

Maryland Policy Report

No 2016-01

March 1, 2016

THE CASE FOR COMMON SENSE REGULATORY REFORMS TO THE MARYLAND CODE

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SINCE GOVERNOR MARVIN MANDEL'S EFFORT TO REORGANIZE *and restructure* Maryland state government over 45 years ago, state government has expanded to a point where it is causing significant harm to the ability to foster economic growth.

The administration should consider a comprehensive review of Maryland's state government structure and organization, eliminate duplicative responsibilities and functions, and look for opportunities to re-organize in order to bring Maryland into the 21st century.

—Maryland Regulatory Reform Commission 2015 Report¹

Maryland is an over-regulated state. A 2013 report from the Mercatus Center at George Mason University rated the state's regulatory environment sixth worst in the nation.² A 2015 Pacific Research Institute study focusing specifically on small business regulation ranked Maryland 11th worst.³

Though such a regulatory burden may not obstruct the colossal firms whose large office buildings ring the Washington Beltway, overregulation hurts the state's economy, stifles entrepreneurship, and generally creates bureaucratic nightmares for citizens who must contend with the enormous and oppressive Maryland Code of Regulations.

Maryland's regulatory burden needs to be cut. That point is fairly uncontroversial. The more important question is which regulations should be reformed or repealed outright. Moreover, what institutional reforms can be made to safeguard the public interest from rent-seeking Annapolis administrators?

But reforming certain policy areas requires more than simply repealing regulations; other regulations should be retained but their administration improved. For these, this report proposes institutional reforms focused on improved transparency, accountability, and use of benefit-cost analysis by political decision-making bodies.

This report offers a rough outline of how comprehensive reform of Maryland's regulatory environment should look. Also, an appendix provides a title-by-title⁴ analysis of the Maryland Code of Regulations, noting opportunities for reform and improvement, and identifying rules of especially dubious value.

GENERAL RECOMMENDATIONS

Completely rework the state's occupational licensing rules

In theory, occupational licensing is intended to protect consumers from unqualified professionals. In reality, licensure often protects professionals from virtuous competition by obstructing would-be entrants and blocking new business methods. The damaging effects of occupational licensing have become abundantly clear in recent years,⁵ highlighted by a 2015 White House report calling for reform.⁶

There is a bipartisan consensus that the states must overhaul their occupational licensing laws. Yet change will be politically challenging. Professionals typically have powerful political allies, and licensed professionals have every reason to fight to protect the rules in place. This is especially true in Maryland, where certain business interests have long dominated Annapolis decision-making.

To break this logjam, a deregulatory commission could be assembled to assess the state's occupational licensing laws, and propose a unified reform legislative package. The proposal would not only include the repeal of certain types of licensure, but the reduction of dubious continuing education requirements and fees for license certification.

The unified legislation would incorporate a valuable reform pioneered on the federal level, and intended to overcome entrenched special interests' efforts to block reform. Because the legislation would be unified, it would be immune from amendment by legislators, meaning that it would face only an up-or-down vote in both the Maryland Senate and House of Delegates. At the federal level, special

interests have had difficulty blocking such large pieces of legislation to protect their individual benefits.

Beyond those changes, reform is needed for licensure regimes that lawmakers choose to retain. One necessary reform is changing the entities that oversee those regimes. Most occupational licenses are administered by boards of professionals already in the industry: e.g., doctors regulate medical licensing, architects oversee architectural licensing, and engineers regulate engineer licensing.

Having these professionals administer licensing in their fields is understandable, but it also presents an opportunity for cartel-like mischief by incumbent professionals. Sometimes, a particular board oversees more than one licensed profession. In these cases, it would make sense to have rules

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requiring that representatives from all certified job classifications regulated by a particular board hold positions on the board. This could ensure the interests that both senior and junior professionals are regulated on an equal footing.

This is important, as professionals of related job titles routinely are at odds over scope of practice rules. A requirement to include at least one economist on the board could help make professional licensing boards more representative of the public interest in regulating a particular profession.

Consolidate economic development subsidy programs

Maryland has dozens of overly specific economic development programs that benefit the few applicants who know how to navigate the complex application processes for myriad subsidies, loan programs, and tax credits. Consolidating these into a handful of broad, straightforward programs would better direct state benefits to promising projects rather than to projects overseen by experts in the political system.

Moreover, there is reason to consider terminating many of these subsidies altogether. Maryland has a wealthy, diverse population that, for the most part, will support development through market forces. In economically disadvantaged areas, both urban and rural, public support would be more effective coming from local governments than from Annapolis. If citizens truly want, say, location-based subsidies (e.g., "empowerment zones" in poor urban and rural areas), localities could then appropriate the money to

fund these programs themselves, rather than ask taxpayers statewide to foot the bill. If the local tax increases to pay for the programs are unpopular, then citizens probably never had enough demand to justify funding the programs.

Get one-stop-shop permitting right

The bureaucratic requirements for starting a basic small business in Maryland should be simple and low cost, rather than a costly and expensive barrier to entry. Toward that end, the Regulatory Reform Commission's report has called for digitization of most state paperwork filing for businesses, instead of requiring entrepreneurs to submit hardcopy by mail or in person. That would be a welcome first step toward simplifying the application process.

But Maryland can do more than just digitize paperwork. For instance, it can borrow streamlining ideas that have proved successful elsewhere. For instance, the town of Devens, Massachusetts has put all of its permitting and application functions under one unified commission, which boasts an unparalleled 75-day permitting process.⁷ As a result, the town's permitting process has gained popularity for being able to assess major projects more efficiently than nearly anywhere in the nation. For instance, not long ago, the town famously permitted a \$750 million pharmaceutical plant in only 49 days.

Harvard's Edward Glaeser, regarded by many as the world's foremost economist of land use, recently endorsed the Devens model in a 2014 essay.⁸ Glaeser suggested initially piloting such a program in an entre-

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preneurship zone, ideally somewhere with more poverty, where people could benefit from the prospective jobs generated by an especially efficient permitting process. The Devens model works in Massachusetts. It would be worth trying on a larger scale in Maryland.

Create a state-level office to approve federal grant requests

In recent decades, the federal government has increasingly interfered in local public policy issues, often with questionable public benefits.

For example, the federal government offers grant money in exchange for local governments adopting certain policies. For instance, local policing agencies have sought and received grants of heavy equipment from the federal

Department of Homeland Security.⁹ This has resulted in police use of the equipment in seemingly inappropriate circumstances and contributed to the notion that American policing has become too militarized and aggressive.

Questionable federal intervention also occurs in the simple creation of duplicitous spending programs that often require local matching funds and lead to increased future local spending on certain budget items. Often, these programs syphon dollars from core local functions like policing, fire protection, schools, and infrastructure. Of course, in some cases these grants are beneficial. But in many cases, they result in questionable allocations of public resources.

To reduce these problems, Maryland could try creating a new state-level office whose role is to assess each local and agency federal grant application before it goes to the federal government, with an eye toward avoiding the problems described above. A model for this exists in Indiana's Office of State-Based Initiatives (OSBI).¹⁰ The agency fulfills a similar role to the federal Office of Information and Regulatory Affairs (OIRA), acting as a safeguard against unnecessary rules by using benefit-cost analysis. The difference is scope, where the OSBI reviews the regulatory cost of state agency requests from the federal government.

A prospective Maryland OSBI would successfully improve the state's business climate by requiring localities to undergo the grant approval process as well. The Indiana office lacks this purview, and leaves regulatory cost savings on the table as a result. While this would require a larger agency, an empowered Maryland OSBI would be a valuable check on excessive regulation within state government.

A sensible place to house this agency would be within the Department of Management and Budget as codified under Title 17. This would mirror the OSBI and OIRA, which are housed within their respective executive offices of management and budget.

Involve the private sector in environmental remediation and expand P3 options

The health of the Chesapeake Bay is a serious political issue for Maryland citizens. The Bay supports jobs both directly and indirectly. Thousands of workers are employed in the recreational and commercial use of Bay waters. Many thousands more are employed in industries that depend on the unique competitive advantages the Bay's geography facilitates. The Port of Baltimore, for instance, supports over 100,000 jobs and generates over \$300 million in taxes.¹¹ To keep this commerce moving, the shipping lanes through the Bay must be dredged.

Traditionally, states have simply footed the bill for this process, yet it might be worth considering whether revenue could be generated and costs reduced from these operations. For instance, companies could seek innovative reuse of dredge materials, doing away with costly infrastructure projects like the \$300 million expansion of the Cox Creek Dredged Material Containment Facility.

By using a public-private partnership (P3) here, the state would show a commitment to innovation in environmental protection and remediation. But to do this would likely require changing rules the regulating public-private partnership to include a broader range of projects open to P3 proposals. Such a rework could build on the work of already successful projects, like the deal the Maryland Transportation Authority struck to enlarge the Seagirt Marine Terminal in 2009.

TOWARD COMMON SENSE REGULATION

Sometimes, legislators make mistakes when passing regulations. Government doesn't get the regulatory level right on the first try all the time. Sometimes we regulate too little. The strict pollution-reduction mandates the EPA has imposed on Maryland show that past governments regulated some things too little. But in most areas, the slow pace of removing bad rules and failed programs has led to a government replete with both. Removing these complexities and fixing the state's business climate need not be controversial. It's basic. It's simply a matter of repealing problematic and outdated regulations and making simple structural reforms.

APPENDIX: TITLE-BY-TITLE REFORM RECOMMENDATIONS

Below are some specific regulatory reform recommendations and observations, by title of the Maryland Code of Regulations.

TITLE 1: Executive Department

- Lower the copying fee for public records requests from \$.30 per page [01.02.05.14]. This would make public oversight of government activity cheaper, allowing for greater transparency in state government.
- Rules governing raffles of real property [01.02.07] include onerous reporting requirements and paperwork filings for raffles common among the state's nonprofits. While rules against outright gambling and fraud exist, raffle regulation itself can be safely left to the public, to judge the worthiness of some person or group offering a raffle.
- The Maryland Regulatory Reform Commission's report recommended terminating processing fees that raise trivial amounts of revenue and require expensive staff time to process. One of these is the \$20 processing fee for notaries public, regulated under 01.02.08.04.
- Why does Maryland's Secretary of State have the ability [01.02.09] to terminate or suspend time-share offerings for vacation properties? The purpose of this power is unclear, and adds uncertainty to Maryland's market for leisure properties. If there are disputes over a time-share offering, the courts can resolve them rather than the Secretary of State.
- Simplifying the code should include combining some worthwhile programs into broader, more unified initiatives. This includes programs like the Drug and Alcohol

Grants Program Fund [01.05.01], which should be administered by the Department of Health and Mental Hygiene as regulated under Title 10.

TITLE 2: Office of the Attorney General

- Broaden and simplify rules relating to consumer protection. For instance, compliance with many of the complex unit pricing regulations under 02.01.01 places a notable burden on Maryland's small and home-based businesses. These requirements have not been updated since becoming effective in 1978.
- In a similar vein, it is entirely unclear why the state, and not private organizations, regulates disclosure statements for kosher [02.01.08] and halal [02.01.10] food. Such private oversight is commonplace elsewhere.¹² Deceptive advertising is already illegal, so there's no need for specific rules about particular certifications. If religious communities demand such regulations, private professional organizations or trade groups will fill the role without need for state intervention.
- Maryland Foreign Discriminatory Boycotts Act Regulations [02.04.01] were pre-empted by Presidential Executive Order 12730 in 1990. These 1970s-era rules are a political vestige of politics long in the past, and repeal should be uncontroversial.

The strict pollution-reduction mandates the EPA has imposed on Maryland show that past governments regulated some things too little.

- Public information requests are separately regulated under Titles 1 and 2, and have slightly different wording and different fee schedules. There is no reason a page copied under a Title 2 Public Information Act request costs a nickel less than a page copied under Title 1. This kind of duplicative regulation drives citizens mad.

TITLE 3: Comptroller of the Treasury

- Most of Title 3 deals with the implementation of the tax code. While Maryland's tax code needs fundamental reform, that matter is for the politicians to decide. Any change should seek to simplify the tax structure with the aim of minimizing compliance costs. Taxes that raise trivial amounts of revenue should be scrapped outright in favor of fewer, broader categories.
- Regulations relating to alcohol and cigarettes could be tweaked to allow for more consumer choice and lessen the burden on some small businesses. Rules under 03.02.05 micromanage sales, advertising, and sample

tastings, all with questionable public benefit. The alcohol tasting regulations [03.02.05.05] are especially confusing, harming the state's budding craft brewing, distilling, and winemaking industries. These rules require that a wholesaler conduct a tasting to retain a list of all participating persons for two years after the event, as well as all details about the event itself, a serious administrative burden.

- The Comptroller's Office would be a reasonable overseer of any move toward digital payment and regulatory form submission processing, as advocated by the Maryland Regulatory Reform Commission report. Letting people pay their fees and fines online, and submit permit, license, and other state paperwork, makes sense. It lowers the compliance cost of the entire regulatory system, something almost everyone would support.

TITLE 4: Department of General Services

- Similar to Titles 1 and 2, this department has its own public information law. It should be reconciled with the others into a single set of rules with a unified fee schedule [04.01.01].
- Regulation 04.03.01.04 suspends the requirement that the government seek competitive bids for state surplus property if the body requesting the property is a local government or nonprofit, and if the Secretary of General Services agrees to the request. This rule prevents the state from maximizing the value of surplus public property, all at the political will of an unelected official.
- Rule 04.05.01.08 lays out the nature of rallies on DGS grounds. While most of these rules seem reasonable, a few seem unnecessarily cumbersome, if not outright obstructive. Specifically, the regulation allows signs and placards, but not if they are mounted on sticks or poles. It is unclear what public interest is advanced by allowing signs and placards, but only if they are not mounted on sticks or poles. This rule seems dubious, arbitrary, and generally unnecessary.

TITLE 5: Department of Housing and Community Development

- A major point that overly complicates the building process in Maryland is the massive number of community development programs regulated under Title 5. These have long been tools for politicians to appease constituents with targeted subsidies for preferred activities, while also complicating the Maryland Code. While they may have slightly different purposes, many of these programs are duplicative and attempt to benefit similar groups. These programs include all four loan programs within the Maryland Home Financing Program, which could be combined into a single housing assistance program or, better, all four could be eliminated in their entirety. These programs include the Preferred Interest Rate Loan Program [05.03.01], Emergency Mortgage

Assistance Program [05.03.03], and the Reverse Equity Mortgage Program [05.03.05].

- Housing programs that could be simplified and combined include community development programs that often serve as discretionary subsidy programs. Similar programs at the federal level have been widely criticized for being distributed for political ends. It would be reasonable to combine the Community Development Administration Residential Mortgage Program [05.03.02], Special Purpose Investment Fund Loan Program [05.03.06], Business Development Program [05.13.01], Main Street Improvement Program [05.13.02], Maryland Town Manager Circuit Rider Grant Program [05.13.03], and Food Desert Designation and Financing Program [05.13.06]

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into a unified community development program with a single grant-making bureaucracy within the DCHD. Or the programs could simply be eliminated outright due to their history of politically influenced grant making.

- The Live Near Your Work Program [05.03.07] is unnecessarily narrow and complicated, and the same goals could be accomplished without the need for a specific subsidy program.
- Continuing with overly narrow programs, the 12 programs under Subtitle 04 of Chapter 5 of the Maryland Code should be combined or eliminated. Most of these loan programs subsidize renovation of homes with specific problems like lead, plumbing, or energy inefficiency, or for specific purposes. Each of these could be addressed through a combined housing subsidy program, as narrowly tailored programs with specific requirements ensure those receiving subsidies are those with levels of political knowledge beyond that of a typical Marylander. For example, Home and Energy Loan Program [05.04.10] and the Weatherization Program [05.04.14] could be combined into a single home energy efficiency program. These could also be eliminated, as a recent study of a similar federal program by the National Bureau of Economic Research found that costs doubled the benefits produced.¹³
- The problems go further. Nearly every one of the 16 active subtitles within Title 5 lays out some program that, in one way or another, duplicates another part of the Maryland Code. An overhaul and dramatic simplification of these rules would greatly improve the state's regulatory environment.

TITLE 07: Department of Human Resources

- Combine Refugee Cash Assistance [07.03.16] with the Refugee Resettlement Service Program [07.03.23] to create a unified refugee assistance program, as these programs address similar concerns.
- The Driver's License Suspension Program [07.07.15] and Business, Occupational, and Professional License Suspension Program [07.07.16] are questionable policies to address child support delinquency, given that the delinquent parent likely needs transportation and his or her business license to earn money to pay child support. Subtitle 7 provides many ways to induce compliance with child support requirements, while these regulations

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make finding and holding work more challenging while relying on ex-post enforcement. These parts of the code do little to increase child support compliance, while obstructing the process of finding work for those who genuinely want to pay.

TITLE 08: Department of Natural Resources

- Combine the Tidal Fisheries Advisory Commission [08.01.01.06] with the Sport Fisheries Advisory Commission [08.01.01.07] to create a unified Fisheries Advisory Commission. Further, most public commissions would benefit from including an economist on the panel to inject a serious discussion of benefit-cost analysis into commission recommendations. Any combined Fisheries Advisory Commission should be required to include an economist, with the hope that it would lead to more rational public policy decision-making.
- Repeal the Boat Dealer License [08.04.09], which is simply paperwork, a \$25 fee, and a bonding requirement. These create red tape, add to dealer cost, and drive boat sales to neighboring states with minimal benefit. Whatever benefits do result from this requirement could be created by private enforcement and business insurance.
- Compliance with local forest conservation programs [08.19.02] is onerous and complex for local governments, and requires biennial review. Streamlining and generally simplifying the evaluation criteria under Regulation 08.19.02.02 could cut compliance costs for local governments statewide.
- In a similar vein, criteria for who may prepare a forest stand delineation or forest conservation plan under rule

08.19.06.01 are overly long and specific, locking qualified individuals out of the market.

TITLE 09: Department of Labor, Licensing, and Regulation

- This policy analysis earlier recommended a complete overhaul of the state's occupational licenses. Most such licenses are regulated under Title 09. Among these are a number of licenses that should be considered for complete repeal, including licenses for sports agents [09.01.07], interior designers [09.18], barbers [09.16], cosmetologists [09.22], senior cosmetologists [09.22.01.02], estheticians [09.22.01.04], makeup artists [09.22.01.05], and nail technicians [09.22.01.06]. Health and safety concerns, if any, could be monitored by the state's health inspectors. There's no need to have specific licenses for any of these activities when optional private licensing programs exist for customers who prefer certified professionals.
- As with many other parts of the code, lowering, consolidating, or completely eliminating fees for certain licenses and applications would be a valuable step toward a more understandable, helpful state government. For example, the Board of Landscape Architects has five fee categories [09.28.03.03] where one or two should suffice. Continuing education requirements are similar in their unnecessary complexity, and each of these often-arbitrary requirements should be evaluated, although they remain clearly valuable in some fields.

TITLE 10: Department of Health and Mental Hygiene

- Rationalizing health regulations is a necessary but complicated endeavor. Title 10 contains 62 different subtitles, regulating everything from health protocols for repackaging of crab meat [10.15.02.11] to the provision of medical marijuana [10.62] to the ethics of acupuncturists [10.26.03]. The title is so complicated, proposing even a comprehensive suite of modest policy rationalizations would take a full study on its own. In any case, the section should be reviewed for opportunities to combine and simplify facility categories into smaller, broader categories to remove confusion for many small business owners.
- The department is ripe for a number of reasonable structural reforms to the way many of its certification boards govern healthcare sector professions. One important reform would be following similar steps on licensure recommended for Title 9. Adding a health economist to every professional licensing board in the state could rationalize future professional rulemaking. All medical licensing boards should be reviewed and updated to ensure compliance with the 2015 *North Carolina Board of Dental Examiners v. Federal Trade Commission* Supreme Court decision.¹⁴ This ruling held that "When a controlling number of the decision makers on a state licensing board are active participants in the occupation the board

regulates, the board can invoke state-action immunity only if it is subject to active supervision by the state.”

- Broadening some scope-of-practice rules could be extremely valuable to Maryland’s health care consumers. A few years ago, Maryland’s burdensome dental health rules were exposed on a national stage after a young boy died after being forced to wait months for an appointment to receive routine dental care. This death could have been prevented if the state allowed a tier of low-cost “dental therapists” trained to do simple procedures like pulling teeth and filling cavities while working under direction of a trained dentist. These new professionals are popular in underserved areas, and have proven successful in broadening dental health access in Minnesota and on tribal lands in Alaska, as described in recent research from the Pew Research Center.¹⁵ These health care professionals would be especially valuable in underserved parts of Maryland, such as inner-city Baltimore and impoverished rural sections of the Eastern Shore and Western Maryland. Allowing dental therapists could be the simplest, most common-sense health care reform that the state could make.
- Finally and most notably, the state’s Certificate of Need (CON) for Health Care Facilities [10.24.01] rules should be scrapped. These rules require all health care facilities seeking to expand operations to justify to a state commission the increased supply of health care. This makes building new health facilities an onerous process, and leads to an under-provision of health care to Marylanders, while effectively cartelizing the state’s current health care system. That’s bad for health care consumers, while also locking out perspective new entrants into the state’s health care market, stifling innovation, and killing jobs. Maryland’s CON laws are some of the most stringent and broad in the nation. The state faces no special justification for this, and loses out in many ways, so scrapping such laws makes sense.

TITLE 11: Department of Transportation

- The Maryland Assistance to Private Airports (MAPA) Program [11.03.08] is, quite simply, a handout to private airports for capital improvements and unnecessarily complicates Maryland’s market for recreational aviation. Similarly, there need not be a separate Maryland Air Terminal Assistance Program [11.03.07], as any improvements at publicly owned airports could be funded through one-time state appropriations. The state only has three airports designated for commercial service by the Federal Aviation Administration,¹⁶ so there is hardly a need for an independent bureaucratic body to oversee those airports’ grant applications.
- A quirk of Subtitle 3 is that the state lays out rules specifically relating to Martin State Airport and Baltimore/Washington International Thurgood Marshall Airport, while airports owned by sub-state bodies like counties

and cities, including those in Hagerstown and Salisbury, are regulated separately. This is an unnecessary complication. Instead, the localities should be relieved from their regulatory duties and bring all airport regulation into the Maryland Aviation Administration.

- Grants under Smart Growth [11.04.13] could be merged with other development grant programs as part of Title 5 reform mentioned above. Currently these grants are duplicative, being housed in the state Department of Transportation.
- The state’s motor carrier rules are overly complicated. The code contains grandfathering provisions for certain intrastate drivers under 11.21.01.06.C who have been continuously employed since July 1, 1986. This extremely narrow exemption has almost certainly outlived its purpose. Beyond this, the rule suspensions for commercial drivers during emergencies [11.21.01.05B] should be broadened, as Maryland’s rules are more narrowly tailored than federal guidelines and they could unnecessarily hinder disaster relief efforts. During a disaster, the state needs all the help it can get, and suspending some regulatory requirements makes sense in such times. There’s no particular reason that Maryland needs rules narrower than established federal guidelines.

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- Rules relating to free speech activities in Maryland Transit Authority (MTA) facilities are overly narrow and ripe for abuse. Sign size rules [11.06.01.03] similar to, but different from, those mentioned above under Title 4 should be entirely dropped or, at minimum, reconciled. There is simply no reason that the same sign should be legal on DGS-managed government property but illegal on MTA-managed property and vice-versa. In a similar vein, the same provision bars touching or physically contacting others without consent. Such contact constitutes battery and is already illegal in Maryland.
- The motor vehicle fees [11.11.05] should be reviewed, and fees raising trivial amounts of money should be eliminated, or, at minimum, lowered.
- Rules benefiting incumbent automotive dealers under 11.12.01 should be repealed, and direct-to consumer sales should be allowed. In 2015, the state legalized

extremely limited direct-to-consumer automotive sales.¹⁷ This should be expanded to cover all automobiles. It is entirely unclear why traditional auto manufacturers are barred from such sales, while certain new companies are allowed through a narrow legal carve-out.

TITLE 12: Department of Public Safety and Correctional Services

- Although this study does not focus on reforms to the state's criminal justice system, it makes sense to simplify the state's criminal code and removing some of the special protections for public employees found in this title. Reforms to the state sex offender registries system also could yield benefits.¹⁸

TITLES 13A and 13B: State Board of Education and Maryland Higher Education Commission

- This report focuses on non-education related regulations, but the Maryland Public Policy Institute has written extensively on this topic.¹⁹

TITLE 14: Independent Agencies

- This title contains rules relating to the state's 29 active independent agencies. Many of these serve important, useful functions for Marylanders, including the state archives, the tax court, and the office of the public defender. Other such agencies do not. For instance, the Maryland Technology Development Corporation [14.04.01] exists to provide for stem cell research, which could easily be done through the state's university system if the issue deserves funding. The state issues certifications for products made by the blind [14.08.01], something best left to private certifying bodies. There's no need for the state to be subsidizing such products, and subsidies to the blind could be done through other existing transfer programs. The Attendant Care Program [14.11.01], which helps the disabled, could similarly be merged into existing disabled aid programs.
- The Maryland Food Center Authority [14.21] is a subsidy program for the state's food industries. Maryland has a robust food industry already, and any certification functions could be handled by industry trade groups without taxpayer expense. Further, the Maryland Stadium Authority [14.25] is a subsidy program to special interests. While Marylanders love their sports teams and businesses love their convention centers, stadium and convention center spending is a net loss to the community, as extensive empirical literature has demonstrated.²⁰
- Functions of the Maryland Energy Administration relating to subsidies for environmental protection would be best merged with other environmental subsidy programs found elsewhere in the code. Folding this authority into the Department of Environment could reduce program overlap, if the state chooses not to terminate the generally duplicitous subsidies outright. The same applies to the Maryland Environmental Service [14.27]. The Canal

Place Preservation and Development Authority [14.28] is a tiny state agency that is already on track for a transition to non-state ownership.²¹

- Despite its nice-sounding title, the Office for Children is a burdensome regulatory body. While stringent rules [14.31.05] about who may or may not take care of children seem uncontroversial, such rules often block innovative, beneficial modes of care, making childcare scarce and expensive and forcing many parents to seek alternative options or unlicensed providers. Like many licensed professions regulated elsewhere in the code, child care is a tempting field for entrepreneurial Marylanders, especially those who might wish to work part time. Parents elsewhere have proven able to judge providers of

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essential services like education and health care. Child-care is no different. Allowing private certifying bodies to oversee child care could lower costs to both taxpayers and the state's parents.

TITLE 15: Department of Agriculture

- Apiary Inspection [15.07.01] rules are overly complex and are a regulatory burden to recreational beekeepers. Specifically, rules 15.07.01.06 and 15.07.01.08, regarding movable frames and transportation of bees, micro-manage basic beekeeping activities.
- There is little particular public purpose for the Controlled Atmosphere Storage of Fruit [15.17.01] regulation. Here, the state plays a role that a private industry group could do just as well, without need for public regulation.
- In a similar vein is the regulation of Certified Seed Mixing [15.08.05]. The state's seed lots have a strong incentive to sell the products they advertise, and those seeking a greater level of surety could have their seed certified by any of a number of outside groups. This rule creates an added cost for the state's farmers while serving little to no public purpose.

TITLE 20: Public Service Commission

- Review and simplify rules under Subtitle 90 to lower costs for taxi drivers, making some requirements, such as the rule on safes in the cab, optional. This would reduce

the regulatory burden for taxicabs to be more in line with the state's recently passed rules governing transportation network companies.

- Airline route deregulation happened at the national level decades ago, resulting in broadly recognized public benefits. It's beyond time for Maryland's intra-state airline regulations, detailed under rule 20.95.04, to be similarly reformed. Most notably, the rules on established routes [20.95.04.09] and fixed schedules [20.95.04.10] could allow some flexible-route intra-state commercial flights to spring up under a more open regulatory environment. Currently, no commercial intrastate flights operate whatsoever.

TITLE 21: State Procurement Regulations

The Maryland Regulatory Reform Commission report includes recommendations to improve this system and ensure competition in state contracts. According to the commission,

*Many agencies have their own individual procurement departments; this phenomenon is replicated in multiple agencies across the state. Consolidation of the procurement functions could result in a huge cost savings to the state. Support functions in the various state agencies (such as procurement, IT, housekeeping, facilities management, accounts payable, accounts receivable, and other services) should be reviewed for opportunities to consolidate and streamline them.*²²

TITLE 23: Board of Public Works

- The fee schedule for the licensing of tidal wetlands [23.02.04.22], like all other fee schedules, should be reassessed and lowered, possibly consolidating all fees into a single, low, flat fee for all activities regulated under 23.02.04.

TITLE 24: Department of Commerce

- This department oversees 26 different subsidy, tax credit, and other economic development programs under Subtitle 5. Many of these are duplicitous or unnecessary, and each program has a separate set of rules, procedures, and governance. Ideally, programs with similar goals should either be merged or have their rules harmonized even if different bodies oversee them. Specifically, the Small Business Development Contract Financing Fund [24.05.07], Small Business Development Guaranty Fund [25.05.08], and Small Business Surety Bond Guaranty Program [24.05.09] are prime candidates to be merged into a single small business fund with a unified bureaucracy.
- Similarly, the three programs relating to funding the arts could be merged. These are the Maryland Public Art Initiative Program [24.05.13], Special Fund for Preservation of Cultural Arts in Maryland [24.05.15], and Arts and Entertainment Districts [24.05.26]. Better, they could be cut outright so the state can exit the art subsidy

business, rather than pick some projects and areas to subsidize in the state's vibrant art scene.

- The public interest in a few programs is clearly rather weak. There is little reason to subsidize film production [24.05.02 and 24.05.25], and states like Alaska and Louisiana pared back or eliminated similar programs in 2015.²³ Similarly, the public purpose for a subsidy to Maryland vineyards and wineries [24.05.19] is dubious when the state spends money on mitigating the harms of alcohol.

TITLE 26: Department of Environment

- One of the state's top priorities in this area should be updating the hydrogeological map for well drilling [26.04.04.39] to accurately reflect confined aquifer boundaries. More generally, it would be reasonable to simplify well-drilling rules such as the micromanaging of well-sealing and fill materials [26.04.04.35], which obstructs the use of innovative materials in well drilling, increasing costs to consumers.
- The aforementioned Regulatory Reform Commission report calls for the state to "fully embrace pollution trading"—that is, the use of tradeable emissions permits to limit emissions and reserve them for the highest-valued uses. Because the state is under federal mandate to control a number of air and water pollutant emissions, there must be some form of mitigation. It is broadly understood that market-based approaches are the most efficient at mitigating emissions, resulting in the largest reductions at the lowest costs.

TITLE 30: Maryland Institute for Emergency Medical Services Systems

- Subtitle 08 includes 16 separate designations for different types of healthcare facilities. This overly complicates Maryland's health care system, and some of these designations could be merged to simplify the number of regulations that new healthcare workers need to know when moving within the field of healthcare provision. It might also be reasonable to reassess the scope of practice and licensure rules for emergency medical service providers to consider if there are additional activities they could safely engage in, or if all licensing requirements are absolutely necessary.
- The fee schedule for EMS applicants, as with other fee schedules, should be reassessed and fines lowered or eliminated. All fees for such providers are \$60 or lower, making complete elimination a viable option.

TITLE 32: Maryland Department of Aging

- The Department of Aging contains four separate subsidy programs, one of which could be reasonably merged with programs outside the Department of Aging due to thematic overlap. The Senior Citizen Activities Centers Capital Improvement Grants [32.03.01] would fit better as a type of grant available within a recreation grants program elsewhere in the Maryland Code, rather than a

standalone regulation with separate requirements from other recreational facilities. Alternately, the termination of the program would be reasonable, as it certainly duplicates some other subsidy programs, and is a grant to private bodies for capital improvements, not unlike the above-mentioned subsidy to private airports.

- While everyone wants to make sure the aging are heard and supported by their care providers, private bodies could certainly provide these services, perhaps under a government mandate. The Nursing Home Ombudsman Program [32.03.02] should be eliminated, or at worst, merged into existing Department of Health and Mental Hygiene programs.
- Similarly, the state already has plenty of housing subsidy programs. The Senior Assisted Living Group Home Subsidy Program [32.03.03] and the Congregate Housing Services Program [32.03.04] should be merged into other housing programs elsewhere in the code. Transferring all subsidies for the aging into the departments managing the targeted activity would leave the Department of Aging to handle only the certification of continuing care providers and approving the burial of the unclaimed deceased. And even those activities that could be handled elsewhere in the state government, allowing the elimination of an overly specific government department.

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3. *The 50-State Small Business Regulation Index*, Pacific Research Institute, July 24, 2015, <https://www.pacificresearch.org/article/the-50-state-small-business-regulation-index/>
4. For clarity, all references to the Code reflect the formatting used by the Maryland Division of State Documents' COMAR database rather than the Annotated Code. The database may be accessed at <http://www.dsd.state.md.us/COMAR/comarhome.html>
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15. Rebecca Singer and Julie Stitzel, "Improving Dental Care Access in Rural America," Pew Charitable Trusts, November 2015, <http://www.pewtrusts.org/en/research-and-analysis/blogs/state-line/2015/11/18/improving-dental-care-access-in-rural-america>
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19. For recommended policy changes relating to education, see http://mdpolicy.org/research/cfid.3/pub_bycf.asp
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22. See the FY2015 state budget: <http://mgaleg.maryland.gov/pubs/budgetfiscal/2015fy-budget-docs-operating-D90U00-Canal-Place-Preservation-and-Development-Authority.pdf>
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