

Annotated Code of Maryland

Article 83B - Department of Housing and Community Development

Title 5. Division of Historical and Cultural Programs.

Subtitle 4. Commission on Indian Affairs.

§ 5-401. *Commission created.*

The Commission on Indian Affairs is an agency in the Department. In this subtitle, it shall be referred to as the "Commission".

§ 5-402. *Membership; chairman and vice-chairman; meetings.*

(a) (1) The Commission shall consist of nine members appointed by the Governor, with the advice and consent of the Senate, a majority of whom shall be members of the native American Indian communities of this State, and at least 3 of whom shall be appointed from Indian communities that are indigenous to Maryland. Each member of the Commission shall have a demonstrable knowledge of Indian culture and history, and be sensitive to the problems of the Indian communities. The term of a member is 3 years. At the end of a term, a member continues to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies. A member may succeed himself, but may not serve more than 6 years consecutively.

(2) (i) Each applicant shall submit, under oath or affirmation, a list of the applicant's qualifications, including:

1. The applicant's educational history;
2. The applicant's employment background or other relevant experience; and
3. In the case of an individual applying for appointment as an American Indian

member of the Commission, documentation or proof of Indian tribe, band, group, or clan membership, under the sworn and notarized signature of the authorized custodian of the records of the membership rolls of the applicable Indian tribe, band, group, or clan.

(ii) The Governor may require the production of any other documents necessary to prove:

1. The standing or history of the Indian tribe, band, group, or clan of which an applicant claims membership; or
2. The qualifications of an individual applicant.

(3) (i) Any person who, in any matter within the scope of this section, knowingly and willfully falsifies or conceals, by any trick, scheme, or device, a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry, is guilty of a misdemeanor.

(ii) Except as otherwise provided by law, a person who violates this section is subject to a fine of not more than \$1,000, or imprisonment for not more than 6 months, or both.

(b) Members of the Commission shall receive no compensation for their services, but they may be reimbursed for proper and necessary expenses incurred in the discharge of their duties on the Commission in accordance with the Standard State Travel Regulations.

(c) The Commissioners shall elect annually a chairman and vice-chairman from among the members of the Commission.

(d) The Commission shall meet at the call of the chairman, a majority of the members, or the Secretary.

§ 5-403. *Duties.*

The Commission shall:

(1) Initiate, direct, and coordinate projects which further the understanding of Indian history and culture;

(2) Conduct a survey of historic buildings, sites, artifacts, archives and repositories, and publish and disseminate these findings and information;

(3) Undertake a comprehensive study of indigenous American Indian tribes including but not limited to the Crees, Creeks, Cherokees, Chippewas, Choptanks, Delawares, Haliwas, Lumbees, Nanticokes, Piscataways, Potomacs, Rappahannocks, Seminoles, Susquehannas, and Wicomicos, and their influence upon Maryland history and culture;

(4) Study the status of all Indian groups, tribes and communities in the State and assist them in obtaining recognition from the federal government;

(5) Study the economic and social needs of Indians in Maryland and make recommendations for the alleviation of these needs;

(6) Locate, preserve and disseminate information to the public about significant buildings and sites relating to Indian history and culture, respectively; and

(7) Publish an annual report and any other material it deems necessary.

§ 5-404. *Funding.*

(a) The Commission may seek funds from the federal government, foundations and private sources in addition to State funding.

(b) The Commission may accept any gifts, grants, donations, bequests, or endowments for any purposes of the Commission.

(c) (1) If any funds received under subsection (a) or (b) of this section or any income and fees received by the Commission that are derived from educational materials and activities of the Commission are unexpended at the end of the fiscal year, the funds or income may not revert to

the General Fund of the State, but instead, shall be maintained as special funds available to the Commission for carrying out the purposes of this subtitle.

(2) Funds maintained under this subsection shall be subject to audit by the State, including by the Legislative Auditor.

§ 5-405. *Administrator.*

(a) The Commissioners, subject to the approval of the Secretary, shall appoint, from without their number, an administrator of the Commission.

(b) The administrator shall serve at the pleasure of the Commissioners, subject to the concurrence of the Secretary, and shall be a special appointment in the State Personnel Management System.

(c) Subject to the rules and policies set forth by the Commissioners and the administrative supervision of the Secretary in accordance with §§ 1-201, 1-202, and 1-205 of this article, the administrator shall:

- (1) Be the chief administrative officer of the Commission;
- (2) Direct, administer, and supervise the activities of the Commission; and
- (3) Supervise the appointment and removal of personnel employed by the Commission.

§ 5-406. *Recognition of Maryland Indian status.*

(a) Subject to the approval of the Secretary, the Commission may establish a process by which a native American tribe, band, group, or clan which is indigenous to Maryland can apply to the Commission for formal recognition of Maryland Indian status.

(b) (1) The Commission shall adopt regulations and procedures necessary to carry out the provisions of this section in accordance with the provisions of Title 10, Subtitle 1 of the State Government Article.

(2) The regulations shall address the application process and genealogical standards, and shall specify the criteria which must be satisfied by a tribe, band, group, or clan applying for recognition.

(3) The criteria shall be generally consistent with the criteria established by the U.S. Department of the Interior, Bureau of Indian Affairs, for tribal recognition by the United States of America, taking into account the special circumstances of American Indians indigenous to Maryland and shall include the following criteria:

(i) The petitioning group has been identified from historical times until the present as "American Indian" or "aboriginal";

(ii) The members of the petitioning group are descendants from a tribe that existed historically and is either indigenous to Maryland or derived from historical tribes indigenous to Maryland prior to 1790;

(iii) The members of the petitioning group are descendants of an Indian tribe that historically inhabited a specific area in Maryland prior to 1790;

(iv) The membership of the petitioning group is composed principally of persons who are not members of any other North American tribe, band, group, or clan; and

(v) Any other criteria that the Commission considers necessary through regulations adopted by the Commission.

(c) (1) Upon the Commission's determination that a particular tribe, band, group, or clan has met the requirements for recognition set forth in the regulations, the Commission may recommend formal recognition to the Governor.

(2) A Commissioner may not vote or participate in any way in the deliberations with respect to any application for formal recognition of Maryland Indian status made by an Indian tribe, band, group, or clan of which the Commissioner is a member.

(d) (1) If the Governor concurs with the Commission's recommendation, the Governor may propose by executive order to provide formal recognition to the particular tribe, band, group, or clan.

(2) An executive order proposed to be promulgated under this subsection shall first be presented to the Joint Committee on Administrative, Executive, and Legislative Review for review by the members of the Committee. The executive order shall take effect 30 days after submission to the Committee.

(e) (1) The provisions of this section are not intended to create any rights of ownership or other rights to land or to create any benefits or entitlements of any kind, nor are they intended to impair valid existing rights, benefits, or entitlements belonging to American Indians residing in the State.

(2) The provisions of this section may not impair existing judicial rulings of the State regarding Maryland's American Indians.

(3) Prior to formal recognition of Maryland Indian status, members of the petitioning group shall submit an affidavit renouncing all tribal rights of ownership with respect to land in the State.

(f) Any action or failure to take action by the Commission under this section does not create a private cause of action under the laws of the State.

(g) (1) Any person who, in any matter within the scope of this section, knowingly and willfully falsifies or conceals, by any trick, scheme, or device, a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document, knowing the writing or document contains any false, fictitious, or fraudulent statement or entry, is guilty of a misdemeanor.

(2) Except as otherwise provided by law, a person who violates this section is subject to a fine of not more than \$1,000, or imprisonment for not more than 6 months, or both.

(h) The provisions of this section may not be construed to create in the Commission any power to establish criteria for membership in a tribe, band, group, or clan. That power is specifically reserved to the individual tribe, band, group, or clan.