(i) Three members of the Senate of Maryland, at least one of whom shall be a member of the minority party of the Senate; and

“(ii) Three additional individuals, at least one

of whom shall be a member of the principal minority party in the State;

“(2) Six individuals appointed by the Speaker of the House, including:

“(i) Three members of the House of Delegates, at least one of whom shall be a member of the minority party in the House; and

“(ii) Three additional individuals, at least one of whom shall be a member of the principal minority party in the State;

“(3) Five individuals appointed by the Governor, at least one of whom shall be a member of

a political party other than that of the Governor, including:

“(i) The State Administrator of Elections, or the State Administrator’s designee;

“(ii) The Executive Director of the State Ethics Commission, or the Executive Director’s designee; and

“(iii) Three additional individuals.

“(c) The President of the Senate and the Speaker of the House jointly shall designate the chair of the Commission.

“(d) The State Board of Elections and the Department of Legislative Services shall provide staff for the Commission.

“(e) The Commission shall:

“(1) Examine the State election code as it relates to campaign financing;

“(2) Collect information about campaign financing practices and standards for other jurisdictions, including the federal government;

“(3) Consider issues related to campaign contributions, including:

“(i) The types of individuals, corporations, political action committees (PACs), unions, and other persons who make campaign contributions for elections in Maryland;

“(ii) The role played by PACs in election campaigns in Maryland;

“(iii) The adequacy of the current limits on contributions or transfers that may be made by individuals, PACs, or other persons during an election cycle;

“(iv) The effectiveness of current disclosure requirements in Maryland and in other states in providing detailed and accessible information to the public regarding contributions to and expenditures by candidates, candidate slates, campaign committees, and political action committees;

“(v) The role and impact of technology changes over the years on how campaigns are conducted and how money is raised and spent on elections;

“(vi) The role and prevalence of “issue ads” and other independent expenditures under the current Maryland campaign finance laws, particularly in light of the recent United States Supreme Court decision in *Citizens United v. Federal Election Commission*; and

“(vii) An assessment of the system of electronic filing for campaign contributions administered by the State Board of Elections to facilitate full and timely disclosure of campaign contributions;

“(4) Examine issues relating to the implementation of a voluntary system of public financing of campaigns for local, statewide, legislative, and judicial offices, including the costs and practical funding sources available outside of the State’s general fund;

“(5) Examine issues relating to the purpose and function of slates, including the process by which a candidate is added to and removed

from a slate, the practice of creating statewide and regional slates among legislative candidates, and the role encompassed in the party committee model utilized in other jurisdictions for activities currently conducted in Maryland through slates;

“(6) Examine issues relating to the enforcement of election laws, including the roles and responsibilities of the State Board of Elections, the Office of the State Prosecutor, and the Office of the Attorney General;

“(7) Examine issues relating to opinions from the Office of the Attorney General, including the dissemination of letters of advice;

“(8) Receive testimony, as the Commission considers appropriate; and

“(9) (i) Provide an interim report of its findings and recommendations, including any proposed statutory changes to the Maryland campaign finance laws for consideration by the General Assembly in the 2012 Session, to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly by December 31, 2011; and

“(ii) Provide a final report of its findings and recommendations, including any proposed statutory changes to the Maryland campaign finance laws for consideration by the General Assembly in the 2013 Session, to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly by December 31, 2012.

“(f) The Commission shall terminate its existence after June 30, 2013.”

Political action committee formed by bank trade association. — Individual contributors would have to be disclosed on any of the reports of a political action committee, formed by a bank trade association to solicit funds and use them to make political campaign contributions, filed with the State. 62 Op. Att’y Gen. 374 (1977).

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party’s later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the show was created especially for a campaign purpose. Third, if the program appears to be part of the station’s ordinary broadcasting business, sponsored by paid commercial advertisements, that, too, makes it unlikely the program

would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any

reason a candidate or potential candidate might have for hosting this type of show, from the station's perspective, the show would not amount to an unpaid "infomercial". 95 Op. Atty. Gen. 110 (May 24, 2010).

§ 13-102. Independent expenditures by an individual.

Except for a candidate, this title does not prohibit an individual who acts independently of any other person from:

- (1) expressing personal views on any subject; or
- (2) making an expenditure of personal funds to purchase campaign material. (An. Code 1957, art. 33, § 13-504(a); 2002, ch. 291, § 4.)

§ 13-103. Summary of campaign finance law; forms.

(a) *In general.* — (1) The State Board shall prepare a summary of the election law that relates to campaign finance activity and provide for distribution of the summary.

(2) When a certificate of candidacy is filed, the board receiving the certificate shall provide the candidate with:

- (i) a copy of the summary; and
- (ii) each form the candidate is required to file under this title.

(b) *Sample forms for local boards.* — The State Board shall provide to a local board samples of such of the forms required under this title as the local board may request. (An. Code 1957, art. 33, § 13-102; 2002, ch. 291, § 4.)

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party's later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the

show was created especially for a campaign purpose. Third, if the program appears to be part of the station's ordinary broadcasting business, sponsored by paid commercial advertisements, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any reason a candidate or potential candidate might have for hosting this type of show, from the station's perspective, the show would not amount to an unpaid "infomercial". 95 Op. Atty. Gen. 110 (May 24, 2010).

§ 13-104. Acceptance of electronic signature.

The State Board may accept an electronic signature for any form, document, report, or affidavit required by the State Board under this title. (2008, ch. 543.)

Editor's note. — Section 2, ch. 543, Acts 2008, provides that the act shall take effect July 1, 2008.

Subtitle 2. Campaign Finance Organization and Activity.

Part I. In General.

§ 13-201. Scope.

Unless otherwise provided by law, this subtitle applies to all campaign finance activity associated with an election under this article. (2002, ch. 291, § 4.)

Maryland Law Review. — For comment, “Maryland Campaign Finance Law: A Proposal for Reform,” see 47 Md. L. Rev. 524 (1988).

§ 13-202. Campaign finance entity required.

(a) *Prerequisite — Campaign finance activity.* — Unless otherwise expressly authorized by law, all campaign finance activity for an election under this article shall be conducted through a campaign finance entity.

(b) *Prerequisite — Candidacy.* — An individual may not file a certificate of candidacy until the individual establishes, or causes to be established, an authorized political committee. (An. Code 1957, art. 33, § 13-201(a)(1)(i), (ii); 2002, ch. 291, § 4; 2006, ch. 510.)

National political party convention delegate candidates. — Under a prior similar version of this section the provisions with respect to the filing and maintenance of a campaign treasurer did not apply to candidates for delegate to a major political party’s national nominating convention. 61 Op. Att’y Gen. 358 (1976).

Appointment of campaign treasurer. — A prior similar version of this section, requiring candidates for office to appoint a campaign treasurer, did not impose another qualification for the office of Governor in addition to those set forth in Article II, § 5 of the Maryland Constitution. Secretary of State v. McGucken, 244 Md. 70, 222 A.2d 693 (1966).

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party’s later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at

issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the show was created especially for a campaign purpose. Third, if the program appears to be part of the station’s ordinary broadcasting business, sponsored by paid commercial advertisements, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any reason a candidate or potential candidate might have for hosting this type of show, from the station’s perspective, the show would not amount to an unpaid “infomercial”. 95 Op. Atty. Gen. 110 (May 24, 2010).

Quoted in Ross v. State Bd. of Elections, 387 Md. 649, 876 A.2d 692 (2005).

§ 13-203. Campaign finance report required.

Each campaign finance entity shall comply with the reporting requirements of Subtitle 3 of this title. (An. Code 1957, art. 33, §§ 13-201(a)(1)(i), (e), 13-202(a); 2002, ch. 291, § 4.)

§§ 13-204, 13-205.

Reserved.

Part II. Organization.

§ 13-206. Personal treasurer.

Repealed by Acts 2006, ch. 510, § 1, effective January 1, 2007.

§ 13-207. Political committees — In general.

(a) *Applicability.* — This section applies to a political committee other than a political club.

(b) *Prerequisite to activity.* — A political committee may not receive or disburse money or any other thing of value unless the political committee is established in accordance with the requirements of this section.

(c) *Establishment.* — To establish a political committee:

(1) a chairman and a treasurer shall be appointed on a form that the State Board prescribes and that is signed by the chairman and treasurer and includes:

- (i) the residence addresses of the chairman and the treasurer; and
- (ii) the information required by § 13-208 of this subtitle; and

(2) the form shall be filed with the board where the political committee is required to file campaign finance reports.

(d) *Vacancy.* — (1) A chairman or treasurer of a political committee may resign by completing a resignation form that the State Board prescribes and filing the form with the board where the political committee was established.

(2) If a vacancy occurs in the office of chairman or the office of treasurer, the political committee promptly shall appoint a new chairman or treasurer in accordance with this section. (An. Code 1957, art. 33, § 13-202(a); 2002, ch. 291, § 4.)

Maryland Law Review. — For comment, “Maryland Campaign Finance Law: A Proposal for Reform,” see 47 Md. L. Rev. 524 (1988).

Candidate’s control over campaign funds. — A candidate may not be permitted to willfully exert unauthorized control over the property, namely funds, of his campaign com-

mittee with the purpose of depriving the committee of that property and the opportunity to promote the success of his candidacy; to do so would be “stealing” money from the campaign committee. *Cicoria v. State*, 89 Md. App. 403, 598 A.2d 771 (1991), aff’d, 332 Md. 21, 629 A.2d 742 (1993).

§ 13-208. Political committees — Statement of organization.

(a) *Scope.* — This section applies to a political committee other than a political club.

(b) *Requirement.* — A political committee shall provide, with the filing required by § 13-207(c) of this subtitle, a statement of organization that includes its name and a statement of purpose.

(c) *Statement of purpose.* — The statement of purpose shall specify:

(1) each candidate or ballot question, if any, that the political committee was formed to promote or defeat;

(2) the identity of each special interest, including any business or occupation, that the organizers of or contributors to the political committee have in common; and

(3) whether the political committee will participate in presidential, gubernatorial, Baltimore City, or multiple elections.

(d) *Name.* — (1) A political committee may not use a name that is intended or operates to deceive people as to the political committee's true nature or character.

(2) A political committee established by and for a single candidate shall disclose within the political committee's name the name of the candidate.

(3) A political committee sponsored by or affiliated with another entity or group shall identify within the political committee's name the other entity or group.

(e) *Supplemental information.* — A change in the information reported under this section shall be disclosed in the campaign finance report next filed by the political committee. (An. Code 1957, art. 33, § 13-202(c); 2002, ch. 291, § 4; ch. 303, § 2; 2006, ch. 510; 2007, ch. 449.)

§ 13-209. Slates.

(a) *In general.* — Two or more candidates who have established separate campaign finance entities may form a slate.

(b) *Joining.* — After establishing a campaign finance entity in accordance with § 13-202(b) of this subtitle, a candidate may join a slate.

(c) *Notice required.* — (1) To join a slate, a candidate shall file a written notice with the State Board.

(2) The notice shall specify:

(i) the name of the slate that the candidate has joined; and

(ii) the date on which the candidate joined the slate. (An. Code 1957, art. 33, § 13-201(e); 2002, ch. 291, § 4; 2010, ch. 72.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, substituted "State Board" for "board where the candidate filed a certificate of candidacy" in (c)(1).

§ 13-210. Lobbyists.

(a) *"Lobbyist" defined.* — In this section, "lobbyist" means a regulated lobbyist as described in the State Government Article.

(b) *Applicability of State Government Article.* — A lobbyist, or person acting on behalf of a lobbyist, may be subject to the limitations on campaign finance activity prescribed in the State Government Article. (2002, ch. 291, § 4.)

§ 13-211. Campaign finance entities — Subtreasurers.

Repealed by Acts 2010, ch. 471, § 1, effective June 1, 2010.

§ 13-212. Campaign manager.

An individual may appoint a campaign manager by:

- (1) completing a form that the State Board prescribes and that includes the name and address of that campaign manager; and
- (2) filing the form with the board where the individual is required to file a certificate of candidacy. (An. Code 1957, art. 33, § 13-201(c); 2002, ch. 291, § 4.)

§ 13-213.

Reserved.

Part III. Campaign Finance Officers — Responsibility, Qualifications, and Eligibility.

§ 13-214. Responsibility.

(a) *Joint and several liability of responsible officers.* — The responsible officers of a campaign finance entity are jointly and severally responsible for filing all campaign finance reports in full and accurate detail and for all other actions of the entity.

(b) *Notice to responsible officers.* — Notice shall be provided to a campaign finance entity by serving the responsible officers. (An. Code 1957, art. 33, § 13-401(c); 2002, ch. 291, § 4.)

Candidate's service as chairman of finance entity other than candidate's own committee. — State election law permits a candidate to serve as chairman of the candidate's own campaign finance entity. However, the 2002 recodification of the election law intro-

duced a significant question whether the General Assembly intended to bar a candidate from simultaneously serving as the chairman of other political committees. 90 Op. Att'y Gen. 187 (Dec. 5, 2005).

§ 13-215. Qualifications and eligibility.

(a) *Qualifications.* — Each chairman, treasurer, and campaign manager shall be a registered voter of the State.

(b) *Eligibility — Candidates.* — (1) Subject to paragraph (2) of this subsection, a candidate may not act:

- (i) as the treasurer of a campaign finance entity of the candidate; or
- (ii) with respect to any other campaign finance entity:

1. as the campaign manager or treasurer; or
2. in any other position that exercises general overall responsibility for the conduct of the entity.

(2) (i) An incumbent member of a central committee who is a candidate for election to party office may act as the treasurer of that central committee.

(ii) With respect to any campaign finance entity other than the candidate's own campaign finance entity, a candidate for delegate to the Democratic National Convention or a candidate for delegate to the Republican National Convention may act:

1. as the campaign manager or treasurer; or

2. in any other position that exercises general overall responsibility for the conduct of the entity.

(c) *Eligibility — Other campaign finance officers.* — Subject to subsection (b) of this section, the chairman, treasurer, or campaign manager of a campaign finance entity may serve as the chairman, treasurer, or campaign manager of another campaign finance entity. (An. Code 1957, art. 33, §§ 13-201(c), 13-202(a); 2002, ch. 291, § 4; 2004, ch. 64; 2010, ch. 471.)

Effect of amendments. — Chapter 471, Acts 2010, effective June 1, 2010, deleted “sub-treasurer” following “treasurer” or variant wherever it appears in (a), (b)(1)(i), (b)(1)(ii)1, (b)(2)(ii)1, and (c); and made related changes.

Candidate’s service as chairman of finance entity other than candidate’s own committee. — State election law permits a

candidate to serve as chairman of the candidate’s own campaign finance entity. However, the 2002 recodification of the election law introduced a significant question whether the General Assembly intended to bar a candidate from simultaneously serving as the chairman of other political committees. 90 Op. Att’y Gen. 187 (Dec. 5, 2005).

§§ 13-216, 13-217.

Reserved.

Part IV. Campaign Finance Activity and Records.

§ 13-218. Treasurer — Control of contributions and expenditures.

(a) *Contributions.* — All assets received by or on behalf of a campaign finance entity shall be:

(1) delivered to the treasurer; and

(2) maintained by the treasurer for the purposes of the campaign finance entity.

(b) *Disbursements — In general.* — (1) Assets of a campaign finance entity may be disbursed only:

(i) if they have passed through the hands of the treasurer; and

(ii) in accordance with the purposes of the entity.

(2) Subject to § 13-220(b)(2) and (c) of this subtitle and except as provided in subsection (d) of this section, the treasurer shall make all disbursements for the campaign finance entity.

(c) *Disbursements — Central committee.* — The treasurer of a State or county central committee of a political party may not make any disbursement of the central committee’s assets, or incur any liability on its behalf, without authority and direction from the chairman of the central committee.

(d) *Disbursements — Chairman of campaign finance entity.* — (1) If the treasurer of a campaign finance entity is temporarily unable to perform the duties of the office, the chairman of the campaign finance entity may make a disbursement on behalf of the campaign finance entity in the same manner as the treasurer.

(2) If the chairman makes a disbursement under this subsection, within 7 days after making the disbursement, the chairman shall submit a report to the treasurer for the account book of the campaign finance entity, including:

- (i) a statement of the expenditure made under the authority of the chairman;
 - (ii) the name and address of the person to whom the expenditure was made;
 - (iii) the purpose for which the expenditure was made; and
 - (iv) a copy of the receipt for the expenditure that was made.
- (3) A chairman who is a candidate may not make a disbursement for a campaign finance entity. (An. Code 1957, art. 33, §§ 13-202(a), 13-205(a), (c), 13-210(a), (b)(1); 2002, ch. 291, § 4; 2010, ch. 471.)

Effect of amendments. — Chapter 471, Acts 2010, effective June 1, 2010, added the exception in (b)(2); added (d); and made a related change.

Maryland Law Review. — For comment, “Maryland Campaign Finance Law: A Proposal for Reform,” see 47 Md. L. Rev. 524 (1988).

Responsibility of treasurer. — Under a prior similar version of this section, a treasurer was personally responsible for carrying out the duties set forth in the former Fair Election Practices Act (see now this title); therefore, a treasurer could not serve “in name only” and could not delegate any statutory responsibility to another person, including the candidate, except to duly appointed subtreasurers. 76 Op. Att’y Gen. 200 (July 26, 1991).

Responsibility of Treasurer. — Under a prior similar version of this section, a treasurer is personally responsible for carrying out the

duties set forth in the former Fair Election Practices Act (see now this title); therefore, a treasurer may not serve “in name only” and may not delegate any statutory responsibility to another person, including the candidate, except to duly appointed subtreasurers. 76 Op. Att’y Gen. 200 (July 26, 1991).

Definition of “contribution.” — More than just cash or checks are to be included within definition and regulation of political contributions. 63 Op. Att’y Gen. 263 (1978).

Contributions for administrative expenses not permissible. — If a campaign finance entity were to make a contribution (i.e., transfer) to a political party with the proviso that it could only be devoted to the party’s ongoing administrative expenses unrelated to any particular election, that expenditure would be for a nonelectoral purpose and would not be permissible. 92 Op. Att’y Gen. 92 (Aug. 6, 2007).

§ 13-219. Subtreasurer — Duties.

Repealed by Acts 2010, ch. 471, § 1, effective June 1, 2010.

§ 13-220. Campaign accounts.

(a) *Requirement.* — (1) Each campaign finance entity shall designate one or more campaign accounts.

(2) Each designated campaign account shall:

- (i) be in a financial institution; and
- (ii) be registered in a manner that identifies it as the account of a campaign finance entity.

(3) A campaign finance entity shall deposit all funds received in a designated campaign account.

(b) *Disbursements — In general.* — (1) Subject to paragraph (2) of this subsection and subsection (c) of this section, a campaign finance entity may not directly or indirectly make a disbursement except from a campaign account designated under subsection (a) of this section.

(2) A campaign finance entity, or a person authorized by the campaign finance entity, may pay an expense of the campaign finance entity from funds other than a campaign account if:

- (i) the expense is supported by a receipt that is provided to the campaign finance entity; and

(ii) the campaign finance entity reimburses the person who paid the expense from the campaign account and reports the expense as an expenditure of the campaign finance entity in accordance with Subtitle 3 of this title.

(c) *Petty cash fund.* — (1) A campaign finance entity may maintain a petty cash fund.

(2) The campaign finance entity shall maintain a separate account book for the petty cash fund.

(3) The petty cash fund:

(i) may not exceed \$250 at any time; and

(ii) may be replenished only by check from a campaign account designated under subsection (a) of this section.

(4) Not more than \$25 may be disbursed from the petty cash fund in a primary or general election to a single recipient.

(5) Each petty cash expenditure shall be supported by a receipt and reported by category on the appropriate campaign finance report.

(6) This subsection does not authorize an expenditure that otherwise is unlawful under this article.

(d) *Disbursement by check or electronic method.* — (1) A campaign finance entity may make a disbursement only by:

(i) check; or

(ii) an electronic method that the State Board authorizes by regulation.

(2) An electronic method of making a disbursement that the State Board authorizes under this subsection shall ensure that:

(i) the identity of the person making the disbursement may be verified;

(ii) the transaction is secure; and

(iii) there is an adequate record of the transaction. (An. Code 1957, art. 33, § 13-204(a)-(c); 2002, ch. 291, § 4; 2011, ch. 287.)

Effect of amendments. — Chapter 287, Acts 2011, effective October 1, 2011, deleted “by check” after “disbursement except” in (b)(1); in (b)(2)(ii) deleted “by check” after “paid the expense”; and added (d).

Candidate’s control over campaign funds. — A candidate may not be permitted to willfully exert unauthorized control over prop-

erty, namely funds, of his campaign committee with, the purpose of depriving the committee of that property and the opportunity to promote the success of his candidacy; to do so would be “stealing” money from the campaign committee. *Cicoria v. State*, 89 Md. App. 403, 598 A.2d 771 (1991), *aff’d*, 332 Md. 21, 629 A.2d 742 (1993).

§ 13-221. Books and records.

(a) *In general.* — (1) The treasurer of a campaign finance entity shall keep a detailed and accurate account book of all assets received, expenditures made, and obligations incurred by or on behalf of the entity.

(2) Except as provided in § 13-240 of this subtitle, as to each asset received or expenditure made, the account book shall state:

(i) its amount or value;

(ii) the date of the receipt or expenditure;

(iii) the name and address of the person from whom the asset was received or to whom the expenditure was made; and

(iv) a description of the asset received or the purpose for which the expenditure was made.

(3) Each expenditure made from a campaign account shall be supported by a receipt.

(b) *Retention.* — The account books and related records of a campaign finance entity shall be preserved until 2 years after the campaign finance entity files a final campaign finance report under Subtitle 3 of this title. (An. Code 1957, art. 33, § 13-206(a)(1), (2); 2002, ch. 291, § 4.)

Record keeping. — Money received at a fund-raising event must be identified at the time the contribution is made as being for one election or another, and it must be accounted for in connection with reports for that election. 58 Op. Att’y Gen. 266 (1973).

§ 13-222. Campaign contribution receipts.

(a) *In general.* — (1) On receiving and before depositing a contribution specified in paragraph (2) of this subsection, a treasurer or subtreasurer shall issue a campaign contribution receipt on the form that the State Board prescribes.

(2) A campaign contribution receipt shall be mailed or delivered to each person who:

- (i) makes one or more contributions, other than the purchase of tickets for a campaign event, in the cumulative amount of \$51 or more; or
- (ii) purchases one or more tickets for a campaign event:
 1. at a cost of \$51 or more per ticket; or
 2. in the cumulative amount of \$251 or more.

(3) At the request of a contributor, a treasurer or subtreasurer shall issue a campaign contribution receipt for any other contribution.

(4) A campaign contribution receipt issued under this section is evidence of the contribution.

(b) *Reporting of information.* — The information from a campaign contribution receipt shall be included in the campaign finance report filed by the treasurer or subtreasurer under this title. (An. Code 1957, art. 33, § 13-206(b)(1), (3), (4); 2002, ch. 291, § 4.)

Cross references. — For present provisions concerning the Maryland Charitable Solicitations Act, see § 6-101 et seq. of the Business Regulation Article.

Testimonial dinner versus political fundraiser. — A testimonial dinner may be distinguished from a political fundraiser by consideration of sponsorship, timing, advertising, and disposition of proceeds. 70 Op. Att’y Gen. 96 (1985).

Testimonial deemed political contribution. — Where a testimonial is for the purpose of raising funds for a future or past election

campaign, the funds raised are a political contribution regulated by statute and not a gift under the public ethics law. 71 Op. Att’y Gen. 108 (1986).

Simultaneous fund-raising events. — There is no legal bar to holding simultaneously two fund-raising events, one for a prior election and one for a future election, provided that the announcements and other publicity adequately distinguish the functions and the tickets are clearly labeled to identify their respective purposes, and the funds are kept segregated. 58 Op. Att’y Gen. 266 (1973).

§§ 13-223, 13-224.

Reserved.

Part V. Contributions — Limits.

§ 13-225. In general.

Except as otherwise provided by law, contributions may be made only in accordance with this Part V of this subtitle. (An. Code 1957, art. 33, § 13-212(b); 2002, ch. 291, § 4.)

Corporate donation for staff maintenance. — If a corporation donates money to a political party, with that money to be specifically set aside and used for maintaining the party's normal headquarters office and staff, the corporation has made a contribution for purposes of this article, but that contribution is not chargeable against the aggregate contribution limitation per election established by this section. 60 Op. Att'y Gen. 259 (1975).

§ 13-226. Contributions other than transfers.

(a) *Scope of section.* — The limits on contributions in this section do not apply to:

- (1) a contribution to a ballot issue committee; or
- (2) those contributions defined as transfers.

(b) *In general.* — Subject to subsection (c) of this section, a person may not, either directly or indirectly, in an election cycle make aggregate contributions in excess of:

- (1) \$4,000 to any one campaign finance entity; or
- (2) \$10,000 to all campaign finance entities.

(c) *Special limit for central committees.* — (1) Notwithstanding subsection (b) of this section, a central committee of a political party may make aggregate in-kind contributions during an election cycle that are not in excess of:

- (i) for a State central committee, \$1 for every two registered voters in the State; and
- (ii) for a local central committee, \$1 for every two registered voters in the county.

(2) For the purposes of paragraph (1) of this subsection, the number of registered voters is determined, regardless of party affiliation, as of the first day of the election cycle.

(d) *Multiple candidacies or entities.* — The limit on contributions to the campaign finance entity of a candidate applies regardless of the number of offices sought by the candidate or campaign finance entities formed to support the candidate.

(e) *Affiliated corporations.* — Contributions by a corporation and any wholly owned subsidiary of the corporation, or by two or more corporations owned by the same stockholders, shall be considered as being made by one contributor. (An. Code 1957, art. 33, §§ 13-212(a)(1), (2), (3)(i), (b), 13-214; 2002, ch. 291, § 4; 2004, ch. 144; 2010, ch. 72, § 5; 2011, ch. 287.)

Effect of amendments. — Chapter 287, Acts 2011, effective October 1, 2011, deleted (b)(2), redesignated accordingly, and made related changes.

Editor's note. — Pursuant to § 5, ch. 72,

Acts 2010, "wholly owned" was substituted for "wholly-owned" in (e).

Duty of committees to assist contributors. — Political committees, including continuing committees, have an obligation to assist

contributors in complying with the contribution limitations of this section. 70 Op. Att’y Gen. 96 (1985).

Contributor’s duty of inquiry regarding limitations. — A contributor to a political action committee is subject to the overall contribution limitation of a prior similar version of this section and has a duty of inquiry with respect to such limitation. 70 Op. Att’y Gen. 96 (1985).

Testimonial deemed political contribution. — Where a testimonial is for the purpose of raising funds for a future or past election campaign, the funds raised are a political contribution regulated by law and not a gift under the public ethics law. 71 Op. Att’y Gen. 108 (1986).

Expenditures incurred in expressing views. — Personal expenditures by individuals incurred in expression of purely personal political views are not subject to the limitations on contributions. 61 Op. Att’y Gen. 363 (1976).

Section inapplicable to campaigns for federal office. — This section may not be applied in any way to contributions given in connection with campaigns for federal office as federal law has fully preempted this field. 61 Op. Att’y Gen. 363 (1976).

State law is “fully preempted” by the Federal Election Campaign Act and may not be applied in any way to contributions given in connection with campaigns for federal office. 70 Op. Att’y Gen. 96 (1985).

If a contributor to a political action committee earmarks all or a portion of a contribution for use in a federal campaign, the contribution limitation in this section would be inapplicable to that contribution or portion thereof. 70 Op. Att’y Gen. 96 (1985).

Construction of “indirectly.” — Under a former similar provision, the term “indirectly” in former subsection (b) (now see subsection (a)) cannot be read so as to require that contributions by officers, directors or partners be automatically attributed to their respective corporations or partnerships, and vice versa. The business entity and its principals may each contribute up to the contribution limitation. The word “indirectly” does, however, comprehend any scheme or device designed to evade

the contribution limitation. 59 Op. Att’y Gen. 272 (1974).

Crediting debt. — If debt is or becomes a contribution, its full face value is counted in determining if the limitation upon campaign contributions has been violated. 62 Op. Att’y Gen. 385 (1977).

Contribution to political action committee. — Unless a contributor to a political action committee (PAC) specifically earmarks his or her contribution for a particular candidate, or has some other reason to believe that the contribution will in fact go to only one or a handful of candidates, the former \$1,000 campaign contribution limitation of former subsection (d) (now \$4,000) is inapplicable to PAC contributions. 70 Op. Att’y Gen. 96 (1985).

The full amount of an individual’s contribution to a State political action committee (PAC) would be chargeable against the contribution limitation in this section, even if a pro rata portion of the contribution was ultimately transferred to a federal PAC. 70 Op. Att’y Gen. 96 (1985).

Contributions used for nonelectoral purposes. — Under a prior similar version of this section, if a contributor specifies that his or her contribution is to be used for nonelectoral purposes, and if the committee segregates such funds, the contribution limitation in this section would be inapplicable. 70 Op. Att’y Gen. 96 (1985).

Corporate donation for staff maintenance. — If a corporation donates money to a political party, with that money to be specifically set aside and used for maintaining the party’s normal headquarters office and staff, the corporation has made a contribution for purposes of this article, but that contribution is not chargeable against the aggregate contribution limitation per election established by this section. 60 Op. Att’y Gen. 259 (1975).

Contributions for administrative expenses impermissible. — If a campaign finance entity were to make a contribution (i.e., transfer) to a political party with the proviso that it could only be devoted to the party’s ongoing administrative expenses unrelated to any particular election, that expenditure would be for a nonelectoral purpose and would not be permissible. 92 Op. Att’y Gen. 92 (Aug. 6, 2007).

§ 13-227. Transfers — Limits.

(a) *Scope.* — In this section, a “campaign finance entity” includes a nonfederal out-of-state political committee.

(b) *Applicability.* — The limit on transfers set forth in subsection (c) of this section does not apply to a transfer:

- (1) by a campaign finance entity to a ballot issue committee;
- (2) between or among:

(i) political committees that are State or local central committees of the same political party;

(ii) a slate and the campaign finance entities of its members; and

(iii) the campaign finance entities of a candidate.

(c) *In general.* — During an election cycle, a campaign finance entity may not directly or indirectly make transfers in a cumulative amount of more than \$6,000 to any one other campaign finance entity.

(d) *Affiliated transferors or transferees.* — (1) All affiliated campaign finance entities are treated as a single entity in determining:

(i) the amount of transfers made by a campaign finance entity; and

(ii) the amount of transfers received by a campaign finance entity.

(2) Campaign finance entities are deemed to be affiliated if they:

(i) are organized and operated in coordination and cooperation with each other; or

(ii) otherwise conduct their operations and make their decisions relating to transfers and other contributions under the control of the same individual or entity.

(e) *Multiple candidacies.* — The limit on transfers to the campaign finance entities of a candidate prescribed in subsection (c) of this section applies regardless of the number of offices sought by the candidate. (An. Code 1957, art. 33, §§ 13-212(a)(3)(i), 13-213(a)-(e), 13-214; 2002, ch. 291, § 4.)

Applicability of transfer exemption. — “committees,” and “candidates” that are in compliance with the Fair Election Practices Act (see now this title.) 70 Op. Att’y Gen. 96 (1985).
The “transfer” exemption of this section is available only to Maryland-based “treasurers,”

§ 13-228. Transfers — By political action committee to candidate.

A political action committee that makes a transfer to the campaign finance entity of a candidate or to a slate shall:

(1) display its official name, as filed with the State Board under this subtitle, in a prominent place on the face of the check by which the funds are transferred; and

(2) include in a prominent place on the face of the check the words “political action committee” or the notation “PAC”, to indicate that the transferor is a political action committee. (An. Code 1957, art. 33, § 13-213(f)(2); 2002, ch. 291, § 4.)

§ 13-229. Transfers — Prohibited.

A transfer is not allowed if it is intended to conceal the source of the funds or the intended recipient. (An. Code 1957, art. 33, § 13-213(f)(1); 2002, ch. 291, § 4.)

§ 13-230. Loans.

(a) *Treatment — In general.* — A loan to a campaign finance entity is considered a contribution in the amount of the outstanding principal balance of the loan unless:

EL, § 13-230

REGISTRATION AND ELECTION LAWS

(1) the loan is from a financial institution or other entity in the business of making loans; or

(2) the loan is to the campaign finance entity of a candidate and:

(i) repayment of the loan is personally guaranteed by the candidate; and

(ii) the election cycle immediately following the election cycle in which the loan was made has not ended.

(b) *Treatment — Uncharged interest.* — (1) Subject to subsection (c)(2) of this section, uncharged interest on a loan is a contribution.

(2) Uncharged interest is the amount by which, during a reporting period, the interest actually charged on the loan is less than the interest on the loan computed at the prime rate applicable on the day the loan was made.

(c) *Required terms.* — (1) Subject to paragraph (2) of this subsection, the terms of a loan to a campaign finance entity shall:

(i) be in writing;

(ii) include the lender's name, address, and signature;

(iii) state the schedule for repayment of the loan;

(iv) state the interest rate of the loan; and

(v) be attached to the campaign finance report required of the entity under Subtitle 3 of this title for the reporting period during which the loan was made.

(2) (i) A loan by a candidate or the candidate's spouse to a campaign finance entity of the candidate is not required to comply with paragraph (1) of this subsection.

(ii) Unless a loan by a candidate or the candidate's spouse to a campaign finance entity of the candidate complies with paragraph (1) of this subsection:

1. the loan may not accrue interest;

2. any interest foregone on the loan is not a contribution under subsection (b) of this section; and

3. the campaign finance entity is not subject to:

A. § 13-310 (a) and (b) of this title so long as the loan has an outstanding principal balance; and

B. subsection (a) (2) (ii) of this section.

(d) *Required terms — Loans to campaign finance entity of a candidate.* — (1) A loan may not be made to a campaign finance entity of a candidate, or accepted on behalf of the entity, without the express written consent of the candidate.

(2) The written consent of the candidate constitutes the personal guarantee of the candidate for repayment of the loan only if the document expressly so provides.

(3) A copy of the candidate's written consent shall be:

(i) furnished to the lender when the loan is made; and

(ii) attached to the campaign finance report required of the entity under Subtitle 3 of this title for the reporting period during which the loan was made. (An. Code 1957, art. 33, §§ 13-207(b), 13-208; 2002, ch. 291, § 4; ch. 303, § 2.)

Maryland Law Review. — For article discussing regulation of campaign finance, see 19 Md. L. Rev. 91 (1959).

For comment, “Maryland Campaign Finance Law: A Proposal for Reform,” see 47 Md. L. Rev. 524 (1988).

§ 13-231. Personal funds — Use by candidate or spouse.

(a) *Certain uses not subject to contribution limits.* — (1) Contributions or loans to a campaign finance entity of a candidate from the personal funds of the candidate or the candidate’s spouse are not subject to the contribution limits under § 13-226 of this subtitle.

(2) Expenditures from personal funds by the candidate or the candidate’s spouse for personal expenses of the candidate for filing fees, telecommunication services, travel, and food are not contributions.

(b) *Accounting by treasurer required.* — A contribution or loan to a campaign finance entity of a candidate by the candidate or the candidate’s spouse shall pass through the hands of the treasurer of the entity and be reported in accordance with Subtitle 3 of this title. (An. Code 1957, art. 33, § 13-207(a); 2002, ch. 291, § 4.)

Personal contributions. — The recipient of a bona fide nonelectoral gift from a testimonial dinner may subsequently donate a sum

equal to that gift to his or her own campaign. 70 Op. Att’y Gen. 96 (1985).

§ 13-232. Contributions — When deemed received.

(a) *In general.* — Except as provided in subsection (b) of this section, a contribution is attributable to the election cycle in which it is received.

(b) *Checks.* — A contribution by check is attributable to the election cycle in which the check is issued. (An. Code 1957, art. 33, § 13-212(a)(3)(ii); 2002, ch. 291, § 4.)

§ 13-233. Right of individual to volunteer.

This Part V of this subtitle does not affect the right of an individual to:

(1) volunteer the individual’s time or, for transportation incident to an election, personal vehicle; or

(2) pay reasonable legal expenses associated with maintaining or contesting the results of an election. (An. Code 1957, art. 33, § 13-210(b)(2); 2002, ch. 291, § 4.)

§ 13-234. Method of money contribution.

(a) *In general.* — A contribution of money may be made only by:

(1) check;

(2) credit card;

(3) cash, if the contribution does not exceed \$100; or

(4) an electronic method that the State Board authorizes by regulation.

(b) *Electronic method.* — An electronic method of making a contribution that the State Board authorizes under this section shall ensure that:

(1) the identity of the person making the contribution may be verified;

(2) the transaction is secure; and

(3) there is an adequate record of the transaction. (2011, ch. 287.)

Editor's note. — Section 2, ch. 287, Acts 2011, provides that the act shall take effect October 1, 2011.

Part VI. Contributions — Prohibitions.

§ 13-235. During General Assembly session.

(a) *Scope of section.* — This section applies to the following officials:

- (1) the Governor;
- (2) the Lieutenant Governor;
- (3) the Attorney General;
- (4) the Comptroller; and
- (5) a member of the General Assembly.

(b) *Prohibition.* — Except as provided in subsection (c) or (d) of this section, during a regular session of the General Assembly an official described in subsection (a) of this section, or a person acting on behalf of the official, may not, as to a candidate for federal, State, or local office, or a campaign finance entity of the candidate or any other campaign finance entity organized under this title and operated in coordination with a candidate:

- (1) receive a contribution;
- (2) conduct a fund-raising event;
- (3) solicit or sell a ticket to a fund-raising event; or
- (4) deposit or use any contribution of money that was not deposited prior to the session.

(c) *Exception — Candidate for federal or local government office.* — An official described in subsection (a) of this section, or a person acting on behalf of the official, is not subject to this section when engaged in activities solely related to the official's election to an elective federal or local office for which the official is a filed candidate.

(d) *Exception — Contribution from Fair Campaign Financing Fund.* — Under the Public Financing Act, a gubernatorial ticket, during the year of the election only, may accept eligible private contributions and any disbursement of funds by the State Board that is based on the eligible private contributions.

(e) *Violations.* — (1) As to a violation of this section, the campaign finance entity of the official in violation is liable for a civil penalty as provided in this subsection.

(2) The State Board, represented by the State Prosecutor, may institute a civil action in the circuit court for any county seeking the civil penalty provided in this subsection.

(3) A campaign finance entity that receives a contribution as a result of the violation shall:

- (i) refund the contribution to the contributor; and
- (ii) pay a civil penalty that equals the sum of \$1,000 plus the amount of the contribution. (An. Code 1957, art. 33, § 13-215; 2002, ch. 291, § 4; 2003, ch. 380.)

§ 13-236. State funded entities.

An entity that at any time during an election cycle derives the majority of its operating funds from the State may not make a contribution to any campaign finance entity during that election cycle. (An. Code 1957, art. 33, § 13-212(c); 2002, ch. 291, § 4.)

§§ 13-237, 13-238.

Reserved.

Part VII. Contributions — Miscellaneous Provisions.

§ 13-239. Anonymous contributions — In general.

Except as provided in § 13-240 of this subtitle, if a campaign finance entity receives a contribution from an anonymous source, the campaign finance entity:

- (1) may not use the contribution for any purpose; and
- (2) shall remit the contribution to the State Treasurer. (An. Code 1957, art. 33, § 13-206(c); 2002, ch. 291, § 4.)

§ 13-240. Anonymous contributions — Money received from gaming activity.

(a) *Scope.* — This section applies to a spin or chance on a paddle wheel or wheel of fortune that is authorized under the laws of this State to operate at a campaign fund-raising event.

(b) *In general.* — Notwithstanding § 13-239 of this subtitle or any other law that prohibits an anonymous contribution, a political committee may accept money received from the sale of a spin or chance, and need not identify the individual purchaser in its account book, if:

- (1) the account book of the political committee includes:
 - (i) the net amount received by the political committee at the event at which the sale was made; and
 - (ii) the name and address of each individual who attended the event;
- (2) no spin or chance is sold at the event for more than \$2;
- (3) the net income of the sponsoring political committee from spins and chances at the event does not exceed \$1,500 in a 24-hour period; and
- (4) the total receipts of the sponsoring political committee from spins and chances in that election do not exceed \$2,500.

(c) *Proceeds in excess of limits.* — If a political committee raises funds in excess of a limit specified in this section, the political committee shall:

- (1) donate the excess to a charity of its choice; or
- (2) identify in its account book the amount received from each individual who purchased a spin or chance.

(d) *Regulations.* — The State Board shall adopt regulations to implement this section. (An. Code 1957, art. 33, § 13-206(a)(3)-(5); 2002, ch. 291, § 4; ch. 303, § 2.)

Maryland Law Review. — For comment, “Maryland Campaign Finance Law: A Proposal for Reform,” see 47 Md. L. Rev. 524 (1988).

Raffles. — With respect to the raffles permitted under former Article 27, § 261D (see now § 12-106(b) of the Criminal Law Article), the record keeping requirements in subsection (a) of a prior similar version of this section must be complied with. 71 Op. Att’y Gen. 120 (1986).

Gaming wheel proceeds. — Under a prior

similar version of this section, the proceeds of gaming wheels are not excused from the record keeping requirements in subsection (a); however, those who have already held gaming events and who in good faith concluded that they were authorized to conduct the event in the traditional way — using cash, without individual records — should not be subject to penalty. 71 Op. Att’y Gen. 120 (1986).

§ 13-241. Payroll deductions — In general.

(a) *Establishment of program for collection by payroll deductions.* — An employer may establish a program for collecting from employees by means of payroll deductions voluntary contributions to one or more campaign finance entities selected by the employer.

(b) *Segregated escrow account.* — Periodic contributions collected by payroll deductions under a program established under subsection (a) of this section shall be combined and accumulated in a segregated escrow account maintained solely for that purpose.

(c) *Records.* — An employer shall keep detailed and accurate records of each payroll deduction made under subsection (a) of this section, including:

- (1) the name of the contributor;
- (2) the date on which the contribution is withheld;
- (3) the amount of the contribution; and
- (4) the disposition of the contribution.

(d) *Transmission of contribution.* — Within 3 months after withholding a contribution under this section, the employer shall transmit the contribution to the appropriate campaign finance entity, together with the information recorded under subsection (c) (1), (2), and (3) of this section.

(e) *Solicitation.* — In soliciting an employee to make a contribution to a campaign finance entity by payroll deduction, an employer shall inform the employee of:

- (1) the political purposes of the campaign finance entity; and
- (2) the employee’s right to refuse to contribute to the campaign finance entity without reprisal.

(f) *Prohibited acts.* — An employer may not receive or use money or anything of value under this section if it is obtained:

- (1) by actual or threatened:
 - (i) physical force;
 - (ii) job discrimination; or
 - (iii) financial reprisal; or
- (2) as:
 - (i) a result of a commercial transaction; or
 - (ii) dues, fees, or other assessment required as a condition of membership in a labor organization or employment. (2002, ch. 416.)

Editor’s note. — Chapter 416, Acts 2002, redesignated former § 13-241 of this article to be present § 13-242 of this article.

§ 13-242. Payroll deductions — Employee membership entities.

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

(2) “Affiliated political action committee” means a political action committee affiliated with an employee membership entity.

(3) “Employee membership entity” means an organization whose membership includes employees of the employer.

(b) *In general.* — If an employer withholds from employees by payroll deduction the employees’ dues to an employee membership entity:

(1) the employee also may make contributions by payroll deduction to one or more affiliated political action committees selected by the employee; and

(2) the employer shall collect the contributions and transmit them to the employee membership entity designated by the employee in accordance with the requirements of subsection (c) of this section.

(c) *Separate account.* — Periodic contributions collected by payroll deductions pursuant to a program established under subsection (b) of this section shall be:

(1) combined and accumulated in a segregated escrow account maintained solely for that purpose; and

(2) transmitted to the employee membership entity within 30 days of being withheld, together with the information required under subsection (d)(1) through (4) of this section.

(d) *Records.* — An affiliated political action committee, in conjunction with its employee membership entity and the employer, shall keep detailed and accurate records of each contribution under subsection (b) of this section, including:

(1) the name of the contributor;

(2) the date on which the contribution was made;

(3) the amount of the contribution;

(4) the name of the affiliated political action committee designated by the employee to receive the contribution; and

(5) the date on which the contribution was received by the employee membership entity and the affiliated political action committee.

(e) *Transmittal of contributions — Employer program.* — (1) Within 30 days after it receives a contribution under subsection (c) of this section, the employee membership entity shall transmit the contribution:

(i) to its affiliated political action committee; or

(ii) if a contribution is designated for a political action committee affiliated with a State or local chapter of the employee membership entity, to the State or local chapter of the employee membership entity.

(2) Within 5 days after it receives a contribution under paragraph (1)(ii) of this subsection, the State or local chapter of the employee membership entity shall transmit the contribution to its affiliated political action committee.

(3) An employee membership entity, including a State or local chapter, that transfers contributions in accordance with paragraph (1) or (2) of this

subsection shall include the information recorded under subsection (d) of this section that is received from the employer.

(f) *Prohibited acts.* — An employer, employee membership entity, or affiliated political action committee, may not solicit, receive, or use employee contributions in a manner that would be prohibited under § 13-241(e) and (f) of this subtitle if performed by an employer. (An. Code 1957, art. 33, § 13-211(a), (b), (c)(1), (2)(i)-(iii), (d), (e); 2002, ch. 19, § 10; ch. 291, § 4; ch. 303, § 2; ch. 416; 2003, ch. 21, § 1; ch. 456; 2010, ch. 72, § 5.)

Editor's note. — Chapter 416, Acts 2002, redesignated former § 13-241 of this article to be present § 13-242 of this article, and redesignated former § 13-242 of this article to be § 13-243 of this article. Pursuant to § 5, ch. 72, Acts 2010, “paragraph” was substituted for “paragraphs” in (e)(3).

§ 13-243. Collections by membership entities.

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

(2) “Membership entity” means an organization that collects dues from its members.

(3) “Affiliated political action committee” means a political action committee affiliated with a membership entity.

(b) *Collection of contributions.* — A membership entity may establish a program for periodically collecting from its members and accumulating voluntary contributions by the members to an affiliated political action committee if those contributions are collected together with:

(1) membership dues invoiced and collected by the membership entity; or

(2) contributions by the members to a political action committee established under federal law, if that political action committee is also affiliated with the membership entity.

(c) *Record keeping.* — A membership entity shall keep detailed and accurate records of each contribution received under subsection (b) of this section, including:

(1) the name of the contributor;

(2) the date on which the contribution is withheld;

(3) the amount of the contribution; and

(4) the disposition of the contribution.

(d) *Transmittal of contributions.* — Within 30 days after being received, a contribution under this section shall be transmitted by the membership entity, with the information recorded under subsection (c) (1), (2), and (3) of this section, to its affiliated political action committee.

(e) *Solicitation requirements.* — In soliciting a member, by joint invoice for membership dues or for a contribution to an affiliated federal political action committee, to make a contribution to its affiliated political action committee, a membership entity shall inform the member of:

(1) the political purposes of the affiliated political action committee; and

(2) the member's right to refuse to contribute to the political action committee without reprisal.

(f) *Prohibited acts.* — An employee membership entity or its affiliated political action committee entity may not receive or use money or anything of value under this section if it is obtained:

- (1) by actual or threatened:
 - (i) physical force;
 - (ii) membership discrimination; or
 - (iii) financial or professional reprisal; or

(2) as dues, fees, or other assessment required as a condition of membership. (An. Code 1957, art. 33, § 13-211.1; 2002, ch. 291, § 4; ch. 303, § 2; ch. 416.)

Editor's note. — Chapter 416, Acts 2002, transferred former § 13-242 of this article to be § 13-243 of this article.

§ 13-244.

Reserved.

Part VIII. Expenditures — Miscellaneous Provisions.

§ 13-245. Prohibited expenditures.

(a) *Definitions.* — In this section, “walk-around services” means the following activities if performed for money while the polls are open:

- (1) distributing campaign material;
- (2) stationing a person, including oneself, or an object in the path of a voter;
- (3) electioneering or canvassing as described in § 16-206 of this article;
- (4) communicating in any other manner a voting preference or choice; or
- (5) performing any other service as a poll worker or distributor of sample ballots.

(b) *Scope.* — This section does not apply to:

- (1) meals, beverages, and refreshments served to campaign workers;
- (2) salaries of regularly employed personnel in campaign headquarters;
- (3) media advertising, including newspaper, radio, television, billboard, or aerial advertising;
- (4) rent and regular office expenses; or
- (5) the cost of telephoning voters or transporting voters to and from polling places.

(c) *Prohibition.* — (1) A campaign finance entity, or a person acting on its behalf, may not at any time, directly or indirectly, pay or incur an obligation to pay, and a person may not, directly or indirectly, receive any money or thing of value, for a political endorsement.

(2) (i) A campaign finance entity, or a person acting on its behalf, that pays any person for walk-around services shall make all payments by check from a campaign account designated under § 13-220(a) of this subtitle.

(ii) All payments made under subparagraph (i) of this paragraph shall be reported in accordance with § 13-304 of this title. (An. Code 1957, art. 33, § 13-209; 2002, ch. 291, § 4; 2004, ch. 264.)

Constitutionality. — Former §§ 26-9.2 (b) and 26-17 (a) of former Article 33 (see now this section and §§ 13-401, 13-402 of this title) are unconstitutional and may not be enforced against individuals who independently produce campaign material; however, these provisions may continue to be enforced against candidates and treasurers, political committees and other entities, and individuals who produce material in coordination with them. 80 Op. Att’y Gen. 110 (May 16, 1995).

To the extent that former Article 33, § 13-209, recodified as this section, limited the ability of candidates to get their message out on election day by prohibiting them or their committees to pay persons to perform walk-around services such as distributing sample ballots, it violated the free speech guarantees of the First

Amendment and Article 40 of the Declaration of Rights; the State failed to carry its burden of showing that the provision was narrowly tailored to address the conceded powerful public interest in avoiding election fraud. *State v. Brookins*, 380 Md. 345, 844 A.2d 1162 (2004).

Providing meals, beverages, refreshments. — The provisions of a prior similar version of this section must be construed to permit candidates, political committees, political parties and those acting on their behalf only to provide meals, beverages, and refreshments for their campaign workers’ consumption on election day, but not to permit the distribution of cash to those workers so that they may purchase or be reimbursed for these items. 64 Op. Att’y Gen. 141 (1979).

§ 13-246. Presentation of claim for payment.

A person who claims that money is due from a campaign finance entity shall present a claim for payment to the treasurer or subtreasurer not later than 30 days after the election for which the liability was incurred. (An. Code 1957, art. 33, § 13-205(b); 2002, ch. 291, § 4.)

§ 13-247. Disposition of surplus funds.

After all campaign expenditures have been made and before filing a final campaign finance report under Subtitle 3 of this title, any remaining balance in the account of a campaign finance entity shall be returned pro rata to the contributors or paid to:

- (1) if the campaign finance entity is a personal treasurer or a political committee formed to support a candidate or act for a political party:
 - (i) the State central committee of the political party:
 1. of which the candidate is a member; or
 2. for which the political committee is acting;
 - (ii) the local central committee of the political party:
 1. of which the candidate is a member in a county in which the candidate resides or which the candidate seeks to represent; or
 2. for which the political committee is acting;
 - (iii) the board of education of a county in which the candidate resides or which the candidate seeks to represent;
- (2) a nonprofit organization that provides services or funds for the benefit of pupils or teachers;
- (3) a charitable organization registered or exempt from registration under the Maryland Charitable Solicitations Act; or
- (4) a public or private institution of higher education in the State if:
 - (i) that institution possesses a certificate of approval from the Maryland Higher Education Commission; and
 - (ii) the payment is designated for use by the institution solely to award scholarships, grants, or loans to students attending the institution. (An. Code 1957, art. 33, § 13-206(d); 2002, ch. 291, § 4.)

Application of statute. — Under a prior similar version of this section, a political committee is still subject to provisions governing disposition of surplus funds even several years after the election so long as its books remain open; surplus funds must thus be distributed before the committee files its final report as mandated by § 26-11 of former Article 33 (see now Subtitle 4 of this title). 63 Op. Att’y Gen. 273 (1978).

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party’s later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehi-

cle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the show was created especially for a campaign purpose. Third, if the program appears to be part of the station’s ordinary broadcasting business, sponsored by paid commercial advertisements, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any reason a candidate or potential candidate might have for hosting this type of show, from the station’s perspective, the show would not amount to an unpaid “infomercial”. 95 Op. Att’y Gen. 110 (May 24, 2010).

Subtitle 3. General Reporting Requirements.

Part I. General Provisions.

§ 13-301. Application.

In this subtitle, the provisions that apply to a “campaign finance entity” also apply to a campaign entity located outside the State with regard to all expenditures within the State. (An. Code 1957, art. 33, §§ 13-202(b), 13-401(h); 2002, ch. 291, § 4.)

§§ 13-302, 13-303.

Reserved.

Part II. Reporting Requirements.

§ 13-304. Reports to the State Board or a local board.

(a) *Requirement.* — (1) From the date of its organization until its termination under the provisions of this title, a campaign finance entity, except a political club, shall file a campaign finance report at the State Board at the times and for the periods required by §§ 13-309, 13-312, and 13-316 of this subtitle.

(2) A campaign finance report submitted using an electronic format shall:

- (i) be made under oath or affirmation;
- (ii) require an electronic signature from the treasurer at the time of the filing of the campaign finance report; and
- (iii) be made subject to the penalties for perjury.

(b) *Content.* — A campaign finance report filed by a campaign finance entity under subsection (a) of this section shall include the information required by the State Board with respect to all contributions received and all expenditures

made by or on behalf of the campaign finance entity during the designated reporting period.

(c) *Continuing requirement for candidates.* — A campaign finance report prescribed by this subtitle for the campaign finance entity of a candidate is required whether or not:

- (1) the candidate files a certificate of candidacy;
- (2) the candidate withdraws, declines a nomination, or otherwise ceases to be a candidate;
- (3) the candidate's name appears on the primary ballot; or
- (4) the candidate is successful in the election. (An. Code 1957, art. 33, § 13-401(a), (d)(1), (e); 2002, ch. 291, § 4; 2003, ch. 21, § 1; 2007, ch. 449; 2008, ch. 543; 2010, ch. 72.)

Effect of amendments. — Chapter 543, Acts 2008, effective July 1, 2008, added (a)(2) and made related changes.

Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, substituted “at the State Board at the times and for the periods” for “at the times, for the periods, and at the locations” in (a)(1).

No perjury where statement not required. — Candidate could not, as a matter of law, be convicted of perjury under this section based upon a campaign fund report submitted by the campaign committee which bore his signature as candidate where the report submitted by the candidate and the committee's treasurer was not a report required to be filed by former § 26-11 (see now this section), which requires the committee chairman and treasurer to file campaign committee reports. *Oaks v. State*, 83 Md. App. 1, 573 A.2d 392 (1990).

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party's later campaign. Several

objective, content-neutral factors may be of special relevance. First, if the radio show at issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the show was created especially for a campaign purpose. Third, if the program appears to be part of the station's ordinary broadcasting business, sponsored by paid commercial advertisements, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any reason a candidate or potential candidate might have for hosting this type of show, from the station's perspective, the show would not amount to an unpaid “infomercial”. 95 Op. Atty. Gen. 110 (May 24, 2010).

Quoted in *Ross v. State Bd. of Elections*, 387 Md. 649, 876 A.2d 692 (2005).

§ 13-305. Exception to filing requirements.

(a) *Affidavit.* — Instead of filing a report required under § 13-309 of this subtitle, a treasurer may file an affidavit stating that the campaign finance entity has not raised or spent a cumulative amount of \$1,000 or more, exclusive of the filing fee, and regardless of the balance of the campaign account, since:

- (1) establishing the campaign finance entity; or
- (2) filing the campaign finance entity's last campaign finance report.

(b) *Time period for filing.* — The affidavit shall be filed on or before the date a campaign finance report is due to be filed under § 13-309 of this subtitle.

(c) *Election to central committee of political party.* — (1) This subsection only applies to a campaign finance entity of a candidate for election to the central committee of a political party that is authorized under subsection (a) of

this section to file an affidavit instead of filing a campaign finance report on a date specified in § 13-309(a) of this subtitle.

(2) Subject to paragraph (3) of this subsection, a campaign finance entity subject to this subsection is not required to file an affidavit under this section or a campaign finance report on a date specified in § 13-309(a) of this subtitle.

(3) A campaign finance entity subject to this subsection shall file an affidavit under subsection (a) of this section or a campaign finance report on the date specified in § 13-309(c) of this subtitle. (2008, ch. 543; 2010, ch. 409.)

Effect of amendments. — Chapter 36, Acts 2008, approved April 8, 2008, and effective from date of enactment, in (e) substituted “subsection” for “subsections” and “subtitle” for “title”.

Chapter 409, Acts 2010, effective July 1, 2010, added (c).

Editor’s note. — Section 1, ch. 543, Acts 2008, effective July 1, 2008, repealed former § 13-305 and enacted a new section in lieu thereof.

Section 2, ch. 543, Acts 2008, provides that the act shall take effect July 1, 2008.

Section 4, ch. 36, Acts 2008, approved April 8,

2008, and effective from date of enactment, provides that “the provisions of this Act are intended solely to correct technical errors in the law and there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.”

Chapters 36 and 543, Acts 2008, both affected this section. Neither of the chapters referred to the other. The amendments by ch. 36 will not appear following the repeal of the section and enactment of a new one by ch. 543.

(Section effective December 1, 2011.)

§ 13-306. Independent expenditure report.

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

(2) *“Donation” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person that is made for the purpose of furthering independent expenditures.*

(3) *“Mass mailing” means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.*

(4) (i) *“Person” includes an individual, a partnership, a committee, an association, a corporation, a labor organization, or any other organization or group of persons.*

(ii) *“Person” does not include a campaign finance entity organized under Subtitle 2, Part II of this title.*

(5) (i) *“Public communication” means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.*

(ii) *“Public communication” does not include:*

1. *a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, satellite television or radio provider, Web site, newspaper, magazine, or other periodical publication, including any Internet or electronic publication, that is not controlled by a candidate or political party; or*

2. *a candidate debate or forum.*

(6) “Telephone bank” means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(b) *In general.* — After a person makes aggregate independent expenditures of \$10,000 or more in an election cycle for campaign material that is a public communication, the person shall file an independent expenditure report as required in this section.

(c) *Material related to candidate and ballot.* — (1) If the campaign material relates to a candidate, the person shall file an independent expenditure report with the State Board on the next date a campaign finance entity of a candidate is required to file a campaign finance report under § 13-309 of this subtitle.

(2) If the campaign material relates to a ballot issue, the person shall file an independent expenditure report with the State Board on the next date a ballot issue committee is required to file a campaign finance report under § 13-309 of this subtitle.

(3) An independent expenditure report filed under this subsection shall include the information required by subsection (e) of this section for the period from the beginning of the election cycle through the last day of the reporting period under § 13-312 of this subtitle that precedes the report filing date.

(d) *Additional report.* — (1) A person who files an independent expenditure report under subsection (c) of this section shall file an additional independent expenditure report following a date on which the person makes aggregate independent expenditures of \$10,000 or more for campaign material that is a public communication following the closing date of the person’s previous independent expenditure report.

(2) An independent expenditure report under this subsection shall:

(i) be filed with the State Board on the date specified in subsection (c)(1) and (2) of this section; and

(ii) include the information required by subsection (e) of this section for the period from the closing date of the previous independent expenditure report through the last day of the reporting period under § 13-312 of this subtitle that precedes the report filing date.

(e) *Contents.* — An independent expenditure report shall include the following information:

(1) the identity of the person making the independent expenditures and of any person exercising direction or control over the activities of the person making the independent expenditures;

(2) the business address of the person making the independent expenditures;

(3) the amount and date of each independent expenditure during the period covered by the report and the person to whom the expenditure was made;

(4) the candidate or ballot issue to which the independent expenditure relates and whether the independent expenditure supports or opposes that candidate or ballot issue; and

(5) the identity of each person who made cumulative donations in excess of \$51 to the person making the independent expenditures during the period covered by the report.

(f) *Execution of contract to make independent expenditure.* — For purposes of this section, a person shall be considered to have made an independent

expenditure if the person has executed a contract to make an independent expenditure.

(g) *Cost of campaign material.* — The cost of creating and disseminating campaign material, including any design and production costs, shall be considered in determining the aggregate amount of independent expenditures made by a person for campaign material that is a public communication under this section.

(h) *Who shall sign and file report.* — The treasurer or other individual designated by an entity required to file an independent expenditure report under this section:

(1) shall sign each independent expenditure report; and

(2) is responsible for filing independent expenditure reports in full and accurate detail.

(i) *Failure to file report.* — (1) An individual is subject to the sanctions that apply to the responsible officers of a campaign finance entity under Part VII of this subtitle for failure to file properly an independent expenditure report.

(2) The failure to provide on an independent expenditure report all of the information required by this section is deemed a failure to file and renders the report overdue as provided in § 13-327(b) of this subtitle.

(j) *Additional requirements.* — (1) An entity required to file an independent expenditure report under this section shall do at least one of the following, unless neither are applicable to the entity:

(i) if the entity submits regular, periodic reports to its shareholders, members, or donors, include in each report, in a clear and conspicuous manner, the information specified in subsection (e)(3) through (5) of this section for each independent expenditure made during the period covered by the report that must be included in an independent expenditure report; or

(ii) if the entity maintains an Internet site, post on that Internet site a hyperlink from its homepage to the Internet site where the entity's independent expenditure report information is publicly available.

(2) An entity shall post the hyperlink required under paragraph (1)(ii) of this subsection within 24 hours of the entity's independent expenditure report information being made publicly available on the Internet, and the hyperlink shall remain posted on the entity's Internet site until the end of the election cycle during which the entity filed an independent expenditure report.

(k) *Detailed and accurate records.* — (1) A person required to file an independent expenditure report under this section shall keep detailed and accurate records of:

(i) all independent expenditures made by the person for campaign material that is a public communication; and

(ii) all donations received by the person that are for the purpose of furthering independent expenditures for campaign material that is a public communication.

(2) Records required to be kept under this subsection shall be preserved for 2 years after the end of the election cycle in which the person filed the independent expenditure report to which the records relate.

(l) *Regulations.* — The State Board may adopt regulations as necessary to implement the requirements of this section.

(2011, ch. 575.)

Editor's note. — Section 2, ch. 575, Acts 2011, provides that “only independent expenditures or disbursements for an electioneering communication made after the effective date of this Act shall be considered in determining whether a person has made the aggregate amount of independent expenditures or dis-

bursements for electioneering communications that subjects the person to the requirements of this Act.”

Section effective December 1, 2011. — Section 4, ch. 575, Acts 2011, provides that the act shall take effect December 1, 2011.

(Section effective December 1, 2011.)

§ 13-307. Electioneering communication report.

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

(2) *“Donation” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person that is made for the purpose of furthering electioneering communications.*

(3) (i) *“Electioneering communication” means a broadcast, cable, or satellite communication that:*

1. *refers to a clearly identified candidate or ballot issue;*
2. *is made within 60 days of an election day on which the candidate or ballot issue is on the ballot;*
3. *is capable of being received by 50,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot; and*
4. *is not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.*

(ii) *“Electioneering communication” does not include:*

1. *an independent expenditure;*
2. *a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider that is not controlled by a candidate or political party;*
3. *a candidate debate or forum; or*
4. *a communication that proposes a commercial transaction.*

(iii) *For purposes of this paragraph, “clearly identified” means:*

1. *the name of a candidate appears;*
2. *a photograph or drawing of a candidate appears; or*
3. *the identity of a candidate or ballot issue is apparent by unambiguous reference.*

(4) (i) *“Person” includes an individual, a partnership, a committee, an association, a corporation, a labor organization, or any other organization or group of persons.*

(ii) *“Person” does not include a campaign finance entity organized under Subtitle 2, Part II of this title.*

(b) In general. — *After a person makes aggregate disbursements of \$10,000 or more in an election cycle for electioneering communications, the person shall file an electioneering communication report as required in this section.*

(c) *Material related to candidate or ballot.* — (1) *If the electioneering communications relate to a candidate, the person shall file an electioneering communication report with the State Board on the next date a campaign finance entity of a candidate is required to file a campaign finance report under § 13-309 of this subtitle.*

(2) *If the electioneering communications relate to a ballot issue, the person shall file an electioneering communication report with the State Board on the next date a ballot issue committee is required to file a campaign finance report under § 13-309 of this subtitle.*

(3) *An electioneering communication report filed under this subsection shall include the information required by subsection (e) of this section for the period from the beginning of the election cycle through the last day of the reporting period under § 13-312 of this subtitle that precedes the report filing date.*

(d) *Additional report.* — (1) *A person who files an electioneering communication report under subsection (c) of this section shall file an additional electioneering communication report following a date on which the person makes aggregate disbursements of \$10,000 or more for electioneering communications following the closing date of the person's previous electioneering communication report.*

(2) *An electioneering communication report under this subsection shall:*

(i) *be filed with the State Board on the date specified in subsection (c)(1) and (2) of this section; and*

(ii) *include the information required by subsection (e) of this section for the period from the closing date of the previous electioneering communication report through the last day of the reporting period under § 13-312 of this subtitle that precedes the report filing date.*

(e) *Contents.* — *An electioneering communication report shall include the following information:*

(1) *the identity of the person making disbursements for electioneering communications and of any person exercising direction or control over the activities of the person making the disbursements for electioneering communications;*

(2) *the business address of the person making the disbursements for electioneering communications;*

(3) *the amount and date of each disbursement for electioneering communications during the period covered by the report and the person to whom the disbursement was made;*

(4) *the candidate or ballot issue to which the electioneering communications relate;*

(5) *the identity of each person who made cumulative donations in excess of \$51 to the person making the disbursements for electioneering communications during the period covered by the report.*

(f) *Execution of contract to make independent expenditure.* — (1) *For purposes of this section, a person shall be considered to have made a disbursement for an electioneering communication if the person has executed a contract to make a disbursement for an electioneering communication.*

(2) A person who makes a contribution to a campaign finance entity may not be considered to have made a disbursement for electioneering communications under this section because of the contribution.

(g) *Cost of communications.* — The cost of creating and disseminating electioneering communications, including any design and production costs, shall be considered in determining the aggregate amount of disbursements for electioneering communications made by a person under this section.

(h) *Who shall sign and file report.* — The treasurer or other individual designated by an entity required to file an electioneering communication report under this section:

(1) shall sign each electioneering communication report; and

(2) is responsible for filing electioneering communication reports in full and accurate detail.

(i) *Failure to file.* — (1) An individual is subject to the sanctions that apply to the responsible officers of a campaign finance entity under Part VII of this subtitle for failure to file properly an electioneering communication report.

(2) The failure to provide on an electioneering communication report all of the information required by this section is deemed a failure to file and renders the report overdue as provided in § 13-327(b) of this subtitle.

(j) *Additional requirements.* — (1) An entity required to file an electioneering communication report under this section shall do at least one of the following, unless neither are applicable to the entity:

(i) if the entity submits regular, periodic reports to its shareholders, members, or donors, include in each report in a clear and conspicuous manner, the information specified in subsection (e)(3) through (5) of this section for each disbursement for electioneering communications made during the period covered by the report that must be included in an electioneering communication report; or

(ii) if the entity maintains an Internet site, post on that Internet site a hyperlink from its homepage to the Internet site where the entity's electioneering communication report information is publicly available.

(2) (i) An entity shall post the hyperlink required under paragraph (1)(ii) of this subsection within 24 hours of the entity's electioneering communication report information being made publicly available on the Internet.

(ii) The hyperlink shall remain posted on the entity's Internet site until the end of the election cycle during which the entity filed an electioneering communication report.

(k) *Detailed and accurate records.* — (1) A person required to file an electioneering communication report under this section shall keep detailed and accurate records of:

(i) all disbursements for electioneering communications made by the person; and

(ii) all donations received by the person that are for the purpose of furthering electioneering communications.

(2) Records required to be kept under this subsection shall be preserved until 2 years after the end of the election cycle in which the person filed the electioneering communication report to which the records relate.

(l) *Regulations.* — *The State Board may adopt regulations as necessary to implement the requirements of this section.*
(2011, ch. 575.)

Editor's note. — Section 2, ch. 575, Acts 2011, provides that “only independent expenditures or disbursements for an electioneering communication made after the effective date of this Act shall be considered in determining whether a person has made the aggregate amount of independent expenditures or dis-

bursements for electioneering communications that subjects the person to the requirements of this Act.”

Section effective December 1, 2011. — Section 4, ch. 575, Acts 2011, provides that the act shall take effect December 1, 2011.

§ 13-308.

Reserved.

Part III. Deadlines and Reporting Periods.

§ 13-309. Filing deadlines — In general.

(a) *Filing schedule — All campaign finance entities.* — Subject to other provisions of this subtitle, a campaign finance entity shall file campaign finance reports as follows:

(1) except for a ballot issue committee, on or before the fourth Tuesday immediately preceding each primary election except a presidential primary election;

(2) except for a ballot issue committee, on or before the second Friday immediately preceding a primary election;

(3) for a ballot issue committee only, on or before the fourth Friday immediately preceding a general election;

(4) on or before the second Friday immediately preceding a general election; and

(5) on or before the third Tuesday after a general election.

(b) *Additional deadlines — Campaign finance entities other than continuing political committees.* — (1) A campaign finance entity is subject to subsection (a) of this section and this subsection only as to the election in which the entity designates that it will participate.

(2) In addition to the campaign finance reports required under subsection (a) of this section, but subject to paragraph (4) of this subsection, a campaign finance entity shall file campaign finance reports on the third Wednesday in January.

(3) (i) If subsequent to the filing of its declaration under § 13-208(c)(3) of this title, a campaign finance entity participates in an election in which it was not designated to participate, the campaign finance entity shall file all campaign reports prescribed under subsection (a) of this section for that election.

(ii) A violation of subparagraph (i) of this paragraph constitutes a failure to file by the campaign finance entity, and the responsible officer is guilty of a misdemeanor and on conviction is subject to the penalties prescribed under Part VII of this subtitle.

(4) If a campaign finance entity has neither a cash balance nor an outstanding obligation at the end of a reporting period, a campaign finance report for that period, clearly marked as “final”, shall be filed on or before the due date, and no further report is required.

(c) *Additional deadlines — Continuing political committees.* — In addition to the campaign reports required under subsection (a) of this section, a continuing political committee shall file a campaign finance report on the third Wednesday in January of each year the committee is in existence. (An. Code 1957, art. 33, § 13-401(a)(1)-(7), (b), (d)(1), (e); 2002, ch. 291, § 4; ch. 483, § 2; 2006, chs. 40, 510; 2007, chs. 219, 449; 2008, ch. 543; 2010, ch. 409.)

Effect of amendments. — Chapter 543, Acts 2008, effective July 1, 2008, reenacted the section without change.

Chapter 409, Acts 2010, effective July 1, 2010, inserted (a)(3) and redesignated accordingly.

Editor’s note. — Section 10, ch. 4, Acts 2007 Sp. Sess., contingent on November, 2008, referendum, as amended by § 1, ch. 620, Acts 2008, provides that:

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

“(2) ‘Ballot issue committee’ has the meaning stated in § 1-101(f) of the Election Law Article.

“(3) ‘Campaign finance report’ means a report, statement, affidavit, or other document that is:

“(i) authorized or required under the Election Law Article or this Act;

“(ii) related to the campaign finance activities of a campaign finance entity or a business entity;

“(iii) filed or submitted on a form prescribed by the State Board under the Election Law Article or this Act.

“(4) ‘Campaign material’ has the meaning stated in § 1-101(k) of the Election Law Article.

“(5) ‘Expenditure’ means a gift, transfer, disbursement, or promise of money or a thing of value by or on behalf of a campaign finance entity or business entity to promote the success or defeat of the constitutional amendment proposed by Chapter 5 (S.B. 4/H.B. 4) of the Acts of the General Assembly of the Special Session of 2007.

“(b) A ballot issue committee that is formed to promote the success or defeat of the constitutional amendment proposed by Chapter 5 (S.B. 4/H.B. 4) of the Acts of the General Assembly of the Special Session of 2007 shall file, in addition to the campaign finance reports required under § 13-309 of the Election Law Article, a campaign finance report on or before the fourth Friday immediately preceding the 2008 general election.

“(c) A person that makes cumulative expenditures that total more than \$10,000 to promote the success or defeat of the constitutional

amendment proposed by Chapter 5 (S.B. 4/H.B. 4) of the Acts of the General Assembly of the Special Session of 2007 shall:

“(1) within 7 days of making cumulative expenditures more than \$10,000, file on a form prescribed by the State Board of Elections:

“(i) the name of the person;

“(ii) the name of the individual who directs the expenditures and who assumes responsibility and liability for filing campaign finance reports as required under Title 13, Subtitle 3 of the Election Law Article and this Act;

“(iii) the business address of the person; and

“(iv) whether the person is expending funds to support or oppose the constitutional amendment;

“(2) after filing the form required under item (1) of this subsection, file all campaign finance reports on the same dates, in the same manner, and subject to the same sanctions, as required for a ballot issue committee under Title 13, Subtitle 3 of the Election Law Article and this Act; and

“(3) except for an individual who uses personal funds and acts independently of others in making expenditures subject to this subsection, include the information required under § 13-401 of the Election Law Article on all campaign material published or distributed by the person to promote the success or defeat of the constitutional amendment proposed by Chapter 5 (S.B. 4/H.B. 4) of the Acts of the General Assembly of the Special Session of 2007.”

Section 11, ch. 4, Acts 2007 Sp. Sess. provides that “Section 10 of this Act shall take effect January 1, 2008, contingent on the passage of Chapter 5 (S.B. 4/H.B.4) of the Acts of the General Assembly of the Special Session of 2007.” Chapter 5 was enacted by the Special Session on November 19, 2007, subject to referendum on November 4, 2008. The measure was approved on November 4, 2008. The Governor issued a proclamation verifying the election results on November 24, 2008, effective November 25, 2008.

Maryland Law Review. — For comment, “Maryland Campaign Finance Law: A Proposal for Reform,” see 47 Md. L. Rev. 524 (1988).

No end to duty to report. — Outstanding deficits of a campaign committee or candidate's treasury are to be reported annually until no deficit remains, and there is no end to the duty to report implied or contemplated in this section. 62 Op. Att'y Gen. 385 (1977).

Provisions applicable to officeholder only when candidate. — An entity that benefits an incumbent solely in his or her capacity as an officeholder, but does not aid the incumbent

as a candidate, is not governed by this subtitle. 68 Op. Att'y Gen. 252 (1983).

Failure to file improperly charged. — Charge of failure to file a report of a campaign committee was improperly laid against a candidate who was neither the chairman nor treasurer of the committee as required by subsection (b) of a prior similar section. *Oaks v. State*, 83 Md. App. 1, 573 A.2d 392 (1990).

§ 13-310. Filing deadlines — Final report required.

(a) *Applicability.* — This section applies to the campaign finance entity of an individual if:

(1) the individual is not a filed candidate or the incumbent in any office filled by an election under this article; and

(2) the entity has funds remaining after the payment of all outstanding debts and other obligations.

(b) *Requirement.* — A campaign finance entity shall terminate and file a final campaign finance report within 8 years after the latest of:

(1) the end of the individual's most recent term of office;

(2) the date of the election in which the individual last was a filed candidate; and

(3) the payment of the final debt or other obligation of the entity that was incurred in connection with that candidacy. (An. Code 1957, art. 33, § 13-401(a-1)(1), (2); 2002, ch. 291, § 4.)

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party's later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the

show was created especially for a campaign purpose. Third, if the program appears to be part of the station's ordinary broadcasting business, sponsored by paid commercial advertisements, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any reason a candidate or potential candidate might have for hosting this type of show, from the station's perspective, the show would not amount to an unpaid "infomercial". 95 Op. Atty. Gen. 110 (May 24, 2010).

§ 13-311. Final report — Disposal of funds.

Before a campaign finance entity files a final campaign finance report, the entity shall pay all outstanding obligations and dispose of all of its remaining assets in accordance with § 13-247 of this title. (An. Code 1957, art. 33, § 13-401(a-1)(3); 2002, ch. 291, § 4; 2004, ch. 25.)

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a

former State Governor as an illegal contribution to the party's later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at

issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the show was created especially for a campaign purpose. Third, if the program appears to be part of the station's ordinary broadcasting business, sponsored by paid commercial advertise-

ments, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any reason a candidate or potential candidate might have for hosting this type of show, from the station's perspective, the show would not amount to an unpaid "infomercial". 95 Op. Atty. Gen. 110 (May 24, 2010).

§ 13-312. Reporting periods.

(a) *Campaign finance reports under § 13-304.* — Campaign finance reports filed under § 13-304 of this subtitle shall cover the following reporting periods:

(1) the first campaign finance report shall cover the period from the date of organization of the campaign finance entity through the day specified in item (3) of this subsection;

(2) each subsequent campaign finance report shall cover the period from the closing date of the previous campaign finance report through the day specified in item (3) of this subsection;

(3) (i) except as provided in item (ii) of this item, each campaign finance report shall cover the period that includes the seventh day before the day the campaign finance report is due; but

(ii) the campaign finance report that is required on or before the second Friday immediately preceding an election shall cover the period through and including the preceding Sunday; and

(4) if no contribution is received and no expenditure is made during the period covered by a campaign finance report, the campaign finance entity shall file a campaign finance report or an affidavit under § 13-305 of this subtitle to that effect.

(b) *Campaign finance report preceded by affidavit.* — A campaign finance report preceded by an affidavit filed in accordance with this subtitle shall cover the period from the closing date of the previous campaign finance report or date of organization of the campaign finance entity through the day specified in subsection (a)(3) of this section. (An. Code 1957, art. 33, § 13-401(a); 2002, ch. 291, § 4; 2007, ch. 449; 2008, ch. 543; 2010, ch. 72, § 5.)

Effect of amendments. — Chapter 543, Acts 2008, effective July 1, 2008, added "or an affidavit under § 13-305 of this subtitle" in (a)(4); and added (b) and made related changes.

Editor's note. — Pursuant to § 5, ch. 72, Acts 2010, "of this subsection" was substituted for "of this section" in (a)(1) and (a)(2).

Radio broadcasts did not constitute illegal contributions to later political campaign. — The State Board of Elections should decline to treat radio broadcasts featuring a former State Governor as an illegal contribution to the party's later campaign. Several objective, content-neutral factors may be of special relevance. First, if the radio show at

issue significantly pre-dates the current campaign season, it is unlikely that a court would find the station created the program as a vehicle to promote an actual or prospective candidacy. Second, a live call-in show featuring political discussion that is similar in format to other broadcasts regularly aired by the station would tend to negate an inference that the show was created especially for a campaign purpose. Third, if the program appears to be part of the station's ordinary broadcasting business, sponsored by paid commercial advertisements, that, too, makes it unlikely the program would be deemed a contribution to a particular campaign. In such circumstances, it would not

appear that a station has donated to a campaign free air-time for which it would ordinarily charge a fee. Therefore, regardless of any reason a candidate or potential candidate

might have for hosting this type of show, from the station's perspective, the show would not amount to an unpaid "infomercial". 95 Op. Atty. Gen. 110 (May 24, 2010).

§ 13-313. Termination of campaign finance entity by the State Board.

(a) *In general.* — The State Board may terminate a campaign finance entity if the State Board determines that good cause exists and that:

- (1) the campaign finance entity could be terminated under § 13-309(b)(4) of this subtitle except for the existence of one or more outstanding obligations and each of those obligations is more than 5 years old;
- (2) no responsible officer currently is appointed and serving; or
- (3) other extenuating circumstances exist to justify terminating the campaign finance entity.

(b) *Enforcement actions unaffected.* — The termination of a campaign finance entity under this section does not limit the right of:

- (1) the State Board, or the State Prosecutor or the State's Attorney, to pursue an enforcement action against the former responsible officers of, or any candidate formerly affiliated with, the campaign finance entity; or
- (2) a creditor to bring an action against the former responsible officers of, or any candidate affiliated with, the campaign finance entity. (An. Code 1957, art. 33, § 13-401(a-2); 2002, ch. 291, § 4.)

Provisions applicable to officeholder only when candidate. — An entity that benefits an incumbent solely in his or her capacity as an officeholder, but does not aid the incumbent as a candidate, is not governed by this subtitle. 68 Op. Atty Gen. 252 (1983).

No end to duty to report. — Outstanding deficits of a campaign committee or candidate's treasury are to be reported annually until no deficit remains, and there is no end to the duty to report implied or contemplated in this section. 62 Op. Atty Gen. 385 (1977).

Continuing committee. — "Committee which continues in existence from year to year" means committees which intend from the outset to continue to exist and be active, not just for one election year but from year to year and from election to election. 63 Op. Atty Gen. 273 (1978).

Intent of committee. — Whether a political committee is one "which continues in existence from year to year" is largely a question of the committee's intent at the time of its organization, which intent is demonstrated by the committee's activity. 63 Op. Atty Gen. 273 (1978).

Retroactive designation of "continuing."

— There is no prohibition against a committee retroactively designating itself as "continuing" if that was its intent from the outset. 63 Op. Atty Gen. 273 (1978).

Distribution of surplus funds by committee required before filing final report.

— If a political committee was formed to support a candidate in a given election year, even if its books should remain open for several years after his election in order to pay election debts, it was governed by former § 26-7 (d) of former Article 33 (see now § 13-247 of this article) and must distribute surplus funds as required by that section before it filed its final report as required by a prior similar version of this section. 63 Op. Atty Gen. 273 (1978).

Improper distribution of surplus funds.

— To permit campaign committee to distribute surplus funds to "continuing committee" would be to permit it to circumvent the clear filing and reporting requirements which form the heart of the Fair Election Practices Act (see now this title.) 63 Op. Atty Gen. 273 (1978).

§§ 13-314, 13-315.

Reserved.

Part IV. Place of Filing.

§ 13-316. Filing location.

A campaign finance report required by § 13-304 of this subtitle shall be filed with the State Board. (An. Code 1957, art. 33, § 13-401(a), (d)(1), (e); 2002, ch. 291, § 4; 2006, ch. 510.)

§ 13-317. Local board filings — In duplicate.

Repealed by Acts 2010, ch. 72, § 1, enacted April 13, 2010, and effective from date of enactment.

§§ 13-318, 13-319.

Reserved.

Part V. Implementing Provisions.

§ 13-320. Forms.

The State Board shall prescribe the forms for the campaign finance reports and other documents required by this subtitle. (An. Code 1957, art. 33, § 13-402(a); 2002, ch. 291, § 4.)

§ 13-321. Notice.

(a) *Duty of board.* — (1) In accordance with paragraph (2) of this subsection, the State Board shall notify each campaign finance entity that is required under this subtitle to file campaign finance reports of each campaign finance report required to be filed by that entity.

(2) The notice shall be provided by first class mail at least 10 but not more than 20 days before the filing date for each campaign finance report.

(b) *Information to be included.* — The notice required under subsection (a) of this section shall include:

(1) the filing date;

(2) the telephone number, business hours, and location of the State Board; and

(3) the penalty for failure to file a timely campaign finance report. (An. Code 1957, art. 33, § 13-401(f); 2002, ch. 291, § 4; 2010, ch. 72.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, in (a)(1) substituted “the State Board” for “each board” and deleted “with

that board” following “finance reports”; and substituted “State Board” for “board where the campaign finance report is to be filed” in (b)(2).

§ 13-322. Timeliness.

A campaign finance report is timely if:

(1) regardless of when it is received, the United States Postal Service has affixed a mark on the envelope or on a receipt verifying that the campaign finance report was mailed on or before the filing deadline; or

(2) it is received by the State Board within 3 days after the filing deadline and a private postal meter postmark or a receipt by a private carrier verifies that the campaign finance report was mailed or delivered to the private carrier on or before the filing deadline. (An. Code 1957, art. 33, § 13-401(g)(1); 2002, ch. 291, § 4; 2010, ch. 72.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, deleted “or the local board with which it is required to be filed” following “State Board” in (2).

§ 13-323. Receipt.

A board shall provide a receipt for a campaign finance report that is hand-delivered. (An. Code 1957, art. 33, § 13-401(g)(2); 2002, ch. 291, § 4.)

§ 13-324. Electronic filing.

(a) *In general.* — (1) Except as provided in paragraph (2) of this subsection, campaign finance reports required to be filed with the State Board shall be submitted using an electronic storage medium, and in a format, that the State Board approves.

(2) The State Board may exempt a campaign finance entity with de minimis financial activity from the requirement to submit campaign finance reports using an electronic medium.

(b) *Provision of media.* — On request the State Board shall supply to a person who is required to file campaign finance reports using an electronic medium the computer software and the disks or other media on which the required information is to be entered.

(c) *Maintenance of records.* — Campaign finance reports received by the State Board in an electronic storage format shall be maintained in accordance with § 13-341 of this subtitle.

(d) *Public access.* — The State Board shall make the campaign finance reports that are maintained in an electronic storage format under subsection (c) of this section widely and easily accessible to the public:

(1) using any existing public or private systems for data dissemination;

(2) on terms that the State Board determines are consistent with the purposes and requirements of this article; and

(3) by making any computer disk submitted by a person available for duplication.

(e) *Compliance.* — The State Board may refuse to accept or process a campaign finance report that is not submitted in accordance with the requirements of this section.

(f) *Specifications and regulations.* — The State Board shall:

(1) develop specifications for submitting campaign finance reports using an electronic medium; and

(2) adopt regulations to implement this section. (An. Code 1957, art. 33, § 13-402(c)(2), (d)(1)(ii), (2), (3), (e)(1), (2), (f); 2002, ch. 291, § 4.)

§§ 13-325, 13-326.

Reserved.

Part VI. Violations.

§ 13-327. Failure to file — In general.

(a) *In general.* — A campaign finance entity that fails to file a campaign finance report or affidavit required by this subtitle is subject to the sanctions provided in Part VII of this subtitle.

(b) *Failure to provide required information.* — The failure to provide on a campaign finance report required by § 13-304 of this subtitle all of the information required of the campaign finance entity by the State Board under this subtitle is deemed a failure to file and renders the campaign finance report overdue, only if:

(1) the State Board notifies the responsible officers in writing of the particular deficiencies; and

(2) the responsible officers fail to file a properly corrected campaign finance report within 30 days after service of the notice. (An. Code 1957, art. 33, § 13-403(d); 2002, ch. 291, § 4; 2009, ch. 458.)

Effect of amendments. — Chapter 458, Acts 2009, effective October 1, 2009, added “or affidavit” in (a).

§ 13-328. Failure to file — Lists of violators.

(a) *In general.* — Within 10 days after the deadline for the filing of any campaign finance report that is required to be filed with the State Board, the State Board shall compile a list of the campaign finance entities that failed to file the campaign finance report and distribute the list, or a portion of the list, to such local boards as is required to implement this subtitle.

(b) *Failure to provide required information.* — For the purposes of subsection (a) of this section, the failure to provide on a campaign finance report all of the information required of the campaign finance entity by the State Board under this subtitle is deemed a failure to file. (An. Code 1957, art. 33, §§ 13-401(i), (j), 13-403(c); 2002, ch. 291, § 4; 2010, ch. 72.)

Effect of amendments. — Chapter 72, Acts 2010, enacted April 13, 2010, and effective from date of enactment, deleted (a)(2) and (c) and redesignated accordingly

§§ 13-329, 13-330.

Reserved.

Part VII. Sanctions.

§ 13-331. Late filing fees.

(a) *Imposition.* — In accordance with subsection (b) of this section, the State

Board shall assess a late filing fee for a failure to file a campaign finance report or affidavit, as specified in § 13-327 of this subtitle.

(b) *Amount of fee.* — (1) The fee is \$10 for each day or part of a day, excluding Saturdays, Sundays, and holidays, that a campaign finance report or affidavit is overdue.

(2) An additional fee of \$10 is due for each of the first 6 days, excluding Saturdays, Sundays, and holidays, that a preelection campaign finance report under § 13-309 of this subtitle is overdue.

(3) The maximum fee payable for a campaign finance report or affidavit is \$250.

(c) *Acceptance of overdue reports.* — (1) The State Board shall accept an overdue campaign finance report or affidavit that is submitted without payment of the late filing fee, but the campaign finance report is not considered filed until the fee has been paid.

(2) After an overdue campaign finance report or affidavit is received under paragraph (1) of this subsection no further late filing fee shall be incurred.

(d) *Responsibility for payment.* — A late filing fee is the joint and several liability of the responsible officers and:

(1) may not be paid, directly or indirectly, by the campaign finance entity; and

(2) is neither a contribution to nor an expenditure of the entity. (An. Code 1957, art. 33, § 13-403(a); 2002, ch. 291, § 4; 2009, ch. 458.)

Effect of amendments. — Chapter 458, Acts 2009, effective October 1, 2009, added “or affidavit” throughout the section; in (a) and (c)(1) substituted “the State Board” for “a board”; and in (b)(3) substituted “a campaign” for “any single campaign.”

§ 13-332. Disqualification — Eligibility to be candidate or treasurer.

An individual may not become a candidate for any public or party office in this State or become a treasurer for a campaign finance entity if, as to any campaign finance report due under § 13-304 of this subtitle from, or on behalf of, that individual during the preceding five calendar years:

(1) there exists a failure to file as specified in § 13-327 of this subtitle; or

(2) the individual has failed to pay a late filing fee that is due. (An. Code 1957, art. 33, § 13-403(b); 2002, ch. 291, § 4.)

Quoted in *Ross v. State Bd. of Elections*, 387 Md. 649, 876 A.2d 692 (2005).

§ 13-333. Disqualification — Assuming office.

(a) *In general.* — An individual who, within the meaning of § 13-327 of this subtitle, has failed to file a campaign finance report that is due from, or on behalf of, that individual, may not, until the individual corrects the failure to file:

(1) be deemed to be elected to a public or party office in this State;

(2) take the oath or otherwise assume the duties of the office; or

(3) receive any salary or compensation for the office.

EL, § 13-334

REGISTRATION AND ELECTION LAWS

(b) *Certification by State Board.* — An official of the State or any of its political subdivisions may not issue a commission or administer an oath of office to an individual until that official receives certification from the State Board that all campaign finance reports due under § 13-304 of this subtitle from, or on behalf of, that individual have been filed. (An. Code 1957, art. 33, § 13-403(e); 2002, ch. 291, § 4.)

§ 13-334. Forfeiture of salary.

(a) *Scope.* — This section applies to each individual holding public office in this State who is subject to prosecution under § 13-335(b) of this subtitle.

(b) *Investigation.* — The State Board shall:

(1) investigate each circumstance that causes an individual to become subject to this section;

(2) notify the individual; and

(3) provide the individual an opportunity to be heard.

(c) *Garnishment.* — If the State Board determines, after an opportunity for a hearing, that the individual has failed to file a campaign finance report within the meaning of § 13-327 of this subtitle, was provided notice under § 13-335 of this subtitle, and has not rectified the failure and paid any late filing fee due, the State Board shall direct the appropriate financial officer to withhold the salary of the individual as to that public office until:

(1) the failure to file is rectified and any late filing fee is paid; and

(2) any salary previously paid to the individual for the public office while the individual was in violation is restored to the State or local government involved. (An. Code 1957, art. 33, § 13-403(f); 2002, ch. 291, § 4.)

§ 13-335. Referral for prosecution.

(a) *Show cause notice.* — (1) If the State Board determines that there has been, for more than 30 days, a failure to file a campaign finance report within the meaning of § 13-327 of this subtitle, the State Board shall issue the notice prescribed in paragraph (2) of this subsection to the responsible officers of the campaign finance entity in violation.

(2) The notice shall demand that, within 30 days after service of the notice, either:

(i) the failure to file be rectified and any late filing fee due be paid; or

(ii) the responsible officers show cause why the State Board should not ask the appropriate prosecuting authority to prosecute the responsible officers for a violation of this subtitle.

(3) In its discretion, the appropriate prosecuting authority may refer the matter for action to the Central Collection Unit within the Department of Budget and Management.

(b) *Penalty.* — A responsible officer who fails, without cause, to file the campaign finance report and pay the late fee within 30 days after service of the notice prescribed in subsection (a)(2) of this section is guilty of a misdemeanor and on conviction is subject to the penalties prescribed in § 13-603 of this title. (An. Code 1957, art. 33, § 13-403(c); 2002, ch. 291, § 4; 2006, ch. 66.)

§ 13-336. Provisions mandatory.

Subject to § 13-337 of this subtitle, the provisions of Part VI and this Part VII of this subtitle and the provisions of this subtitle governing the filing of campaign finance reports are mandatory and not directory. (An. Code 1957, art. 33, § 13-403(h)(1); 2002, ch. 291, § 4.)

§ 13-337. Relief from sanctions.

(a) *Judicial determination.* — A sanction may not be imposed for failure to file a campaign finance report or to pay a late filing fee if a court of competent jurisdiction finds just cause for the failure.

(b) *Administrative waiver of late filing fee.* — (1) On request of a responsible officer subject to the assessment of a late filing fee and with the approval of the State Board, the State Administrator may waive the late filing fee for just cause.

(2) The decision of the State Administrator on a waiver request shall be in writing and state the circumstances surrounding the late filing and the reasons for the decision.

(3) The State Administrator may make a decision on a waiver request without notice or hearing. (An. Code 1957, art. 33, § 13-403(h)(1)-(3); 2002, ch. 291, § 4.)

§§ 13-338, 13-339.

Reserved.

Part VIII. Administrative Procedures.

§ 13-340. Distribution of fees.

Fees relating to campaign finance reports shall be paid to the State Board and be applied to pay the expenses of collection and of any audits of campaign finance reports performed by or at the direction of the State Administrator. (An. Code 1957, art. 33, § 13-403(g); 2002, ch. 291, § 4; 2006, ch. 510.)

§ 13-341. Retention of documents.

(a) *Requirement.* — (1) Each board shall receive and preserve all campaign finance reports that are required to be filed with it under this article.

(2) Subject to paragraph (3) of this subsection, the campaign finance reports received by a board shall be kept as part of its records for:

(i) a period not to exceed 5 years after the campaign finance report is filed; or

(ii) a longer period if required by a court of competent jurisdiction or the State Board by regulation.

(3) (i) Notwithstanding paragraph (2) of this subsection, if the campaign finance report is that of a campaign finance entity of a candidate, the board shall keep the campaign finance report as a part of its records for at least 1

EL, § 13-401

REGISTRATION AND ELECTION LAWS

year after the expiration of the term of the public or party office for which the candidate sought nomination or election.

(ii) Subparagraph (i) of this paragraph applies whether or not:

1. the candidate is nominated, elected, or completes the term of office;
- and
2. the campaign finance report relates to more than one candidate.

(b) *Public access.* — Campaign finance reports shall be open for public inspection during the regular office hours of the board that retains them.

(c) *Transfer to State Archives.* — Subject to subsection (a) of this section, a board shall transfer the campaign finance reports filed with it to the State Archives.

(d) *Overdue reports — Separate record.* — (1) Before transferring a campaign finance report to the State Archives, a board shall make a record of any overdue campaign finance report from the same campaign finance entity and submit a copy of the record to the State Archives and, if made by a local board, to the State Board.

(2) The record shall include:

- (i) the name of the campaign finance entity;
- (ii) the name of the treasurer;
- (iii) an identification of the missing campaign finance report; and
- (iv) if no later campaign finance report has been filed by the entity, the amount of any outstanding balance, and any outstanding obligations, shown on the last campaign finance report filed.

(e) *Evidence.* — A copy of a campaign finance report may be used as evidence in a court in accordance with § 10-204 of the Courts Article. (An. Code 1957, art. 33, § 13-404; 2002, ch. 291, § 4.)

Subtitle 4. Campaign Materials.

Part I. General Provisions.

§ 13-401. Authority line.

(a) *Requirement — In general.* — (1) Except as otherwise provided in this section, each item of campaign material shall contain, set apart from any other message, an authority line that states:

(i) as to campaign material published or distributed by a campaign finance entity:

1. the name and address of the treasurer of each campaign finance entity responsible for the campaign material; and

2. as to each treasurer named under item 1 of this item, the name of each campaign finance entity for which the treasurer is acting; and

(ii) as to campaign material published or distributed by any other person, the name and address of the person responsible for the campaign material.

(2) The authority line may omit an address that is on file with the State Board or a local board.

(3) If the campaign material is too small to include all the information specified in paragraph (1) of this subsection in a legible manner, the authority line need only contain the name and title of the treasurer or other person responsible for it.

(4) The authority line for campaign material that is a commercial advertisement need only contain the information specified in paragraphs (1) and (2) of this subsection for one campaign finance entity or other person responsible for the advertisement.

(b) *Requirement — Campaign material not authorized by candidate.* — Campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate, shall include the following statement:

“This message has been authorized and paid for by (name of payor or any organization affiliated with the payor), (name and title of treasurer or president). This message has not been authorized or approved by any candidate.” (An. Code 1957, art. 33, §§ 13-501(a)(2), (3), 13-504(b); 2002, ch. 291, § 4; 2003, ch. 21, § 1; 2011, ch. 287.)

Effect of amendments. — Chapter 287, Acts 2011, effective October 1, 2011, reenacted the section without change.

Constitutionality. — Former §§ 26-9.2 (b) and 26-17 (a) of former Article 33 (see now § 13-245 of this title and this section) are unconstitutional and may not be enforced

against individuals who independently produce campaign material; however, these provisions may continue to be enforced against candidates and treasurers, political committees and other entities, and individuals who produce material in coordination with them. 80 Op. Att’y Gen. 110 (May 16, 1995).

§ 13-402. Advertising rates.

(a) *In general.* — Subject to subsection (b) of this section, a person publishing a newspaper or periodical in the State may not charge a candidate for State or local public office a rate for political advertising that exceeds the local rate regularly charged for commercial advertising by the person publishing that newspaper or periodical.

(b) *Advertising or press agency.* — If a candidate uses an advertising or press agency to place a political advertisement, the person publishing the newspaper or periodical may charge the national rate regularly charged by that newspaper or periodical for commercial advertising. (An. Code 1957, art. 33, § 13-501(b); 2002, ch. 291, § 4.)

§ 13-403. Retention of copies.

(a) *Requirement.* — (1) Subject to paragraph (2) of this subsection, each campaign finance entity responsible for, publisher of, and distributor of, an item of campaign material shall keep a sample copy of the item for at least 1 year after the general election next following the date when the item was published or distributed.

(2) For each item of campaign material disseminated through the Internet, the sample copy shall be:

- (i) a paper facsimile; or
- (ii) a copy on an electronic medium that can be produced as a paper facsimile on request.

EL, § 13-404

REGISTRATION AND ELECTION LAWS

(b) *Exception.* — Subsection (a) of this section does not apply to a billboard or a sign. (An. Code 1957, art. 33, § 13-502(a), (c); 2002, ch. 291, § 4; 2011, ch. 287.)

Effect of amendments. — Chapter 287, Acts 2011, effective October 1, 2011, reenacted the section without change.

§ 13-404. Regulations governing electronic media.

(a) *“Electronic media” defined.* — In this section, “electronic media” means any electronic medium, except television or radio, that may be used to transmit campaign material.

(b) *In general.* — The State Board shall adopt regulations governing the application of §§ 13-401 and 13-403 of this subtitle to campaign material transmitted through electronic media.

(c) *Contents.* — The regulations adopted by the State Board under this section:

(1) shall define what constitutes “publication” or “distribution” of campaign material through electronic media under § 1-101(k) of this article;

(2) shall require public disclosure of the identity of persons who are responsible for transmitting campaign material through electronic media; and

(3) may modify the requirements of §§ 13-401 and 13-403 of this subtitle as they apply to electronic media to the extent necessary to accommodate a particular technology. (2011, ch. 287.)

Editor’s note. — Section 2, ch. 287, Acts 2011, provides that the act shall take effect October 1, 2011.

§ 13-405.

Reserved.

Part II. Legislative Newsletters.

§ 13-406. Definitions.

(a) *In general.* — In this Part II of this subtitle the following words have the meanings indicated.

(b) *Incumbent.* — “Incumbent” means a member of the General Assembly.

(c) *Legislative newsletter.* — “Legislative newsletter” means an unsolicited document used by an incumbent, without supervision by, or coordination with, the General Assembly, to disseminate information to a constituent, voter, or potential voter about:

(1) the incumbent’s performance in legislative office; or

(2) one or more issues of public interest chosen by the incumbent.

(d) *Publication expense.* — “Publication expense” means an expenditure relating to writing, publishing, printing, issuing, mailing, or distributing a legislative newsletter. (An. Code 1957, art. 33, § 13-503(a)(1)-(4); 2002, ch. 291, § 4.)

§ 13-407. Scope of part.

Part II of this subtitle does not restrict the use by the General Assembly of any funds appropriated in the State budget. (An. Code 1957, art. 33, § 13-503(d); 2002, ch. 291, § 4.)

§ 13-408. Payment of publication expenses.

(a) *Public funds prohibited.* — Publication expenses may not be paid from public funds.

(b) *Permissible funding.* — Publication expenses may be paid from:

(1) a campaign account of a campaign finance entity of the incumbent if the campaign finance entity complies with all other requirements of this title regarding expenditures and campaign material; or

(2) the personal funds of the incumbent or the spouse of the incumbent if, as to each issue:

(i) the incumbent has not filed a certificate of candidacy;

(ii) the legislative newsletter contains a notice that it is disseminated at the personal expense of the incumbent; and

(iii) within 10 days after the first mailing or distribution of the issue, the incumbent files a campaign finance report with the State Board that contains:

1. a detailed list of publication expenses; and

2. an affidavit that no funds for the legislative newsletter have been solicited or received from any source to supplement the personal funds. (An. Code 1957, art. 33, § 13-503(b), (c); 2002, ch. 291, § 4.)

§ 13-409. Late filing fee.

(a) *In general.* — There is a \$10 late filing fee for each day or part of a day, excluding a Saturday, Sunday, or holiday, that a campaign finance report required by § 13-408 of this subtitle is overdue.

(b) *Maximum.* — The maximum fee payable is \$250.

(c) *Personal liability.* — A late fee assessed under this section shall be paid from the personal funds of the incumbent. (An. Code 1957, art. 33, § 13-403(i); 2002, ch. 291, § 4.)

*Subtitle 5. Local Provisions.***§ 13-501. Special provisions — Prince George's County.**

As to contributions to the Prince George's County Executive, a member of the Prince George's County Council, or a candidate for either of those offices, Title 15, Subtitle 8, Part IV of the State Government Article may apply. (2002, ch. 291, § 4.)

§ 13-502. Special provisions — Montgomery County.

As to contributions to the Montgomery County Executive, a member of the County Council of Montgomery County, or a candidate for either of those

EL, § 13-503

REGISTRATION AND ELECTION LAWS

offices, Title 15, Subtitle 8, Part V of the State Government Article may apply. (2002, ch. 291, § 4.)

§ 13-503. Special provisions — Howard County.

As to contributions to the Howard County Executive, a member of the County Council of Howard County, or a candidate for either of those offices, Title 15, Subtitle 8, Part VII of the State Government Article may apply. (2002, ch. 291, § 4.)

§ 13-504. Applicability of Title 15, Subtitle 8, Part VIII of the State Government Article to contributions.

As to contributions to the Frederick County Board of County Commissioners or a candidate for that office, Title 15, Subtitle 8, Part VIII of the State Government Article may apply. (2007, ch. 474.)

Subtitle 6. Prohibited Acts and Penalties.

§ 13-601. False statements, entries and electronic submissions.

(a) *Filings under oath.* — A person may not willfully make a false, fraudulent, or misleading statement or entry in any campaign finance report or other filing that is under oath and is required by this article.

(b) *Electronic submission.* — A person may not make an electronic submission of a prescribed form, affidavit, campaign finance report, or other document on behalf of another person without that person's express consent.

(c) *Penalty.* — A person who violates this section is guilty of perjury and on conviction subject to the penalty provided under the Criminal Law Article. (An. Code 1957, art. 33, § 13-601; 2002, ch. 291, § 4; 2008, ch. 543.)

Effect of amendments. — Chapter 543, Acts 2008, effective July 1, 2008, added (b) and redesignated accordingly.

§ 13-602. Prohibited acts.

(a) *Enumerated.* — (1) A person may not directly or indirectly give, offer, or promise money, aid, a gift, an advantage, a preferment, an emolument, or any other valuable thing to another person for the purpose of inducing or procuring that person to vote or refrain from voting for or against:

(i) an individual, question, or measure at an election or political convention; or

(ii) the election of an officer by the General Assembly.

(2) A person may not directly or indirectly receive, accept, request, or solicit money, aid, a gift, an advantage, a preferment, an emolument, or any other valuable thing from another person for the purpose of inducing or

procuring a third person to vote or refrain from voting for or against an individual, question, or measure at an election or political convention.

(3) A person may not vote or refrain from voting for or against an individual, question, or measure at an election or a political convention, in consideration of money, aid, a gift, an advantage, a preferment, an emolument, or any other valuable thing paid, received, accepted, or promised to the advantage of that person or of another person.

(4) (i) A person, to defray the costs of a campaign finance entity, may not directly or indirectly pay, give, or promise money or any other valuable thing to any person other than a campaign finance entity.

(ii) Subparagraph (i) of this paragraph does not apply to:

1. dues regularly paid for membership in a political club if all of the money that is spent by that political club in connection with any campaign finance activity is paid through a treasurer as provided in this title;

2. an individual volunteering the individual's time or personal vehicle in accordance with § 13-232 of this title;

3. an employer's accumulation of employee contributions in accordance with § 13-242 of this title; or

4. advertising costs or other expenses incident to the expression of personal views in accordance with § 13-102 of this title.

(5) A person may not directly or indirectly pay or promise to pay a campaign finance entity in a name other than the person's name.

(6) A responsible officer of a campaign finance entity may not knowingly receive a payment or promise of payment and enter it or cause it to be entered in an account book in a name that the responsible officer knows is not the name of the person that made the payment or the promise to pay.

(7) An employer who pays employees in envelopes may not mark on or enclose in the envelopes a political motto, device, or argument that contains express or implied threats intended to influence the political opinions or actions of those employees.

(8) During the 90 days before an election, an employer may not exhibit in the employer's workplace:

(i) a threat, a notice, or information that, on the election or defeat of a particular ticket or candidate:

1. work will cease, wholly or partly;

2. the workplace will close; or

3. employees' wages will be reduced; or

(ii) any other threat, expressed or implied, intended to influence the political opinions or actions of the employer's employees.

(9) A person may not publish or distribute, or cause to be published or distributed, campaign material that violates § 13-401 of this title.

(10) A candidate may not make a payment, contribution, or expenditure, or incur a liability to pay, contribute, or expend, from the candidate's personal funds any money or valuable thing in a manner not authorized by § 13-230 of this title.

(11) An individual may not sign the name of any other individual on any form or other document under this title, without the authority of the individual whose name is signed.

(b) *Penalty.* — A person who violates this section is guilty of a misdemeanor and on conviction is:

(1) subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both; and

(2) ineligible to hold any public or party office for 4 years after the date of the offense.

(c) *Prosecution.* — (1) The State Prosecutor may prosecute, in any jurisdiction of the State, a person that the State Prosecutor believes to be guilty of a willful violation of this section.

(2) A State's Attorney may prosecute a person that the State's Attorney believes to be guilty of a willful violation of this section in the county in which the State's Attorney serves. (An. Code 1957, art. 33, § 13-602; 2002, ch. 291, §§ 4, 11; 2006, ch. 66.)

Use of campaign funds to defend criminal prosecution. — Although a member of the General Assembly or other elected official may not use campaign funds for personal use or for office-related expenses — and, specifically, may not ordinarily use campaign funds for the cost of defending against criminal charges — an official may use campaign funds to pay debts incurred in the defense of a criminal prosecution directly related to alleged campaign improprieties. 78 Op. Att'y Gen. 155 (October 19, 1993).

Power of General Assembly to enact corrupt practices legislation. — It is a fundamental doctrine that all reasonable regulations which the General Assembly deems important to guard against corruption and to preserve the purity of elections are not only within the constitutional power of the General Assembly but commendable if not absolutely essential. *Smith v. Higinbothom*, 187 Md. 115, 48 A.2d 754 (1946).

Construction of remedial and penal provisions. — The former similar version of this subtitle is a remedial measure and should be liberally construed in the public interest to carry out its purpose of preserving the purity of elections. But, while the statute should be given a liberal construction as to its remedial provisions, it should be strictly construed as to

its penal provisions. There is no impropriety in putting a liberal construction on a remedial clause, and a literal construction on a penal clause in the same statute. *Smith v. Higinbothom*, 187 Md. 115, 48 A.2d 754 (1946).

"Prohibited practices." — The absence in § 1-101 of this article of any definition of "prohibited practices" is an indication that the words were to be given their ordinary general meaning rather than to be construed as words of art with an attendant limited application. *Culotta v. Raimondi*, 251 Md. 384, 247 A.2d 519 (1968).

Campaign literature. — Prior similar version of this section would be unconstitutional if it were read as requiring anyone who published praise or criticism of an elected official during a campaign to also publish an identifying line; rather, the State may compel that disclosure only when a publication that is made independently of any candidate expressly advocates someone's election or defeat. 69 Op. Att'y Gen. 145 (1984).

Advertisement concerning congressman contained no express advocacy of the election or defeat of any candidate; therefore, assuming that the ad was prepared and published independently of any candidate, paragraph (a) (7) does not apply to it. 69 Op. Att'y Gen. 145 (1984).

§ 13-603. Other violations — Criminal penalties.

Except as otherwise expressly provided in this subtitle, a person who knowingly and willfully violates a provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$25,000 or imprisonment not exceeding 1 year or both. (An. Code 1957, art. 33, § 13-603; 2002, ch. 291, § 4.)

Maryland Law Review. — For article, "The Court of Appeals of Maryland: Roles, Work and Performance — Part II: Craftsmanship and

Decision-Making," see 38 Md. L. Rev. 148 (1978).

For comment, "Maryland Campaign Finance

Law: A Proposal for Reform,” see 47 Md. L. Rev. 524 (1988).

Prosecution under other statutes. — The General Assembly has not provided for theft as an offense under the Election Code; however, prior similar version of this section does not preclude the State from prosecuting under

other statutes or the common law for violations related to the elections arena. *Cicoria v. State*, 89 Md. App. 403, 598 A.2d 771 (1991), *aff’d*, 332 Md. 21, 629 A.2d 742 (1993).

Quoted in *State v. Brookins*, 380 Md. 345, 844 A.2d 1162 (2004).

§ 13-604. Other violations — Civil penalties.

(a) *In general.* — (1) A person who violates a provision of this title without knowing that the act is illegal shall pay a civil penalty in accordance with subsections (b) through (g) of this section.

(2) The penalty imposed under this section may not exceed \$5,000.

(3) An infraction described in paragraph (1) of this subsection is a civil offense.

(4) This section does not apply to a violation of another section in which a penalty is expressly provided.

(b) *Civil citation.* — (1) If the State Prosecutor or the State’s Attorney with jurisdiction determines that a person unintentionally, and without criminal intent, has violated a provision of this title, the State Prosecutor, the State’s Attorney, or both, shall issue to the person a civil citation that contains:

- (i) the name and address of the person cited;
- (ii) the nature, time, and place of the violation;
- (iii) the manner in which the violation occurred;
- (iv) the maximum penalty for the violation;
- (v) the manner and time in which to pay the penalty;
- (vi) where to pay the penalty; and

(vii) a statement that the person receiving the citation has a right to a trial in the District Court.

(2) The prosecuting authority who issues a citation under paragraph (1) of this subsection shall file it in the District Court.

(c) *Service.* — The citation shall be served in accordance with the Maryland Rules.

(d) *Trial in District Court; adjudication of violation.* — (1) On receipt of the return of service, the District Court shall schedule the case for trial and notify the person named in the citation of the trial date.

(2) The trial in the District Court shall be conducted in the same manner as set forth for municipal infractions under Article 23A, § 3(b)(8) through (15) of the Code.

(3) The District Court shall remit to the State Board all late fees collected.

(4) An adjudication of a violation under this subsection:

- (i) is not a criminal conviction; and
- (ii) does not carry with it any of the civil disabilities that arise from a criminal conviction.

(e) *Costs.* — A person who is adjudicated in violation as set forth in a citation issued under subsection (b) of this section is liable for the cost of the District Court proceedings.

EL, § 13-605

REGISTRATION AND ELECTION LAWS

(f) *Failure to appear.* — If a person who has been served with a citation fails to appear for trial, the court, at the request of the prosecutor, may dismiss the citation or enter a civil judgment against the person:

(1) in favor of the State Board;

(2) in accordance with the Maryland Rules; and

(3) in an amount not exceeding the maximum fine set forth in subsection (a) of this section and any late fees owed to the State Board. (An. Code 1957, art. 33, § 13-604; 2002, ch. 291, § 4.)

§ 13-605. Injunction.

(a) *In general.* — The Secretary of State may seek an immediate injunction against any violation of this title.

(b) *Violation of injunction.* — A person who violates an injunction issued under this section:

(1) is in criminal contempt; and

(2) is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$250 or imprisonment not exceeding 30 days or both. (An. Code 1957, art. 33, § 13-605; 2002, ch. 291, § 4.)

TITLE 14.

DISCLOSURE BY PERSONS DOING PUBLIC BUSINESS.

Sec.		Sec.	
14-101.	Definitions.		(i) "Make a contribution".
	(a) In general.	14-102.	Applicability.
	(b) Applicable contribution.	14-103.	Attribution of contribution to candidate.
	(c) Business entity.	14-104.	Statement of contributions.
	(d) Candidate.	14-105.	Attributable contributions.
	(e) Contract.	14-106.	Contracts — Time of attribution.
	(f) Contribution.	14-107.	Violations.
	(g) Doing public business.	14-108.	Liberal construction.
	(h) Governmental entity.		

§ 14-101. Definitions.

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

(b) *Applicable contribution.* — "Applicable contribution" means a contribution to a candidate, or a series of such contributions, in a cumulative amount in excess of \$500.

(c) *Business entity.* — "Business entity" includes a firm, corporation, trust, unincorporated association, or other organization, whether or not conducted for profit.

(d) *Candidate.* — "Candidate" includes an incumbent office holder.

(e) *Contract.* — "Contract" includes a sale, purchase, lease, or other agreement.

(f) *Contribution.* — (1) Subject to paragraph (2) of this subsection, "contribution" has the meaning stated in § 1-101 of this article.

(2) "Contribution" does not include:

(i) a bona fide gift by a spouse or relative within the third degree of consanguinity; or

(ii) an honorary membership in a social, service, or fraternal organization presented as a courtesy by the organization.

(g) *Doing public business.* — (1) "Doing public business" means making, during any 12-month period, one or more contracts with one or more governmental entities involving cumulative consideration of at least \$100,000.

(2) "Doing public business" does not include receiving a salary from a governmental entity.

(h) *Governmental entity.* — "Governmental entity" means:

(1) the State, a county, a municipal corporation, or other political subdivision of the State; and

(2) a unit of the State, a county, a municipal corporation, or other political subdivision of the State.

(i) *"Make a contribution".* — "Make a contribution" includes to cause a contribution to be made. (An. Code 1957, art. 33, § 14-101(a), (b)(1), (2), (c), (d), (e)(1)-(3), (g); 2002, ch. 291, § 4; ch. 303, § 2.)

Business. — The handling and accounting of State lottery funds would fall within the definition of the term doing “business.” 60 Op. Att’y Gen. 223 (1975).

The purchase of obligations of the State and its political subdivisions directly from them would be construed as doing “business” with the State under the definition of a prior similar version of this section since “purchases” are included. 60 Op. Att’y Gen. 223 (1975).

Governmental demand deposit balances kept by a bank would be doing “business” within the meaning of a prior similar version of this sec-

tion inasmuch as there is a contractual relationship established between the bank and the depositor. 60 Op. Att’y Gen. 223 (1975).

The purchase by a local board of education of a certificate of deposit would constitute doing “business” with a county agency. 60 Op. Att’y Gen. 223 (1975).

A corporate entity withholding income taxes on behalf of the employee and subsequently forwarding them to the State and the collection of sales or real estate taxes would not ordinarily constitute doing “business.” 60 Op. Att’y Gen. 223 (1975).

§ 14-102. Applicability.

For purposes of this title, words and phrases defined under § 1-101 of this article shall be deemed, as the case may be, to include or apply to an individual who seeks or holds elective office in a municipal corporation and a campaign fundraising entity for that individual. (2002, ch. 291, § 4; ch. 303, § 2.)

§ 14-103. Attribution of contribution to candidate.

A contribution to a campaign finance entity of a candidate shall be deemed to be a contribution to the candidate for the purposes of this title. (An. Code 1957, art. 33, § 14-101(d); 2002, ch. 291, § 4; ch. 303, § 2.)

§ 14-104. Statement of contributions.

(a) *In general.* — A person doing public business shall file a statement with the State Board as provided in this section.

(b) *Requirement.* — (1) When a contract is made that causes a person to be doing public business, an initial statement shall be filed:

(i) at that time, covering the preceding 24 months, if the person has made an applicable contribution within that period; or

(ii) if item (i) of this paragraph does not apply, but the person subsequently makes an applicable contribution during a reporting period specified in paragraph (2) of this subsection, as required by that paragraph.

(2) (i) A person shall file a semi-annual statement in accordance with this paragraph for each reporting period specified in subparagraph (ii) of this paragraph in which the person has made an applicable contribution if:

1. performance remains uncompleted on any contract that caused the person to be doing public business; or

2. the person is doing public business.

(ii) 1. The statements required by subparagraph (i) of this paragraph shall cover 6-month reporting periods ending on January 31 and July 31.

2. A statement required by subparagraph (i) of this paragraph shall be filed within 5 days after the end of the applicable reporting period.

(c) *Contents and oath.* — (1) The statement required by this section shall be made under oath and shall contain:

(i) the name of each candidate to whom an applicable contribution was made during the reporting period and, if not previously reported, during the preceding reporting period;

(ii) the office sought by each candidate named in item (i) of this paragraph;

(iii) the amount of aggregate contributions made to each candidate named in item (i) of this paragraph;

(iv) the name of each unit of a governmental entity with which the person did public business during the reporting period;

(v) the nature and amount of public business done with each unit of a governmental entity; and

(vi) if the public business was done or the contribution was made by another person but is attributed to the person filing the statement, the name of the person who did the public business or made the contribution and the relationship of that person to the person filing the statement.

(2) The information required by paragraph (1)(iv) and (v) of this subsection may be omitted on the written approval of the Attorney General if the Attorney General finds that:

(i) requiring the information would be unduly burdensome;

(ii) the public interest would not be impaired substantially by the omission of this information; and

(iii) the person filing the statement stipulates that the person has done public business during the reporting period.

(d) *Custodian.* — (1) The State Board shall retain each statement filed under this title as a public record for at least 2 years after its receipt and shall make the statement available for public examination and copying during normal office hours.

(2) The State Board may establish reasonable fees and administrative procedures governing public examination and copying of the statements filed under this section.

(e) *Forms.* — The State Board shall prescribe and make available forms for the statements required by this section. (An. Code 1957, art. 33, § 14-102; 2002, ch. 291, § 4; ch. 303, § 2; 2003, ch. 21, § 1.)

§ 14-105. Attributable contributions.

(a) *Business entities.* — Except as provided in subsection (f) of this section, an applicable contribution made by an officer, director, or partner of a business entity doing public business shall be attributed to the business entity.

(b) *Officers, directors, and partners.* — Except as provided in subsection (f) of this section, each officer, director, or partner of a business entity doing public business who makes an applicable contribution shall report the applicable contribution to the chief executive officer of the business entity.

(c) *Attribution to business entity of contributions by employees, agents, and other affiliated persons.* — A contribution by an officer, director, partner, employee, agent, or other person made at the suggestion or direction of a business entity doing public business shall be attributed to the business entity.

(d) *Report to chief executive officer.* — Each officer, director, partner, employee, agent, or other person who, at the suggestion or direction of a business entity doing public business, makes an applicable contribution shall report the applicable contribution to the chief executive officer of the business entity.

(e) *Subsidiary business entities.* — (1) Business done with a governmental entity by a subsidiary of a business entity shall be attributed to the business entity if 30% or more of the equity of the subsidiary is owned or controlled by the business entity.

(2) Applicable contributions made by or attributed to a subsidiary described in paragraph (1) of this subsection shall be attributed to the business entity.

(f) *Not-for-profit organizations.* — (1) In this subsection:

(i) “officer” means an individual who serves as an organization’s president or chairman, vice-president or vice-chairman, secretary, treasurer, or executive director, or any individual exercising duties comparable to those typically exercised by an individual holding one of those titles in a not-for-profit organization; and

(ii) “officer” does not include an individual holding a title but not exercising substantial independent responsibility on behalf of the organization similar to the responsibility typically exercised by an individual holding one of the titles under item (i) of this paragraph.

(2) Subject to paragraph (3) of this subsection, an applicable contribution made by an individual who serves as a trustee or member of the board of directors or as an officer of a not-for-profit organization doing public business is not attributable to the organization, and the individual is not required to report the applicable contribution to the chief executive officer of the organization.

(3) This subsection does not apply if:

(i) the applicable contribution is made on the recommendation of the not-for-profit organization; or

(ii) the individual described in paragraph (2) of this subsection is paid by the not-for-profit organization. (An. Code 1957, art. 33, §§ 14-101(h), 14-103; 2002, ch. 291, § 4; ch. 303, § 2; ch. 405, § 3; 2003, ch. 20; 2005, ch. 528.)

Officer, director, or partner. — Terms “officer” and “director” were not defined in a prior similar version of this section, and it was neither possible nor appropriate to attempt to

define or limit the terms on the basis of a distinction between “real” and “titular” officers and directors. 60 Op. Att’y Gen. 223 (1975).

§ 14-106. Contracts — Time of attribution.

If a contract involves consideration to be paid over multiple reporting periods, the total ascertainable consideration to be paid under the contract shall be attributable to the date when the contract is made. (An. Code 1957, art. 33, § 14-101(b)(1); 2002, ch. 291, § 4; ch. 303, § 2.)

§ 14-107. Violations.

(a) *In general.* — A person who knowingly and willfully violates this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(b) *Derivative liability.* — An officer or partner of a business entity who knowingly authorizes or participates in a violation of this title by the business

entity is subject to the penalty provided in subsection (a) of this section. (An. Code 1957, art. 33, § 14-104(a); 2002, ch. 291, § 4; ch. 303, § 2.)

§ 14-108. Liberal construction.

This title shall be liberally construed to require full disclosure. (An. Code 1957, art. 33, § 14-104(b); 2002, ch. 291, § 4; ch. 303, § 2.)

TITLE 15.

PUBLIC FINANCING ACT.

Sec.		Sec.	
15-101.	Purpose.	15-103.	Fair Campaign Financing Fund.
15-102.	Definitions.	15-104.	Eligible gubernatorial ticket — Qualification.
	(a) In general.	15-105.	Eligible gubernatorial ticket — Expenditure limitation.
	(b) Comptroller.	15-106.	Public contributions — Distributions.
	(c) Eligible gubernatorial ticket.	15-107.	Public contributions — Use.
	(d) Eligible private contribution.	15-108.	Balance in Fund.
	(e) Fund.	15-109.	Administration of title.
	(f) Gubernatorial ticket.	15-110.	Violations.
	(g) Public contribution.	15-111.	Short title.
	(h) Seed money.		
	(i) Treasurer.		

§ 15-101. Purpose.

The General Assembly recognizes that our system of representative government depends in part on guaranteeing that election campaigns are funded by and for the people and on eliminating the corrupting and undemocratic effects of large private contributions. Accordingly, the General Assembly finds and declares that an equitable means of public campaign financing is necessary in these times in order for representative democracy to continue to function effectively. (An. Code 1957, art. 33, § 15-101; 2002, ch. 291, § 4.)

§ 15-102. Definitions.

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

(b) *Comptroller.* — “Comptroller” means the Comptroller of the State.

(c) *Eligible gubernatorial ticket.* — “Eligible gubernatorial ticket” means a gubernatorial ticket that qualifies to receive a public contribution.

(d) *Eligible private contribution.* — “Eligible private contribution” means that part of a monetary or in-kind contribution or series of contributions from an individual that does not exceed \$250.

(e) *Fund.* — “Fund” means the “Fair Campaign Financing Fund”.

(f) *Gubernatorial ticket.* — “Gubernatorial ticket” means a Governor-Lieutenant Governor unit.

(g) *Public contribution.* — “Public contribution” means money distributed from the Fund to a gubernatorial ticket under this title.

(h) *Seed money.* — “Seed money” means cumulative eligible private contributions equaling 10% or more of the expenditure limit prescribed under § 15-105 of this title for an election.

(i) *Treasurer.* — (1) “Treasurer” has the meaning stated in § 1-101 of this article.

(2) “Treasurer” includes a subtreasurer. (An. Code 1957, art. 33, § 15-102(a)-(i); 2002, ch. 291, § 4.)

§ 15-103. Fair Campaign Financing Fund.

(a) *Established.* — There is a Fair Campaign Financing Fund.

(b) *Administration.* — The Comptroller shall administer the Fund in accordance with this section.

(c) *Money in Fund.* — In accordance with this title, the Comptroller shall:

(1) credit to the Fund all money collected under this title;

(2) subject to the usual investing procedures for State funds, invest the money in the Fund; and

(3) make distributions from the Fund promptly on authorization by the State Board.

(d) *Procedure for distributions.* — The Comptroller shall distribute public contributions:

(1) only on authorization of the State Board; and

(2) as to each eligible gubernatorial ticket, to the same campaign account of a single campaign finance entity established under Title 13, Subtitle 2 of this article.

(e) *Report of Fund balance.* — The Comptroller shall submit a statement of the Fund's balance to the State Board at the State Board's request and on May 15 of each year. (An. Code 1957, art. 33, §§ 15-104(a), (e)(2), (f), 15-109; 2002, ch. 291, § 4; 2010, ch. 484, § 3.)

Effect of amendments. — Section 3, ch. 484, Acts 2010, effective June 1, 2010, deleted (c) and redesignated accordingly.

Editor's note. — Section 38, ch. 487, Acts of 2009, as amended by Chapter 484, Acts of 2010, and by chs. 292 and 293, Acts 2011, provides in part that “notwithstanding any other provision of law:

“(a) The General Assembly finds that the Fair Campaign Financing Fund established under § 15-103 of the Election Law Article cannot operate as originally contemplated.

“(c) A transfer under this section may not reduce the balance in the Fund below \$1,000,000.

“(1)(1) Subject to subsection (c) of this section, for fiscal year 2012 and fiscal year 2013, a cumulative sum in the amount of not more than \$250,000 of the balance in the Fund shall be transferred to the State Board of Elections for

the purpose of implementing an online voter registration system.

“(2) Notwithstanding any other provision of law, funds transferred under this subsection shall be used to pay costs associated with implementation of an online voter registration system that would otherwise be paid by local governments.

“(3) Any funds transferred from the Fair Campaign Financing Fund to the State Board of Elections under this subsection that are not used to pay the cost of implementing an online voter registration system may not be retained by the State Board of Elections and shall revert to the Fair Campaign Financing Fund.”

State legally entered into contract with citizens. — State can, and has, legally entered into contract with its citizens to use the Fund contributions for public election campaigns. 66 Op. Att’y Gen. 56 (1981).

§ 15-104. Eligible gubernatorial ticket — Qualification.

A gubernatorial ticket is qualified to receive a public contribution for an election on the date specified by regulation adopted under this title if:

(1) the gubernatorial ticket has raised seed money;

(2) the seed money is refundable only if the gubernatorial ticket withdraws as a gubernatorial ticket; and

(3) as certified by the gubernatorial ticket's treasurer on a form prescribed by the State Board, the seed money was:

(i) raised in accordance with this title; and

(ii) received after March 1 of the year immediately preceding the year of that election. (An. Code 1957, art. 33, § 15-105(a); 2002, ch. 291, § 4.)

Amount of public contribution. — Contributions in excess of \$250 do not disqualify an otherwise qualified candidate from receiving public funding; however, only the first \$250 of an eligible private contribution is eligible for matching funds. 79 Op. Att’y Gen. 136 (May 5, 1994).

“Seed money.” — A sum determined by multiplying twenty cents (\$0.20) by the population of the State which makes a candidate eligible for public funding is commonly referred to as the “seed money” requirement. 79 Op. Att’y Gen. 136 (May 5, 1994).

There is no requirement that seed money be

raised in increments of \$250 or less from individual contributors; if a contribution exceeds \$250, the amount of the excess is simply disregarded when seed money is calculated. 79 Op. Att’y Gen. 136 (May 5, 1994).

Eligibility for share of money in Fund. — A write-in candidate who raised at least \$149,670 in seed money by September 28, 1994, and who met all other statutory and regulatory requirements, could obtain a share of the money remaining in the Fair Campaign Financing Fund after the primary election equal to the share of any other candidate. 79 Op. Att’y Gen. 146 (July 29, 1994).

§ 15-105. Eligible gubernatorial ticket — Expenditure limitation.

(a) *In general.* — (1) A gubernatorial ticket that accepts a public contribution from the Fund for an election may not spend, in that election, more than the product of 30 cents, adjusted annually beginning January 1, 1997, in accordance with the Consumer Price Index, times the population of the State as determined under subsection (c) of this section.

(2) Paragraph (1) of this subsection:

(i) applies separately to each primary and general election; and

(ii) does not apply to expenditures made on behalf of a gubernatorial ticket by a State or local central committee.

(b) *Certification of limit.* — The State Board shall certify the expenditure limit for each election in accordance with subsection (a)(1) of this section.

(c) *Determination of population.* — The population of the State shall be determined by the State Board as of January 1 of the year of the election in accordance with the more recent of:

(1) the most recent decennial census of the United States; or

(2) any population estimate prepared for the State by the Department of Health and Mental Hygiene.

(d) *Liability for violations.* — The members of the gubernatorial ticket and, if associated with the expenditure, the responsible officers of its campaign finance entity are jointly and severally liable civilly and criminally for an expenditure made in violation of this section. (An. Code 1957, art. 33, § 15-103; 2002, ch. 291, § 4.)

§ 15-106. Public contributions — Distributions.

(a) *In general.* — (1) (i) In accordance with subsection (c) of this section, the State Board shall authorize distribution on a continuing basis of one-half of the money in the Fund to eligible gubernatorial tickets in the primary election.

(ii) Distributions shall begin not later than February 1 of the year of the election.

(2) Promptly after the primary election, the State Board shall authorize distribution of the remaining money in the Fund in accordance with subsection (d) of this section.

(b) *Insufficient money.* — If the State Board determines that there is not, or may not be, sufficient money in the Fund to provide a full public contribution to all eligible gubernatorial tickets in a primary or general election, the State Board shall allocate the available money so that each eligible gubernatorial ticket in that election receives a proportionate share of the full public contribution to which the gubernatorial ticket otherwise would be entitled.

(c) *Primary election.* — (1) The State Board shall authorize distribution of the money that is designated for distribution in the primary election as provided in this subsection.

(2) An eligible gubernatorial ticket that is opposed in the primary election shall receive \$1 in public contributions for each \$1 in eligible private contributions it has received.

(3) An eligible gubernatorial ticket that is unopposed in the primary election shall receive \$1 in public contributions for each \$3 in eligible private contributions it has received.

(d) *General election.* — (1) The State Board shall authorize distribution for the general election of all money remaining in the Fund, including money remaining from the part designated for the primary election, as provided in this subsection.

(2) Each eligible gubernatorial ticket that is a nominee shall receive an equal share of the Fund.

(3) An eligible gubernatorial ticket may not receive a public contribution if it is unopposed on the general election ballot.

(4) An eligible gubernatorial ticket that did not receive a public contribution in the primary election may receive a public contribution in the general election only if the gubernatorial ticket:

- (i) is a nominee in the general election; and
- (ii) did not exceed the expenditure limit for the primary election.

(5) The State Board shall authorize distribution of public contributions promptly after the certification of primary election results. (An. Code 1957, art. 33, §§ 15-104(b), (d), 15-105(b), (c); 2002, ch. 291, § 4.)

Eligibility for share of money in Fund. — A write-in candidate who raised at least \$149,670 in seed money by September 28, 1994, and who met all other statutory and regulatory requirements, could obtain a share of the money remaining in the Fair Campaign Financing Fund after the primary election equal to the share of any other candidate. 79 Op. Att’y Gen. 146 (July 29, 1994).

Constitutionality. — Expenditure limita-

tions embodied in a prior version of this section were unconstitutional as applied to candidates generally. 61 Op. Att’y Gen. 363 (1976).

Money in Fund not transferable to general funds. — Money that has been credited to the Fair Campaign Financing Fund may not be transferred by action of the General Assembly to the general funds of the State. 66 Op. Att’y Gen. 56 (1981).

§ 15-107. Public contributions — Use.

(a) *Limitations.* — A public contribution may be spent only:

- (1) in accordance with § 13-218 of this article;
- (2) to further the gubernatorial ticket’s nomination or election;
- (3) for expenses incurred not later than 30 days after the election for which the public contribution was made; and

(4) for purposes that do not violate State law.

(b) *Unspent public contribution.* — (1) Any part of a public contribution that is not spent shall be repaid to the Comptroller for redeposit in the Fund not later than 60 days after the election for which the public contribution was made.

(2) In computing whether part of a public contribution is not spent, all private contributions to the gubernatorial ticket shall be treated as spent before the expenditure of any of the public contribution.

(c) *Liability for repayment.* — The members of a gubernatorial ticket and the responsible officers of its campaign finance entity are jointly and severally personally liable for repaying to the Comptroller any part of a public contribution that is not spent or that was spent in violation of subsection (a) of this section. (An. Code 1957, art. 33, § 15-106; 2002, ch. 291, § 4.)

§ 15-108. Balance in Fund.

Any balance in the Fund after a gubernatorial election shall remain in the Fund for the purposes of this title. (An. Code 1957, art. 33, § 15-108; 2002, ch. 291, § 4.)

§ 15-109. Administration of title.

(a) *In general.* — (1) Subject to § 15-103 of this title, the State Board shall administer this title.

(2) The State Board may request the assistance of the Comptroller to administer this title.

(b) *Regulations.* — (1) The State Board shall adopt comprehensive regulations to implement this title.

(2) The regulations shall include provisions relating to:

(i) the manner and deadline for a gubernatorial ticket to notify the State Board of its intention to qualify for a public contribution;

(ii) the deadline for a gubernatorial ticket to submit a request for a public contribution;

(iii) the dates when the State Board will authorize, and the Comptroller will make, distributions of public contributions to gubernatorial tickets in accordance with this title;

(iv) a proportionate distribution when there is not, or may not be, sufficient money in the Fund;

(v) a formula for distributing a supplementary public contribution to the other eligible gubernatorial tickets if additional money becomes available because:

1. an eligible gubernatorial ticket fails to request a public contribution;

2. an eligible gubernatorial ticket withdraws as a gubernatorial ticket; or

3. an eligible gubernatorial ticket is disqualified;

(vi) the standards by which expenditures by campaign finance entities with which an eligible gubernatorial ticket is affiliated are applied to the expenditure limit prescribed in § 15-105 of this title;

EL, § 15-110

REGISTRATION AND ELECTION LAWS

(vii) thresholds for in-kind contributions that are not considered contributions or expenditures for the purposes of this title;

(viii) distributions to:

1. an unopposed gubernatorial ticket;
2. a gubernatorial ticket composed of members from other than the two principal political parties; and

3. a write-in gubernatorial ticket; and

(ix) the purposes for which a public contribution may not be used. (An. Code 1957, art. 33, § 15-104(c), (e)(1); 2002, ch. 291, § 4.)

§ 15-110. Violations.

A person who violates this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both for each violation. (An. Code 1957, art. 33, § 15-107; 2002, ch. 291, § 4.)

§ 15-111. Short title.

This title is the Public Financing Act. (An. Code 1957, art. 33, § 15-110; 2002, ch. 291, § 4.)

TITLE 16.

OFFENSES AND PENALTIES.

Subtitle 1. Voter Registration.

- Sec.
16-101. Offenses relating to registration.
- Subtitle 2. Voting and Electoral Operations.*
- 16-201. Offenses relating to voting.
16-202. Voting by person convicted of felony; conditions.
16-203. Disobeying lawful command of election official.
16-204. Disturbing the peace.
16-205. Interfering with election officials.
16-206. Offenses as to ballots and balloting in general.
16-207. Use of alcoholic beverages at a polling place.

Subtitle 3. Conduct of Election Officials.

- 16-301. Neglect of duties; corrupt or fraudulent acts.
16-302. Tampering with election records.
16-303. Operation of polling place.
16-304. Adding or deleting votes or provisional ballots.

Subtitle 4. Petitions.

- 16-401. Offenses relating to petitions.

Subtitle 5. Oaths.

- Sec.
16-501. False oath or affirmation.

Subtitle 6. Canvassing.

- 16-601. False reports.

Subtitle 7. Election Records and Documents.

- 16-701. Defacing or removing records.

Subtitle 8. Voting Equipment.

- 16-801. Destruction of voting equipment.
16-802. Tampering with voting equipment.
16-803. Removal or destruction of equipment or supplies.
16-804. Tampering with electronic voting system.

Subtitle 9. Other Offenses.

- 16-901. Offenses relating to certificates of candidacy or nomination.
16-902. Wagers on elections.
16-903. Individuals attired or equipped as officials prohibited; exceptions.

Subtitle 10. General Penalty Provisions.

- 16-1001. General penalty provisions.
16-1002. Violations of § 16-201(a)(6) or (7) or § 16-903 of this title.

Subtitle 1. Voter Registration.

§ 16-101. Offenses relating to registration.

(a) *In general.* — A person may not willfully and knowingly:

- (1) impersonate a voter or other person in order to register or attempt to register in the name of the voter or other person;
- (2) register to vote more than once;
- (3) falsify residence in an attempt to register in the wrong location;
- (4) secure registration through any unlawful means;
- (5) cause by unlawful means the name of a qualified voter to be stricken from the statewide voter registration list;
- (6) prevent, hinder, or delay a person having a lawful right to register from registering, through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward;
- (7) falsify any name on a registration;
- (8) misrepresent any fact relating to registration; or
- (9) induce or attempt to induce a person to violate any prohibition in items (1) through (8) of this subsection.

(b) *Penalty.* — A person who violates this section is guilty of a misdemeanor and subject to a fine of not more than \$1,000 or imprisonment for not more than 5 years or both.

(c) *Penalty — Applicability of Courts Article.* — A person who violates this section is subject to § 5-106(b) of the Courts Article. (An. Code 1957, art. 33, § 16-101; 2002, ch. 291, §§ 2, 4; 2005, ch. 572, § 1.)

Subtitle 2. Voting and Electoral Operations.

§ 16-201. Offenses relating to voting.

(a) *In general.* — A person may not willfully and knowingly:

- (1) (i) impersonate another person in order to vote or attempt to vote; or
(ii) vote or attempt to vote under a false name;
- (2) vote more than once for a candidate for the same office or for the same ballot question;
- (3) vote or attempt to vote more than once in the same election, or vote in more than one election district or precinct;
- (4) vote in an election district or precinct without the legal authority to vote in that election district or precinct;
- (5) influence or attempt to influence a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward;
- (6) influence or attempt to influence a voter's decision whether to go to the polls to cast a vote through the use of force, fraud, threat, menace, intimidation, bribery, reward, or offer of reward; or
- (7) engage in conduct that results or has the intent to result in the denial or abridgement of the right of any citizen of the United States to vote on account of race, color, or disability.

(b) *Penalties.* — Except as provided in § 16-1002 of this title, a person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$2,500 or imprisonment for not more than 5 years or both.

(c) *Applicability of § 5-106(b) of Courts Article.* — A person who violates this section is subject to § 5-106(b) of the Courts Article. (An. Code 1957, art. 33, § 16-201; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1; 2006, ch. 4.)

Quoted in *State v. Brookins*, 380 Md. 345, 844 A.2d 1162 (2004).

§ 16-202. Voting by person convicted of felony; conditions.

(a) *In general.* — A person who has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction, and has been rendered ineligible to vote pursuant to § 3-102(b) of this article, may not vote or attempt to vote during the time that the person is rendered ineligible to vote.

(b) *Penalties.* — A person who violates this section is guilty of a felony and is subject to imprisonment for not less than 1 year nor more than 5 years. (An. Code 1957, art. 33, § 16-202; 2002, ch. 291, §§ 2, 4; 2007, ch. 159, § 2.)

What constitutes “conviction.” — Where defendant was indicted on the charge of feloniously voting in seven elections in Maryland when he had been convicted in the state of New York of grand larceny in the first degree, the facts did not justify a finding of a previous

“conviction,” since the defendant in New York had pleaded guilty, been given a suspended sentence, placed on probation and ordered to make restitution, and under New York law, which was controlling, a person against whom sentence has been suspended after verdict has not been “convicted” within the meaning of similar disfranchisement provisions. *State v. Rappaport*, 211 Md. 523, 128 A.2d 270 (1957).

Attempt to register by ex-convict. — There is no basis for concluding that any ex-convict who merely attempts to register will put himself in jeopardy of prosecution. *Thiess v. State Admin. Bd. of Election Laws*, 387 F. Supp. 1038 (D. Md. 1974).

§ 16-203. Disobeying lawful command of election official.

(a) *In general.* — A person may not willfully disobey the lawful command of an election official at a polling place on election day.

(b) *Penalties.* — A person who violates this section shall be guilty of a misdemeanor and shall be subject to a fine of not less than \$10 nor more than \$250 or imprisonment for not less than 30 days nor more than 6 months or both. (An. Code 1957, art. 33, § 16-203; 2002, ch. 291, §§ 2, 4.)

Stated in *State v. Brookins*, 380 Md. 345, 844 A.2d 1162 (2004).

§ 16-204. Disturbing the peace.

(a) *In general.* — A person may not hinder or impede the conduct of official electoral activities by:

- (1) breach of the peace;
- (2) disorder; or
- (3) violence or threat of violence.

(b) *Penalties.* — A person who violates this section shall be guilty of a misdemeanor and shall be subject to imprisonment for not less than 30 days nor more than 1 year or by a fine of not less than \$50 nor more than \$1,000 or both. (An. Code 1957, art. 33, § 16-204; 2002, ch. 291, §§ 2, 4.)

§ 16-205. Interfering with election officials.

(a) *In general.* — (1) A person may not interfere with an election official in the performance of the official duties of the election official.

(2) A person may not interfere with an individual lawfully present at a polling place or at the canvass of votes.

(b) *Penalties.* — A person who violates this section is guilty of a misdemeanor and is subject to a fine of not less than \$50 nor more than \$1,000 or imprisonment for not less than 3 months nor more than 1 year or both. (An. Code 1957, art. 33, § 16-205; 2002, ch. 291, §§ 2, 4.)

§ 16-206. Offenses as to ballots and balloting in general.

(a) *In general.* — A person may not:

- (1) place any distinguishing mark on the person’s own or another person’s ballot for the purpose of identifying the ballot;
- (2) misrepresent the person’s ability to mark a ballot or operate voting equipment;

(3) interfere or attempt to interfere with a voter while the voter is inside the polling room, marking a ballot, or operating voting equipment;

(4) induce or attempt to induce a voter to mark the voter's ballot in a certain way;

(5) except for servicing by an authorized person, unlock any locked compartment of a voting device unless instructed to do so by the election director;

(6) destroy or deface a ballot;

(7) remove a ballot from a building in which voting occurs, except as otherwise provided in this article;

(8) delay the delivery of a ballot;

(9) possess on or before the day of election an official ballot printed for the election, unless the possession of the ballot is necessary and appropriate for carrying out the election process; or

(10) canvass, electioneer, or post any campaign material in the polling place or beyond a line established by signs posted in accordance with subsection (b) of this section.

(b) *Electioneering boundary.* — (1) At each polling place, one election judge from each principal political party shall be designated by the local board and, acting jointly, shall post signs delineating a line around the entrance and exit of the building that are closest to that part of the building in which voting occurs.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the line shall be located as near as practicable to 100 feet from the entrance and exit and shall be established after consideration of the configuration of the entrance and the effect of placement on public safety and the flow of pedestrian and vehicular traffic.

(ii) In Carroll County and Montgomery County, on approval of the local board, the line may be located at any point between 25 feet and 100 feet from the entrance and exit.

(3) The signs shall contain the words “No Electioneering Beyond this Point”.

(c) *Penalties.* — A person who violates this section is guilty of a misdemeanor and is subject to a fine of not less than \$50 nor more than \$500 or imprisonment for not more than 60 days or both. (An. Code 1957, art. 33, § 16-206; 2002, ch. 291, §§ 2, 4; 2011, ch. 344.)

Effect of amendments. — Chapter 344, Acts 2011, effective October 1, 2011, added the (b)(2)(i) designation and the exception at the beginning of (b)(2)(i); added (b)(2)(ii); and made related changes.

Electioneering boundary. — Electioneering is prohibited inside the perimeter of a 100-foot line established by reference to the entry to the building nearest the polling place. 81 Op. Att’y Gen. 37 (September 18, 1996).

The governmental entity that controls public property used for a polling place may not pro-

hibit electioneering in any traditional public forum (for example, a park or public sidewalk) in the vicinity of the facility. Nor may the entity prohibit electioneering in any public forum within the facility that has been designated as such by the entity. The entity may prohibit electioneering elsewhere on its property if it has a reasonable basis for doing so. 81 Op. Att’y Gen. 37 (September 18, 1996).

Photographs of candidate. — The giving of picture of candidate, within forbidden distance, to one about to vote would be election-

ering within the proscription of the statute.
 Moxley v. State, 212 Md. 280, 129 A.2d 392
 (1957).

§ 16-207. Use of alcoholic beverages at a polling place.

(a) *“Alcoholic beverages” defined.* — In this section, “alcoholic beverages” has the meaning provided in Article 2B, § 1-102 of the Code.

(b) *In general.* — A person may not bring, send, or attempt to bring or send any alcoholic beverages into a polling place during the hours that the polling place is open.

(c) *Penalties.* — A person who violates this section is guilty of a misdemeanor and is subject to a fine of not less than \$10 nor more than \$100. (An. Code 1957, art. 33, § 16-207; 2002, ch. 291, §§ 2, 4.)

Subtitle 3. Conduct of Election Officials.

§ 16-301. Neglect of duties; corrupt or fraudulent acts.

(a) *In general.* — An election official or an official of a political party may not willfully neglect official duties under this article or engage in corrupt or fraudulent acts in the performance of official duties under this article.

(b) *Penalties.* — A person who violates this section is subject to a fine of not less than \$50 nor more than \$1,000 or imprisonment for not less than 30 days nor more than 3 years or both. (An. Code 1957, art. 33, § 16-301; 2002, ch. 291, §§ 2, 4.)

Civil liability. — As to civil liability of judges of election for fraudulently and maliciously refusing to register a voter, see *Hardesty v. Taft*, 23 Md. 512 (1865).

§ 16-302. Tampering with election records.

(a) *In general.* — A person may not fraudulently tamper with election records of any kind, whether on paper or in any other medium.

(b) *Penalties.* — A person who violates this section is guilty of a felony and is subject to imprisonment for not less than 1 year nor more than 5 years. (An. Code 1957, art. 33, § 16-302; 2002, ch. 291, §§ 2, 4.)

§ 16-303. Operation of polling place.

(a) *In general.* — An election judge, while performing official duties at a polling place, may not willfully and knowingly:

(1) interfere in any way with the casting of a vote by a person who the election judge knows is lawfully entitled to vote at an election;

(2) fail to challenge a person who the election judge has reason to believe is not entitled to vote;

(3) refuse to follow the instructions of the election director with respect to the qualification of voters, the use of voting equipment, or the casting of votes;
 or

(4) obstruct the view at any time of any person, lawfully present in the polling place, who wishes to see the ballot box or voting equipment used during an election.

(b) *Penalties.* — An election judge who violates this section is guilty of a misdemeanor and subject to imprisonment for not less than 3 months nor more than 2 years. (An. Code 1957, art. 33, § 16-303; 2002, ch. 291, §§ 2, 4.)

§ 16-304. Adding or deleting votes or provisional ballots.

(a) *By election judges.* — In a polling place on election day, an election judge may not willfully and knowingly:

(1) permit a ballot or ballots to be placed into a ballot receptacle prior to the time for voting; or

(2) place a ballot in a ballot receptacle unless the ballot is offered by a properly registered voter or is a provisional ballot placed with other provisional ballots of the same character.

(b) *By any person.* — A person may not:

(1) cause or permit a ballot, including a provisional ballot, to be cast or deposited in a ballot receptacle, voting device, or other receptacle designed for the collection of ballots other than by a person entitled under this article to cast a ballot; or

(2) substitute, alter, add, or remove a submitted ballot from a ballot receptacle, voting device, or other receptacle designed for the collection of ballots, except when instructed to do so by the election director.

(c) *Penalties.* — A person who violates this section is guilty of a felony and is subject to imprisonment for not less than 1 year nor more than 5 years. (An. Code 1957, art. 33, § 16-304; 2002, ch. 291, §§ 2, 4; 2003, ch. 379, § 2; 2004, ch. 19.)

Subtitle 4. Petitions.

§ 16-401. Offenses relating to petitions.

(a) *In general.* — A person may not willfully and knowingly:

(1) give, transfer, promise, or offer anything of value for the purpose of inducing another person to sign or not sign any petition;

(2) request, receive, or agree to receive, anything of value as an inducement to sign or not to sign any petition;

(3) misrepresent any fact for the purpose of inducing another person to sign or not to sign any petition;

(4) sign the name of any other person to a petition;

(5) falsify any signature or purported signature to a petition;

(6) obtain, or attempt to obtain, any signature to a petition by fraud, duress, or force;

(7) circulate, cause to be circulated, or file with an election authority a petition that contains any false, forged, or fictitious signatures;

(8) sign a petition that the person is not legally qualified to sign;

(9) sign a petition more than once; or

(10) alter any petition after it is filed with the election authority.

(b) *Each violation a separate offense.* — Each violation of this section shall be considered a separate offense.

(c) *Penalty.* — A person who violates this section is guilty of a misdemeanor and is subject to the penalties provided in Subtitle 10 of this title. (An. Code 1957, art. 33, § 16-401; 2002, ch. 291, §§ 2, 4.)

Maryland Law Review. — For discussion of interaction and interpretation of the budget and referendum amendments of the Maryland Constitution, see 39 Md. L. Rev. 558 (1980).

Sections not requirements as to sufficiency of referendum petition. — This section and former §§ 23-5 to 23-8, inclusive, of Article 33 of the Code (now this section and § 7-105 of this article), are not requirements as to sufficiency of referendum petitions but only collateral measures to prevent fraud, similar to

the corrupt practices provisions in connection with the election laws to which they refer (under former Art. 33). *Barnes v. State ex rel. Pinkney*, 236 Md. 564, 204 A.2d 787 (1964).

Former paragraph (4) unconstitutional. — Provision of former paragraph (4) prohibiting paying petition circulators was held to infringe on the right to political speech guaranteed by the First Amendment. *Ficker v. Montgomery County Bd. of Elections*, 670 F. Supp. 618 (D. Md. 1985).

Subtitle 5. Oaths.

§ 16-501. False oath or affirmation.

(a) *In general.* — A person may not willfully and falsely take an oath or affirmation prescribed:

- (1) by the State Board; or
- (2) pursuant to this article.

(b) *Subornation.* — A person may not willfully induce or procure, or offer to induce or procure, another person to willfully and falsely take an oath or affirmation prescribed:

- (1) by the State Board; or
- (2) pursuant to this article.

(c) *Penalty for perjury.* — Any person who violates subsection (a) of this section is guilty of perjury and shall be punished according to the laws of the State for perjury.

(d) *Penalty for subornation of perjury.* — Any person who violates subsection (b) of this section is guilty of subornation of perjury and shall be punished according to the laws of the State for subornation of perjury. (An. Code 1957, art. 33, § 16-501; 2002, ch. 291, §§ 2, 4.)

False swearing by register or voter. — False swearing by either register or voter came with the purview of a prior similar version of this section. *Carter v. Applegarth*, 102 Md. 336, 62 A. 710 (1905).

Subtitle 6. Canvassing.

§ 16-601. False reports.

(a) *In general.* — An election judge or other election official may not willfully and knowingly:

- (1) make, sign, publish, or deliver a false certificate or statement of the result of the election or any other false report of any kind; or

EL, § 16-701

REGISTRATION AND ELECTION LAWS

(2) deface, destroy, or conceal any statement, tally, certificate, or other document entrusted to the official's care and custody.

(b) *Penalties.* — A person who violates this section is guilty of a felony and is subject to imprisonment for not less than 1 year nor more than 10 years. (An. Code 1957, art. 33, § 16-601; 2002, ch. 291, §§ 2, 4.)

Subtitle 7. Election Records and Documents.

§ 16-701. Defacing or removing records.

(a) *Person with custody of records.* — A person with custody of election records may not willfully and knowingly:

- (1) destroy, deface, falsify, remove, or conceal any record related to voting;
- (2) make a fraudulent entry or alteration, or permit another person to make a fraudulent entry or alteration, of any record related to voting; or
- (3) allow any other person to do the acts prohibited in items (1) and (2) of this subsection.

(b) *Person not in custody of records.* — Any person who does not have custody over election items may not:

- (1) do an act prohibited by subsection (a) of this section; or
- (2) advise, procure, or abet the commission of an act prohibited by subsection (a) of this section.

(c) *Exception.* — This section does not apply to the disposition of obsolete records in the ordinary course of the operation of the State Board or a local board.

(d) *Each violation a separate offense.* — Each violation of this section is a separate offense.

(e) *Penalties.* — A person who violates this section is guilty of a felony and is subject to imprisonment for not less than 1 year nor more than 10 years. (An. Code 1957, art. 33, § 16-701; 2002, ch. 291, §§ 2, 4.)

Subtitle 8. Voting Equipment.

§ 16-801. Destruction of voting equipment.

(a) *In general.* — A person may not willfully:

- (1) conceal, damage, or destroy voting equipment used or intended to be used on the day of election; or
- (2) remove voting equipment from the custody of the election judges or other election officials.

(b) *Penalties.* — A person who violates this section is guilty of a felony and is subject to a fine of not more than \$10,000 or imprisonment for not more than 3 years or both. (An. Code 1957, art. 33, § 16-801; 2002, ch. 291, §§ 2, 4; 2004, ch. 549.)

§ 16-802. Tampering with voting equipment.

(a) *In general.* — A person may not willfully and knowingly:

(1) tamper with, damage, or attempt to damage any voting equipment that is used or will be used in an election; or

(2) prevent or attempt to prevent the correct operation of any voting equipment that is used or will be used on the day of election.

(b) *Voting equipment key.* — An unauthorized person may not make or have in the person's possession a key to any voting equipment that is used or will be used on the day of election.

(c) *Penalties.* — A person who violates this section is guilty of a felony and is subject to a fine of not more than \$10,000 or imprisonment for not more than 3 years or both. (An. Code 1957, art. 33, § 16-802; 2002, ch. 291, §§ 2, 4; 2004, ch. 549.)

§ 16-803. Removal or destruction of equipment or supplies.

(a) *In general.* — A person may not remove, deface, or destroy equipment or supplies placed in a polling place by election officials during an election.

(b) *Penalties.* — A person who violates this section is guilty of a felony and is subject to a fine of not more than \$10,000 or imprisonment for not more than 3 years or both. (An. Code 1957, art. 33, § 16-803; 2002, ch. 291, §§ 2, 4; 2004, ch. 549.)

§ 16-804. Tampering with electronic voting system.

(a) *In general.* — When an electronic voting system is used, a person may not willfully and knowingly:

(1) access the system unless authorized to do so by the appropriate election authority; or

(2) tamper with or alter the hardware, system components, or software utilized by the voting system, for the purpose of affecting the vote count.

(b) *Penalties.* — A person who violates this section is guilty of a felony and on conviction shall be subject to a fine of not more than \$50,000 or imprisonment for not more than 10 years or both. (An. Code 1957, art. 33, § 16-804; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1; 2004, ch. 549.)

Subtitle 9. Other Offenses.

§ 16-901. Offenses relating to certificates of candidacy or nomination.

(a) *In general.* — A person may not falsely or fraudulently:

(1) make, deface, or destroy a certificate of candidacy or certificate of nomination or any part of the certificate; or

(2) file or suppress a certificate of candidacy or certificate of nomination that has been duly filed.

(b) *Penalties.* — A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine of not less than \$100 nor more

than \$1,000 or imprisonment for not more than 3 years or both. (An. Code 1957, art. 33, § 16-901; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1.)

§ 16-902. Wagers on elections.

(a) *In general.* — A person may not make a bet or wager on the outcome of an election held under this article.

(b) *Penalties.* — A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine of not less than \$50 nor more than \$500 to be paid to the State.

(c) *Disposition of money.* — Any deposit of money as a bet or a wager on the outcome of an election shall be forfeited and paid to the governing body of the county where the money is deposited. (An. Code 1957, art. 33, § 16-902; 2002, ch. 291, §§ 2, 4; 2003, ch. 21, § 1.)

Cross references. — For present provisions concerning gambling, see § 12-104(a) of the Criminal Law Article.

Elements of offense. — Knowledge of law prohibiting wagering on elections is imputed to every person having a deposit of money as such a wager. *Doyle v. Baltimore County Comm'rs*, 12 G. & J. 484 (1842).

Deposit of money. — It is not essential that both parties should deposit money; and deposit of note of bank is deposit of money. *Doyle v. Baltimore County Comm'rs*, 12 G. & J. 484 (1842).

§ 16-903. Individuals attired or equipped as officials prohibited; exceptions.

(a) *In general.* — Except as provided in subsection (b) of this section, a person may not attire or equip an individual, or permit an individual to be attired or equipped, in a manner which creates the appearance that the individual is performing an official or governmental function in connection with an election, including:

(1) wearing a public or private law enforcement or security guard uniform;

(2) using an armband; or

(3) except as required by law or by regulation adopted by the State Board in connection with ballot security activities, carrying or displaying a gun or badge within 100 feet of a polling site on election day.

(b) *Law enforcement officers or security guards.* — (1) A law enforcement officer or security guard who is on duty or traveling to or from duty may vote while wearing a uniform.

(2) A law enforcement officer who is performing an official governmental function may wear a uniform at a polling site.

(c) *Penalty.* — A person who violates this section is subject to the civil penalty specified under § 16-1002 of this title. (2006, ch. 4.)

*Subtitle 10. General Penalty Provisions.***§ 16-1001. General penalty provisions.**

(a) *Misdemeanor for which no penalty is specified.* — A person convicted of a misdemeanor under this article for which no penalty is specifically provided is subject to a fine of not less than \$10 nor more than \$250 or imprisonment for not less than 30 days nor more than 6 months or both.

(b) *Disqualification to be election official or employee.* — A person who is convicted of any criminal violation of this article shall be disqualified permanently from serving as an election judge, board member, or employee of a board.

(c) *Disqualification of candidate found in violation.* — A candidate who is convicted of any practice prohibited by this article shall be ineligible to be elected or appointed to any public office or employment for a period of 5 years following the date of the conviction. (An. Code 1957, art. 33, § 16-1001; 2002, ch. 291, §§ 2, 4.)

§ 16-1002. Violations of § 16-201(a)(6) or (7) or § 16-903 of this title.

A person who violates § 16-201(a)(6) or (7) or § 16-903 of this title without knowing that the act is illegal shall pay a civil penalty and have the matter adjudicated in accordance with § 13-604 of this article. (2006, ch. 4.)