

**CITY OF BALTIMORE
COUNCIL BILL 09-0343
(First Reader)**

Introduced by: The Council President
At the request of: Department of Legislative Reference
Introduced and read first time: June 1, 2009
Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Board of Municipal and Zoning Appeals, Department of Legislative Reference, Health Department, Police Department, Department of Transportation, Baltimore City Parking Authority Board, Baltimore Development Corporation, Department of Public Works, Environmental Control Board

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Corrective Bill 2009**

3 FOR the purpose of correcting certain technical errors and omissions in the City Code; repealing
4 certain obsolete or otherwise unnecessary provisions; correcting, clarifying, and conforming
5 certain language; and providing for a special effective date.

6 BY repealing and reordaining, with amendments

7 Article - Health
8 Section(s) 6-606(b)(3)
9 Baltimore City Revised Code
10 (Edition 2000)

11 BY repealing and reordaining, with amendments

12 Article - Zoning
13 Section(s) 15-303(a)(1)
14 Baltimore City Revised Code
15 (Edition 2000)

16 BY repealing

17 Article 1 - Mayor, City Council, and Municipal Agencies
18 Section(s) 1-2
19 Baltimore City Code
20 (Edition 2000)

21 BY repealing and reordaining, with amendments

22 Article 1 - Mayor, City Council, and Municipal Agencies
23 Section(s) 1-3(b), 40-14(e)(4b)
24 Baltimore City Code
25 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 09-0343

- 1 BY repealing
2 Article 2 - Consumer Protections
3 Section(s) 3-1 through 3-3, and the subtitle designation
4 "Subtitle 3. Debt Management Businesses"
5 Baltimore City Code
6 (Edition 2000)
- 7 BY repealing and reordaining, with amendments
8 Article 2 - Consumer Protections
9 Section(s) 12-10(a)(2)
10 Baltimore City Code
11 (Edition 2000)
- 12 BY repealing and reordaining, with amendments
13 Article 13 - Housing and Urban Renewal
14 Section(s) 8B-3(b)
15 Baltimore City Code
16 (Edition 2000)
- 17 BY repealing and reordaining, with amendments
18 Article 14 - Special Benefits Districts
19 Section(s) 1-20(b)(3)
20 Baltimore City Code
21 (Edition 2000)
- 22 BY repealing and reordaining, with amendments
23 Article 19 - Police Ordinances
24 Section(s) 40-1(c)(3)
25 Baltimore City Code
26 (Edition 2000)
- 27 BY repealing
28 Article 28 - Taxes
29 Section(s) 10-4
30 Baltimore City Code
31 (Edition 2000)
- 32 BY repealing and reordaining, with amendments
33 Article 31 - Transit and Traffic
34 Section(s) 10-18(a)(1), 10-23(b), 10-29(b)(1), and 10-48
35 Baltimore City Code
36 (Edition 2000)
- 37 BY repealing and reordaining, with amendments
38 Subtitle 9 - Land and Tenant
39 Section(s) 9-15
40 Code of Public Local Laws of Baltimore City
41 (1979 Edition and Supplement)

Council Bill 09-0343

1 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
2 Laws of Baltimore City read as follows:

3 **Baltimore City Revised Code**

4 **Article – Health**

5 **§ 6-606. {Food Service Facilities;} Notice of suspensions.**

6 (b) *Published listings.*

7 (3) The listing must be published by:

8 (i) posting on the Department’s website; and

9 (ii) distribution to the neighborhood association(s) [on record] LISTED with the
10 Department of [Housing and Community Development] PLANNING for the
11 area(s) served by the establishment.

12 **COMMENT:** Corrects a mistaken identification of the City agency that maintains the
13 Community Association Directory.

14 **Article – Zoning**

15 **§ 15-303. {Variances;} Imposition of conditions.**

16 (a) *In general.*

17 Before the Board or Mayor and City Council grants any variance, it may impose on the
18 establishment, location, construction, maintenance, and operation of the variance, any
19 conditions, restrictions, or limitations that it considers necessary or desirable to:

20 (1) reduce or minimize any effect of the [special exception or] variance on other
21 properties in the neighborhood;

22 **COMMENT:** Ord. 99-547, which revised the Zoning Code, deleted provisions of
23 former Article 30 relating to special exceptions; over the years, the “special exception” had
24 become subsumed within the broader “variance”. See Ord. 99-547, at General Revisor’s
25 Note to Title 15. This repeals an over-looked and now obsolete reference.

26 **Baltimore City Code**

27 **Article 1. Mayor, City Council, and Municipal Agencies**

28 **Subtitle 1. City Council**

29 **[§ 1-2. Ordinances – printing, distribution.**

30 (a) *Director of Finance to print; Legislative Reference to distribute.*

Council Bill 09-0343

1 (1) It shall be the duty of the Director of Finance to cause to be printed 100 copies of
2 each ordinance hereafter passed which shall provide a penalty by fine or
3 imprisonment or which relates to the exercise of the police powers of the Mayor and
4 City Council of Baltimore.

5 (2) The Director of Finance shall immediately cause to be delivered to the Department of
6 Legislative Reference the copies so printed.

7 (3) It shall be the duty of the Department of Legislative Reference to transmit a copy of
8 each of such ordinances to:

9 (i) the Police Commissioner;

10 (ii) each police magistrate of Baltimore City;

11 (iii) the State's Attorney of Baltimore City;

12 (iv) the City Solicitor of Baltimore City; and

13 (v) such other officials as may be affected by such ordinances.

14 (b) *Use as evidence in court.*

15 Any of said printed and attested ordinances and resolutions:

16 (1) may be produced and offered in evidence in any suit now pending or hereafter
17 pending in any court in the City of Baltimore or before any civil or police
18 magistrate of the City; and

19 (2) when so produced and offered in evidence shall have the same effect, to all intents
20 and purposes, as the printed volumes containing the same when published by the
21 authority of said corporation would have if produced.

22 (c) *Newspaper publication.*

23 The Director of Finance may publish the titles or the complete text of such ordinances
24 and resolutions as he may deem advisable in such of the daily newspapers published in
25 the City of Baltimore as he may deem best calculated to give general information to the
26 residents of the City.]

27 **COMMENT:** Subsections (a) and (c) are obsolete and fail to account for current
28 practices, such as legislative postings on the Internet. The provisions of subsection
29 (b) are retained, but they have been combined with related provisions in § 1-3(b)
30 below.

31 **§ 1-3. Ordinances AND RESOLUTIONS[– form, procedure; annual volumes legalized].**

32 (b) *Legalization [of published Ordinances and Resolutions].*

Council Bill 09-0343

1 (1) The volumes of “Ordinances and Resolutions of the Mayor and City Council of
2 Baltimore” published annually are legalized. They shall be deemed and taken by all
3 public officials to be evidence of the ordinances contained [therein] IN THEM.

4 (2) INDIVIDUALLY PRINTED AND ATTESTED ORDINANCES AND RESOLUTIONS:

5 (I) MAY BE PRODUCED AND OFFERED IN EVIDENCE IN ANY SUIT PENDING IN
6 COURT; AND

7 (II) WHEN SO PRODUCED AND OFFERED IN EVIDENCE, HAVE THE SAME EFFECT, TO
8 ALL INTENTS AND PURPOSES, AS THE PRINTED VOLUMES CONTAINING THEM
9 WOULD HAVE WHEN PUBLISHED.

10 **COMMENT:** This subsection is revised to include the substance of former § 1-2(b).
11 *See* preceding Comment.

12 **Subtitle 40. Environmental Control Board**

13 **§ 40-14. Violations to which subtitle applies.**

14 (e) *Provisions and penalties enumerated.*

15 (4b) *Article 26. Surveys, Streets, and Highways*

16 Subtitle 6. Building ADDRESS Numbers \$ 25

17 **COMMENT:** Ord. 09-113 (Bill 08-092), which added this reference to Article 26,
18 Subtitle 6, renamed Subtitle 6 to be “Building Address Numbers”. This conforms the
19 reference here to the new subtitle name.

20 **Article 2. Consumer Protections**

21 **[Subtitle 3. Debt Management Businesses]**

22 **COMMENT:** This subtitle was enacted in 1964 and has been unamended since 1966.
23 Its general ban on debt management businesses, however, has since been superseded
24 by State and federal legislation. In 2003, the State enacted a “Debt Management
25 Services Act”, codified at Financial Institutions Article Title 9, Subtitle 9, to license
26 and regulate debt management practices. (*See also, e.g.*, 15 U.S.C. §§ 1679 - 1679j
27 {“Credit Repair Organizations”}.) Local law may not prohibit that which State law
28 permits.

29 Similarly, to the extent that § 3-2(2) below might be read to also prohibit debt
30 collection services, that too has been superseded. In 1977, the State enacted what is
31 now Business Regulation Article, Title 7 {“Collection Agencies”}, to license and
32 regulate collection agencies. BR § 7-104 specifically states: “Only the State may
33 require a person to hold a license or pay a fee to do business as a collection agency.”

34 The Law Department concurs that this subtitle is obsolete, having been preempted by
35 State law.

Council Bill 09-0343

1 **[§ 3-1. Exemptions.**

2 Nothing in this subtitle applies to the following when engaged in the regular course of their
3 respective business and professions:

- 4 (1) attorneys at law;
- 5 (2) banks and fiduciaries, as duly authorized and admitted to transact business in this
6 State and City and performing credit and financial adjusting service in the regular
7 course of their principal business;
- 8 (3) title insurers and abstract companies, while doing an escrow business;
- 9 (4) judicial officers or others acting under court orders;
- 10 (5) nonprofit, charitable, religious, fraternal, or cooperative organizations offering debt
11 management service exclusively for their members;
- 12 (6) certified public accountants; and
- 13 (7) bona fide trade or mercantile associations in the course of arranging adjustment of
14 debts with business establishments.]

15 **[§ 3-2. Debt management business prohibited.**

16 From and after January 1, 1965, it is unlawful for any person, firm, association, partnership,
17 or corporation within the limits of, or for the benefit of a resident within, the City of
18 Baltimore:

- 19 (1) to plan and manage the financial affairs of a debtor for a fee; and/or
- 20 (2) to receive money from the debtor money or evidences thereof for the purposes of
21 distributing the same to his creditors in payment or partial payment of his
22 obligations.]

23 **[§ 3-3. Penalties.**

24 (a) *In general.*

25 A violation of any provision of this subtitle is a misdemeanor, subject upon conviction to
26 a fine of not more than \$100.

27 (b) *Each debtor a separate offense.*

28 A violation as to each individual debtor is a separate violation of this subtitle.]

29 **Subtitle 12. Second-Hand Property, Antiques, and Consignment Goods**

30 **§ 12-10. Release of stolen property.**

Council Bill 09-0343

1 (a) *In general.*

2 A dealer shall release to the Police Department any item in the dealer’s possession if:

3 (2) the owner of the item or the victim of the theft has:

4 (i) positively identified the item; and

5 (ii) provided an affidavit of ownership [and] OR PREVIOUSLY made a report of
6 the theft to a law enforcement agency;

7 **COMMENT:** § 12-10(a)(2) is modified to conform to an identical change recently
8 made (Ordinance 08-073) in § 11-9(a)(2), the counterpart provision for pawnshops.

9 **Article 13. Housing and Urban Renewal**

10 **Subtitle 8B. Foreclosure Chattels**

11 **§ 8B-3. Postponing execution of writ.**

12 (b) *By Sheriff.*

13 The Sheriff shall stay the execution of the writ of possession for a period of at least 15
14 days if the Sheriff reasonably determines that the foreclosure purchaser did not provide
15 the notice to the tenant required by [§ 8A-2] § 8B-2 of this subtitle.

16 **COMMENT:** Corrects an erroneous cross-reference.

17 **Article 14. Special Benefits Districts**

18 **Subtitle 1. Downtown Management District**

19 **§ 1-20. Renewal and expiration.**

20 (b) *Renewal.*

21 (3) If such opposition exists, the Board of Estimates shall conduct a referendum
22 comparable to that described in [§ 1-20] § 1-19 to determine whether the District is to
23 continue for another 5 years.

24 **COMMENT:** Corrects an erroneous cross-reference.

25 **Article 19. Police Ordinances**

26 **Subtitle 40. Unregistered Motorcycles and Similar Vehicles**

27 **§ 40-1. Definitions.**

28 (c) *Dirt bike.*

Council Bill 09-0343

1 (3) “Dirt bike” does not include:

- 2 (i) a moped, as defined in State Transportation Article § 11-134.1; or
- 3 (ii) a motor scooter, as defined in State Transportation Article [§ 11-134.4]
- 4 § 11-134.5.

5 **COMMENT:** Corrects an erroneous cross-reference.

6 **Article 28. Taxes**

7 **Subtitle 10. Credits**

8 **[§ 10-4. Research and development.**

9 (a) *“Research and development” defined.*

10 (1) As used in this section, “research and development” means:

- 11 (i) basic and applied research in the sciences and engineering; and
- 12 (ii) the design, development, and governmentally required pre-market testing of
- 13 prototypes, products, and processes.

14 (2) As used in this section, “research and development” does not include:

- 15 (i) market research;
- 16 (ii) research in the social sciences or psychology and other nontechnical
- 17 activities;
- 18 (iii) routine product testing;
- 19 (iv) sales services;
- 20 (v) technical and nontechnical service; or
- 21 (vi) research and development of a public utility.

22 (b) *Credit granted.*

23 There is hereby established a property tax credit, as authorized in State Tax-Property
24 Article § 9-223, against the property tax imposed on machinery, equipment, materials,
25 and supplies:

- 26 (1) that are consumed in or used primarily in research and development; and
- 27 (2) the sale or use of which is exempt from the sales and use tax under State
- 28 Tax-General Article § 11-210 or § 11-217.

Council Bill 09-0343

1 (c) *Amount of credit.*

2 The amount of the tax credit granted hereby is equal to the City property tax imposed on
3 the assessment of the property described in subsection (b) above in excess of 25% of the
4 original cost of the property.

5 (d) *Applications.*

6 Application for the tax credit established herein shall be made in the manner prescribed
7 by regulations adopted by the Department of Assessments and Taxation of the State of
8 Maryland.]

9 **COMMENT:** This section is obsolete. The State enabling law for this tax credit was
10 Tax - Property § 9-223. Chapter 128, Acts of 1995, repealed TP § 9-223 and enacted
11 instead a new TP § 7-237, providing for a partial tax exemption. Later, Chapters 659
12 and 764, Acts of 1998, repealed even that partial exemption.

13 **Article 31. Transit and Traffic**

14 **Subtitle 10. Residential Permit Parking Program**

15 **§ 10-18. Parking Management Plan - Adoption.**

16 (a) *6-month administrative regulation.*

17 (1) To adopt a Parking Management Plan, the EXECUTIVE Director shall:

18 (i) issue an administrative regulation that sets forth all elements of the final Plan,
19 including any Residential Parking Area to be established under the Plan; and

20 (ii) publish this regulation once in a newspaper of general circulation in the City.

21 **COMMENT:** Corrects error in nomenclature.

22 **§ 10-23. Applications.**

23 (b) *Contents; documentation.*

24 The application must contain the information and be accompanied by the documentation
25 that the EXECUTIVE Director requires to assure compliance with the residency and other
26 requirements of this subtitle.

27 **COMMENT:** Corrects error in nomenclature.

28 **§ 10-29. Hours when restrictions apply.**

29 (b) *Administrative adjustments.*

Council Bill 09-0343

1 (1) The EXECUTIVE Director may adjust these hours or days if the EXECUTIVE Director
2 determines that the adjustment is required to prevent parking congestion.

3 COMMENT: Corrects error in nomenclature.

4 **§ 10-48. Suspension or revocation of permit.**

5 After notice and opportunity for a hearing, the EXECUTIVE Director may suspend or revoke,
6 as the circumstances warrant, all permits issued to or for the benefit of:

7 (1) any person who violates any provision of Part VII {"Prohibited Conduct"} of this
8 subtitle; and

9 (2) all members of that person’s household.

10 COMMENT: Corrects error in nomenclature.

11 **Code of Public Local Laws of**
12 **Baltimore City**

13 **Subtitle 9. Landlord and Tenant**

14 **§ 9-15. Misrepresentation and other prohibited acts.**

15 Any person, whether as an individual, member [or] OF A firm, or officer of a corporation,
16 who [shall] falsely [make] MAKES any representation or statement required by Sections 9-12,
17 9-13, 9-14, 9-15, [and] OR 9-19 to be made, or who [shall] falsely [make] MAKES any
18 representation or statement in connection with the giving of the notice required by Sections
19 9-12, 9-13, 9-14, 9-15, [and] OR 9-19 to be given, or who [shall] falsely [make] MAKES any
20 representation or statement at, during, or in connection with any proceeding for the
21 enforcement of any rights for the speedy recovery of lands or tenements held over by tenants,
22 or who [shall], in an attempt to circumvent the protection accorded tenants by Sections 9-12,
23 9-13, 9-14, 9-15, and 9-19, wilfully [deprive] DEPRIVES a tenant of ingress to or egress from
24 his dwelling, or who, [shall] without the consent of the tenant, [diminish] DIMINISHES
25 essential services to the tenant, such as the providing of gas, electricity, water, heat, light,
26 furniture, furnishings, or similar services, to which under the expressed or implied terms of
27 the tenancy the tenant may be entitled, [shall be] IS guilty of a misdemeanor and, [upon] ON
28 conviction [thereof], [shall be] IS subject to a fine not exceeding \$500 [and] OR imprisonment
29 of not more than [ten (10)] 10 days, or both FINE AND IMPRISONMENT[, in the discretion of the
30 court,] for each [and every] offense.

31 COMMENT: As initially enacted by Ordinance 42-584, the opening clause referred to
32 “an individual, member of a firm or officer of a corporation”. Not long after its
33 enactment, the section was amended by Ordinance 42-769, which inexplicably (and,
34 one can presume, unintentionally) rendered “member of a firm” to “member or firm”.
35 This corrects that error and, in addition, corrects some “false imperatives” and certain
36 misused conjunctions.

37 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
38 are not law and may not be considered to have been enacted as a part of this or any prior
39 Ordinance.

Council Bill 09-0343

1 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it
2 is enacted.