

Chapter 699

(House Bill 777)

AN ACT concerning

Local Government – Applicability of Laws to Counties and Baltimore City

FOR the purpose of specifying that certain powers are granted to code home rule and charter home rule counties in addition to powers granted in the Express Powers Act under Article 25A, § 5 of the Annotated Code; providing that the additional powers are supplemental and not intended to limit certain other powers; clarifying that certain other provisions of law apply to certain types of counties; clarifying that certain provisions of law apply to Baltimore City; making stylistic changes; defining certain terms; and generally relating to the applicability of certain provisions of law to certain counties and Baltimore City.

BY renumbering

Article 25 – County Commissioners
Section 1
to be Section 1–1
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 25A – Chartered Counties of Maryland
Section 4(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 25B – Home Rule for Code Counties
Section 13
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article 25 – County Commissioners
Section 1
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 25 – County Commissioners
Section 4, 16, 17, 18, 20, 29, 34, 122A, 135, and 153

Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1 of Article 25 – County Commissioners of the Annotated Code of Maryland be renumbered to be Section(s) 1–1.

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

Article 25A – Chartered Counties of Maryland

4.

(a) Whenever any county among the geographical subdivisions of this State, as that term is defined in § 4 of Article XI–A of the Constitution of the State, shall have adopted for itself a charter or form of government under the provisions of said Article XI–A of the Constitution, it shall be entitled to exercise the following express powers[, said powers being, as to the counties of Maryland adopting such charter or form of government, granted as a substitute for and in extension of] **IN ADDITION TO** the powers codified in Article 25 of the Code, title “County Commissioners”[, it being the intent of the General Assembly of Maryland that said Article 25 shall continue to be operative in any and all such counties of Maryland as do not adopt for themselves a charter or form of government under the provisions of said Article XI–A of the Constitution, but that the powers herein granted shall be operative in any and all such counties of Maryland as do adopt such charter or form of government].

Article 25B – Home Rule for Code Counties

13.

If a county adopts code home rule status under the provisions of Article XI–F of the Maryland Constitution and this article, it may exercise those powers enumerated in [§ 3 of Article 25, in subtitle “Draining Lands” of] Article 25[,] and in § 5 of Article 25A, except for subsections (A), (P) and (S) of § 5 of Article 25A, of the Annotated Code of Maryland, 1957 Edition as amended; and no county adopting code home rule status shall be excepted. These powers are in addition to any powers any county may now have under any public general or local law applicable to the county.

Article 25 – County Commissioners

1.

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

(B) "CHARTER COUNTY" MEANS A COUNTY THAT HAS ADOPTED HOME RULE UNDER ARTICLE XI-A OF THE MARYLAND CONSTITUTION.

(C) "CODE COUNTY" MEANS A COUNTY THAT HAS ADOPTED HOME RULE UNDER ARTICLE XI-F OF THE MARYLAND CONSTITUTION.

(D) "COMMISSION COUNTY" MEANS A COUNTY THAT HAS NOT ADOPTED HOME RULE.

(E) "GOVERNING BODY" MEANS:

(1) FOR BALTIMORE CITY, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY;

(2) FOR A CHARTER COUNTY, AS PROVIDED BY THE COUNTY CHARTER, THE COUNTY COUNCIL OR THE COUNTY EXECUTIVE AND THE COUNTY COUNCIL;

(3) FOR A CODE COUNTY, AS PROVIDED BY LOCAL LAW, THE COUNTY COMMISSIONERS;

**(4) FOR A COMMISSION COUNTY, THE COUNTY COMMISSIONERS;
AND**

(5) FOR A MUNICIPALITY, THE BODY DESIGNATED BY THE MUNICIPAL CHARTER.

4.

(A) SUBSECTIONS (B) AND (C) OF THIS SECTION APPLY ONLY TO COMMISSION COUNTIES.

[(a)] (B) A copy of all acts, ordinances, and resolutions adopted or passed by the county commissioners of any county under the authority of § 3 of this article, certified by the president of the board of county commissioners and attested by the clerk to said board, shall be filed with the clerk of the court of said county, who shall record, date, and index the same without charge in a volume to be provided for the purpose by the county commissioners.

[(b)] (C) An act, ordinance, or resolution adopted or passed by the county commissioners of any county under the authority of § 3 of this article may not become effective until a copy thereof has been filed with the clerk of the court of the county, and a fair summary of the act, ordinance, or resolution has been published, after

adoption or passage, in at least one newspaper of general circulation in the county. Any act, ordinance, or resolution filed as herein required, shall be admissible as evidence in any court proceeding upon certification by the said clerk of the court.

[(c)] (D) The Clerk of the Circuit Court of Dorchester County shall record and index all ordinances, resolutions, and regulations adopted by the **[Board of County Commissioners of]** **GOVERNING BODY OF** Dorchester County and there shall be no charge to the county for the recording and indexing thereof.

16.

(A) THIS SECTION APPLIES ONLY TO COMMISSION COUNTIES AND, UNLESS OTHERWISE PROVIDED BY A LOCAL LAW ENACTED BY A CODE COUNTY, CODE COUNTIES.

(B) (1) In case any office of county commissioner shall become vacant in any county by death, resignation or otherwise, the Governor, if such vacancy shall occur during the session of the Senate, shall, by and with the advice and consent of the Senate, appoint, and if such vacancy shall occur during the recess of the Senate, **[he] THE GOVERNOR** shall appoint a proper person or proper persons to fill such vacancy or vacancies; and the nomination of the person or persons thus appointed during such recess, or of some other person in his or their place, shall be made to the Senate within thirty days after the next meeting of the legislature.

(2) The Governor shall nominate or appoint the person to fill such vacancy whose name shall be submitted to **[him] THE GOVERNOR** in writing by the central committee of the political party with which the county commissioner, so vacating, has been affiliated in the particular county, provided that the nominee or appointee shall be of the same political party as the person whose office is to be filled; and it shall be the duty of the Governor to make **[said] THE** nomination or appointment within fifteen days after the submission **[thereof to him] OF THE NAME OF THE NOMINEE OR APPOINTEE TO THE GOVERNOR.**

(3) In the event there is no central committee in the county in which the vacancy occurs, the Governor shall appoint to fill the vacancy a person who has all the qualifications required for the office of county commissioner in the particular county.

(4) As to Allegany County, if there is no resident Senator from Allegany County in the Senate of Maryland at the time of the appointment, it shall be by and with the advice and consent of the House of Delegates of Maryland.

17.

(A) THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) [They] THE COUNTY COMMISSIONERS OF A COUNTY may sue and be sued, and may sue for any injury done to the property of the county, or to recover possession thereof, or may be sued by any claimant of such property.

18.

(A) THIS SECTION APPLIES ONLY TO CODE COUNTIES AND COMMISSION COUNTIES.

(B) The number of county commissioners in each county shall be as fixed by the code of local laws for each county.

20.

(A) THIS SECTION APPLIES ONLY TO COMMISSION COUNTIES.

(B) [They] THE COUNTY COMMISSIONERS OF A COUNTY shall levy all needful taxes on the assessable property within the county liable to taxation and provide for collecting the same, and they may make such levy in whole or in part by estimate; they shall provide for the support of the courts, compensate jurors and county or State witnesses, levy for outpensions allowed by themselves or the trustees of the poor, and such sums as may be necessary to pay accounts allowed by them for the funeral expenses of paupers, and pay and discharge all claims on or against the county which have been expressly or impliedly authorized by law.

29.

(A) THIS SECTION APPLIES ONLY TO COMMISSION COUNTIES.

(B) The county commissioners of any county in this State, in awarding any contract for work to be done and in agreeing and contracting for the doing thereof, shall make every such contract in writing, and shall require and demand of the party or parties with whom said agreement or contract is made full and ample security by bond for the true and proper performance of said work in accordance with the terms and specifications of said agreement or contract.

34.

(A) THIS SECTION AND §§ 35 THROUGH 37 AND 38 THROUGH 49 OF THIS ARTICLE APPLY TO ALL COUNTIES, EXCEPT BALTIMORE CITY.

(B) All applications for building and repairing bridges shall be made by petition to the [county commissioners] **GOVERNING BODY OF A COUNTY**.

122A.

(a) **THIS SECTION APPLIES TO ALL COUNTIES, INCLUDING BALTIMORE CITY.**

(B) The [county commissioners or county council] **GOVERNING BODY** of each county in the State may adopt and promulgate rules and regulations for the licensing, control, location and maintenance within their respective limits of junkyards, public or private dumps, automobile junkyards, automotive dismantler and recycler facilities, scrap metal processing facilities, or outdoor places where old motor vehicles are stored in quantity or dismantled, and lots on which refuse, trash or junk is deposited.

[(b)] (C) Any such rules and regulations shall be framed and designed to protect the residents of the county from unpleasant and unwholesome conditions and neighborhoods, to preserve the beauty and esthetic value of rural or residential areas, to safeguard the public health and welfare, to promote good civic design, and to promote the health, safety, morals, order, convenience and prosperity of the community.

[(c)] (D) The rules and regulations may include a requirement that such a junkyard, facility, or dump may not be maintained or operated within the county limits until an annual license therefor has been obtained from the [county commissioners or county council] **COUNTY**, at such reasonable fee as may be specified in the rules and regulations.

[(d)] (E) Prior to the adoption of any such rules and regulations, due notice of their consideration shall be given in some newspaper of general circulation in the county, in a notice published once a week for not less than four successive weeks. The notice shall specify a time and place at which the county commissioners [or], county council, **OR CITY COUNCIL OF BALTIMORE CITY** will conduct a public hearing on the contents and adoption of the rules and regulations; and the rules and regulations are not valid unless the public hearing actually is held as advertised.

[(e)] (F) (1) Except as provided in paragraph (2) of this subsection, a violation of any such rule or regulation, including the maintenance or operation of any such junkyard, facility, or dump without a license, is a misdemeanor, subject upon conviction to a fine of not less than twenty-five dollars (\$25.00). Each day on which a violation continues is a separate offense.

(2) (i) This paragraph applies to a county in the Western Maryland class that has adopted code home rule under Article XI-F of the Maryland Constitution.

(ii) The county commissioners may:

1. Declare a violation of any rule or regulation adopted in accordance with this section to be a civil infraction under Article 25B, § 13C of the Code; or

2. Abate, or contract for the abatement of, a violation of any rule or regulation adopted in accordance with this section at the expense of the owner of the real property where the violation occurred.

(iii) 1. Any unpaid charges imposed on an owner of real property under subparagraph (ii)2 of this paragraph shall be a lien against the real property where the violation occurred.

2. The lien shall be recorded in the office of the clerk for the county where the violation occurred.

135.

(A) THIS SECTION AND §§ 136 THROUGH 138, 140 THROUGH 143, AND 145 THROUGH 152 APPLY TO ALL COUNTIES, EXCEPT BALTIMORE CITY AND QUEEN ANNE'S COUNTY.

(B) All applications for opening, altering or closing roads shall be by petition to the [county commissioners] **GOVERNING BODY**. [Provided that the procedures in this subtitle as to opening or altering of roads shall not be applicable in Queen Anne's County.]

153.

(A) THIS SECTION APPLIES TO ALL COUNTIES, INCLUDING BALTIMORE CITY.

(B) The [county commissioners of the several counties of this State,] **GOVERNING BODY OF EACH COUNTY** shall[, within four months after June 1, 1916,] erect and thereafter maintain at each intersection of a county road with the State roads and state-aid roads, in their respective counties, a sign or fingerboard, substantially made, on which shall be legibly painted, in letters at least three inches in height, the name of the principal place or places to which such county road leads, with the distance thereto from such State or state-aid roads, such sign or fingerboard to be securely fastened on a substantial post firmly placed in the ground. In all counties of the State wherein the jurisdiction over the county roads is vested by law in any board or other officials, the duties herein imposed upon the [county

commissioners] **GOVERNING BODY** shall be and become the duties of such “board or other officials”.

SECTION 3. AND BE IT FURTHER ENACTED, That the powers in Article 25 of the Code granted to charter home rule counties and code home rule counties under this Act are supplemental to, and are not intended to limit, the powers granted under Article 25A and Article 25B of the Code.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 20, 2010.