

HOUSE BILL 136

M3, C2

0lr1411

By: **Delegate Stein**

Introduced and read first time: January 15, 2020

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2020

CHAPTER _____

1 AN ACT concerning

2 **Environment – On-Site Wastewater Services – Regulation**

3 FOR the purpose of establishing the State Board of On-Site Wastewater Professionals in
4 the Department of the Environment; specifying the purpose and composition of the
5 Board; specifying the term of a Board member; providing for the appointment of
6 Board members; authorizing the Governor to remove a member of the Board under
7 certain circumstances; requiring the Board to designate the chair of the Board;
8 requiring the Board to make certain determinations relating to its officers; specifying
9 that a majority of the members then serving on the Board is a quorum; requiring the
10 Board to determine the times and places of its meetings; specifying that a Board
11 member is entitled to certain reimbursement; authorizing the Board to employ staff
12 in accordance with the State budget; requiring the Board to make recommendations
13 to the Department on the adoption of ~~regulations to carry out the provisions of this~~
14 ~~Act~~ certain regulations on or before a certain date; requiring the Board to review
15 certain regulations proposed by the Department; requiring the Board to establish a
16 certain code of ethics for certain individuals; specifying the duties of the Board;
17 ~~requiring a county to enforce and adopt certain standards relating to certain design,~~
18 ~~installation, and maintenance of certain on-site wastewater systems~~; requiring the
19 ~~Board~~ Department, in consultation with the Board, to set by regulation reasonable
20 certain fees for a certain purpose ~~purposes~~; requiring the Board to publish a schedule
21 of the fees; requiring the Board and the Department to pay certain funds collected
22 from certain fees into the On-Site Wastewater Professionals Fund; establishing the
23 Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the
24 Board to administer the Fund; requiring the State Treasurer to hold the Fund, and
25 the Comptroller to account for the Fund; specifying the contents of the Fund;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



specifying the purpose for which the Fund may be used; requiring interest earnings of the Fund to be credited to the Fund; providing for expenditures from the Fund; requiring the Board to submit a certain annual report to the Secretary of the Environment; requiring, subject to a certain exception, a certain individual to be licensed by the Board before performing certain on-site wastewater services in the State; authorizing a certain individual to continue to perform certain services until certain license requirements are established if the individual pays a certain fee to the Department; requiring an applicant for a license to meet certain requirements established by the Department by regulation and to submit a certain application and pay a certain fee to the Board; requiring that a business performing on-site wastewater services or contracting to perform certain on-site wastewater services have an employee or owner licensed by the Board; specifying that a certain license is valid for a certain period of time; authorizing the Board to take certain disciplinary action against an applicant or a licensee under certain circumstances; requiring the Board to give a certain individual an opportunity for a hearing before the Board and to give certain notice and hold the hearing in accordance with certain provisions of law; authorizing the Board to administer oaths under certain circumstances; authorizing the Board to hear and determine a matter under certain circumstances; authorizing a person aggrieved by a decision of the Board to take certain action under certain circumstances; prohibiting a person from performing certain on-site wastewater services without a license from the Board; prohibiting the borrowing, renting, or transferring of a license; establishing a certain penalty for violations of this Act; requiring that the failure to pay a certain penalty be forwarded to the Central Collection Unit under certain circumstances; exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; defining certain terms; providing for the application of this Act; specifying that this Act does not prevent or prohibit a local government from imposing certain requirements or standards; requiring that the Board be fully operational on or before a certain date; specifying the terms of the initial members of the Board; requiring the Department, in consultation with the Board, to adopt certain regulations on or before a certain date; and generally relating to the establishment of the State Board of On-Site Wastewater Professionals and the regulation of individuals performing on-site wastewater services in the State.

BY adding to

Article – Environment

Section 9–11A–01 through ~~9–11A–22~~ 9–11A–21 to be under the new subtitle

“Subtitle 11A. On-Site Wastewater Services”

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(i)

Annotated Code of Maryland

(2015 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)121. and 122.
Annotated Code of Maryland
(2015 Replacement Volume and 2019 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)123.
Annotated Code of Maryland
(2015 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Environment

SUBTITLE 11A. ON-SITE WASTEWATER SERVICES.

PART I. DEFINITIONS; GENERAL PROVISIONS.

9–11A–01.

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

(B) “BOARD” MEANS THE STATE BOARD OF ON-SITE WASTEWATER
PROFESSIONALS.

(C) “LICENSE” MEANS ANY CATEGORY OF PROFESSIONAL LICENSE OR
CERTIFICATION ISSUED BY THE BOARD TO AN INDIVIDUAL TO PERFORM ON-SITE
WASTEWATER SERVICES IN THE STATE.

(D) “ON-SITE WASTEWATER SERVICES” MEANS ANY ACTIVITY ASSOCIATED
WITH THE DESIGN, INSTALLATION, OPERATION AND MAINTENANCE, PUMPING,
REPAIR, OR PROPERTY TRANSFER INSPECTION OF AN ON-SITE WASTEWATER
SYSTEM.

(E) (1) “ON-SITE WASTEWATER SYSTEM” MEANS:

(I) A WASTEWATER SYSTEM DESIGNED TO TREAT AND DISPOSE
OF EFFLUENT ON THE SAME PROPERTY THAT PRODUCES THE WASTEWATER; OR

(II) A HOLDING TANK.

(2) "ON-SITE WASTEWATER SYSTEM" INCLUDES A SEPTIC OR ANY OTHER ON-SITE SEWAGE DISPOSAL SYSTEM.

9-11A-02.

(A) THIS SUBTITLE DOES NOT APPLY TO AN INDIVIDUAL EMPLOYED BY A LOCAL, STATE, OR FEDERAL AGENCY WHILE PERFORMING THE DUTIES OF THAT EMPLOYMENT.

(B) NOTHING IN THIS SUBTITLE PREVENTS OR PROHIBITS A LOCAL GOVERNMENT FROM IMPOSING REQUIREMENTS OR STANDARDS THAT ARE MORE STRINGENT THAN THE REQUIREMENTS AND STANDARDS ESTABLISHED IN THIS SUBTITLE.

9-11A-03. RESERVED.

9-11A-04. RESERVED.

PART II. STATE BOARD OF ON-SITE WASTEWATER PROFESSIONALS.

9-11A-05.

(A) THERE IS A STATE BOARD OF ON-SITE WASTEWATER PROFESSIONALS IN THE DEPARTMENT.

(B) THE PURPOSE OF THE BOARD IS TO:

(1) REGULATE INDIVIDUALS WHO PERFORM ON-SITE WASTEWATER SERVICES IN THE STATE; AND

(2) ESTABLISH, IN CONSULTATION WITH THE DEPARTMENT, MINIMUM STANDARDS FOR ON-SITE WASTEWATER SYSTEMS THAT ARE NOT REQUIRED TO BE PERMITTED UNDER § 9-323 OF THIS TITLE, INCLUDING STANDARDS FOR THE PROCESSES, PROCEDURES, TECHNIQUES, AND MATERIALS ASSOCIATED WITH THE PROPER DESIGN, ACCEPTABLE INSTALLATION, ADEQUATE OPERATION AND MAINTENANCE, INCLUDING PUMPING OR REPAIR, AND PROPERTY TRANSFER INSPECTION OF AN ON-SITE WASTEWATER SYSTEM.

9-11A-06.

(A) (1) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:

(I) SIX INDIVIDUALS APPOINTED BY THE GOVERNOR WITH THE ADVICE OF THE SECRETARY AND WITH THE ADVICE AND CONSENT OF THE SENATE;

(II) ONE REPRESENTATIVE OF THE DEPARTMENT, DESIGNATED BY THE SECRETARY;

(III) ONE REPRESENTATIVE OF THE MARYLAND CONFERENCE OF LOCAL ENVIRONMENTAL HEALTH DIRECTORS, DESIGNATED BY THE MARYLAND CONFERENCE OF LOCAL ENVIRONMENTAL HEALTH DIRECTORS; AND

(IV) ONE INDIVIDUAL DESIGNATED BY THE MARYLAND ONSITE WASTEWATER PROFESSIONALS ASSOCIATION.

(2) OF THE MEMBERS OF THE BOARD:

(I) ~~SEVEN~~ AT LEAST SIX SHALL BE ON-SITE WASTEWATER PROFESSIONALS CURRENTLY LICENSED OR CERTIFIED BY THE STATE OR A LOCAL GOVERNMENT; AND

(II) TWO SHALL BE CONSUMER MEMBERS.

(3) (I) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH AND SUBPARAGRAPH (II) OF THIS PARAGRAPH, OF THE ~~SEVEN~~ ON-SITE WASTEWATER PROFESSIONAL MEMBERS OF THE BOARD:

A. AT LEAST ONE SHALL BE A LICENSED MASTER INSTALLER;

B. AT LEAST ONE SHALL BE A LICENSED MASTER PUMPER;

C. AT LEAST ONE SHALL BE A LICENSED MASTER OPERATIONS AND MAINTENANCE PROVIDER;

D. AT LEAST ONE SHALL BE A CERTIFIED DESIGNER; AND

E. AT LEAST ONE SHALL BE A LICENSED MASTER PROPERTY TRANSFER INSPECTOR.

2. A SINGLE BOARD MEMBER MAY SATISFY UP TO TWO OF THE PROFESSIONAL LICENSE AND CERTIFICATION MEMBERSHIP REQUIREMENTS SPECIFIED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

(II) OF THE ~~SEVEN~~ ON-SITE WASTEWATER PROFESSIONAL MEMBERS OF THE BOARD:

1 1. AT LEAST ONE SHALL BE FROM THE AREA THAT
2 CONSISTS OF ALLEGANY COUNTY, FREDERICK COUNTY, GARRETT COUNTY, AND
3 WASHINGTON COUNTY;

4 2. AT LEAST ONE SHALL BE FROM THE AREA THAT
5 CONSISTS OF BALTIMORE CITY, BALTIMORE COUNTY, CARROLL COUNTY,
6 HARFORD COUNTY, HOWARD COUNTY, AND MONTGOMERY COUNTY;

7 3. AT LEAST ONE SHALL BE FROM THE AREA THAT
8 CONSISTS OF ANNE ARUNDEL COUNTY, ~~CALVERT COUNTY, CHARLES COUNTY, AND~~
9 PRINCE GEORGE'S COUNTY, ~~AND ST. MARY'S COUNTY, AND;~~

10 4. AT LEAST ONE SHALL BE FROM THE AREA THAT
11 CONSISTS OF CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT
12 COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT COUNTY,
13 WICOMICO COUNTY, AND WORCESTER COUNTY; AND

14 5. AT LEAST ONE SHALL BE FROM THE AREA THAT
15 CONSISTS OF CALVERT COUNTY, CHARLES COUNTY, AND ST. MARY'S COUNTY.

16 ~~(4) ON OR BEFORE JULY 1, 2023, ALL ON-SITE WASTEWATER~~
17 ~~PROFESSIONAL MEMBERS OF THE BOARD SHALL HOLD A LICENSE.~~

18 ~~(5)~~ EACH CONSUMER MEMBER OF THE BOARD:

19 (I) SHALL BE A MEMBER OF THE GENERAL PUBLIC;

20 (II) MAY NOT BE A LICENSEE OR OTHERWISE BE SUBJECT TO
21 REGULATION BY THE BOARD;

22 (III) MAY NOT BE REQUIRED TO MEET THE QUALIFICATIONS FOR
23 THE PROFESSIONAL MEMBERS OF THE BOARD; AND

24 (IV) MAY NOT, WITHIN 1 YEAR BEFORE APPOINTMENT, HAVE
25 HAD A FINANCIAL INTEREST IN OR HAVE RECEIVED COMPENSATION FROM A PERSON
26 REGULATED BY THE BOARD.

27 (B) WHILE A MEMBER OF THE BOARD, A CONSUMER MEMBER MAY NOT:

28 (1) HAVE A FINANCIAL INTEREST IN OR RECEIVE COMPENSATION
29 FROM A PERSON REGULATED BY THE BOARD; OR

30 (2) GRADE AN EXAMINATION GIVEN BY OR FOR THE BOARD.

1 (C) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE
2 THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

3 (D) (1) THE TERM OF A MEMBER IS 3 YEARS.

4 (2) A MEMBER MAY SERVE TWO TERMS CONSECUTIVELY.

5 (3) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
6 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2020.

7 (4) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL
8 A SUCCESSOR IS APPOINTED AND QUALIFIES.

9 (5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
10 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
11 QUALIFIES.

12 (E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
13 MISCONDUCT.

14 9-11A-07.

15 (A) THE MEMBERS OF THE BOARD SHALL DESIGNATE A CHAIR.

16 (B) THE BOARD SHALL DETERMINE THE MEANS OF THE ELECTION OF
17 OFFICERS.

18 9-11A-08.

19 (A) A MAJORITY OF THE MEMBERS THEN SERVING ON THE BOARD IS A
20 QUORUM.

21 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
22 MEETINGS.

23 (C) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR
24 EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN
25 THE STATE BUDGET.

26 (D) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE STATE
27 BUDGET.

28 9-11A-09.

29 (A) THE BOARD SHALL:

(1) MAKE RECOMMENDATIONS TO THE DEPARTMENT ON THE ADOPTION OF REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, INCLUDING:

(I) LICENSING PROCEDURES AND QUALIFICATIONS FOR THE FOLLOWING CATEGORIES:

1. MASTER INSTALLER AND JOURNEY INSTALLER;

2. MASTER ON-SITE WASTEWATER PROPERTY TRANSFER INSPECTOR AND JOURNEY ON-SITE WASTEWATER PROPERTY TRANSFER INSPECTOR;

3. MASTER PUMPER AND JOURNEY PUMPER; AND

4. MASTER OPERATION AND MAINTENANCE PROVIDER AND JOURNEY OPERATION AND MAINTENANCE PROVIDER; ~~AND~~

~~5. ON-SITE WASTEWATER PROPERTY TRANSFER INSPECTOR;~~

(II) CERTIFICATION PROCEDURES AND QUALIFICATIONS FOR THE FOLLOWING CATEGORIES:

1. DESIGNER;

2. ADVANCED TREATMENT INSTALLER;

3. MOUND INSTALLER;

4. DRIP DISPERSAL INSTALLER;

5. PUMP DISPERSAL SYSTEM INSTALLER;

6. ADVANCED TREATMENT OPERATION AND MAINTENANCE PROVIDER;

7. ADVANCED TREATMENT UNIT PUMPER;

8. ADVANCED TREATMENT PROPERTY TRANSFER INSPECTOR; AND

9. ANY OTHER CATEGORY ASSOCIATED WITH A SPECIFIC ON-SITE WASTEWATER TREATMENT TECHNOLOGY; AND

~~(III) LICENSING PROCEDURES AND QUALIFICATIONS FOR
ISSUING AN INITIAL LICENSE TO INDIVIDUALS WHO, AS OF JANUARY 1, 2020,
PERFORM ON-SITE WASTEWATER SERVICES IN THE STATE; AND~~

~~(IV) MINIMUM STANDARDS FOR ANY PROCESSES, PROCEDURES,
TECHNIQUES, AND MATERIALS ASSOCIATED WITH THE PROPER DESIGN,
ACCEPTABLE INSTALLATION, ADEQUATE OPERATION AND MAINTENANCE,
INCLUDING PUMPING OR REPAIR, AND PROPERTY TRANSFER INSPECTION OF AN
ON-SITE WASTEWATER SYSTEM THAT IS NOT REQUIRED TO BE PERMITTED UNDER §
9-323 OF THIS TITLE; AND~~

(2) REVIEW REGULATIONS PROPOSED BY THE DEPARTMENT TO
CARRY OUT THE PROVISIONS OF THIS SUBTITLE; AND

(3) ESTABLISH A CODE OF ETHICS PROVIDED BY THE DEPARTMENT
FOR:

(I) MEMBERS OF THE BOARD; AND

(II) INDIVIDUALS LICENSED BY THE BOARD.

(B) THE BOARD SHALL:

(1) CARRY OUT THE PROVISIONS OF THIS SUBTITLE;

(2) ON OR BEFORE JUNE 1, ~~2024~~ 2022, MAKE RECOMMENDATIONS TO
THE DEPARTMENT FOR ESTABLISHING THE LICENSING AND CERTIFICATION
PROCEDURES SPECIFIED UNDER SUBSECTION (A)(1) OF THIS SECTION;

(3) COLLECT AND ACCOUNT FOR THE FEES PROVIDED FOR UNDER
THIS SUBTITLE; AND

(4) KEEP A CURRENT RECORD OF ALL INDIVIDUALS AND ENTITIES
LICENSED UNDER THIS SUBTITLE.

9-11A-10.

~~A COUNTY SHALL:~~

~~(1) ENFORCE THE MINIMUM STANDARDS ADOPTED BY REGULATION
BY THE BOARD FOR ANY PROCESSES, PROCEDURES, TECHNIQUES, AND MATERIALS
ASSOCIATED WITH THE PROPER DESIGN, ACCEPTABLE INSTALLATION, ADEQUATE~~

~~OPERATION AND MAINTENANCE, INCLUDING PUMPING OR REPAIR, AND PROPERTY
TRANSFER INSPECTIONS OF AN ON-SITE WASTEWATER SYSTEM; OR~~

~~(2) ADOPT AND ENFORCE STANDARDS THAT MEET OR EXCEED THE
MINIMUM STANDARDS ADOPTED BY REGULATION BY THE BOARD FOR ANY
PROCESSES, PROCEDURES, TECHNIQUES, AND MATERIALS ASSOCIATED WITH THE
PROPER DESIGN, ACCEPTABLE INSTALLATION, ADEQUATE OPERATION AND
MAINTENANCE, INCLUDING PUMPING OR REPAIR, AND PROPERTY TRANSFER
INSPECTIONS OF AN ON-SITE WASTEWATER SYSTEM.~~

~~9-11A-11.~~

(A) (1) THE ~~BOARD~~ DEPARTMENT, IN CONSULTATION WITH THE
~~DEPARTMENT~~ BOARD, SHALL SET BY REGULATION REASONABLE FEES FOR THE
ISSUANCE AND RENEWAL OF LICENSES AND OTHER SERVICES THAT THE BOARD
PROVIDES.

(2) THE FEES SHALL BE SET TO PRODUCE FUNDS TO APPROXIMATE
THE COSTS OF MAINTAINING THE BOARD.

(B) THE BOARD SHALL PUBLISH A SCHEDULE OF THE FEES.

(C) THE BOARD SHALL PAY ALL FUNDS COLLECTED UNDER THIS SUBTITLE
INTO THE ON-SITE WASTEWATER PROFESSIONALS FUND ESTABLISHED UNDER §
~~9-11A-12~~ 9-11A-11 OF THIS SUBTITLE.

~~9-11A-12.~~ 9-11A-11.

(A) IN THIS SECTION, "FUND" MEANS THE ON-SITE WASTEWATER
PROFESSIONALS FUND.

(B) THERE IS AN ON-SITE WASTEWATER PROFESSIONALS FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO MAINTAIN THE
BOARD.

(D) THE BOARD SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) ALL FEES, PENALTIES, AND FINES COLLECTED UNDER THIS SUBTITLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(3) INTEREST EARNINGS OF THE FUND;

(4) DONATIONS TO THE FUND; AND

(5) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND SHALL BE USED ONLY TO MAINTAIN THE BOARD AND IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) MONEY EXPENDED FROM THE FUND TO MAINTAIN THE BOARD OR IMPLEMENT THE PROVISIONS OF THIS SUBTITLE IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE BOARD.

~~9-11A-13.~~ 9-11A-12.

ON OR BEFORE DECEMBER 31 EACH YEAR, THE BOARD SHALL PREPARE AND SUBMIT AN ANNUAL REPORT TO THE SECRETARY ON:

(1) THE STATUS OF THE ON-SITE WASTEWATER PROFESSIONALS FUND;

(2) REVENUES AND EXPENDITURES FROM THE ON-SITE WASTEWATER PROFESSIONALS FUND;

(3) THE EFFICIENCY OF THE REGULATIONS ADOPTED BY THE DEPARTMENT TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE;

(4) COMPLIANCE WITH THE REGULATIONS ADOPTED BY THE DEPARTMENT TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE; AND

(5) BASED ON THE FACTORS SPECIFIED IN ITEMS (1) THROUGH (4) OF THIS SECTION, THE NECESSITY TO REVIEW AND ADJUST THE FEES SET BY THE ~~BOARD~~ DEPARTMENT BY REGULATION.

~~9-11A-14.~~ 9-11A-13. RESERVED.

~~9-11A-15.~~ 9-11A-14. RESERVED.

PART III. LICENSING.

~~9-11A-16.~~ 9-11A-15.

(A) (1) ~~AN INDIVIDUAL MUST~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD IN ACCORDANCE WITH THIS SUBTITLE BEFORE THE INDIVIDUAL MAY PERFORM ON-SITE WASTEWATER SERVICES IN THE STATE.

(2) (I) AN INDIVIDUAL WHO, AS OF JANUARY 1, 2020, HOLDS A LICENSE, REGISTRATION, OR CERTIFICATION TO PERFORM ON-SITE WASTEWATER SERVICES IN THE STATE MAY CONTINUE TO PERFORM ON-SITE WASTEWATER SERVICES UNTIL THE LICENSING REQUIREMENTS ARE ESTABLISHED BY THE DEPARTMENT BY REGULATION IF THE INDIVIDUAL:

1. ON OR BEFORE DECEMBER 31, 2020, PAYS TO THE DEPARTMENT A FEE OF \$150; AND

2. EVERY 2 YEARS THEREAFTER UNTIL THE DEPARTMENT SETS FEES IN ACCORDANCE WITH § 9-11A-10 OF THIS SUBTITLE, PAYS TO THE DEPARTMENT A RENEWAL FEE OF \$150.

(II) THE DEPARTMENT SHALL PAY ALL FUNDS COLLECTED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION INTO THE ON-SITE WASTEWATER PROFESSIONALS FUND ESTABLISHED UNDER § 9-11A-11 OF THIS SUBTITLE.

(B) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE REQUIREMENTS ESTABLISHED BY THE DEPARTMENT BY REGULATION.

(C) TO APPLY FOR A LICENSE, AN APPLICANT SHALL:

(1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM THAT THE BOARD PROVIDES; AND

1 (2) PAY TO THE BOARD THE REQUIRED APPLICATION FEE SET BY THE
2 ~~BOARD~~ DEPARTMENT BY REGULATION.

3 (D) A BUSINESS PERFORMING ON-SITE WASTEWATER SERVICES OR
4 CONTRACTING TO PERFORM ON-SITE WASTEWATER SERVICES THAT ARE
5 REGULATED BY THE BOARD MUST HAVE AN EMPLOYEE OR OWNER LICENSED BY THE
6 BOARD.

7 (E) A LICENSE ISSUED BY THE BOARD IN ACCORDANCE WITH THIS
8 SUBTITLE IS VALID FOR 2 YEARS.

9 ~~9-11A-17.~~ 9-11A-16.

10 SUBJECT TO THE HEARING REQUIREMENTS IN § ~~9-11A-18~~ 9-11A-17 OF THIS
11 SUBTITLE, THE BOARD MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY
12 LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

13 (1) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY
14 REGULATION ADOPTED UNDER THIS SUBTITLE;

15 (2) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
16 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

17 (3) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE; OR

18 (4) COMMITS ANY GROSS NEGLIGENCE, INCOMPETENCE, OR
19 MISCONDUCT WHILE PROVIDING ON-SITE WASTEWATER SERVICES.

20 ~~9-11A-18.~~ 9-11A-17.

21 (A) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 2 OF THE
22 STATE GOVERNMENT ARTICLE, BEFORE THE BOARD TAKES ANY FINAL ACTION
23 UNDER § ~~9-11A-17~~ 9-11A-16 OF THIS SUBTITLE IT SHALL GIVE THE INDIVIDUAL
24 AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING
25 BEFORE THE BOARD.

26 (B) THE BOARD SHALL GIVE NOTICE AND HOLD THE HEARING IN
27 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

28 (C) THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY
29 PROCEEDING UNDER THIS SECTION.

(D) IF, AFTER DUE NOTICE, THE APPLICANT OR LICENSEE AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE BOARD MAY HEAR AND DETERMINE THE MATTER.

(E) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD IN A CONTESTED CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE, MAY TAKE AN APPEAL AS ALLOWED IN §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

~~9-11A-19.~~ 9-11A-18. RESERVED.

~~9-11A-20.~~ 9-11A-19. RESERVED.

PART IV. PROHIBITED ACTS; PENALTIES.

~~9-11A-21.~~ 9-11A-20.

(A) ~~AN~~ EXCEPT AS PROVIDED IN § 9-11A-15(A) OF THIS SUBTITLE, AN INDIVIDUAL MAY NOT PERFORM, ATTEMPT TO PERFORM, OR OFFER TO PERFORM ON-SITE WASTEWATER SERVICES UNLESS THE INDIVIDUAL IS LICENSED BY THE BOARD.

(B) A LICENSE MAY NOT BE BORROWED, RENTED, OR TRANSFERRED TO ANOTHER INDIVIDUAL.

~~9-11A-22.~~ 9-11A-21.

(A) INSTEAD OF OR IN ADDITION TO ANY OTHER PENALTIES AUTHORIZED UNDER THIS TITLE, THE BOARD MAY IMPOSE AN ADMINISTRATIVE PENALTY ON A PERSON WHO VIOLATES THIS SUBTITLE IN AN AMOUNT NOT EXCEEDING \$1,000 PER DAY FOR ALL VIOLATIONS CITED ON A SINGLE DAY.

(B) IN SETTING THE AMOUNT OF THE ADMINISTRATIVE PENALTY, THE BOARD SHALL CONSIDER:

(1) THE SERIOUSNESS OF THE VIOLATION;

(2) THE HARM CAUSED BY THE VIOLATION;

(3) THE GOOD FAITH OF THE VIOLATOR;

(4) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR; AND

(5) ANY OTHER RELEVANT FACTORS.

(C) IF A VIOLATOR FAILS TO PAY AN ADMINISTRATIVE PENALTY WITHIN 90 DAYS AFTER THE IMPOSITION OF THE ADMINISTRATIVE PENALTY BY THE BOARD, THE MATTER SHALL BE FORWARDED TO THE CENTRAL COLLECTION UNIT IN THE DEPARTMENT OF BUDGET AND MANAGEMENT FOR THE COLLECTION OF THE ADMINISTRATIVE PENALTY.

(D) ANY PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE ON-SITE WASTEWATER PROFESSIONALS FUND ESTABLISHED UNDER § ~~9-11A-12~~ 9-11A-11 OF THIS SUBTITLE.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

121. the Markell Hendricks Youth Crime Prevention and Diversion Parole Fund; [and]

122. the Federal Government Shutdown Employee Assistance Loan Fund; AND

123. THE ON-SITE WASTEWATER PROFESSIONALS FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of On-Site Wastewater Professionals shall be fully operational on or before June 1, 2021.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial members of the State Board of On-Site Wastewater Professionals shall expire as follows:

(1) three members in 2022;

(2) three members in 2023; and

(3) three members in 2024.

1 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before July 1, 2023, the
2 Department of the Environment, in consultation with the State Board of On-Site
3 Wastewater Professionals, shall adopt regulations to implement Section 1 of this Act.

4 SECTION 5. AND BE IT FURTHER ENACTED, That, on or before July 1, 2024, all
5 individuals who perform on-site wastewater services in the State shall be licensed by the
6 State Board of On-Site Wastewater Professionals.

7 SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.