

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

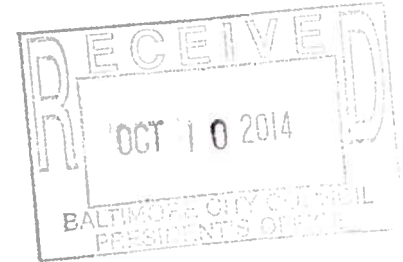


DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

October 10, 2014

The Honorable President and Members
of the Baltimore City Council
Attn: Natawna B. Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202



Re: City Council Bill 14-0417 – Corrective Bill 2014

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 14-0417 for form and legal sufficiency. The bill's title is "Corrective Bill 2014," for the purpose of "correcting technical errors and omissions in the City Code; repealing obsolete, obsolescent, or otherwise preempted, superseded, or superfluous provisions; correcting, clarifying, and conforming certain language; and providing for a special effective date."

Article III, Section 14(b) of the Baltimore City Charter and Article III, Section 29 of the Maryland Constitution require, respectively, that every ordinance enacted by the City, and every law enacted by the General Assembly, shall have but one subject, which shall be described in its title. *See Delmarva Power & Light Company v. Public Service Commission*, 371 Md. 356, 367 (2002); *Boitnott v. Mayor and City Council of Baltimore*, 356 Md. 226, 245-46 (1999). These clauses embody two requirements: "(1) that a law may not embrace more than one subject, and (2) that the one subject it is permitted *and purports* to embrace must be described in the title." *Delmarva Power & Light Company*, 371 Md. at 367. Thus, the constitutionality of a statute or ordinance may be challenged on the ground that the title of the statute is not descriptive of the body. *Boitnott* at 246. The test for determining whether a title is faulty is whether it leads to a misconception of the enactment. *Id.* The intent of this constitutional requirement is to fairly advise "the City Council and the public of the real nature and subject matter of the legislation sought to be enacted. *Id.* at 245-246, quoting, *McBriety v. City of Baltimore*, 219 Md. 223, 241 (1959).

The portions of Corrective Bill 2014, which appear on pages 10-14 and amend several sections of the Natural Resources Article of the Baltimore City Code, do more than make technical corrections. Rather, they address the administrative appeals process, namely, the right to a hearing, and the delegation of final administrative decisions to hearing officers. The latter

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subject was specifically deleted, at the request of the Law Department, from Article 7, Section 35-6, when Council Bill 12-0153 was enacted in 2012. These amendments to the administrative appeals process should be addressed in a separate bill. Therefore, the Law Department recommends that the following be deleted from this bill: lines 1 through 28 on page 10; lines 1 through 26 on page 11; lines 1 through 24 on page 12; lines 1 through 26 on page 13; and lines 1 through 5 on page 14.

With this amendment, the Law Department could approve the remainder of the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis
Special Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief, General Counsel Division
Hilary Ruley, Chief Solicitor
Victor Tervalá, Chief Solicitor